

(1) Jointly certify the transportation planning process;

(2) Jointly certify the transportation planning process subject to certain specified corrective actions being taken; or

(3) Jointly certify the planning process as the basis for approval of only those categories of programs or projects that the Administrators may jointly determine and subject to certain specified corrective actions being taken.

(e) A certification action under this section will remain in effect for three years unless a new certification determination is made sooner.

(f) If, upon the review and evaluation conducted under paragraph (b) or (c) of this section, the FHWA and the FTA jointly determine that the transportation planning process in a TMA does not substantially meet the requirements, they may take the following action as appropriate, if after September 30, 1993, the transportation planning process is not certified:

(1) Withhold in whole or in part the apportionment attributed to the relevant metropolitan planning area under 23 U.S.C. 133(d)(3), capital funds apportioned under section 9 of the Federal Transit Act, and section 3 funds under the Federal Transit Act (49 U.S.C. 1607(a)); or

(2) Withhold approval of all or certain categories of projects.

(g) If a transportation planning process remains uncertified for more than two consecutive years after September 30, 1994, 20 percent of the apportionment attributed to the metropolitan planning area under 23 U.S.C. 133(d)(3) and capital funds apportioned under the formula program of section 9 of the Federal Transit Act (49 U.S.C. app. 1607a) will be withheld.

(h) The State and the MPO shall be notified of the actions taken under paragraphs (f) and (g) of this section. Upon full, joint certification by the FHWA and the FTA, all funds withheld will be restored to the metropolitan area, unless they have lapsed.

**§ 450.336 Phase-in of new requirements.**

(a) Except for reflecting the consideration given the results of the manage-

ment systems, the planning process and plans in nonattainment areas requiring TCMs shall comply, to the extent possible, with the requirements of this subpart by October 1, 1994. All other metropolitan areas shall comply to the extent possible with the requirements of this subpart by December 18, 1994. Where time does not permit a quantitative analysis of certain factors, a qualitative analysis of those factors will be acceptable. If a forecast period of less than twenty years is acceptable for SIP development and air quality conformity purposes, that same time period will be acceptable for transportation planning. The initial plan update shall be financially feasible, taking into account capital costs and the funds reasonably available for capital improvements, as well as addressing to the extent possible the costs of and revenues available for operating and maintenance of the transportation system. Where TCMs are required, the plan update process shall be coordinated with the process for developing TCMs. The planning process for subsequent updates of the plan and the updated plans shall comply with the requirements of this subpart. Plan updates performed in all areas must consider the results of the management systems (specified in 23 CFR part 500) as they become available. The plan shall reflect this consideration.

(b)(1) During the period prior to the full implementation of the CMS in a TMA, the MPO in cooperation with the State, the public transit operators, and other operators of major modes of transportation shall identify the location of the most serious congestion problems in the metropolitan area and proceed with the development of actions to address these problems.

(2) Prior to the full implementation of a CMS, an adequate interim CMS in a TMA designated as nonattainment for carbon monoxide and/or ozone shall, as a minimum, include a process that results in an appropriate analysis of all reasonably available (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in SOV capacity is proposed. This analysis must demonstrate how

far such strategies can go in eliminating the need for additional SOV capacity in the corridor. If the analysis demonstrates that additional SOV capacity is warranted, then all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) shall be incorporated into the proposed facility. Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself must be committed to by the State and the MPO for implementation in a timely manner but no later than completion of construction of the SOV facility. If the area does not already have a traffic management and carpool/vanpool program, the establishment of such programs must be a part of the commitment.

(3) In TMAs that are nonattainment for carbon monoxide and/or ozone, the MPO, a State and/or transit operator may not advance a project utilizing Federal funds that provides a significant capacity increase for SOVs (adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks, or a new highway on a new location) beyond the NEPA process unless an interim CMS is in place that meets the criteria in paragraphs (b)(1) and (b)(2) of this section and the project results from this interim CMS.

(4) Projects that are part of or consistent with a State mandated congestion management system/plan are not subject to the requirements in paragraphs (b)(1) and (b)(2) of this section.

(5) Projects advanced beyond the NEPA process as of April 6, 1992 and which are being implemented, e.g., right-of-way acquisition has been approved, will be deemed to be programmed and not subject to this requirement.

[58 FR 58064, Oct. 28, 1993, as amended at 61 FR 67175, Dec. 19, 1996]

#### **PART 460—PUBLIC ROAD MILEAGE FOR APPORTIONMENT OF HIGHWAY SAFETY FUNDS**

Sec.

460.1 Purpose.

460.2 Definitions.

460.3 Procedures.

AUTHORITY: 23 U.S.C. 315, 402(c); 49 CFR 1.48.

SOURCE: 40 FR 44322, Sept. 26, 1975, unless otherwise noted.

##### **§ 460.1 Purpose.**

The purpose of this part is to prescribe the policies and procedures followed in identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of highway safety funds under 23 U.S.C. 402(c).

##### **§ 460.2 Definitions.**

As used in this part:

(a) *Public road* means any road under the jurisdiction of and maintained by a public authority and open to public travel.

(b) *Public authority* means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality thereof, with authority to finance, build, operate or maintain toll or toll-free highway facilities.

(c) *Open to public travel* means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

(d) *Maintenance* means the preservation of the entire highway, including surfaces, shoulders, roadsides, structures, and such traffic control devices as are necessary for its safe and efficient utilization.

(e) *State* means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. For the purpose of the application of 23 U.S.C. 402 on Indian reservations, *State* and *Governor of a State* include the Secretary of the Interior.

##### **§ 460.3 Procedures.**

(a) *General requirements.* 23 U.S.C. 402(c) provides that funds authorized to