



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

June 30, 2014

U.S. Department of Transportation
Docket Operations
M-30, West Building Ground Floor, Room W12-140
1200 New Jersey Avenue S.E.
Washington, DC 20590

Dear Docket Clerk:

Re: Docket No. FHWA-2013-0019

The Connecticut Department of Transportation (Department) is pleased to provide comments on the Federal Highway Administration's (FHWA) "Highway Safety Improvement Program" (HSIP) Notice of Proposed Rulemaking (NPRM), published in the Federal Register on March 28, 2014.

Safety remains a top priority for the Department. Like many other state Department of Transportation (DOT) around the country, the Department is supportive of the MAP-21 safety provisions and is committed to developing and implementing data-driven safety programs that reduce fatalities and serious injuries on the U.S. transportation system.

In order to prepare for and develop these comments on HSIP proposed rulemaking the Department formed a safety working group of management and staff representing a multitude of safety offices and other related offices including Behavioral Highway Safety, Traffic and Safety Engineering, Work Zone Safety, Highway Rail/Grade Crossings, Strategic Planning and Projects, Roadway Information Systems, RPO Coordination, Modeling and Crash Data and Intermodal Planning which includes the Bicycle and Pedestrian Program and the Safe Routes to School Program.

This safety working group met internally to review the HSIP NPRM soon after it was published on March 28, 2014 and met repeatedly afterwards to generate and prioritize preliminary comments to submit to the American Association of State Highway and Transportation Officials (AASHTO) midway through the NPRM commenting period.

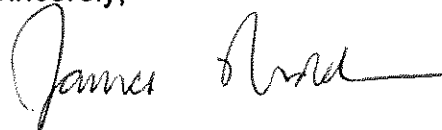
The Department posted these preliminary comments on the website and notified the Connecticut Metropolitan Planning Organizations (MPOs) and other groups that the comments were online in order to share information and collect their feedback.

Working through AASHTO, the Department interacted with other state DOTs around the country to share and discuss the areas of agreement and disagreement regarding various provisions of the HSIP NPRM. Many of the comments included here reflect the uniform agreement between AASHTO, other state DOTs and the Department. The structure of these comments is in response to the eight questions specifically asked by FHWA in the NPRM.

We appreciate the opportunity to provide comments and look forward to working with the FHWA in the implementation of the final rules. If you would like to discuss the issues raised in the letter, please contact Ms. Robbin Cabelus, Director, Bureau of Policy and Planning, at (860) 594-2051.

Please feel free to contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Redeker". The signature is written in a cursive style with a long horizontal line extending to the right.

James P. Redeker
Commissioner

Specific HSIP NPRM Comment Areas Requested by FHWA:

1. Economic, administrative, operational impacts of NPRM

What economic, administrative and operational impacts will the provisions included in the HSIP NPRM have on the Department of Transportation (Department)?

The Department echoes AASHTO's comments that the economic, administrative and operational impacts of the HSIP NPRM on state DOTs is significant and underestimated by FHWA as part of the Costs and Benefits analysis.

- The Department agrees with AASHTO that while collecting additional data on all public roads (regardless of ownership, i.e. state roads, local roads and in some cases tribal roads) is an effort to improve safety, the specifics of how and when this data gets collected matters significantly. The manner in which this NPRM would impose data collection obligations upon The Department and other State DOTs is not reasonable.
- The Department agrees with AASHTO that the 5 year required deadline to complete an inventory and collection of all new Model Inventory of Roadway Elements – Fundamental Data Elements (MIRE FDE) on all public roads is unattainable. The Department agrees with AASHTO that since data collection on all roads requires coordination, prioritization, local assistance, and funding necessary to complete the task, this will be problematic. The Department would support an extension of this deadline.
- The Department agrees with AASHTO that requiring MIRE FDE for all local agency roads is unnecessarily burdensome; but that a subset of the more heavily traveled local roads may be more appropriate.
- The Department agrees with AASHTO that the costs to collect and store extensive MIRE FDE is significantly underestimated by FHWA and falls into the unfunded mandate category.

The NPRM also proposes that FHWA assess the level of programming of other eligible federal funds prior to the approval of 'non-infrastructure' safety projects utilizing HSIP funds. This might result in unnecessary delay to important safety projects. Historically, the Department has fully utilized all its available NHTSA and other non-infrastructure safety funds. However, for certain projects and in some programming cycles, there are often compelling reasons why other eligible funds are not fully programmed.

Like AASHTO, the Department supports the elimination of a 10 percent flex funds cap in exchange for being able to use the funds to maximize the potential safety benefit. Also like AASHTO, the Department has concerns that a lack of flexibility by the federal agencies will impact any opportunities that states may have to be innovative in using such funds to address non-infrastructure types of projects.

- The Department agrees with AASHTO, that the statement FHWA expects that National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA) funds to be used to the fullest extent before flexible funds are used identifies the difference in priorities from the various federal perspectives (e.g., if NHTSA does not believe it is a priority they will not allow "their" funds to be used on certain project types).
- The Department agrees with AASHTO, that this lack of flexibility ignores the connection in MAP-21 between a State's Strategic Highway Safety Plan (SHSP) and the HSIP. The SHSP recognizes the multi-disciplinary approach to traffic safety, including the coordination of funding.
- The Department agrees with AASHTO that the lack of actual flexibility from the federal oversight is a real possibility.

The Department agrees with AASHTO's position that if a non-infrastructure project/program meets the HSIP approved criteria, the State DOT should be able to utilize the funds as needed. For example, if an HSIP project to install rumble strips as a countermeasure for lane departure or road departure would benefit from the synergistic effort to bring in traffic law enforcement and education (for drivers, pedal cyclists, motor carriers), the state should be able to use the HSIP funds for the non-infrastructure aspects. If states lose the flexibility to bring in these elements under the HSIP funding eligibility it places tension at the state level to go shopping for other funds to cover the education or enforcement efforts. Oftentimes the high priority location under HSIP for countermeasures like rumble strips is not the same location for education and enforcement efforts from the State Highway Safety Office (SHSO) as their focus is on impaired driving or occupant protection efforts per NHTSA guidance.

The Department agrees with the following AASHTO recommendations as it relates to flexibility in using the HSIP funding between infrastructure and non-infrastructure projects and programs:

- **Maximize use of limited funding to improve safety outcomes.** AASHTO appreciates the flexibility given to State DOTs to use HSIP funds for data collection, analysis, evaluation and reporting. However, with limited funding, the proposed data requirements could force States to spend much of their HSIP money on data collection and not delivering safety projects. AASHTO believes that the priority for funding must remain focused on delivering projects rather than data collection.
- **Remove the requirement that all other eligible funding for non-infrastructure projects must be used prior to using HSIP funds.** The language of indicating HSIP funds are eligible for any highway safety improvement (both infrastructure and non-infrastructure) seems to be positive and flexible, but the added requirement that indicates "all other eligible funding for non-infrastructure projects must be used prior to using HSIP funds" may be limiting and a detriment. The non-infrastructure HSIP projects will need to be shown separately in the STIP.

2. SHSP update cycle and related costs

Will The Department be able to meet the 5 year SHSP update cycle and what will some of the costs be that are associated with producing this document?

Yes, The Department will be able to meet the 5 year SHSP update cycle. The major cost for CTDOT is the fee to hire a consultant to develop/implement/evaluate the SHSP and the cost of an in-state peer exchange.

The Department supports AASHTO's position that more information should be provided on the relationship of the national performance targets, other planning documents, and the 5-year SHSP and HSIP Annual report.

3. Timeframe for collecting and implementing the MIRE FDE.

Will the Department be able to meet the following deadlines for collecting and implementing the MIRE FDE? The second two dates below are estimated, whereas the actual dates for these requirements are dependent upon the effective date of final rule.

- *June 15, 2014 - HPMS deadline to update statewide LRS to include all public roadways*

The Department requested a one year extension from FHWA (until June 2015) to comply with new HPMS LRS requirements on all public roads. The Department is waiting for approval from FHWA. In addition, the Department requested and was approved a waiver from FHWA for a 1 year extension to comply with the new FHWA requirements regarding the urbanized area functional class adjustments.

- *July 1, 2015* – Implementation plan for collecting MIRE FDE*

If required to, the Department expects to be able to comply with the estimated July 1, 2015 deadline for implementing a plan to collect all MIRE FDE on all public roads. However, the Department does agree with AASHTO that an extended deadline will allow the Department and other states to better coordinate the statewide implementation plan among all of the key stakeholders involved in order to develop, implement and evaluate the plan and data.

- *September 30, 2020* – Complete collection of MIRE FDE on all public roads*

It is highly unlikely that the Department will be able to meet the estimated September 30th, 2020 deadline to complete the collection of all required MIRE FDE on all public roads. Like AASHTO, the Department would be supportive of an extension to this deadline in order to conduct the proper coordination, prioritization, local assistance, and find the funding necessary to complete the task.

Aside from actually collecting MIRE FDE on all public roads, an even bigger challenge the Department faces is the ability to obtain accurate and reliable AADT counts statewide on all public roads. This is a higher priority for the Department because it will determine which MIRE FDE will be required on each public road.

4. Additional data elements to collect to support safety analysis

In addition to the MIRE FDE data elements required for collection on all public roads, what are some additional data elements that should also be collected to support safety analysis?

The Department is considering using AASHTOWare Safety Analyst which allows for the input of additional safety data beyond what's required with MIRE FDE. However, for the purposes of this NPRM, CTDOT does not have any additional comments to make about additional data elements to collect.

5. Systems to support MIRE FDE collection efforts

What are the systems in place at the Department to support the required MIRE FDE data collection efforts?

The Department is building a statewide LRS that will include all MIRE FDE on all public roads. CTDOT will be looking into the possibility of utilizing existing state as well as non-state resources to inventory MIRE FDE and collect AADT counts on all public roads. The Department requests support from AASHTO and USDOT in allowing states the greatest flexibility possible regarding the ability and ways to collect AADT and MIRE FDE on all public roads. Wherever possible, the Department requests that AASHTO and USDOT provide states with resources and best practice guidance towards efficiently and effectively collecting this information in a uniform, yet flexible manner. This would include the use of algorithms to generate estimates for AADT on local roads. It would also include the flexibility to partner with non-state entities to assist with the inventory and estimates as well as the flexibility to use existing sample data sets such as HPMS and project information.

The Department agrees with AASHTO's position that because much of the MIRE FDE is road inventory related, better coordination is needed with the HPMS requirements in order to reduce duplication of effort.

The Department is in agreement with the following AASHTO recommendations:

- **Limit which local/rural roads need to have data reported**—To alleviate lack of clarity as to the roads for which States will be acquiring data, data collection should only be for roads in good enough condition to be traversable by a typical passenger car and available to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. If access is restricted to a subset of persons, then it is not considered open to public travel.

- **Allow states to determine methodology to estimate Average Annual Daily Traffic (AADT) for lower level roads.** AASHTO agrees with FHWA in allowing State DOTs to estimate travel demand on lower level roads. The MIRE Fundamental Data Elements Cost-Benefit Estimation prepared for FHWA suggests that one methodology would be to use geospatial analysis that assigns volumes based on roadway and location characteristics. This is but one methodology and the rule should indicate that State DOTs can choose an estimation methodology they believe to be best suited for their roadway network.
- **Allow a minimum of ten years for State DOTs to collect MIRE FDE on all public roads.** AASHTO appreciates that FHWA has proposed a five year delayed date of requiring State DOTs to collect the MIRE FDE on all public roads. However, the delayed date is not achievable given the current data requirements, definition of public roads, and available resources. AASHTO recommends that this five-year delay be extended to ten years.
- **States should not have to report data for sovereign tribal lands**—The government-to-government relationship that exists between tribal nations and the federal government seems a more appropriate avenue for ensuring this data will be collected. FHWA should eliminate the requirement to collect and analyze data and provide direction on strategic planning to tribal governments. Instead, FHWA should work directly with tribal governments to ensure they have the resources to be collaborative partners in data collection, maintenance, and analysis. Requirements already exist for plan development on tribal roadways in other federal rules.
- **Limit the data for low volume, off-system roads**—FHWA should establish categories of roadways for data collection:
 - **Unpaved/Gravel/Dirt Roadways:** States should not be required to collect the MIRE FDE for roadways that are unpaved or gravel. These roadways are typically very low volume and often seasonal in nature.
 - **Roadways with Less than 400 AADT:** Collect data as proposed in the NPRM, Table 2.
 - **Roadways with Greater than 399 AADT:** Collect data as proposed in the NPRM, Table 1.

While distinct treatment for unpaved roads may overlap with the proposed fewer requirements for roads with AADT below 400, there is a straightforward simplicity to this demarcation line, as one would not have to have counted or estimated AADT to know that reporting should be limited as to unpaved roads.

- **Allow states to prioritize their data needs based upon available resources**—CFR 924.11(b) should be modified to allow states to develop an implementation plan that prioritizes the collection of MIRE FDE as resources are made available.
- **Extend the September 30, 2020 MIRE FDE deadline**—The 5-year time frame in CFR 924.11(b) should be removed and replaced with a longer term deadline that takes into account the roles that should be played by entities other than State DOTs.

6. Assumptions used in MIRE FDE benefit/costs estimation

The Department agrees with AASHTO that the cost estimates prepared by FHWA for purposes of the MIRE FDE are significantly underestimated. The Department agrees with AASHTO that the costs associated with implementation of the MIRE FDE are not trivial and represent both a significant up-front cost and annual costs. Like many other state DOTs, the Department does not have the additional resources to spend on original data collection and the ongoing maintenance of these data. The Department agrees with AASHTO that the extensive data collection and storage of information required collecting MIRE FDE, especially at the local level falls into the unfunded mandate category.

The Department supports the results of AASHTO's survey that gathered additional input on the estimated, more accurate costs of meeting the MIRE FDE requirements.

7. Ways to improve benefits and usefulness to the State

What are some of the ways that the HSIP can improve benefits and usefulness to the State?

The Department supports AASHTO's position to encourage FHWA to reduce the burden associated with the proposed HSIP rule. While the proposed flexibility to use HSIP funds for data collection, analysis, evaluation and reporting may facilitate data collection, States seek to deliver projects, excellent projects, to the public, including but not limited to safety projects. To the extent that funding for the Federal-Aid highway program is challenging, and it is, the priority for the proverbial "next program dollar" is for projects, not data collection. FHWA efforts to reduce the burden that would fall upon States under the rule proposed in the NPRM would be appreciated. Generally speaking, the Department would also encourage FHWA to consider revising or streamlining some of the Federal Aid requirements to make it easier to implement infrastructure safety improvements on local roads.

8. Other facets of proposed rulemaking

What are some other comments regarding the HSIP NPRM that were not previously addressed?

Section 924.5 Policy-- the Department agrees that safety improvements should be incorporated into projects funded by other Federal-Aid programs. The policy says that the safety improvements that are provided by the broader Federal-Aid project should be funded from the same source as the broader project. The Department does not encourage or promote funding projects with multiple Federal-Aid programs.