



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Transmittal of Guidance on Bicycle
and Pedestrian Provisions of the Federal-aid Program

Date: February 24, 1999

From: 
Kenneth R. Wykle
Federal Highway Administrator

Reply to
Attn.. of: HEHE

To: Division Administrators
Federal Lands Highway Division Engineers

This memorandum transmits the Federal Highway Administration's (FHWA) Guidance on the Bicycle and Pedestrian Provisions of the Federal-aid Program and reaffirms our strong commitment to improving conditions for bicycling and walking. The nonmotorized modes are an integral part of the mission of FHWA and a critical element of the local, regional, and national transportation system. Bicycle and pedestrian projects and programs are eligible for but not guaranteed funding from almost all of the major Federal-aid funding programs. We expect every transportation agency to make accommodation for bicycling and walking a routine part of their planning, design, construction, operations and maintenance activities.

The Transportation Equity Act for the 21st Century (TEA-21) continues the call for the mainstreaming of bicycle and pedestrian projects into the planning, design, and operation of our Nation's transportation system. Under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Federal spending on bicycle and pedestrian improvements increased from \$4 million annually to an average of \$160 million annually. Nevertheless, the level of commitment to addressing the needs of bicyclists and pedestrians varies greatly from State to State.

The attached guidance explains how bicycle and pedestrian improvements can be routinely included in federally funded transportation projects and programs. I would ask each division office to pass along this guidance to the State DOT and to meet with them to discuss ways of expediting the implementation of bicycle and pedestrian projects. With the guidance as a basis for action, States can then decide the most appropriate ways of mainstreaming the inclusion of bicycle and pedestrian projects and programs.

Bicycling and walking contribute to many of the goals for our transportation system we have at FHWA and at the State and local levels. Increasing bicycling and walking offers the potential for cleaner air, healthier people, reduced congestion, more liveable communities, and more efficient use of precious road space and resources. That is why funds in programs such as Congestion Mitigation and Air Quality Improvement, Transportation Enhancements, and the

National Highway System, are eligible to be used for bicycling and walking improvements that will encourage use of the two modes.

We also have a responsibility to improve the safety of bicycling and walking as the two modes represent more than 14 percent of the 41,000 traffic fatalities the nation endures each year. Pedestrian and bicycle safety is one of FHWA's top priorities and this is reflected in our 1999 Safety Action Plan. As the attached guidance details, TEA-21 has opened up the Hazard Elimination Program to a broader array of bicycle, pedestrian, and traffic calming projects that will improve dangerous locations. The legislation also continues funding for critical safety education and enforcement activities under the leadership of the National Highway Traffic Safety Administration. If we are successful in improving the real and perceived safety of bicyclists and pedestrians, we will also increase use.

You will see from the attached guidance that the Federal-aid Program, as amended by TEA-21, offers an extraordinary range of opportunities to improve conditions for bicycling and walking. Initiatives such as the Transportation and Community and System Preservation Pilot Program and the Access to Jobs program offer exciting new avenues to explore.

Bicycling and walking ought to be accommodated, as an element of good planning, design, and operation, in all new transportation projects unless there are substantial safety or cost reasons for not doing so. Later this year (1999), FHWA will issue design guidance language on approaches to accommodating bicycling and pedestrian travel that will, with the cooperation of AASHTO, ITE, and other interested parties, spell out ways to build bicycle and pedestrian facilities into the fabric of our transportation infrastructure from the outset. We can no longer afford to treat the two modes as an afterthought or luxury.

The TEA-21 makes a great deal possible. However, in the area of bicycling and walking in particular, we must work hard to ensure good intentions and fine policies translate quickly and directly into better conditions for bicycling and walking. While FHWA has limited ability to mandate specific outcomes, I am committed to ensuring that we provide national leadership in three critical areas.

1. The FHWA will encourage the development and implementation of bicycle and pedestrian plans as part of the overall transportation planning process. Every statewide and metropolitan transportation plan should address bicycling and walking as an integral part of the overall system, either through the development of a separate bicycle and pedestrian element or by incorporating bicycling and walking provisions throughout the plan. Further, I am instructing each FHWA division office to closely monitor the progress of projects from the long-range transportation plans to the STIPs and TIPs. In the coming months, FHWA will disseminate exemplary projects, programs, and plans, and we will conduct evaluations in selected States and MPOs to determine the effectiveness of the planning process.

2. The FHWA will promote the availability and use of the full range of streamlining mechanisms to increase project delivery. The tools are in place for States and local government agencies to speed up the delivery of bicycle and pedestrian projects – it makes no sense to treat installation of a bicycle rack or curb cut the same way we treat a new Interstate highway project – and our division offices must take a lead in promoting and administering these procedures.
3. The FHWA will help coordinate the efforts of Federal, State, metropolitan, and other relevant agencies to improve conditions for bicycling and walking. Once again, our division offices must ensure that those involved in implementing bicycle and pedestrian projects at the State and local level are given maximum opportunity to get their job done, unimpeded by regulations and red tape from the Federal level. I am asking each of our division offices to facilitate a dialogue among each State's bicycle and pedestrian coordinator, Transportation Enhancements program manager, Recreational Trails Program administrator, and their local and FHWA counterparts to identify and remove obstacles to the implementation of bicycle and pedestrian projects and programs.

In less than a decade, bicycling and walking have gone from being described by my predecessor Tom Larson as “the forgotten modes” to becoming a serious part of our national transportation system. The growing acceptance of bicycling and walking as modes to be included as part of the transportation mainstream started with passage of ISTEA in 1991 and was given a considerable boost by the Congressionally-mandated National Bicycling and Walking Study. That study, released in 1994, challenges the U.S. Department of Transportation to double the percentage of trips made by foot and bicycle while simultaneously reducing fatalities and injuries suffered by these modes by 10 percent – and we remain committed to achieving these goals.

The impetus of ISTEA and the National Bicycling and Walking Study is clearly reinforced by the bicycle and pedestrian provisions of the TEA-21. The legislation confirms the vital role bicycling and walking must play in creating a balanced, accessible, and safe transportation system for all Americans.

Attachment

cc: Resource Center Directors
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FHWA Guidance

Bicycle and Pedestrian Provisions of Federal Transportation Legislation

Introduction

On June 9, 1998, President Clinton signed into law the Transportation Equity Act for the 21st Century (TEA-21). The new legislation updates Titles 23 and 49 of the United States Code (U.S.C.) and builds on the significant changes made to Federal transportation policy and programs by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The legislation has numerous provisions that relate to improving conditions for bicycling and walking and increasing the safety of the two modes.

Policy: Mainstreaming Nonmotorized Transportation

Federal transportation policy is to increase nonmotorized transportation to at least 15 percent of all trips and to simultaneously reduce the number of nonmotorized users killed or injured in traffic crashes by at least 10 percent. This policy, which was adopted in 1994 as part of the National Bicycling and Walking Study, remains a high priority for the U.S. Department of Transportation (DOT). TEA-21 provides the funding opportunities, planning processes, and policy language by which States and metropolitan areas can achieve this ambitious national goal.

Improving conditions and safety for bicycling and walking embodies the spirit and intent of ISTEA and TEA-21 to create an integrated, intermodal transportation system which provides travelers with a real choice of transportation modes. State and local agencies are challenged to work together cooperatively with transportation providers, user groups, and the public to develop plans, programs, and projects which reflect this vision. At the Federal level, the Federal Highway Administration (FHWA) is working with the National Highway Traffic Safety Administration (NHTSA), the Federal Transit Administration (FTA), the Federal Railroad Administration (FRA), and other agencies, in the spirit of One DOT, to implement the bicycle and pedestrian provisions of TEA-21. This guidance document provides additional information on this important subject.

TEA-21 confirms and continues the principle that the safe accommodation of nonmotorized users shall be considered during the planning, development, and construction of all Federal-aid transportation projects and programs. To varying extents, bicyclists and pedestrians will be present on all highways and transportation facilities where they are permitted and it is clearly the intent of TEA-21 that all new and improved transportation facilities be planned, designed, and constructed with this fact in mind.

“Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State.” (Section 1202(a) of TEA-21)

“Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction and transportation facilities, except where bicycle and pedestrian use are not permitted.” (Section 1202(a) of TEA-21)

“Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians.” (Section 1202(a) of TEA-21)

“In any case where a highway bridge deck is being replaced or rehabilitated with Federal financial participation, and bicyclists are permitted on facilities at or near each end of such bridge, and the safe accommodation of bicyclists can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.” (23 U.S.C. Section 217)

“The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.” (23 U.S.C. Section 109(n))

While these sections stop short of requiring specific bicycle and pedestrian accommodation in every transportation project, Congress clearly intends for bicyclists and pedestrians to have safe, convenient access to the transportation system and sees every transportation improvement as an opportunity to enhance the safety and convenience of the two modes. “Due consideration” of bicycle and pedestrian needs should include, at a minimum, a presumption that bicyclists and pedestrians will be accommodated in the design of new and improved transportation facilities. In the planning, design, and operation of transportation facilities, bicyclists and pedestrians should be included as a matter of routine, and the decision to not accommodate them should be the exception rather than the rule. There must be exceptional circumstances for denying bicycle and pedestrian access either by prohibition or by designing highways that are incompatible with safe, convenient walking and bicycling.

TEA-21 requires FHWA to undertake a design study to “develop guidance on the various approaches to accommodating bicycles and pedestrian travel” and to report back to Congress by December 9, 1999. The guidance will clarify those “exceptional circumstances” where bicyclists and pedestrians may not be accommodated. In the interim, States and Metropolitan Planning Organizations (MPOs) should consider exceptional circumstances to include controlled access highways and projects where the cost of accommodating bicyclists and pedestrians is high in relation to the overall project costs and likely level of use by nonmotorized travelers.

Even where circumstances are exceptional and bicycle use and walking are either prohibited or made incompatible, States, MPOs, and local governments must still ensure that bicycle and pedestrian access along the corridor served by the new or improved facility is not made more difficult or impossible. For example, there may be ways to provide alternate routes on parallel surface streets that are still safe and convenient, or to provide shuttle bus service on major bridge crossings.

Maintaining access to the transportation system for nonmotorized users is not an optional activity. Section 109(n) of Title 23, United State Code, states that “The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.”

Bicyclists and pedestrians have the same origins and destinations as other transportation system users and it is important for them to have safe and convenient access to airports, ports, ferry services, transit terminals, and other intermodal facilities as well as to jobs, services, recreation facilities, and neighborhoods. TEA-21 places a strong emphasis on creating a seamless transportation system that all users can enjoy and use efficiently and safely.

Incidental projects

There are many simple and cost-effective ways to integrate nonmotorized users into the design and operation of our transportation system by including bicycle and pedestrian accommodation as an incidental part of larger ongoing projects. Examples include:

- providing paved shoulders on new and reconstructed roads
- restriping roads (either as a stand-alone project or after a resurfacing or reconstruction project) to create a wider outside lane or striped bike lanes
- building sidewalks and trails, and marking crosswalks or on-street bike lanes as a part of new highways, and requiring new transit vehicles to have bicycle racks and/or hooks already installed.

There are usually a number of good reasons for doing these things without specific reference to bicycle and pedestrian access — shoulders are good for motorist safety as well as providing bicyclists a place to ride — and the broad eligibility of bicycle and pedestrian facilities in all the major TEA-21 funding programs means that incidental improvements such as these are appropriate to be included as part of larger transportation projects.

General funding requirements

a) Flexibility.

TEA-21 provides tremendous flexibility to States and MPOs to fund bicycle and pedestrian improvements from a wide variety of programs. Indeed, virtually all the major transportation funding programs can be used for bicycle and pedestrian-related projects. When considering ways to improve conditions for bicycling and walking, States and MPOs are specifically encouraged to:

- i) include bicycle and pedestrian improvements as an incidental part of larger projects, as described above, and
- ii) to review and use the most appropriate funding source for a particular project and not rely primarily on the Transportation Enhancements program. Many bicycle and pedestrian projects are more suitable for funding under the Congestion Mitigation and Air Quality Improvement program, Surface Transportation Program, or one of the other programs listed in Appendix 2.

b) Transportation Purpose.

TEA-21 retains the requirement that bicycle projects be “principally for transportation rather than recreation purposes”, with the exception of the Recreational Trails Program under which projects should be for recreational use. FHWA has determined that to meet the “transportation purpose” requirement, a bicycle facility must be more than a closed loop trail within a park that can *only* be used for recreational purposes – users must be able to get somewhere other than back to their starting point. Beyond this, any bicycle facility providing access from one point to another can and will be used for transportation purposes and is therefore eligible for funding under TEA-21.

c) Motorized Vehicle Use.

Motorized vehicles are not permitted on trails and pedestrian walkways funded under the Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, National Highway System, and Federal Lands Highway programs. Exceptions to this general rule exist for maintenance vehicles, motorized wheelchairs, and when State or local regulations permit, snowmobiles and electric bicycles (weighing under 100 pounds and a top speed of less than 20 miles per hour). The Recreational Trails Program specifically provides funds for motorized trails.

Figure 1 provides an overview of the availability of TEA-21 funds for a wide variety of bicycle and pedestrian projects and offers guidance as to the most appropriate potential funding category for a range of typical projects and programs. For a detailed description of the eligibility requirements and other factors related to each funding program, please refer to Appendix 2.

Fig. 1. TEA-21 Bicycle/Pedestrian Funding Opportunities

	NHS	STP	HEP	RHC	TEA	CMAQ	RTP	FTA	TE	BRI	402	PLA	TCSP	JOBS	FLH	BYW
Bicycle and pedestrian plan		●				●						●	●			
Bicycle lanes on roadway	●	●	●	●	●	●		●	●	●					●	●
Paved shoulders	●	●	●	●	●	●				●					●	●
Signed bike route	●	●			●	●									●	●
Shared-use path / trail	●	●			●	●	●			●					●	●
Single track hike / bike trail							●									
Spot improvement program		●	●		●	●										
Maps		●				●					●					
Bike racks on buses		●			●	●		●	●							
Bicycle parking facilities		●			●	●		●	●							●
Trail / highway intersection	●	●	●		●	●	●								●	●
Bicycle storage/service center		●			●	●		●	●				●	●		
Sidewalks, new or retrofit	●	●	●	●	●	●		●	●	●					●	●
Crosswalks, new or retrofit	●	●	●	●	●	●		●	●						●	●
Signal improvements	●	●	●	●	●	●										
Curb cuts and ramps	●	●	●	●	●	●										

Fig. 1. TEA-21 Bicycle/Pedestrian Funding Opportunities

	NHS	STP	HEP	RHC	TEA	CMAQ	RTP	FTA	TE	BRI	402	PLA	TCSP	JOBS	FLH	BYW
Traffic calming		•	•	•	•	•							•			
Coordinator position		•				•										
Safety/education position		•				•					•					
Police patrol		•				•					•					
Helmet promotion											•					
Safety brochure/book						•					•					
Training						•					•					

Key

- | | | | |
|------|--|------|--|
| NHS | National Highway System | BRI | Bridge |
| STP | Surface Transportation Program | 402 | State and Community Traffic Safety Program |
| HEP | Hazard Eliminaion Program | PLA | State/Metropolitan Planning funds |
| RHC | Railway-Highway Crossing Program | TCSP | Transportation and Community and System Preservation pilot program |
| TEA | Transportation Enhancement Activities | JOBS | Access to Jobs/Reverse Commute program |
| CMAQ | Congestion Mitigation/Air Quality Program | FLH | Federal Lands Highways program |
| RTP | Recreational Trails Program | BYW | Scenic Byways |
| FTA | Federal Transit Capital, Urban & Rural Funds | | |
| TE | Transit Enhancements | | |

Summary of Eligibility Issues

Bicycle and pedestrian projects are broadly eligible for most Federal surface transportation funding categories. TEA-21 extended eligibility in certain key areas including the National Highway System, Transportation Enhancements program, and the Hazard Elimination program.

Eligibility does not, however, guarantee that bicycle and pedestrian projects, plans, and programs will be funded – States and MPOs retain broad control over project selection procedures and choices and can set their own priorities for funding within the categories described above.

Eligibility issues relating to individual projects may arise in one of the following areas:

a) **Transportation purpose.** Bicycle projects must be principally for transportation purposes. Any bicycle facility that provides access from one point to another can and will be used for transportation purposes and is therefore eligible for funding under TEA-21. The exception to this rule is the Recreational Trails Program under which projects must be principally for recreational purposes. However, projects funded by the Recreational Trails Program are not necessarily ineligible for other Federal-aid highway funds, for example for a second or subsequent phase of the project, and other Federal-aid highway funds may be used to make up the matching fund requirements for RTP projects.

The “transportation purpose” provision does not apply to pedestrian facilities.

b) **Non-construction activities.** Most Federal-aid funding is focused on construction projects. However, non-construction bicycle and pedestrian projects are also eligible for STP (including the enhancement and safety set-asides) and the CMAQ programs. State and Community Highway Safety Grant Program funds (Section 402) are to be used exclusively for non-construction activities.

c) **Bicycle and pedestrian coordinator positions.** Bicycle and pedestrian coordinator positions at State DOTs and at the local level can be funded from STP or CMAQ funding.

d) **Projects on local roads.** Funds under TEA-21 can generally only be used for projects that are on the Federal-aid highway system – which typically does not include local or minor collector roads. However, bicycle and pedestrian projects not located on the Federal-aid highway system may be funded under the STP (and therefore also under the enhancement and safety set-asides) and under the Bridge Program. Hazard Elimination funds may be spent on any public highway or trail, as may Emergency Relief funds.

Summary of Matching Funds Requirements

Most Federal-aid highway funding programs require a 20 percent State match of Federal funds. This general rule is adjusted for States with significant Federal land holdings: a sliding scale up to 95 percent Federal funding is determined according to the percentage of Federal land holdings in the State. The matching ratio for bicycle and pedestrian projects is the same as for all other activities under the same program.

There are, however, important exceptions to the general 80/20 rule related to programs that fund bicycle and pedestrian projects, including:

- Safety set-aside projects are 90 percent Federal;
- Bicycle-related transit projects are 90 percent Federal and may increase to 95 percent Federal for bicycle-related transit enhancement projects;
- Federal Lands Highways projects are 100 percent Federal;
- *Individual Transportation Enhancement and Recreational Trails Program* projects may exceed the 80 percent Federal share provided the State program overall matches at the 80/20 level.

The State and/or local funds used to match Federal-aid highway projects may include donations of funds, materials, services, or right-of-way.

Funds from other Federal programs (e.g. HUD block grants, Land and Water Conservation Fund) may also be used to match Transportation Enhancement, Scenic Byways, and Recreational Trails Program funds up to 100 percent. However, for the Recreational Trails Program a Federal agency project sponsor may provide matching funds provided the Federal share does not exceed 95 percent of project costs.

Planning

The transportation planning process established in 1991 as part of ISTEA is continued by TEA-21. States and metropolitan areas (with populations of more than 50,000) are required to plan for the “development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system...” (Section 1203 and 1204 of TEA-21)

The planning process for both States and metropolitan areas is further required to consider a range of projects and strategies including those which will increase the safety and security of the transportation system for nonmotorized users, increase accessibility and mobility options available to people, improve the quality of life, and enhance the integration and connectivity of the transportation system for people.

TEA-21 reiterates in the Bicycle Transportation and Pedestrian Walkways section (1202) that planning for bicyclists and pedestrians should be an integral part of the ongoing transportation planning process, and that projects and programs identified in the planning process should be implemented:

“Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State.”

“Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction and transportation facilities, except where bicycle and pedestrian use are not permitted.”

“Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians.”

States and MPOs are required to produce two basic planning documents: a Long-range Transportation Plan and a Transportation Improvement Program (TIP) or Statewide Transportation Improvement Program (STIP). The Long-range Transportation Plans have at least a 20-year horizon and must be regularly updated (every three years in metropolitan areas that do not meet Federal air quality standards; every five years in other metropolitan areas; and “periodically” in States). The TIPs/STIPs must list approved projects for which there is identified funding for each of the following three years, and must be updated at least every two years.

The Long-range Transportation Plans set the long term direction for transportation investment and typically include a broad vision statement, long-term goals and objectives, policy statements, and priority areas for the State or metropolitan area. Metropolitan plans will identify specific projects, and statewide plans may also provide this level of detail. In addition, the plans might identify important corridors which need study, or programmatic areas (such as improving access for people with disabilities) that will receive special attention. Coverage of bicycle and pedestrian issues may be integrated into the overall transportation plan or contained in a separate plan which is incorporated by reference into the overall plan. In the latter instance, a separate bicycle and pedestrian plan may contain planning and design guidance related to shared use paths, on-street facilities for bicyclists, sidewalks, crosswalks, and other pedestrian facilities which will determine how nonmotorized infrastructure is developed in the years ahead. Further guidance on the content and scope of bicycle and pedestrian planning is provided in Appendix 3.

The TIPs/STIPs comprise a list of the specific projects which will be undertaken by the State or MPO in each of the following three years, each with a short description of the actions to be taken. Every project in the TIP/STIP must be consistent with projects, programs, and/or policies contained in the long range plan and must have an identified source of funding.

Specific requirements for the TIPs/STIPs include:

23 CFR 450.216, "Statewide transportation improvement program (STIP),"

(a) In addition the STIP shall: (6) Contain all capital and non-capital transportation projects (including transportation enhancements, Federal lands highway projects, trails projects, pedestrian walkways, and bicycle transportation facilities), or identified phases of transportation projects ...; and

23 CFR 450.324, "Transportation Improvement Program: General,"

(f) The TIP shall include: (1) All transportation projects, or identified phases of a project, (including pedestrian walkways, bicycle transportation facilities and transportation enhancement projects) within the metropolitan area proposed for funding under title 23, U.S.C.,

The Long-range Transportation Plans and TIPs/STIPs must be developed and approved through a process which gives the public, affected groups, and agencies notice of and a reasonable opportunity to comment on the plans as they are developed. There are detailed Federal guidance documents which outline the kind of public involvement activities that are sufficient to provide appropriate notice and opportunity for people to participate in the planning process. At a minimum, public involvement must be "proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement" (23 CFR § 450.212 (a)), and must provide for:

- a) Early and continuing public involvement throughout the transportation planning and programming process
- b) Timely information about transportation issues and processes to citizens
- c) Reasonable public access to technical and policy information used in the development of statewide and metropolitan plans and TIPs/STIPs
- d) Adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to action on the plan and TIP/STIP
- e) A process for demonstrating explicit consideration and response to public input during the planning and program development process
- f) A process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low income and minority households which may face challenges accessing employment and other amenities

g) Periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all and revisions to the process as necessary.

Streamlining procedures

In many ways, bicycling and walking embody the goals and objectives of ISTEA and TEA-21: the two modes quietly, cleanly, efficiently, and effectively serve local transportation needs including work, shopping, school, and personal trips. They are also critical to ensuring that people can get to and from transit services. Because of that, FHWA has provided maximum opportunities for States to streamline the approval and implementation of bicycle and pedestrian projects and programs. It makes no sense for activities such as crosswalk striping, bicycle parking installation, and bike line marking – which usually require no additional right-of-way and cause no negative environmental impact – to have the same approval process as a multi-lane highway construction project. States and MPOs are encouraged to take advantage of the following streamlining measures and to take any additional steps they can to speed up the implementation of projects that improve conditions for bicycling and walking.

- The construction of bicycle and pedestrian facilities, and non-construction activities, normally are exempt from having to complete a project-specific Environmental Impact Assessment under the National Environmental Policy Act (NEPA).
- Transportation Enhancement and Recreational Trails Program funds may be advanced to a State in lieu of having to wait for Federal-aid reimbursement, where agreement has been worked out the appropriate FHWA Division Office.
- TEA-21 continues to give States the flexibility to allow Federal funds to be used for all or any part of project under the Transportation Enhancement and Recreational Trails Program provided that the State program as a whole achieves an 80 percent Federal/20 percent State funding balance (subject to the sliding scale for States with significant Federal lands holdings).
- States may allow in-kind contributions such as volunteer labor, land donations, and in-kind services to count towards State matching funds, provided that a cash-value can be attributed to the donated time, resource or product.
- Transportation Enhancement and Recreational Trails Program projects not located within highway right-of-way may be procured using State procedures and do not need to follow Federal bidding procedures.
- Except for unusual circumstances, bicycle and pedestrian projects are not normally required to undergo a Section 4(f) evaluation (FHWA Memo, May 23, 1977).

- Davis-Bacon requirements for wage rates apply to projects greater than \$2,000 that are located within an existing right-of-way or that are linked to a Federal-aid facility based on proximity or impact. Thus, Davis-Bacon does not apply to projects whose eligibility is based on function such as shared-use paths located outside the highway right-of-way.
- Bicycle and pedestrian projects of a similar nature may be grouped together for the purposes of funding without each project having to be approved individually.
- Independent bicycle and pedestrian facilities are exempt from transportation conformity requirements. However, bicycle and pedestrian projects that are incidental elements of larger transportation projects may suffer a delay in implementation while the requirements are met for the larger project.

Project selection

States and MPOs have enormous freedom to fund transportation projects which best meet their local needs and respond to local input – project selection for many of the Federal-aid funding programs rests exclusively out of the hands of the Federal government. Thus, bicycle and pedestrian projects enjoy wide eligibility for funding in almost all the funding programs but are not guaranteed or required to be funded. Similarly, State and MPO transportation plans must address bicycle and pedestrian issues, but there is no quantifiable minimum amount of attention which must be paid to the two modes in those planning documents.

FHWA Division Office and Headquarters staff may be called upon to determine the eligibility of projects for certain funding categories, explain streamlining procedures, and serve as members of project selection panels. They are no longer the final arbiters of the project selection process.

Therefore, a State may decide to use all or none of its Transportation Enhancement or CMAQ funds on bicycle and pedestrian projects – States are free to make that choice based on their own priorities. However, it should be clear there is nothing in TEA-21 or other Federal transportation legislation which is forcing them to make that decision. As an example, a State may choose to sub-allocate certain program funds to MPOs and set aside \$10 million of their STP funds for pedestrian improvements. Provided that pedestrian improvements are an eligible activity (which they are) FHWA does not have any ability or desire to prevent them from making that choice.

Design standards

Just as the Federal government has stepped out of the role of project selection and approval, so it has allowed States and local governments greater flexibility in the design of streets and highways improved or built with TEA-21 funds. Indeed, 23 CFR 625.3(a)(2) states that "Federal-aid projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards." Therefore, a State may decide to pave a 1.5 meter (five foot) shoulder on all State roads for the benefit of bicyclists (and motorists) or it may choose to leave shoulders unpaved. The application of rumble strips or installation of sidewalks on State roads is a State decision.

For projects on roads which make up the National Highway System (whether or not NHS funds are being used), however, FHWA must ensure that the NHS facility "adequately serves the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance." The Secretary of Transportation, in cooperation with State highway departments, approves design and construction standards for new construction, reconstruction, resurfacing, restoration, or rehabilitation of a highway on the NHS, and those standards may take into account the built and natural environment; the environmental, scenic, aesthetic, historic, preservation, and community impacts; and access for other modes of transportation.

State Bicycle and Pedestrian Coordinator Position

Each State is required to fund a Bicycle and Pedestrian Coordinator position in its State Department of Transportation to promote and facilitate the increased use of nonmotorized transportation. Activities may include developing facilities for the use of pedestrians and bicyclists, and public educational, promotional, and safety programs for using such facilities. CMAQ and STP funds may be used for the Federal share of the cost of the position.

The position is a critical one for the development of bicycle and pedestrian policies and programs at the State level. In most States, the Coordinator is a full-time position with sufficient responsibility to deal effectively with other agencies, State offices, and divisions within the State DOT. Many States have established bicycle and pedestrian offices or teams to deal with the growing interest in these issues, and some have separated the bicycle and pedestrian responsibilities and have program coordinators or managers for each area.

FHWA's January 28, 1992, Memorandum on the Designation of Bicycle and Pedestrian Coordinators within State DOTs lists the typical duties and qualities necessary for the position. Experience shows that the coordinator typically acts as an advocate within the agency for bicycle and pedestrian issues, a vital technical resource, and an important point of contact for local agencies and user groups seeking to improve conditions for the two modes.

Millennium Trails Initiative

Under the White House Millennium Program, Millennium Trails is a national program which will celebrate, recognize, and be a catalyst for creating trails to “honor the past and imagine the future” as part of America’s legacy for the year 2000. From the earliest routes of our ancestors, to new urban greenways, to itineraries that tell the story of our nation, trails are an important part of the American landscape, providing real connections between our people, the land, our history, and culture.

In honor of the Millennium, more than 2000 trail projects will be recognized throughout the United States in the following categories:

- 1) Community Trails 2000, which will involve 2000 local trail projects from across the country.
- 2) Millennium Legacy Trails, which will be 52 trails nominated by the 50 States, the District of Columbia, and Puerto Rico, and
- 3) National Millennium Trails, which will be “12 flagship” projects which symbolize America’s legacy for the Millennium.

All kinds of trail projects will be encouraged to participate, including historic trails, cultural tours, scenic byways, long distance hiking trails, neighborhood paths, greenways, rail trails, and urban bikeways.

While there are no dedicated funds to support Millennium Trails projects, States and local communities may use Millennium Trail designation as a factor in prioritizing or selecting projects under the Federal Lands Highway, Transportation Enhancements, Recreational Trails, and other appropriate programs.

For more information visit: www.dot.gov/mtp/index.htm or www.millenniumtrails.org

Conclusion

Bicycling and walking are important elements of an integrated, intermodal transportation system. Constructing sidewalks, installing bicycle parking at transit, teaching children to ride and walk safely, installing curb cuts and ramps for wheelchairs, striping bike lanes, and building trails all contribute to our national transportation goals of safety, mobility, economic growth and trade, enhancement of communities and the natural environment, and national security.

All of these activities are eligible for funding as part of the Federal Highway Program. The Transportation Equity Act for the 21st Century confirms the place of bicycling and walking in the mainstream of transportation decision-making at the State and local level, and enables communities to encourage more people to bicycle and walk safely.

Appendix 1

Title 23 United States Code

§217. Bicycle transportation and pedestrian walkways

As amended by the Transportation Equity Act for the 21st Century, May 22, 1998.

(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

(b) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways, and parkways.

(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

(g) PLANNING AND DESIGN.—

(1) IN GENERAL.—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

(2) SAFETY CONSIDERATIONS.—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

(h) USE OF MOTORIZED VEHICLES.—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—

- (1) maintenance purposes;
- (2) when snow conditions and State or local regulations permit, snowmobiles;
- (3) motorized wheelchairs;
- (4) when State or local regulations permit, electric bicycles; and
- (5) such other circumstances as the Secretary deems appropriate.

(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

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

(1) BICYCLE TRANSPORTATION FACILITY.—The term ‘bicycle transportation facility’ means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

(2) ELECTRIC BICYCLE.—The term ‘electric bicycle’ means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

(3) PEDESTRIAN.—The term ‘pedestrian’ means any person traveling by foot and any mobility impaired person using a wheelchair.

(4) WHEELCHAIR.—The term ‘wheelchair’ means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

Other Bicycle & Pedestrian Provisions in the Transportation Equity Act for the 21st Century

SEC. 1202. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section (a) amended Section 217, as incorporated above.

(b) DESIGN GUIDANCE.—

(1) IN GENERAL.—In implementing section 217(g) of title 23, United States Code, the Secretary, in cooperation with the American Association of State Highway and Transportation Officials, the Institute of Transportation Engineers, and other interested organizations, shall develop guidance on the various approaches to accommodating bicycles and pedestrian travel.

(2) ISSUES TO BE ADDRESSED.—The guidance shall address issues such as the level and nature of the demand, volume, and speed of motor vehicle traffic, safety, terrain, cost, and sight distance.

(3) RECOMMENDATIONS.—The guidance shall include recommendations on amending and updating the policies of the American Association of State Highway and Transportation Officials relating to highway and street design standards to accommodate bicyclists and pedestrians.

(4) TIME PERIOD FOR DEVELOPMENT.—The guidance shall be developed within 18 months after the date of enactment of this Act.

(c) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—Section 109(n) of such title is amended to read as follows:

“(n) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.”

(d) RAILWAY-HIGHWAY CROSSINGS.—Section 130 of such title is amended by adding at the end the following:

“(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.”

(e) NATIONAL BICYCLE SAFETY EDUCATION CURRICULUM.—

(1) DEVELOPMENT.—The Secretary is authorized to develop a national bicycle safety education curriculum that may include courses relating to on-road training.

(2) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall transmit to Congress a copy of the curriculum.

(3) FUNDING.—From amounts made available under section 210, the Secretary may use not to exceed \$500,000 for fiscal year 1999 to carry out this subsection.

SEC. 1212. MISCELLANEOUS.

(o) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

(A) to operate a national bicycle and pedestrian clearinghouse;

(B) to develop information and educational programs; and

(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$500,000 for each of fiscal years 1998 through 2003.

(E) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

Other Sections of 23 U.S.C. with Bicycle and Pedestrian issues as amended by TEA 21.

Eligibility Issues

§101(a) Definitions.—In this title, the following definitions apply:

(35) TRANSPORTATION ENHANCEMENT ACTIVITIES.—The term ‘transportation enhancement activities’ means, with respect to any project or the area to be served by the project, any of the following activities if such activity relates to surface transportation: provision of facilities for pedestrians and bicycles, provision of safety and educational activities for pedestrians and bicyclists, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs (including the provision of tourist and welcome center facilities), landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity, and establishment of transportation museums.

§103. Federal-aid systems

(b) NATIONAL HIGHWAY SYSTEM.—

(6) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

§133. Surface Transportation Program

(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

(3) Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with section 217, and modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

Appendix 2

Funding Sources: Federal Highway Administration

Interstate Maintenance

Interstate Maintenance (IM) funding is targeted at maintaining and improving the 46,000 mile Interstate highway system.

Eligibility – IM funds may be used for resurfacing, restoration, rehabilitation, and reconstruction (4R) projects. TEA-21 also expanded eligibility of these funds to allow certain additions to the system to be funded.

Matching funds – 90 percent Federal, 10 percent State.

Transferability – States may transfer no more than 50 percent of their IM apportionments to the NHS, STP, CMAQ, Bridge, and Recreational Trails Program. In addition, States that have Interstate Construction funds may transfer them to the NHS program.

Discussion – Prior to TEA-21, IM fund eligibility was limited to 3R work plus reconstruction of interchanges and overpasses. Section 1107(a) of TEA-21 modified 23 U.S.C. 119 and expanded IM eligibility to include the 4th R - "reconstruction." As a result, other reconstruction work, such as new interchanges, new rest areas, additional noise walls, and other new features may now be funded with IM funds. For instance, "new features" which may involve pedestrian safety and bicycle facilities that are incorporated in the design of new interchanges and overcrossings may be considered eligible for IM funding under the 4th R category. In other words, there are no funds under the IM program which would specifically be set aside for pedestrian and/or bicycle improvements but if included in the design of "new features" on an existing Interstate, these improvements may be eligible for IM funds.

In most western States (and certain Interstate sections in New Jersey and Pennsylvania), bicyclists may use Interstate shoulders. Thus, shoulder reconstruction projects may benefit bicyclists. In addition, the "improvement" and reconstruction of Interstates may involve work on intersections and local road which cross Interstates (e.g. bridges or underpasses) where bicyclists and pedestrians currently have access. In both cases, projects should address the continued safety and convenience of bicyclists and pedestrians on the surface street system and may be used to fund specific bicycle and pedestrian improvements.

Further Information: Implementing Guidance, Interstate Maintenance Program TEA-21 Provisions. August 7, 1998.

National Highway System

The National Highway System (NHS) is composed of 163,000 miles of urban and rural roads serving major population centers, major travel destinations, international border crossings, and intermodal transportation facilities. The Interstate System is part of the National Highway System.

Eligibility – Bicycle and pedestrian facilities within NHS corridors are eligible activities for NHS funds, including projects within Interstate rights-of-way.

Matching funds – 80 percent Federal, 20 percent State.

Transferability – A State may transfer up to 50 percent of its NHS funds to the Interstate Maintenance, Surface Transportation Program (STP), Congestion Mitigation and Air Quality Improvement Program, Bridge Replacement and Rehabilitation (Bridge) Program, and/or the Recreational Trails Program. If approved by the Secretary of Transportation, and if sufficient notice and opportunity for public comment is given, 100 percent of NHS funds may be transferred to the STP.

Discussion – Shared use paths along Interstate corridors are eligible for the use of NHS funds, as are bike lane, shoulder and sidewalk improvements on major arterial roads that are part of the NHS, and bicycle and/or pedestrian bridges and tunnels that cross NHS facilities. Examples of paths alongside Interstate facilities include I-90 in Seattle, WA; I-70 in Glenwood Canyon, CO; and I-66 in Arlington, VA.

Bicyclists and pedestrians can be expected to use NHS facilities, especially in urban and suburban areas, and thus should be accommodated in the design and operation of these facilities. Opportunities to improve conditions for the nonmotorized modes should be taken whenever resurfacing, reconstruction, or expansion projects on NHS routes are undertaken.

Each State has designated its segments of the National Highway System. A map of the NHS is available on-line at www.fhwa.dot.gov/hep10, or may be obtained from the FHWA Division Office in each State or the State Department of Transportation.

Bridge Program

The Highway Bridge Replacement and Rehabilitation Program enables States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when those bridges are unsafe.

Eligibility – Highway bridges, located on any public road, that are either “functionally obsolete” or “structurally deficient” are eligible for replacement or rehabilitation using Bridge Program funds (23 U.S.C. Section 144).

In any case where a highway bridge deck is being replaced or rehabilitated with Federal financial participation, and bicyclists are permitted to operate at each end of such bridge, and the safe accommodation of bicyclists can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations (23 U.S.C. Section 217).

Matching funds – 80 percent Federal, 20 percent State.

Transferability – A State may transfer up to 50 percent of its Bridge program funds to the Interstate Maintenance, National Highway System, Surface Transportation Program (STP), and/or Congestion Mitigation and Air Quality Improvement program.

Discussion – Bicyclists and pedestrians are impacted greatly by diversions and obstacles which add even relatively short distances to a trip – the average walking trip is just half a mile – so the lack of access or safe facilities on a bridge can mean trips are not made or short trips are made by car instead. The safety and convenience of bridge crossings of rivers, Interstates, major highways, railway lines, and other corridors are critical for bicyclist and pedestrian mobility as there are often limited opportunities to overcome these obstacles. Bicycle and pedestrian improvements on bridges are usually carried out as an incidental part of a larger replacement or rehabilitation project and funds can be used to provide a range of on-street, sidewalk, and trail facilities depending on the appropriate design for the bridge and the location.

Surface Transportation Program

The Surface Transportation Program (STP) provides States with flexible funds which may be used for a wide variety of projects on any Federal-aid Highway including the NHS, bridges on any public road, and transit facilities.

Eligibility – Bicycle and pedestrian improvements are eligible activities under the STP. This covers a wide variety of projects such as on-road facilities, off-road trails, sidewalks, crosswalks, bicycle and pedestrian signals, parking, and other ancillary facilities. TEA-21 also specifically clarifies that the modification of sidewalks to comply with the requirements of the Americans with Disabilities Act is an eligible activity.

As an exception to the general rule described above, STP-funded bicycle and pedestrian facilities may be located on local and collector roads which are not part of the Federal-aid Highway System. In addition, bicycle-related non-construction projects, such as maps, coordinator positions, and encouragement programs, are eligible for STP funds.

NOTE: There are two set-aside programs within the STP, each funded with 10 percent of STP's total funding. The Transportation Enhancement program and the Safety Set-aside are both dealt with in later sections.

Matching funds – 80 percent Federal, 20 percent State.

Transferability – Funds transferred into the STP from the Interstate Maintenance, National Highway System, Congestion Mitigation and Air Quality Improvement, and Bridge programs are not subject to the 10 percent set-asides for the Enhancements and Safety programs. Funds that are sub-allocated to metropolitan areas may not be transferred.

Discussion – STP funds are eligible to be spent on a wide variety of improvements for bicycling and walking including, but not limited to, on- and off-road facilities, bicycle parking, planning studies, State and local bicycle and pedestrian coordinator positions, spot improvement programs, sidewalks, crosswalks, and traffic calming projects. As the category of funding with probably the broadest eligibility, the STP should be considered by States and MPOs as a primary source of funds for both independent and incidental bicycle and pedestrian projects, as well as non-construction projects.

Transportation Enhancements

Ten percent of a State's STP apportionment must be set-aside to fund activities that enhance the transportation system in ways that have not traditionally been included in the design and construction of the transportation system.

Eligibility – The list of 12 eligible activities includes three which relate specifically to bicycle and pedestrian transportation:

- provision of facilities for bicyclists and pedestrians
- provision of safety and educational activities for pedestrians and bicyclists
- preservation of abandoned railroad corridors (including the conversion and use thereof for pedestrian or bicycle trails)

The category of “safety and educational activities for pedestrians and bicyclists”, was added by TEA-21 even though non-construction bicycle and pedestrian projects were already eligible activities under this program by virtue of their inclusion in the overall STP. It is not intended to replace or duplicate existing funding opportunities for bicycle and pedestrian safety training and other educational activities currently available from the National Highway Traffic Safety Administration. Activities such as bicycle safety training for children, pedestrian safety publicity campaigns, and enforcement activities related to bicycle and pedestrian safety are still more appropriately funded under the Section 402 State and Community Traffic Safety Program. However, project sponsors under the Transportation Enhancement Program are encouraged to integrate safety messages and educational opportunities for bicyclists and pedestrians into enhancement projects through the development of maps, brochures, and other interpretive devices. States may also consider funding stand-alone projects that, through safety messages and educational opportunities, enhance the traveling experience of bicyclists and pedestrians. Examples might include route marking, maps, and interpretive materials.

As with all bicycle and pedestrian activities under the STP, projects using Enhancement funds need not be located on the Federal-aid Highway System and may be non-construction activities. However, enhancement projects should “relate to surface transportation” and have typically been limited by States to construction projects, planning activities, and related publications rather than salaries and administrative costs.

The “relationship to surface transportation” required by TEA-21 means that a proposed transportation enhancement activity must have a direct relationship to the intermodal transportation system. This does not mean that an enhancement project has to be part of a larger current or planned highway project.

Matching funds – States have the flexibility to allow Federal funds to be used for all or any part of a project under the Transportation Enhancement program provided that the State program as a whole achieves an 80 percent Federal/20 percent State funding balance (subject to the sliding scale for States with significant Federal lands holdings).

States may also, with FHWA approval, allow in-kind contributions such as volunteer labor, land donations and in-kind services to count towards State matching funds, provided that a cash-value can be attributed to the donated time, resource, or product.

Transferability – Up to 25 percent of the difference between the amount set aside for TE for the fiscal year and the amount set aside for TE activities in FY 1997 may be transferred to the IM, CMAQ, NHS, or Bridge programs.

Discussion – As more than 80 percent of bicycle and pedestrian improvements under ISTEA were funded from this source, the range of exemplary projects is wide. Among the most commonly funded activities have been rail-trails, bike lanes, sidewalks, crosswalks, streetscaping, the renovation of train depots to become transportation centers with bike parking and pedestrian access improvements, and bike route signing.

Despite the popularity of the Transportation Enhancement Program for bicycle and pedestrian projects, States and MPOs are encouraged to consider other, perhaps more appropriate, sources of funding for these activities. The Enhancement Program is clearly intended to support activities that are not, or have not been, part of the routine design of streets and highways. Many bicycle and pedestrian facilities funded under this program *should* be part of the routine design of streets and highways and would therefore be more appropriately funded as part of STP, NHS or other projects. Enhancement program funds should be reserved for projects that retrofit poorly designed facilities which were completed before the ISTEA/TEA-21 era and for projects that go above and beyond traditional highway designs and projects.

Streamlined Procedures for Enhancement Projects. Numerous provisions have been passed (in ISTEA, the 1995 National Highway System Designation Act, and TEA-21) to streamline the administrative and regulatory procedures surrounding transportation enhancement project development and implementation. These include:

- Most TE projects, including non-construction activities, and the construction of bicycle and pedestrian facilities, are exempt from having to complete a project-specific Environmental Impact Assessment under the National Environmental Policy Act (NEPA).
- TE funds may be advanced to a State in lieu of having to wait for Federal-aid reimbursement, where agreement has been worked out with the appropriate FHWA Division Office.
- The Alternative Share and Donations provisions mentioned above.

- TE projects not located within highway right-of-way may be procured using State procedures and do not need to follow Federal competitive bidding procedures.
- Except for unusual circumstances, bicycle and pedestrian projects are not normally required to undergo a Section 4(f) evaluation.
- Davis-Bacon requirements for wage rates apply to TE projects greater than \$2,000 that are located within an existing right-of-way or that are linked to a Federal-aid facility based on proximity or impact. Thus, Davis-Bacon does not apply to projects whose eligibility is based on function such as shared-use paths that are located outside the highway right-of-way.

States are encouraged to use qualified youth conservation or service corps for construction and maintenance activities under this program.

Further information: Transportation Enhancement Guidance Package, February 25, 1997.

Safety Set-aside

Ten percent of each State's STP apportionment is set aside for infrastructure safety activities. Funding is channeled into two programs: the Hazard Elimination Program (HEP) and the Railway-Highway Crossing Program.

Eligibility – Under the HEP, States must “conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations... which may constitute a danger to motorists, bicyclists, and pedestrians,” and implement a prioritized program of improvements to those hazardous locations. Funds may be used for improvements on any public highway, public transportation facility, and any public bicycle or pedestrian pathway or trail. Traffic calming projects are also specifically mentioned as eligible activities.

TEA-21 does not change the ISTEA requirement that States, at a minimum, fund both the HEP and Railway-Highway Crossing program at FY 1991 levels. Funding above this minimum may be allocated to either program at the discretion of the State. In addition, States must still reserve half of their Railway-Highway Crossing funds for protective devices at railway-highway crossings.

Under the Railway-Highway Crossing program, States must now consider bicycle safety in carrying out projects.

Matching funds – The Federal share for HEP projects is 90 percent.

The Federal share for Railway-Highway Crossing Program projects is 90 percent, except that the Federal share may be 100 percent for signing, pavement markings, active warning devices, and crossing closures.

Transferability – States may not transfer HEP or Railway Highway Crossing Program funds below the level of funding for these two programs in FY 1991 — only the “optional” funds above the minimum level of funding are subject to transferability. Of those optional funds, up to 25 percent of the difference between the fiscal year in question and the comparable amount in FY 1997 may be transferred to IM, CMAQ, NHS, and/or the Bridge program.

Discussion – States should review the operation of their HEP and Railway-Highway Safety Crossing Programs to reflect the newly eligible activities and priorities identified by TEA-21, and describe proposed program modifications in their annual progress report submitted to FHWA Division offices. In particular, States are encouraged to develop methods for identifying and treating hazardous conditions for bicyclists and pedestrians that may occur in dispersed locations and yet still account for a significant percentage of overall traffic fatalities (14 percent, nationwide).

In determining hazardous locations States should consider that research has shown that crashes involving bicyclists and pedestrians do not usually happen in well-defined clusters or common locations; and that both bicyclists and pedestrians will often avoid locations they consider hazardous by either choosing another route, choosing another mode, or not making the trip at all. As a consequence, the traditional method of allocating HEP funds based on high crash locations may not adequately address the bicycle and pedestrian safety problem that exists.

To overcome this challenge, States are reminded that they may:

- group smaller projects together for the purposes of funding under this and other transportation programs.
- use HEP funds to carry out crash surveys.

The closure of at-grade crossings should take into account possible negative impacts on bicyclists and pedestrians, as required by both 23 U.S.C. Sections 109(n) and 130. As an example, by reducing the number crossings and focusing all crossing activities on a smaller number of major crossings, agencies may significantly reduce access for nonmotorized travelers and channel all traffic onto crossings that do not adequately provide space or facilities for pedestrians and bicyclists.

Congestion Mitigation and Air Quality Improvement Program

The Congestion Mitigation and Air Quality Improvement (CMAQ) Program was created by ISTEA to assist areas designated as nonattainment or maintenance under the Clean Air Act Amendments of 1990 to achieve and maintain healthful levels of air quality by funding transportation projects and programs.

Eligibility – Projects funded under the CMAQ program must be located in areas that were designated as a non-attainment area Section 107(d) of the Clean Air Act and classified pursuant to Sections 181(a), 186(a), or 188(a) or (b) of the Clean Air Act.

Projects must be likely to contribute to the attainment of national ambient air quality standards (or the maintenance of such standards where this status has been reached) based on an emissions analysis. Eligible activities include:

- a) Transportation Control Measures published pursuant to Section 108(f) of the Clean Air Act, which includes “limiting portions of the road surface or sections of a metropolitan area to the use of nonmotorized vehicles”; “employer participation in programs to encourage bicycling”; and “programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists in both public and private places.”
- b) projects in an approved State Implementation Plan and which will have air quality benefits.
- c) a determination by the Secretary of Transportation, in consultation with the EPA Administrator, 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.
- d) a determination that a traffic monitoring, management, and control facility or program is likely to contribute to the attainment of a national ambient air quality standard.
- e) FHWA’s 1996 Guidance on the CMAQ program, which identifies:
 - construction of bicycle and pedestrian facilities
 - nonconstruction projects related to safe bicycle use, and
 - establishment and funding of State bicycle/pedestrian coordinator positions, as established by ISTEA, for the promoting and facilitating the increased use of nonmotorized modes of transportation. This includes public education, promotional, and safety programs for using such facilities.

f) The 1996 Guidance also identifies a variety of “Newly Eligible Activities” for the CMAQ program that includes outreach activities (with no limit on the number of years for which support may be given), fare and fee subsidy programs and innovative financing mechanisms. Each of these may have direct application to potential bicycle and pedestrian-related activities.

TEA-21 allows States to allocate CMAQ funds to private and non-profit entities, under public-private partnership agreements with public agencies, for land, facilities, vehicles, and other expenses.

Matching funds – The Federal share for most eligible activities and projects is 80 percent; or 90 percent if used on certain activities on the Interstate System; or up to 100 percent for certain identified activities such as traffic control signalization and carpooling projects.

Transferability – Up to 50 percent of the amount by which a State’s CMAQ apportionment for the fiscal year exceeds the amount that would have been apportioned for that fiscal year if the CMAQ program had been funded at an annual level of \$1.35 billion may be transferred to the STP, NHS, IM, and/or the Bridge programs. Transferred funds may only be used in nonattainment and maintenance areas.

Discussion – the CMAQ program has funded numerous bicycle and pedestrian improvements including bikeway networks in cities such as Philadelphia, Houston, and New York City, pedestrian and bicycle spot improvement programs, bicycle parking, bicycle racks on buses, police bicycle patrols, sidewalks, trails, and promotional programs such as bike-to-work events. CMAQ funds have also been used to fund bicycle and pedestrian coordinator positions at the State and local level.

Further information: FHWA Guidance and other information on the Congestion Mitigation and Air Quality Improvement Program are available on line at www.fhwa.dot.gov/environment/cmaq.htm.

Recreational Trails Program

The Recreational Trails Program provides funds to States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. Each State administers its own program – usually through a State resource or park agency – and develops its own application and project selection process. Each State has a Recreational Trail Advisory Committee to assist with the program.

Eligibility – Recreational Trails Program (RTP) funds may be used for:

- maintenance and restoration of existing trails
- development and rehabilitation of trailside and trailhead facilities and trail linkages
- purchase and lease of trail construction and maintenance equipment
- construction of new trails (with restrictions for new trails on Federal lands)
- acquisition of easements or property for trails
- State administrative costs related to the program (up to 7 percent of a State's funds)
- operation of educational programs to promote safety and environmental protection related to trails (up to 5 percent of a State's funds).

States must use 30 percent of their funds for motorized trail uses, 30 percent for nonmotorized trail uses and 40 percent for diverse trail uses. The RTP is intended to fund recreational trails and may not be used to improve roads for general passenger vehicle use or to provide shoulders or sidewalks along roads.

Matching funds – In general, the maximum Federal share for each project is 80 percent; however:

- A Federal agency project sponsor may provide additional Federal funds provided the total Federal share does not exceed 95 percent;
- the non-Federal match may include funds from other appropriate Federal programs;
- individual projects may exceed the 80 percent Federal match provided the program overall in the State achieves an 80/20 ratio;
- in-kind contributions (funds, services, materials, or new right-of-way from any project sponsor) may be credited towards the project match.
- although project payment normally takes place on a reimbursement basis, working capital advances may be permitted on a case-by-case basis.

Transferability – Up to 50 percent of RTP funds may be transferred to NHS, IM, CMAQ, STP, and/or Bridge programs. Transfers in States where the program is administered by a non-DOT agency will require the concurrence of the administering agency.

Project sponsors – States may make grants to private organizations, or to any government entity.

Discussion – The RTP is unusual among TEA-21 programs in providing funds for projects that are primarily for recreational rather than transportation purposes. Also, in most States the RTP is administered by a State resource agency rather than the State DOT. However, projects funded by the Recreational Trails Program are not necessarily ineligible for other Federal-aid highway funds (for example for a second or subsequent phase of a project) and other Federal-aid highway funds may be used to make up the matching fund requirements for RTP projects.

States are encouraged to use qualified youth conservation or service corps for construction and maintenance activities under this program.

Federal Lands Highways Program

The Federal Lands Highways Program (FLHP) provides funding for a coordinated program of public roads and transit facilities serving Federal and Indian lands.

Eligibility – Provision for pedestrians and bicycles are eligible activities in conjunction with projects on each of the classes of Federal Lands Highways: Forest Highways, Indian Reservation Roads, Park Roads and Parkways, Refuge Roads, and Public Lands Highways.

Project selection is determined by the appropriate Federal Land Agency or tribal government.

Matching funds – The Federal share is 100 percent. In addition, FLHP funds may be used as matching funds for other Federal-aid Highway funds including STP, IM, NHS, and CMAQ.

Transferability – FLHP funds are not transferable to other programs.

Discussion – Bicyclists and pedestrians are legitimate and frequent users of highways on Federal lands and provision for their safety, comfort, and convenience should be integrated into all FLHP projects. Nonmotorized travel to and within Federal lands can help reduce the impact of visitors on the resource and transportation infrastructure, can significantly enhance the enjoyment of Federal lands for users, and can better serve the needs of the residents of communities in and around our public lands.

Public Lands Highways Discretionary Funds

Eligibility – Funds are available for any kind of transportation project eligible for assistance under Title 23, United States Code, that is within, adjacent to, or provides access to the areas served by public lands highways.

Matching Funds – The Federal share is 100%, and the funds are subject to obligation limitation.

Discussion – The 1998 award of Public Lands Highways Discretionary Funds to nine Millennium Trail projects highlights FHWA's commitment to addressing the needs of bicyclists and pedestrians and serves as a model for other classes of Federal Lands Highways. Projects funded for FY 1998 and 1999 include the addition of paved shoulders, the construction of shared-use paths, sidewalk and crosswalk improvements, and on-road bicycle facilities.

National Scenic Byways Program

The National Scenic Byways Program recognizes roads having outstanding scenic, historic, cultural, natural, recreational and archaeological qualities by designating them as National Scenic Byways or All-American Roads.

Eligibility – Funds may be spent on a variety of activities including “construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement passing lane, overlook, or interpretive facility.” Projects must be either associated with a National Scenic Byway, All-American Road, or a State Scenic Byway.

Matching funds – The Federal share is 80 percent.

Transferability – No funds are transferable to other programs.

Discussion – Bicyclists and pedestrians are likely to be drawn to and use roads designated as Scenic Byways because the very qualities (natural, scenic, cultural, historic, recreational and archaeological) that support their designation are appealing to nonmotorized travelers. Improvements for bicyclists and pedestrians might include the provision of paved shoulders, striped bike lanes, bicycle and pedestrian information signing, parallel shared-use paths, crosswalks and sidewalks, rest stops, and bicycle parking – provided that such facilities do not destroy the qualities inherent in the Scenic Byway and are consistent with the Corridor Management Plan required for such routes.

Further information: www.byways.org

High Priority Projects

Eligibility – Congress approved funding for 1,850 High Priority Projects and funds may be used only for the projects identified in the law. More than 100 projects were bicycle, pedestrian or trail projects.

Matching funds – The Federal share is 80 percent.

Transferability – Funds for some projects described as high priority highway and bridge projects or State priority projects may be used for any project eligible under Title 23 or for any of the other high priority projects within a State.

Minimum Guarantee

TEA-21 guarantees that each State receives at least a 90.5 percent return on its contributions to the Highway Account of the Highway Trust Fund in each of the major funding categories including IM, NHS, Bridge, STP, CMAQ, and Recreational Trails. Therefore, each State receives a Minimum Guarantee apportionment in addition to funds for these other programs. As an example, the amounts for FY 1999 vary from approximately \$483,000 for the District of Columbia to more than \$260 million for Texas.

Eligibility – Approximately half of the funds received by a State are administered as STP funds, except that the funds are not subject to the 10 percent set asides for Safety and Enhancement programs. The remaining funds are divided among the IM, NHS, Bridge, CMAQ, and STP programs based on the share each State received for each program.

Matching funds – Matching requirements are the same as for the programs into which the funds are placed.

Transferability – The funds are not transferable.

Discussion – Bicycle and pedestrian projects have the same eligibility for these funds as they do for the programs into which the funds are placed.

Statewide Planning funds

Eligibility – Two percent of the funds States receive for the IM, NHS, STP, CMAQ and Bridge programs are available only for planning, research, and technology transfer activities. This list includes the Statewide Long Range Transportation Plan and Transportation Improvement Program, and may include bicycle- and pedestrian-related plans, research, and technology transfer activities.

Matching funds – Federal share is 80 percent, but this may be increased by the Secretary of Transportation.

Transferability – The funds may not be transferred to other programs.

Discussion – States are encouraged to use SPR funds to develop the nonmotorized element of the Long Range Transportation Plan, either as a separate planning document or as an integral part of the overall plan. In addition, States are encouraged to fund research and technology transfer activities that will improve conditions for bicyclists and pedestrians in their State.

Metropolitan Planning funds

Eligibility – One percent of the funds authorized for the IM, NHS, STP, CMAQ, and Bridge programs are available only for metropolitan transportation planning. The funds are allocated to each State based on the population of urbanized areas in each State. Funds may be used for bicycle- and pedestrian-related plans that are part of the metropolitan transportation planning process.

Matching funds – Federal share is 80 percent, but this may be increased by the Secretary of Transportation.

Transferability – The funds may not be transferred to other programs.

Discussion – Metropolitan Planning Organizations are encouraged to use PL funds to develop the nonmotorized element of the Long Range Transportation Plan, either as a separate planning document or as an integral part of the overall plan.

Funding Sources: National Highway Traffic Safety Highway Administration

State and Community Highway Safety Grant Program (Section 402)

The State and Community Highway Safety Grant Program supports State highway safety programs designed to reduce traffic crashes and resulting deaths, injuries, and property damage.

Eligibility – States are eligible for these funds (known as “Section 402 funds”) by submitting a Performance Plan, with goals and performance measures, and a Highway Safety Plan describing actions to achieve the Performance Plan. Grant funds are provided to States, the Indian Nations, and Territories each year according to a statutory formula based on population and road mileage.

Funds may be used for a wide variety of highway safety activities and programs including those that improve pedestrian and bicycle safety. States are to consider highly effective programs (previously known as National Priority Program Areas), including bicycle and pedestrian safety, when developing their programs, but are not limited to this list of activities.

Matching funds – Federal share is 80 percent.

Transferability – Funds are not transferrable to other programs.

Discussion – TEA-21 has provided greater flexibility to States in determining the kinds of activities on which they may spend these funds. However, States are encouraged to consider bicycle and pedestrian safety initiatives as these are areas of national concern where effective countermeasures have been identified.

States have funded a wide variety of enforcement and educational activities with Section 402 funds including safety brochures; “Share the Road” materials; bicycle training courses for children, adults, and police departments; training courses for traffic engineers; helmet promotions; and safety-related events.

Funding Sources: Federal Transit Administration

Urbanized Area Formula Grants (transit)

The Urbanized Area Formula Grants program provides transit capital and operating assistance to urbanized areas with populations of more than 50,000.

Eligibility – Capital projects are defined as including “pedestrian and bicycle access to a mass transportation facility.”

Matching funds – Federal share is typically 80 percent. However, bicycle projects may be funded at up to a 90 percent Federal share.

Transferability – Urbanized Area Formula funds apportioned to Transportation Management Areas (over 200,000 population) which cannot be used for the payment of transit operating expenses may be made available for highway projects if a) such use is approved by the MPO, b) funds are not needed for capital transit investments required by the Americans with Disabilities Act, and c) State and local matching funds are also eligible to be used for either highway or transit projects.

Discussion – Urban areas with between 50,000 and 200,000 population may use their allocation of Urbanized Area Formula Grants for capital or operating costs. Urban areas with more than 200,000 may not spend these funds on operating costs but can cover the costs of preventive maintenance as well as other capital costs. These funds may be spent to provide stand-alone bicycle and pedestrian improvements such as bicycle parking and pedestrian access to transit stations, and on larger projects that include bicycle and pedestrian elements, such as the purchase of new buses with bicycle racks.

At least one percent of Urbanized Area Formula funds appropriated to areas with more than 200,000 population must be used for transit enhancement activities, as described below.

Transit Enhancements

One percent of the Urbanized Area Formula Grants apportioned to urban areas of at least 200,000 population are set aside for a new category of transit enhancements. This program is distinct from the Transportation Enhancement Program.

Eligibility – The list of nine eligible activities under the Transit Enhancement Program includes

- pedestrian access and walkways, and
- bicycle access, including bicycle storage facilities and installing equipment transporting bicycles on mass transportation vehicles.

Matching funds – Federal share for bicycle-related transit enhancements is 95 percent. Federal share for all other transit enhancements is 80 percent.

Transferability – One percent of Urbanized Area Formula Grant funds remaining after any transfer of those funds to other sources (see above) must be spent on transit enhancement activities.

Discussion – MPOs, in collaboration with transit operators, have the responsibility to determine how the funds in this new category will be allocated to transit projects, and to ensure that one percent of the urbanized area’s apportionment (as opposed to one percent of each transit agency’s funds) is expended on projects and project elements that qualify as enhancements. The one percent figure is not a maximum or cap on the amount of funding that can be spent on enhancement activities, except for those activities (in particular operating costs for historic facilities) that are only eligible as enhancement activities.

Recipients of transit enhancement funding must submit a report to the relevant FTA Regional Office listing the projects or elements of projects carried out during the previous fiscal year, together with the amount expended.

Formula Program for Other than Urbanized Areas

The Formula Program for Other than Urbanized Areas provides transit capital and operating assistance to urbanized areas with populations of less than 50,000.

Eligibility – Capital projects are defined as including “pedestrian and bicycle access to a mass transportation facility.”

Matching funds – Federal share is typically 80 percent. However, bicycle projects may be funded at up to a 90 percent Federal share.

Transferability – Formula Program for Other than Urbanized Areas funds are not transferable.

Discussion – The FTA encourages States to use these funds to expand the coverage of transit service into rural and small urban areas currently unserved, and to improve levels of service in those areas with minimal service. These funds may be spent to provide stand-alone bicycle and pedestrian improvements such as bicycle racks on buses and pedestrian access to transit stations, and on larger projects that include bicycle and pedestrian elements, such as the purchase of new buses with bicycle racks.

Capital Program Grants and Loans

The renamed Capital Investment Grants and Loans Program (formerly Discretionary Grants) provides transit capital assistance for new fixed guideway systems and extensions to existing fixed guideway systems (New Starts), fixed guideway modernization, and bus and bus related facilities.

Eligibility – Capital projects are defined as including “pedestrian and bicycle access to a mass transportation facility.”

Matching funds – Federal share is typically 80 percent. However, bicycle projects may be funded at up to a 90 percent Federal share.

Transferability – Capital program grants are not transferable.

Discussion – Transit agencies are encouraged to include facilities and access for bicycles and pedestrians in the design of new transit systems. The purchase of new buses can specify the attachment of bicycle racks, new rolling stock can be ordered to accommodate bicycles on-board, and passenger facilities can be designed to include safe pedestrian access, secure bicycle parking, and convenient access.

Funding Sources: Miscellaneous other sources

Access to Jobs

The Access to Jobs Program provides competitive grants to local governments and non-profit organizations to develop transportation services to connect welfare recipients and low-income persons to employment and support services. Programs, which must be approved by a transit agency, may include activities that encourage bicycling. Project selection is made by States in communities under 200,000 and MPOs in urban areas with more than 200,000 population. The Federal share for Access to Jobs projects is 50 percent.

Transportation and Community and System Preservation (TCSP) Pilot Program

The TCSP is a competitive grant program designed to support exemplary or innovative projects that show how transportation projects and plans, community development, and preservation activities can be integrated to create communities with a higher quality of life. The annual grant program is administered by the FHWA, in partnership with the FTA and Environmental Protection Agency, and may be used to fund State, MPO, or local government agencies. Bicycling, walking, and traffic calming projects are eligible activities and may well feature as an integral part of many proposed projects that address larger land use and transportation issues.

Emergency Relief

An emergency relief fund is available for the reconstruction of highways, roads, and trails in any part of the United States that the Secretary finds has suffered serious damage as a result of natural disaster over a wide area (e.g. flood, hurricane, tidal wave, earthquake) or catastrophic failure from any external cause. The restoration of bicycle and pedestrian facilities, including shared-use paths, is an eligible activity for Emergency Relief funds.

Safety Incentive Programs

1. **Seat Belt Use:** An incentive program to encourage States to increase seat belt wearing rates rewards those States with higher than average rates with a greater percentage of funding from a \$500 million funding category created by TEA-21. The funds may be used for any project eligible for funding under Title 23 – this includes a range of bicycle and pedestrian projects, both construction and non-construction. The incentive program makes \$82 million available for FY 1999 and this gradually increases to \$112 million by 2002 and 2003. (Section 1404, TEA-21)
2. **0.08 BAC Law.** An incentive program to reward those States that have enacted and are enforcing a 0.08 Blood Alcohol Content law (WA, OR, CA, ID, UT, NM, KS, IL, AL, FL, NC, VA, VT, NH, ME, HI) makes grants available for any project eligible under Title 23 – this includes a wide range of bicycle and pedestrian projects, both construction and non-construction. \$500 million is available over the six years of TEA-21. (Section 1405, TEA-21)

3. Open Container Law. In FY 2001 and 2002, States that have not passed a law prohibiting open containers of alcohol in motor vehicles must transfer one and one half percent of their National Highway System, Interstate Maintenance, and Surface Transportation Program funds into their Section 402 State and Community Highway Safety Grant Program fund (for alcohol-impaired driver countermeasures and enforcement) OR they may elect to use some or all of those transferred funds for their Hazard Elimination Program. The Federal share for these transferred funds will be 100 percent. If a State has still not passed such a law by FY 2003, the percentage of funds to be transferred rises to 3 percent. (Section 1406, TEA-21)

4. Minimum Penalties for DWI and DUI Repeat Offenders. In FY 2001 and 2002, States that have not passed or are not enforcing a repeat intoxicated driver law must transfer one and one half percent of their National Highway System, Interstate Maintenance, and Surface Transportation Program funds into their Section 402 State and Community Highway Safety Grant Program fund (for alcohol-impaired driver countermeasures and enforcement) OR they may elect to use some or all of those transferred funds for their Hazard Elimination Program. The Federal share for these transferred funds will be 100 percent. If a State has still not passed such a law by FY 2003, the percentage of funds to be transferred rises to 3 percent. (Section 1407, TEA-21)

For more information, visit www.fhwa.dot.gov/tea21/implinks.htm.

Discretionary Programs

TEA-21 authorizes Federal-aid funds under several programs (including some of those mentioned above) to be set aside each fiscal year for distribution at the discretion of the Secretary. These are among the few funds over which FHWA has direct control of project selection, and different application procedures are established for each. The programs with discretionary set asides are:

- Bridge Discretionary
- Bridge Discretionary – Seismic
- Corridor Planning and Development and Border Infrastructure
- Covered Bridge
- Ferry Boats
- Interstate Discretionary
- Interstate Maintenance
- Public Lands Highways
- Scenic Byways
- Transportation and Community and System Preservation
- Value Pricing Pilot

Appendix 3

Planning Guidance

The inclusion of the bicycle and pedestrian elements in transportation plans and programs may be accomplished by addressing bicycle and pedestrian issues throughout the transportation planning process and integrating bicycle and pedestrian elements as appropriate in the transportation plan and programs. A separate section on bicycle and pedestrian specific issues in addition to or in place of an integrated element may be appropriate. This approach would address the TEA-21 mandate of developing transportation facilities that will function as an intermodal transportation system.

The bicycle and pedestrian plan elements should contain policy statements, goals and, whenever possible, specific projects and programs. The plan and TIP should identify the financial resources necessary to implement the bicycle and pedestrian projects and programs.

Bicycle and pedestrian projects may be on- or off-road facilities. For off-road trails, all such facilities that serve a transportation function must be consistent with the planning process.

A trail serves a valid transportation purpose if it serves as a connection between origins and destinations. Trails funded through programs requiring FHWA or FTA approval, except for the Recreational Trails Program (RTP), are determined to serve primarily a transportation purpose. These must be included in statewide and MPO plans and programs.

Bicycle and pedestrian projects using Federal-aid transportation funds must be included in the statewide and metropolitan area Transportation Improvement Programs (STIPs and TIPs).

Projects using other Federal funds or non-Federal funds may be included in the STIP and TIP for informational purposes only, or in the case of a TIP in an air quality nonattainment or maintenance area, for the purposes of air quality analysis.

If a bicycle and/or pedestrian project is deemed to be regionally significant (as defined in CFR 23 Section 450.104) it must be included in the STIP or TIP if it is in a nonattainment or maintenance area, and in attainment areas such projects should be included for informational purposes. Bicycle and pedestrian projects are, however, exempt from transportation conformity requirements (40 CFR Parts 51 and 93).

In most States, the Recreational Trails Program (RTP) is administered by a State resource agency. Planning requirements for the RTP can be found in 23 U.S.C. 206(d)(1) and details will be available in FHWA's guidance on this program. RTP projects must be consistent with statewide (and applicable metropolitan) Long-range Transportation Plans.

In States where the State DOT does not administer the RTP, the State agency responsible for the RTP must forward the list of projects approved for funding to the State DOT for incorporation into the STIP, and to applicable MPOs for their incorporation into their TIPs. In most cases, the State DOT and the MPOs should accept the list of approved RTP projects without modifications. In States where the State DOT administers the RTP, the DOT must inform applicable MPOs of approved projects within their jurisdiction for incorporation into their TIPs.

Unless RTP projects are deemed to be regionally significant, they may be grouped and submitted as one line item to the State DOT for incorporation into the STIP, and to applicable MPOs for incorporation into their TIPs. If an RTP project is determined to be regionally significant, it must be listed individually within the STIP and any applicable TIP.

Bicycle and Pedestrian Considerations in a Transportation Planning Process

As is the case for the broader transportation plans, the bicycle and pedestrian element of transportation plans should include:

1. Vision and Goal Statements, and Performance Criteria:

The vision statements express concisely what the plan is expected to accomplish. For example:

- The vision of this program is a nation of travellers with new opportunities to walk or ride a bicycle as part of their everyday life. The vision of this program is the creation of a changed transportation system that offers not only choices among travel modes for specific trips, but more importantly presents these options in a way that they are real choices that meet the needs of individuals and society as a whole.

The goals to reach the vision, and the time frame for reaching each goal should be spelled out. They should be clear and objectively measurable. For example, some goals would be:

- To double the percentage of trips taken by bicycling and walking for all transportation purposes, and to reduce by 10 percent the number of bicyclist injuries and fatalities by the year 2000.
- To increase the number of bicyclists and pedestrians or to increase facility mileage by a certain amount by a given year.
- To improve the connections among bicycle, pedestrian, and transit systems.

- To allow people to bicycle safely, conveniently, and pleasurably within 8 km (5 mi) of their homes, and to make streets and roads "bicycle friendly" and well-designed to accommodate both motorized and nonmotorized modes of transportation.

Network performance criteria also should be developed. Some applicable criteria would be accessibility, directness, continuity, route attractiveness, low numbers of conflicts with other route users, number of bicycle links with transit, cost, ease of implementation, etc.

Specific State and MPO goals and performance criteria should be developed to support locally determined bicycle and pedestrian program implementation efforts.

2. Assessment of Current Conditions and Needs:

A baseline of information should be collected on which to base strategies and actions necessary to reach the vision and goal statements. The information collected in this step should determine the extent to which the existing transportation system meets the needs of bicyclists and pedestrians. The Intermodal Management System should provide information on existing and needed bicycle and pedestrian access to major intermodal transportation terminals such as commuter rail stations.

Specifically, this assessment could include:

- Determination of current levels of use for bicycling and walking transportation trips, and current numbers of injuries and fatalities involving bicyclists and pedestrians. Evaluation of the existing transportation infrastructure (including on- and off-road facilities) to determine current conditions and capacities and to identify gaps or deficiencies in terms of accommodating potential and existing bicycle and pedestrian travel.
- Determination of the capacities and the type and security level of bicycle parking offered at intermodal connections such as transit facilities and destination points.
- Identification of desired travel corridors for bicycle and pedestrian trips.
- Examination of existing land use and zoning, and the patterns of land use in the community.
- Planning, design standards, and agency policies and the extent to which they affect the accessibility of the transportation system for bicyclists and pedestrians, e.g., do they meet policies and design guidance issued by the American Association of State Highway and Transportation Officials (AASHTO) for bicycle and pedestrian facilities?

- State and local laws and regulations affecting the vision and goals. e.g., growth management and trip reduction laws, or constitutional restraints on expending highway funds on bicycle and pedestrian facilities.
- Availability of bike-on-bus or bike-on-rail access; including hours service is available, routes where available, and incentives and barriers to using the service (i.e., training, permit, or additional charges required).

3. Identification of activities required to meet the vision and goals developed above. These activities or strategies could include:

- Basis of the need for modifications to the transportation system through surveys, origin destination studies, public input, or other data collection techniques.
- Needed modifications to the existing transportation system of on- and off-road facilities to meet the vision and goal statements.
- Development and application of criteria to prioritize and to identify specific facility-related improvements.
- Identification of changes required to planning, design standards, agency policies, and/or State or local legislation.
- Specification of education, encouragement, and law enforcement components to support facility development.
- Identification of nonconstruction activities such as mapping, parking facilities, etc., that are needed to reach the vision and goals developed above.
- Investigation of the effects on bicyclist and pedestrian safety.
- The relationship of statewide, MPO, and local plans for bicyclists and pedestrians, i.e., ensuring that such plans are coordinated among the involved jurisdictions.

The inclusion of recreational bicycling and walking facilities such as recreational trails is encouraged, but not required. Nevertheless, the coordination of transportation and recreational bicycle and pedestrian facilities and programs is essential. Provide a mechanism for evaluating the performance of the transportation system containing implemented projects against the performance of the original system.

4. Implementation of the bicycle and pedestrian elements in the statewide and MPO transportation plans and transportation improvement programs:

Inclusion in the Plans: The bicycle and pedestrian elements as a set of policy statements and/or a list of projects will be included in statewide and metropolitan transportation plans and will be updated appropriately as statewide and MPO plans are updated.

Inclusion in the TIPs: The bicycle and pedestrian element of transportation plan should be implemented by including identified projects in the TIP/STIP in accordance with priorities established by MPOs, States, and transit operators, and in accordance with 23 CFR Part 450, sections 216 and 324.

5. Evaluation of progress:

Using the performance measures developed previously, regularly determine progress in reaching the identified vision and goals. Appropriate changes to either the vision and goals or to the strategies and proposed projects should be made.

6. Public Involvement:

Public involvement is essential in the development of transportation plans and programs including the bicycle and pedestrian components. Public involvement should include, to the extent possible, input from individuals who will be affected by the transportation plan and programs. This involvement must meet the requirements for statewide planning spelled out in the regulations in 23 CFR Section 450.212, and those for MPO planning spelled out in 23 CFR Section 450.316(b). Any subsequent policy statements and guidance provided by the FHWA and FTA also needs to be considered.

The regulations require that State departments of transportation and MPOs have public involvement processes which are followed in preparing transportation plans and programs. Bicycle and pedestrian groups should be aware of the opportunity to participate in the development of these public involvement processes and to comment on them before they are adopted. This is in addition to the opportunity to participate according to the public involvement processes in the development of transportation plans and programs. Public involvement will occur at key decision points as described in the public involvement procedures for the planning process.

7. Transportation Conformity Requirements for Air Quality:

Per 40 CFR Parts 51 and 93, bicycle and pedestrian facilities are exempt from transportation conformity requirements. Their inclusion as part of a larger project that does not meet the conformity requirements could result in delay while the requirements for the larger project are satisfied.