

# Moving Ahead for Progress in the 21<sup>st</sup> Century (Map-21) (Public Law 112-141) Section 1111

## 23 U.S.C. Sec. 144. National bridge and tunnel inventory and inspection standards

### (a) Findings and Declarations. -

#### (1) Findings. - Congress finds that -

(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

#### (2) Declarations. - Congress declares that it is in the vital interest of the United States -

(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety and extended service life;

(C) to use performance-based bridge management systems to assist States in making timely investments;

(D) to ensure accountability and link performance outcomes to investment decisions; and

(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads.

### (b) National Bridge and Tunnel Inventories. - The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall -

(1) inventory all highway bridges on public roads, on and off Federal-aid highways, including tribally owned and Federally owned bridges, that are bridges over waterways, other topographical barriers, other highways, and railroads;

(2) inventory all tunnels on public roads, on and off Federal-aid highways, including tribally owned and Federally owned tunnels;

(3) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished;

(4) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation; and

(5) determine the cost of replacing each structurally deficient bridge identified under this subsection with a comparable facility or the cost of rehabilitating the bridge.

### (c) General Bridge Authority. -

(1) In general. - Except as provided in paragraph (2) and notwithstanding any other

provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

(2) Exception. - Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that -

(A) are not used and are not susceptible to use in the natural condition of the bridge or by reasonable improvement as a means to transport interstate or foreign commerce; and

(B) are -

(i) not tidal; or

(ii) if tidal, used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

(d) Inventory Updates and Reports. -

(1) In general. - The Secretary shall -

(A) annually revise the inventories authorized by subsection (b); and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

(2) Inspection report. - Not later than 2 years after the date of enactment of the MAP-21, each State and appropriate Federal agency shall report element level data to the Secretary, as each bridge is inspected pursuant to this section, for all highway bridges on the National Highway System.

(3) Guidance. - The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

(4) Bridges not on national highway system. - The Secretary shall -

(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

(e) Bridges Without Taxing Powers. -

(1) In general. - Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

(2) Insufficient assets. - Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

(3) Crediting of non-federal funds. - Any non-Federal funds expended for the seismic

retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

(f) Replacement of Destroyed Bridges and Ferry Boat Service. -

(1) In general. - Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces -

- (A) any low water crossing (regardless of the length of the low water crossing);
- (B) any bridge that was destroyed prior to January 1, 1965;
- (C) any ferry that was in existence on January 1, 1984; or
- (D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

(2) Federal share. - The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of the construction.

(g) Historic Bridges. -

(1) Definition of historic bridge. - In this subsection, the term "historic bridge" means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

(2) Coordination. - The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

(3) State inventory. - The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

(4) Eligibility. -

(A) In general. - Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

(B) Bridges not used for vehicle traffic. - In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

(5) Preservation. - Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement -

(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

(6) Costs incurred. -

(A) In general. - Costs incurred by the State to preserve a historic bridge (including funds made available to the State, locality, or private entity to enable it to accept the bridge) shall be eligible as reimbursable project costs under this chapter in an

amount not to exceed the cost of demolition.

(B) Additional funding. - Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

(h) National Bridge and Tunnel Inspection Standards. -

(1) Requirement. -

(A) In general. - The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

(B) Uniformity. - The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

(2) Minimum requirements of inspection standards. - The standards established under paragraph (1) shall, at a minimum -

(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

(B) establish the maximum time period between inspections;

(C) establish the qualifications for those charged with carrying out the inspections;

(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary on request -

(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

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

(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

(3) State compliance with inspection standards. - The Secretary shall, at a minimum -

(A) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with -

(i) the standards established under this subsection; and

(ii) the calculation or reevaluation of bridge load ratings; and

(B) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary -

(i) critical findings relating to structural or safety- related deficiencies of highway bridges and tunnels; and

(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

(4) Reviews of state compliance. -

(A) In general. - The Secretary shall annually review State compliance with the standards established under this section.

(B) Noncompliance. - If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall -

(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

(ii) provide the State an opportunity to address the noncompliance by -

(I) developing a corrective action plan to remedy the noncompliance; or

(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

(5) Penalty for noncompliance. -

(A) In general. - If a State fails to satisfy the requirements of paragraph (4) (B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP-21 to correct the noncompliance with the minimum inspection standards established under this subsection.

(B) Amount. - The amount of the funds to be directed to correcting noncompliance in accordance with subparagraph (A) shall -

(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

(ii) require approval by the Secretary.

(6) Update of standards. - Not later than 3 years after the date of enactment of the MAP-21, the Secretary shall update inspection standards to cover -

(A) the methodology, training, and qualifications for inspectors; and

(B) the frequency of inspection.

(7) Risk-based approach. - In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

(i) Training Program for Bridge and Tunnel Inspectors. -

(1) In general. - The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

(2) Revisions. - The training program shall be revised from time to time to take into account new and improved techniques.

(j) Availability of Funds. - In carrying out this section -

(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

(2) a State may use amounts apportioned to the State under section 104(b)(1) and 104(b) (3);

(3) an Indian tribe may use funds made available to the Indian tribe under section 202; and

a Federal agency may use funds made available to the agency under section 503