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§ 476.300 Purpose.

The purpose of the regulations in this subpart is to prescribe policies and procedures for implementation of 23 U.S.C. 103(e)(4), which permits the withdrawal of Interstate System segments and the substitution of public mass transit or highway projects or both.

§ 476.302 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to an Interstate segment at any stage of development if:

(1) The segment is within an urbanized area; or

(2) The segment passes through and connects urbanized areas within a State.

(b) The regulations in this subpart shall not apply to:

(1) A segment removed from the Interstate System prior to August 13, 1973;

(2) A segment added to the Interstate System after May 5, 1976, under the provisions of 23 U.S.C. 103(e)(2);

(3) Interstate segments designated under 23 U.S.C. 139;

(4) A toll bridge, tunnel, or approach thereto for which funds were advanced in accordance with 23 U.S.C. 124(b); or

(5) After September 30, 1979, an Interstate segment open to traffic before the date of the proposed withdrawal. If only a portion of an Interstate segment (between logical termini) is open to traffic the regulations of this subpart are applicable to the portion not open to traffic. The open to traffic portion will be removed from the Interstate System under 23 U.S.C. 103(f).

(6) Any segment added to the Interstate System by specific legislation unless a comparable statute permitting its withdrawal is enacted.

(7) A segment added to the Interstate System after August 13, 1973, under the provisions of 23 U.S.C. 103(e)(1).

(c) Withdrawal requests may not be approved under this subpart after September 30, 1983, unless the route segment was under a court injunction prohibiting its construction as of November 6, 1978. For segments under such injunction, withdrawal requests may not be approved under this subpart after September 30, 1986. However, as indicated in § 476.310(g), the September 30,

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1986, substitute project construction time limitation remains applicable to these segments.

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§ 476.304 Withdrawal request.

(a) A request to withdraw an Interstate segment within a State under this subpart shall be submitted jointly by the Governor and local governments concerned. For those segments within urbanized areas, the concurrence of responsible local officials is also required. The withdrawal request shall be submitted to the Federal Highway Administrator and the Urban Mass Transportation Administrator, through the Federal Highway Administrator.

(b) Joint submittal may be accomplished by a single request prepared by the Governor and concurred in by the local governments concerned. This may also be accomplished by a request by the Governor with separate concurrence documentation by the local governments concerned. In either case, for those segments within urbanized areas, the concurrence of responsible local officials is also required. While unanimous local action is not required, the withdrawal request is expected to have substantial support.

(c) The request for withdrawal shall include the following:

(1) A statement that the request is filed pursuant to 23 U.S.C. 103(e)(4).

(2) Reasons why the segment is not essential to the completion of a unified and connected Interstate System.

(3) A detailed statement of mileage and cost of the segment to be withdrawn as included in the latest Interstate cost estimate approved by Congress.

(4) An assurance that a toll road will not be constructed in the traffic corridor which would be served by the segment.

§ 476.306 Withdrawal approval.

(a) The Federal Highway Administrator and the Urban Mass Transportation Administrator may approve the withdrawal of an Interstate segment under the provisions of this subpart after considering the impact of the withdrawal on national defense needs if:

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(1) The requirements of § 476.304 are met; and

(2) The Federal Highway Administrator determines that the segment is not essential to completion of a unified and connected Interstate System.

(b) When the withdrawal of an Interstate segment is approved under paragraph (a) of this section, an amount equal to the Federal share of the cost to complete the withdrawn segment as shown in the latest Interstate System cost estimate approved by Congress is authorized for substitute projects. The amount authorized will be increased or decreased, as determined by the Federal Highway Administrator, based on changes in construction costs of the withdrawn route occurring between the base cost year of the latest cost estimate approved by Congress which included the costs of the withdrawn route and the date of approval of each substitute project. The changes in construction costs will be computed on the basis of the Composite Index shown in the quarterly publication "Price Trends for Federal-Aid Highway Construction."¹ For purposes of cost adjustments, the Composite Index for the calendar quarter within which the approval of the substitute project occurs will be used in computing the change in construction costs.

(c) Authorizations of funds made available by the withdrawal of an Interstate route under 23 U.S.C. 103(e)(4) shall remain available until expended within the limitations described in § 476.310 (f) and (g).

(d) Effective as of date of approval of the withdrawal of an Interstate segment, the unobligated apportionments for the Interstate System of the State receiving the approval will be reduced in the proportion that the Federal share of the cost of the withdrawn segment bears to the Federal share of the total cost of all Interstate routes in the State as reported in the latest Interstate System cost estimate approved by Congress.

(e) Mileage withdrawn under the provisions of this subpart may not be re-

designated in any State under any provision of title 23 U.S.C.

(f) The payback of Federal-aid Interstate funds expended on a segment withdrawn under this subpart shall be governed by 23 CFR part 480, Use and Disposition of Property Acquired by States for Modified or Terminated Highway Projects.

(g) Segments withdrawn under the provisions of this subpart may not be redesignated under the provisions of 23 U.S.C. 139.

§ 476.308 Concept approval for substitute projects.

(a) A concept program which identifies the proposed substitute projects to be approved in concept and which, as a minimum, accounts for all unobligated funding made available by this subpart must be submitted as soon as practicable after the effective date of this subpart or after a withdrawal is formally approved.

(1) The substitute project concepts included in the program must be selected in a manner consistent with the procedures provided in § 476.310(b) and (c).

(2) The concept program submission must contain:

(i) A proposed split, if any, of Interstate withdrawal authorizations between transit and highway projects;

(ii) A concept description (e.g., type of work, termini, length, estimated cost, number and type of vehicles, size and type of facility, identification of major transportation investment, etc.) of the proposed transit and/or highway projects for which concept approval is requested; and

(iii) A summary of the anticipated level of overall funding needs by individual fiscal year, as estimated on a general transit and/or highway basis.

(3) The concept program shall be endorsed by the Governor and the responsible local officials.

(4) The concept program should be submitted by the Governor to the Federal Highway Administrator and the Urban Mass Transportation Administrator, through the Federal Highway Administrator.

(b) Approval of substitute project concepts must be given jointly by the Federal Highway Administrator and

¹Published by FHWA, Interstate Reports Branch, and available for inspection and copying as prescribed in 49 CFR part 7, appendix D.