

**Memorandum**

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

Washington, D.C. 20590

Subject: Access Ramps to Public Boat  
Launching Areas

Date: APR 22 1986

From: Associate Administrator for  
Engineering and Program Development

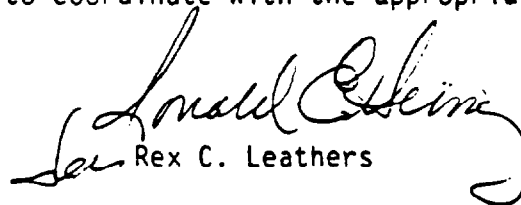
Reply to  
Attn of HNG-12

To: Regional Federal Highway Administrators  
Regions 1 - 10

Attached is a copy of a revised Memorandum of Understanding (MOU) between FHWA and the Department of Interior providing for Access Ramps to Public Boat Launching Areas. The revised MOU was executed on April 11 to reflect recent changes in the organizations involved in developing boat launching areas and to renew communications that might result in development of access ramps.

The National Park Service and the Fish and Wildlife Service will be the primary contacts in the States for coordination and development of access ramps. The State highway agency should notify the appropriate State Fish and Game Directors of proposed bridge work so as to afford the opportunity for early development.

We ask that you forward copies of the revised MOU to your field offices and have them encourage the States to coordinate with the appropriate agencies.

  
Rex C. Leathers

Attachment

Memorandum of Understanding Between the Federal Highway Administration and the Department of the Interior on Providing for Access Ramps in Accord with Section 147 of the Federal-Aid Highway Act of 1976

A. Purpose

The purpose of this Memorandum of Understanding is to provide guidance for the approval of access ramp projects to public boat launching areas, as required by Section 147 of the Federal-Aid Highway Act of 1976, P.L. 94-280, May 5, 1976. Section 147 provides that funds apportioned to the States under 23 U.S.C. Section 104(b)(1), (b)(2), and (b)(6), may be used on application by the States for the construction of access ramps to public boat launching areas adjacent to bridges under construction, reconstruction, replacement, repair, or alteration on the Federal-aid primary, secondary, and urban system highways.

B. Definitions

1. Bridge. The AASHTO defines a bridge as "a structure including supports erected over a depression or an obstruction, as water, highway, or railway and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening." For purposes of this memorandum, a bridge is defined as such a structure overcrossing a waterway of a sufficient size to accommodate boating.
2. Adjacent. For purposes of this memorandum, a public boat launching area is adjacent to a bridge located on a Federal-aid primary, secondary, or urban system if the property upon which the boat launching area is located, or will be located, is contiguous at any point with the highway right-of-way.
3. Access Ramp. For purposes of this memorandum, an access ramp is defined as a suitable roadway leading from the Federal-aid highway to the boat launching area.
4. Public Boat Launching Area. For purposes of this memorandum, a public boat launching area is defined as the area at which boats are actually placed in the water.

C. Agreement

1. In accordance with Section 147 of the Federal-Aid Highway Act of 1976, the Secretary of Transportation will, upon application of a State and subject to the availability of funds, approve the construction of access ramps to public launching areas which are adjacent to bridges that are being constructed, reconstructed, replaced, repaired, or otherwise altered on the Federal-aid primary,

secondary, or urban systems. Approval is contingent upon a showing of safety and utility of the highway facility including the access ramp.

2. The authority to include an access ramp to a boat launching area in a request for Federal funding remains with the State Highway Agency (SHA), in accordance with 23 U.S.C. Section 145.
3. The development and acquisition of the boat launching area and the access ramp may be accomplished concurrently by mutual agreement between the SHA and the agency responsible for the launching area. However, the property adjacent to the highway right-of-way on which the boat launching area is to be located must be in public ownership, or under adequate public control and tenure at the time Federal funds for the access ramp are obligated.
4. Where the highway right-of-way is sufficient for joint development, a public boat launching area may be located within the right-of-way so long as it does not interfere with the safety and utility of the highway function, subject to the Federal-Aid Highway Program Manual, Volume 7, Chapter 4, Section 3.
5. While the public boat launching area must be adjacent to the highway right-of-way, additional highway rights-of-way may be necessary for the construction of a suitable access ramp. Costs for the acquisition of such additional rights-of-way may be eligible for funding in the same manner and extent as costs to construct the access ramp. The additional highway rights-of-way and the maintenance responsibility will be assigned and remain with the highway agency.
6. Access ramp construction eligible for consideration under Section 147 may only be accomplished in conjunction with federally funded bridge projects. The Federal share of the costs of such access ramps will be in accordance with the provisions of 23 U.S.C. Section 120 and may be funded in accordance with the system involved from funds provided under 23 U.S.C. Section 104(b)(1), (b)(2), or (b)(6). This does not preclude agreements between the SHA and other agencies where Federal highway administration funds are not involved.
7. It is not the intention of Section 147 of the Federal-Aid Highway Act of 1976 to provide an extended roadway system within publicly owned recreation areas, but rather to provide direct access from the highway right-of-way to the water traversed by such highway.
8. Where a federally funded bridge project will result in the replacement of an existing bridge, opportunities for access ramp development in conjunction with the replaced bridge and associated highway rights-of-way, should be examined as part of project planning efforts. The parties agree that Federal funding provided under 23 U.S.C., Section 104(b)(1), (b)(2), or (b)(6) may be used to provide for an access ramp to a public boat launching area at the replaced bridge or its associated highway rights-of-way.

D. Responsibilities of the Federal Highway Administration

1. The FHWA will encourage the SHA to notify the appropriate State Liaison Officers and State Fish and Game Directors of proposed bridge work and the opportunity for funding of the construction of access ramps to public boat launching areas under Section 147. This notification will be a normal part of project development and will occur early enough to permit the timely inclusion of access ramp proposals in the bridge project.
2. The FHWA will permit the approval of access ramp additions which are submitted at any time during the development of the bridge project.

E. Responsibilities of the National Park Service (NPS)

1. The NPS will notify the State Liaison Officers of each State of the provisions of this memorandum.

This notification will alert State agencies of the potential for Federal-aid funding for access ramps. The NPS will stress the importance of early coordination and consultation with the FHWA and SHA for evaluating opportunities to implement Section 147 in connection with proposed bridge projects.

2. The NPS will provide technical assistance, as appropriate, to other Federal, State and local agencies in assessment of opportunities for implementing Section 147.

F. Responsibilities of the Fish and Wildlife Service (FWS)

1. The FWS will notify the Fish and Game Directors of each State of the provisions of this memorandum.

This notification will alert State agencies of the potential for Federal-aid funding for access ramps. The FWS will stress the importance of early coordination and consultation with the FHWA and SHA for evaluating opportunities to implement Section 147 in connection with proposed bridge projects.

2. The FWS will provide technical assistance, as appropriate, to State Fish and Game agencies.
3. The FWS will coordinate Department of the Interior responsibilities for implementation of this agreement.

G. Interpretation of Section 4(f) of the Department of Transportation Act

The legislative history of Section 147 of Public Law 94-280 indicates that it is "the intent of Congress that if a bridge is to be constructed, reconstructed, replaced, repaired, or otherwise altered, the project should provide reasonable access to the water traversed by such bridge." Thus, the sole purpose of access ramps pursuant to Section 147 of the Federal-Aid Highway Act of 1976 is to provide

Federal-aid highway funds for construction of access ramps to public boat launching facilities. Such access ramps are not an integral or necessary component of the bridge project (to which they are appended) which is approved by the FHWA nor do such access ramps meet any transportation need or provide any transportation benefits.

Boat launching areas are often associated with publicly owned parks, recreational areas, or refuges otherwise protected by the provisions of Section 4(f) of the Department of Transportation Act, 49 U.S.C. Section 303 and 23 U.S.C. Section 138. Where this is the case, it would be contrary to the intent of Section 147 of Public Law 94-280 to search for "feasible and prudent alternatives" to the use of such areas as a site for a ramp to a boat launching area.


Therefore, the Department of Transportation and the Department of the Interior agree that a consistent reading of Section 147 and Section 4(f) precludes the simultaneous application of the two sections to boat launching ramp projects through or to the publicly owned park, recreation area or refuge with which the boat launching area is associated. Therefore, Section 4(f) shall not apply to access ramp projects to such boat launching areas carried out pursuant to Section 147.

It is our understanding that the construction of boat access ramps permitted under the authority of Section 147 of the Federal-Aid Highway Act of 1976 does not fall under the requirements of Section 4(f) of the Department of Transportation Act, 49 U.S.C. Section 303 (23 U.S.C. 138). However, the proposed or actual construction, replacement, repair or alteration of a bridge on lands designated in Section 4(f) will be regulated under that provision.

H. Review of Memorandum of Understanding

Within 5 years from the effective date of this Memorandum of Understanding, the Administrator and the Assistant Secretary shall review the effectiveness of this Understanding in achieving the stated purpose. If based upon that review, or at any time during the course of operation within this Understanding, either the Administrator or the Assistant Secretary find its terms in need of modification, he or she may notify the other of the nature of the desired change.

Concur:

  
 Administrator  
 Federal Highway Administration

April 11, 1986  
 Date

Acting

  
 Assistant Secretary for Fish  
 and Wildlife and Parks (Sgd) P. Daniel Smith

3/25/86  
 Date