Reauthorization and NHTSA Regulations

Impacts for States and Grantees

GHSA 2022 Annual Meeting
September 19, 2022
Workshop Speakers

- Barbara Rooney
  - GHSA Chair
  - Federal Relations Committee Chair
  - Director, California Office of Traffic Safety

- Russ Martin
  - Senior Director, Policy and Government Relations, GHSA

- Betty Mercer
  - State and Federal Programs Consultant, GHSA
  - Principal, Mercer Consulting Group, LLC
Laws vs. Regulation

The Infrastructure Investment and Jobs Act (IIJA), AKA the Bipartisan Infrastructure Bill ("BIL")

- Law: 23 USC Chapter 4
  - Legal changes, mostly effective FFY 2024

- NHTSA, with public input
  - TBD Regulatory changes, effective FFY 2024

- NHTSA Regulations: 23 CFR Part 1300 (The "Final Rule")
IIJA Legislative Process

2021

- House: Invest In American Act
  - Passed House July 1
  - FAST Act Extended Oct 2020 – Sep 2021

- Senate: “Bipartisan Infrastructure Framework”
  - “Bipartisan Infrastructure Framework”
  - Passed Senate August 1
  - Budget Reconciliation
  - Extension to Oct 31
  - Extension to Dec 3
  - Senate approval Nov 5

- White House: American Jobs Plan
  - Announced March 30

IIJA Legislative Process

2021

- Presidential Signature Nov 15, 2021

NHTSA Regulatory Process

2021

- Dec.: GHSA Submits Initial Recommendation to NHTSA

2022

- May: NHTSA RFC and Roundtables

2023

- Sept.: NPRM
- Final Rule?
- July 1: 1st Triennial HSPs Due
IIJA Spending (5 years, in Billions)

- Surface Transportation: 643
- Transit: 109
- Rail: 102
- Highways: 432
- Energy: 73
- Water: 55
- Resiliency: 46
- Broadband: 65
- Port: 17
- Environmental Remediation: 21
- Western Water: 8.3
- Hazardous Materials: 0.4
- Other investments: 246
- Aviatiob: 25
- Port: 17
- Environmental Remediation: 21
- Western Water: 8.3
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- Other investments: 246
- Aviatiob: 25

Sources: Transportation 4 America, NHTSA, CVSA, GHSA, the IIJA

www.ghsa.org | @GHSAHQ
## NHTSA Grant Funding Provisions

<table>
<thead>
<tr>
<th></th>
<th>FY 2022</th>
<th>FY 2023</th>
<th>FY 2024</th>
<th>FY 2025</th>
<th>FY 2026</th>
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<td>Sec. 402</td>
<td>$363.4 M</td>
<td>$370.9 M</td>
<td>$378.4 M</td>
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<td>+ $20 M</td>
<td>+ $20 M</td>
<td>+ $20 M</td>
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<tr>
<td>Total:</td>
<td>$356.5 M</td>
<td>$366.5 M</td>
<td>$373.5 M</td>
<td>$380.5 M</td>
<td>$387.5 M</td>
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</table>

### Section 402: State and Community Highway Safety Grant Program
- Est. 1966
- Distributed to all States by formula
- Significant State discretion

### Section 405: National Priority Safety Program
- Constituted in 2012
- Competitive eligibility requirements
- Limited to specific highway safety topics
New Triennial HSP Cycle

<table>
<thead>
<tr>
<th>Year</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
<th>2025</th>
<th>2026</th>
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<tr>
<td></td>
<td>$446.5 M</td>
<td>$456.5 M</td>
<td>$463.5 M</td>
<td>$470.5 M</td>
<td>$577.5 M</td>
</tr>
</tbody>
</table>

Fast Act Rules

Triennial Plan Beginning with FY 2024

Year 1
- Triennial HSP + Year 1 Annual Grant Application
- Year 1 Annual Report

Year 2
- Year 2 Annual Grant Application

Year 3
- Year 3 Annual Grant Application
- Next Triennial HSP...

2022-2025
- $446.5 M
- $456.5 M
- $463.5 M
- $470.5 M
- $577.5 M

Next Reauth?
Triennial HSP Contents

- For Three Years:
  - HSP Planning and Problem ID
  - Description of public participation and engagement
  - A performance plan
  - A data-driven countermeasure strategy that links to performance targets, NHTSA uniform guidelines, and new countermeasure justifications.
- A description of federal funds (only) planned to be used
- A performance report for the last HSP overall.

- Due July 1 every three years
  - 60 days for NHTSA review
  - 7-day deadline to respond to NHTSA questions
Annual Application Contents

- Must be consistent with Triennial HSP
- Any updates of analysis in the Triennial HSP (program plans or performance plan)
- Identification of projects and subrecipients to be funded (with specific list of project elements), though amendments may be submitted after
- Annual Section 405 and 1906 application
- Annual certs and assurances

- Due August 1 annually
- NHTSA has 60 days to review
Section 402 Changes

- Funds can be used for almost every program type:
  - Speeding, Occupant Protection, Impaired Driving, Motorcycle Safety, School Bus Crashes, Aggressive and Distracted Driving, Bike/Ped Safety
  - Law Enforcement Services
  - Safe Driving Around CMVs
  - Driver Education, Training, and Testing
  - Traffic Records, Crash Investigations
  - Emergency Medical Services
  - Research Projects, and more.

- Cannot be used for:
  - Automated enforcement (AE) efforts
  - Motorcycle checkpoints (helmet usage observational surveys too!)

Adds:
- Child passenger safety in underserved populations
- Understanding new vehicle tech
- Recall awareness
- Unattended passengers/vehicular heatstroke
- Slow down/move over crashes
- Unsecured vehicle loads

Eliminates biennial AE survey
- Allows speed/red light cameras in school and work zones
- NHTSA guidance forthcoming
Section 402 Equity/Engagement Provisions

- Requires HSPs to indicate “meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities.”

- Requires TSEP to “foster effective community collaboration”
- Requires support for “data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities.”

- Existing State efforts
  - Options: in-person/online meetings, surveys, meetings with community leaders
  - GHSA urged NHTSA: set high-level goals, leave details to States

- Many existing traffic stop data collection programs
  - Many practical barriers to universal adoption
  - GHSA urged NHTSA: start with the possible
Performance Management

- Performance measures “must demonstrate constant or improved performance”
- NHTSA shall update 2008 performance measures report
Annual Report Contents

- An assessment of State performance progress (using most recent FARS data)
- A description of how the State will adjust its upcoming HSP based on performance progress
- A description of the projects and activities funded and implemented in the prior year
- A description of enforcement activities
- Mobilization information
- An explanation of reasons for planned activities that were not implemented
- A description of community outreach activities.

• Due 120 days after end of fiscal year (end of January)
# Section 405 Changes

<table>
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<tr>
<th>405 (b) occupation protection</th>
<th>Current</th>
<th>New</th>
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<td>13%</td>
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<table>
<thead>
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<th>405 (c) traffic records</th>
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<td>14.5%</td>
<td>14.5%</td>
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</table>

<table>
<thead>
<tr>
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<td></td>
<td>52.5%</td>
<td>53%</td>
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</table>

<table>
<thead>
<tr>
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<tr>
<td></td>
<td>8.5%</td>
<td>8.5%</td>
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</table>

<table>
<thead>
<tr>
<th>405 (f) motorcyclist safety</th>
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</tr>
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<tr>
<td></td>
<td>1.5%</td>
<td>1.5%</td>
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</table>

<table>
<thead>
<tr>
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</thead>
<tbody>
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<td></td>
<td>5%</td>
<td>n/a</td>
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</table>

<table>
<thead>
<tr>
<th>405 (h)g) nonmotorized safety</th>
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<tbody>
<tr>
<td></td>
<td>5%</td>
<td>7%</td>
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<table>
<thead>
<tr>
<th>405 (h) preventing roadside deaths (NEW)</th>
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<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>n/a</td>
<td>1%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>405 (i) driver and officer safety education (NEW)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>n/a</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

- MOE Requirements – **Eliminated for FFY24**
- NHTSA now required to list **ALL deficiencies** in Grant Determination Charts
Section 405 (b) Occupant Protection

- OP Assessment increased to every 5 years
- Removes cap on child seat purchases
- Authorizes Child Passenger Safety (CPS) programs aimed at low-income/underserved populations
- Requires High-Rate States to use 10% of funds on low-income/underserved CPS programs
Section 405 (c) Traffic Records

- TRCC Meetings, Coordinator, Strategic Plan - changed to certification only
- Traffic Records Assessment – not mandatory
- Allowable Uses Expanded:
  - Software, applications and equipment to report data
  - Data sharing, interoperability
  - Data analysis and research
  - Traffic Records training
  - FARS analysts
  - MMUCC adoption
Section 405 (d) Impaired Driving

General
- New allowable uses to address polysubstance impaired driving:
  - Criminal justice training
  - Screening and testing technology
  - E-warrants
  - Impaired driving traffic records and research

Ignition Interlocks
- A mandatory all-offender interlock law; OR
- A law that prohibits a convicted offender from driving unless they install an interlock on all vehicles owned by the offender for at least 180 days; OR
- A law that requires any convicted offender, license revokee, and test refusals to have an interlock for at least 180 days, with the last 40 percent of the time violation-free.

24/7
- States can be eligible if they authorize local 24/7 programs
Section 405 (e) Distracted Driving

• 50% to all States with distracted driving questions on license exams, used for 405 (e) purposes
• 50% to States with qualifying laws
  ▪ Primary enforcement: 100%
  ▪ Secondary enforcement: 50%
  ▪ Prohibit a driver from viewing a wireless device: extra 25%
  ▪ Primary Texting ban for all drivers, OR
  ▪ Cell phone ban for young drivers, OR
  ▪ Handheld ban for all drivers

Other details
▪ Minimum Fines
  ▪ No exemption to use a wireless device while stopped in traffic
  ▪ Allows navigation exemption
  ▪ Updated definitions
Section 405 (f) and (g) Changes

Section 405 (f) Motorcyclist Safety

- Motorcycle helmet law for under 18 added as a potential eligibility criterion

Section 405 (g) Graduated Driving License (GDL)

- Eliminated by statute
Section 405 (h)(g) Nonmotorized Safety

- New definition of “nonmotorized road user” includes peds, bikes, micromobility
- Allowable uses expanded and dissociated with State laws:
  - General law enforcement training
  - Enforcement mobilizations
  - General public education and awareness
  - Data analysis and research
New Section 405 (h) Preventing Roadside Deaths

- States are eligible if they submit a description of how they will program funds under allowable uses, which include:
  - To purchase digital alert technology
  - Move Over public information campaigns
  - Law enforcement Move Over efforts
  - Move Over data collection
New Section 405 (i) Driver and Officer Safety Education

- States are eligible if they have a driver education program and a peace officer training program on proper conduct during traffic stops
- Grants can be used to develop and implement these training programs
- States will be eligible for 50% of funds if they are developing such programs
Section 1906

- Increased from $7.5 to $11.5 M per year
- Each State can access up to $1.5 M
- Adds programs, public outreach and training costs
- States can apply for more than 2 years in a row
- 10% reserved for NHTSA technical assistance

Stop Outcomes by Race/ Ethnicity in Connecticut

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Arrest</th>
<th>No Disposition</th>
<th>Misdemeanor Summons</th>
<th>Written Warning</th>
<th>Verbal Warning</th>
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<tbody>
<tr>
<td>Asian</td>
<td>13.0%</td>
<td></td>
<td>33.2%</td>
<td></td>
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<tr>
<td>American Indian/ Alaska Native</td>
<td>9.8%</td>
<td></td>
<td>32.7%</td>
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<tr>
<td>White</td>
<td></td>
<td>16.5%</td>
<td></td>
<td>37.5%</td>
<td></td>
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<tr>
<td>All Drivers</td>
<td></td>
<td>13.9%</td>
<td></td>
<td>37.6%</td>
<td></td>
</tr>
<tr>
<td>Black</td>
<td>8.9%</td>
<td>8.9%</td>
<td></td>
<td>41.8%</td>
<td></td>
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<tr>
<td>Hispanic (of all races)</td>
<td>9.6%</td>
<td>8.7%</td>
<td></td>
<td>34.2%</td>
<td></td>
</tr>
</tbody>
</table>

Source: CT Data Collaborative • Created with Datawrapper
New Direct Grant Opportunities

- **New Crash Data Program**
  - $300 M per year
  - Internal NHTSA data efforts
  - Upcoming competitive State grants for traffic records modernization, electronic data transfer

- **New grant program for States for Vehicle Recall Awareness programs**
  - Competitive: $1.5 M per year

- **New Safe Streets and Roads for All Program**
  - $1.2 B per year Awarded by Office of the Secretary (OST), administered by FHWA
  - Grants directly to local governments to implement vision zero programs
NHTSA Programs and Vehicle Safety

NHTSA Programs/Research

- Behavioral Traffic Safety Cooperative Research Program (BTSCRP): $2.5M to $3.5 M per year
- Driver Alcohol Detection System for Safety (DADSS): $21.2 M to $45 M per year
- Directs NHTSA to evaluate countermeasures other than enforcement to further enrich Countermeasures That Work

NHTSA Vehicle Safety

- Reduce Impaired Driving for Everyone (RIDE) ACT
- Updates to New Car Assessment Program (NCAP)
- Many Federal Motor Vehicle Safety Standards (FMVSS) Changes
- Several Vehicle Safety Studies
Federal Highway Administration (FHWA)
- Highway Safety Improvement Program (HSIP)
  - 10% flexibility to use funds for non-infrastructure projects – SHSO
  - New requirements related to vulnerable road users
- Section 154 and 164 eligible for Driving Under the Influence of Drugs (DUID) efforts
- Safe Routes to School (SRTS) new grants with non-infrastructure purposes

Federal Motor Carrier Safety Administration (FMCSA)
- New Commercial Motor Vehicle (CMV) grant programs
- Underride guards for heavy trucks
- Pilot program for CMV drivers under 21
NHTSA Regulatory Development Process

GHSA submitted preliminary recommendations on behalf of all SHSOs in Dec., May 2021

Stakeholder Listening Sessions; Request for Public Comments in May 2022

Final Rule Winter 2022/2023

Notice of Proposed Rulemaking (NPRM) September 14, 2022
QUESTIONS?

- Comments?
- Discussion?
Thank You

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