



2021 Coronavirus Aid, Relief, and Economic Security (CARES) Act Report to Congress

For waivers and postponements authorized under
Section 22005 of the CARES Act

Prepared by NHTSA's Grants Management and Operations Office

September 2022

The National Highway Traffic Safety Administration (NHTSA), under delegation from the Secretary of Transportation, is directed to periodically submit to the relevant committees of Congress a report on each waiver or postponement of a requirement under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136, Division B, § 22005(a)), as extended by the Consolidated Appropriations Act, 2021 (Pub. L. 116-260, Division N, § 442).

On April 9, 2020, after a delegation of CARES Act authority from the Secretary of Transportation, NHTSA issued a Notice of Waivers and Postponements offering relief in Fiscal Year (FY) 2020 to States adversely impacted by the Coronavirus Disease 2019 (COVID-19) public health emergency. After a careful review of prevailing facts and circumstances at that time, NHTSA determined that the COVID-19 pandemic substantially impacted the States' ability to carry out several requirements, including the maintenance of effort and local share provisions of the highway safety program, as well as participation in high-visibility enforcement mobilizations and seat belt use surveys.

On April 29, 2021, NHTSA issued a second Notice waiving the maintenance of effort and local share statutory and regulatory grant requirements for FY 2021 State highway safety programs.¹ NHTSA issued fewer waivers for FY 2021 than in FY 2020 because States had adjusted and adapted their programs to the changed working circumstances. States were better informed through experience to carry out their programs. Despite this, the relief granted was necessary due to workforce shortages from personnel transfer to other COVID-19 priorities and operational limitations as a direct result of the COVID-19 pandemic at that time.

NHTSA previously submitted two reports to Congress detailing NHTSA's administration of the emergency authority to waive or postpone certain grant program requirements, based upon a determination that either COVID-19 is having a substantial impact on the ability of States or the Secretary to carry out a grant program, campaign, or program, or the requirements themselves are having an effect on the ability of States or the Secretary to respond to COVID-19. The Congressional reports covering FY 2020 waivers were submitted on August 21, 2020 and October 4, 2021 to the Chairman and Vice Chairman of the Senate Committee on Appropriations; the Chair and Ranking Member of the Senate Committee of Commerce, Science and Transportation; the Chair and Ranking Member of the House Appropriations Committee; and the Chairman and Ranking Member of the House Committee on Transportation and Infrastructure.

The waivers in the notices applied to all States and jurisdictions covered by the requirements. States did not need to request or apply for a State-specific waiver for the areas determined by NHTSA to have been substantially impacted by the COVID-19 pandemic. States availed themselves of the waiver(s) as needed.

Maintenance of Effort

Maintenance of Effort (MOE) requirements ensure that States maintain their own expenditures as a condition of receiving grant funds. As a condition of receiving Occupant Protection, State Traffic Safety Information System Improvements, and Impaired Driving Countermeasures grants (23 USC §405(b), (c), and (d)) in FY 2021, States certified that the lead State agency responsible

¹ <https://www.nhtsa.gov/sites/nhtsa.gov/files/2021-04/2021%20CARES%20Act%20Waivers-4-30-21.pdf>

for occupant protection, traffic records, and impaired driving programs would maintain aggregate State level expenditures at or above the average level of spending in FY 2014 and 2015 in the specified program. 23 USC §405(a)(9)(A); 23 CFR Part 1300, App. B.

In late winter and spring 2020, States reported that they could not maintain State-level expenditures on traffic safety programs under the current circumstances, as resources were diverted to other uses related to the COVID-19 pandemic. NHTSA waived the MOE requirements for FY 2021 and the effect of the associated certifications provided by States in their FY 2021 grant applications. NHTSA determined that this waiver was necessary to prevent the MOE requirement from significantly impacting the States' ability to respond to COVID-19 by redirecting funds to emergency response.

NHTSA cannot report how many States used the waiver of the MOE requirements because NHTSA lacks that data. NHTSA does not collect data on compliance with the MOE requirements due to an appropriation restriction prohibiting NHTSA from enforcing MOE requirements. Section 143 in both the Further Consolidated Appropriations Act of 2020 (Pub. L. 116-94) and the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) prohibits NHTSA from spending funds to enforce State MOE requirements under 23 USC §405(a)(9).

Local Share

Local share requirements ensure that a certain percentage of the funds provided to States to carry out highway safety programs is expended by or for the benefit of local political subdivisions. The program statute requires that at least 40 percent of apportioned funds are expended by local political subdivisions. 23 USC §402(b)(1)(C). NHTSA's program regulations provide that this can be accomplished through direct local expenditures or by demonstrating that local political subdivisions have an active voice in initiating, developing, and implementing highway safety programs. 23 CFR Part 1300, App. C.

NHTSA determined that COVID-19 was having a substantial impact on the ability of States to meet local share requirements. States reported that local law enforcement had been diverted away from traffic safety for public health response, reducing the number of local organizations available for projects. In late winter and spring 2020, unpredictable delays in projects at the local level threatened the States' ability to satisfy the local share requirement. NHTSA waived the local share requirements and the effect of the associated assurances provided by States in their grant applications for FY 2021.

Twenty-two States utilized the local share waiver in FY 2021.

Expiration

All waivers expired on September 30, 2021. States expressed to NHTSA their appreciation of the waivers afforded for FY 2021 grant requirements.