

§ 460.1

23 CFR Ch. I (4-1-11 Edition)

§ 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.

EFFECTIVE DATE NOTE: At 76 FR 12849, Mar. 9, 2011, § 460.2 was amended by revising paragraph (e), effective Apr. 8, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 460.2 Definitions.

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(e) *State* means any one of the 50 States, the District of Columbia, Puerto Rico, the

Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. 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 carry out section 402 shall be apportioned according to a formula based on population and public road mileage of each State. Public road mileage shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State or his designee and subject to the approval of the Federal Highway Administrator.

(b) *State public road mileage.* Each State must annually submit a certification of public road mileage within the State to the Federal Highway Administration Division Administrator by the date specified by the Division Administrator. Public road mileage on Indian reservations within the State shall be identified and included in the State mileage and in computing the State's apportionment.

(c) *Indian reservation public road mileage.* The Secretary of the Interior or his designee will submit a certification of public road mileage within Indian reservations to the Federal Highway Administrator by June 1 of each year.

(d) *Action by the Federal Highway Administrator.* (1) The certification of Indian reservation public road mileage, and the State certifications of public road mileage together with comments thereon, will be reviewed by the Federal Highway Administrator. He will make a final determination of the public road mileage to be used as the basis for apportionment of funds under 23 U.S.C. 402(c). In any instance in which the Administrator's final determination differs from the public road mileage certified by a State or the Secretary of the Interior, the Administrator will advise the State or the Secretary of the Interior of his final determination and the reasons therefor.