



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

Subject: INFORMATION: Eligibility for Hazard Elimination Funds Date: February 15, 2000

From: Dwight A. Horne *Dwight A. Horne* Reply to: HMHS-20
Director, Office of Highway Safety Infrastructure Attn. of:

To: Division Administrators

In response to a recent inquiry concerning the eligibility of Hazard Elimination funds (Section 152 of Title 23) for safety-related improvements on school grounds, a legal opinion was requested.

According to Chief Counsel's Office, as long as the project involves a publicly owned bicycle or pedestrian pathway, or trail, it is eligible for funding under Section 152. Prior to the passage of TEA-21, Section 152 funds were only available for expenditures on "any public road . . ." The term *public road* included the "open to the public, etc." concept. The TEA-21 expanded the eligibility for funding, and subsection (c) of Section 152 was modified to include any public surface transportation facility or any publicly owned bicycle or pedestrian pathway, or trail, as well as any traffic calming measure.

Also, attached for your information is some general guidance regarding the Hazard Elimination Program.

Attachment

January 2000

Hazard Elimination Program

Statutory Reference: 23 U.S.C. 152 and 23 U.S.C. 133 (d)(1).

Regulatory References: 23 CFR 924.

Purpose: To carry out safety improvement projects to reduce the number and severity of crashes at hazardous highway locations, sections, and elements on any public road.

Eligible Activities: Funds authorized to carry out this program can be used for safety improvement projects on any public road, any public surface transportation facility, or any publicly owned bicycle or pedestrian pathway or trail. Typical project types include: intersection improvements (channelization, traffic signals, and sight distance); pavement and shoulder widening; guardrail and barrier improvements; installation of crash cushions; modification of roadway alignment, signing, pavement marking and delineation; breakaway utility poles and sign supports; pavement grooving and skid-resistant overlays; shoulder rumble strips; and minor structure replacements or modifications. The Transportation Equity Act for the 21st Century (TEA-21) added a provision that a State must consider bicycle safety in carrying out projects, and established eligibility for projects on the Interstate System and for traffic calming measures.

Funding: At least 10 percent of the Surface Transportation Program (STP) funds authorized by TEA-21 Section 1108 must be set aside for carrying out the Rail-Highway Crossings and Hazard Elimination programs (23 U.S.C. 130 and 152 respectively). Of this amount, the States must reserve for each of the two programs at least as much as was apportioned for each program in FY 1991. If a State's 10 percent set-aside amount exceeds the combined apportionments for these two programs in FY 1991, the excess amount may be used for either program, but may not be used for other than safety purposes.

Participation Ratio: The 10 percent set-aside funds for hazard elimination safety improvements are available at a **90 percent Federal share**, with the remaining 10 percent to be paid by State and/or local authorities.

The Federal share may be increased up to a maximum of 95 percent by the sliding scale rates for States with a large percentage of Federal lands.

Under the provisions of 23 U.S.C. 120(c), the **Federal Share may amount to 100 percent** for projects for signing, pavement markings, active warning devices and crossing closures.