

(b) Projects that are not considered to be of appropriate scale for individual identification in a given program year may be grouped by function, work type, and/or geographic area using the applicable classifications under 23 CFR 771.117 (c) and (d) and/or 40 CFR part 51.

(c) Projects in any of the first three years of the STIP may be moved to any other of the first three years of the STIP subject to the project selection requirements of § 450.222.

(d) The STIP may be amended at any time under procedures agreed to by the cooperating parties consistent with the procedures established in this section (for STIP development), in § 450.212 (for public involvement) and in § 450.220 (for the FHWA and the FTA approval).

(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.

[58 FR 58064, Oct. 28, 1993, as amended at 68 FR 3181, Jan. 23, 2003]

§ 450.218 Funding.

Funds provided under sections 8, 9, 18, and 26(a)(2) of the Federal Transit Act and 23 U.S.C. 104(b)(1), 104(b)(3), 104(f)(3) and 307(c)(1) may be used to accomplish activities in this subpart.

§ 450.220 Approvals.

(a) At least every two years, each State shall submit the entire proposed STIP, and amendments as necessary, concurrently to the FHWA and the FTA for joint approval. The State shall certify that the transportation planning process is being carried out in accordance with all applicable requirements of:

(1) 23 U.S.C. 135, section 8(q) of the Federal Transit Act and this part;

(2) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;

(3) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240, 105 Stat. 1914) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded projects

(sec. 105(f), Pub. L. 97-424, 96 Stat. 2100; 49 CFR part 23);

(4) The provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38);

(5) The provisions of 49 CFR part 20 regarding restrictions on influencing certain Federal activities; and

(6) In States containing nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d)).

(b) The FHWA and the FTA Administrators, in consultation with, where applicable, Federal lands agencies, will review the STIP or amendment and jointly make a finding as to the extent the projects in the STIP are based on a planning process that meets or substantially meets the requirements of title 23, U.S.C., the Federal Transit Act and subparts A, B and C of this part.

(c) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment meet, to an acceptable degree, the requirements of 23 U.S.C. 135 and these regulations (including subpart C where a metropolitan TIP is involved), they will approve the STIP. Approval action will take one of the following forms, as appropriate:

(1) Joint approval of the STIP;

(2) Joint approval of the STIP subject to certain corrective actions being taken;

(3) Joint approval of the STIP as the basis for approval of identified categories of projects; and/or

(4) Under special circumstances, joint approval of a partial STIP covering only a portion of the State.

(d) The joint approval period for a new STIP or amended STIP will not exceed two years. Where the State demonstrates that extenuating circumstances will delay the submittal of a new STIP or amended STIP for approval, FHWA and FTA will consider and take appropriate action on requests to extend the approval beyond two years for all or part of the STIP for a limited period of time. Where the request involves projects in a metropolitan planning area(s), the affected

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MPO(s) must concur in the request and if the delay was due to the development and approval of the TIP, the affected MPO(s) must provide supporting information for the request. If non-attainment and/or maintenance areas are involved, a request for an extension cannot be granted if the conformity determination on the TIP is no longer valid under EPA's conformity regulations (40 CFR part 51).

(e) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment does not substantially meet the requirements of 23 U.S.C. 135 and this part for any identified categories of projects, they will not approve the STIP.

(f) The FHWA and the FTA will notify the State of actions taken under this section.

(g) Where necessary in order to maintain or establish operations, the Federal Transit Administrator and/or the Federal Highway Administrator may approve operating assistance for specific projects or programs even though the projects or programs may not be included in an approved STIP.

§ 450.222 Project selection for implementation.

(a) Except as provided in §§ 450.220(f) and 450.216(a)(7), only projects included in the Federally approved STIP shall be eligible for funds administered by the FHWA or the FTA.

(b) In metropolitan planning areas, transportation projects requiring title 23 or Federal Transit Act funds administered by the FHWA or the FTA shall be selected in accordance with procedures established pursuant to the project selection portion of the metropolitan planning regulation in subpart C of this part.

(c) Outside metropolitan planning areas, transportation projects undertaken on the National Highway System with title 23 funds and under the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials. Federal lands highway projects shall be selected in accordance with 23 U.S.C. 204. Other transportation projects undertaken with funds administered by the FHWA shall be selected

by the State in cooperation with the affected local officials, and projects undertaken with Federal Transit Act funds shall be selected by the State in cooperation with the appropriate affected local officials and transit operators.

(d) The projects in the first year of an approved STIP shall constitute an "agreed to" list of projects for subsequent scheduling and implementation. No further project selection action is required for the implementing agency to proceed with these projects except that if appropriated Federal funds available are significantly less than the authorized amounts, § 450.332(c) provides for a revised list of "agreed to" projects to be developed upon the request of the State, MPO, or transit operators. If an implementing agency wishes to proceed with a project in the second and third year of the STIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used. Expedited selection procedures which provide for the advancement of projects from the second or third years of the STIP may be used if agreed to by all the parties involved in the selection.

§ 450.224 Phase-in of new requirements.

(a) The State shall, by January 1, 1995, identify the official statewide transportation plan, described under § 450.214, to be used as a basis for subsequently approved STIPs. Until such a plan is identified, but no later than January 1, 1995, the State may identify existing plans and policies which can serve as the official interim plan. STIP development shall be based upon a transportation plan which serves as the official plan (including an interim plan, if appropriate, prior to January 1, 1995, provided that all factors identified in § 450.208 are considered).

(b) The State has a period of one year after February 24, 2003 to document and implement the consultation process discussed in § 450.212(h).

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