

ZERO IS OUR GOAL
A SAFE SYSTEM IS HOW WE GET THERE

Updated HSIP Guidance under the Bipartisan Infrastructure Law

FHWA Office of Safety

February 28, 2022



U.S. Department of Transportation
Federal Highway Administration





Disclaimer

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



Overview of HSIP Changes in BIL

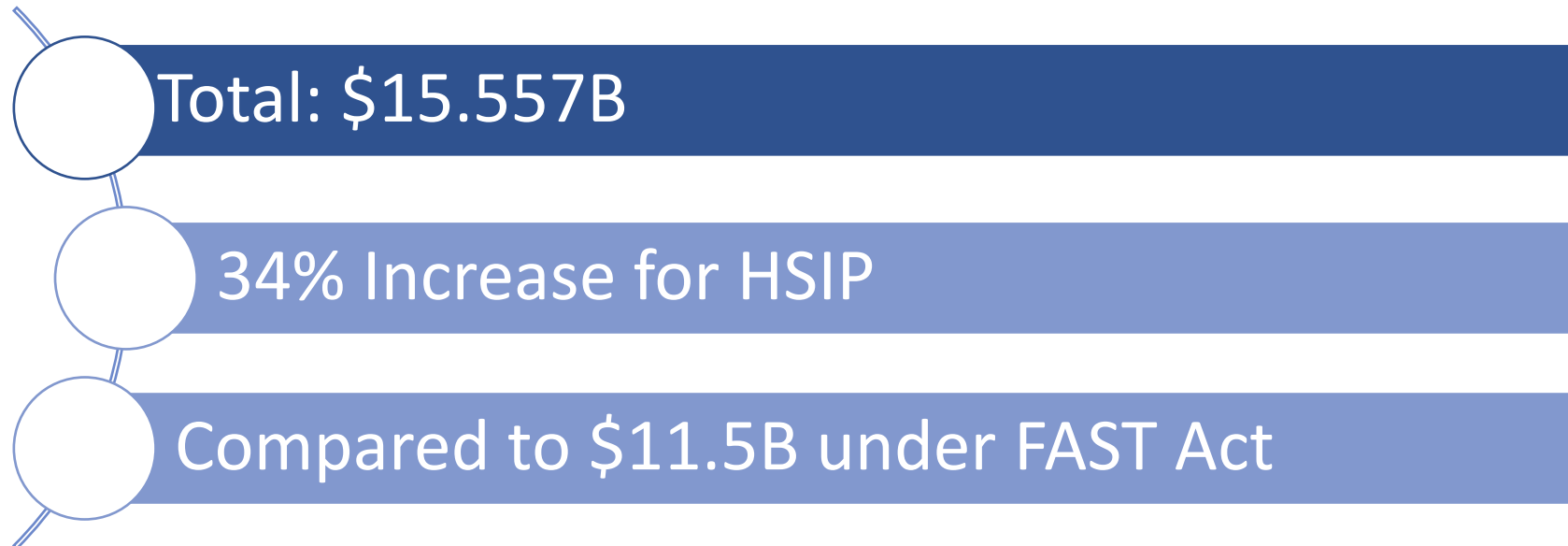
Enacted as the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, also known as the "Bipartisan Infrastructure Law").

HSIP Funding

Highway Safety Improvement Program (HSIP)

	FAST Act (extension)	Bipartisan Infrastructure Law (BIL)				
Fiscal year (FY)	2021	2022	2023	2024	2025	2026
Contract authority	\$2.407 B	\$2.980 B*	\$3.044 B*	\$3.110 B*	\$3.177 B*	\$3.246 B*

*Calculated (sum of estimated individual State HSIP apportionments)



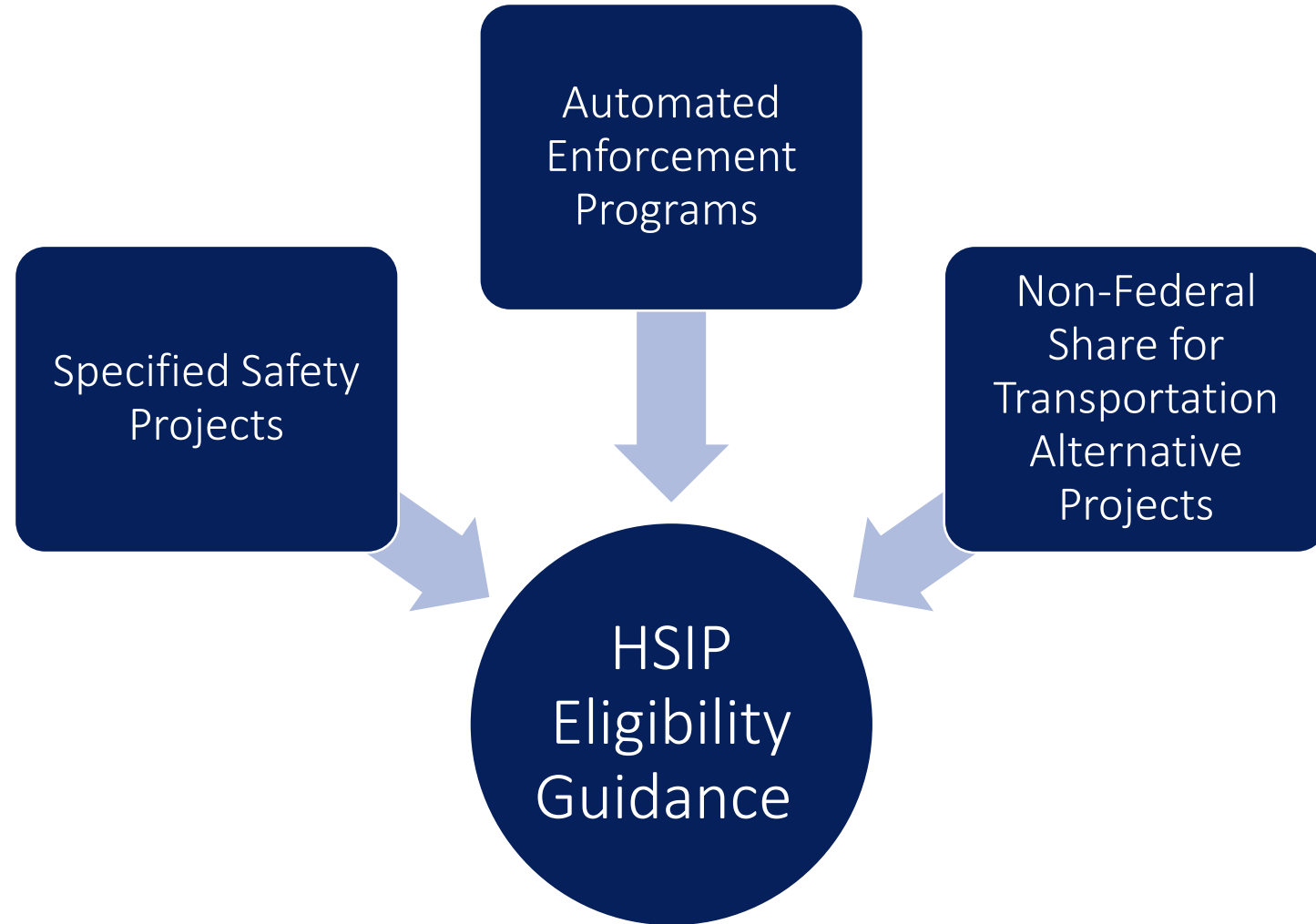
Emphasis on Vulnerable Road Users

- ◀ Added new definitions
 - Safe System Approach [23 U.S.C. 148(a)(9)]
 - Vulnerable Road User [23 U.S.C. 148(a)(15)]
 - Vulnerable Road User Safety Assessment [23 U.S.C. 149(a)(16)]
- ◀ Updated definition for highway safety improvement project [23 U.S.C. 148(a)(4)(b)]
- ◀ Created new VRU special rule [23 U.S.C. 148(g)(3)]
- ◀ Requires States to develop VRU Safety Assessment [23 U.S.C. 148(l)(1)]



Source: www.pedbikeimages.org/ Mike Cynecki

Expanded Eligibility



HSIP Eligibility Guidance

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HSIP Eligibility Guidance



Purpose

Background:
Addressing the
Growth in Fatalities,
Moving Toward Zero

Prioritizing Safety in
All Investments and
Projects

Summary of
Guidance

General HSIP
Eligibility

Federal Share and
Exceptions

Streamlining Project
Delivery

General Federal-Aid
Requirements

Questions



Purpose

- ↳ Provide background and guidance to clarify HSIP eligibility requirements under BIL
- ↳ Incorporate relevant FAST Act Q&As
- ↳ Incorporate FHWA priorities described in [Bipartisan Infrastructure Law - Building a Better America – Policy Framework | Federal Highway Administration \(dot.gov\)](#)



Note

- ↳ **Effective Date:** October 1, 2021
- ↳ **Applies to:** All related funding obligated on or after that date, whether carryover or new
- ↳ **Replaces:** February 26, 2016 HSIP Program Eligibility Guidance (and related Q&As)



Background

- ↳ Highlights USDOT/FHWA mission and policy
 - Mission: Ensure America has the safest transportation system in the world.
 - Policy: Strive for zero roadway fatalities
- ↳ Addresses increase in fatalities
- ↳ Recognizes HSIP plays a critical role as part of the Federal response to save lives on our Nation's roads.

Highway Safety Improvement Program



Purpose:

Reduce fatalities and serious injuries on ALL public roads

- ↳ Core Federal-aid Program
 - ↳ Strategic safety planning
 - ↳ Data-driven roadway safety management process
 - ↳ Program of highway safety improvement projects
- ↳ FHWA encourages States to:
 - Advance implementation of the Safe System Approach
 - Maximize opportunities to advance highway safety improvement projects that have the greatest potential to save lives
 - Use most, if not all, of available HSIP funds for eligible safety purposes

Prioritizing Safety in All Investments



◀ FHWA encourages States to:

- Prioritize safety in all Federal-aid investments and in all appropriate projects
- Consider safety in all transportation investment decisions
- Use data-driven safety analyses to ensure that safety is a key input in any decision made in the project development process
- Consider the safety of all road users in project development.
- Leverage other Federal, State, and local funding to address roadway safety and implement the Safe System approach wherever possible

General HSIP Eligibility



Ensuring consistency with SHSP

[23 U.S.C. 148(a)(4)(A)]



Using a data-driven process

[23 U.S.C. 148(c)(2)(B)(iv)]



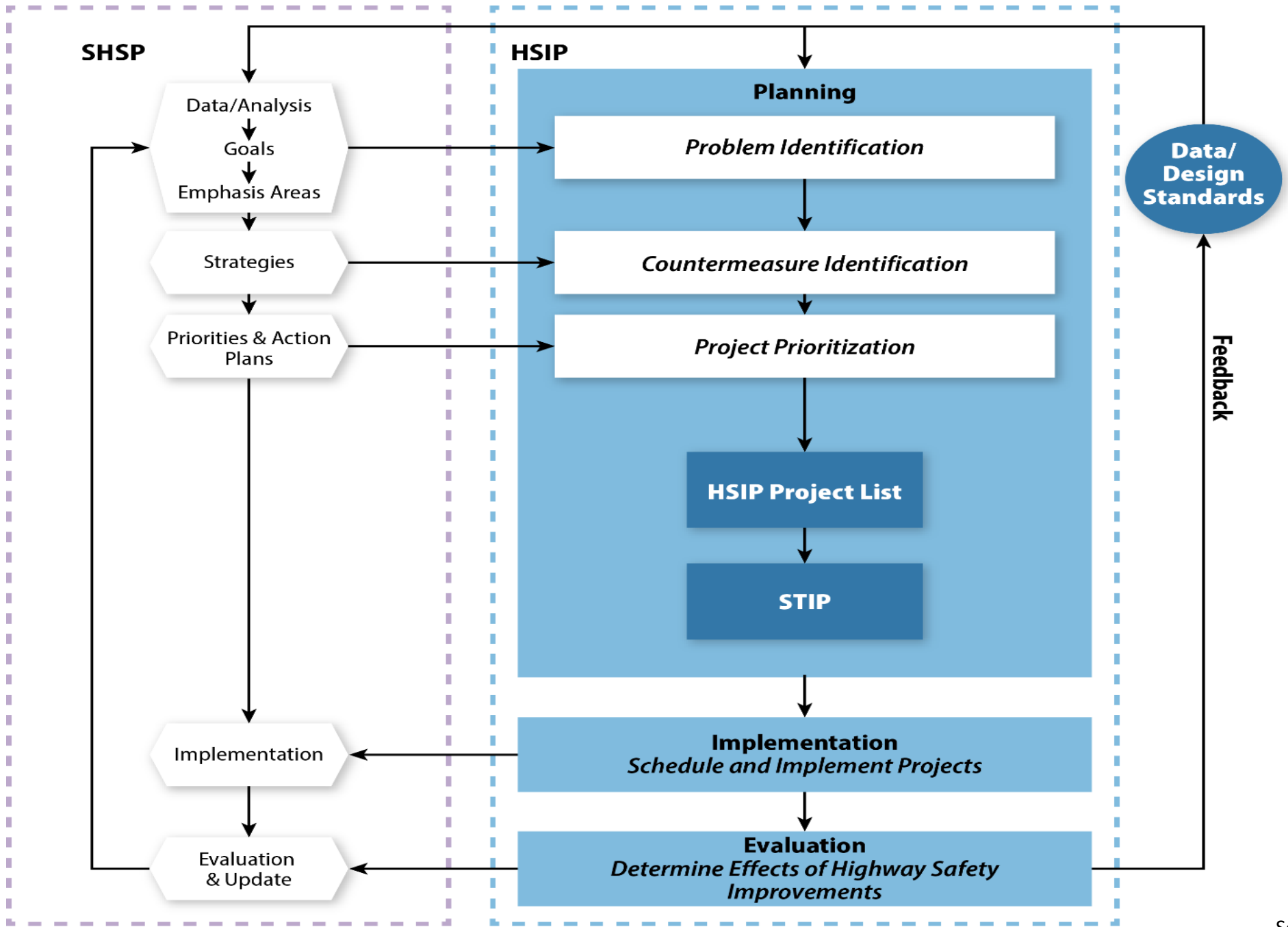
Focusing on Safety Performance

[23 U.S.C. 148(b)]



Investing in all public roads

[23 U.S.C. 148(e)(1)(A)]



Using a Data-Driven Process



State Procedures

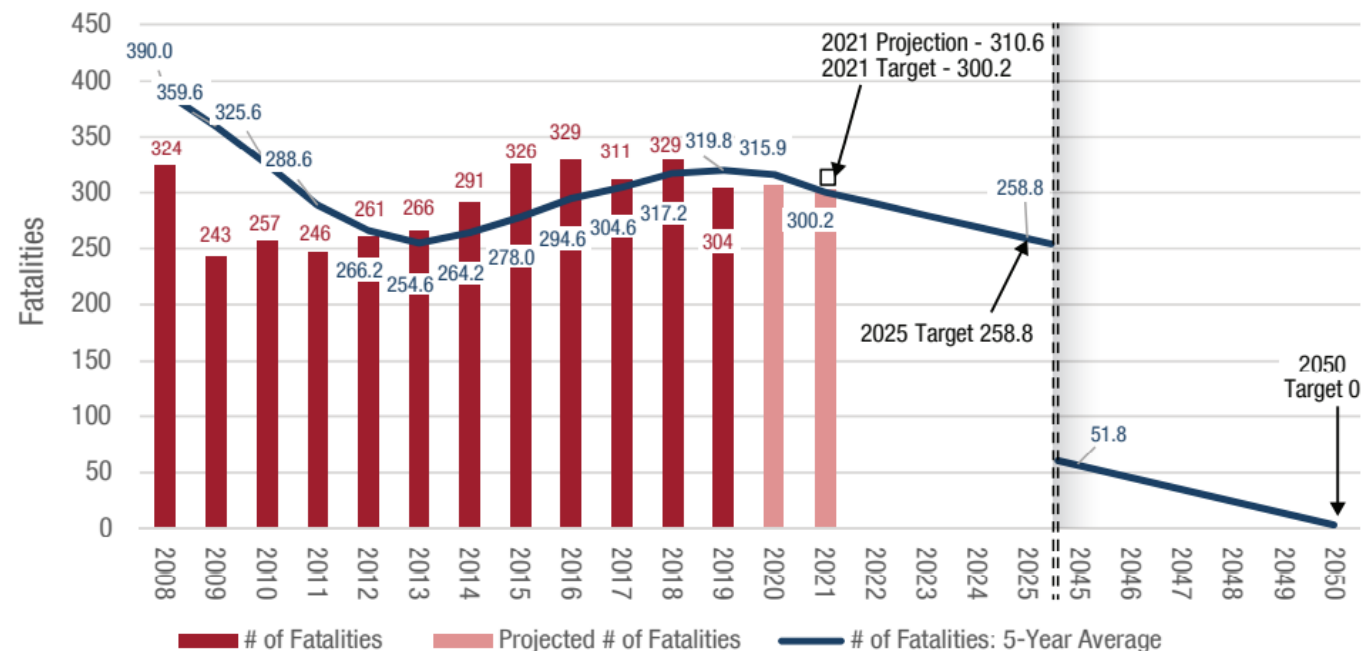
- ↳ **For HSIP planning, implementation and evaluation**
- ↳ **Developed in cooperation with FHWA Division Administrator**
- ↳ **Developed in consultation with other safety stakeholders and officials of local and Tribal governments, as appropriate**
- ↳ **Submitted to FHWA Division Office for documentation purposes**

Other considerations

- ↳ **Focus on Fatalities and Serious Injuries**
 - Network Screening
 - Project Prioritization
- ↳ **Incorporate demographic information in data collection and analysis procedures**
- ↳ **Consider equity in project prioritization**

Focusing on Safety Performance

- Consistent with the purpose of the HSIP program, HSIP funds must be used for highway safety improvement projects that reduce fatalities and serious injuries [23 U.S.C. 148(b)] and should support a State's progress toward achieving the State safety performance targets for the performance measures in 23 U.S.C. 150(c) and (d).



Investing in All Public Roads



- ◀ Use HSIP funds for any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail.
- ◀ Consider WHERE fatalities and serious injuries are most occurring in your State
- ◀ FHWA encourages States to:
 - Leverage HSIP to address full scope of safety needs, regardless of ownership
 - Consult with regional, local, and Tribal agencies to identify, select, develop, and deploy highway safety improvement projects on local and Tribal roads.
- ◀ HSIP funds can be used to:
 - Provide engineering assistance programs for local roads
 - Develop local road safety plans

Additional Considerations



Vulnerable Road
User Projects

Specified Safety
Projects

Automated Traffic
Enforcement
Systems

Projects to
Maintain Minimum
Levels of
Retroreflectivity

Workforce
Development

Vulnerable Road User Projects

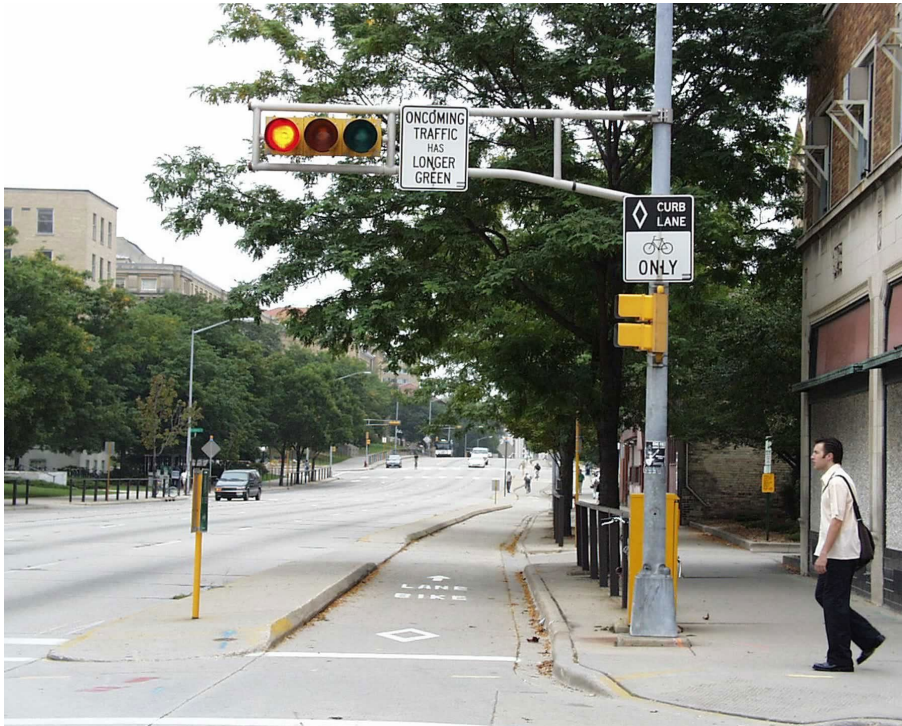


States must consider the needs of all road users as part of the HSIP

[23 U.S.C. 148(c)(2)(B)(i) and 148(c)(2)(D)(iii)]

FHWA encourages States to:

- Prioritize projects that maximize the existing right-of-way for accommodation of non-motorized modes and transit options that increase safety, equity, accessibility, and connectivity
- Advance projects that support the Safe System Approach and improve safety of vulnerable road users



Source: www.pedbikeimages.org/ Dan Burden

Specified Safety Projects

- States can spend up to 10% of their HSIP apportionment each fiscal year for specified safety projects to advance implementation of the SHSP
- 10% limit does not apply to non-infrastructure projects listed in definition of highway safety improvement project
- Authorized via separate program code (YS80) to track and monitor implementation
- Must meet all requirements as described in 23 U.S.C. 148 that apply to highway safety improvement projects



A specified safety project includes a project that:

- Promotes public awareness and informs the public regarding highway safety matters
- Facilitates enforcement of traffic safety laws
- Provides infrastructure and infrastructure-related equipment to support emergency services
- Conducts safety-related research to evaluate experimental safety countermeasures or equipment
- Supports safe routes to school non-infrastructure-related activities

Automated Traffic Enforcement Systems

- ✦ BIL does not continue the FAST Act provision (Sec. 1401) that prohibited the use of HSIP funds to purchase, operate, or maintain an automated traffic enforcement system.
- ✦ May be eligible under:
 - HSIP as a specified safety project [23 U.S.C. 148(a)(11)(B)(ii)]
 - Other Federal-aid programs subject to that program's eligibility criteria
- ✦ Subject to general Federal-aid requirements [23 U.S.C. 148(e)(3)(C)(i)]



Source: GHSA.org

Projects to Maintain Minimum Levels of Retroreflectivity

*No change under BIL

- ↳ HSIP funds may be obligated for any project to maintain minimum levels of retroreflectivity of traffic signs and pavement markings

[23 U.S.C. 148(e)(1)(C)]

↳ Projects:

- Do not have to be included in an applicable SHSP
- Must still be identified through data-driven process



Source: FHWA

Workforce Development

***No change under BIL**

- ↳ 23 U.S.C. 504(e)
- ↳ HSIP funds continue to be eligible for workforce development, training, and education activities
- ↳ Must be directly related to and support HSIP implementation efforts



Source: FHWA

Federal Share and Exceptions



- ↳ General: HSIP federal share is 90% [23 U.S.C. 148(j)]
- ↳ Exceptions: As noted in 23 U.S.C. 120 or 130
 - Certain safety projects eligible for 100% federal share [23 U.S.C. 120(c)(1)]
 - Applies to all Federal-aid programs (not just HSIP)
 - Limited to 10% of Federal-aid apportionments
 - BIL added vehicle-to-infrastructure communication equipment to list of certain safety projects
- ↳ NEW: HSIP funds can be used toward the non-Federal share of a transportation alternatives project [23 U.S.C. 133(h)(7)(B)]

Streamlining Project Delivery



FHWA encourages States to:

- ↳ Consider timeline to deliver HSIP projects
- ↳ Determine if highway safety improvement projects will qualify for Categorical Exclusions under NEPA
- ↳ Group by function, work type, or geographic area in the Statewide Transportation Improvement Program
- ↳ Consider selection of projects that improve the safety of existing transportation infrastructure within the existing right-of-way first.
- ↳ Use time-saving procedures (e.g. project bundling, ID/IQ)
- ↳ Use cost-saving procedures (e.g. Public Agency Force Account)
- ↳ Partner with regional, local and tribal agencies to determine how they can also leverage these opportunities



General Federal-aid Requirements

Highway safety improvement projects also are subject to general Federal-aid highway eligibility provisions contained in title 23 and other applicable laws, similar to the projects funded under other Federal-aid highway programs.



HSIP Special Rules Guidance

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HSIP Special Rules Guidance



- ✦ The Special Rules Guidance includes 2 existing rules – the High-Risk Rural Roads (HRRR) [YS60] and the Older Drivers and Pedestrians Special Rules – and the new Vulnerable Road User (VRU) Safety Special Rule created under BIL [23 U.S.C. 148(g)].
- ✦ BIL made no changes to the existing Special Rules, but technical edits were included in the updated guidance to clarify rounding issues with the calculation process.
- ✦ This new guidance merges all HSIP Special Rules into a single “package” to provide a one-stop-shop for FHWA stakeholders.



Vulnerable Road User Safety

HSIP Special Rules Guidance Updates

- **Per 23 U.S.C. 148(g)(3), States must dedicate 15% of HSIP funding to safety projects that address VRUs ...**
- **If a State's number of VRU traffic fatalities is equal to or greater than 15% of the total State fatalities in a single year.**

VRU Safety Special Rule



- ✦ **The VRU Special Rule is part of a larger focus on nonmotorist safety in BIL.**
- ✦ BIL places greater emphasis on the protection of vulnerable road users (such as pedestrians and bicyclists) because they don't have the same protections as people in vehicles.
- ✦ The guidance walks through the definition of a vulnerable road user, how FHWA will determine whether the VRU applies to a State and when FHWA will make notification to States on whether they have triggered the special rule.
- ✦ The guidance also discusses how States that trigger the special rule will track and obligate funds [YS70] for this special rule.

Definitions



- ✦ The definition of “vulnerable road user” is provided in 23 U.S.C. 148(a)(15) as “a nonmotorist—
 - “(A) with a fatality analysis reporting system person attribute code that is included in the definition of the term ‘number of non-motorized fatalities’ in section 490.205 of title 23, Code of Federal Regulations (or successor regulations); or
 - “(B) described in the term ‘number of non-motorized serious injuries’ in that section.”
- ✦ While the statutory definition for “vulnerable road user” includes both “number of non-motorized fatalities” and “number of non-motorized serious injuries,” the VRU Special Rule only considers non-motorized fatalities, per 23 U.S.C. 148(g)(3).

Definitions Continued



- ✦ The VRU Special Rule only considers non-motorized fatalities, which, by reference to 23 CFR 490.205, refers to fatalities with the FARS person attribute codes for Pedestrian, Bicyclist; Other Cyclist, and Person on Personal Conveyance.
 - The FARS person attribute codes only describe the role of the person involved in the crash and may include other types of individuals that fall under the definition of these attribute codes.
 - For example, a construction worker may be viewed as a Pedestrian (and therefore a vulnerable road user) if the construction worker is not in a vehicle.
- ✦ Please note that the definition for VRUs under FHWA's programs is **DIFFERENT** than NHTSA's definition. NHTSA's VRU definition includes motorcyclists and other nonoccupants in addition to the attributes included in the FHWA definition.
 - See <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813178>

VRU Safety SR Calculations



- ✦ If the number of traffic fatalities for vulnerable road users (also referred to as "non-motorists") is equal to or greater than fifteen (15) percent of the total State fatalities in a single year period, then the VRU Special Rule applies.
- ✦ The FHWA will collect the annual number of fatalities for non-motorists (VRUs) and the total number of fatalities from FARS. The number of non-motorist fatalities will then be divided by the total fatalities and multiplied by 100 to get a percentage, rounded to the nearest whole integer.
- ✦ The VRU Special Rule requires the use of single year data because the statute specifies "annual". The number of fatalities for non-motorists and the total number of fatalities are whole integers, so the percent is also rounded to the nearest whole integer.

VRU Safety SR Calculations

✦ $\frac{\text{VRU fatalities}}{\text{Total fatalities}} * 100\%$

✦ Round to nearest whole integer

✦ If the percentage of VRU fatalities is greater than or equal to 15%, the VRU SR applies.

**14.4% rounds down to
14%**

**14.5% rounds up to
15%**

VRU Safety SR Timeline



◀ The table shows the year of available fatality data that will be used in the determination and the fiscal year for which the VRU Special Rule would apply for the first two years.

Annual Data	FHWA Notifies State DOT if VRU Special Rule Applies	Fiscal Year that VRU Special Rule would apply
2020	By March 2022	FY 2023 Oct. 1, 2022 to Sept. 30, 2023
2021	By March 2023	FY 2024 Oct. 1, 2023 to Sept. 30, 2024

Existing SR Technical Edits



High Risk Rural Roads (HRRR) Special Rule Older Drivers and Pedestrians Special Rule

- ✦ For both the HRRR and Older Drivers and Pedestrians Special Rules, we round the difference to the nearest hundredth. If the rounded difference results in an increase of 0.01 or greater, then the Special Rules apply.
- ✦ The main change is WHERE we do the rounding. With the updated guidance, that rounding is not applied until at the end.

GUIDANCE LINKS

BIL HSIP Eligibility Guidance

[https://safety.fhwa.dot.gov/hsip/rulemaking/docs/BIL HSIP Eligibility Guidance.pdf](https://safety.fhwa.dot.gov/hsip/rulemaking/docs/BIL_HSIP_Eligibility_Guidance.pdf)

Special Rule Guidance

[https://safety.fhwa.dot.gov/hsip/rulemaking/docs/Section148 SpecialRule Guidance.pdf](https://safety.fhwa.dot.gov/hsip/rulemaking/docs/Section148_SpecialRule_Guidance.pdf)

Other Resources

USDOT National Roadway Safety Strategy
<https://www.transportation.gov/NRSS>

FHWA BIL Website
<https://www.fhwa.dot.gov/bipartisan-infrastructure-law/>

HSIP Website
<https://safety.fhwa.dot.gov/hsip/>

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