

Bicycle Transportation And Pedestrian Walkways ***Updated March 5, 2013***

STATUS: ACTIVE

PROGRAM CODES: None. Bicycle and pedestrian projects are broadly eligible throughout the Federal-Aid and Federal Lands programs. National Highway Performance Program (NHPP), Surface Transportation Program (STP), Congestion Mitigation and Air Quality Improvement Program (CMAQ), Highway Safety Improvement Program (HSIP), Transportation Alternatives Program (including the Recreational Trails Program set-aside and Safe Routes to School projects), Tribal Transportation Program, and Federal Lands Transportation Program, Federal Lands Access Program funds may be used for bicycle transportation and pedestrian walkways. Remaining carryover funds for the following pre-MAP-21 programs are also eligible for bicycle and pedestrian projects, including National Scenic Byways Program, Recreational Trails Program (RTP), Safe Routes to School Program (SRTS), and Transportation, Community, and System Preservation Program (TCSP). Bicycle and pedestrian projects also are eligible under some Federal Transit Administration programs.

FEDERAL SHARE: In accordance with 23 U.S.C. 120(b)

PERIOD AVAILABLE: N/A

FUND: Highway Trust Fund

FUND DISTRIBUTION METHOD: N/A

TYPE OF AUTHORITY: Contract

SUBJECT TO OBLIGATION LIMITATION: Yes

STATUTORY REFERENCE: 23 U.S.C. 217

CFR REFERENCE: 23 CFR 652 (to be updated)

ELIGIBILITY: STP and CMAQ funds may be used for the construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use. NHPP funds may be used for the construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the NHS. Federal Lands Transportation Program and Federal Lands Access Program funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways may be used for the construction of pedestrian walkways and bicycle transportation facilities.

BACKGROUND: This program was established by Section 124(a) of the Federal-aid Highway Act of 1973 (Public Law 93-87), which provided for the use of Primary, Secondary, and Urban system funds on independent projects constructing separate or preferential bicycle lanes and facilities and pedestrian walkways in conjunction with those systems. Forest Highway, Forest Development Roads and Trails, Park Roads and Trails, Parkways, Indian Reservation Roads, and Public Lands Highways funds could also be used. The program was codified in 23 U.S.C. 217. Section 141 of the Federal-aid Highway Act of 1978 (Public Law 95-599) revised the program to stress energy conservation in addition to the multiple use of highway rights-of-way and to expand the types of projects that could be constructed. Additionally, the Act added provision 23 U.S.C. 109(n) (later redesignated as 109(m) in TEA-21), that no regulatory action may be taken by the Secretary that results in the severance of a major bicycle route or has an adverse impact on the safety of nonmotorized traffic unless a reasonable alternate route exists or is provided.

Section 126 of the Surface Transportation Assistance Act of 1982 (1982 STAA, Public Law 97-424) continued the program and further expanded the types of projects that could be constructed. It specified that projects must be principally for transportation rather than recreational purposes. States could obligate

up to \$4.5 million per year (raised from \$2.5 million) for these projects. The Federal share was established as 100 percent for independent walkway and bikeway projects and for nonconstruction bicycle projects. Funds for Federal Lands Highways could be used for independent bikeway and walkway projects, but not for nonconstruction bicycle projects.

Section 127 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (1987 STURAA, Public Law 100-17) permitted the use of Interstate Substitute funds for all eligible bicycle transportation and pedestrian walkway projects.

Section 1033 of the Intermodal Surface Transportation Efficiency Act of 1991 (1991 ISTEA, Public Law 102-240) amended 23 U.S.C. 217 to reflect the impacts of the STP, CMAQ, and NHS on bicycle transportation and pedestrian walkways. In addition to the ISTEA provisions in the Eligibility section above, other important revisions were as follows:

- Each State was required to use some of its STP and CMAQ moneys to fund a State DOT "bicycle and pedestrian coordinator" position for promoting and facilitating (a) the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists, and (b) public education, promotional, and safety programs for using such facilities.
- When Federal-aid funds are being used to replace or rehabilitate bridge decks, except on fully access controlled highways, safe bicycle accommodations must be considered and provided where feasible.
- Construction of a pedestrian walkway and a bicycle transportation facility are deemed to be highway projects and established the Federal share at 80 percent.
- Pedestrian walkways and bicycle transportation facilities to be constructed under the provisions of 23 U.S.C. 217 must be included in long range plans developed by Metropolitan Planning Organizations and States.
- No motorized vehicles should be allowed on any trails or pedestrian walkways, except as necessary for maintenance purposes and possibly for snowmobiles and motorized wheelchairs.

Section 310(b) of the National Highway System Designation Act of 1995 (Public Law 104-59) replaced the "80 percent" Federal share with "determined in accordance with section 120(b)".

The Transportation Equity Act for the 21st Century (TEA-21, Public Law 105-178) amended Section 217 to allow use of NHS funds for pedestrian walkways, as well as previously eligible bicycle facilities, on any route of the NHS. It removed the restrictions of bridges "where access was fully controlled" to accommodate bicycles. It also provided:

- Bicycle safety issues must be addressed on rail-highway crossing hazard elimination projects.
- Bicycle improvements are eligible for the hazard elimination program.
- For due consideration of bicyclists and pedestrians in the development of comprehensive transportation plans under 23 U.S.C. 134 and 135.
- When permitted by State or local regulations, electric bicycles may be used on federally-funded trails and pedestrian walkways.
- Design guidance for accommodating bicycle and pedestrian travel will be issued by FHWA by December 9, 1999.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59) amended Section 217 to allow the use of Federal lands funds for pedestrian walkways and bicycle transportation facilities for projects that are not in conjunction with trails, roads, highways, and parkways.

Moving Ahead for Progress in the 21st Century Act (MAP-21) extended the eligibility of Bicycle Transportation and Pedestrian Walkways under the programs listed above, but made no other substantive changes to Section 217. See Safe Routes to School Program for additional information on that program.

ADDITIONAL INFORMATION: Contact the Office of Human Environment (HEPH).