

§ 130, May 5, 1976, 90 Stat. 440; Pub. L. 105-178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109-59, title I, § 1801(a), Aug. 10, 2005, 119 Stat. 1455; Pub. L. 112-141, div. A, title I, § 1121(a), July 6, 2012, 126 Stat. 493.)

AMENDMENTS

2012—Subsecs. (c) to (g). Pub. L. 112-141 added subsecs. (c) to (e), redesignated former subsecs. (e) and (f) as (f) and (g), respectively, and struck out former subsecs. (c) and (d) which related to allocation of funds and set-aside for projects on National Highway System, respectively.

2005—Pub. L. 109-59 amended section catchline and text generally, substituting provisions relating to program for construction of ferry boats and ferry terminal facilities for provisions relating to selection of high traffic sections of highways as priority primary routes for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities.

1998—Subsec. (a). Pub. L. 105-178 substituted “State transportation department” for “State highway department”.

1976—Subsec. (b). Pub. L. 94-280 amended subsec. (b) generally, striking out apportionment provisions.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 109-59, title I, § 1801(d), Aug. 10, 2005, 119 Stat. 1456, provided that: “In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act [119 Stat. 1153], there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended.”

§ 148. Highway safety improvement program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) HIGH RISK RURAL ROAD.—The term “high risk rural road” means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

(2) HIGHWAY BASEMAP.—The term “highway basemap” means a representation of all public roads that can be used to geolocate attribute data on a roadway.

(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “highway safety improvement program” means projects, activities, plans, and reports carried out under this section.

(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term “highway safety improvement project” means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

- (i) correct or improve a hazardous road location or feature; or
- (ii) address a highway safety problem.

(B) INCLUSIONS.—The term “highway safety improvement project” includes, but is not limited to, a project for 1 or more of the following:

(i) An intersection safety improvement.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(viii) Construction of a traffic calming feature.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

(xii) Installation of a traffic control or other warning device at a location with high crash potential.

(xiii) Transportation safety planning.

(xiv) Collection, analysis, and improvement of safety data.

(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

(xix) Construction and operational improvements on high risk rural roads.

(xx) Geometric improvements to a road for safety purposes that improve safety.

(xxi) A road safety audit.

(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled “Highway Design Handbook for Older Drivers and Pedestrians” (FHWA-RD-01-103), dated May 2001 or as subsequently revised and updated.

(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

(xxiv) Systemic safety improvements.

(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term “model inventory of roadway elements” means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term “project to maintain minimum levels of retroreflectivity” means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

(7) ROAD SAFETY AUDIT.—The term “road safety audit” means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

(8) ROAD USERS.—The term “road user” means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

(9) SAFETY DATA.—

(A) IN GENERAL.—The term “safety data” means crash, roadway, and traffic data on a public road.

(B) INCLUSION.—The term “safety data” includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

(A) IN GENERAL.—The term “safety project under any other section” means a project carried out for the purpose of safety under any other section of this title.

(B) INCLUSION.—The term “safety project under any other section” includes—

(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

(ii) a project to enforce highway safety laws; and

(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.

(11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “State highway safety improvement program” means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

(12) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term “State strategic highway safety plan” means a comprehensive plan, based on safety data, developed by a State transportation department that—

(A) is developed after consultation with—

(i) a highway safety representative of the Governor of the State;

(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

(v) a highway-rail grade crossing safety representative of the Governor of the State;

(vi) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

(vii) motor vehicle administration agencies;

(viii) county transportation officials;

(ix) State representatives of non-motorized users; and

(x) other major Federal, State, tribal, and local safety stakeholders;

(B) analyzes and makes effective use of State, regional, local, or tribal safety data; (C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

(D) considers safety needs of, and high-fatality segments of, all public roads, including non-State-owned public roads and roads on tribal land;

(E) considers the results of State, regional, or local transportation and highway safety planning processes;

(F) describes a program of strategies to reduce or eliminate safety hazards;

(G) is approved by the Governor of the State or a responsible State agency;

(H) is consistent with section 135(g); and

(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

(13) SYSTEMIC SAFETY IMPROVEMENT.—The term “systemic safety improvement” means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(12) and (d);

(B) produces a program of projects or strategies to reduce identified safety problems; and

(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

(ii) to evaluate the effectiveness of data improvement efforts;

(iii) to link State data systems, including traffic records, with other data systems within the State;

(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

(vi) to improve the collection of data on nonmotorized crashes;

(B) based on the analysis required by subparagraph (A)—

(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

(iii) identify the number of fatalities and serious injuries on all public roads by location in the State;

(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

(v) consider which projects maximize opportunities to advance safety;

(C) adopt strategic and performance-based goals that—

(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

(ii) focus resources on areas of greatest need; and

(iii) are coordinated with other State highway safety programs;

(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State;

(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

(ii) identify opportunities for preventing the development of such hazardous conditions; and

(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

(1) ESTABLISHMENT OF REQUIREMENTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

(i) the findings of road safety audits;

(ii) the locations of fatalities and serious injuries;

(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

(iv) rural roads, including all public roads, commensurate with fatality data;

- (v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;
- (vi) the cost-effectiveness of improvements;
- (vii) improvements to rail-highway grade crossings; and
- (viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Each State shall—

- (i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and
- (ii) submit the updated plans to the Secretary, along with a detailed description of the process used to update the plan.

(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

- (i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(12); and
- (ii) the process used is consistent with the requirements of this subsection.

(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1), the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved.

(e) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

- (A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail;
- (B) as provided in subsection (g); or
- (C) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan.

(2) USE OF OTHER FUNDING FOR SAFETY.—

(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(f) DATA IMPROVEMENT.—

(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection, the following definitions apply:

(A) IN GENERAL.—The term “data improvement activities” means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

(B) INCLUSIONS.—The term “data improvement activities” includes a project or activity—

- (i) to create, update, or enhance a highway basemap of all public roads in a State;
- (ii) to collect safety data, including data identified as part of the model inventory for roadway elements, for creation of or use on a highway basemap of all public roads in a State;
- (iii) to store and maintain safety data in an electronic manner;
- (iv) to develop analytical processes for safety data elements;
- (v) to acquire and implement roadway safety analysis tools; and
- (vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

(2) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

- (A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and
- (B) ensure that States adopt and use the subset to improve data collection.

(g) SPECIAL RULES.—

(1) HIGH-RISK RURAL ROAD SAFETY.—If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200 percent of the amount of funds the State received for fiscal year 2009 for high risk rural roads under subsection (f) of this section, as in effect on the day before the date of enactment of the MAP-21.

(2) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled “Highway Design Handbook for Older Drivers and Pedestrians” (FHWA-RD-01-103), and dated May 2001, or as subsequently revised and updated.

(h) REPORTS.—

(1) IN GENERAL.—A State shall submit to the Secretary a report that—

- (A) describes progress being made to implement highway safety improvement projects under this section;
- (B) assesses the effectiveness of those improvements; and

(C) describes the extent to which the improvements funded under this section have contributed to reducing—

(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

(3) TRANSPARENCY.—The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through—

(A) the website of the Department; and

(B) such other means as the Secretary determines to be appropriate.

(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

(i) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under section 150(d) by the date that is 2 years after the date of the establishment of the performance targets, the State shall—

(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State; and

(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State, an implementation plan that—

(A) identifies roadway features that constitute a hazard to road users;

(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

(D) describes how the proposed projects, activities, and strategies funded under the

State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

(E) describes the actions the State will undertake to meet the performance targets of the State.

(j) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.

(Added Pub. L. 93-87, title I, §129(b), Aug. 13, 1973, 87 Stat. 265; amended Pub. L. 95-599, title I, §§125, 129(d), Nov. 6, 1978, 92 Stat. 2705, 2707; Pub. L. 109-59, title I, §1401(a)(1), Aug. 10, 2005, 119 Stat. 1219; Pub. L. 112-141, div. A, title I, §1112(a), July 6, 2012, 126 Stat. 450.)

REFERENCES IN TEXT

Section 1401 of the MAP-21, referred to in subsec. (a)(4)(B)(xxiii), is section 1401 of Pub. L. 112-141, which is set out as a note under section 137 of this title.

The date of enactment of the MAP-21, referred to in subsecs. (d)(1)(A) and (g)(1), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title. Subsection (f) of this section, as in effect on the day before the date of enactment of the MAP-21, means subsec. (f) of this section as in effect on the day before the date of enactment of Pub. L. 112-141, which amended this section generally.

AMENDMENTS

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to highway safety improvement program and consisted of subsecs. (a) to (h).
2005—Pub. L. 109-59 amended section catchline and text generally, substituting provisions relating to a highway safety improvement program for provisions relating to development of the Great River Road, a national scenic and recreational highway.

1978—Subsec. (a)(5). Pub. L. 95-599, §125(b), inserted provision authorizing charging of a fee in certain cases to cover operational costs.

Subsec. (e). Pub. L. 95-599, §129(d), substituted “75 per centum” for “70 per centum”.

Subsec. (h). Pub. L. 95-599, §125(a), added subsec. (h).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 129(d) of Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as a note under section 120 of this title.

STUDY OF HIGH-RISK RURAL ROADS BEST PRACTICES

Pub. L. 112-141, div. A, title I, §1112(b), July 6, 2012, 126 Stat. 459, provided that:

“(1) STUDY.—

“(A) IN GENERAL.—The Secretary [of Transportation] shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(B) METHODOLOGY.—In carrying out the study, the Secretary shall—

“(i) conduct a thorough literature review;

“(ii) survey current practices of State departments of transportation; and

“(iii) survey current practices of local units of government, as appropriate.

“(C) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

“(i) State departments of transportation;

“(ii) county engineers and public works professionals;

“(iii) appropriate local officials; and

“(iv) appropriate private sector experts in the field of roadway safety infrastructure.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of this title], the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

“(B) CONTENTS.—The report shall include—

“(i) a summary of cost-effective roadway safety infrastructure improvements;

“(ii) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

“(iii) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

“(3) MANUAL.—

“(A) DEVELOPMENT.—Based on the results of the study under paragraph (2), the Secretary, in consultation with the individuals and entities described in paragraph (1)(C), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

“(B) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under paragraph (2).

“(C) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

“(D) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.”

TRANSITION

Pub. L. 109–59, title I, §1401(d), formerly §1401(e), Aug. 10, 2005, 119 Stat. 1227, renumbered §1401(d) by Pub. L. 110–244, title I, §101(s)(1), June 6, 2008, 122 Stat. 1577, provided for different methods of obligating funds to States for highway safety improvement programs both before and after the second fiscal year beginning Aug. 10, 2005.

§ 149. Congestion mitigation and air quality improvement program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—Except as provided in subsection (d), a State may obligate funds apportioned to it under section 104(b)(4) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a

nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

(I) the attainment of a national ambient air quality standard; or

(II) the maintenance of a national ambient air quality standard in a maintenance area; and

(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or,

(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors;

(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard;

(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of this paragraph, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;