



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0096]

Request for Approval of a New Information Collection

ACTION: Notice and request for comments.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the OMB for review and comment. A *Federal Register* Notice with a 60-day comment period soliciting comments on the following information collection was published on November 27, 2017.

DATES: Written comments should be submitted by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: For programmatic issues, contact Barbara Sauers, Regional Operations and Program Delivery, NRO-011, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC, 20590; Telephone: 202-366-0144. For legal issues and background information, contact Roland (R.T.) Baumann III, Office of the Chief Counsel, NCC-300, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC, 20590; Telephone: 202-366-1834.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the *Federal Register* providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

- (i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (iii) How to enhance the quality, utility, and clarity of the information to be collected;
- (iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA sought public comment on the following proposed collection of information for which the agency is seeking approval from OMB:

OMB Control Number: Not assigned.

Title: State Highway Safety Grant Programs.

Form Numbers: N/A (Highway Safety Plan, Annual Report, Assessment).

Type of Review: New Collection.

Requested Expiration Date of Approval: Three years from the approval date.

Abstract: In response to the 60-day notice, the following groups submitted comments to the public docket on *www.regulations.gov*: Governors Highway Safety Association (GHSA) and a joint submission by the Departments of Transportation of Idaho, Montana, North Dakota, South Dakota and Wyoming (5-State DOTs). Both groups offered comments on State obligations related to the grant application and assessment requirements under the collection of information. These comments included examples of burden hours and costs associated with meeting the requirements. These comments are addressed in the agency's response below.

The Fixing America's Surface Transportation Act (FAST), Pub. L. 114-94, authorizes the National Highway Traffic Safety Administration (NHTSA) to issue highway safety grants to States under Chapter 4 of Title 23, U.S.C. Specifically, these grant programs include the Highway Safety Program grants (23 U.S.C. 402 or Section 402), the National Priority Safety Program grants (23 U.S.C. 405 or Section 405) and a separate grant on racial profiling data collection contained in a previous authorization that was revised and restored under the FAST Act (Pub. L. 109-59, Sec. 1906 or Section 1906, as amended by Sec. 4011, Pub. L. 114-94).

For all of these grants, as directed in statute, NHTSA uses a consolidated application process that relies on the Highway Safety Plan (HSP) States submit under the Section 402 program as a single application. The information required to be submitted for these grants includes the HSP, consisting of information on the highway safety planning process, performance report, performance plan, problem identification, highway safety countermeasure strategies, planned activities and funding amounts, certifications and assurances, and application materials that cover Section 405 grants and the reauthorized Section 1906 grant.¹ States also

¹ Section 405 grants cover the following: Occupant Protection Grants; State Traffic Safety Information System Improvements Grants; Impaired Driving Countermeasures Grants (including Alcohol-Ignition Interlock Grants and

must submit an annual report evaluating their progress in achieving performance targets. In addition, as part of the statutory criteria for Section 405 grants covering the areas of occupant protection, traffic safety information system improvements and impaired driving countermeasures, States may be required to receive assessments of their State programs in order to receive a grant. States must provide information and respond to questions as part of the assessment process.

Consistent with the statute, NHTSA recently issued a Final Rule (83 FR 3466, Jan. 25, 2018) that creates uniform procedures for States to apply for grant funds. These procedures specify the information that is required to be submitted to receive a grant and the type of information required to verify performance under the grants. Under these efforts, NHTSA has taken actions to streamline the required application procedures, including the expanded use of an electronic submission process identified as the Grants Management Solutions Suite (GMSS). This system will replace the current grants management tracking system and allow States to apply for and receive grants electronically. Implementation is scheduled to occur after several participating States have completed system usability testing, and NHTSA has reviewed and considered any feedback provided. With the application requirements set as part of the issuance of the Final Rule, this process addresses the burden estimates covering hours and costs associated with meeting the established application requirements. Separately, it addresses the burden estimates covering the assessment process required under three of the individual grant programs.²

24-7 Sobriety Program Grants); Distracted Driving Grants; Motorcyclist Safety Grants; State Graduated Driver Licensing Incentive Grants; and Nonmotorized Safety Grants. Section 1906 is a separate racial profiling data collection grant.

² Under occupant protection grants, one criterion that a State with a lower belt use rate may use to get a grant is to complete an assessment of its occupant protection program once every three years (23 U.S.C. § 405(b)(3)(B)(ii)(VI)(aa)) and another criterion is a comprehensive occupant protection program that includes a program assessment conducted every five years as one of its elements (23 U.S.C. § 405(b)(3)(B)(ii)(V)(aa), 23 CFR

Description of the Need for the Information and Proposed Use of the Information: As noted above, the statute provides that the HSP is the application basis for grants each fiscal year. The information is necessary to determine whether a State satisfies the Federal criteria for grant awards. The annual report tracks progress in achieving the aims of the grant program. The information is necessary to verify performance under the grants and to provide a basis for improvement. As specified in statute, States may be required to receive an assessment of certain covered programs. The information provided by a State allows subject matter experts to provide recommendations for the purpose of improving the covered grant area.

In general, both commenters indicated support for the agency's collection of information. GHSA stated that it "strongly supports the role of a single, unified annual Highway Safety Plan," and further supported "the use of Annual Reports to document progress on performance" and the "assessment process as a mechanism to help States improve programs." The 5-State DOTs noted separately that "NHTSA must have an application process and that States must provide periodic reports." However, both commenters requested simplification of the application requirements contained in the Interim Final Rule published on May 23, 2016 (81 FR 32554). NHTSA addressed substantially similar comments from both commenters about the Interim Final Rule through a separate process that established the Final Rule for these requirements published on January 25, 2018 (83 FR 3466). In the Final Rule, NHTSA explained that it adopted some of the commenter's recommendations, clarified NHTSA expectations about requirements where the actual burdens were potentially misunderstood, and further explained the importance of a requirement where a commenter's request was not adopted. As with the prior effort, NHTSA

1300.21(e)(5)(i)). Under traffic safety system information system improvement grants, a State must have an assessment of its highway safety data and traffic records system once every 5 years in order to receive a grant (23 U.S.C. § 405(c)(3)(E)). Under impaired driving countermeasure grants, a State with high average impaired driving fatality rates must have an assessment of its impaired driving program once every 3 years in order to receive a grant (23 U.S.C. § 405(d)(3)(C)(i)(I)).

sought to achieve a balance between the minimum need to ensure proper stewardship of Federal funds and the States' need for flexibility and efficiency in the use of their funds.

Similarly, for the statutorily-mandated assessments that also are part of the Final Rule and about which the commenters raise issues, NHTSA developed the assessment tools through a separate public comment process. For occupant protection and impaired driving grants, the assessment tools are identified in the Final Rule as the Highway Safety Uniform Guidelines that have been in place for many years and are familiar to all States under the grant program. States use the guidelines as a basis to develop the Section 402 portion of their HSPs. For traffic records assessments, NHTSA developed the current approach based on comments provided by several States and other interested parties in 2012. Currently, NHTSA is reviewing the traffic records assessment tool under a separate public comment process that recently closed. (82 FR 49473, Oct. 25, 2017) We note that both commenters provided comments to that process as well and their comments are being considered as part of the agency's overall effort to refine the traffic records assessment process.

Estimated Burden: Under the grant application and annual report requirements for Section 402 grants, with 57 potential respondents, we estimated that it will take each respondent approximately 240 hours to collect, review and submit the required information to NHTSA. For Section 405 grants, with 56 potential respondents, we estimated that it will take each respondent approximately 180 hours to collect, review and submit the required information to NHTSA.

In response to these estimates, both commenters provided anecdotal examples of time and cost spent by States to meet application requirements, concluding that the agency underestimated the time burdens involved. According to GHSA, the examples suggest that NHTSA's burden estimates "fall far short of actual time commitments in many States."

Separately, the 5-State DOTs commented that “the burden of complying with these processes is significantly underestimated by NHTSA.” GHSA also acknowledged the difficulty of developing an estimate across States with “different size grant programs and staff.” We agree that an average may be not reflective of the experience of some States. However, our view is that the estimates properly reflect what should be the average time spent on the required application. As GHSA notes, the estimates suggest that States spend 52.5 days to provide the required HSP and annual report under this program. In most cases, HSP applications are between 100 and 200 pages in length and consist of revising or updating a previously produced document. The agency’s estimate is in line with updating and revising a document of this size over a 50-day period. Recognizing that variability exists among States, we believe that this is a reasonable estimate of the average burden. Regardless, we plan to reach out to GHSA to gain more specific information about the examples provided and will work with those States that may be spending an excessive amount of time (and cost) on application activities.

We note further that, while we appreciate the anecdotal examples provided, the information provided by the commenters is based on meeting the prior IFR requirements. States have not yet submitted an application based on the Final Rule just released, which sought to reduce burdens where possible. In addition, these comments do not take into account the more automated application process NHTSA intends to use this year under GMSS. Although the 5-State DOTs provide their view that the system will not achieve time savings, we do not agree with the assessment. As an improvement over the current paperwork-intensive process, GMSS will align directly with the applicable program requirements, tying discrete fields within GMSS to the specific regulatory component. Such an approach should reduce uncertainty about what level of information must be provided to meet the application requirements, resulting in

increased efficiency in State applications. Understandably, there may be some additional time spent providing the necessary application information the first year GMSS operates, but the system will save the information each year and only require that a State revise and update information in a succeeding year to apply for a grant. As stated in the Final Rule, we believe that GMSS will streamline and simplify the application process, decrease the overall size of HSPs by eliminating content unnecessary to satisfy statutory requirements, and reduce duplicative entries related to grants.

The estimate totals covering hours and costs also are based on the universe of potential applicants submitting the required information for every available grant, and in this regard overestimate the burden, as not all States apply for and receive a grant each year under each of these programs. In addition, under Section 405 grants, some requirements permit States to submit a single application covering multiple years, allowing States to simply recertify in subsequent years. Considering the agency's steps to streamline the current submission process, including increased use of prepopulated information fields in GMSS and greater reliance on electronic submission in general, we believe that the approach represents the highest possible burden hours and costs for States submitting the required information.

NHTSA plans to deploy GMSS as soon as possible. NHTSA recently worked with GHSA and States on user acceptance testing, making system enhancements based on the feedback provided as part of the process.³ In the future, NHTSA will complete a second round of user acceptance testing based on States using the enhanced system.

GHSA included within its comments some "high-level concerns" about the system, including that NHTSA provide opportunity for training and additional technical support during

³ In its comments, GHSA recognized that NHTSA included GHSA and State highway Safety Offices "as partners in the development and testing of GMSS."

deployment; that the system offer a template that States can use to organize their application content and upload data; and that system functionality allow States to produce a formatted HSP document. In response to these comments, in line with prior information provided to GHSA, NHTSA plans regular contact with GHSA and the States throughout GMSS implementation. These activities include several planned training sessions with States and the development of an extensive user manual. NHTSA also will provide help desk services and additional support through its regional offices with dedicated system experts available in each office. GMSS also will include system capabilities that cover the ability to accept State submissions via a template-based system, with capability for bulk uploads of certain information found in many State e-grant systems. Finally, the system will be capable of exporting information in a printed format. We believe these steps will be responsive to the noted concerns. We plan to have GMSS available to accept application submissions in late March and will continue to work with States throughout the system's deployment and use.

In addition to the application process, this collection also covers the assessment process that is a requirement of three separate grant areas under Section 405 – occupant protection, impaired driving countermeasures and traffic safety system improvement grants. For occupant protection and impaired driving countermeasures grants, we estimated that it takes 80 hours to respond to questions under an assessment. For traffic safety information system improvement grants, we estimated that it takes 165 hours to respond to questions under the assessment.

In response to these estimates, the commenters provided anecdotal examples of time and cost for States responding to assessments. On this basis, GHSA concluded that the estimates “do not reflect the time needed to carry out the assessment.” Although not specific to the estimates, the 5-State DOTs added that “the assessment process for the programs has become costly and

very wide-ranging.” More specifically, both commenters shared concerns about the time and cost necessary for a State to respond to a traffic records assessment. On the basis of these comments, however, with one exception explained below, we do not believe that our estimates need to be revised.

Assessments serve as a critical evaluation of a State’s traffic safety programs, resulting in recommendations from a panel of experts. Congress has recognized the value of the assessment process as well, making these statutorily-mandated components of the grant requirements. Federal grant funds are available to States to defray the costs of these assessments. While we understand that some grant funds may be diverted from program uses to support the assessment process (as the 5-State DOTs assert), a State that continues its same approach without review may spend funds in inefficient ways or focus on areas that do not improve traffic safety. Assessments are not carried out on an annual basis, but rather occur on a 3- or 5-year basis depending on the statutory requirement. Some anecdotal examples of assessment costs cited by the commenters may not have taken this into account. For example, for FY19 grants, NHTSA estimates that only 6 States will need occupant protection assessments and only 2 States will need traffic records assessments to qualify for grants. (These States will not need another assessment for several years.) This is far smaller than the total number of jurisdictions that are eligible for grants (and smaller than the average number of assessments per year the agency used to develop the burden estimates). In addition, the period between assessments may be even longer if a State improves its performance in certain grant areas, as the statute identifies the need for assessment relating to programs such as occupant protection and impaired driving on the basis of performance in key safety metrics (e.g., seat belt use rate or average impaired driving fatality rate).

Separately, both commenters expressed concern about the number of questions that might be raised during an assessment. Assessments are intended to be comprehensive and by their nature can entail an extensive review. Occupant protection and impaired driving countermeasures assessments do not limit the number of questions that may be asked but instead set a time limit on the actual process. States provide background materials in advance, which are reviewed by a team of experts prior to the assessment, with the actual assessment process taking place over a single week. States participate in an interview process (based on the review of background material) during the first half of the week (2.5 days), with the remaining period spent by the team of experts producing and presenting recommendations. For these types of assessments, the agency estimated 80 hours of time needed for State participation. This covers the background material collection, responding to questions and participating in interviews during the assessment week. For traffic records assessments, NHTSA estimated 165 hours of time needed to respond to questions through a web-based interface. These responses are reviewed by a team of experts separately, and a final report is provided to the State. NHTSA developed this estimate based on system usage time by States (i.e., records of time logged in to the system). It also presumes that States have access to a Traffic Records Coordinating Committee – a requirement of the Section 405 grant statute – that represents each of the traffic records disciplines in a State. With this mechanism in place, the State should be able to draw readily on the required expertise to answer the questions, limiting the amount of time needed to respond. In general, we expect States to be familiar with their own programs and to be able to identify the expertise and decision-making authority required for a response.

Our estimates do not take into account the possibility that coordination issues within a State may exist that delay responses. However, with regard to traffic record assessments, we

recognize that our burden estimates are more than double that of other assessments. The agency is reviewing this assessment tool under a separate process, in light of comments received from GHSA, the 5-State DOTs, and other stakeholders.⁴ We will pay careful attention to issues of burden as we work to refine that process.

Based on GHSA's comment regarding the costs of on-site assessment teams used for occupant protection and impaired driving assessments, we are revising the cost estimates to include the travel, per diem, and honoraria paid to assessment team members. Although States are allowed to use Section 402 grant funds to cover these costs, we agree with GHSA that they should be included in the estimate of overall cost under this collection of information. Although GHSA's anecdotal examples indicate that these costs are lower, our estimate is that States spend on average \$25,000 per assessment to cover the costs of the on-site team members and related expenses. Using thirteen (13) as the average number of assessments for impaired driving and occupant protection grants per year, the overall increase in cost would be \$325,000. We have added this amount to the total estimated costs for the collection.

*Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information:*⁵

(1) *Estimated number of respondents*.....

The estimated burden hours for the grant application and annual report part of the collection of information are based on all eligible respondents each year for each of the grants:

- Section 402 grants: 57 (fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the

⁴ The notice seeking public comment on the traffic records assessment advisory appears at 82 FR 49473, Oct. 25, 2017.

⁵ The total number of respondents is based on every eligible respondent submitting the required information for every available grant.

Bureau of Indian Affairs);

- Section 405 Grants (except Impaired Driving Countermeasures, Motorcyclist Safety and Nonmotorized Grants) and Section 1906 Grant: 56 (fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and

- Section 405, Impaired Driving Countermeasures, Motorcyclist Safety and Nonmotorized Grants: 52 (fifty States, the District of Columbia, and Puerto Rico).

The estimated burden hours for the assessment part of the collection of information are based on the average number of State assessments that are carried out each year in each of the covered grant areas:⁶

- Section 405, Occupant protection grants: 9 assessments;
- Section 405, Traffic safety information system improvement grants: 11 assessments; and
- Section 405, Impaired driving countermeasure grants: 4 assessments.

(2) *Estimated hours per respondent*.....

- Section 402 and 405 Grant Applications / Annual Report: 420
- Occupant Protection Grant Assessments: 80
- Traffic Safety Information System Improvement Grant Assessments: 165
- Impaired Driving Countermeasures Grant Assessments: 80

(3) *Estimated annual burden hours*.....26,615

Under the grant application and annual report requirements for Sections 402 and 405, we estimate that it will take each respondent approximately 420 hours to collect, review and submit the required information to NHTSA. For traffic safety information system improvement grants,

⁶ Assessment average is based on the total number of assessments conducted each year divided by the number of years since the inception of assessment requirements for certain grants under MAP-21, Pub. L. 112-141.

we estimate that it will take 165 hours to respond to questions under the assessment. For occupant protection and impaired driving countermeasures grants, we estimate that it will take 80 hours to provide the required information and respond to questions under an assessment. Based on the above information, the estimated annual burden hours for all respondents are 26,615 hours.

Assuming the average salary of the individuals preparing the application materials or assessment responses is \$50.00 per hour, the estimated cost for each respondent to respond is \$23,350. If all eligible States applied for and received grants for all programs (and including the annual number of assessment responses required from States), the total labor costs for all respondents would be \$1,330,750.

In addition to these labor costs, NHTSA is revising the total costs to include the assessment team costs paid for by States under occupant protection and impaired driving assessments. Annually, these additional costs are \$25,000 per assessment, totaling \$325,000 based on the average estimated number of assessments conducted each year for these programs. Based on these additional costs, the overall total cost is revised to be \$1,655,750.

AUTHORITY: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; 5 CFR Part 1320; and 49 CFR 1.95.

Issued in Washington D.C. on: February 14, 2018.

Mary D. Gunnels,
Associate Administrator for
Regional Operations and Program Delivery.

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