

(2) **SPECIAL RULE.**—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

(g) **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 contribute to the goals of—

(i) reducing the number of fatalities on roadways;

(ii) reducing the number of roadway-related injuries;

(iii) reducing the occurrences of roadway-related crashes;

(iv) mitigating the consequences of roadway-related crashes; and

(v) reducing the occurrences of crashes at railway-highway crossings.

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

(3) **TRANSPARENCY.**—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—

(A) the Web site 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 directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), 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 such reports, surveys, schedules, lists, or other data.

(h) **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)(5) 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.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(2), probably means the date of enactment of Pub. L. 109-59, which amended this section generally and was approved Aug. 10, 2005.

AMENDMENTS

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 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.

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 that:

“(1) **IMPLEMENTATION.**—Except as provided in paragraph (2), the Secretary [of Transportation] shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)), to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year beginning after the date of enactment of this Act [Aug. 10, 2005], a State has developed and implemented a State strategic highway safety plan as required pursuant to section 148(c) of that title.

“(2) **INTERIM PERIOD.**—

“(A) **IN GENERAL.**—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

“(B) **NO STRATEGIC HIGHWAY SAFETY PLAN.**—If a State has not developed a strategic highway safety plan by October 1, 2007, the State shall receive for the highway safety improvement program for each subsequent fiscal year until the date of development of such plan an amount that equals the amount apportioned to the State for that program for fiscal year 2007.”

§ 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 (c), a State may obligate funds apportioned to it under section 104(b)(2) 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, 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;

(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

(7) if the project or program is for—

(A) the purchase of diesel retrofits that are—

(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

(ii) published in the list under subsection (f)(2) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

(I) located in nonattainment or maintenance areas for ozone, PM₁₀, or PM_{2.5}

(as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(II) funded, in whole or in part, under this title; or

(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times. In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM-10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project in the State that—

(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation program under section 133.

(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State that—

(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation program under section 133.

(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit en-

tity to cooperatively implement any project carried out under this section.

(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

(B) cost sharing of any project expense;

(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

(f) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(B) DIESEL RETROFIT.—The term “diesel retrofit” means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an

application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later than 18 months of the date of enactment of this subsection;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

(3) PRIORITY.—

(A) IN GENERAL.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion mitigation and air quality projects and programs from apportionments derived from application of sections 104(b)(2)(B) and 104(b)(2)(C) to—

(i) diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and

(ii) cost-effective congestion mitigation activities that provide air quality benefits.

(B) SAVINGS.—This paragraph is not intended to disturb the existing authorities and roles of governmental agencies in making final project selections.

(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).

(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

(B) ensure the effective implementation of the program.

(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

(3) CONSIDERATION.—The Secretary, in consultation with the Administrator, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including rec-

ommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program.

(Added Pub. L. 93-87, title I, §142(a), Aug. 13, 1973, 87 Stat. 272; amended Pub. L. 102-240, title I, §1008(a), Dec. 18, 1991, 105 Stat. 1932; Pub. L. 102-388, title III, §380, Oct. 6, 1992, 106 Stat. 1562; Pub. L. 104-59, title III, §319(a)(1), (b), Nov. 28, 1995, 109 Stat. 588, 589; Pub. L. 104-88, title IV, §405(a)(2), (b), Dec. 29, 1995, 109 Stat. 956, 957; Pub. L. 105-178, title I, §1110(a)-(d)(1), June 9, 1998, 112 Stat. 142, 143; Pub. L. 109-59, title I, §1808(a)-(f), Aug. 10, 2005, 119 Stat. 1461-1463.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b), (c)(1), (e)(5), and (f)(4), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. Section 108(f)(1)(A) of the Act is classified to section 7408(f)(1)(A) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

The date of enactment of this subsection, referred to in subsec. (f)(2)(B), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

Section 1110(e) of the Transportation Equity Act for the 21st Century, referred to in subsec. (h)(3), is section 1110(e) of Pub. L. 105-178, which is set out as a note below.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59, §1808(a), inserted “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.)” after “1997,” in introductory provisions.

Subsec. (b)(1). Pub. L. 109-59, §1808(b)(1), added par. (1) and struck out former par. (1) which read as follows:

“(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, 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) of such section), 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; 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;”.

Subsec. (b)(4). Pub. L. 109-59, §1808(b)(2)(A), inserted “, including advanced truck stop electrification systems,” after “control facility or program”.

Subsec. (b)(5). Pub. L. 109-59, §1808(b)(3)(A), inserted “improve transportation systems management and operations that mitigate congestion and improve air quality,” after “intersections,”.

Subsec. (b)(6), (7). Pub. L. 109-59, §1808(b)(2)(B), (3)(B), (4), which directed addition of pars. (6) and (7) at end of subsec. (b), was executed by adding pars. (6) and (7) after par. (5) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 109-59, §1808(c)(1), substituted “for any project in the State that—” and subpars. (A) and (B) for “for any project eligible under the surface transportation program under section 133.”

Subsec. (c)(2). Pub. L. 109-59, §1808(c)(2), substituted “for any project in the State that—” and subpars. (A) and (B) for “for any project in the State eligible under section 133.”

Subsecs. (f) to (h). Pub. L. 109-59, §1808(d)-(f), added subsecs. (f) to (h).

1998—Subsec. (a). Pub. L. 105-178, §1110(a), substituted “shall establish and implement” for “shall establish”.

Subsec. (b). Pub. L. 105-178, §1110(b)(1), in introductory provisions, substituted “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,” for “that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994”.

Subsec. (b)(1)(A). Pub. L. 105-178, §1110(b)(2), substituted “clause (xvi) of such section” for “clauses (xii) and (xvi) of such section”.

Subsec. (b)(1)(A)(ii). Pub. L. 105-178, §1110(b)(3), substituted “a maintenance area” for “an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))”.

Subsec. (b)(5). Pub. L. 105-178, §1110(b)(4)-(6), added par. (5).

Subsec. (c). Pub. L. 105-178, §1110(c), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: “If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.”

Subsec. (e). Pub. L. 105-178, §1110(d)(1), added subsec. (e).

1995—Subsec. (b). Pub. L. 104-59, §319(a)(1)(A), in introductory provisions, inserted “if the project or program is for an area in the State that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994 and” after “project or program”.

Subsec. (b)(1)(A). Pub. L. 104-59, §319(a)(1)(B), substituted “contribute to—” and cls. (i) and (ii) for “contribute to the attainment of a national ambient air quality standard; or”.

Subsec. (b)(2). Pub. L. 104-59, §319(b)(1), struck out “or” at end.

Subsec. (b)(3). Pub. L. 104-88, §405(b)(1), inserted “or” after semicolon at end.

Pub. L. 104-59, §319(b)(2), substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 104-88, §405(b)(2), substituted a period for “; or” at end.

Pub. L. 104-59, §319(b)(3), as amended by Pub. L. 104-88, §405(a)(2), added par. (4).

1992—Subsec. (b). Pub. L. 102-388 inserted at end “In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM-10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.”

1991—Pub. L. 102-240 substituted section catchline for one which read: “Truck lanes” and amended text generally. Prior to amendment, text read as follows: “The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.”

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 405(b) of Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

Section 405(a) of Pub. L. 104-88 provided that the amendment made by that section is effective Nov. 28, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

DETERMINATION BY SECRETARY; WATER-PHASED HYDROCARBON FUEL EMULSION TECHNOLOGIES

Pub. L. 105-178, title I, §1110(d)(2), June 9, 1998, 112 Stat. 144, as amended by Pub. L. 105-206, title IX, §9002(g), July 22, 1998, 112 Stat. 836, provided that: "For the purposes of section 149(e) of title 23, United States Code, the Secretary shall determine in accordance with the procedures specified in section 149(b) of such title whether water-phased hydrocarbon fuel emulsion technologies that consist of a hydrocarbon base and water in an amount not less than 20 percent by volume reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide from motor vehicles."

STUDY OF CMAQ PROGRAM

Pub. L. 105-178, title I, §1110(e), June 9, 1998, 112 Stat. 144, provided that:

"(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall enter into arrangements with the National Academy of Sciences to complete, by not later than January 1, 2001, a study of the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code. The study shall, at a minimum—

"(A) evaluate the air quality impacts of emissions from motor vehicles;

"(B) evaluate the negative effects of traffic congestion, including the economic effects of time lost due to congestion;

"(C) determine the amount of funds obligated under the program and make a comprehensive analysis of the types of projects funded under the program;

"(D) evaluate the emissions reductions attributable to projects of various types that have been funded under the program;

"(E) assess the effectiveness, including the quantitative and nonquantitative benefits, of projects funded under the program and include, in the assessment, an estimate of the cost per ton of pollution reduction;

"(F) assess the cost effectiveness of projects funded under the program with respect to congestion mitigation;

"(G) compare—

"(i) the costs of achieving the air pollutant emissions reductions achieved under the program; to

"(ii) the costs that would be incurred if similar reductions were achieved by other measures, including pollution controls on stationary sources;

"(H) include recommendations on improvements, including other types of projects, that will increase the overall effectiveness of the program;

"(I) include recommendations on expanding the scope of the program to address traffic-related pollutants that, as of the date of the study, are not addressed by the program.

"(2) REPORT.—Not later than January 1, 2000, the National Academy of Sciences shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on the results of the study with recommendations for modifications to the congestion mitigation and air quality improvement program in light of the results of the study.

"(3) FUNDING.—Before making the apportionment of funds under section 104(b)(2) of title 23, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall deduct from the amount to be apportioned

under such section for such fiscal year, and make available, \$500,000 for such fiscal year to carry out this subsection."

EFFECT OF LIMITATION ON APPORTIONMENT

Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, amendment by section 319(a)(1) of Pub. L. 104-59 not to affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, see section 319(c) of Pub. L. 104-59, set out as a note under section 104 of this title.

VALUE PRICING PILOT PROGRAM

Pub. L. 102-240, title I, §1012(b), Dec. 18, 1991, 105 Stat. 1938, as amended by Pub. L. 104-59, title III, §325(e), Nov. 28, 1995, 109 Stat. 592; Pub. L. 105-178, title I, §1216(a), June 9, 1998, 112 Stat. 211; Pub. L. 105-206, title IX, §9006(b), July 22, 1998, 112 Stat. 848; Pub. L. 109-59, title I, §1604(a), Aug. 10, 2005, 119 Stat. 1249, provided that:

"(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more value pricing pilot programs. The Secretary may enter into cooperative agreements with as many as 15 such State or local governments or public authorities to establish, maintain, and monitor value pricing programs.

"(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all preimplementation costs and project design, and all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund the preimplementation or implementation costs of any project for more than 3 years.

"(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

"(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of any value pricing pilot program under this subsection.

"(5) The Secretary shall monitor the effect of such programs for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 102(a) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.

"(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

"(8) FUNDING.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(i) for fiscal year 2005, \$11,000,000; and

"(ii) for each of fiscal years 2006 through 2009, \$12,000,000.

"(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, \$3,000,000 for each of fiscal years

2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.

“(C) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

“(D) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund to carry out this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds \$8,000,000 as of September 30 of any year, the excess amount—

“(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

“(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

“(iii) shall be available for any purpose eligible for funding under section 133 of such title.

“(C) [probably should be (E)] CONTRACT AUTHORITY.—Funds authorized to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized to carry out this subsection shall be determined in accordance with this subsection.”

[§ 150. Repealed. Pub. L. 105–178, title I, § 1103(l)(5), as added Pub. L. 105–206, title IX, § 9002(c)(1), July 22, 1998, 112 Stat. 834]

Section, added Pub. L. 93–87, title I, § 157(a), Aug. 13, 1973, 87 Stat. 277; amended Pub. L. 97–424, title I, § 124, Jan. 6, 1983, 96 Stat. 2113, related to allocation of urban system funds.

EFFECTIVE DATE OF REPEAL

Repeal effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

§ 151. National bridge inspection program

(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State transportation departments and interested and knowledgeable private organizations and individuals, shall establish national bridge inspection standards for the proper safety inspection and evaluation of all highway bridges.

(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

(1) specify, in detail, the method by which such inspections shall be carried out by the States;

(2) establish the maximum time period between inspections;

(3) establish the qualification for those charged with carrying out the inspections;

(4) require each State to maintain and make available to the Secretary upon request—

(A) written reports on the results of highway bridge inspections together with notations of any action taken pursuant to the findings of such inspections; and

(B) current inventory data for all highway bridges reflecting the findings of the most recent highway bridge inspections conducted; and

(5) establish a procedure for national certification of highway bridge inspectors.

(c) TRAINING PROGRAM FOR BRIDGE INSPECTORS.—The Secretary, in cooperation with the State transportation departments, shall establish a program designed to train appropriate governmental employees to carry out highway bridge inspections. Such training program shall be revised from time to time to take into account new and improved techniques.

(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a), section 502, and section 144 of this title.

(Added Pub. L. 100–17, title I, § 125(a), Apr. 2, 1987, 101 Stat. 166; amended Pub. L. 105–178, title I, § 1212(a)(2)(A)(ii), title V, § 5119(e), June 9, 1998, 112 Stat. 193, 452.)

PRIOR PROVISIONS

A prior section 151, added Pub. L. 93–87, title II, § 205(a), Aug. 13, 1973, 87 Stat. 284; amended Pub. L. 94–280, title II, § 207, May 5, 1976, 90 Stat. 454; Pub. L. 95–599, title I, § 127, Nov. 6, 1978, 92 Stat. 2707; Pub. L. 96–470, title II, § 209(c), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–375, title I, § 111(a), Dec. 21, 1982, 96 Stat. 1821, related to a pavement marking demonstration program, prior to repeal by Pub. L. 100–17, title I, § 125(a), Apr. 2, 1987, 101 Stat. 166.

AMENDMENTS

1998—Subsecs. (a), (c). Pub. L. 105–178, § 1212(a)(2)(A)(ii), substituted “State transportation departments” for “State highway departments”.

Subsec. (d). Pub. L. 105–178, § 5119(e), substituted “section 502,” for “section 307(a),”.

§ 152. Hazard elimination program

(a) IN GENERAL.—

(1) PROGRAM.—Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

(B) develop and implement projects and programs to address the hazards.

(b) The Secretary may approve as a project under this section any safety improvement project, including a project described in subsection (a).

(c) Funds authorized to carry out this section shall be available for expenditure on—

(1) any public road;

(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

(3) any traffic calming measure.

(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.