

To: Administrator Runge
From: Meghan
Date: March 29, 2004
Re: Passage of H.R. 2568

Congress recently adopted H.R. 2568, amending US Code Title 23 to establish a Safe Routes to Schools (SRTS) Program. DOT has the responsibility to put forth regulations for implementation. NHTSA will develop the implementation plan and present it to the Office of the Secretary of Transportation for approval.

The bill sponsor, Representative Jim Oberstar, is the senior Democrat on the Transportation and Infrastructure Committee. He is a long-time bicycle and pedestrian advocate who is very interested in SRTS and will be closely following our actions.

I have attached an H.R. 2568 Implementation Timeline for your reference as you review the following budgetary and regulatory issues to be addressed by NHTSA.

H.R. 2568 BUDGETARY IMPLICATIONS

To fund SRTS, \$250 million is to be appropriated from the Highway Trust Fund for each of the fiscal years 2004 through 2009. As the implementation timeline reflects these dates are no longer realistic and must be adjusted to FY2006-FY2011. There is concern that the legislation does not address long-run or life-cycle costing and neglects to earmark funds for maintenance. It is therefore recommended that a percentage of appropriated funds are set-aside to cover maintenance fees and long-run costing issues.

In S.1072 (the Senate reauthorization bill), recently passed, SRTS is only funded at \$70 million a year, versus the \$250 million in H.R.2568. There is concern that the funding for SRTS in H.R. 3550 (the House reauthorization bill) may therefore be reduced from its current \$250 million and that such measures may also negatively affect the appropriations of funds for H.R. 2568. Fortunately two of the bills sponsors, Mr. Hobson and Mr. Serrano are on the House Appropriations Committee.

Three months prior to funds becoming available (07.2006), NHTSA will calculate deductions and appropriation levels for states according to the formula detailed in H.R. 2568. NHTSA must first deduct administrative funds (no more than 1.5%, approximately \$375,000) to cover NHTSA salaries, travel expenses, supplies, etc. A further deduction must then be taken for metropolitan transportation planning activities mandated by Section 134 of Title 23, U.S.C. (no more than 1% of remaining authorizations, approximately \$246,250) and then distributed to the states according H.R. 2568. On 10.01.2006, certificates denoting the sums deducted and the exact amount of each apportionment will be issued by the FHWA to the State's transportation agency.

SRTS funds and the authority for determining how to spend them within H.R. 2568 guidelines will be passed through to state Departments of Transportation. While basic eligibility is determined by H.R. 2568, project selection will be carried out at the state, metropolitan or even regional levels. As bicycle and pedestrian projects have historically received low priority in funding decisions, regulations and guidance should be devised to ensure H.R. 2568 funds are used to develop SRTS programs. The transmittal of guidance on bicycle and pedestrian provisions of the federal-aid program by Kenneth Wykle on February 24, 1999 (HEPH-30) provides appropriate language for this task.

H.R. 2568 REGULATORY IMPLICATIONS

PRE-DISSEMINATION REVIEW There are six components specified in DOT guidelines that are consistent with OMB requirements. To fulfill these requirements, NHTSA must complete the following:

1. Review and consultation – NHTSA must allow adequate time for review and consultation with stakeholders. As the Implementation Timeline reflects, the estimated timeframe for the establishment of The Task Force, Request for Recommendations and NPRM processes will fulfill this obligation.
2. Compliance Verification – DOT statistical guidelines incorporate OMB requirements in structured planning, sound statistical methods and openness. NHTSA must ensure that this section is in compliance with the Statistical Policy Working Paper of OMB's Office of Information and Regulatory Affairs. The Pedestrian and Bicycling Information Center has already developed many resources that will assist with compliance verification.
3. Documentation of Influential Information – SRTS does not meet any of the requirements in Executive Order 12866 to be considered a significant regulatory action and therefore the preparation of an RIA is unnecessary. NHTSA must, however, consider the breadth as well as the intensity of expected impact in considering whether information is influential.
4. Ensuring Information Fulfills Agency Intentions – NHTSA must consider the big picture of DOT and issue a formal statement that SRTS fulfills overall agency intentions.
5. Origin of Data – In fulfilling transparency requirements, NHTSA must ensure that when using data from an external source, the origin of the data is indicated.
6. Having Additional Data – NHTSA must be able to provide additional information on any information that it disseminates. The Clearinghouse will be important in fulfilling this requirement.

COST-BENEFIT ANALYSIS In compliance with OMB's Circular No. A-4, New Guidelines for the Conduct of Regulatory Analysis, NHTSA must provide two analyses to OMB: a cost-effectiveness analysis – ratio of costs to unit of benefits (number of lives saved) and a net benefits analysis with an emphasis in monetizing benefits minus costs.

TASK FORCE A multi-disciplinary national SRTS task force must be established to study and develop a strategy for advancing SRTS programs nationwide. To ensure compliance with FACA regulations, a notice must be placed in the Federal Register requesting nominations for the Task Force. This must be initiated early in the implementation process as there are time implications in completing the background investigations required of any task force appointees. Before the Task Force can be established, the DOT Secretary must review and approve the request. Once the Task Force is approved, a charter must be prepared outlining its mission and specific duties and must be forwarded to GSA's Committee Management Secretariat for final review. Following a required public notification period, and the filing of the charter with Congress, the committee may begin operation.

The task force will assemble in Washington, D.C. initially to develop a short-term plan for the completion of an SRTS study and SRTS strategy development. Task force members will then conduct the study and reconvene three months later for a second meeting to discuss findings, develop strategy and create a report that will be presented

the DOT Secretary. He shall then transmit this report to Congress no later than February 28, 2007. In accordance with the requirements of FACA, there must be 15 days advance notice in the Federal Register for each meeting, the meetings must be open to the public and DOT must keep records of all meetings.

Funds required: We predict that 1/3 of the Task Force appointees will be federal employees and, therefore, estimate \$10,000 per meeting for a total of \$20,000 of administration funds required for the two Task Force meetings.

NHTSA should solicit nominations from at least the following agencies:

- Health:* CDC, Division of Nutrition & Physical Activity, "Kids Walk to School."
Recommended: Jessica Shisler, Coordinator Walk to Schools
Robert Wood Johnson Foundation
- Transportation:* NHTSA and FHWA
Pedestrian Bicycle and Information Center
EPA's Surface Transportation Policy Project
Recommended: James Corliss
- Education:* NASBE "Safe and Healthy Schools Project."
Recommended: Jim Bogden, Project Director
NEA/Health Information Network, Physical Activity and Nutrition.
Recommended: Jerald Newberry, Executive Director

CLEARINGHOUSE Funds shall be provided to a national non-profit engaged in promoting SRTS to operate a national SRTS clearinghouse, compile existing and develop new informational and educational programs on SRTS, and provide technical assistance and disseminate techniques and strategies for successful SRTS programs.

The Department will call for applications for clearinghouse candidates in the Federal Register. The notice will contain application deadlines and additional information concerning required proposal contents and submission deadlines. Three months will be given for completion of applications. The choice of the non-profit to serve as clearinghouse will be based upon ability to perform duties, past experience/success and existing framework.

We anticipate a strong proposal from the Pedestrian and Bicycle Information Center which has already received funding from the FHWA, NHTSA, CDC and EPA to develop a National SRTS course and to establish a national marketing and delivery strategy. They currently serve as an information clearinghouse for pedestrian and bicycle technical issues and have completed the following relevant research projects:

- The development of a national pedestrian safety awareness campaign which included materials for the "Walk to School" campaign;
- Data development for SRTS including GIS-based tools;
- Development of Pedestrian and Bicyclists Injury Databases;
- Review and Update of Pedestrian and Bicyclists Problems, Programs and Processes within NHTSA.

SUBMITTAL OF COMMENTS The public comment period will be sixty days. Three months will be allowed for the analysis of comments and formulation of any necessary adjustments to the regulatory package.