

SUBCHAPTER J—HIGHWAY SAFETY

PART 924—HIGHWAY SAFETY IMPROVEMENT PROGRAM

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§ 924.1 Purpose.

The purpose of this regulation is to set forth policy for the development, implementation, and evaluation of a comprehensive highway safety improvement program (HSIP) in each State.

§ 924.3 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. In addition, the following definitions apply:

Hazard index formula means any safety or crash prediction formula used for determining the relative likelihood of hazardous conditions at railway-highway grade crossings, taking into consideration weighted factors, and severity of crashes.

High risk rural road means any roadway functionally classified as a rural major or minor collector or a rural local road—

(1) On which the crash rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

(2) That will likely have increases in traffic volume that are likely to create a crash rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

Highway means,

(1) A road, street, and parkway;

(2) A right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protec-

tive structure, in connection with a highway; and

(3) A portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel; and

(4) Those facilities specifically provided for the accommodation and protection of pedestrians and bicyclists.

Highway-rail grade crossing protective devices means those traffic control devices in the Manual on Uniform Traffic Control Devices specified for use at such crossings; and system components associated with such traffic control devices, such as track circuit improvements and interconnections with highway traffic signals.

Highway safety improvement program means the program carried out under 23 U.S.C. 130 and 148.

Highway safety improvement project means a project consistent with the State strategic highway safety plan (SHSP) that corrects or improves a hazardous road location or feature, or addresses a highway safety problem. Projects include, but are not limited to, the following:

(1) An intersection safety improvement.

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

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

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

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

(6) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible

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for funding under 23 U.S.C. 130, including the separation or protection of grades at railway-highway crossings.

(7) Construction of a railway-highway crossing safety feature, including installation of highway-rail grade crossing protective devices.

(8) The conduct of an effective traffic enforcement activity at a railway-highway crossing.

(9) Construction of a traffic calming feature.

(10) Elimination of a roadside obstacle or roadside hazard.

(11) Improvement of highway signage and pavement markings.

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

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

(14) Transportation safety planning.

(15) Improvement in the collection and analysis of safety data.

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

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

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

(19) Installation and maintenance of signs (including fluorescent yellow-green signs) at pedestrian-bicycle crossings and in school zones.

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

(22) Conducting road safety audits.

Integrated interoperable emergency communication equipment means equipment that supports an interoperable emergency communications system.

Interoperable emergency communications system means a network of hardware and software that allows emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary through a dedicated public safety network utilizing infor-

mation technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

Operational improvements means a capital improvement for installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems; integrated traffic control systems; incident management programs; transportation demand management facilities, strategies, and programs; and such other capital improvements to public roads as the Secretary may designate by regulation.

Public grade crossing means a railway-highway grade crossing where the roadway is under the jurisdiction of and maintained by a public authority and open to public travel. All roadway approaches must be under the jurisdiction of the public roadway authority, and no roadway approach may be on private property.

Public road means any highway, road, or street under the jurisdiction of and maintained by a public authority and open to public travel.

Road Safety Audit means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

Safety data includes, but is not limited to, crash, roadway, traffic, and vehicle data on all public roads including, for railway-highway grade crossings, the characteristics of both highway and train traffic.

Safety projects under any other section means safety projects eligible for funding under Title 23, United States Code, including projects to promote safety awareness, public education, and projects to enforce highway safety laws.

Safety stakeholder means

(1) A highway safety representative of the Governor of the State;

(2) Regional transportation planning organizations and metropolitan planning organizations, if any;

(3) Representatives of major modes of transportation;

(4) State and local traffic enforcement officials;

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(5) Persons responsible for administering section 130 at the State level;

(6) Representatives conducting Operation Lifesaver;

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

(8) Motor vehicle administration agencies; and

(9) Includes, but is not limited to, local, State, and Federal transportation agencies and tribal governments.

Serious injury means an incapacitating injury or any injury, other than a fatal injury, which prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

State means any one of the 50 States and the District of Columbia.

Strategic highway safety plan means a comprehensive, data-driven safety plan developed, implemented, and evaluated in accordance with § 924.15 of this part that

Transparency report means the report submitted to the Secretary annually under 23 U.S.C. 148(c)(1)(D) and in accordance with § 924.15 of this part that describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State as exhibiting the most severe safety needs; and contains an assessment of potential remedies to hazardous locations identified; estimated costs associated with those remedies; and impediments to implementation other than cost associated with those remedies.

§ 924.5 Policy.

(a) Each State shall develop, implement, and evaluate on an annual basis a HSIP that has the overall objective of significantly reducing the occurrence of and the potential for fatalities and serious injuries resulting from crashes on all public roads.

(b) Under 23 U.S.C. 148(a)(3), a variety of highway safety improvement projects are eligible for funding through the HSIP. In order for an eligible improvement to be funded with HSIP funds, States shall first consider whether the activity maximizes opportunities to advance safety. States shall fund safety projects or activities that are most likely to reduce the number

of, or potential for, fatalities and serious injuries. Safety projects under any other section, and funded with 23 U.S.C. 148 funds, are only eligible activities when a State is eligible to use up to 10 percent of the amount apportioned under 23 U.S.C. 104(b)(5) for a fiscal year in accordance with 23 U.S.C. 148(e). This excludes minor activities that are incidental to a specific highway safety improvement project.

(c) Other Federal-aid funds are eligible to support and leverage the safety program. Improvements to safety features that are routinely provided as part of a broader Federal-aid project should be funded from the same source as the broader project. States should address the full scope of their safety needs and opportunities on all roadway categories by using other funding sources such as Interstate Maintenance (IM), Surface Transportation Program (STP), National Highway System (NHS), and Equity Bonus (EB) funds in addition to HSIP funds.

(d) Eligibility for Federal funding of projects for traffic control devices under this part is subject to a State and/or local jurisdiction's substantial conformance with National MUTCD or FHWA approved State MUTCDs and supplements in accordance with part 655, subpart F, of this title.

§ 924.7 Program structure.

(a) The HSIP shall include a data-driven SHSP and the resulting implementation through highway safety improvement projects. The HSIP includes construction and operational improvements on high risk rural roads, and elimination of hazards at railway-highway grade crossings.

(b) The HSIP shall include processes for the planning, implementation, and evaluation of the HSIP and SHSP. These processes shall be developed by the States in consultation with the FHWA Division Administrator in accordance with this section. Where appropriate, the processes shall be developed cooperatively with officials of the various units of local and tribal governments. The processes may incorporate a range of procedures appropriate for the administration of an effective HSIP on individual highway systems, portions of highway systems,

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and in local political subdivisions, and when combined, shall cover all public roads in the State.

§ 924.9 Planning.

(a) The HSIP planning process shall incorporate:

(1) A process for collecting and maintaining a record of crash, roadway, traffic and vehicle data on all public roads including for railway-highway grade crossings inventory data that includes, but is not limited to, the characteristics of both highway and train traffic.

(2) A process for advancing the State's capabilities for safety data collection and analysis by improving the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State's safety data or traffic records.

(3) A process for analyzing available safety data to:

(i) Develop a HSIP in accordance with 23 U.S.C. 148(c)(2) that:

(A) Identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data supported means as identified by the State, and establishes the relative severity of those locations;

(B) Considers the relative hazard of public railway-highway grade crossings based on a hazard index formula; and

(C) Establishes an evaluation process to analyze and assess results achieved by the HSIP and uses this information, where appropriate, in setting priorities for future projects.

(ii) Develop and maintain a data-driven SHSP that:

(A) Is developed after consultation with safety stakeholders;

(B) Makes effective use of State, regional, and local crash data and determines priorities through crash data analysis;

(C) Addresses engineering, management, operation, education, enforcement, and emergency services;

(D) Considers safety needs of all public roads;

(E) Adopts a strategic safety goal;

(F) Identifies key emphasis areas and describes a program of projects, technologies, or strategies to reduce or eliminate highway safety hazards;

(G) Adopts performance-based goals, coordinated with other State highway safety programs, that address behavioral and infrastructure safety problems and opportunities on all public roads and all users, and focuses resources on areas of greatest need and the potential for the highest rate of return on the investment of HSIP funds;

(H) Identifies strategies, technologies, and countermeasures that significantly reduce highway fatalities and serious injuries in the key emphasis areas giving high priority to cost effective and proven countermeasures;

(I) Determines priorities for implementation;

(J) Is consistent, as appropriate, with safety-related goals, priorities, and projects in the long-range statewide transportation plan and the statewide transportation improvement program and the relevant metropolitan long-range transportation plans and transportation improvement programs that are developed as specified in 23 U.S.C. 134, 135 and 402; and 23 CFR part 450;

(K) Documents the process used to develop the plan;

(L) Proposes a process for implementation and evaluation of the plan;

(M) Is approved by the Governor of the State or a responsible State agency official that is delegated by the Governor of the State; and

(N) Has been developed using a process approved by the FHWA Division Administrator.

(iii) Develop a High Risk Rural Roads program using safety data that identifies eligible locations on State and non-State owned roads as defined in § 924.3, and analyzes the highway safety problem to identify safety concerns, identify potential countermeasures, select projects, and prioritize high risk rural roads projects on all public roads.

(iv) Develop a Railway-Highway Grade Crossing program that:

(A) Considers the relative hazard of public railway-highway grade crossings based on a hazard index formula;

(B) Includes onsite inspection of public grade crossings;

(C) Considers the potential danger to large numbers of people at public grade crossings used on a regular basis by passenger trains, school buses, transit buses, pedestrians, bicyclists, or by

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trains and/or motor vehicles carrying hazardous materials; and

(D) Results in a program of safety improvement projects at railway-highway grade crossings giving special emphasis to the statutory requirement that all public crossings be provided with standard signing and markings.

(4) A process for conducting engineering studies (such as roadway safety audits and other safety assessments or reviews) of hazardous locations, sections, and elements to develop highway safety improvement projects.

(5) A process for establishing priorities for implementing highway safety improvement projects considering:

(i) The potential reduction in the number of fatalities and serious injuries;

(ii) The cost effectiveness of the projects and the resources available;

(iii) The priorities in the SHSP;

(iv) The correction and prevention of hazardous conditions;

(v) Other safety data-driven criteria as appropriate in each State; and

(vi) Integration with the statewide transportation planning process and statewide transportation improvement program, and metropolitan transportation planning process and transportation improvement program where applicable, in 23 CFR part 450.

(b) The planning process of the HSIP may be financed with funds made available through 23 U.S.C. 130, 133, 148, 402, and 505 and, where applicable in metropolitan planning areas, through 23 U.S.C. 104(f).

(c) Highway safety improvement projects shall be carried out as part of the Statewide and Metropolitan Transportation Planning Process consistent with the requirements of 23 U.S.C. 134 and 135, and 23 CFR part 450.

§ 924.11 Implementation.

(a) The HSIP shall be implemented in accordance with the requirements of § 924.9 of this part.

(b) A State is eligible to use up to 10 percent of the amount apportioned under 23 U.S.C. 104(b)(5) for each fiscal year to carry out safety projects under any other section, consistent with the SHSP and as defined in 23 U.S.C. 148(a)(4), if the State can certify that it has met infrastructure safety needs re-

lating to railway-highway grade crossings and highway safety improvement projects for a given fiscal year. In order for a State to obtain approval:

(1) A State must submit a written request for approval to the FHWA Division Administrator for each year that a State certifies that the requirements have been met before a State may use these funds to carry out safety projects under any other section; and

(2) A State must submit a written request that describes how the certification was made, the activities that will be funded, how the activities are consistent with the SHSP, and the dollar amount the State estimates will be used.

(c) If a State has funds set aside from 23 U.S.C. 104(b)(5) for construction and operational improvements on high risk rural roads, in accordance with 23 U.S.C. 148(a)(1), such funds:

(1) Shall be used for safety projects that address priority high risk rural roads as determined by the State.

(2) Shall only be used for construction and operational improvements on high risk rural roads and the planning, preliminary engineering, and roadway safety audits related to specific high risk rural roads improvements.

(3) May also be used for other highway safety improvement projects if the State certifies that it has met all infrastructure safety needs for construction and operational improvements on high risk rural roads for a given fiscal year.

(d) Funds set aside pursuant to 23 U.S.C. 148 for apportionment under the 23 U.S.C. 130(f) Railway-Highway Grade Crossing Program, are to be used to implement railway-highway grade crossing safety projects on any public road. At least 50 percent of the funds apportioned under 23 U.S.C. 130(f) must be made available for the installation of highway-rail grade crossing protective devices. The railroad share, if any, of the cost of grade crossing improvements shall be determined in accordance with 23 CFR part 646, subpart B (Railroad-Highway Projects). If a State demonstrates to the satisfaction of the FHWA Division Administrator that the State has met its needs for installation of protective devices at railway-highway grade crossings the State may use funds made available under 23 U.S.C.

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130 for highway safety improvement program purposes. In addition, up to 2 percent of the section 130 funds apportioned to a State may be used for compilation and analysis of safety data for the annual report to the FHWA Division Administrator required under § 924.15(a)(2) on the progress being made to implement the railway-highway grade crossing program.

(e) Highway safety improvement projects may also be implemented with other funds apportioned under 23 U.S.C. 104(b) subject to the eligibility requirements applicable to each program.

(f) Award of contracts for highway safety improvement projects shall be in accordance with 23 CFR part 635 and part 636, where applicable, for highway construction projects, 23 CFR part 172 for engineering and design services contracts related to highway construction projects, or 49 CFR part 18 for non-highway construction projects.

(g) All safety projects funded under 23 U.S.C. 104(b)(5), including safety projects under any other section, shall be accounted for in the statewide transportation improvement program and reported on annually in accordance with § 924.15.

(h) The Federal share of the cost for most highway safety improvement projects carried out with funds apportioned to a State under 23 U.S.C. 104(b)(5) shall be a maximum of 90 percent. In accordance with 23 U.S.C. 120(a) or (b), the Federal share may be increased to a maximum of 95 percent by the sliding scale rates for States with a large percentage of Federal lands. In accordance with 23 U.S.C. 120(c), projects such as roundabouts, traffic control signalization, safety rest areas, pavement markings, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier end treatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may be funded at up to 100 percent Federal share, except not more than 10 percent of the sums apportioned under 23 U.S.C. 104 for any fiscal year shall be used at this Federal share rate. In addition, for railway-highway grade crossings, the Federal share may amount up to 100 percent for projects

for signing, pavement markings, active warning devices, and crossing closures, subject to the 10 percent limitation for funds apportioned under 23 U.S.C. 104 in a fiscal year.

(i) The implementation of the HSIP in each State shall include a process for implementing highway safety improvement projects in accordance with the procedures set forth in 23 CFR part 630, subpart A (Preconstruction Procedures: Project Authorization and Agreements).

§ 924.13 Evaluation.

(a) The HSIP evaluation process shall include the evaluation of the overall HSIP and the SHSP. It shall:

(1) Include a process to analyze and assess the results achieved by the HSIP in reducing the number of crashes, fatalities and serious injuries, or potential crashes, and in reaching the performance goals identified in § 924.9(a)(3)(ii)(G).

(2) Include a process to evaluate the overall SHSP on a regular basis as determined by the State and in consultation with the FHWA to:

(i) Ensure the accuracy and currency of the safety data;

(ii) Identify factors that affect the priority of emphasis areas, strategies, and proposed improvements; and

(iii) Identify issues that demonstrate a need to revise or otherwise update the SHSP.

(b) The information resulting from the process developed in § 924.13(a)(1) shall be used:

(1) For developing basic source data in the planning process in accordance with § 924.9(a)(1);

(2) For setting priorities for highway safety improvement projects;

(3) For assessing the overall effectiveness of the HSIP; and

(4) For reporting required by § 924.15.

(c) The evaluation process may be financed with funds made available under 23 U.S.C. 104(b)(1), (3), and (5), 105, 402, and 505, and for metropolitan planning areas, 23 U.S.C. 104(f).

§ 924.15 Reporting.

(a) For the period of the previous year, each State shall submit to the FHWA Division Administrator no later

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than August 31 of each year the following reports related to the HSIP in accordance with 23 U.S.C. 148(g):

(1) A report with a defined one year reporting period describing the progress being made to implement the State HSIP that:

(i) Describes the progress in implementing the projects, including the funds available, and the number and general listing of the types of projects initiated. The general listing of the projects initiated shall be structured to identify how the projects relate to the State SHSP and to the State's safety goals and objectives. The report shall also provide a clear description of the project selection process;

(ii) Assesses the effectiveness of the improvements. This section shall: Provide a demonstration of the overall effectiveness of the HSIP; include figures showing the general highway safety trends in the State by number and by rate; and describe the extent to which improvements contributed to performance goals, including reducing the number of roadway crashes leading to fatalities and serious injuries.

(iii) Describes the High Risk Rural Roads program, providing basic program implementation information, methods used to identify high risk rural roads, information assessing the High Risk Rural Roads program projects, and a summary of the overall

High Risk Rural Roads program effectiveness.

(2) A report describing progress being made to implement railway-highway grade crossing improvements in accordance with 23 U.S.C. 130(g), and the effectiveness of these improvements.

(3) A transparency report describing not less than 5 percent of a State's highway locations exhibiting the most severe safety needs that:

(i) Identifies potential remedies to those hazardous locations; estimates costs associated with the remedies; and identifies impediments to implementation other than cost associated with those remedies;

(ii) Emphasizes fatality and serious injury data;

(iii) At a minimum, uses the most recent three to five years of crash data;

(iv) Identifies the data years used and describes the extent of coverage of all public roads included in the data analysis;

(v) Identifies the methodology used to determine how the locations were selected; and

(vi) Is compatible with the requirements of 29 U.S.C. 794(d), Section 508 of the Rehabilitation Act.

(b) The preparation of the State's annual reports may be financed with funds made available through 23 U.S.C. 104(b)(1), (3), and (5), 105, 402, and 505, and for metropolitan planning areas, 23 U.S.C. 104(f).