



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.
SECRETARY

June 16, 2014

Gregory G. Nadeau
Deputy Administrator, Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Avenue S.E.
Washington, DC 20590

Re: Docket No. FHWA-2013-0020

Dear Deputy Administrator Nadeau:

The Florida Department of Transportation (FDOT) is pleased to comment on the Federal Highway Administration's (FHWA) "National Performance Management Measures: Highway Safety Improvement Program; Proposed Rule" (NPRM), published in the Federal Register on March 11, 2014. Our comments are based on an extensive review of the Safety NPRM and participation in the development of the American Association of State Highway and Transportation Officials (AASHTO) comments submitted on May 15, 2014. We were active participants in the development of the AASHTO comments and fully support them.

Federal Role

The USDOT, FHWA, NHTSA and other agencies involved in our safety partnership carry out an important role supporting the overall transportation safety goals that we share. That partnership should have reasonable and constructive boundaries with respect to appropriate roles and responsibilities. Together we must communicate and collaborate well in striving to achieve the proper boundaries and a balanced approach. Clearly, the federal government has the sole role of setting broad national policy goals and a broad oversight to ensure that federal dollars are properly expended. Our federal partners can also be most effective through technical assistance, research and dissemination of applied best practice information.

State Role

The federal role however should not extend to investment planning and programming. For our intergovernmental system to work well investment planning and programming must be the focus of state DOTs with input from those stakeholders closer to the actual transportation needs and safety concerns. This includes MPOs, modal operators and others. The best return on federal, state, local and private resources can be achieved through an approach that is only manageable at the state level. State level safety management considers and balances all needs and resource investments and the timing of those investments.

Performance Measures Must Not be Used to Apportion Funds Among States

The federal government's focus on performance management and measurement is laudable and supported by FDOT. FDOT, however, does not support using performance measures as the basis of resource allocation. Performance measurement is far too important to distort its congressional intent and benefit through penalties, and over-regulation. Together we must take time to build the performance culture of every DOT and the associated federal-state processes. The importance of gaining practical experience with a federal-state performance measurement approach for safety and all other areas cannot be overemphasized.

Safety Performance

FDOT is committed to continuous improvement of transportation safety as are other state DOTs. Safety is not a discrete program—state DOTs should be emphasizing safety in every plan, program and project.

We are taking safety into account in how we design each project. The worst case scenario nationally would be to unintentionally marginalize safety's focus to performance measures and associated compliance when safety has to span the entire state DOT enterprise as a way of doing business. Safety as a way of doing business entails efforts in each state that are unique based on the many factors and circumstances that each state must address.

National oversight of state safety performance is valid, but requires a robust assessment that cannot be limited to performance measures only. The measures are key, but they should be the start of the discussion and collaboration to properly assess a state's progress toward improving transportation safety. Many other factors and circumstances will also need to be considered. The federal government could provide significant value promoting transportation safety through helping states and MPOs in various ways to improve capacity for safety analysis and planning—this fits with the technical assistance function noted above under Federal Role.

Non-motorized Transportation

We must be careful regarding the treatment of non-motorized transportation. FDOT is highly supportive of bicycle and pedestrian transportation mobility and safety. That commitment has been demonstrated by our many investments to improve bicycle and pedestrian mobility and safety. We will continue to promote safer biking and walking, and we will continue to measure our progress in that area. To date, we have demonstrated a high degree of innovation in measuring our biking and walking efforts. Biking and walking are logically state and local concerns. Many bicycle-pedestrian advocates are weighing in on this rulemaking as they have every right to. However, just because a state like Florida has bicycle-pedestrian performance measures does not mean that we should be reporting those measures nationally – that could distort the national focus. It also begs the legitimate question as to what the federal government would do with such data. Nor should the existence of data and measures translate into federal bicycle-pedestrian performance measures, requirements, penalties, etc. as there is no direct

relationship to a national system for moving people and goods. Cycling and walking are predominantly local in nature. It is at the state and MPO level that we should focus on safe bicycle-pedestrian and even connections to national networks such as intermodal hubs—rail stations, airports, etc.

Collaboration

State DOTs should be encouraged to improve their safety knowledge, skills and capacities at every level—we should strive to find new partnership approaches, new ways to promote responsible safety practices by system users and to be able to move proven safety research and best practices into application quickly.

We must have a holistic view of safety that relates to our people’s skills, our planning, public outreach, etc. We must be mindful to not lose sight of personal responsibility as a key element of transportation safety. We must be careful not to lessen our focus on impaired driving, for example, related to alcohol, drug use, cell phone use and texting.

Consideration should be given to developing a better “template” for a collaborative approach between state DOTs and FHWA Division Offices to evaluate safety performance over time in relation to national goals and a few select measures—that would go a long way stressing collaboration and a more meaningful treatment of safety than would a regulatory and compliance only framework . There is significant opportunity for much innovation and impact with that kind of partnership based focus.

Target Setting

States must have considerable flexibility setting safety performance targets as well. Targets cannot be set in a vacuum, but must consider a wide range of other factors. Targets that are seemingly modest may not tell the whole story of how resources might be targeted elsewhere to achieve longer and steadier progress such as improving bridges and the associated benefit of doing so.

Performance Reporting

FDOT has provided two annual MAP-21 Performance Reports to our Congressional Delegation covering all areas of MAP-21 performance reporting. We will continue to do so and believe that a single performance report is a better way of reporting our performance than through separate plans and reports.

We also produce an Annual Performance Report that extends well beyond the MAP-21 requirements. Safety and Security is a major component of Florida’s performance report. We would like to see an explicit acknowledgment that MAP-21 performance reporting is limited by law and that other performance reporting by States and MPOs to best address their unique needs and conditions is encouraged but not required.

Selected AASHTO Comments Reinforced by FDOT

The following recommendations from the May 15, 2014 AASHTO comments are of particular interest to FDOT and we take this opportunity to affirm our support for the AASHTO position. Detailed explanations of these issues are contained in the Principal Comments section of the AASHTO comments.

1. Provisions Should More Clearly Vest Target Setting Authority in States
 - The proposed rule should be modified to ensure State discretion in target setting, in accord with 23 USC 150
2. Methodology for Determining Significant Progress
 - Additional language should be inserted to account for unforeseen events
 - Allow additional non-linear models for evaluation and allow a state to change with approval from FHWA
 - Evaluate only the four required statewide targets
 - Allow flexibility in imposing penalties on a state that is not achieving significant progress
3. Delay in Reported Data
 - Allow states to self-certify FARS and Serious Injury Data
 - Base all measures on the most recent HPMS data available
4. Transition to MMUCC and Linking Medical Records to Crash Reports (MMUCC)
 - Give States 36 months to transition to MMUCC, latest edition
 - Postpone the transition to CODES until further research can be conducted
6. Coordination with MPOs and SHSOs
 - Acknowledge that safety targets do not have to be identical between the State DOT and the SHSO and MPOs

We commend the Federal Highway Administration for its extensive stakeholder engagement and outreach in implementing the performance measure requirements of MAP-21. We appreciate the opportunity to provide these comments and look forward to working with FHWA in the implementation of final rules that are in accord with FDOT and AASHTO recommendations.

Sincerely,



Ananth Prasad, P.E.
Secretary

AP/dl