

**SUPPORTING STATEMENT**  
**Highway Safety Improvement Program**

The purpose of this document is to request OMB's approval for a revision to a currently approved information collection. Approval to collect information under "Highway Safety Improvement Programs" (OMB Approval Number 2125-0025) was last approved by OMB on November 30, 2004. The 2005 Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) added some additional reporting requirements.

**1. Circumstances that make collection of information necessary.**

Section 1401 of SAFETEA-LU (See Attachment) amended Section 148 of Title 23 U.S.C. to establish a new "core" Highway Safety Improvement Program (HSIP) that provides funds to State Departments of Transportation (DOTs) to improve conditions at hazardous highway locations and hazardous railway-highway grade crossings on all public roads, including those maintained by Federal, State and local agencies.

In addition to the new provisions in 23 U.S.C. 148, the existing provisions of Title 23 U.S.C. Sections 130, Railway-Highway Crossings Program (See Attachment), and 152, Hazard Elimination Program (See Attachment), as well as the implementing regulations in 23 CFR 924, (See Attachment) remain in effect. Included in these combined provisions are requirements for State DOTs to annually produce and submit to the Federal Highway Administration (FHWA) the following reports related to the conduct and effectiveness of their HSIPs:

- Progress being made to implement the HSIP and the effectiveness of the projects implemented in reducing highway-related crashes, injuries and fatalities [HSIP Report-- Sections 148(g) and 152(g)];
- Progress being made to implement the Railway-Highway Crossings Program and the effectiveness of these projects in that program [Sections 130(g) and 148(g)], which will be used by FHWA to produce and submit biennial reports to Congress required on April 1, beginning April 1, 2006; and
- A description of at least 5 percent of the State's highway locations exhibiting the most severe safety needs, including an estimate of the potential remedies, their costs, and impediments to their implementation other than cost for each of the locations listed [Section 148(c)(1)(D)]. This information from the "5 percent report" is to be posted on a Department of Transportation website [Section 148(g)(3)(A)].

As part of the HSIP, Section 1401 of SAFETEA-LU established a High Risk Rural Roads Program (HRRRP), codified in 23 U.S.C. 148(f), for construction and operational improvements on roads that meet the definition of a high risk rural road [23 U.S.C 148(a)(1)]. Funds for this program are provided to the States as a setaside from the HSIP apportionment. Since it is a part of the HSIP, information on the HRRRP is being requested.

Guidance on the three reports has been developed (See Attachments).

The information collected supports the DOT Strategic Goal for Safety. The Highway Safety Improvement Program contributes directly to the FHWA's strategic objective to reduce the number of highway-related crashes and their consequences (fatalities and injuries) by providing funds to improve known and potentially hazardous locations. The information collected will help the FHWA to ensure that the States are carrying out their Highway Safety Improvement Programs and to monitor their effectiveness.

**2. How, by whom, and for what purpose is the information used:**

This information provides FHWA and the States with a means for monitoring the effectiveness of the HSIP and the Railway-Highway Crossings Program.

The FHWA will use the information to evaluate the above programs from a national perspective. The FHWA will also prepare a biennial report to Congress on the Railway-Highway Crossings Program, and will arrange for the information obtained from the "5 percent reports" to be posted on a Department of Transportation website.

Although the information on the HSIP reports from the States is envisioned to be used internally by FHWA, it may also be used by the Congress for modifying this program and for determining future HSIP funding levels.

States should also use the information from their reports to make improvements in their HSIP and in their Railway-Highway Crossings Program.

**3. Extent of automated information collection:**

All of the information to be collected by FHWA will be requested electronically.

**4. Efforts to identify duplication:**

The FHWA is the only Federal agency that collects information specifically related to the Highway Safety Improvement Program and to the Railway-Highway Crossings Program under 23 U.S.C 130, which are administered by that agency. There is little opportunity for duplication of the reporting activities.

**5. Efforts to minimize the burden on small businesses:**

The activity does not affect small businesses or other small entities.

**6. Impact of less frequent collection of information:**

Section 1401 of SAFETEA-LU specifically requires that the “5 percent report” be submitted annually [23 U.S.C 148(c)(1)(D)]. An annual report is also required for the Railway-Highway Crossings Program under 23 U.S.C. 130(g).

Although Section 1401 of SAFETEA-LU allows flexibility to establish a schedule for the HSIP report [23 U.S.C. 148(g)(2)], the HSIP report must also address the reporting requirements stated in 23 U.S.C. 152(g), which specifies that reports are to be submitted annually.

Annual reporting requirements help to ensure that the HSIP and the Railway-Highway Crossings Program are being properly monitored and that they are achieving results.

**7. Special circumstances:**

There are no special circumstances related to this information collection.

**8. Compliance with 5 CFR 1320.8:**

The FHWA published a 60-day Federal Register notice on May 4, 2006 (Volume 71. No. 86 pages 26398-26399), which solicited public comments about the renewal of this information collection. Three comments regarding this information collection were received.

All three comments addressed the “5 percent report.” In general, the comments concerned the need for this report, and that this report duplicates the HSIP report. The “5 percent report” is specifically required under Section 1401 of SAFETEA-LU, and the requirements for this report are codified in 23 U.S.C. 148(c)(1)(D). This report identifies a State’s highway locations exhibiting the most severe safety needs and potential remedies, which may include projects eligible for funding under the HSIP or under the Railway-Highway Crossings Program. The HSIP report that is required under 23 U.S.C. 148(g) and 152(g) is intended to assess the progress being made to implement the HSIP, and the overall effectiveness of HSIP projects in reducing the number and severity of highway-related crashes.

One State’s comments expressed concern with the 300-hour increase in its burden hours. This State also raised the problem of tort liability, which may expose the State to more lawsuits. To protect States from this potential problem, Congress added a provision in Section 1401 of SAFETEA-LU that prohibits the information that is compiled or collected for the preparation of the “5 percent report” from being subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from

any occurrence at a location identified or addressed in the information provided [23 U.S.C. 148(g)(4)].

**9. Payments or gifts to respondents:**

There are no payments or gifts to be provided to the respondents.

**10. Assurance of confidentiality:**

None of the information to be collected is considered confidential.

**11. Justification for collection of sensitive information:**

The information being collected to meet the reporting requirements of the “5 percent report” may be sensitive in some States, but is required under current law. To further protect the States, Congress has added a provision [23 U.S.C. 148(g)(4)] that prohibits the information that is compiled or collected for the preparation of the “5 percent report” and the HSIP report shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the information provided. Protection for the Railway-Highway Crossings report is provided by 23 U.S.C. 409.

**12. Estimate of burden hours for information requested:**

The estimated burden for meeting the above reporting requirements is 25,500 hours. This is based on an average State burden of 500 hours times the number of States (500 x 51states, including the District of Columbia).

The average estimated burden per State for the preparation of the above reports is as follows:

- HSIP report—200 hours
- Railway-Highway Grade Crossings Report—100 hours
- “5 percent report”—200 hours

The primary costs to the States are the salaries of professional and/or technical employees who are responsible for preparing these reports. There will also be some administrative costs involved. Using an average of \$50.00 per hour, including overhead, the estimated annual cost to each State is \$25,000 (500 hours x \$50). The total annual cost to all respondents is \$1,275,000 (51 States x 500 hours x \$50).

**13. Estimate of total annual costs to respondents:**

Other than the salary cost indicated in item 12, there are no additional cost burdens to the respondents.

**14. Estimate of cost to the Federal government:**

The estimated annual cost to the Federal government to meet its responsibilities for obtaining and compiling the information and for preparing any subsequent reports is \$ 243,600. This cost was determined as follows:

- \$ 183,600 for Safety Engineers from the FHWA Division Offices to disseminate guidance to the States, provide other information to the States, and review the reports prepared by the States (51 Division Safety Engineers @\$45.00 for 80 hours)
- \$60,000 in staff expenses (1000 hours @\$60.00) by the FHWA's Office of Safety to prepare and disseminate guidance to the FHWA Division Offices, review the reports received from the States, arrange for information for the "5 percent report" to be posted on the website, and prepare subsequent reports including the report to Congress on the Railway-Highway Crossings Program.

**15. Explanation of program changes or adjustments:**

The estimated average burden hours per State has been increased from 200 to 500 hours to reflect one new reporting requirement (the "5 percent report") and additional information for the HSIP report. Information related to the HSIP was previously collected under the Hazard Elimination Program (23 U.S.C. 152). The reporting requirements stated in 23 U.S.C. 152(g) still remain, and Section 1401 of SAFETEA-LU added some additional requirements.

**16. Publication of results of data collection.**

Information obtained by the States for the HSIP and for the Railway-Highway Crossings Program will be compiled internally. Reports to Congress on the Railway-Highway Crossings Program will be prepared biennially. The information obtained for the "5 percent report" will be posted on a Department of Transportation website.

**17. Approval for not displaying the expiration date of OMB approval:**

There is no such request for this information collection.

**18. Exceptions to certification statement:**

There are no exceptions to the certification statement for this information collection.

**Attachments**

- Section 1401 of SAFETEA-LU
- 23 U.S.C. 130
- 23 U.S.C. 152
- 23 CFR 924
- Reporting Guidance for the Highway Safety Improvement Program
- Reporting Guidance for the Railway-Highway Crossings Program
- Guidance for the “5 Percent Report”
- Federal Register notice dated May 4, 2006 (71 FR 24672)
- 30-day Federal Register notice