

§ 652.5

the construction, reconstruction or improvement of a highway or portions thereof, including bridges and tunnels.

(i) *Independent Bicycle Construction Project (Independent Bicycle Project)*. A project designation used to distinguish a bicycle facility constructed independently and primarily for use by bicyclists from an improvement included as an incidental part of a highway construction project.

(j) *Independent Pedestrian Walkway Construction Project (Independent Walkway Project)*. A project designation used to distinguish a walkway constructed independently and solely as a pedestrian walkway project from a pedestrian improvement included as an incidental part of a highway construction project.

(k) *Incidental Bicycle or Pedestrian Walkway Construction Project (Incidental Feature)*. One constructed as an incidental part of a highway construction project.

(l) *Nonconstruction Bicycle Project*. A bicycle project not involving physical construction which enhances the safe use of bicycles for transportation purposes.

(m) *Snowmobile*. A motorized vehicle solely designed to operate on snow or ice.

§ 652.5 Policy.

The safe accommodation of pedestrians and bicyclists should be given full consideration during the development of Federal-aid highway projects, and during the construction of such projects. The special needs for the elderly and the handicapped shall be considered in all Federal-aid projects that include pedestrian facilities. Where current or anticipated pedestrian and/or bicycle traffic presents a potential conflict with motor vehicle traffic, every effort shall be made to minimize the detrimental effects on all highway users who share the facility. On highways without full control of access where a bridge deck is being replaced or rehabilitated, and where bicycles are permitted to operate at each end, the bridge shall be reconstructed so that bicycles can be safely accommodated when it can be done at a reasonable cost. Consultation with local groups of

23 CFR Ch. I (4-1-03 Edition)

organized bicyclists is to be encouraged in the development of bicycle projects.

§ 652.7 Eligibility.

(a) Independent bicycle projects, incidental bicycle projects, and non-construction bicycle projects must be principally for transportation rather than recreational use and must meet the project conditions for authorization where applicable.

(b) The implementation of pedestrian and bicycle accommodations may be authorized for Federal-aid participation as either incidental features of highways or as independent projects where all of the following conditions are satisfied.

(1) The safety of the motorist, bicyclist, and/or pedestrian will be enhanced by the project.

(2) The project is initiated or supported by the appropriate State highway agency(ies) and/or the Federal land management agency. Projects are to be located and designed pursuant to an overall plan, which provides due consideration for safety and contiguous routes.

(3) A public agency has formally agreed to:

(i) Accept the responsibility for the operation and maintenance of the facility,

(ii) Ban all motorized vehicles other than maintenance vehicles, or snowmobiles where permitted by State or local regulations, from pedestrian walkways and bicycle paths, and

(iii) Ban parking, except in the case of emergency, from bicycle lanes that are contiguous to traffic lanes.

(4) The estimated cost of the project is consistent with the anticipated benefits to the community.

(5) The project will be designed in substantial conformity with the latest official design criteria. (See § 652.13.)

[49 FR 10662, Mar. 22, 1984; 49 FR 14729, Apr. 13, 1984]

§ 652.9 Federal participation.

(a) Independent walkway projects, independent bicycle projects and non-construction bicycle projects shall be financed with 100 percent Federal-aid primary, secondary or urban highway funds, provided the total amount obligated for all such projects in any one

State in any fiscal year does not exceed \$4.5 million of Federal-aid funds or a lesser amount apportioned by the Federal Highway Administrator to avoid exceeding the annual \$45 million cost limitation on these projects for all States in a fiscal year. The Federal Highway Administrator may, upon application, waive this limitation for a State for any fiscal year. This limitation also applies to projects funded under §652.9(d). This limitation does not apply to projects of the type described in §652.9(c). The FHWA Offices of Direct Federal Programs and Engineering will coordinate projects of the type described in §652.9(d) to ensure that the annual cost limitations will not be exceeded.

(b) Specific eligibility requirements for Federal-aid participation in independent and nonconstruction projects are:

(1) An independent walkway project must be constructed on highway right-of-way or easement, or right-of-way acquired for this purpose. Independent walkway projects may be constructed separately or in conjunction with a Federal-aid highway construction project. Where an independent walkway project is located away from the Federal-aid highway right-of-way, it must serve pedestrians who would normally desire to use the Federal-aid route.

(2) An independent bicycle project may include the acquisition of land needed for the facility, or such projects may be constructed on existing highway right-of-way or easement acquired for this purpose. Independent bicycle projects may include construction of bicycle lanes, paths, shelters, bicycle parking facilities and other roadway and bridge work necessary to accommodate bicyclists.

(3) Nonconstruction bicycle projects must be related to the safe use of bicycles for transportation, and may include safety educational material and route maps for safe bicycle transportation purposes. Nonconstruction bicycle projects shall not include salaries for administration, law enforcement, maintenance and similar items required to operate transportation networks and programs, but may include cost of staff or consultants for develop-

ment of specific nonconstruction projects.

(c) Bicycle and pedestrian accommodations may also be constructed as incidental features of highway construction projects. These incidental features may be financed with the same type of Federal-aid funds, including funds of the type described in §652.9(d) (except Interstate construction funds) and at the same Federal share payable as a basic highway project. These accommodations are not subject to the funding limitations for independent walkway, independent bicycle and nonconstruction bicycle projects. In the case of the Interstate construction projects, Federal-aid Interstate construction funds may only be used to replace existing facilities that would be interrupted by construction of the project, or to mitigate specific environmental impacts. Interstate 4R funds provided by 23 U.S.C. 104(b)(5)(B) may be used only for incidental features. As incidental features, these accommodations must be part of a highway improvement and must be located within the right-of-way of the highway, including land acquired under 23 U.S.C. 319 (Scenic Enhancement Program).

(d) Funds authorized for Federal lands highways (forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads), forest development roads and trails (i.e., roads or trails under the jurisdiction of the Forest Service), and public lands development roads and trails (i.e., roads or trails which the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under his/her control), may be used for independent bicycle routes and independent walkway projects. These funds may not be used for nonconstruction bicycle projects.

§652.11 Planning.

Federally aided bicycle and pedestrian projects implemented within urbanized areas must be included in the transportation improvement program/annual (or biennial) element unless excluded by agreement between the State