

MEMORANDUM

Subject: Surface Transportation and Uniform  
Relocation Assistance Act of 1987  
Section 123(f), Historic Bridges

From: Federal Highway Administrator

To: Regional Federal Highway Administrators  
Regions 1-10  
Direct Federal Program Administrator (HDF-1)

Date: July 22, 1987

Reply to  
Attn. of: HEV-20/HNG-30  
602.30

The Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17, establishes a series of new requirements and emphasis areas concerning historic bridges on and off the Federal-aid system. A copy of Section 123(f) of the Act is attached.

STATE INVENTORY

The legislation requires each State highway agency to complete an inventory of bridges on and off the Federal-aid system to determine the historic significance of the bridges. The Regional Offices should determine the status of the inventory in each State and the estimated date of initiation and completion, then report its findings to the Office of Environmental Policy (HEV-20) by August 15. The legislation does not establish a deadline for completing inventories. The Offices of Engineering and Environmental Policy will monitor historic bridge inventory activity to promote reasonable progress towards completing historic bridge inventories.

ELIGIBILITY

The new legislation encourages States to give special consideration to rehabilitating, reusing, and preserving historic bridges by explicitly making these activities eligible for reimbursable project costs on bridges in service for motorized vehicles. This should not change existing practices, as it has been the Federal Highway Administration (FHWA) policy to consider a wide range of preservation options; including avoidance, rehabilitation, modified use, marketing, and relocation. If the load capacity and safety features (geometries) of a historic bridge are adequate to serve on the public road at its existing location, the bridge should be rehabilitated at a reasonable cost, so it can continue to provide service. If the bridge's load capacity and safety features are adequate to serve on a public road at another location, the movement of the bridge to the new location should be considered as part of

the original project proposed under 23 U.S.C., Section 144. If such relocation of the historic bridge is made part of the Federal-aid proposal, then reasonable costs associated with actions to relocate and preserve the historic integrity of the historic bridge are eligible for reimbursement, under 23 U.S.C., Section 109(h) and Section 144, without reference to the cost of demolition.

These actions could include work approved by the FHWA which ensures the historical integrity of design, scale, and materials. This would include replacing portions of historic elements of the structure, cleaning, repainting, or rehabilitating to maintain (preserve) both the structural and the historic integrity of the historic bridge. At the completion of the project, the bridge may no longer be classified as deficient for purposes of the National Bridge Inventory for the foreseeable future (at least 10 years which is the established FHWA policy).

### PRESERVATION

The legislation makes funds, which otherwise would have been used for bridge demolition, available for actions to preserve or reduce the impact of the project on a historic bridge. The new legislation, therefore, clarifies our flexibility to accomplish our mission of developing a safe and efficient highway system and encouraging historic bridge preservation.

In the case of historic bridges which can no longer be used on a public road, reasonable costs associated with preservation could include modification for recreational use, relocation, etc. The FHWA will determine the reasonable level of funding, not exceeding the estimated cost of demolition which will be based upon professional advice of the State highway bridge engineer. These bridges shall be removed from the National Bridge Inventory and can no longer be eligible for FHWA funding. Any reuse or rehabilitation of a historic bridge should be performed in a manner that provides a reasonable assurance that the public will be protected. The Offices of Environmental Policy and Engineering are considering revisions to 23 CFR, Part 650, and to FHPM 6-7-4-1. You will be kept informed of these developments.

The new legislation also imposes a requirement that, prior to demolition of a historic bridge, the State shall market (sell or donate) the bridge to a State or local government agency or responsible private entity. This preservation effort shall be coordinated with the State Historic Preservation Officer and the local historical society to ensure that a reasonable audience is reached and a good-faith effort is made. Adjacent States should be included in the preservation effort if the bridge is located within a reasonable distance of the adjacent State and there is reason to believe there may be an interested party there.

In the marketing effort, the State needs to specify: what preservation work is needed; that reasonable funding is available for the preservation work; and that any potential recipients must be

able to demonstrate their ability to assume legal and financial responsibility for the bridge, including holding highway agencies harmless in any liability action. Any non-governmental party must be able to demonstrate its economic and administrative ability to perform the essential obligations necessary for the operation of the bridge (such as a surety bond, a trust fund, or a reverter to some other responsible organization) if the structure is turned over to such a party.

If a bridge cannot be sold and a recipient accepts donation of the bridge, the recipient can be reimbursed for costs incurred in such activities as relocation, site preparation, reassembly, etc. Costs eligible for reimbursement to preserve a historic bridge which is no longer used on a public road shall not exceed the estimated cost of demolition. Maintenance costs (including prepaid annuities) are not eligible for reimbursement. No bridge will be marketed or donated to a party unless that party agrees to: (1) accept title, (2) maintain (preserve) the bridge and the features that give it its historic significance (qualities that qualify it to the National Register), and (3) assume all future legal and financial responsibility for the bridge and to hold the State highway agency (SHA) and the FHWA harmless in any liability action. In the event that no acceptable party is found by a good-faith effort and within a reasonable period of time, the requirements of the new legislation are satisfied and the FHWA may complete the Section 106 and Section 4(f) processes.

#### SECTION 4(f)

As a result of this new legislation, all future determinations that there are no feasible and prudent alternatives to the demolition of a historic bridge (including those funded under 23 U.S.C., Section 144) will, in addition to complying with the existing Section 4(f) requirements, need to include: (1) consideration of continued use of the bridge on a public road; and (2) a marketing effort directed at public or responsible private entities for other uses of the bridge. The Section 4(f) evaluation must address the marketing effort undertaken, as well as the results.

#### IMPLEMENTATION

In order to implement Section 123(f), you should advise the Division Offices of their responsibilities under the new legislation. In addition, you should ensure that the SHAs are notified that:

1. the new legislation requires that an inventory of bridges on and off the Federal-aid system be completed to determine their historic significance;
2. the FHWA policy and guidance is to encourage the preservation rehabilitation, or reuse of historic bridges (preservation related costs reimbursed under U.S.C. Section 144 shall not exceed the cost of demolition for bridges which do not remain in service on public roads);

and

3. efforts must be taken to find a new owner who will maintain the bridge and assume liability prior to demolishing a historic bridge.

In order to monitor historic preservation activities taken pursuant to this legislation, please provide the Office of Environmental Policy (HEV-20) with the following information for each State in your Region at the end of each fiscal year (starting in FY 1988): (1) the final disposition of each historic bridge affected under this legislation; (2) the Federal-aid and total cost of preservation activities; (3) the time required to perform the activities required under the new legislation in work days; (4) the number of marketing efforts; (5) whether the new owners are Federal, State, or local agencies or responsible private entities; and (6) the number of historic bridges approved for demolition.

/ Original Signed By R. Cleathers /

For R. A. Barnhart

Attachment

**SEC. 123. BRIDGE PROGRAM.**

(f) HISTORIC BRIDGES.-

(1) Findings.-Congress hereby finds and declares it to be in the national interest to encourage the rehabilitation, reuse and of bridges significant in American history, architecture, engineering and culture. Historic bridges are important links to our past, serve as safe and vital transportation routes in the present, and can represent significant resources for the future.

(2) PROGRAM.-Such section 144 is further amended by inserting after subsection (1) the following new subsection:

"(o) HISTORIC BRIDGE PROGRAM.-

"(1) COORDINATION.-The Secretary shall, in cooperation with the States, implement the programs described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of historic bridges.

"(2) STATE INVENTORY.-The Secretary shall require each State to complete an inventory of all bridges on and off the Federal-aid system to determine their historic significance.

"(3) ELIGIBILITY.-Reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of historic bridges shall be eligible as reimbursable project costs under this title (including this section) if the load capacity and safety features of the bridge are adequate to serve the intended use for the life of the bridge, except that in the case of a bridge which is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this subsection shall not exceed the estimated cost of demolition of such bridge.

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

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

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

Costs incurred by the State to preserve the 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 up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to title.

"(5) HISTORIC BRIDGE DEFINED.-As used in this subsection, 'historic bridge' means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

(3) STUDY-

(A) TRANSPORTATION RESEARCH BOARD.-The Secretary shall make appropriate arrangements with the Transportation

Research Board of the National Academy of Sciences to carry out a study on the effects of the bridge program conducted under section 144 of title 23, United States Code. on the preservation and rehabilitation of historic bridges. The Transportation Research Board shall also develop recommendations of specific standards which shall apply only to the rehabilitation of historic bridges, and shall provide an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

(B) REPORT.-- No later than 1 year after entering into appropriate arrangements under subparagraph (A), the Transportation Research Board shall submit to the Secretary and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subparagraph (A) and on the recommendations developed pursuant to subparagraph (A).