

Requesting Letter for Federal-Aid Reimbursement Eligibility of Safety Hardware Devices – *Revised*

05/26/2017

Printable Version

[PDF](#) [70 KB]

I. **Introduction**

This document outlines the process for requesting and receiving a Federal-aid reimbursement eligibility letter from FHWA for a roadside safety hardware device or a work zone traffic control device. This document also identifies the information that must be submitted when requesting a FHWA Federal-aid reimbursement eligibility letter.

Federal-aid reimbursement eligibility letters from FHWA are not required for a State DOT to install the device on any road and are not required for the State DOT to receive Federal-aid reimbursement for that device. The FHWA issues these letters as a service to the State DOTs. If an interested party (submitter) wants a Federal-aid reimbursement eligibility letter, then it must comply with the process described in this document.

This guidance replaces the following documents:

1. FHWA Memorandum of July 25, 1997, "Identifying Acceptable Roadside Safety Features"
2. FHWA Memorandum of November 18, 2005, "FHWA Hardware Acceptance Procedures – Category 2 Work Zone Devices"
3. FHWA Memorandum of May 21, 2012, "Roadside Safety Hardware-Federal-aid Reimbursement Eligibility Process"
4. FHWA Federal-Aid Reimbursement Eligibility Process for Safety Hardware Devices Revised 11/12/2015

II. **Required information, documentation, and related instructions for Federal-aid reimbursement eligibility letter requests**

A. **Official request for Federal-aid reimbursement eligibility letter**

Submitting request:

All requests for FHWA review of hardware devices must include a complete "Form to Request a Federal-aid Reimbursement eligibility letter" (e-form). The e-form must be signed by both the submitter and a crash testing laboratory (if the submitter is not the laboratory). The e-form should be submitted electronically and must be accompanied by the appropriate supporting documents described below in section II B. The form can be located and downloaded from the FHWA Office of Safety Web site here: http://safety.fhwa.dot.gov/roadway_dept/countermeasures/reduce_crash_severity/elig_process.cfm.

Submitting supporting documentation:

All supporting documentation, including crash test reports for the full suite of American Association of State Highway and Transportation Officials (AASHTO) Manual for Assessing Safety Hardware (MASH) recommended tests, photos, videos, and other related documentation, should be provided in an electronic format. This material may be submitted to FHWA electronically by using a file transfer protocol site (FTP) or by sending files to eligibilityinbox@dot.gov. Large files may need to be transferred via FTP or mailed to the following address:

Safety Design Team, Room E71-322
Office of Safety Technologies – HSST
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington DC 20590

Please note, USPS Priority Mail and Parcel Post are subject to screening that may delay delivery and may be harmful to the contents of the submission. These mail methods are not recommended.

Disclosing Financial Interests:

All Federal-aid reimbursement eligibility letter requests require disclosure of certain financial interests. A testing facility involved in evaluating a roadside hardware device for purposes of obtaining a FHWA Federal-aid reimbursement eligibility letter, and any testing facility employee who is directly and substantially involved in the testing and evaluation of a roadside hardware device, must disclose any related financial interest in the device or in the device manufacturer. This disclosure statement must be provided by the submitter seeking a Federal-aid reimbursement eligibility letter at the time of submission of the request. The FHWA will make this disclosure information publicly available. The dollar value of any financial interest is not needed by FHWA.

Financial interests include but are not limited to –

- i. Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals (dollar values are not needed);
- ii. Consulting relationships;
- iii. Research funding or other forms of research support;
- iv. Patents, copyrights, and other intellectual property interests;
- v. Licenses or contractual relationships; or
- vi. Business ownership and investment interests.

The e-form includes a space for providing this information.

Communicating with FHWA:

All substantive communications with FHWA that relate to a request for a Federal-aid reimbursement eligibility letter must be documented in writing. The written materials must be in a format that permits FHWA to preserve copies of the documented communications. Substantive communications either request or support a request for a Federal-aid reimbursement eligibility determination by FHWA. The FHWA will not take action or issue letters, decisions, guidance, or directions relating to the Federal-aid reimbursement eligibility of a roadside hardware device based on oral communications.

The FHWA Office of Safety has answers to a series of frequently asked questions on its website regarding communications before and after submitting a request for a Federal-aid reimbursement eligibility letter.

Identifying Proprietary Information:

The FHWA posts information about devices on its website whenever it issues a Federal-aid reimbursement eligibility letter. In addition, all records submitted to FHWA are subject to the Freedom of Information Act, 5 U.S.C. § 552. Therefore, any information submitted to FHWA that is considered trade secrets or confidential business information should be clearly labeled. Before release of trade secrets or confidential business information, FHWA will notify the submitter of the request and afford the submitter the opportunity to object to disclosure of the information and to state the basis for the objection. For more information on FOIA and treatment of non-public information see: <https://www.fhwa.dot.gov/foia/>, and the policy document "Predisclosure Notification to Submitters of Confidential Commercial Information".

B. Supporting documentation

The following supporting documentation, when applicable to the request, must be submitted at the time of the request:

1. A drawing or drawings of the hardware. Drawings that conform to the AASHTO Task Force-13 (TF-13) Drawing Specifications must be submitted. For proprietary hardware, both (1) detailed drawings and, (2) single isometric line drawing to illustrate the hardware in conformance with TF-13 must be submitted. Additional drawings (that do not need to be in TF-13 format) to show all details that are relevant to understanding the dimensions and performance of the hardware must be submitted.
2. A PDF file with a summary of the crash test report must be submitted. Full suite of recommended tests per AASHTO MASH must be conducted.
3. All crash test videos and photos for full suite of recommended tests per AASHTO MASH must be submitted.
4. All crash test reports for full suite of recommended tests per AASHTO MASH supporting the crashworthiness of new hardware must be submitted.

III. ***Crash Testing***

Running the full suite of recommended crash testing per AASHTO MASH is required to receive a Federal-aid reimbursement eligibility letter for any new safety hardware devices. Criteria for roadside safety hardware crash testing are described in the AASHTO MASH.

Crash test laboratories used to support a request for a Federal-aid reimbursement eligibility letter must be properly accredited. See 23 CFR 637.209(a)(5). Any crash test reports submitted to support a request for a Federal-aid reimbursement eligibility letter must include a statement from the accredited laboratory that certifies the testing was conducted in conformity with AASHTO MASH criteria.

The FHWA requires that the full suite of tests recommended by the AASHTO MASH are run to be eligible to receive a FHWA Federal-aid reimbursement eligibility letter. The more limited set of crash tests in the AASHTO MASH critical test matrix is not sufficient information for FHWA to make a determination for a Federal-aid reimbursement eligibility letter. Similarly, FHWA will no longer issue a Federal-aid reimbursement eligibility letter for modifications of existing devices or a “family” of related hardware (see Section IV). Submitters must run the full suite of recommended crash tests on any safety hardware device for consideration of receiving a FHWA Federal-aid reimbursement eligibility letter.

All crash test reports submitted to support a request for a Federal-aid reimbursement eligibility letter must also include a statement from the accredited laboratory that certifies that the results of the full suite of recommended tests on the hardware meet AASHTO MASH criteria. The e-form, discussed earlier in Section II, includes space for the accredited laboratory to certify that based on all recommended testing, the device meets AASHTO MASH criteria.

All hardware that is to be used with auxiliary features must have those features in place during the AASHTO MASH crash tests if a submitter is seeking a Federal-aid reimbursement eligibility letter for a device with those features. For example, sign supports need signs; luminaire supports need mast arms; and work zone traffic control devices need signs, lights, and/or flags if they will be marketed as being used with them.

IV. ***Modifications to hardware that already has a Federal-aid reimbursement eligibility letter***

The FHWA will no longer provide Federal-aid eligibility letters for modifications made to an AASHTO MASH crash tested device. Manufacturers should work directly with the States to evaluate crashworthiness of modifications to devices. Alternatively, manufacturers may submit a request to FHWA for review as a new device.

V. ***FHWA Review and Evaluation***

The FHWA will acknowledge receipt of a request for a Federal-aid reimbursement eligibility letter within 10 working days. The FHWA will endeavor to promptly review the submission to confirm conformity with the crash testing criteria. Requests for Federal-aid reimbursement eligibility letters are generally reviewed in the order received.

A FHWA letter that states a device is eligible for Federal-aid reimbursement may list issues identified by the testing criteria as reportable even if existence of the issue does not represent a failure of the test. If FHWA identifies potentially undesirable test results not explicitly identified in the evaluation criteria, then FHWA reserves the right to not issue a Federal-aid reimbursement eligibility letter. The submission will be returned to the sender without such letter.

VI. ***Appeals***

If the submitter disagrees with the FHWA's determination of Federal-aid reimbursement eligibility, the determination may be appealed in writing. The appeal should be directed to the Associate Administrator for Safety at the FHWA address provided above. The appeal should specify the part(s) of the FHWA determination to which the submitter objects and the action desired. The appeal also should include relevant documentation supporting the claims being made in the appeal. The decision of the Associate Administrator for Safety is the final agency determination.

VII. ***Distribution of Federal-Aid Reimbursement Eligibility Letter***

A FHWA Federal-aid reimbursement eligibility letter will be sent in hard copy to the submitter and, upon request, sent electronically in PDF format. Federal-aid reimbursement eligibility letters from FHWA are also posted on the FHWA [Roadway Departure Safety Web site](#).

Disclaimer

Issuance of a Federal-aid reimbursement eligibility letter by FHWA does not ensure acceptance or use by any State Department of Transportation (State DOT). Each State DOT may choose not to purchase and install a specific device, or may place additional limits upon use of a device.

A finding of Federal-aid reimbursement eligibility by FHWA does not convey property rights of any sort or any exclusive privilege. A finding of Federal-aid reimbursement eligibility is based on the premise that information and reports submitted to FHWA are accurate and correct. The FHWA reserves the right to modify or revoke a Federal-aid reimbursement eligibility letter if (1) there are any inaccuracies in the information submitted in support of the request, (2) the qualification testing was flawed, (3) in-service performance or other information reveals safety problems, (4) the system is significantly different from the version that was crash tested, or (5) any other information indicates that the letter was issued in error or otherwise does not reflect full and complete information about the crashworthiness of the system.

This process document is not a rule or regulation and does not impose legally binding requirements on FHWA or the States. It does not create or confer any rights for or on any person or operate to bind the public. The FHWA, the U.S. Department of Transportation, and the United States Government do not regulate the manufacture of roadside safety devices. The FHWA, the U.S. Department of Transportation, and the United States Government do not endorse products or services, and the issuance of a Federal-aid reimbursement eligibility letter is not an endorsement of any product or service. Eligibility for reimbursement under the Federal-aid highway program does not establish approval, certification, or endorsement of the device for any particular purpose or use. Eligibility for reimbursement does not eliminate the need for proper manufacturing, installation, maintenance, and performance monitoring in order for a device to function as tested.

This document is guidance and may be revoked at any time.