



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Memorandum

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**Subject:** **INFORMATION:** Implementation  
Guidance for the National Highway  
Freight Program as Revised by the  
Bipartisan Infrastructure Law

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In Reply Refer To:  
HOFM-1

**To:** Division Administrators  
Directors of Field Services

On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law” (BIL)) into law. Section 11114 of the BIL amended the National Highway Freight Program (NHFP) in section 167 of title 23, United States Code (23 U.S.C.). The attached NHFP Implementation Guidance provides information on funding, eligible activities, and requirements of the NHFP.

The BIL amendments to 23 U.S.C. 167 took effect on October 1, 2021, and apply to all related funding obligated on or after that date, whether funded from new NHFP authorizations or NHFP funds authorized in previous years. This guidance replaces the “NHFP Implementation Guidance” dated February 29, 2016.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies. However, compliance with applicable statutes or regulations cited in this document is required.

This document is available on the BIL Website ([Federal Highway Administration \(FHWA\) Bipartisan Infrastructure Law Website](#)) and through the Policy and Guidance Center ([FHWA Policy and Guidance Center](#)).

If you have any questions, please contact the Office Director of the Office of Freight Management and Operations, (202) 493-0457.

Attachment

**National Highway Freight Program (NHFP) Implementation Guidance**  
(December 13, 2022)

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## A. OVERVIEW OF THE NATIONAL HIGHWAY FREIGHT PROGRAM

This document provides background and guidance to clarify eligibility requirements for the National Highway Freight Program (NHFP) under the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, also known as the “Bipartisan Infrastructure Law” (BIL)).

The NHFP is focused on improving the condition and performance of the National Highway Freight Network (NHFN) and ensuring the network provides the foundation for the United States to compete in the global economy. The NHFN was established to strategically direct Federal resources and policies toward improved performance of highway portions of the U.S. freight transportation system. The NHFN is a set of roadways designated for supporting the movement of goods and consists of the following four separate components: The Primary Highway Freight System (PHFS); Critical Rural Freight Corridors (CRFCs); Critical Urban Freight Corridors (CUFCs); and the remaining portions of the Interstate System not included in the PHFS. The BIL increased the total amount of CRFC and CUFC mileage that can be designated by States and MPOs (23 U.S.C. 167(e)(2) and 167(f)(4)). NHFP funds may only be obligated for eligible projects identified under 23 U.S.C. 167(h)(5)(B) and (C) that: (1) contribute to the efficient movement of freight on the NHFN; and (2) are identified along with matching funds in a fiscally constrained freight investment plan included in a State freight plan. (See 23 U.S.C. 167(h)(5)(A); 49 U.S.C. 70202(b)(9) and 70202(c)(2)). Other eligible costs identified under a specific eligibility provision, 23 U.S.C. 167(h)(6), are excepted from the general eligibility requirements of section 167(h)(5)(A). Additionally, a State should consider obligating up to 30 percent of the total apportionment under NHFP each fiscal year for freight intermodal or freight rail projects. (See 23 U.S.C. 167(h)(5)(B)).

The goals of the NHFP program are:

1. to invest in infrastructure improvements and operational improvements that strengthen economic competitiveness, reduce congestion, reduce the cost of freight transportation, improve reliability, and increase productivity;
2. to improve the safety, security, efficiency, and resiliency of freight transportation in rural and urban areas;
3. to improve the state of good repair of the National Highway Freight Network;
4. to use innovation and advanced technology to improve the safety, efficiency, and reliability of the National Highway Freight Network;
5. to improve the efficiency and productivity of the National Highway Freight Network;
6. to improve the flexibility of States to support multi-State corridor planning and the creation of multi-State organizations to increase the ability of States to address highway freight connectivity; and
7. to reduce the environmental impacts of freight movement on the National Highway Freight Network. (23 U.S.C. 167(b)).

## B. GUIDANCE ON STRATEGIC PRIORITIES AND USE OF THE FEDERAL-AID HIGHWAY FORMULA FUNDING

1. **Overview:** On December 16, 2021, FHWA issued guidance, [Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America](#), that serves as an overarching framework to encourage the use of BIL resources for projects that advance Department of Transportation (DOT) strategic priorities and will Build a Better America. That policy is available on Federal Highway Administration (FHWA)'s BIL resources implementation Website at the following URL: [Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America](#).

### 2. Safety:

#### **Prioritizing Safety in All Investments and Projects**

The [National Roadway Safety Strategy](#) (NRSS) (issued January 27, 2022) commits the DOT and FHWA to respond to the current crisis in traffic fatalities by “taking substantial, comprehensive action to significantly reduce serious and fatal injuries on the Nation’s roadways,” in pursuit of the goal of achieving zero highway deaths. FHWA recognizes that zero is the only acceptable number of deaths on our roads and achieving that is our safety goal. FHWA therefore encourages States and other funding recipients to prioritize safety in all Federal highway investments and in all appropriate projects, using relevant Federal-aid funding, including funds from NHFP.

The Safe System approach addresses the safety of all road users, including those who walk, bike, drive, ride transit, and travel by other modes. It involves a paradigm shift to improve safety culture, increase collaboration across all safety stakeholders, and refocus transportation system design and operation on anticipating human mistakes and lessening impact forces to reduce crash severity and save lives. To achieve the vision of zero fatalities, safety should be fully reflected in a State’s transportation investment decisions, from planning and programming, environmental analysis, project design, and construction, to maintenance and operations. States should use data-driven safety analyses to ensure that safety is a key input in any decision made in the project development process and fully consider the safety of all road users in project development.

FHWA encourages State and local agencies to consider the use of funds from NHFP to address roadway safety and implement the Safe System approach wherever possible. Improvements to safety features, including traffic signs, pavement markings, and multimodal accommodations that are routinely provided as part of a broader Federal-aid highway project can and should be funded from the same source as the broader project as long as the use is eligible under that funding source.

Because of the role of speed in fatal crashes, FHWA is also providing new resources on the setting of speed limits and on re-engineering roadways to help “self-enforce” speed limits. To achieve the vision of zero fatalities on the Nation’s roads, FHWA encourages States to assess safety outcomes for all project types and promote and improve safety for all road users, particularly vulnerable users. FHWA recommends that streets be designed and operated to maximize the existing right-of-way for accommodation of nonmotorized

modes and transit options that increase safety and connectivity. Pedestrian facilities in the public right-of-way must comply with the Americans with Disabilities Act (ADA).

### **Complete Streets**

As one approach to ensuring the safety of all roadway users, FHWA encourages States and communities to adopt and implement Complete Streets policies that prioritize the safety of all users in transportation network planning, design, construction, and operations. Section 11206 of the BIL defines Complete Streets standards or policies as those which “ensure the safe and adequate accommodation of all users of the transportation system, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles.” A complete street includes but is not limited to, sidewalks, bike lanes (or wide paved shoulders), special bus lanes, accessible public transportation stops, safe and accommodating crossing options, median islands, pedestrian signals, curb extensions, narrower travel lanes, and roundabouts. A Complete Street is safe, and feels safe, for everyone using the street.

3. **Transit Flex:** FHWA, working with the Federal Transit Administration (FTA), seeks to help Federal-aid recipients plan, develop, and implement infrastructure investments that prioritize safety, mobility, and accessibility for all transportation network users, including pedestrians, bicyclists, transit riders, micro mobility users, freight and delivery services providers, and motorists. This includes the incorporation of data sharing principles and data management.

Funds from NHFP can be “flexed” to FTA to fund transit projects if certain requirements are met. For title 23 funds that are flexed to FTA, section 104(f) of title 23, U.S.C., allows funds made available for transit projects or transportation planning to be transferred to FTA and administered in accordance with chapter 53 of title 49, U.S.C., except that the Federal share requirements of the original fund category continue to apply (*See* 23 U.S.C. 104(f)(1)).

The use of Federal-aid funding on transit and transit-related projects can provide an equitable and safe transportation network for travelers of all ages and abilities, including those from marginalized communities facing historic disinvestment. FHWA encourages recipients to consider using funding flexibility for transit or multimodal-related projects and to consider strategies that: (1) improve infrastructure for nonmotorized travel, public transportation access, and increased public transportation service in underserved communities; (2) plan for the safety of all road users, particularly those on arterials, through infrastructure improvements and advanced speed management; (3) reduce single-occupancy vehicle travel and associated air pollution in communities near high-volume corridors; (4) offer reduced public transportation fares as appropriate; (5) target demand-response service towards communities with higher concentrations of older adults and those with poor access to essential services; and (6) use equitable and sustainable practices while developing transit-oriented development.

4. **Transferability Between FHWA Programs:** Section 126 of title 23, U.S.C., provides that a State may transfer up to 50 percent of the amount apportioned for the fiscal year for

certain highway programs, including NHFP, to other eligible apportioned highway programs. *See also* FHWA Order 4551.1, [Fund Transfers to Other Agencies and Among Title 23 Programs](#). Historically States have used this flexibility to address unmet needs in areas where apportioned funding was insufficient.

The BIL made historic investments in highway programs including more than \$300 billion in Contract Authority from the Highway Trust Fund. This represents an average annual increase of 29 percent in Federal-aid funding over the amount of Contract Authority for FHWA programs compared to fiscal year 2021. Congress also established more than a dozen new highway programs to help address urgent surface transportation needs.

States have the flexibility to transfer funds out of NHFP to other apportioned programs, but we encourage States to first consider the need to transfer in light of the significant increase in apportioned funding and the considerable funding for new programs. States, working with FHWA, should determine the need for NHFP funds – including the ability to apply NHFP funds to eligible assets owned by local governments, counties, and Tribes – and identify and prioritize projects that maximize the NHFP funding before deciding to transfer funds out of the NHFP.

See Section D.5 for additional NHFP specific transfer information.

5. **ADA:** The Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination against people with disabilities and ensure equal opportunity and access for persons with disabilities. The DOT's Section 504 regulations apply to recipients of the DOT's financial assistance (*See* 49 CFR 27.3(a)). Title II of the ADA applies to public entities regardless of whether they receive Federal financial assistance (*See* 28 CFR 35.102(a)). The ADA requires that no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity (*See* 28 CFR 35.149). A public entity's pedestrian facilities are considered a "service, program, or activity" of the public entity. As a result, public entities and recipients of Federal financial assistance are required to ensure the accessibility of pedestrian facilities in the public right-of-way, such as curb ramps, sidewalks, crosswalks, pedestrian signals, and transit stops in accordance with applicable regulations.

Funds from NHFP are available to improve accessibility and to implement recipients' ADA transition plans and upgrade their facilities to eliminate physical obstacles and provide for accessibility for individuals with disabilities. FHWA will provide oversight to recipients of NHFP funds to ensure that each public agency's project planning, design, and construction programs comply with ADA and Section 504 accessibility requirements.

6. **Equity:** The BIL provides considerable resources to help States and other funding recipients advance projects that consider the unique circumstances affecting community members' mobility needs and allocate resources consistently with those needs, enabling

the transportation network to effectively serve all community members. FHWA will work with States to ensure consideration of using NHFP funds for projects and inclusion of project elements that proactively address racial equity, workforce development, economic development, and remove barriers to opportunity, including automobile dependence in both rural and urban communities as a barrier to opportunity or to redress prior inequities and barriers to opportunity.

Federal-aid recipients, including recipients of NHFP funds, are responsible for involving the public, including traditionally underserved and underrepresented populations in transportation planning and complying with participation and consultation requirements in 23 CFR 450.210 and 23 CFR 450.316, as applicable. “Underserved populations” include minority and low-income populations but may also include many other demographic categories that face challenges engaging with the transportation process and receiving equitable benefits (See [FHWA's Environmental Justice Reference Guide](#) for additional information). In addition, NHFP projects can support the Justice40 Initiative, which establishes a goal that at least 40 percent of the benefits of Federal investments in climate and clean energy infrastructure are distributed to disadvantaged communities. (See [OMB's Interim Implementation Guidance for the Justice40 Initiative](#) or its successor for additional information).

To assist with these public engagement efforts, FHWA expects recipients of NHFP funds to engage with all impacted communities and community leaders to determine which forms of communication are most effective. Recipients should gain insight on the unique circumstances impacting various disadvantaged and underrepresented groups so that new channels for communication may be developed. And, the recipients should use this information to inform decisions across all aspects of project delivery including planning, project selection, and the design process.

Among other things, recipients of NHFP funds are also required to assure equitable treatment of workers and trainees on highway projects through compliance with Equal Employment Opportunity requirements under 23 CFR Part 230, Subpart A, as well as ensuring nondiscrimination in all of their operations on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964. Recipients of NHFP funds should ensure that they have the capacity and expertise to address Federal civil rights protections that accompany grant awards.

- 7. Climate Change and Sustainability:** The United States is committed to a whole-of-government approach to reducing economy-wide net greenhouse gas pollution by 2030. The BIL provides considerable resources—including new programs and funding—to help States and other funding recipients advance this goal in the transportation sector. In addition, the BIL makes historic investments to improve the resilience of transportation infrastructure, helping States and communities prepare for hazards such as wildfires, floods, storms, and droughts exacerbated by climate change.

FHWA encourages the advancement of projects that address climate change and sustainability. To enable this, FHWA encourages recipients to consider climate change and sustainability throughout the planning and project development process, including

the extent to which projects under NHFP align with the President’s greenhouse gas reduction, climate resilience, and environmental justice commitments. In particular, consistent with the statute and guidance below, recipients should fund projects that reduce carbon dioxide emissions. FHWA encourages recipients to fund projects that support fiscally responsible land use and transportation efficient design or incorporate electrification or zero emission vehicle infrastructure. In addition, FHWA encourages recipients to consider projects under NHFP that support climate change resilience, including consideration of the risks associated with wildfires, drought, extreme heat, and flooding, in line with guidance for projects in floodplains. FHWA also encourages recipients to consider projects under NHFP that address environmental justice concerns.

- 8. Labor and Workforce:** Highway programs, including NHFP, may provide opportunities to support the creation of good-paying jobs, including jobs with the free and fair choice to join a union, and the incorporation of strong labor standards, such as the use of project labor agreements; employer neutrality with respect to union organizing; the use of an appropriately trained workforce (in particular registered apprenticeships and other joint labor-management training programs); and the use of an appropriately credentialed workforce in project planning stages and program delivery. Under BIL Section 25019, projects funded with NHFP (and other Federal-aid funding) may choose to follow a “local hire” agreement (one that provides for local or other geographic or economic hire provisions) without the need for any prior approval from FHWA.

Recipients should work with FHWA, to the extent possible, to identify opportunities for Federal-aid highway investments to advance high-quality job creation through the use of local or other geographic or economic hire provisions authorized under section 25019 in the BIL, and Indian employment preference for projects that are located on or near Tribal reservations authorized under 23 U.S.C. 140(d), or other workforce strategies targeted at expanding workforce training opportunities for people to get the skills they need to compete for these jobs, especially underrepresented populations: women, people of color, and groups with other systemic barriers to employment (people with disabilities, formerly incarcerated, etc.).

- 9. Truck Parking:** Truck parking shortages are a national concern affecting the efficiency of US supply chains and safety for truck drivers and other roadway users. Jason’s Law, which was passed in 2012, established a national priority on addressing the shortage of long-term parking for commercial motor vehicles on the National Highway System (NHS).

Many Federal-aid highway funding programs, including the NHFP, have eligibility for truck parking projects (*See [Eligibility of Title 23 and Title 49 Federal Funds for Commercial Motor Vehicle Parking](#)* for additional information). NHFP funds may be obligated for truck parking facilities eligible under section 1401 of MAP-21 (23 U.S.C. 137 note) and real-time truck parking information systems (*See 23 U.S.C. 167(h)(5)(C)(xi)-(xii)*).

The BIL amended 49 U.S.C. 70202 to require States to include an assessment of the adequacy of commercial motor vehicle parking in their State Freight Plans (*See 49 U.S.C.*



70202(f)). States should consider working with private sector truck stop operators and the trucking community in the siting and development of specific truck parking projects. States also are encouraged to offer opportunities for input from commercial motor vehicle drivers and truck stop operators through their State freight advisory committees established under 49 U.S.C. 70201. Additional resources on truck parking are available on [FHWA's Truck Parking website](#).

### C. GOVERNING AUTHORITIES

1. Section 11101 of the BIL authorizes contract authority for the NHFP.
2. Section 11104 of the BIL updates apportionment instructions in 23 U.S.C. 104.
3. Section 11114 of the BIL amends the NHFP in 23 U.S.C. 167.
4. Section 21104 of the BIL amends the development of a State freight plan under 49 U.S.C. 70202.
5. Section 21107 of the BIL requires DOT to encourage each State to establish a State freight advisory committee under 49 U.S.C. 70201.

### D. FUNDING

1. **Authorization Levels:** Estimated annual NHFP funding under the BIL is:

Estimated Annual NHFP Funding	
Fiscal Year (FY) 2022	\$1.374 B
FY 2023	\$1.401 B
FY 2024	\$1.429 B
FY 2025	\$1.458 B
FY 2026	\$1.487 B

The BIL sets each State's initial share of Federal-aid highway program apportioned (formula) funds annually based on the share of formula funds each State received in fiscal year 2021. The methodology for calculating the apportionments for Fiscal Year (FY) 2023 under 23 U.S.C. 104 is discussed in [FHWA Notice N4510.870](#). For FY 2024 through 2026 funds, please revisit FHWA's BIL Funding Website at the appropriate future time ([FHWA BIL Funding](#)).

From the State's NHFP apportionment, 2 percent is to be set aside for State Planning and Research (SPR) (*See* 23 U.S.C. 505).

The Fiscal Management Information System Program Codes for these NHFP funds are as follows:

Program Code	Program Description	Title 23 Reference
Y460	National Highway Freight Program (NHFP)	23 U.S.C. 167
Y470	NHFP – Freight Intermodal or Freight Rail Project (Limiting Amount)	23 U.S.C. 167(h)(5)(B)

- 2. Period of Availability:** NHFP funds are contract authority. NHFP obligations are reimbursed from the Highway Account of the Highway Trust Fund. NHFP funds are available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized (*See* 23 U.S.C. 118(b)). Thus, funds are available for obligation for up to 4 years.

NHFP funds from previous authorizations continue to be available for their original period of availability but are subject to 23 U.S.C. 167, as amended by the BIL.

- 3. Obligation Limitation:** NHFP funds are subject to the annual obligation limitation imposed on the Federal-aid highway program.
- 4. Federal share:** The Federal share for NHFP-funded projects is governed by 23 U.S.C. 120, as amended by the BIL. The Federal share is generally 80 percent (*See* 23 U.S.C. 120(b)). The Federal share for projects on the Interstate System is 90 percent unless the project adds lanes that are not high-occupancy-vehicle or auxiliary lanes (*See* 23 U.S.C. 120(a)). For projects that add single occupancy vehicle capacity, that portion of the project will revert to an 80 percent Federal share. An upward sliding scale adjustment is available to States having public lands (*See* [Sliding Scale Rates in Public Land States](#)). States may choose a lower Federal share on Federal-aid projects as provided in 23 U.S.C. 120(h).

Certain types of improvements, predominantly safety improvements, listed in 23 U.S.C. 120(c)(1), as amended by the BIL, may have a Federal share of 100 percent. States are encouraged to consider the use of NHFP funds for such safety improvements that would increase the Federal share to 100 percent. Use of this provision is limited to 10 percent of the total funds apportioned to a State under 23 U.S.C. 104. *See* FHWA Memo, “Increased Federal Share under 23 U.S.C. 120(c)(1),” dated November 25, 2014 ([Increased Federal Share under 23 U.S.C. 120\(c\)\(1\)](#)).

In accordance with 23 U.S.C. 120(f), funds apportioned under 23 U.S.C. 104 may be used at 100 percent Federal share for Federal-aid highways within Indian reservations, national parks, and monuments.

Projects located on toll roads are generally subject to a Federal share specified in the applicable tolling statute.

Projects incorporating Innovative Project Delivery as described in 23 U.S.C. 120(c)(3), as amended by the BIL, may be increased by up to 5 percent of the total project cost not to exceed a 100 percent Federal share, subject to limitations in 23 U.S.C. 120(c)(3).

- 5. Transferability of NHFP Funds:** As discussed in Section B.4., Section 126 of title 23, U.S.C. as amended by the BIL, provides for and places conditions on the transfer of funds apportioned under 23 U.S.C. 104(b). *See also* FHWA Order 4551.1, “Fund Transfers to Other Agencies and Among Title 23 Programs” dated August 12, 2013, ([Fund Transfers to Other Agencies and Among Title 23 Programs](#)).

6. **Deobligations of Other Title 23 Obligated Funds:** Project Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute (*See* 23 CFR 630.110(a)).

## E. NATIONAL HIGHWAY FREIGHT NETWORK

1. **National Highway Freight Network (NHFN):** Under 23 U.S.C. 167(c)(1), the FHWA Administrator is required to establish a NHFN to strategically direct Federal resources and policies toward improved performance of the Network. NHFP funds may be obligated for projects that contribute to the efficient movement of freight on the NHFN. According to 23 U.S.C. 167(c)(2), the NHFN includes the following subsystems of roadways:

- a. **Primary Highway Freight System (PHFS)** - This is a network of highways identified as the most critical highway portions of the U.S. freight transportation system determined by measurable and objective national data. For further information on the original designation, see the [Federal Register Notice of October 23, 2015](#) (80 FR 64477).

The FHWA Administrator is required to re-designate the PHFS every 5 years. Each re-designation is limited to a maximum 3 percent increase in the total mileage of the system (23 U.S.C. 167(d)(2)). On August 26, 2021, FHWA published in the Federal Register a notice describing the statutory criteria for re-designation of the PHFS, and inviting comments on potential PHFS changes, see the [Federal Register Notice of August 26, 2021](#) (86 FR 47705). After considering all comments and information received in response to the notice, FHWA plans to publish notice of the re-designated PHFS.

- b. **Interstate Routes not on the PHFS** - These highways consist of the remaining portion of the Interstate System not designated as part of the PHFS. These routes provide important continuity and access to freight transportation facilities.
- c. **Critical Rural Freight Corridors (CRFC)** - These are public roads not in an urbanized area which provide access and connection to the PHFS and the Interstate System with other important ports, public transportation facilities, or other intermodal freight facilities. States are responsible for designating public roads in their State as CRFCs. In accordance with 23 U.S.C. 167(e), a State may designate a public road within the borders of the State as a CRFC if the public road is not in an urbanized area, and meets one or more of the following seven elements:
  - i. The road is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13);

- ii. The road provides access to energy exploration, development, installation, or production areas;
- iii. The road connects the PHFS or the Interstate System to facilities that handle more than-
  - 1. 50,000 20-foot equivalent units per year; or
  - 2. 500,000 tons per year of bulk commodities;
- iv. The road provides access to-
  - 1. a grain elevator;
  - 2. an agricultural facility;
  - 3. a mining facility;
  - 4. a forestry facility; or
  - 5. an intermodal facility;
- v. The road connects to an international port of entry;
- vi. The road provides access to significant air, rail, water, or other freight facilities in the State; or
- vii. The road is determined by the State to be vital to improving the efficient movement of freight of importance to the economy of the State.

The BIL increased the CRFC miles available for designation to a maximum of 300 miles or 20 percent of the PHFS mileage in the State, whichever is greater. Rural States, defined under 23 U.S.C. 167(e)(3), are States with a population per square mile of area that is less than the national average, based on the 2010 census, may designate as critical rural freight corridors a maximum of 600 miles of highway or 25 percent of the primary highway freight system mileage in the State, whichever is greater.

- d. Critical Urban Freight Corridors (CUFC) - These are public roads in urbanized areas which provide access and connection to the PHFS and the Interstate with other ports, public transportation facilities, or other intermodal transportation facilities. In an urbanized area with a population of 500,000 or more, the metropolitan planning organization (MPO), in consultation with the State, is responsible for designating the CUFCs (23 U.S.C. 167(f)(1)). In an urbanized area with a population of less than 500,000, the State, in consultation with the MPO, is responsible for designating the CUFCs (23 U.S.C. 167(f)(2)). Regardless of population, a public road may be designated as a CUFC if it is in an urbanized area, and meets one or more of the following four elements:
  - i. The road connects an intermodal facility to;
    - 1. the PHFS
    - 2. the Interstate System; or
    - 3. an intermodal freight facility;
  - ii. The road is located within a corridor of a route on the PHFS and provides an alternative highway option important to goods movement;
  - iii. The road serves a major freight generator, logistic center, or manufacturing and warehouse industrial land; or
  - iv. The road is important to the movement of freight within the region, as determined by the MPO or the State (23 U.S.C. 167(f)(3)).

BIL increased the CUFC miles available for designation to a maximum of 150 miles or 10 percent of the PHFS mileage in the State, whichever is greater (23 U.S.C. 167(f)).

- e. States with PHFS mileage greater than or equal to 2 percent, calculated based on the proportion of total designated PHFS mileage in the State to the total mileage of the PHFS in all States, are considered high mileage States with respect to the PHFS and may obligate funds for projects on the PHFS, the CRFC, and the CUFC. States with PHFS mileage of less than 2 percent are considered low mileage States with respect to the PHFS and may obligate funds for projects on all portions of the NHFN (the PHFS, the CRFC, the CUFC, and the rest of the Interstate System in their State) (23 U.S.C. 167(i)(3)). The table below lists the high and low mileage States and can also be found [here](#).

<b>High Mileage States (PHFS <math>\geq</math> 2%):</b>	<b>Low Mileage States (PHFS &lt; 2%):</b>	
Alaska	Alabama	Nebraska
Arizona	Arkansas	Nevada
California	Colorado	New Hampshire
Florida	Connecticut	New Jersey
Georgia	Delaware	North Dakota
Illinois	Dist. of Columbia	Oklahoma
Indiana	Hawaii	Oregon
Missouri	Idaho	Puerto Rico
Montana	Iowa	Rhode Island
New Mexico	Kansas	South Carolina
New York	Kentucky	South Dakota
North Carolina	Louisiana	Vermont
Ohio	Maine	Washington
Pennsylvania	Maryland	West Virginia
Tennessee	Massachusetts	Wisconsin
Texas	Michigan	Wyoming
Utah	Minnesota	
Virginia	Mississippi	

- f. As of October 1, 2015, the NHFN consisted of the PHFS and other Interstate portions not on the PHFS, for a total of approximately 51,029 centerline miles. The NHFN mileage continues to increase with the designation of CRFCs and CUFCs and will fluctuate with additions and deletions to the Interstate Highway System. States and MPOs are allowed to designate these Corridors on a rolling basis and must certify to the FHWA Administrator that the designated corridors meet the requirements of the applicable provision (CRFCs and CUFCs) (23 U.S.C. 167(g)). FHWA anticipates developing additional guidance on the process for identification, designation, and certification of the CRFCs and CUFCs.
- g. The NHFN is a component of the National Multimodal Freight Network (NMFN). An interim NMFN was established per the Fixing America's Surface

Transportation (FAST) Act under 49 U.S.C. 70103(b) and a new NMFN will be designated in accordance with the BIL.

- h. The DOT has designated alternative fuel corridors under 23 U.S.C. 151 that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways, including portions of the NHFN. For more information, see: [Alternative Fuel Corridors](#).

In addition, the BIL directed USDOT to designate national electric vehicle charging corridors that identify the near- and long-term need for, and the location of, electric vehicle charging infrastructure to support freight and goods movement at strategic locations along major national highways, the NHFN, and goods movement locations including ports, intermodal centers, and warehousing locations. FHWA will provide further information on the national electric vehicle charging corridor designations at a later date.

## F. ELIGIBLE ACTIVITIES

1. **General:** NHFP funds may be obligated for projects that contribute to the efficient movement of freight on the National Highway Freight Network (NHFN) and that are identified in a freight investment plan included in a freight plan of the State that is in effect (23 U.S.C. 167(h)(5)(A)). Pursuant to 49 U.S.C 70202, each State that receives funding for the NHFP shall develop a comprehensive freight plan that provides for the immediate and long-range planning activities and investments of the State with respect to freight.
2. **Eligible Projects:** Subject to the general eligibility requirements described in 23 U.S.C. 167(h)(5)(A), the following activities are listed as eligible in 23 U.S.C. 167(h)(5)(C).
  - a. Development phase activities including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.
  - b. Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to land), construction contingencies, acquisition of equipment, and operational improvements directly relating to improving system performance.
  - c. Intelligent transportation systems and other technology to improve the flow of freight, including intelligent freight transportation systems.
  - d. Efforts to reduce the environmental impacts of freight movement.
  - e. Environmental and community mitigation for freight movement.
  - f. Railway-highway grade separation.
  - g. Geometric improvements to interchanges and ramps.
  - h. Truck-only lanes.
  - i. Climbing and runaway truck lanes.
  - j. Adding or widening of shoulders.

- k. Truck parking facilities eligible for funding under section 1401 of MAP-21.<sup>1</sup>
- l. Real-time traffic, truck parking, roadway condition, and multimodal transportation information systems.
- m. Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.
- n. Traffic signal optimization, including synchronized and adaptive signals.
- o. Work zone management and information systems.
- p. Highway ramp metering.
- q. Electronic cargo and border security technologies that improve truck freight movement.
- r. Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.
- s. Additional road capacity to address highway freight bottlenecks.
- t. Physical separation of passenger vehicles from commercial motor freight.
- u. Enhancement of the resiliency of critical highway infrastructure, including highway infrastructure that supports national energy security, to improve the flow of freight.
- v. A highway or bridge project to improve the flow of freight on the NHFN.
- w. Any other surface transportation project to improve the flow of freight into and out of a facility described in 23 U.S.C. 167(h)(5)(B).

In accordance with 23 U.S.C. 167(h)(5)(B), as amended by BIL, there is eligibility for the use of NHFP apportioned funding for freight intermodal or freight rail projects. For each fiscal year, a State may obligate up to 30 percent of the total State apportionment under NHFP for these types of projects. These projects include those within the boundaries of public or private freight rail or water facilities (including ports); provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility. In addition, BIL added two new freight project eligibilities under 23 U.S.C. 167(h)(5)(B): (1) projects for the modernization or rehabilitation of a lock and dam; and (2) projects on a marine highway corridor, connector, or crossing (including an inland waterway corridor, connector, or crossing). Eligibility to use NHFP funds for these types of projects is subject to a DOT determination that such projects are functionally connected to the NHFN and are likely to reduce on-road mobile source emissions (23 U.S.C. 167(h)(5)(B)(iii) and (iv)).

The BIL did not change the eligibility of apportioned funds to be used to carry out diesel retrofit or alternative fuel projects under 23 U.S.C. 149 for class 8 vehicles; and for the necessary costs of conducting analyses and data collection related to the NHFP, developing and updating freight performance targets, and reporting to the FHWA Administrator to comply with the freight performance targets established pursuant to 23 U.S.C. 150 (23 U.S.C. 167(h)(6)). These projects are not required to be identified in the freight investment plan of the State freight plan.

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<sup>1</sup> See truck parking facility eligibility at: [https://ops.fhwa.dot.gov/freight/infrastructure/truck\\_parking/title23fundscmy](https://ops.fhwa.dot.gov/freight/infrastructure/truck_parking/title23fundscmy).

With respect to eligibility for projects to reduce or mitigate environmental and community impacts of freight movement under 23 U.S.C. 167(h)(5)(C)(iv) and (v), State DOTs may wish to consult: [State DOTs Leveraging Alternative Uses of the Highway Right-of-Way Guidance](#) (April 27, 2021).

3. **Applicability of Planning Requirements:** Projects must be identified in the Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP) and be consistent with the Long-Range Statewide Transportation Plan and the Metropolitan Transportation Plan(s) (*See* 23 U.S.C.167(h)(7)). Except for activities described in 23 U.S.C. 167(h)(6), projects must be identified in a freight investment plan included in a freight plan of the State that is in effect (*See* 23 U.S.C. 167(h)(5)(A)). The BIL changed the update cycle of State freight plans to require that plans be updated not less frequently than every 4 years from the prior requirement of every 5 years. (*See* 49 U.S.C. 70202(e)(1)). Freight investment plans may be amended as often as necessary.
4. **Obligation of NHFP Funds:** A State may not obligate its apportioned NHFP funds unless the State has an active and approved FAST Act-compliant State freight plan or, if that plan has expired, an active and approved, updated State freight plan in compliance with the statutory requirements of BIL (*See* 23 U.S.C. 167(h)(4)). Except for activities described in 23 U.S.C. 167(h)(6), NHFP funding may only be obligated for projects that are identified in a freight investment plan included in a freight plan of the State that is in effect (23 U.S.C. 167(h)(5)(A)).

## G. STATE PERFORMANCE MANAGEMENT

1. **Freight Performance Measure:** Freight performance measures established under 23 U.S.C. 150(c)(6) to assess the national freight movement on the Interstate system remain in effect. NHFP funds may be used for freight improvement projects to help States achieve performance measure targets. The performance measure to assess freight movement on the Interstate System is the Truck Travel Time Reliability (TTTR) Index established under 23 CFR 490.607. More information on performance measures can be found at: <https://www.fhwa.dot.gov/tpm/policy/>.
2. **Freight Highway Bottlenecks:** In accordance with 23 U.S.C. 150(e)(4), performance reports are required to describe ways in which the State is addressing congestion at freight bottlenecks. NHFP funds may be used for freight improvement projects to help States address freight highway bottlenecks. More information on freight highway bottlenecks can be found at: <https://www.fhwa.dot.gov/tpm/guidance/hop18070.pdf>.

## H. RESILIENCY

Under 23 U.S.C. 167(h)(5)(C)(xxi), NHFP funds may be used for the “enhancement of the resiliency of critical highway infrastructure, including highway infrastructure that supports national energy security, to improve the flow of freight.” FHWA will work with States to ensure that resiliency projects adhere to eligibilities under NHFP prior to obligation of funds. Resilience, with respect to a project, means a project with the ability



to anticipate, prepare for, or adapt to conditions or withstand, respond to, or recover rapidly from disruptions (23 U.S.C. 101(a)(24)).

## **I. TREATMENT OF PROJECTS**

A freight project funded under the NHFP shall be treated as a project on a Federal-aid highway (23 U.S.C. 167(k)), including [Davis-Bacon Act prevailing wage requirements](#).

*Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.*