



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

Memorandum

Subject: **ACTION:** Guidance for applying the 4(f) exemption for
the Interstate Highway System

Date: January 13, 2006

From: Cynthia J. Burbank 
Associate Administrator, Planning,
Environment and Realty, FHWA

Reply to
Attn. of: HEPE

To: FHWA Division Administrators

Section 6007 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended section 103(c) of Title 23 by adding a new subparagraph, 103(c)(5). 103(c)(5)(A) acts in general to exempt the bulk of the Interstate Highway System from consideration as a historic property under existing Section 4(f) legislation found at Section 138 of Title 23 and Section 303 of Title 49, United States Code. [The term "Section 4(f)" continues to be used by the U.S. DOT in matters relating to both sections because of the common usage and familiarity.]

The amendment effected by Section 6007 is intended to work in tandem with the Historic Preservation Exemption under Section 106 of the National Historic Preservation Act (NHPA) adopted last spring by the Advisory Council on Historic Preservation. This pair of exemptions effectively excludes the vast majority of the 46,700 mile Dwight D. Eisenhower System of Interstate and Defense Highways (Interstate System) from review as historic property under both Sections 106 and 4(f). Only distinct elements of the system, which meet the National Register of Historic Places criteria for national or exceptional significance, will continue to be treated as historic properties under both authorities.

103(c)(5)(B) provides that, when designated by FHWA, individual elements of national or exceptional significance, such as certain bridges, tunnels, and rest stops, shall be excluded from the general exemption. The aforementioned Section 106 exemption sets forth the criteria by which FHWA shall identify these elements and is incorporated by reference into this section. FHWA headquarters, in consultation with stakeholders at the state and local level, is overseeing a contract to designate the excluded components prior to the 50th Anniversary of the Interstate System in June 2006. Discussions within each state will involve the FHWA Division Office, State Department of Transportation and other facility owners, and State Historic Preservation Officer (SHPO). The final list of these exceptional elements will continue to be subject to the requirements of Sections 106 and 4(f). However, as stated at 103(c)(5)(C), States are not prohibited from carrying out construction, maintenance, restoration, or rehabilitation activities of these exceptional elements upon compliance with Section 4(f) and Section 106 of the NHPA.



In the meantime, Federal Agencies should assume that the Interstate System is exempt from consideration as a historic property except for those elements likely to meet the criteria for exclusion. Please see the attached Question and Answer format guidance for more details as to the exemption and the criteria for identifying exceptional elements. For additional information or assistance please contact MaryAnn Naber, at maryann.naber@fhwa.dot.gov or 202-366-2060, or Diane Mobley, at diane.mobley@fhwa.dot.gov or 202-366-1366.

Attachment