



U.S. Department  
of Transportation

Federal Highway  
Administration

# Memorandum

Subject: **INFORMATION:** Special Rule for  
Bridges Not on Federal-Aid Highways  
(Surface Transportation Program of  
MAP-21)

Date: October 17, 2012

*/S/ Original Signed by*

From: M. Myint Lwin, P.E., S.E.  
Director, Office of Bridge Technology

In Reply Refer To:  
HIBT-30

To: Division Administrators

A *Special Rule* for bridges not on Federal-aid highways under the *Surface Transportation Program* of MAP-21 requires a set-aside – an amount equal to 15 percent of the apportioned funds to a State for the *Highway Bridge Program* for fiscal year 2009 - from a State's apportionment to be obligated and expended on off-system bridges for the following activities:

Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.

A reduction of this requirement may be granted if a State can demonstrate inadequate needs to justify the 15 percent expenditure. To obtain a reduction in the required 15 percent set-aside, a waiver request is to be submitted to the FHWA. Waiver requests should cover reductions in needs through the current authorization legislation, (i.e. MAP-21) which is September 30, 2014.

Under previous authorizations, a State's bridge needs reflected the Highway Bridge Program's apportionment process in which only bridges eligible for replacement and rehabilitation were considered. For MAP-21, all eligible activities as listed above and in 23 U.S.C. 133(b)(2) are to be included as part of a State's bridge needs analysis.

### **Waiver Request Process**

To provide flexibility, States may present and demonstrate their justification for a reduced expenditure in a format of their choosing. State requests should include:

- (1) an explanation of the rational method/process used to determine their total off-system bridge needs;
- (2) the reduced percentage of expenditure and its calculation/analysis based on the total on and off-system bridge needs – activities as listed under 23 U.S.C. 133(b)(2); and
- (3) evidence of corroboration from local officials.

States with federally owned bridges on off-system public roads within their boundaries are encouraged to consult with these owners and attain support for a waiver.

Requests should be submitted to the appropriate FHWA Division Office for a **comprehensive review and determination of support**. Upon completion of their review, the FHWA Division Office will forward the request along with its recommendation to the Director of the FHWA Office of Bridges and Structures for further processing and the Administrator's consideration. Following action by the Administrator, a State will be notified of the status of their request.

### **For Approved Waivers**

- (1) A State may restore the 15 percent expenditure requirement at any time during the approved period. The FHWA Division Office should be informed of such action.
- (2) A State should consult annually with other bridge owners, including city, county and local owners, to assure support of the waiver. If at any time local officials do not support the waiver, the 15 percent expenditure requirement should be restored or an adjusted expenditure percentage should be requested. The FHWA Division Office should be informed of such circumstances.
- (3) A State should consult with the FHWA Division Office annually to review off-system bridge needs in order to ensure that these structures are not being adversely impacted by a continued waiver. If at any time there is a significant increase in off-system bridge needs from the levels established by the waiver, the 15 percent expenditure requirement should be restored or an adjusted expenditure percentage should be requested. The FHWA Division Office should be informed of such circumstances.

Questions should be forwarded to Mr. Everett Matias (202) 366-6712 ([Everett.Matias@dot.gov](mailto:Everett.Matias@dot.gov)) or Mr. Thomas Everett (202) 366-4675 ([Thomas.Everett@dot.gov](mailto:Thomas.Everett@dot.gov)) of my staff.

cc:

BRIDGE\_DIVISION  
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