



**INTERCITY TRANSIT CONSORTIUM  
 AGENDA**

**1:30 p.m., Tuesday, March 24, 2015  
 Solano Transportation Authority  
 One Harbor Center, Suite 130  
 Suisun City, CA 94585**

**ITEM**

**STAFF PERSON**

- |    |  |                           |
|----|--|---------------------------|
| 1. | <b>CALL TO ORDER</b>   | Janet Koster, Chair       |
| 2. | <b>APPROVAL OF AGENDA</b>  |                           |
| 3. | <b>OPPORTUNITY FOR PUBLIC COMMENT</b><br>(1:30 – 1:35 p.m.)  |                           |
| 4. | <b>REPORTS FROM MTC, STA STAFF AND OTHER AGENCIES</b><br>(1:35 – 1:45 p.m.)  |                           |
|    | • <b>MTC’s Requirements for Short Range Transit Plans (SRTP)</b>   | Christina Hohorst,<br>MTC |
| 5. | <b>CONSENT CALENDAR</b><br><u>Recommendation:</u> Approve the following consent items in one motion.<br>(1:45 – 1:50 p.m.)   |                           |
|    | <b>A. Minutes of the Consortium Meeting of February 24, 2015</b><br><u>Recommendation:</u><br>Approve the Consortium Meeting Minutes of February 24, 2015.<br><b>Pg. 5</b> | Johanna Masielat          |

**CONSORTIUM MEMBERS**

<u>Janet Koster</u> (Chair) Dixon Readi-Ride	<u>Nathan Atherstone</u> (Vice Chair) Fairfield and Suisun Transit (FAST)	<u>John Harris</u> Rio Vista Delta Breeze	<u>Mona Babauta</u> Solano County Transit (SolTrans)	<u>Brian McLean</u> Vacaville City Coach	<u>Matt Tuggle</u> County of Solano	<u>Judy Leaks</u> SNCI	<u>Liz Niedziela</u> STA
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**6. ACTION FINANCIAL ITEMS**

**A. Recommendation for Lifeline Funding**

Liz Niedziela

Recommendation:

Forward a recommendation to TAC and to the STA Board to approve the Lifeline Advisory Committee's Funding Recommendations for allocation of Solano Lifeline Funding for Fiscal Year (FY) 2014-15 through FY 2016-17 as specified in Attachment A.

(1:50 – 2:00 p.m.)

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**7. ACTION NON-FINANCIAL ITEMS**

**A. Solano Rail Facilities Plan Update**

Robert Macaulay

Recommendation:

Forward the draft 2015 Solano Rail Facilities Plan to the TAC and STA Board with a recommendation to release for review and comment as provided as Attachment A.

(2:00 – 2:05 p.m.)

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**B. SolanoExpress Intercity Transit Consortium 2015 Work Plan**

Liz Niedziela

Recommendation:

Forward a recommendation to the TAC and STA Board to approve the SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan as shown in Attachment B.

(2:05 – 2:20 p.m.)

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**C. SolTrans Reduced ADA Paratransit Certified Fare**

Elizabeth Romero,  
SolTrans

Recommendation:

Forward a recommendation to the STA Board to:

1. Authorize SolTrans to charge ADA Paratransit Certified Clients and Personal Care Attendants (PCAs) a \$0.50 per ride cash fare each on the Solano Express Routes 78, 80 and 85 under a 3-year pilot program from the date of implementation through FY 2018, per attachment Attachment C; and
2. Request SolTrans provide annual reports to the Consortium and STA Board.

(2:20 – 2:25 p.m.)

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- D. Legislative Update** Jayne Bauer  
Recommendation:  
Recommend the STA Board take the following position:
- Assembly Bill (AB) 194 (Frazier) - authorize a regional transportation agency to apply to the California Transportation Commission to operate a high-occupancy toll (HOT) lane;  
*Support in concept*
- (2:25 – 2:30 p.m.)  
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**8. INFORMATIONAL ITEMS – DISCUSSION ITEMS**

- A. Intercity Taxi Scrip Program Update** Richard Weiner,  
Nelson Nygaard  
(2:30 – 2:35 p.m.)  
**Pg. 59**
- B. Consolidated Transportation Services Agency (CTSA)/Mobility Management Program Update** Kristina Holden  
(2:35 – 2:40 p.m.)  
**Pg. 61**
- C. Transportation for Individuals with Disabilities; Reasonable Modification of Policies and Practices** Liz Niedziela  
(2:40 – 2:45 p.m.)  
**Pg. 67**
- D. SNCI Call Center/Transportation Info Depot Update** Judy Leaks  
(2:45 – 2:50 p.m.)  
**Pg. 81**

**NO DISCUSSION**

- E. Summary of Funding Opportunities** Drew Hart  
**Pg. 83**

**9. TRANSIT CONSORTIUM OPERATOR UPDATES AND COORDINATION ISSUES** Group

**10. FUTURE INTERCITY TRANSIT CONSORTIUM AGENDA ITEMS** Group

April 2015

- A. Update on Curtola Park and Ride Project Expansion – Mona Babauta, SolTrans
- B. Transit Corridor Study – Phase 2 – Jim McElroy, Project Manager
- C. SolanoExpress Service Update
- D. 2015 SolanoExpress Marketing Plan – Jayne Bauer
- E. CTSA/Mobility Management Program Update – ADA Eligibility and Travel Training – Kristina Holden

May 2015

- A. Discussion of Intercity Paratransit/Taxi Scrip Program- Proposed Approach to Service Alternative Analysis – Richard Weiner, Nelson-Nygaard
- B. Intercity Service Funding Plan for 2015-16 – Mary Pryor

**11. ADJOURNMENT**

The next regular meeting of the Solano Express Intercity Transit Consortium is scheduled for **1:30 p.m. on Tuesday, April 28, 2015.**



**INTERCITY TRANSIT CONSORTIUM  
Meeting Minutes of February 24, 2015**

**1. CALL TO ORDER**

Judy Leaks called the regular meeting of the SolanoExpress Intercity Transit Consortium to order at approximately 1:30 p.m. in the Solano Transportation Authority Conference Room.

**Members**

<b>Present:</b>	Janet Koster	Dixon Read-Ride
	Nathan Atherstone	Fairfield and Suisun Transit (FAST)
	John Harris	Rio Vista Delta Breeze
	Mona Babauta	Solano County Transit (SolTrans)
	Judy Leaks, Chair	Solano Napa Commuter Information (SNCI)
	Liz Niedziela	STA
	Brian McLean (By Phone)	Vacaville City Coach
	Nathan Newell for Matt Tuggle	County of Solano

**Members**

<b>Absent:</b>	Matt Tuggle	County of Solano
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**Also Present (In Alphabetical Order by Last Name:**

Jayne Bauer	STA
Ryan Dodge	STA
Daryl Halls	STA
Kristina Holden	STA
Robert Macaulay	STA
Johanna Masiclat	STA
Mary Pryor	STA Project Manager

**Others**

<b>Present:</b>	Jason Bustos	SolTrans
	Mandi Renshaw	SolTrans
	Elizabeth Romero	SolTrans
	Rischa Slade	Solano Community College

**2. APPROVAL OF THE AGENDA**

On a motion by Janet Koster, and a second by Nathan Atherstone, the SolanoExpress Intercity Transit Consortium approved the agenda.

**3. OPPORTUNITY FOR PUBLIC COMMENT**

None presented.

**4. ELECT CHAIR AND VICE CHAIR FOR 2015**

By consensus, the SolanoExpress Intercity Transit Consortium voted Janet Koster as Chair and Nathaniel Atherstone as Vice Chair for 2015.

**5. REPORTS FROM CALTRANS, MTC, AND STA STAFF**

Liz Niedziela announced that the deadline for Lifeline grants is March 3<sup>rd</sup> and that the project scoring and prioritizing is scheduled on March 6<sup>th</sup>.

**6. CONSENT CALENDAR**

On a motion by Janet Koster, and a second by Mona Babauta, the SolanoExpress Intercity Transit Consortium approved Consent Calendar Item A. (8 Ayes)

**A. Minutes of the Consortium Meeting of January 27, 2015**

Recommendation:

Approve the Consortium Meeting Minutes of January 27, 2015.

**7. ACTION FINANCIAL ITEMS**

**A. None.**

**8. ACTION NON-FINANCIAL ITEMS**

**A. Legislative Update**

Jayne Bauer reported and recommended to take a “Watch” position to the following Assembly Bills:

1. Assembly Member Linder has introduced Assembly Bill [\(AB\) 4](#), to prevent vehicle weight fee revenues from paying off transportation general obligation bonds. She noted that these funds would instead remain in the State Highway Account. Currently, the "swap-based" excise tax on gasoline is used to backfill the State Highway Account for the loss of these funds - approximately \$1 billion annually - which results in less excise tax funding available for local streets and roads and the State Transportation Improvement Program (STIP).
2. Assembly Member Alejo introduced Assembly Bill [\(AB\) 227](#), which would also prohibit the use of vehicle weight fees to pay debt-service on transportation bonds. In addition to protecting the vehicle weight fees, this bill would extend the authorization for Public Private Partnerships (P3) beyond the current sunset date of 2017.

Recommendation:

Forward a recommendation to the STA TAC and Board to take the following positions:

- Assembly Bill (AB) 4 (Linder) - Prohibiting the transfer of weight fee revenues from the State Highway Account to the Transportation Debt Service Fund; *Watch*
- Assembly Bill (AB) 227 (Alejo) – Prohibiting the transfer of weight fee revenues from the State Highway Account to the Transportation Deb Service Fund and extending P3 authorization; *Watch*

On a motion by Nathaniel Atherstone, and a second by Mona Babauta, the SolanoExpress Intercity Transit Consortium unanimously approved the recommendation (8 Ayes).

## 9. INFORMATIONAL ITEMS – DISCUSSION ITEMS

### A. Solano College Student Transportation Fee Proposal

Rischa Slade, Solano Community College, addressed the college's interest in implementing a student fee for transportation. She explained that a Student Transportation Fee at SCC must be voted in by student referendum and would like to add the Transportation Fee to their Spring Election which will be held the week of March 23-26, 2015. She noted that funds from the transportation fee could potentially be distributed to the transit agencies that provide services to the SCC campuses in exchange for reduced fare for SCC students. She cited that the transportation fee being considered will range from \$7 to \$10 per student that could potentially generate between \$77,000 to \$110,000 for a SCC Student Transportation Pass Program.

In addition, Ms. Slade also noted that in order to implement the SCC Student Transportation Pass Program by the Fall 2015 semester, the Transportation Fee Resolution has to go before the ASSC (student government), then to the SCC President by March 6, 2016 and then to the SCC Governing Board on March 18, 2016 in preparation of putting this issue on the Spring Election Ballot for March 23, 2016.

Mona Babauta left the meeting at this time (2:05 p.m.)

### B. Transit and Ridesharing Element of the Comprehensive Transportation Plan (CTP)

Robert Macaulay outlined the multiple tasks needed to be completed to update to the State of the System Report and the Goal Gap Analysis, which evaluates the difference between where the system is (State of the System) and where it is desired to be (Goals). He also noted that during March and April of 2015, STA staff will be conducting its first round of public outreach meetings on the CTP, covering the Transit and Rideshare Element and the Arterials, Highways and Freeways Element. He also mentioned that work will focus on incorporating the various components of the Transit and Rideshare Element including the updated Solano Rail Plan, the Transit Corridor Study, the Mobility Management Plan, the Seniors and People with Disabilities Plan, Ridesharing and Ferry Services in May 2015.

### C. CTSA/Mobility Management Program Update – Travel Training Update

Kristina Holden provided an update to the CTSA/Mobility Management and Travel Training Program. She noted that the mobility options and programs were presented by STA staff at community events in Dixon (Senior Center), Rio Vista (CHP's "Age Well Drive Smart), Vallejo (Omega Boys and Girls Club), and Vacaville (Senior Living) from February 17 through February 19<sup>th</sup>, 2015. She also cited that STA staff recently helped complete a photo shoot that will be incorporated in the FAST Travel Training Video and Riders Guide. The video and riders guide is expected to be released to the public by April. Lastly, Kristina Holden also provided an update to the Travel Ambassador Program citing that flyers and posters to recruit for Volunteer Transit Ambassadors as well as trainees have been completed.

### D. SolanoExpress Intercity Quarterly Reports

Liz Niedziela reported that Fairfield and Suisun Transit (FAST) and SolTrans have submitted their Fiscal Year 2014-15 2<sup>nd</sup> quarter reports for the working group's review. She summarize the 2<sup>nd</sup> Quarter report as follows:

2 <sup>nd</sup> Quarter	FAST	SolTrans
Cost	40.1%	45.3%
Fares	42.1%	50.2%
Ridership	50.0%	50.5%
Service hours	48.9%	47.6%

**E. SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan**

Liz Niedziela presented the SolanoExpress Intercity Transit Consortium Draft Work Plan 2015 for the Consortium's review. She noted that in the 2015 Draft Work Plan, several completed items have been removed and new projects have been added. She requested comments to be submitted by no later than March 11th for the Consortium to approve at their meeting on March 24<sup>th</sup>.

**F. SNCI Monthly Issues/Transportation Info Depot Update**

Judy Leaks provided an update on the variety of informational services at the Transportation Info Depot at the Suisun City Amtrak Station as well as at the Solano Mobility Call Center. She announced that the Senior Coalition of Solano County is hosting a 'Mini-Medical School,' a series of programs every Saturday in March at the Kroc Center in Suisun City. She noted that the programs will focus on senior health issues and are open to seniors throughout Solano County.

**NO DISCUSSION**

**G. Summary of Funding Opportunities**

**10. TRANSIT CONSORTIUM OPERATOR UPDATES AND COORDINATION ISSUES** Group

**11. FUTURE INTERCITY TRANSIT CONSORTIUM AGENDA ITEMS** Group

**12. ADJOURNMENT**

The meeting adjourned at 2:30 p.m. The next regular meeting of the Solano Express Intercity Transit Consortium is scheduled for **1:30 p.m. on Tuesday, March 24, 2015.**





DATE: March 11, 2015  
TO: STA Board  
FROM: Liz Niedziela, Transit Program Manager  
RE: Recommendation for Lifeline Funding

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**Background:**

The Metropolitan Transportation Commission's (MTC) Lifeline Transportation Funding Program is intended to improve mobility for residents of low-income communities and, more specifically, to fund solutions identified through locally developed Community Based Transportation Plans. Each community's needs are unique and will therefore require different solutions to address local circumstances. In Solano and other counties, these funds have been used to fund Welfare to Work and Community Based Transportation Planning (CBTP) priority projects. Between 2004 and 2012, CBTP Plans were completed in Dixon, East Fairfield, Fairfield/Suisun City, Vacaville and Vallejo.

MTC has delegated the management of the Lifeline Program to the Congestion Management Agencies, including the STA for Solano County. The STA selects the Solano Lifeline projects for funding and submits these projects to MTC for approval. The STA will be administering the program with an estimated amount of \$3.3 million of Lifeline Funds provided by the MTC for Solano County over the next one to three years depending on the funding source.

STA staff released a call for projects for the Lifeline Program in October 2014. The Lifeline Program for Solano County is administered through the STA which is responsible for soliciting applications and conducting a project selection process. The Lifeline Transportation Program is intended to fund projects that result in improved mobility for low-income residents of Solano County as identified in Community-Based Transportation Plan (CBTP) or other substantive local planning efforts involving focused outreach to low-income populations. The estimated amount of available Lifeline funding is reflected as follows:

\$ 1,973,907:	State Transit Assistance Funds (STAF) over three years
\$ 899,217:	Proposition 1B funds for one year
<u>\$ 1,111,109:</u>	Job Access Reverse Commute (JARC) over three years with carryover
<b>\$ 3,984,233</b>	<b>TOTAL</b>

The Lifeline Projects must be selected through an open, competitive process with the following exceptions:

- (1) In an effort to address the sustainability of fixed-route transit operations, Lifeline Program Administrators may elect to allocate some or all of their STA funds directly to transit operators for Lifeline transit operations within the county. Projects must be identified as Lifeline projects before transit operators can claim funds, and will be subject to Lifeline Program reporting requirements.
- (2) For Solano and Sonoma counties, Proposition 1B funds are being directed to the CMA, who should include these funds in the overall Lifeline programming effort (keeping in mind the limited sponsor and project eligibility of Proposition 1B funds).

The STA Board approved the Prop 1B Lifeline Program in February 2015. Prop 1B funding allocation was made to SolTrans for the replacement of three local buses in the amount of \$890,796 and to the City of Dixon for the local match for one replacement bus in the amount of \$8,421.

**Discussion:**

Applications for State Transit Assistance Funds (STAF) and Job Access Reverse Commute (JARC) funds were due to STA by March 3, 2015. A Lifeline Advisory Committee, appointed by the STA Board, is responsible for evaluating and making recommendations for prioritizing funding for the Lifeline projects. Members of the STA's Lifeline Committee are Cookie Powell, Judy Nash, Richard Burnett, Gerry Raycraft, and Nathan Newell. The Lifeline Committee reviewed the project applications and had an opportunity to ask questions of the applicants before developing a consensus recommendation to the STA Board (Attachment A). Since MTC recommended the STAF funds be awarded at 95%, the Lifeline Advisory Committee ranked the recommended projects in a priority order of which projects to be funded first. Projects were evaluated and ranked based on project need and their consistency with the priorities of the Community Based Transportation Plan or other plans with an outreach component to the low-income population.

The Lifeline Committee ranked the Intercity Taxi Scrip Program as top priority followed by East Tabor Ave Sidewalk Gap Closure, SolanoExpress Route 85 and SolTrans Local Route 1. The Lifeline Committee recommended funding for Faith in Action as a contingency if additional New Freedom Funds are not awarded during the 2015 in order to bridge the funding gap to keep the volunteer driver program operating.

The JARC funding was based on the urbanized area (UZA) and the funding was allocated to FAST and SolTrans. For FAST, JARC projects included Saturday service for SolanoExpress Route 30, SolanoExpress Route 20, and their local taxi scrip program. The Lifeline Committee recommended funding for FAST's local taxi scrip program if FAST does not cut the program's service hours as mentioned in the grant application. For SolTrans, sustaining local Route 2 that serves Solano Community College in Vallejo was recommended for funding.

**Fiscal Impact:**

The Lifeline Funding will assist in sustaining services, purchasing buses, mobility management programs and creating an accessible path to school. An estimated \$3.08 million in Lifeline funds (STAF and JARC) is recommended for allocation by the Lifeline Advisory Committee.

**Recommendation:**

Forward a recommendation to TAC and to the STA Board to approve the Lifeline Advisory Committee's Funding Recommendations for allocation of Solano Lifeline Funding for Fiscal Year (FY) 2014-15 through FY 2016-17 as specified in Attachment A.

Attachment:

- A. Lifeline Advisory Committee Recommendations for Lifeline Funding 2015

Solano County Lifeline Advisory Committee Funding Recommendation

ATTACHMENT A

		STAF						
		2014	2015	2016				
Agency	Rank	Project Description	Requested Funding	Available Funds		Lifeline Committee Recommendation		
			\$ 668,858	\$ 674,934	\$ 630,115	\$ 1,973,907	Available Funds	
STA	1	Solano County Intercity Taxi Scrip Program	\$200,000	\$ 100,000	\$ 100,000	\$ 200,000	Ranked #1 and recommended funding	
FAST	2	East Tabor Ave Sidewalk Gap Closure	\$ 1,360,000	\$ 160,000		\$ 160,000	Recommended funding for first year. Committee felt other funding sources could be identified in future year. FAST staff presentation mentioned that first year funding would be able to move the project forward by demonstrating a local match commitment.	
SolTrans	3	Sustaining Route 85	\$ 975,000	\$ 244,161	\$ 272,467	\$ 277,558	\$ 794,186	Ranked #3 and recommended reduced funding
SolTrans	4	Sustaining Route 1	\$ 925,000	\$ 244,162	\$ 247,467	\$ 252,557	\$ 744,186	Ranked #4 and recommended reduced funding
FIA	5	Volunteer Driver Program 60 Years	\$ 246,035	\$ 20,535	\$ 55,000		\$ 75,535	Committee recommends funding the first year and 1/2 of the second year due to the funding lost of 5310 during that period. Committee feel confident 5310 funding will be obtained in future years and does not want to tie up funds as a bridge. Committee still want the funds to be on a contingency bases just in case Caltrans released unexpected funding.
FAST		FF/VV Intermodal Station FF Linear Park & Ped Infrastructure Access	\$ 1,750,000					Not recommended for funding. It was too speculative and low income not served.
			\$5,456,035	\$ 668,858	\$ 674,934	\$ 630,115	\$ 1,973,907	

		JARC						
		2014	2015	2016	Total			
Agency	Rank	Project Description	Requested Funding	Available Funds		Lifeline Committee Recommendation		
			\$ 551,442	\$ 277,612	\$ 282,054	\$ 1,111,108	Available Funds	
FAST		Sustaining Route 30 Saturday Service	\$ 84,060	\$ 28,020	\$ 28,020	\$ 28,020	\$ 84,060	Recommended funding
FAST		ADA Local Taxi Scrip Program	\$ 300,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 300,000	Support program sustainability and controlling cost. Does not support FAST service cut. Will support funding if services are continued as is (24/7).
SolTrans		Sustaining Route 2 (SCC-Vallejo)	\$ 560,389	\$ 278,121	\$ 140,014	\$ 142,254	\$ 560,389	Recommended funding
Vacaville		Sustaining FAST Route 20	\$ 166,659	\$ 82,713	\$ 41,640	\$ 42,306	\$ 166,659	Lifeline Committee recommends Route 20 since it has the highest low income riders at 75.6 % with an income of less than \$35,000 a year.
Pending STA Board approval on April 15, 2015			\$ 1,111,108				\$ 1,111,108	

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DATE : March 13, 2014  
TO: SolanoExpress Intercity Transit Consortium  
FROM: Robert Macaulay, Director of Planning  
RE: Solano Rail Facilities Plan Update

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**Background:**

The Solano Rail Facilities Plan was adopted in 1995, and was followed up the past twelve years by the 2003 Napa-Solano Passenger Rail Study. These documents have guided STA in identifying and prioritizing rail-related investments and interaction with the Capitol Corridor Joint Powers Authority (CCJPA).

The 1995 Plan was instrumental in helping determine the location of a second rail station in Solano County - the Fairfield/Vacaville station, to be located at the intersection of Peabody and Vanden Roads. Two other potential locations were also identified - downtown Dixon and Lake Herman Road in Benicia at Lake Herman Road near I-680.

In 2014, the STA Board approved developing an update to the 1995 Plan, in part to update priorities for rail stations and future service and rail freight priorities beyond the pending development of the new Fairfield/Vacaville Intermodal Station and its Capitol Corridor train stop. While the Plan update focuses on the passenger rail facilities along the main Union Pacific Railroad (UPRR), it also addresses passenger rail potential in the Vallejo area, and freight rail throughout Solano County. Initial scoping and development of the Plan update has been guided by a Rail Technical Advisory Committee (RTAC), made up of staff from affected jurisdictions and the CCJPA. Consultant support has been provided by McKenzie/McCrossan.

**Discussion:**

The RTAC, Consortium, TAC and Board have reviewed the existing conditions (facilities and ridership), freight rail and station location criteria of the Plan previously. The new chapters of the plan are future passenger facilities, safety and sea level rise adaptation. The main recommendations of the updated Plan are:

- During the next ten years, the priority is implementation of the pending Fairfield/Vacaville station and upgrade of the current Suisun/Fairfield Train Depot. After ten years, update the Solano Rail Facilities Plan and evaluate Solano and system-wide ridership and on-time performance data and re-examine the viability of an additional train station in downtown Dixon.
- Encourage the development of more integrated land uses and enhanced transit and bike/pedestrian connectivity around the existing Suisun Fairfield and pending Fairfield/Vacaville train stations in order to maintain and steadily increase ridership at both stations.

- Work closely with local transit providers to ensure coordinated bus service for residents of Fairfield, Suisun City and Vacaville, and employees at Travis Air Force Base and other nearby large employment centers, directly to the new Fairfield/Vacaville station
- Allow for private rail providers to take the lead for potential passenger rail service in the Vallejo/Napa corridor.
- Focus rail safety investments first and foremost on the Tabor Avenue crossing in Fairfield.
- Closely track state and federal actions on rail car and facility safety, especially in regards to Crude By Rail shipments into and through Solano County.
- Be prepared to deal with sea level rise issues as part of a larger regional approach to dealing with climate change.
- Consider pursuing national Amtrak service be provided at one of the rail stations.

The draft Plan will be reviewed by the RTAC and TAC on March 25, and forwarded to the STA Board for consideration on April 15. If adopted, the updated Plan will serve as the basis for STA rail decisions until it is updated (anticipated in 2025).

**Recommendation:**

Forward the draft 2015 Solano Rail Facilities Plan to the TAC and STA Board with a recommendation to release for review and comment as provided as Attachment A.

**Attachments:**

- A. Solano Rail Facilities Draft Plan Update (To be provided under separate cover.)



DATE: March 13, 2015  
TO: SolanoExpress Intercity Transit Consortium  
FROM: Liz Niedziela, Transit Program Manager  
RE: SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan

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**Background:**

On an annual basis, the SolanoExpress Intercity Transit Consortium reviews and updates its annual Work Plan. In 2014, there was a number of key local and regional transit planning activities and projects that the Consortium was involved with, ranging from transit service and funding to planning and marketing.

**Discussion:**

STA staff presented the SolanoExpress Intercity Transit Consortium Draft Work Plan 2015 for the Consortium's review (Attachment A) at the Consortium meeting in February. In the 2015 Draft Work Plan, several completed items have been removed and new projects have been added. STA staff requested comments no later than March 11th in order to prepare the 2015 Draft Work Plan for the March 24<sup>th</sup> Consortium meeting. STA staff received no comments and is presenting the SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan as shown in Attachment B for approval.

**Fiscal Impact:**

None.

**Recommendation:**

Forward a recommendation to the TAC and STA Board to approve the SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan as shown in Attachment B.

Attachments:

- A. SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan showing changes
- B. SolanoExpress Intercity Transit Consortium 2015 Draft Work Plan

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2015 SolanoExpress Intercity Transit Consortium  
Draft Work Plan

(February 2015)

**Transit Service:**

- Evaluation of intercity transit services performance; prioritize, and implement intercity transit service changes.
- Monitor SolanoExpress intercity transit services
- Monitor facilities development that support SolanoExpress intercity transit services
- Discuss local transit issues and be mindful of harmonizing local and intercity transit needs
- Implement Lifeline project priorities.
- Identify and facilitate joint agency transit projects
- Monitor implementation of ~~new~~ intercity ADA paratransit services Phase I and identify funding opportunities for Phase II
- ~~Implement Early Delivery of Clipper~~

**Transit Planning and Coordination**

- Update I-80/I-680/I-780/Hwy 12 Transit Corridor Study – Phase 2
- ~~Conduct a Intercity Ridership Survey as per the Intercity Funding Agreement~~
- Conduct a Update Countywide Coordinated SRTP
- Transit Coordination
  - ✓ Different Fare Structure and Discounts/Standard Fare Structure/Fare Reconciliation;
  - ✓ Separate ADA Contractors, Eligibility and Rules/Joint Contracting/Eligibility Determination of ADA Paratransit;
  - ✓ Enhanced Transit Coordination of Capital Planning
  - ✓ Enhanced Coordination of Transit Service Planning; and
  - ✓ An analysis of transit connectivity to the Colleges in Solano County. The Colleges would include Touro University, Maritime Academy, and the three Solano Community Colleges in Solano County (Fairfield, Vacaville, and Vallejo).
  - ✓ Integrate bus/rail scheduling software to facilitate schedule coordination and customer travel planning. Establish a regional schedule change calendar.
- ~~Complete a Solano Transit Sustainability Plan of All Operators~~
- Conduct a CNG Feasibility Study for SolTrans and Benicia and assist with Dixon's Study
- ~~Complete a Countywide Mobility Management Plan~~
- Provide ~~and update survey and~~ input into Comprehensive Transportation Plan update including other studies
- Participate in the implementation of MTC's Transit Rideshare Element of Transit Connectivity Study, specifically the Transit Element
- ~~Monitor and coordinate with the new transit entity, SolTrans~~
- Implement coordination strategies following completion of Transit Sustainability and Transit Corridor Studies
- Monitor MTC's Regional Transit Sustainability Project
- Provide input into other county and regional transit planning efforts
- Update countywide transit capital inventory
- Implement and monitor Seniors and People with Disabilities Priorities

~~The highlighted sections are new items added to the list~~

- ✓ Intercity Taxi Script Phase II
- ✓ Mobility Management Plan
- ✓ Countywide In person ADA Eligibility
- ✓ Travel Training/Ambassador Program
- ✓ Older Driver Safety Program information system
- ✓ Coordination with Dialysis Centers
- ✓ One Stop Transportation Call Center and Website

- Coordinate in the Development of STA's Consolidated Transportation Services Agency
- Coordinate with Solano Community College in the development and establishment of a new student fee for transit.

## Funding

- ~~Finalize the FY 2012 2013 Intercity Transit Funding Agreement~~
- Monitor the implementation of the Intercity Transit Funding Agreement
- Maximize Regional Measure (RM) 2, Prop 1B, 5310, 5311, Lifeline and other funding opportunities and work with STA to set priorities for capital and operating
- Implement and monitor Lifeline Funding Program
- Monitor and provide input into legislation to ensure adequate levels of transit funding
- Monitor and provide input into regional policy development to ensure adequate levels of transit funding.
- Update TDA matrix
- Work with Solano County to identify priorities for future County TDA funds to be dedicated to transit.
- Develop and Update the funding strategy plan for SolanoExpress Bus Replacements as needed
- Prioritize Review status of projects for the transit component for the Regional Transportation Impact Fee (RTIF)
- Develop Funding List to assist in funding transit priorities projects
  - ✓ Federal Section 5311
  - ✓ Lifeline Funding
  - ✓ STAF (Population Based)
  - ✓ STAF Regional
  - ✓ Prop 1B (Population Based)
  - ✓ ~~TDA Solano County~~

## Marketing of Transit Services and Programs

- Participate in the updating of SolanoExpress marketing.
- Plan, prioritize, and implement marketing support for intercity transit services including display of intercity route schedule information at key bus stops.
- Coordinate and participate in countywide and regional transit marketing activities.
- Update, print, and distribute SolanoExpress brochure, wall maps, website and other materials.

~~The highlighted sections are new items added to the list~~

2015 SolanoExpress Intercity Transit Consortium  
Draft Work Plan

(March 2015)

**Transit Service:**

- Evaluation of intercity transit services performance; prioritize, and implement intercity transit service changes.
- Monitor SolanoExpress intercity transit services
- Monitor facilities development that support SolanoExpress intercity transit services
- Discuss local transit issues and be mindful of harmonizing local and intercity transit needs
- Implement Lifeline project priorities.
- Identify and facilitate joint agency transit projects
- Monitor implementation of new intercity ADA paratransit services Phase I and identify funding opportunities for Phase II

**Transit Planning and Coordination**

- Update I-80/I-680/I-780/Hwy 12 Transit Corridor Study – Phase 2
- Update Countywide Coordinated SRTP
- Transit Coordination
  - ✓ Different Fare Structure and Discounts/Standard Fare Structure/Fare Reconciliation;
  - ✓ Separate ADA Contractors, Eligibility and Rules/Joint Contracting/Eligibility Determination of ADA Paratransit;
  - ✓ Enhanced Transit Coordination of Capital Planning
  - ✓ Enhanced Coordination of Transit Service Planning; and
  - ✓ An analysis of transit connectivity to the Colleges in Solano County. The Colleges would include Touro University, Maritime Academy, and the three Solano Community Colleges in Solano County (Fairfield, Vacaville, and Vallejo).
  - ✓ Integrate bus/rail scheduling software to facilitate schedule coordination and customer travel planning. Establish a regional schedule change calendar.
- Provide input into Comprehensive Transportation Plan update including other studies
- Participate in the implementation of MTC's Transit Rideshare Element of Transit Connectivity Study, specifically the Transit Element
- Implement coordination strategies following completion of Transit Sustainability and Transit Corridor Studies
- Monitor MTC's Regional Transit Sustainability Project
- Provide input into other county and regional transit planning efforts
- Update countywide transit capital inventory
- Implement and monitor Seniors and People with Disabilities Priorities
  - ✓ Intercity Taxi Script Phase II
  - ✓ Mobility Management Plan
  - ✓ Countywide In person ADA Eligibility
  - ✓ Travel Training/Ambassador Program
  - ✓ Older Driver Safety Program information system
  - ✓ Coordination with Dialysis Centers
  - ✓ One Stop Transportation Call Center and Website

- Coordinate in the Development of STA’s Consolidated Transportation Services Agency
- Coordinate with Solano Community College in the development and establishment of a new student fee for transit.

### **Funding**

- Monitor the implementation of the Intercity Transit Funding Agreement
- Maximize Regional Measure (RM) 2, Prop 1B, 5310, 5311, Lifeline and other funding opportunities and work with STA to set priorities for capital and operating
- Implement and monitor Lifeline Funding Program
- Monitor and provide input into legislation to ensure adequate levels of transit funding
- Monitor and provide input into regional policy development to ensure adequate levels of transit funding.
- Update TDA matrix
- 
- Develop and Update the funding strategy plan for SolanoExpress Bus Replacements as needed
- Review status of projects for the transit component for the Regional Transportation Impact Fee (RTIF)
- Develop Funding List to assist in funding transit priorities projects
  - ✓ Federal Section 5311
  - ✓ Lifeline Funding
  - ✓ STAF (Population Based)
  - ✓ STAF Regional
  - ✓ Prop 1B (Population Based)

### **Marketing of Transit Services and Programs**

- Participate in the updating of SolanoExpress marketing.
- Plan, prioritize, and implement marketing support for intercity transit services including display of intercity route schedule information at key bus stops.
- Coordinate and participate in countywide and regional transit marketing activities.
- Update, print, and distribute SolanoExpress brochure, wall maps, website and other materials.



DATE: March 16, 2015  
TO: SolanoExpress Intercity Transit Consortium  
FROM: Elizabeth Romero, Transit Program Manager  
RE: SolTrans Reduced ADA Paratransit Certified Fare

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At SolTrans request, the following staff report and supporting documents have been added to the Consortium agenda as an item for action. SolTrans staff report is attached.

**Recommendation:**

Forward a recommendation to the STA Board to:

1. Authorize SolTrans to charge ADA Paratransit Certified Clients and Personal Care Attendants (PCAs) a \$0.50 per ride cash fare each on the Solano Express Routes 78, 80 and 85 under a 3-year pilot program from the date of implementation through FY 2018, per attachment Attachment C; and
2. Request SolTrans provide annual reports to the Consortium and STA Board.

Attachments:

- A. SolTrans Staff Report - Approve a Reduced ADA Paratransit Certified Fare

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**TO:** STA SOLANO EXPRESS INTERCITY TRANSIT CONSORTIUM  
**PRESENTER:** ELIZABETH ROMERO, ACTING PLANNING & OPERATIONS  
 MANAGER  
**SUBJECT:** APPROVE A REDUCED ADA PARATRANSIT CERTIFIED FARE  
**ACTION:** ACTION

---

**ISSUE:**

As part of the SolTrans Regional Paratransit Policy development, SolTrans is putting forth a proposal for an ADA Paratransit Reduced Fare of \$0.50 on Solano Express Routes 78, 80 and 85 as a 3-year pilot.

**DISCUSSION:**

SolTrans will no longer operate ADA Plus trips outside of its ADA mandated paratransit service area in Vallejo and Benicia, beginning Spring 2015. SolTrans has been developing a Regional Paratransit Policy and conducting outreach to the public, and connecting operators to provide regional paratransit riders with alternative options.

The alternatives include the Solano Intercity Taxi Scrip Program, a limited shuttle with up to three daily trips to Fairfield, based on demand from ADA registrants in Vallejo and Benicia, and local paratransit feeder to Solano Express fixed route connections.

To make transferring from paratransit to Solano Express more attractive as an alternative, SolTrans staff has been asked to consider a reduced fare. Survey responses (see Attachment A) from 15 unique regional paratransit riders suggest that of the total 15 responses said yes to being willing to try feeder-to-fixed-route connections to Solano Express Routes 78, 80, or 85. From this we can infer that everyone who took the survey is willing to transfers to the fixed route relevant for their trip, since the number of positive responses equals the number of people surveyed. Furthermore, the majority indicated they would be encouraged to try Solano Express transfers if the fare was more affordable than regional paratransit, as shown in Attachment A.

The potential for feeder to fixed route transfers would be limited to passengers who are able to make the trip on fixed route independently, or with an attendant. SolTrans expects that the number of paratransit transfers to Solano Express Routes 78, 80, and 85 would be low, as summarized in the analysis in Attachment B.

Based on an annual total of 2,526 regional paratransit trips served by SolTrans in 2014, staff estimates the potential trips transferred to fixed route could be approximately 100 to 150 annual passenger trips. This includes ADA Paratransit riders and their attendants, assuming a 5% transfer rate, and that up to half of passengers may ride with an attendant. This factors in all the transfers that could occur to Routes 78, 80 and 85 in both directions, either to or from the SolTrans service area (i.e., this captures potential transfer activity that could be generated by FAST, East Bay Paratransit, County Connection, WestCAT, and Whistlestop to these Solano Express Routes.)

The Proposed Solano Express Reduced Fare Pilot is outlined in Attachment C. Under this pilot, passengers would save \$2 per one-way trip, or \$1.50 if traveling with an attendant. Personal Care Attendants (PCAs) would ride free on the local paratransit feeder, as per the law. The program would have no significant impact on Solano Express, while providing additional travel choices for ADA certified clients.

**FISCAL IMPACT:**

Impact would be negligible to Solano Express revenue and farebox recovery as transfer numbers would be low, and would bring new revenue to the fixed route system.

**RECOMMENDATIONS:**

1. Approve SolTrans to charge ADA Paratransit Certified Clients and Personal Care Attendants a \$0.50 per ride cash fare each on the Solano Express Routes 78, 80 and 85 under a 3-year pilot program from the date of implementation through FY 2018, per Attachment C.
2. Provide annual reports to the Consortium and SolTrans Board from the date of implementation with a recommendation to suspend, adjust or continue the pilot program, given the intent to maximize mobility options for paratransit certified clients.

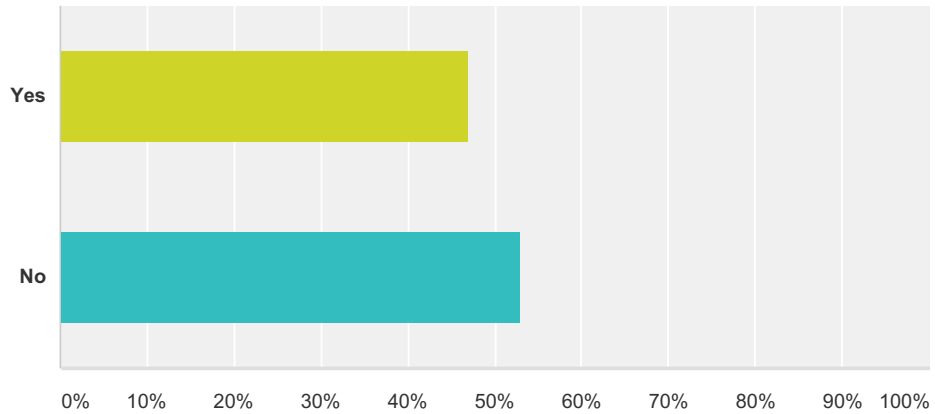
Attachments:

- A. SolTrans Regional Paratransit Rider Survey (includes residents of other operators)
- B. Ridership and Fare Analysis
- C. Proposed Solano Express Reduced Fare Pilot for ADA Paratransit Transfers



**Q1 1. If SolTrans Regional Paratransit Service was discontinued, would you consider using a SolTrans ADA Paratransit connection to Fixed Route 85 to Fairfield for FAST DART Paratransit or FAST Fixed Route? As well as for the return trip? (This is called “feeder-to-fixed route” service.)**

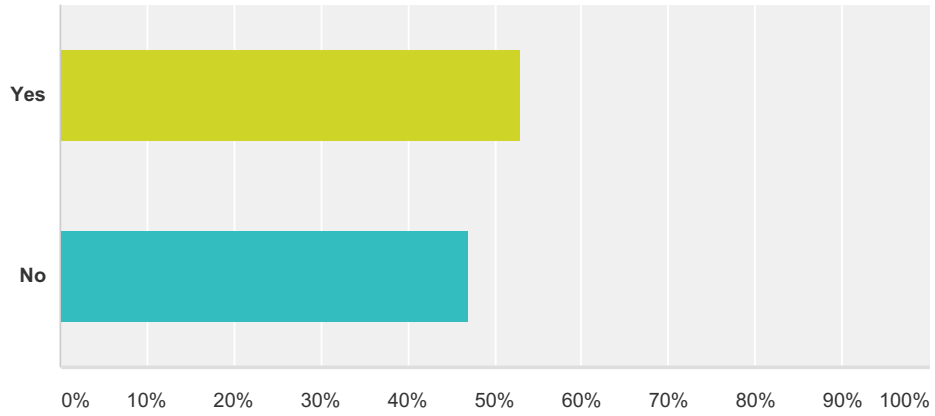
Answered: 17 Skipped: 4



Answer Choices	Responses	
Yes	47.06%	8
No	52.94%	9
<b>Total</b>		<b>17</b>

### Q2 Would you consider using a SolTrans Grouped Regional Shuttle for FAST DART Paratransit connections to Fairfield?

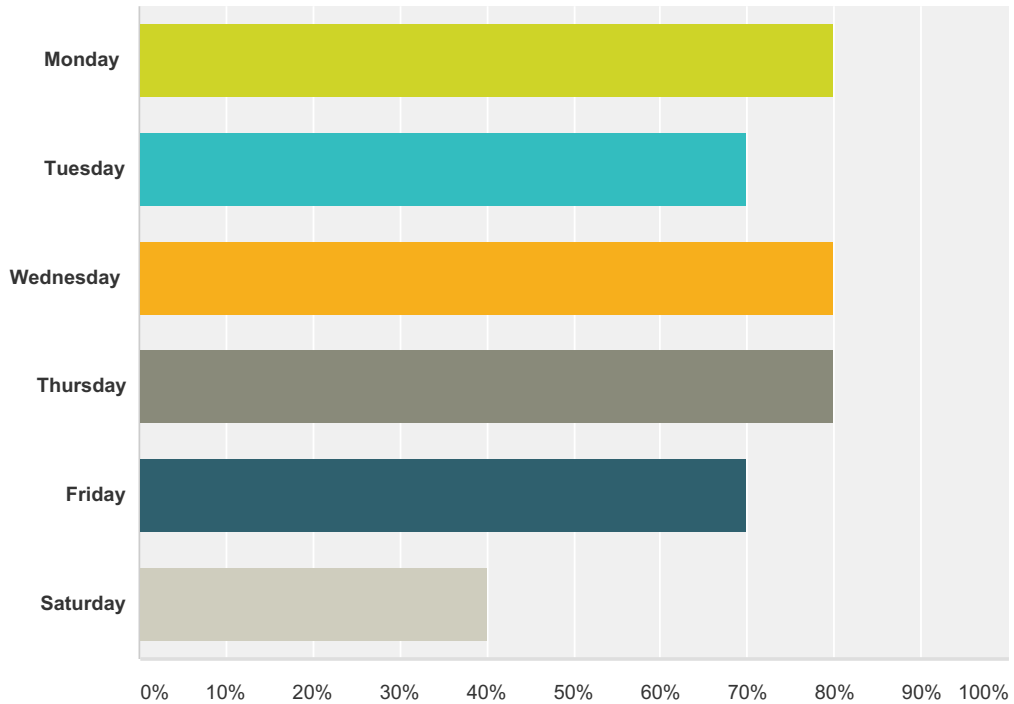
Answered: 17 Skipped: 4



Answer Choices	Responses
Yes	52.94% 9
No	47.06% 8
<b>Total</b>	<b>17</b>

**Q3 If such a shuttle was developed to run only a limited number of trips to/from Fairfield, what days would you need to travel?**

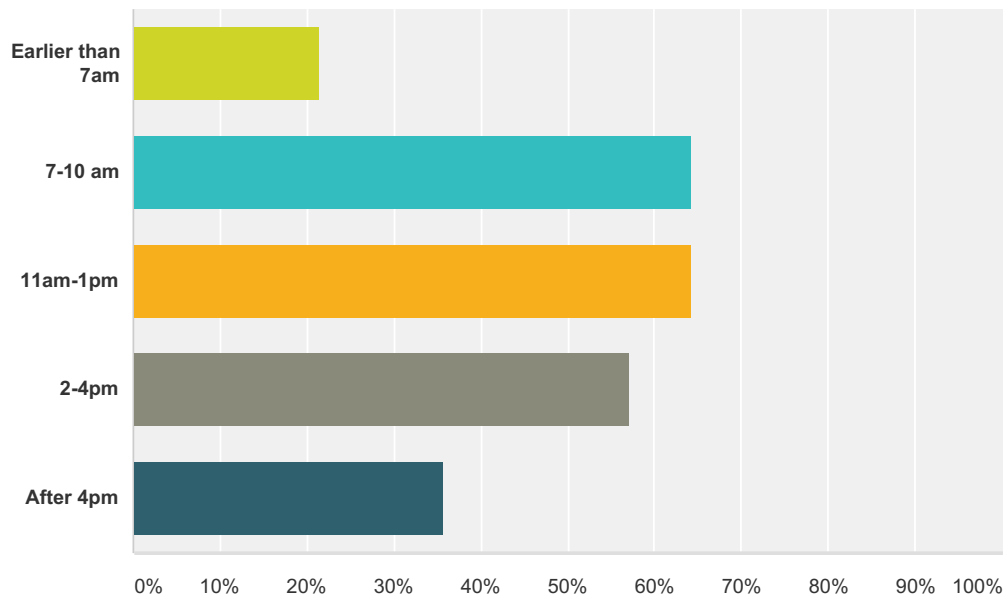
Answered: 10 Skipped: 11



Answer Choices	Responses
Monday	80.00% 8
Tuesday	70.00% 7
Wednesday	80.00% 8
Thursday	80.00% 8
Friday	70.00% 7
Saturday	40.00% 4
<b>Total Respondents: 10</b>	

### Q4 What times would you prefer to travel on such a shuttle?

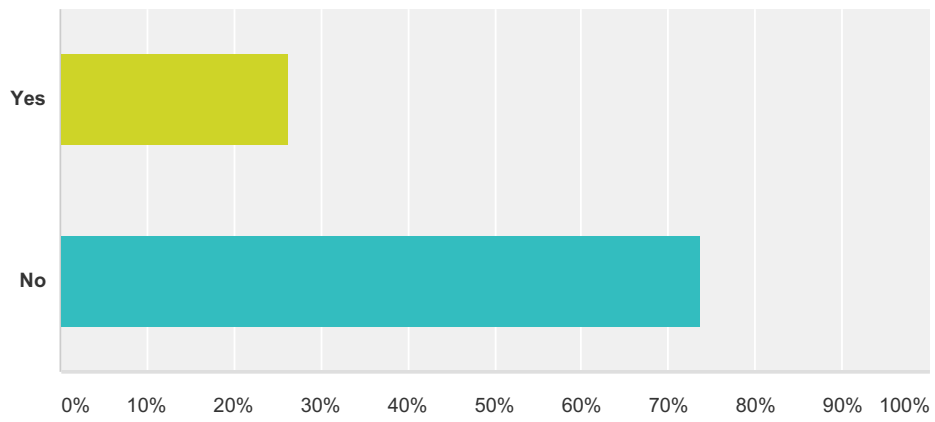
Answered: 14 Skipped: 7



Answer Choices	Responses
Earlier than 7am	21.43% 3
7-10 am	64.29% 9
11am-1pm	64.29% 9
2-4pm	57.14% 8
After 4pm	35.71% 5
<b>Total Respondents: 14</b>	

### Q5 Are you an Intercity Taxi Scrip Program user?

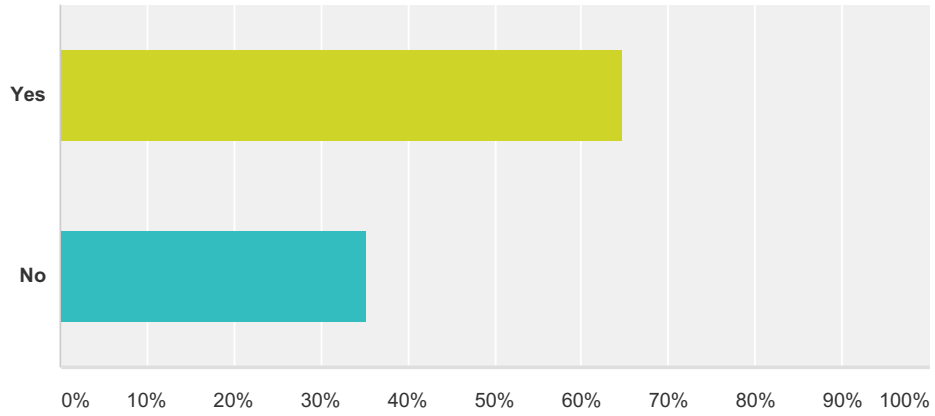
Answered: 19 Skipped: 2



Answer Choices	Responses
Yes	26.32% 5
No	73.68% 14
<b>Total</b>	<b>19</b>

### Q6 If not a current user would you consider this reduced taxi fare program to meet your regional travel needs?

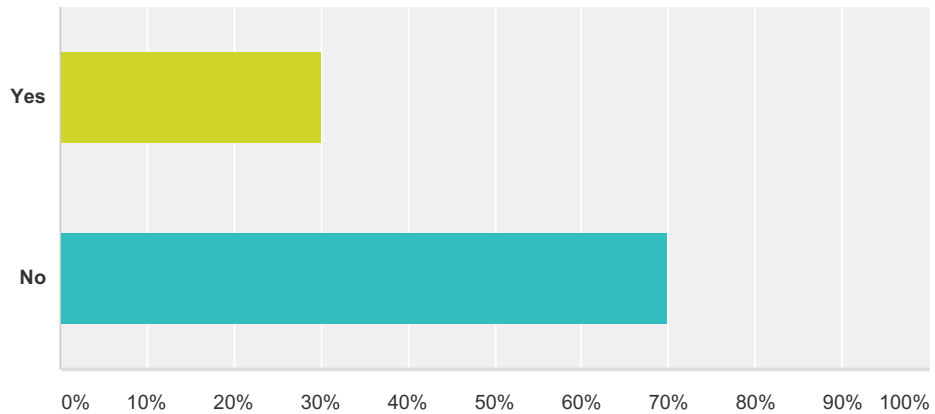
Answered: 17 Skipped: 4



Answer Choices	Responses	
Yes	64.71%	11
No	35.29%	6
<b>Total</b>		<b>17</b>

**Q7 If SolTrans Regional Paratransit Service was discontinued, would you consider using a SolTrans ADA Paratransit connection to Fixed Route 78 to Walnut Creek BART for connections to BART or County Connection LINK Paratransit? In addition, this route will begin providing direct service to Sun Valley Mall and Diablo Valley College in late January 2015.**

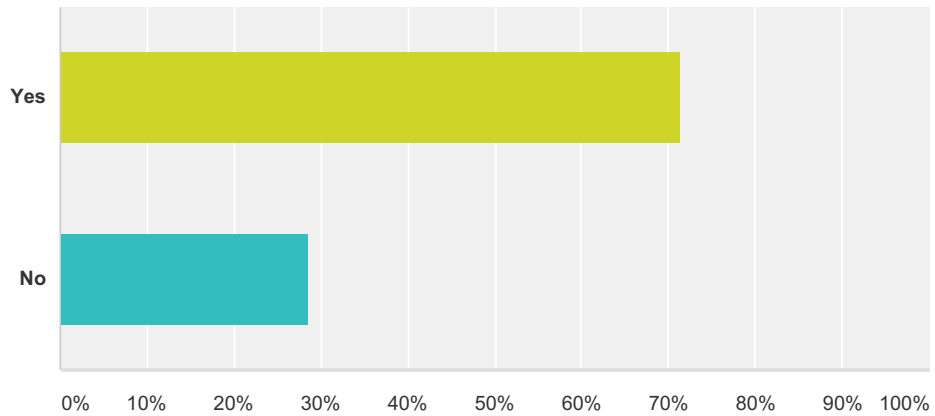
Answered: 10 Skipped: 11



Answer Choices	Responses
Yes	30.00% 3
No	70.00% 7
<b>Total</b>	<b>10</b>

**Q8 If SolTrans Regional Paratransit Service was discontinued, would you consider using a SolTrans ADA Paratransit connection to Fixed Route 80 to El Cerrito del Norte BART for connections to BART, East Bay Paratransit, and Golden Gate/Marin Transit Whistlestop Paratransit, or WestCAT Paratransit?**

Answered: 14 Skipped: 7

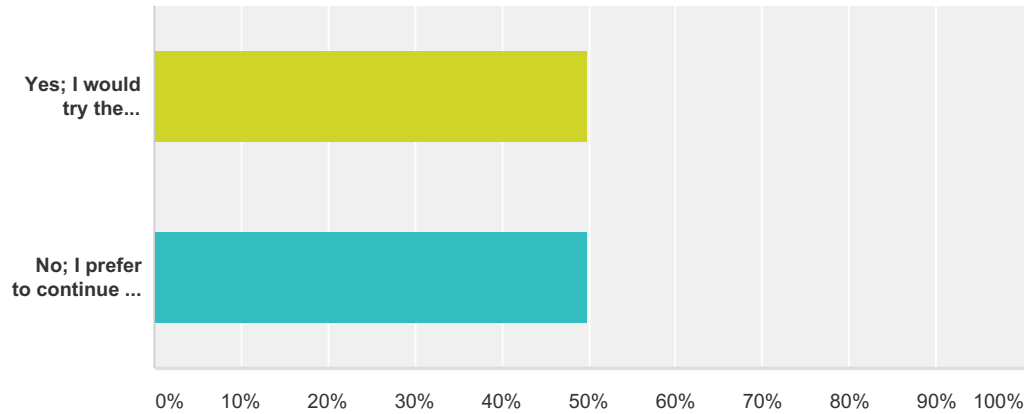


Answer Choices	Responses
Yes	71.43% 10
No	28.57% 4
<b>Total</b>	<b>14</b>



### Q9 Would you consider using a SolTrans ADA Paratransit connection to NapaVine Route 11 for more travel time options, or do you prefer to continue to transfer to VineGo Paratransit?

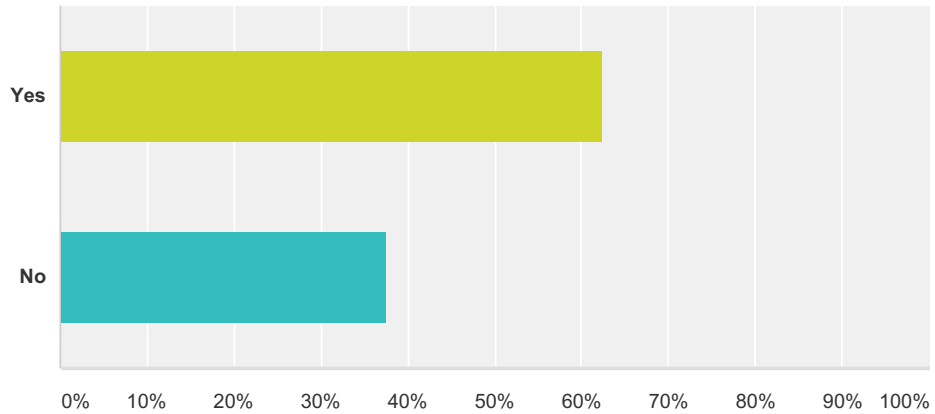
Answered: 8 Skipped: 13



Answer Choices	Responses
Yes; I would try the SolTrans ADA Paratransit to fixed route transfer	50.00% 4
No; I prefer to continue to transfer to VineGo Paratransit in Vallejo	50.00% 4
<b>Total</b>	<b>8</b>

**Q10 Would you be willing to try the feeder-Paratransit connections described in Questions 1, 7, 8 and 9 to fixed route, if the fare was more affordable than your current regional Paratransit fare?**

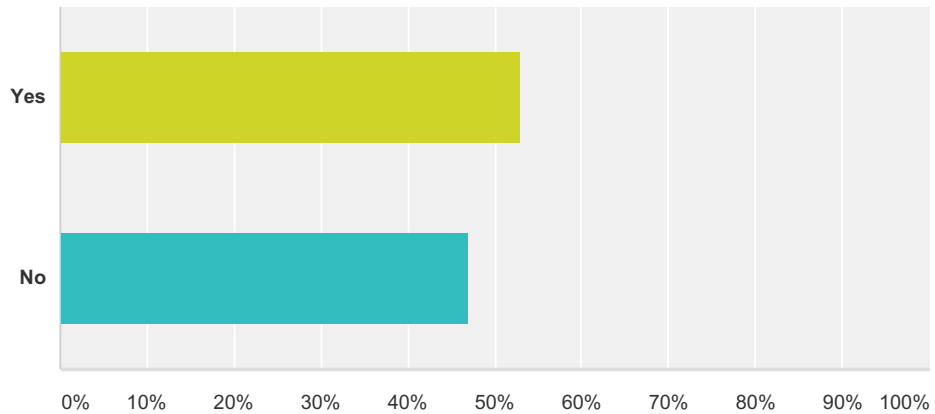
Answered: 16 Skipped: 5



Answer Choices	Responses
Yes	62.50% 10
No	37.50% 6
<b>Total</b>	<b>16</b>

**Q11 Fixed route can be an affordable and flexible alternative with multiple trips operating all day. Would you consider one-on-one travel training to help you try this option if appropriate for some of your travel needs? This is training that could be used for riders traveling alone or with Personal Care Attendants, where all of SolTrans' buses are fully accessible.**

Answered: 17 Skipped: 4



Answer Choices	Responses
Yes	52.94% 9
No	47.06% 8
<b>Total</b>	<b>17</b>

**Q12 12. Please provide your contact information to receive further information. Two proposed service change meetings for this policy are planned for January 2015; please see the website or enclosed flier for details.**

Answered: 21 Skipped: 0

Answer Choices	Responses	
Name	100.00%	21
Company	0.00%	0
Address	66.67%	14
Address 2	0.00%	0
City/Town	76.19%	16
State/Province	76.19%	16
ZIP/Postal Code	71.43%	15
Country	0.00%	0
Email Address	19.05%	4
Phone Number	76.19%	16

Ridership and Fare Analysis

Table 1. 2014 Annual Regional Paratransit Ridership on SolTrans System and Potential Transfers to Solano Express

SolTrans Regional Paratransit Transfers with Partner Agencies	TO Para Trips	FROM Para Trips	Total One-way ADA Plus Passenger Trips	Potential Transfer Opportunities to Solano Express Fixed Route	Assume Mode Shift/Transfer Rate of 5%	Assume Trips with Personal Care attendants at 50%
East Bay	449	390	839	Route 80	42	
FAST	280	250	530	Route 85	27	
WestCAT	157	60	217	Route 80	11	
County Connection	113	93	206	Route 78	10	
Whistlestop	6	7	13	Route 80	1	
Napa	341	380	721	N/A	N/A	
<b>TOTAL TRIPS</b>	1346	1180	2526		90	145

Table 2. Total One-way Premium Fare using Existing Regional Paratransit Transfers, between Two Transit Operators

FROM	TO			
SolTrans Regional Transfer Fare	Connecting Operator	Connecting Operator Local Fare	Connecting Operator Regional Fare	Total One-way Regional Para Transfers
\$5.50	East Bay	\$4	\$6-10	\$9.50-\$15.50
\$5.50	FAST	\$3.50	\$5.50	\$9.00-\$11.00
\$5.50	WestCAT	\$3	N/A	\$8.50
\$5.50	County Connection	\$4	N/A	\$9.50
\$5.50	Whistlestop	N/A	\$8.75	\$14.25

Note: Passenger fare would be the same in both directions, as the Solano Express Reduced ADA Certified Fare would apply to all paratransit transfers to approved Solano Express Routes, whether traveling outbound (FROM) or inbound ( TO) towards the SolTrans service area.

**Table 3. Total One-way Fare with Proposed Reduced Solano Express Fare Pilot and ADA Local Paratransit Transfers, between Two Transit Operators**

FROM		TO				FARE DIFFERENCE	
SolTrans Local Fare	Solano Express Proposed Pilot ADA Fare	Connecting Operator	Connecting Operator Local Fare	Connecting Operator Regional Fare	Total One-way Local Feeders to Solano Express Fixed Route	Passenger Savings per trip compared to regional paratransit	New Solano Express Revenue per passenger trip
\$3	\$0.50	East Bay	\$4	\$6-10	\$7.50-\$13.50	\$2	\$0.50
\$3	\$0.50	FAST	\$3.50	\$5.50	\$7.00-\$9.00	\$2	\$0.50
\$3	\$0.50	WestCAT	\$3	N/A	\$6.50	\$2	\$0.50
\$3	\$0.50	County Connection	\$4	N/A	\$7.50	\$2	\$0.50
\$3	\$0.50	Whistlestop	N/A	\$8.75	\$12.25	\$2	\$0.50

Note: Passenger fare would be the same in both directions, as the Solano Express Reduced ADA Certified Fare would apply to all paratransit transfers to approved Solano Express Routes, whether traveling outbound (FROM) or inbound ( TO) towards the SolTrans service area.

**Proposed Solano Express Reduced Fare Pilot for ADA Paratransit Transfers  
Three-Year Pilot**

- **Solano Express Pilot Routes:** 78, 80, 85
- **Pilot Period:** from April 2015 through June 2018, for three complete fiscal years
- **Fare:** \$0.50 cash one-way fare for ADA Certified Riders on Solano Express fixed route
- **Personal Care Attendant Fare:** Same as ADA Certified Rider, \$0.50 cash one-way fare on Solano Express
- **Validity:** Must show valid ADA Paratransit picture ID
- **Review Cycle:** Annually; present an update to the Consortium and SolTrans Board
- **Reporting & Monitoring:** SolTrans shall report on ADA Certified registrant and PCA ridership on Solano Express Routes operated by SolTrans on an annual basis, with a recommendation to suspend, continue or expand the pilot to maximize mobility options for ADA paratransit certified clients. For example, the pilot could be extended to all ADA Certified trips on Solano Express, not just the initial three Solano Express routes in this pilot.

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DATE: March 13, 2015  
TO: SolanoExpress Intercity Consortium  
FROM: Jayne Bauer, Marketing and Legislative Program Manager  
RE: Legislative Update

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**Background:**

Each year, STA staff monitors state and federal legislation that pertains to transportation and related issues. On December 10, 2014, the STA Board approved its 2015 Legislative Priorities and Platform to provide policy guidance on transportation legislation and the STA's legislative activities during 2015.

Monthly legislative updates are provided by STA's State and Federal lobbyists for your information (Attachments A and B). An updated Legislative Bill Matrix listing state bills of interest is available at <http://tiny.cc/staleg>.

**Discussion:**

Assembly Member Jim Frazier has introduced Assembly Bill [\(AB\) 194](#) (Attachment E), which would authorize a regional transportation agency to apply to the California Transportation Commission to operate a high-occupancy toll (HOT) lane. This bill further requires that a regional transportation agency "consult" with any local transportation authority such as STA prior to applying for a HOT lane if any portion of the lane exists in the local transportation authority's jurisdiction. This bill also specifically does not authorize the conversion of a mixed-flow lane into a HOT lane. STA staff is in discussion on this topic with the Bay Area Congestion Management agencies and with the Metropolitan Transportation Commission staff. Staff recommends a position of *support in concept*.

**Fiscal Impact:**

None.

**Recommendation:**

Recommend the STA Board take the following position:

- Assembly Bill (AB) 194 (Frazier) - authorize a regional transportation agency to apply to the California Transportation Commission to operate a high-occupancy toll (HOT) lane;  
*Support in concept*

Attachments:

- A. State Legislative Update
- B. Federal Legislative Update
- C. AB 194 (Frazier)

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**SHAW/YODER/ANTWIH, inc.**  
 LEGISLATIVE ADVOCACY • ASSOCIATION MANAGEMENT

March 4, 2015

TO: Board of Directors, Solano Transportation Authority

FM: Joshua W. Shaw, Partner  
 Matt Robinson, Legislative Advocate  
 Shaw / Yoder / Antwih, Inc.

RE: **STATE LEGISLATIVE UPDATE – March 2015**

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***Legislative Update***

February 27 marked the last day for members of the Legislature to introduce bills for consideration in the first year of the 2015-16 Legislative Session. In total, 1,569 Assembly bills and 839 Senate bills were introduced by the deadline. We have flagged several bills for STA's consideration and discuss some of the more relevant bills under ***Bills of Interest***, below. The Legislature breaks for Spring Recess on March 26.

***Gasoline Excise Tax Lowered By Board of Equalization***

On February 24, the Board of Equalization (BOE) took an action, which would take effect on July 1, 2015, to lower the excise tax on gasoline from 18 cents a gallon to 12 cents a gallon. This action could reduce transportation funding by an estimated \$1 billion in 2015-16, which will directly impact local streets and roads, state highways, and mass transportation.

Pursuant to the 2010 "Gas Tax Swap," which reduced the sales tax on gasoline and replaced it with an additional excise tax, the BOE is statutorily required to adjust the state excise tax on gasoline so that it equals the anticipated revenue that would have been generated by the sales tax on gasoline. Due to the recent decline in the price of gasoline (projected by BOE to have a base price of \$2.66 per gallon), the sales tax revenue that would have been produced is projected to decline. In order to keep the gas taxes revenue neutral, BOE is required to lower the "swap-based" excise tax from the 2014-15 rate of 18 cents per gallon to 12 cents per gallon in 2015-16.

Revenue from the "swap-based" excise tax is used to support the loss of weight fee revenues in the State Highway Account (approximately \$1 billion in 2014-15), with what remains distributed on a formula basis to cities and counties for local streets & roads (44 percent), the STIP (44 percent), and the SHOPP (12 percent). The BOE's action would result in revenues from the excise tax dropping from \$2.6 billion in 2014-15 to \$1.6 billion in 2015-16, leaving an estimated \$600 million for the aforementioned formula split after weight fees are transferred.

**SB 321** has been introduced by Senator Jim Beall, Chair of the Senate Transportation and Housing Committee, to address future fluctuations in the excise tax. We provide further information on this bill

Tel: 916.446.4656  
 Fax: 916.446.4318  
 1415 L Street, Suite 1000  
 Sacramento, CA 95814

below under ***Bills of Interest***. A coalition of public agencies and transportation interest groups has emerged to deal with this revenue decline; we participate in that effort, and we will continue to engage members of the Legislature, the Administration, and BOE on this issue.

***Assembly Democratic Leadership Transportation Funding Package***

Assembly Speaker Toni Atkins (D-San Diego) announced her intention that the Assembly develop a comprehensive transportation funding package, including: the repayment of vehicle weight fees; early repayment of outstanding transportation loans; and, the creation of a new Road User Charge as a fee on vehicle registrations in state (not to be confused with the mileage-based fee the Administration is working on). We will update the STA as this proposal comes to fruition.

***The Administration Proposes Managed Lanes and Highway Relinquishments***

Last month, the California State Transportation Agency (CalSTA) released draft language for two potential budget trailer bills related to managed lanes and highway relinquishments. The first would follow one of the recommendations in CalSTA's California Transportation Infrastructure Priorities report by eliminating the cap on the number of managed lanes in California and allowing Caltrans and regional transportation agencies to apply to the CTC to establish "toll facilities" on state highways, which include high occupancy toll lanes, express toll lanes, & toll roads, as well as allow for the financing of these facilities through the sale of bonds. Conditions are placed on the use of revenues generated from the tolls collected and all revenues must be used in the corridor from which they are collected. The proposal defines corridor to mean "the state highway or highways, where tolls could be collected" and allows revenues to be used for "transportation systems and facilities that affect the travel performance of, reliability of, or access to those highways or provide another mode of transportation on or within the vicinity of those highways."

The second proposal would establish a general authorization for Caltrans and the CTC to relinquish state highways to cities and counties for those highways deemed to present more of a regional significance. The goal of the Administration's proposal is to streamline the relinquishment process and deter the Legislature from introducing one-off bills dealing with specific segments of the state highway system.

***Cap and Trade Programs Underway***

The Governor's Budget proposes \$1 billion in Cap and Trade spending in 2015-16, with 60 percent of that funding earmarked for transportation programs, including the high-speed rail project. The Legislative Analyst's Office, in its review of the Governor's Budget, argues that the administration's estimate is far too low and that Cap and Trade revenues will likely be in excess of \$2 billion.

Concept proposals for **the Affordable Housing and Sustainable Communities (AHSC) Program** were due February 19. The Strategic Growth Council is now reviewing the concept proposals and will invite applicants to submit full proposals by March 11, with the full proposal application due April 15. The Council anticipates awarding projects in June.

The final guidelines for the **Transit and Intercity Rail Capital Program** were released on February 6 and CalSTA issued the call for projects shortly thereafter. Project applications are due to CalSTA by April 10, with projects awarded in June.

### ***Bills of Interest***

#### **ACA 4 (Frazier) Lower-Voter Threshold for Transportation Taxes**

This bill would lower voter approval requirements from two-thirds to 55 percent for the imposition of special taxes used to provide funding for transportation purposes. ***We recommend the STA Board adopt a SUPPORT position on this bill.***

#### **AB 4 (Linder) Vehicle Weight Fees**

This bill would prohibit vehicle weight fee revenues from being transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds, and would also prohibit loans of weight fee revenues to the General Fund. This bill would sunset on January 1, 2020.

#### **AB 194 (Frazier) Managed Lanes**

This bill would authorize a regional transportation agency to apply to the California Transportation Commission to operate a high-occupancy toll (HOT) lane. This bill further requires that a regional transportation agency “consult” with any local transportation authority (e.g. STA) prior to applying for a HOT lane if any portion of the lane exists in the local transportation authority’s jurisdiction. This bill also specifically does not authorize the conversion of a mixed-flow lane into a HOT lane.

#### **AB 227 (Alejo) Vehicle Weight Fees**

This bill would undo the statutory scheme that allows vehicles weight fees from being transferred to the general fund from the State Highway Account to pay debt-service on transportation bonds and requires the repayment of any outstanding loans from transportation funds by December 31, 2018. This bill would also extend the authorization of public-private partnerships. ***We recommend the STA Board adopt a SUPPORT position on this bill.***

#### **SB 32 (Pavley) Extension of the California Global Warming Solutions Act of 2006 (AB 32)**

Under AB 32, ARB adopted a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990, to be achieved by 2020, and was authorized to adopt regulations to achieve the GHG reduction-target, including a market-based compliance mechanism (e.g. Cap and Trade). This bill would require ARB to approve a GHG limit equivalent to 80% below the 1990 level to be achieved by 2050 and would authorize the continued use of the regulatory process to ensure the target is met.

#### **SB 321 (Beall) Stabilization of Gasoline Excise Tax**

The gas tax swap replaced the state sales tax on gasoline with an excise tax that was set at a level to capture the revenue that would have been produced by the sales tax. The excise tax is required to be adjusted annually by the Board of Equalization (BOE) to ensure the excise tax and what would be produced by the sales tax remains revenue neutral. This bill would, for purposes of adjusting the state excise tax on gasoline, require the BOE to use a five-year average of the sales tax when calculating the adjustment to the excise tax. ***We recommend the STA Board adopt a SUPPORT IN CONCEPT position on this bill.***

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M E M O R A N D U M

February 25, 2015

**To:** Solano Transportation Authority  
**From:** Akin Gump Strauss Hauer & Feld LLP  
**Re:** February 2015 Report

**Fiscal Year 2016 President's Budget**

On February 2, President Obama sent Congress a \$4 trillion budget for fiscal year 2016 that includes a revised version of the Administration's proposed multiyear surface transportation legislation. The proposed bill, which the Administration calls the *Grow America Act*, would authorize \$478 billion over six years. The original version of the bill, included in last year's Budget, authorized \$302 billion over four years. The *Grow America Act* would be funded with revenues from a one-time 14 percent tax on overseas income of U.S. corporations, which is estimated to generate \$238 billion in revenue, in addition to revenues from the gasoline tax.

The *Grow America Act* would authorize a total of \$114.6 billion for transit over six years and \$18.3 billion in fiscal year 2016, an increase of about \$7 billion over fiscal year 2015 spending. Within the amount, funding for transit formula grants would increase from \$8.5 billion in fiscal year 2015 to \$13.9 billion in fiscal year 2016. Capital Investment grants would increase from \$2.1 billion in fiscal year 2015 to \$3.25 billion in fiscal year 2106.

The Act would authorize \$317 billion over six years for the federal highway program. The bill would authorize \$51.3 billion in fiscal year 2016, a \$35 million increase over fiscal year 2015 funding. Funding would increase by \$9 billion annually through 2021. The bill would provide \$1.25 billion annually for the TIGER grant program. The bill also would provide \$1 billion for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which issues low interest loans and loan guarantees to transportation projects.

The Budget proposes funding for two new programs that would address freight movement and highway congestion. The Budget would provide \$1 billion in fiscal year 2016 (and \$18 billion over the life of the bill) for a new freight infrastructure program. These projects could be multi-modal, multi-jurisdictional and corridor-based projects. The Budget also proposes \$500 million annually for a new Fixing and Accelerating Surface Transportation (FAST) program that would make competitive grants to projects that develop innovative solutions to transportation challenges and create performance improvements that address safety and congestion.

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The President's budget also proposes establishing two new types of bonds -- America Fast Forward Bonds (AFFB) and Qualified Public Infrastructure Bonds (QPIBs). Under the AFFB bond program, the federal government would make direct borrowing subsidy payments to governmental issuers (through refundable tax credits) at a subsidy rate equal to 28-percent of the coupon interest on the bonds. The subsidy rate would be revenue neutral relative to the estimated future federal tax expenditures for tax-exempt bonds. The QPIBs would finance public-private infrastructure projects. Projects must be owned by state or local governments and be available for public use. Eligible projects would include airports, docks and wharves, mass transit facilities, water and sewage facilities, solid waste disposal facilities, and qualified highway or surface freight transfer facilities.

### **DOT's 30-Year Outlook**

The Department of Transportation (DOT) released a 30-year outlook called "Beyond Traffic" which highlighted a greater reliance on mass transit and increased freight volume on February 3. The report is intended to encourage a discussion of how to respond to demographic trends, including: 1) projected population growth by 70 million by 2045; 2) declining rural population with 75 percent of U.S. population living in emerging megaregions by 2050; 3) rising population growth in the South and West that may overwhelm existing infrastructure; and 4) increasing freight volume estimated at 45 percent by 2045. DOT has requested that the stakeholders - users, developers, owners, and operators of the transportation network – provide feedback and enter into a discussion with policymakers concerning the future of transportation based on projections in the report.

### **Surface Transportation Reauthorization**

The House Transportation and Infrastructure Committee and Senate Environment and Public Works Committees continued to hold hearings in preparation for consideration of a multi-year reauthorization bill. On February 11, DOT Secretary Foxx testified before the House Committee to promote the Administration's 6-year, \$478 billion multimodal reauthorization proposal. During the hearing, Chairman Bill Shuster (R-PA) spoke in support of a fiscally-responsible, long-term bill to provide certainty for states and non-federal partners to accomplish large projects. He also emphasized the need to adopt innovative financing and new transportation technologies, accelerate project delivery through regulatory reform, and focus funding in areas of greatest need.

On February 25, the Senate Environment and Public Works Committee held a hearing to emphasize the importance of a long-term authorization to users, owners and operators of the transportation system. Witnesses included: Metropolitan Transportation Commission Executive



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Director Steve Heminger; Neenah Enterprises President and CEO Thomas J. Riordan; Utah Department of Transportation Executive Director Carlos Braceras; Susquehanna Glass Company President Walt Rowen; and Ingredion Vice President of Supply Chain and Customer Experience David Gardner. Chairman Inhofe (R-OK) took the opportunity to make a strong statement against “devolution,” a policy that would return responsibility for the highway system to the states, explaining that the policy would not create a transportation network sufficient to maintain U.S. competitiveness.

Congress is coming under increasing pressure to enact a reauthorization bill. Recently, the States of Arkansas, Delaware and Tennessee have issued statements that they will postpone a total more than a billion dollars in construction until more funding becomes available. A bipartisan group of 285 House members sent a letter to Speaker John A. Boehner, R-Ohio, and Minority Leader Nancy Pelosi, D-Calif., urging them to enact a long-term paid-for surface transportation bill this year.

Identifying a stable funding source remains the greatest impediment to enacting a multi-year bill. Some Republican Senators have stated their support for an increase in the gas tax, including Chairman Inhofe, Commerce Committee Chairman John Thune (R-SD) and Sen. Bob Corker (R-TN). Speaker John Boehner (R-OH) and Chairman Shuster have ruled out an increase in the gas tax to bolster revenue to the trust fund, because of opposition within the Republican caucus.

The Administration has proposed imposing a 14 percent tax on foreign revenues of U.S. corporations as part of corporate tax reform, a deep discount to current rates up to 15 percent. However, the Administration opposes proposals to create a voluntary “tax holiday.” Senators Barbara Boxer (D-CA) and Rand Paul (R-KY) have announced that they will introduce legislation (*The Invest in Transportation Act*) which would allow companies to voluntarily return their foreign earnings to the United States at a tax rate of 6.5 percent. A proposal introduced by Rep. John Delany tax repatriated funds at 8.75% percent.

While some Members of Congress and the Administration appear open to using revenue generated by tax reform for transportation funding, congressional staff does not expect that comprehensive tax reform or a standalone repatriation bill will be enacted before the May 31 deadline. It appears increasingly likely that Congress will be forced to pass another short term extension of MAP-21 and to seek alternative tax measures to sustain the trust.

### **Legislation Introduced**

Many bills have been introduced that may be considered as part of the surface transportation reauthorization:

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- *The Highway Runoff Management Act*, S. 518 (Cardin, D-MD) - Requires states to conduct a hydrological impact analysis of storm water runoff from federal aid highways on water resources and develop approaches to reduce the destructive impact of pollution and erosion.
- H.R. 1046 (Norton, D-DC) - Amends the Internal Revenue Code of 1986 to make permanent the rule providing parity for the exclusion from income for employer-provided mass transit and parking benefits. Currently, the monthly benefit for transit expenses is \$130, while the limit for parking is \$250.
- *The Commuter Benefit Parity Act* (King, R-NY) – Amends the Internal Revenue Code of 1986 to make permanent the rule providing parity for the exclusion from income for employer-provided mass transit and parking benefits. The bill would cap the monthly benefit at \$235 for all commuters.
- *The Prohibiting Automated Traffic Enforcement Act*, H.R. 950 (Perlmutter, D-CO) - Prohibits a state or local government authority from using an automated traffic enforcement system for law enforcement purposes, except in a school zone or construction zone. The bill has no cosponsors.
- *The National Freight Network Trust Fund Act*, H.R. 935 (Hahn, R-CA) – Creates a National Freight Network Trust Fund to support grants to states, regional or local transportation organization or port authorities to improve the performance of the national freight network.
- *The Vehicle-to-Infrastructure Safety Technology Investment Flexibility Act*, H.R. 910 (Miller, R-MI) – Makes projects to install vehicle-to-infrastructure communication equipment eligible for funding under the National Highway Performance Program, the Surface Transportation Program, and the Highway Safety Improvement Program.
- *The Rail Crossings Safety Improvement Act*, H.R. 705 (Maloney, D-NY) – Authorizes Rail Line Relocation & Improvement Capital Grant Program (RLR) at \$100 million a year for the next four years to improve safety at rail grade crossings.
- *The State Transportation and Infrastructure Financing Innovation Act (STIFIA)*, H.R. 652 (Hanna, R-NY and Hahn, D-CA) -- Allows states to use up to 15 percent of federal transportation dollars to establish an infrastructure bank for local road and transit projects.

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- *The Update, Promote, and Develop America's Transportation Essentials (UPDATE) Act*, H.R. 680 (Blumenauer, D-OR) - Increases the tax on gasoline and diesel gradually by 15 cents per gallon over three years. There are no cosponsors.
- *The Road Usage Fee Pilot Program Act*, H.R. 679 (Blumenauer, D-OR) – Creates a pilot program to study the feasibility of moving towards a road mileage charge to pay for transportation funding.
- *The Infrastructure 2.0 Act*, H.R. 625 (Delaney, D-MD and Hanna, R-NY) -- Imposes a mandatory, one-time 8.75% tax on existing overseas profits accumulated by U.S. multinational corporations and uses those revenues to fund the Highway Trust Fund for six years and establish a new infrastructure fund for state and local governments.

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**ASSEMBLY BILL****No. 194****Introduced by Assembly Member Frazier**

January 28, 2015

An act to amend Section 149.7 of, and to add Section 149.2 to, the Streets and Highways Code, relating to transportation.

## LEGISLATIVE COUNSEL'S DIGEST

AB 194, as introduced, Frazier. High-occupancy toll lanes.

Existing law provides that the Department of Transportation has full possession and control of the state highway system. Existing law authorizes the department to construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles.

Existing law authorizes a regional transportation agency, as defined, in cooperation with the department to apply to the California Transportation Commission to develop and operate high-occupancy toll (HOT) lanes, including administration and operation of a value-pricing program and exclusive or preferential lane facilities for public transit, consistent with established standards, requirements, and limitations that apply to specified facilities. Existing law limits the number of approved facilities to not more than 4, 2 in northern California and 2 in southern California, and provides that no applications may be approved on or after January 1, 2012.

This bill would delete the requirement that the above-described facilities be consistent with the established standards, requirements, and limitations that apply to specified facilities and would instead require the commission to establish guidelines for the development and operation of the facilities approved by the commission on or after January 1, 2016, subject to specified minimum requirements. The bill

would provide that these provisions do not authorize the conversion of any existing nontoll or nonuser-fee lanes into tolled or user-fee lanes, except that a high-occupancy vehicle lane may be converted into a high-occupancy toll lane pursuant to its provisions. The bill would authorize a regional transportation agency to issue bonds, refunding bonds, or bond anticipation notes backed by revenues generated from the facilities. The bill would additionally authorize the Santa Clara Valley Transportation Authority to apply to the commission for purposes of the above-described provisions. The bill would remove the limitations on the number of approved facilities and would delete the January 1, 2012, deadline for HOT lane applications. The bill would provide that each application is subject to the review and approval of the commission and would require a regional transportation agency that applies to the commission to reimburse the commission for all of the commission’s cost and expense incurred in processing the application. Before submitting an application to the commission, the bill would require a regional transportation agency to consult with a local transportation authority whose jurisdiction includes the facility that the regional transportation agency proposes to develop and operate pursuant to the above-described provisions.

This bill would additionally authorize the department to apply to the commission to develop and operate HOT lanes and associated facilities pursuant to similar provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 149.2 is added to the Streets and
- 2 Highways Code, to read:
- 3 149.2. (a) The department may apply to the commission to
- 4 develop and operate high-occupancy toll lanes, including the
- 5 administration and operation of a value pricing program and
- 6 exclusive or preferential lane facilities for public transit.
- 7 (b) Each application for the development and operation of the
- 8 facilities described in subdivision (a) shall be subject to review
- 9 and approval by the commission pursuant to eligibility criteria
- 10 established by the commission. For each eligible application, the
- 11 commission shall conduct at least one public hearing in northern
- 12 California and one in southern California.

1 (c) The commission shall establish guidelines for the  
2 development and operation of facilities described in subdivision  
3 (a) and approved by the commission pursuant to this section,  
4 subject to the following minimum requirements:

5 (1) The department shall develop and operate the facilities in  
6 cooperation with regional transportation agencies, as applicable,  
7 and with the active participation of the Department of the California  
8 Highway Patrol.

9 (2) The department shall be responsible for establishing,  
10 collecting, and administering tolls.

11 (3) The department shall be responsible for paying for the  
12 maintenance of the facilities from net toll revenue.

13 (4) The revenue generated from the operation of the facilities  
14 shall be available to the department for the direct expenses related  
15 to the maintenance, administration, and operation of the facilities,  
16 including toll collection and enforcement.

17 (5) All remaining revenue generated by the facilities shall be  
18 used in the corridor from which the revenue was generated pursuant  
19 to an expenditure plan developed by the department and approved  
20 by the commission.

21 (6) This section shall not prevent any regional transportation  
22 agency or local agency from constructing facilities that compete  
23 with the facilities approved by the commission and the department  
24 shall not be entitled to compensation for the adverse effects on toll  
25 revenue due to those competing facilities.

26 (d) The department shall provide any information or data  
27 requested by the commission or the Legislative Analyst relating  
28 to a facility that the department develops or operates pursuant to  
29 this section. The commission, in cooperation with the Legislative  
30 Analyst, shall annually prepare a report on the progress of the  
31 development and operation of a facility authorized under this  
32 section. The commission may submit this report as a section in its  
33 annual report to the Legislature required pursuant to Section 14535  
34 of the Government Code.

35 (e) Nothing in this section shall authorize the conversion of any  
36 existing nontoll or nonuser-fee lanes into tolled or user-fee lanes,  
37 except that a high-occupancy vehicle lane may be converted into  
38 a high-occupancy toll lane.

39 SEC. 2. Section 149.7 of the Streets and Highways Code is  
40 amended to read:

1 149.7. (a) A regional transportation agency, as defined in  
 2 ~~Section 143, subdivision (h)~~, in cooperation with the department,  
 3 may apply to the commission to develop and operate  
 4 high-occupancy toll lanes, including the administration and  
 5 operation of a value pricing program and exclusive or preferential  
 6 lane facilities for public transit, ~~consistent with the established~~  
 7 ~~standards, requirements, and limitations that apply to those facilities~~  
 8 ~~in Sections 149, 149.1, 149.3, 149.4, 149.5, and 149.6:~~ *transit.*

9 (b) ~~The commission shall review each~~ *Each* application for the  
 10 development and operation of the facilities described in subdivision  
 11 ~~(a) according~~ *shall be subject to review and approval by the*  
 12 *commission pursuant to* eligibility criteria established by the  
 13 commission. For each eligible application, the commission shall  
 14 conduct at least one public hearing in northern California and one  
 15 in southern California.

16 (c) *A regional transportation agency that applies to the*  
 17 *commission to develop and operate facilities described in*  
 18 *subdivision (a) shall reimburse the commission for all of the*  
 19 *commission's costs and expenses incurred in processing the*  
 20 *application.*

21 (e)  
 22 (d) ~~The number~~ *commission shall establish guidelines for the*  
 23 *development and operation of facilities described in subdivision*  
 24 *(a) and approved under by the commission on or after January 1,*  
 25 *2016, pursuant to this section shall not exceed four, two in northern*  
 26 ~~California and two in southern California:~~ *section, subject to the*  
 27 *following minimum requirements:*

28 (1) *The regional transportation agency shall develop and*  
 29 *operate the facilities in cooperation with the department, and the*  
 30 *active participation of the Department of the California Highway*  
 31 *Patrol, pursuant to an agreement that addresses all matters related*  
 32 *to design, construction, maintenance, and operation of state*  
 33 *highway system facilities in connection with the facilities.*

34 (2) *The regional transportation agency shall be responsible for*  
 35 *establishing, collecting, and administering tolls.*

36 (3) *The regional transportation agency shall be responsible for*  
 37 *paying for the maintenance of the facilities from net toll revenue,*  
 38 *pursuant to an agreement between the department and the regional*  
 39 *transportation agency.*



1     (4) *The revenue generated from the operation of the facilities*  
2 *shall be available to the regional transportation agency for the*  
3 *direct expenses related to the maintenance, administration, and*  
4 *operation of the facilities, including toll collection and*  
5 *enforcement.*

6     (5) *All remaining revenue generated by the facilities shall be*  
7 *used in the corridor from which the revenue was generated*  
8 *pursuant to an expenditure plan adopted by the regional*  
9 *transportation agency.*

10    (6) *This section shall not prevent the department or any local*  
11 *agency from constructing facilities that compete with the facilities*  
12 *approved by the commission and the regional transportation*  
13 *agency shall not be entitled to compensation for the adverse effects*  
14 *on toll revenue due to those competing facilities.*

15    ~~(d)~~

16    (e) *A regional transportation agency that develops or operates*  
17 *a facility, or facilities, described in subdivision (a) shall provide*  
18 *any information or data requested by the commission or the*  
19 *Legislative Analyst. The commission, in cooperation with the*  
20 *Legislative Analyst, shall annually prepare a report on the progress*  
21 *of the development and operation of a facility authorized under*  
22 *this section. The commission may submit this report as a section*  
23 *in its annual report to the Legislature required pursuant to Section*  
24 *14535 of the Government Code.*

25    (f) (1) *A regional transportation agency may issue bonds,*  
26 *refunding bonds, or bond anticipation notes, at any time, to finance*  
27 *construction of, and construction-related expenditures for, facilities*  
28 *approved pursuant to this section, and construction and*  
29 *construction-related expenditures that are included in the*  
30 *expenditure plan adopted pursuant to paragraph (5) of subdivision*  
31 *(d), payable solely from the revenues generated from the respective*  
32 *facilities.*

33    (2) *Any bond issued pursuant to this subdivision shall contain*  
34 *on its face a statement to the following effect:*

35

36     *“Neither the full faith and credit nor the taxing power of the*  
37 *State of California is pledged to the payment of principal of, or*  
38 *the interest on, this bond.”*

39

- 1 (g) Before submitting an application pursuant to subdivision
- 2 (a), a regional transportation agency shall consult with any local
- 3 transportation authority designated pursuant to Division 12.5
- 4 (commencing with Section 131000) or Division 19 (commencing
- 5 with Section 180000) of the Public Utilities Code whose
- 6 jurisdiction includes the facility that the regional transportation
- 7 agency proposes to develop and operate.
- 8 (h) Notwithstanding Section 143, for purposes of this section,
- 9 “regional transportation agency” means any of the following:
- 10 (1) A transportation planning agency described in Section 29532
- 11 or 29532.1 of the Government Code.
- 12 (2) A county transportation commission established under
- 13 Section 130050, 130050.1, or 130050.2 of the Public Utilities
- 14 Code.
- 15 (3) Any other local or regional transportation entity that is
- 16 designated by statute as a regional transportation agency.
- 17 (4) A joint exercise of powers authority established pursuant to
- 18 Chapter 5 (commencing with Section 6500) of Division 7 of Title
- 19 1 of the Government Code, with the consent of a transportation
- 20 planning agency or a county transportation commission for the
- 21 jurisdiction in which the transportation project will be developed.
- 22 (5) The Santa Clara Valley Transportation Authority established
- 23 pursuant to Part 12 (commencing with Section 100000) of Division
- 24 10 of the Public Utilities Code.
- 25 ~~(e) No applications may be approved under~~
- 26 (i) Nothing in this section ~~on~~ shall authorize the conversion of
- 27 any existing nontoll or ~~after January 1, 2012.~~ nonuser-fee lanes
- 28 into tolled or user-fee lanes, except that a high-occupancy vehicle
- 29 lane may be converted into a high-occupancy toll lane.

O



DATE: March 16, 2015  
TO: SolanoExpress Intercity Transit Consortium  
FROM: Richard Weiner, Nelson\Nygaard Consulting Associates  
RE: Intercity Taxi Scrip Program Update

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**Background/Discussion:**

As of February 1, 2015, management of the Intercity Taxi Scrip Program has transitioned to Solano Transportation Authority from Solano County. As Program Managers, Nelson\Nygaard Consulting Associates has spent the last three months meeting with Solano County staff and participating transit operators. Following are issues that have emerged/ been addressed during this transition process:

- January Invoices
  - Some taxi companies have waited for unreasonably long periods to provide a return trip to passengers even though these trips are meant to be provided by companies in that location. A policy will need to be established to define the amount of time that a taxi driver can wait before providing the return trip
  - Until now there have not been clear deadlines for submission of invoices by taxi companies and transit operators, resulting in a lag of invoice payments over multiple months
- Given that the program has transitioned from Solano County to Solano Transportation Authority, there are nuances with how each agency reviews invoices and processes payments. We are working to make the process more efficient as we move forward.
- Additional concerns we are investigating:
  - Unlisted ADA #s found in the invoices
  - Unincorporated residents are not purchasing at STA
- Need to understand purchasing patterns and demand by jurisdiction in order to meet the goal of an equitable distribution of scrip among a larger pool of program participants

**Recommendation:**

Informational.

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DATE : March 10, 2015  
TO: Solano Express Intercity Transit Consortium  
FROM: Kristina Holden, Transit Mobility Coordinator  
RE: Consolidated Transportation Services Agency (CTSA)/Mobility Management Program Update

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**Background:**

The Solano County Mobility Management Program was developed in response to public input provided at two mobility summits held in 2009 and the Solano Transportation Study for Seniors and People with Disabilities completed in 2011. STA has been working with consultants, the Solano Transit Operators, the Paratransit Coordinating Council (PCC), and the Senior and People with Disabilities Transportation Advisory Committee since July 2012 to develop a Mobility Management Plan for Solano County. Mobility Management was identified as a priority strategy to address the transportation needs of seniors, people with disabilities, low income and transit dependent individuals in the 2011 Solano Transportation Study for Seniors and People with Disabilities. On April 9, 2014, the Solano Transportation Authority (STA) Board unanimously adopted the Solano County Mobility Management Plan.

The Solano Mobility Management Plan focuses on four key elements that were also identified as strategies in the Solano Transportation Study for Seniors and People with Disabilities:

1. Countywide In-Person American Disability Act (ADA) Eligibility and Certification Program
2. Travel Training
3. Senior Driver Safety Information
4. One Stop Transportation Call Center

This report summarizes the activities of Travel Training component of the Solano Mobility Management Plan.

**Discussion:**

***Countywide In-Person ADA Eligibility Program Update***

This update summarizes the Countywide In-Person ADA Eligibility activities of CARE Evaluators in the second quarter of FY 2014-15, the second year of the program.

Evaluations: Between February 1<sup>st</sup> and February 28th, there were 105 completed evaluations, 39 cancellations and 17 no-shows countywide.

Scheduling Assessments: On average, the time between an applicant call to schedule an in-person assessment and the date of their assessment was approximately thirteen (13) business days. The program target is to schedule assessments within ten (10) business days of an applicant's call.

Eligibility Letters: The average duration between an applicant's assessment and receipt of the eligibility determination letter was twelve (12) days. In February there were no violations of the 21-day assessment letter policy.

Paratransit Usage: On average, 50% of all applicants' utilized complementary paratransit service to and from their assessments.

Comment Cards: There were a total of 3 ADA Comment Cards received in February. Of those who completed comment cards, rating their assessment process and service 100% of clients were "highly satisfied".

### ***Travel Training***

#### **Outreach**

On March 3rd, STA Mobility Management staff presented mobility options and programs to 20 residents of Skylark Mobile Estates in Vacaville.

Staff is scheduled to present mobility options and programs at Heritage Commons Senior Community in Dixon on March 17<sup>th</sup> and to Mt. Calvary Baptist Church, 50+ Ministries in Fairfield on March 19<sup>th</sup>.

#### **Transit Ambassador Program**

STA staff has met with SolTrans and FAST staff to discuss their Transit Ambassador Programs. Timelines have been set in place for each operator and once Ambassadors are on board recruitment for Trainees will begin. Both SolTrans and FAST programs are anticipated to be up and running by April.

### ***Solano Mobility Call Center/Solano Mobility Website***

#### **Solano Mobility Call Center**

The Solano Mobility Call Center and Transportation Info Depot continue to see an increase in Mobility inquiries. In February 2015, they received a total of 47 ADA/Mobility related calls and 39 ADA/Mobility related walk ins. In February, the call center processed 24 RTC Sales and had 3 Senior Clipper Sales.

#### **Solano Mobility Website**

The Solano Mobility website is now live and accessible to the public. The website provides a variety of resources to the community including, but not limited to local, private and non-profit transportation options, transit training information, a video library, non-profit services information and senior safety driver information.

### **Recommendation:**

Informational.

#### **Attachments:**

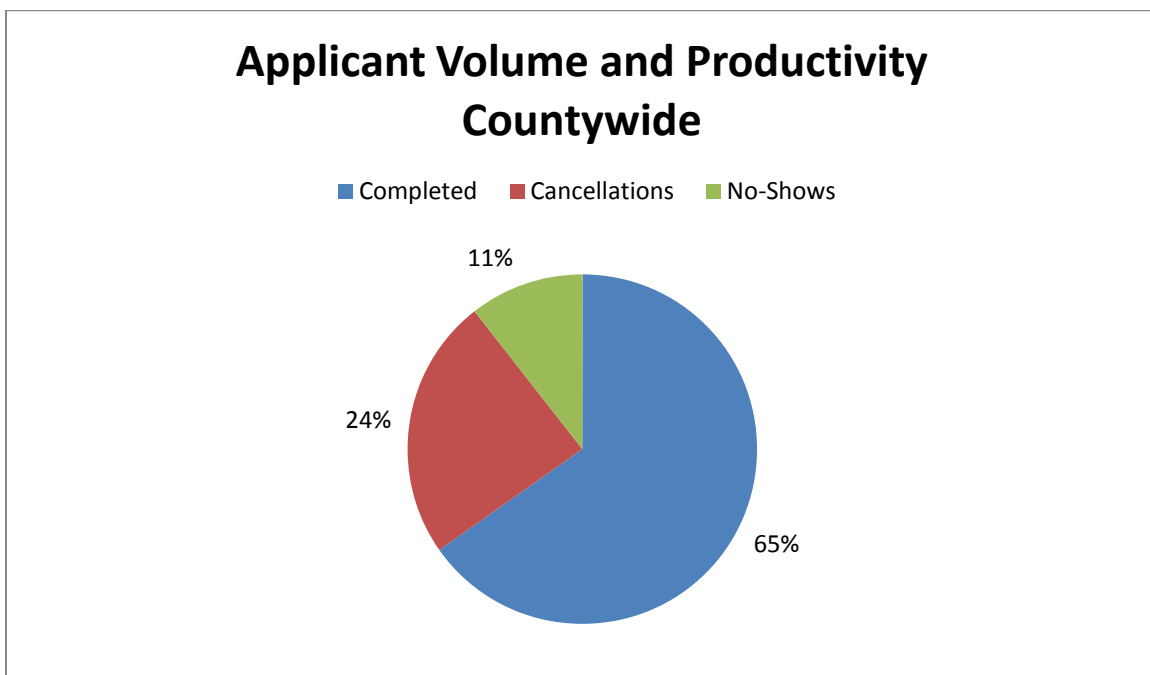
- A. Countywide In-Person ADA Eligibility Program February 2015 Progress Report

## Countywide In-Person ADA Eligibility Program February 2015 Progress Report

**Applicant Volume and Productivity:** Between February 1st and February 28th, the Call Center scheduled 161 appointments, and completed 105 assessments. Of the 161 scheduled appointments, 105 (65%) of the applicants appeared for their in-person assessment, 17 (11%) applicants were a no show, and 39 (24%) were cancellations. No shows and cancellations provide an incompleteness rate of 35%.

### Applicant Volume and Productivity by Location

	Countywide	Dixon Readi- Ride	FAST	Rio Vista Delta Breeze	SolTrans	Vacaville City Coach
<b>Completed</b>	105	2	32	1	48	22
<b>Cancellations</b>	39	0	11	0	21	7
<b>No-Shows</b>	17	0	8	1	8	0
<b>Incompletion Rate</b>	35%	0%	37%	50%	38%	24%

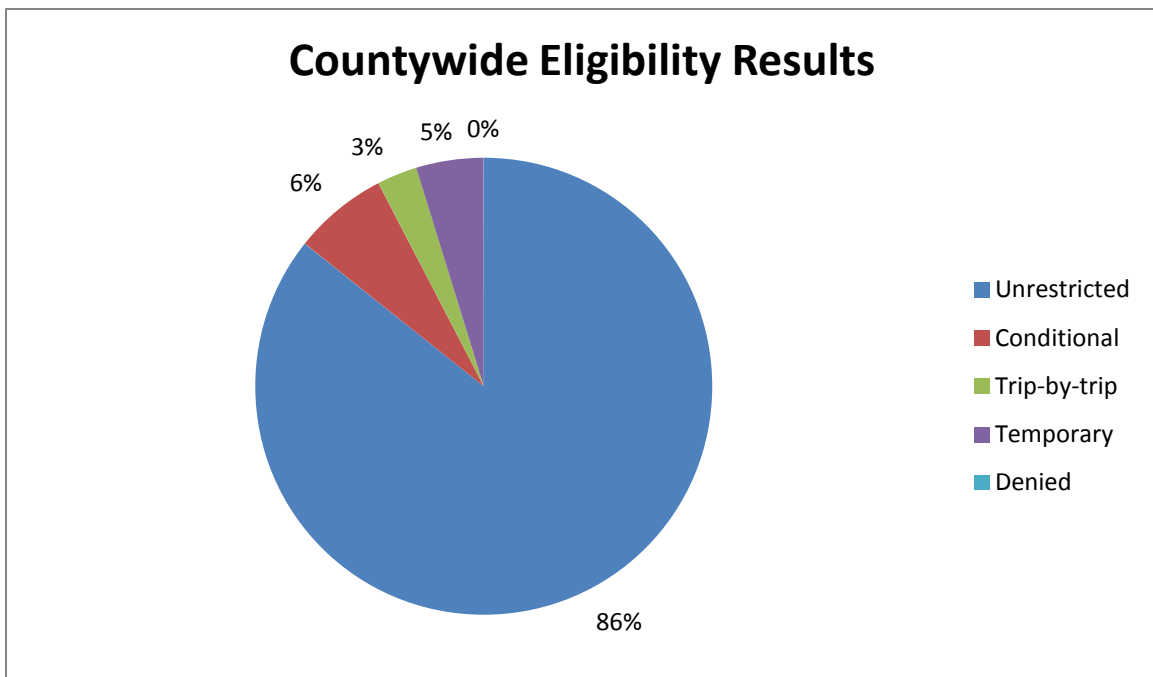


**New versus re-certification:** In February 86% of the applicants were new and 14% were applicants seeking recertification. There were no denials in either category.

Countywide Eligibility Results by Application Type					
NEW		Percentage	RECERTIFICATION		Percentage
Unrestricted	75	83%	Unrestricted	15	100%
Conditional	7	8%	Conditional	0	
Trip-by-trip	3	3%	Trip-by-trip	0	
Temporary	5	6%	Temporary	0	
Denied	0	0%	Denied	0	
<b>TOTAL</b>	<b>90</b>		<b>TOTAL</b>	<b>15</b>	

**Eligibility determinations:** Of the 105 assessments that took place in the month of February, 90 (86%) were given unrestricted eligibility, 7 (6%) were given conditional eligibility, 3 (3%) were given trip-by-trip eligibility, 5 (5%) were given temporary eligibility and none were denied.

Eligibility Results by Service Area						
	Countywide	Dixon Read-Ride	FAST	Rio Vista Delta Breeze	SolTrans	Vacaville City Coach
Unrestricted	90	2	28	1	37	22
Conditional	7	0	2	0	5	0
Trip-by-trip	3	0	0	0	3	0
Temporary	5	0	2	0	3	0
Denied	0	0	0	0	0	0
<b>Total</b>	<b>105</b>	<b>2</b>	<b>32</b>	<b>1</b>	<b>48</b>	<b>22</b>





**Impact on paratransit:** As part of the new countywide in-person assessment program, applicants are provided a complimentary trip on paratransit for the applicant and the applicant’s Personal Care Attendant (PCA) upon request. Fifty percent (50%) of all assessments requested a paratransit trip to the assessment site in February.

<b>Transportation to and from In-Person Assessment</b>						
	<b>Countywide</b>	<b>Dixon Readi-Ride</b>	<b>FAST</b>	<b>Rio Vista Delta Breeze</b>	<b>SolTrans</b>	<b>Vacaville City Coach</b>
<b>Own Transportation</b>	53	1	15	1	22	14
<b>Complementary Paratransit</b>	52	1	17	0	26	8
<b>Paratransit %</b>	50%	50%	53%	0%	54%	36%

**Type of Disability:** Applicants who complete the in-person assessment typically present more than one type of disability. The most common type of disability reported was a physical disability (74%) followed by cognitive disability (16%), visual disability (9%), and auditory disability (1%).

<b>Disability Type Countywide and by Service Area</b>						
	<b>Countywide</b>	<b>Dixon Readi-Ride</b>	<b>FAST</b>	<b>Rio Vista Delta Breeze</b>	<b>SolTrans</b>	<b>Vacaville City Coach</b>
<b>Physical</b>	99	0	29	0	45	22
<b>Cognitive</b>	21	0	10	0	10	1
<b>Visual</b>	12	0	3	0	9	0
<b>Audio</b>	2	0	0	0	2	0
<b>Total</b>	134	0	42	0	66	23

**Time to receipt of eligibility determination letter:** On average, the time between an applicant’s assessment and receipt of their eligibility determination letter was 10 days. The longest an applicant had to wait for their determination letter was 6 days. In February there were 9 applicants that had to wait more than 15 days for their determination letter. STA staff will continue to work with CARE and monitor performance in order to ensure compliance with terms of the contract.

<b>Time (Days) from Evaluation to Letter</b>						
	<b>Countywide</b>	<b>Dixon Readi-Ride</b>	<b>FAST</b>	<b>Rio Vista Delta Breeze</b>	<b>SolTrans</b>	<b>Vacaville City Coach</b>
<b>Average for Period</b>	12	14	11	13	12	10
<b>Longest</b>	16	14	15	13	16	13

**Time to scheduled assessment:** On average, the time between an applicant call to schedule an in-person assessment and the date of their assessment was approximately thirteen (13) days. The longest amount of time applicants had to wait for an appointment in was 25 calendar days. Eighty (80) applicants waited more than 10 business days for their assessment in February. The goal is for applicants to receive an appointment within 10 business days of their phone call. STA staff will continue to work with CARE and monitor performance in order to ensure applicants are receiving their appointment in a timely manner.

<b>Time (Days) from Scheduling to Appointment</b>						
	<b>Countywide</b>	<b>Dixon Read-Ride</b>	<b>FAST</b>	<b>Rio Vista Delta Breeze</b>	<b>SolTrans</b>	<b>Vacaville City Coach</b>
<b>Average for Period</b>	13	2	14	4	17	6
<b>Longest</b>	25	2	25	4	23	11
<b>Over 10 Business days</b>	80	0	30	0	49	1

**Comment Card Summary:** There were a total of 3 ADA Comment Cards received by the STA during the month of February. One comment card each was received from Fairfield, Vacaville, and Vallejo residents all being highly satisfied.



DATE: March 16, 2015  
TO: SolanoExpress Intercity Transit Consortium  
FROM: Liz Niedziela, Transit Program Manager  
RE: Transportation for Individuals with Disabilities; Reasonable Modification of Policies and Practices

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**Background/Discussion:**

The Department is revising its rules under the Americans with Disabilities Act (ADA) and specifically to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities. This rule is effective July 13, 2015. The modification of Policies and Practices is presented in Attachment A.

**Recommendation:**

Informational.

Attachment:

- A. Transportation for Individuals With Disabilities; Reasonable Modification of Policies and Practices

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official colors of the Seal are Reflex Blue and Gold [Reflex Blue RGB Numbers: 0/0/153 (R0, G0, B153); Reflex Gold RGB Numbers: 254/252/1 (R254, G252, B1)]. The Seal may also appear in Reflex Blue or Black.



(e) The HHS Departmental symbol, logo, and seal shall each be referred to as an HHS emblem and shall collectively be referred to as HHS emblems.

Dated: March 4, 2015.

**Sylvia M. Burwell,**  
Secretary.

[FR Doc. 2015-05536 Filed 3-12-15; 8:45 am]

BILLING CODE 4150-04-P

**DEPARTMENT OF TRANSPORTATION**

**49 CFR Parts 27 and 37**

[Docket OST-2006-23985]

RIN 2105-AE15

**Transportation for Individuals With Disabilities; Reasonable Modification of Policies and Practices**

**AGENCY:** Office of the Secretary (OST), U.S. Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The Department is revising its rules under the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act of 1973, as amended (section 504), specifically to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities.

**DATES:** This rule is effective July 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Jill Laptosky, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590, Room W96-488, 202-493-0308, [jill.laptosky@dot.gov](mailto:jill.laptosky@dot.gov). For questions related to transit, you may contact Bonnie Graves, Office of Chief

Counsel, Federal Transit Administration, same address, Room E56-306, 202-366-0944, [bonnie.graves@dot.gov](mailto:bonnie.graves@dot.gov); and, for rail, Linda Martin, Office of Chief Counsel, Federal Railroad Administration, same address, Room W31-304, 202-493-6062, [linda.martin@dot.gov](mailto:linda.martin@dot.gov).

**SUPPLEMENTARY INFORMATION:** This final rule concerning reasonable modification of transportation provider policies and practices is based on a notice of proposed rulemaking (NPRM) issued February 27, 2006 (71 FR 9761). The NPRM also concerned several other subjects, most notably nondiscriminatory access to new and altered rail station platforms. The Department issued a final rule on these other subjects on September 19, 2011 (76 FR 57924).

**Executive Summary**

*I. Purpose of the Regulatory Action*

This final rule is needed to clarify that public transportation entities are required to make reasonable modifications/accommodations to their policies, practices, and procedures to ensure program accessibility. While this requirement is not a new obligation for public transportation entities receiving Federal financial assistance (see section 504 of the Rehabilitation Act), including the National Passenger Railroad Corporation (Amtrak), courts have identified an unintended gap in our Americans with Disabilities Act (ADA) regulations. This final rule will fill in the gap. The real-world effect will be that the nature of an individual's disability cannot preclude a public transportation entity from providing full access to the entity's service unless some exception applies. For example, an individual using a wheelchair who needs to access the bus will be able to board the bus even though sidewalk construction or snow prevents the individual from boarding the bus from the bus stop; the operator of the bus will need to slightly adjust the boarding location so that the individual using a wheelchair may board from an accessible location.

Reasonable modification/accommodation requirements are a fundamental tenet of disability nondiscrimination law—for example, they are an existing requirement for recipients of Federal assistance and are contained in the U.S. Department of Justice's (DOJ) ADA rules for public and private entities, the U.S. Department of Transportation's (DOT) ADA rules for passenger vessels, and DOT rules under the Air Carrier Access Act. In addition, section 504 has long been interpreted by

the courts to require recipients of Federal financial assistance—virtually all public transportation entities subject to this final rule—to provide reasonable accommodations by making changes to policies, practices, and procedures if needed by an individual with a disability to enable him or her to participate in the recipient's program or activity, unless providing such accommodations are an undue financial and administrative burden or constitute a fundamental alteration of the program or activity. Among the Department's legal authorities to issue this rulemaking are section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101-12113.

*II. Summary of the Major Provisions of the Regulatory Action*

Public entities providing designated public transportation (e.g., fixed route, demand-responsive, and ADA complementary paratransit) service will need to make reasonable modifications/accommodations to policies and practices to ensure program accessibility subject to several exceptions. These exceptions include when the modification/accommodation would cause a direct threat to the health or safety of others, would result in a fundamental alteration of the service, would not actually be necessary in order for the individual with a disability to access the entity's service, or (for recipients of Federal financial assistance) would result in an undue financial and administrative burden. Appendix E of this final rule provides specific examples of requested modifications that public transportation entities typically would not be required to grant for one or more reasons.

Public entities providing designated public transportation service will need to implement their own processes for making decisions and providing reasonable modifications under the ADA to their policies and practices. In many instances, entities already have compliant processes in place. This final rule does not prescribe the exact processes entities must adopt or require DOT approval of the processes. However, DOT reserves the right to review an entity's process as part of its normal oversight. See 49 CFR 37.169.

*III. Costs and Benefits*

The Department estimates that the costs associated with this final rule will be minimal for two reasons. First, modifications to policies, practices, and procedures, if needed by an individual with a disability to enable him or her to participate in a program or activity, are

already required by other Federal law that applies to recipients of Federal financial assistance. Since virtually every entity subject to this final rule receives Federal financial assistance, each entity should already be modifying its policies, practices, and procedures when necessary. Second, the reasonable modification/accommodation requirements contained in this final rule are not very different from the origin-to-destination requirement already applicable to complementary paratransit service, as required by current DOT regulations at 49 CFR 37.129(a) and as described in its implementing guidance.

### The Reasonable Modification NPRM

Through amendments to the Department's ADA regulations at 49 CFR 37.5 and 37.169, the NPRM proposed that transportation entities, including, but not limited to, public transportation entities required to provide complementary paratransit service, must make reasonable modifications to their policies and practices to avoid discrimination on the basis of disability and ensure program accessibility. Making reasonable modifications to policies and practices is a fundamental tenet of disability nondiscrimination law, reflected in a number of DOT (*e.g.*, 49 CFR 27.11(c)(3), 14 CFR 382.7(c)) and DOJ (*e.g.*, 28 CFR 35.130(b)(7)) regulations. Moreover, since at least 1979, section 504 has been interpreted to require recipients of Federal financial assistance to provide reasonable accommodations to program beneficiaries. See, *e.g.*, *Alexander v. Choate*, 469 U.S. 287 (1985); *Southeastern Community College v. Davis*, 442 U.S. 397 (1979). In accordance with these decisions of the U.S. Supreme Court (*e.g.*, *Choate and Davis*), the obligation to modify policies, practices, and procedures is a longstanding obligation under section 504, and the U.S. Department of Justice, which has coordination authority for section 504 pursuant to Executive Order 12250, is in agreement with this interpretation.

However, as the NPRM explained, DOT's ADA regulations do not include language specifically requiring regulated parties to make reasonable modifications to policies and practices. The Department, when drafting 49 CFR part 37, intended that § 37.21(c) would incorporate the DOJ provisions on this subject, by saying the following:

Entities to which this part applies also may be subject to ADA regulations of the Department of Justice (28 CFR parts 35 or 36, as applicable). The provisions of this part shall be interpreted in a manner that will

make them consistent with applicable Department of Justice regulations.

Under this language, provisions of the DOJ regulations concerning reasonable modifications of policies and practices applicable to public entities, such as 28 CFR 35.130(b)(7), could apply to public entities regulated by DOT, while provisions of DOJ regulations on this subject applicable to private entities (*e.g.*, 28 CFR 36.302) could apply to private entities regulated by DOT. A 1997 court decision appeared to share the Department's intention regarding the relationship between DOT and DOJ requirements (*Burkhart v. Washington Area Metropolitan Transit Authority*, 112 F.3d 1207 (D.C. Cir. 1997)).

However, more recent cases that addressed the issue directly held that, in the absence of a DOT regulation explicitly requiring transportation entities to make reasonable modifications, transportation entities were not obligated to make such modifications under the ADA. The leading case on this issue was *Melton v. Dallas Area Rapid Transit (DART)*, 391 F.3d 669 (5th Cir. 2004); *cert. denied* 125 S. Ct. 2273 (2005). In this case, the court upheld DART's refusal to pick up a paratransit passenger with a disability in a public alley behind his house, rather than in front of his house (where a steep slope allegedly precluded access by the passenger to DART vehicles). The DART argued that paratransit operations are not covered by DOJ regulations. "Instead," as the court summarized DART's argument, "paratransit services are subject only to Department of Transportation regulations found in 49 CFR part 37. The Department of Transportation regulations contain no analogous provision requiring reasonable modification to be made to paratransit services to avoid discrimination." 391 F.3d at 673.

The court essentially adopted DART's argument, noting that the permissive language of § 37.21(c) ("may be subject") did not impose coverage under provisions of DOJ regulations which, by their own terms, provided that public transportation programs were "not subject to the requirements of [28 CFR part 35]." See 391 F.3d at 675. "It is undisputed," the court concluded

that the Secretary of Transportation has been directed by statute to issue regulations relating specifically to paratransit transportation. Furthermore, even if the Secretary only has the authority to promulgate regulations relating directly to transportation, the reasonable modification requested by the Meltons relates specifically to the operation of DART's service and is, therefore, exempt from the [DOJ] regulations in 28 CFR Part 35.

*Id.* Two other cases, *Boose v. Tri-County Metropolitan Transportation District of Oregon*, 587 F.3d 997 (9th Cir. 2009) and *Abrahams v. MTA Long Island Bus*, 644 F.3d 110 (2d Cir. 2011), subsequently agreed with *Melton*.

Because the Department believed that, as in all other areas of disability nondiscrimination law, making reasonable modifications to policies and practices is a crucial element of nondiscriminatory and accessible service to people with disabilities, we proposed to fill the gap the courts had identified in our regulations.

Consequently, the 2006 NPRM proposed amending the DOT rules to require that transportation entities, both fixed route and paratransit, make reasonable modifications in the provisions of their services when doing so is necessary to avoid discrimination or to provide program accessibility to services.

In § 37.5, the general nondiscrimination section of the ADA rule, the Department proposed to add a paragraph requiring all public entities providing designated public transportation to make reasonable modifications to policies and practices where needed to avoid discrimination on the basis of disability or to provide program accessibility to services. The language was based on DOJ's requirements and, like the DOJ regulation, would not require a modification if doing so would fundamentally alter the nature of the entity's service.

The NPRM also proposed to place parallel language in a revised § 37.169, replacing an obsolete provision related to over-the-road buses. Under the proposal, in order to deny a request for a modification, the head of a public entity providing designated public transportation services would have had to make a written determination that a needed reasonable modification created a fundamental alteration or undue burden. The entity would not have been required to seek DOT approval for the determination, but DOT could review the entity's action (*e.g.*, in the context of a complaint investigation or compliance review) as part of a determination about whether the entity had discriminated against persons with disabilities. In the case where the entity determined that a requested modification created a fundamental alteration or undue burden, the entity would be obligated to seek an alternative solution that would not create such an undue burden or fundamental alteration.

The ADA and part 37 contain numerous provisions requiring transportation entities to ensure that persons with disabilities can access and

use transportation services on a nondiscriminatory basis. Some of these provisions relate to the acquisition of vehicles or the construction or alteration of transportation facilities. Others concern the provision of service by public and private entities, in modes ranging from public demand-responsive service for the general public to private over-the-road buses. Still others concern the provision of complementary paratransit service.

In all of these cases, public transportation entities are likely to put policies and procedures in place to carry out applicable requirements. In order to achieve the objectives of the underlying requirements in certain individual cases, entities may need to depart from these otherwise acceptable policies. This final rule concerns the scope of situations in which such departures—*i.e.*, reasonable modifications—are essential. The underlying provisions of the rule describe the “bottom line” of what transportation entities must achieve. This reasonable modification rule describes how transportation entities get to that “bottom line” in individual situations where entities’ normal procedures do not achieve the intended result.

As comments to the NPRM made clear, an important concern of transportation entities is that the DOT final rule makes it possible to understand clearly what modifications are expected; in other words, which requested modifications would be “reasonable” and which would not. For example, in the fixed route context, we believe that stopping a bus a short distance from a bus stop sign to allow a wheelchair user to avoid an obstacle to boarding using a lift (*e.g.*, a utility repair, a snowdrift) would generally be reasonable. Establishing a “flag stop” policy that allowed a passenger to board a bus anywhere, without regard to bus stop locations, would not. In the complementary paratransit context, the Department would expect, in many circumstances, that drivers would provide assistance outside a vehicle where needed to overcome an obstacle, but drivers would not have to provide personal services that extend beyond the doorway into a building to assist a passenger. Appendix E to this final rule addresses issues of this kind in greater detail.

In addition to the “modification of policies” language from the DOJ ADA rules, there are other features of those rules that are not presently incorporated in the DOT ADA rules (*e.g.*, pertaining to auxiliary aids and services). The NPRM sought comment on whether it

would be useful to incorporate any additional provisions from the DOJ rules into Part 37.

#### Comments to the NPRM

The Department received over 300 comments on the reasonable modification provisions of the NPRM. These comments were received during the original comment period, a public meeting held in August 2010, and a reopened comment period at the time of that meeting. The comments were polarized, with almost all disability community commenters favoring the proposal and almost all transit industry commenters opposing it.

The major themes in transit industry comments opposing the proposal were the following. Many transit industry commenters opposed the application of the concept of reasonable modification to transportation, and a few commenters argued that it was not the job of transit entities to surmount barriers existing in communities. Many transit commenters said that the rule would force them to make too many individual, case-by-case decisions, making program administration burdensome, leading to pressure to take unreasonable actions, creating the potential for litigation, and making service slower and less reliable. Some of these commenters also objected to the proposal that the head of an entity, or his designee, would be required to make the decision that a requested modification was a fundamental alteration or would result in an undue burden, and provide a written decision to the requestor, stating this requirement would take substantial staff time to complete. Many commenters provided examples or, in some cases, extensive lists, of the kinds of modifications they had been asked or might be asked to make, many of which they believed were unreasonable. A number of commenters said the rule would force paratransit operators to operate in a door-to-door mode, eliminating, as a practical matter, the curb-to-curb service option. A major comment from many transit industry sources was that reasonable modification would unreasonably raise the costs of providing paratransit. Per-trip costs would rise, various commenters said, because of increased dwell time at stops, the need for additional personnel (*e.g.*, an extra staff person on vehicles to assist passengers), increased insurance costs, lower service productivity, increased need for training, or preventing providers from charging fees for what they would otherwise view as premium service. Some of these commenters attached numbers to their predictions of

increased costs (*e.g.*, the costs of paratransit would rise from 22–50 percent, nationwide costs would rise by \$1.89–2.7 billion), though, with few exceptions, these numbers appeared to be based on extrapolations premised on assumptions about the requirements of the NPRM that were contrary to the language of the NPRM’s regulatory text and preamble or on no analysis at all.

Commenters opposed to the proposal also raised safety issues, again principally in the context of paratransit. Making some reasonable modifications would force drivers to leave vehicles, commenters said. This could result in other passengers being left alone, which could expose them to hazards. Drivers leaving a vehicle would have to turn off the vehicle’s engine, resulting in no air conditioning or heating for other passengers in the time the driver was outside the vehicle. The driver could be exposed to injury outside the vehicle (*e.g.*, from a trip and fall).

A smaller number of commenters also expressed concern about the application of the reasonable modification concept to fixed route bus service. Some commenters said that the idea of buses stopping at other than a designated bus stop was generally unsafe and burdensome, could cause delays, and impair the clarity of service. A number of these commenters appeared to believe that the NPRM could require transit entities to stop anywhere along a route where a person with a disability was flagging a bus down, which they said would be a particularly burdensome practice.

Commenters also made legal arguments against the proposal. Some commenters supported the approach taken by the court in *Melton*. Others said that the Department lacks statutory authority under the ADA to require reasonable modification or that reasonably modifying paratransit policies and practices would force entities to exceed the “comparable” service requirements of the statute. Some of these commenters said that the proposal would push entities too far in the direction of providing individualized, human service-type transportation, rather than mass transit. A number of commenters also said that it was good policy to maintain local option for entities in terms of the service they provide. Others argued that the proposed action was inconsistent with statutes or Executive Orders related to unfunded mandates and Federalism.

A variety of commenters—in both the disability community and transportation industry—noted that a significant number of paratransit operators already either provide door-to-door service as

their basic mode of service (some commenters said as many as 50 percent of paratransit operators provide door-to-door service) or follow what, in effect, is curb-to-curb with reasonable modification approach for paratransit, or allowed fixed route buses flexibility in terms of where they stop. Some of these commenters said that transit operators imposed conditions on the kind of modifications that could be made (e.g., drivers could only leave the vehicle for a limited time or distance).

In some cases, commenters said, while they use their discretion to make the kinds of modifications the NPRM proposed, they wanted these actions to remain discretionary, rather than being the subject of a Federal mandate. A smaller number of commenters asked for additional guidance on expectations under a reasonable modification rule or for clarification of an enforcement mechanism for the proposed requirement.

Disability community commenters were virtually unanimous in supporting the proposal, saying that curb-to-curb paratransit service was often inadequate for some people with disabilities, who, in some circumstances, could not make use of ADA-mandated paratransit service. For example, medical oxygen users should not have to use part of their supply waiting at the curb for a vehicle; blind passengers may need wayfinding assistance to get to or from a vehicle; or bad weather may make passage to or from a vehicle unduly difficult for wheelchair users. Some disability community commenters supported the inclusion in the rule of various other provisions of the DOJ ADA regulations (e.g., with respect to auxiliary aids and services).

#### **DOT Response to Comments**

Reasonable modification is a central concept of disability nondiscrimination law, based on the principle that it is essential for entities to consider individuals with disabilities as individuals, not simply as members of a category. The concept recognizes that entities may have general policies, legitimate on their face, that prevent nondiscriminatory access to entities' service, programs, or facilities by some individuals with disabilities under some circumstances. The concept calls on entities to make individual exceptions to these general policies, where needed to provide meaningful, nondiscriminatory access to services, programs, or facilities, unless making such an exception would require a fundamental alteration of an entity's programs.

Reasonable modification requirements are part of existing requirements for recipients of Federal financial assistance, DOJ ADA rules for public and private entities, DOT ADA rules for passenger vessels, and DOT rules under the Air Carrier Access Act. In none of these contexts has the existence of a reasonable modification requirement created a significant obstacle to the conduct of the wide variety of public and private functions covered by these rules. Nor has it led to noticeable increases in costs. At this point, surface transportation entities are the only class of entities not explicitly covered by an ADA regulatory reasonable modification requirement. Having reviewed the comments to this rulemaking, the Department has concluded that commenters failed to make a persuasive case that there is legal justification for public transportation entities to be treated differently than other transportation entities. Further, per the analysis above, section 504 requires entities receiving Federal financial assistance to make reasonable accommodations to policies and practices when necessary to provide nondiscriminatory access to services. This existing requirement applies to nearly all public transportation entities.

As stated in the NPRM, DOT recognizes that not all requests by individuals with disabilities for modifications of transportation provider policies are, in fact, reasonable. The NPRM recognized three types of modifications that would not create an obligation for a transportation provider to agree with a request: (1) Those that would fundamentally alter the provider's program, (2) those that would create a direct threat, as defined in 49 CFR 37.3, as a significant risk to the health or safety of others, and (3) those that are not necessary to enable an individual to receive the provider's services. The NPRM provided some examples of modifications that should be or need not be granted. Commenters from both the disability community and the transit industry provided a vastly larger set of examples of modifications that they had encountered or believed either should or should not be granted.

To respond to commenters' concerns that, given the wide variety of requests that can be made, it is too difficult to make the judgment calls involved, the Department has created an Appendix E to its ADA regulation that lists examples of types of requests that we believe, in most cases, either will be reasonable or not. This guidance recognizes that, given the wide variety of circumstances with which transportation entities and passengers deal, there may be some

generally reasonable requests that could justly be denied in some circumstances, and some requests that generally need not be granted that should be granted in other circumstances. In addition, we recognize that no list of potential requests can ever be completely comprehensive, since the possible situations that can arise are far more varied than can be set down in any document. That said, we hope that this Appendix will successfully guide transportation entities' actions in a substantial majority of the kinds of situations commenters have called to our attention, substantially reducing the number of situations in which from-scratch judgment calls would need to be made, and will provide an understandable framework for transportation entities' thinking about specific requests not listed. Of course, as the Department learns of situations not covered in the Appendix, we may add to it.

The Department wants again to make clear that, as stated in the preamble to the last rulemaking:

[the] September 2005 guidance concerning origin-to-destination service remains the Department's interpretation of the obligations of ADA complementary paratransit providers under existing regulations. As with other interpretations of regulatory provisions, the Department will rely on this interpretation in implementing and enforcing the origin-to-destination requirement of part 37. 76 FR 57924, 57934 (Sept. 19, 2011).

Thus, achieving the objective of providing origin-to-destination service does not require entities to make door-to-door service their basic mode of service provision. It remains entirely consistent with the Department's ADA rule to provide ADA complementary paratransit in a curb-to-curb mode. When a paratransit operator does so, however, it would need to make exceptions to its normal curb-to-curb policy where a passenger with a disability makes a request for assistance beyond curb-to-curb service that is needed to provide access to the service and does not result in a fundamental alteration or direct threat to the health or safety of others. Given the large number of comments on this issue, and to further clarify the Department's position on this, we have added a definition of "origin-to-destination" in part 37.

As commenters noted, a significant number of paratransit operators already follow an origin-to-destination policy that addresses the needs of passengers that require assistance beyond the curb in order to use the paratransit service. This fact necessarily means that these providers can and do handle individual



requests successfully. When a significant number of complementary paratransit systems already do essentially what this rule requires, or more, it is difficult to argue that it cannot be done without encountering insuperable problems.

To respond to commenters' concerns about an asserted onerous review process of requested modifications, the Department has removed the requirement that a response to a request be in writing, and is amending the complaint procedure in 49 CFR 27.13, and then mirroring that provision in a new section 37.17, to ensure it applies not just to recipients of Federal funds but to all designated public transportation entities. A person who is denied a modification may file a complaint with the entity, but the process would be the same as with any other complaint, so no separate complaint procedure is listed in 37.169.

With respect to fixed route bus service, the Department's position—elaborated upon in Appendix E—is that transportation providers are not required to stop at nondesignated locations. That is, a bus operator would not have to stop and pick up a person who is trying to flag down the bus from a location unrelated to or not in proximity to a designated stop, regardless of whether or not that person has a disability. On the other hand, if a person with a disability is near a bus stop, but cannot get to the precise location of the bus stop sign (*e.g.*, because there is not an accessible path of travel to that precise location) or cannot readily access the bus from the precise location of the bus stop sign (*e.g.*, because of construction, snow, or a hazard that makes getting onto the lift from the area of the bus stop sign too difficult or dangerous), then it is consistent both with the principle of reasonable modification and with common sense to pick up that passenger a modest distance from the bus stop sign. Doing so would not fundamentally alter the service or cause significant delays or degradation of service.

While it is understandable that commenters opposed to reasonable modification would support the outcome of *Melton* and cases that followed, it is important to understand that the reasoning of these cases is based largely on the proposition that, in the absence of a DOT ADA regulation, transportation entities could not be required to make reasonable modifications on the basis of DOJ requirements, standing alone. This final rule will fill the regulatory gap that *Melton* identified. While *Melton* stated that there was a gap in coverage with

respect to public transportation and paratransit, as § 37.5(f) notes, private entities that were engaged in the business of providing private transportation services have always been obligated to provide reasonable modifications under title III of the ADA. Further, as stated above, reasonable accommodation is a requirement under section 504 of the Rehabilitation Act of 1973.

We do not agree with commenters who asserted that reasonable modification goes beyond the concept of comparable complementary paratransit found in the ADA, going too far in the direction of individualized, human services transportation, rather than mass transit. To the contrary, complementary paratransit remains a shared-ride service that must meet regulatory service criteria. Nothing in this final rule changes that. What the final rule does make clear is that in providing complementary paratransit service, transit authorities must take reasonable steps, even if case-by-case exceptions to general procedures, to make sure that eligible passengers can actually get to the service and use it for its intended purpose. ADA complementary paratransit remains a safety net for individuals with disabilities who cannot use accessible fixed route service. Adhering rigidly to policies that deny access to this safety net is inconsistent with the nondiscrimination obligations of transportation entities. Because transportation entities would not be required to make any modifications to their general policies that would fundamentally alter their service, the basic safety net nature of complementary paratransit service remains unchanged.

By the terms of the Unfunded Mandates Reform Act of 1995, as amended, requirements to comply with nondiscrimination laws, including those pertaining to disability, are not unfunded mandates subject to the provisions of the Act. 2 U.S.C. 1503. As a practical matter, for the vast majority of transportation entities subject to the DOT ADA regulation who receive FTA or other DOT financial assistance, compliance with any DOT regulations is, to a significant degree, a funded mandate. For both these reasons, comments suggesting that the proposal would impose an unfunded mandate were incorrect.

With respect to federalism, State and local governments were consulted about the rule, both by means of the opportunity to comment on the NPRM and a public meeting. Transportation authorities—many of which are likely to be State and local entities—did

participate extensively in the rulemaking process, as the docket amply demonstrates. As stated previously, transportation industry commenters prefer to use their discretion to make the kinds of modifications the NPRM proposed, rather than being subject to a Federal mandate. These entities continue to have the discretion to grant or deny requests for reasonable modification, albeit in the context of Appendix E.

The effects of the final rule on fixed route service are quite modest, and comments did not assert the contrary. The issue of the cost impact of the reasonable modification focused almost exclusively on ADA complementary paratransit. There was little in the way of allegations that making exceptions to usual policies would increase costs in fixed route service.

In looking at the allegations of cost increases on ADA complementary paratransit, the Department stresses that all recipients of Federal financial assistance—which includes public transportation entities of complementary paratransit service—are already required to modify policies, practices, and procedures if needed by an individual with a disability to enable him or her to participate in the recipient's programs or activities, and this principle has been applied by Federal agencies and the courts accordingly. However, to provide commenters with a fuller response to their comments, the Department would further make three primary points. First, based on statements on transportation provider Web sites and other information, one-half to two-thirds of transit authorities already provide either door-to-door service as their basic mode of service or provide what amounts to curb-to-curb service with assistance beyond the curb as necessary in order to enable the passenger to use the service. The rule would not require any change in behavior, or any increase in costs, for these entities. Second, the effect of providing paratransit service in a door-to-door, or curb-to-curb, with reasonable modification, mode on per-trip costs is minimal. In situations where arrangements for reasonable modification are made in advance, which would be a significant portion of all paratransit modification requests, per-trip costs could even be slightly lower. The concerns expressed by commenters that per-trip costs would escalate markedly appear not to be supported by the data. Third, there could be cost increases, compared to current behavior, for paratransit operators that do not comply with existing origin-to-destination

requirements of the rule. Suppressing paratransit ridership by preventing eligible individuals from using the service or making the use of the service inconvenient saves money for entities. Conversely, making service more usable, and hence more attractive, could increase usage. Because of the operating cost-intensive nature of paratransit service, providing service to more people tends to increase costs. The Department estimated that increased costs from increased ridership stemming from improved service could amount to \$55 million per year nationwide for those public transportation entities who are not in compliance with the current DOT origin-to-destination regulations.

This estimate would be at the upper end of the range of possible ridership-generated cost increases, since it is not clear that transportation entities with a strict curb-to-curb policy never provide modifications to their service. Analysts made the assumption that transportation agencies with curb-to-curb policies did not make modifications when modifications were not mentioned on the entities' Web sites. Disability community commenters suggested that, as a practical matter, transportation entities often provide what amounts to modifications even if their formal policies do not call for doing so.

In addition, it should be emphasized that transportation entities who comply with the existing rule's origin-to-destination requirement will not encounter ridership-related cost increases. In an important sense, any paratransit operation that sees an increase in ridership when this rule goes into effect are experiencing increased costs at this time because of their unwillingness to comply with existing requirements over the past several years.

#### Provisions of the Final Rule

In amendments to 49 CFR part 27 (the Department's section 504 rule) and part 37 (the Department's ADA rule for most surface transportation), the Department is incorporating specific requirements to clarify that public transportation entities are required to modify policies, practices, procedures that are needed to ensure access to programs, benefits, and services.

With regard to the Department's section 504 rule at 49 CFR part 27, we are revising the regulation to specifically incorporate the preexisting reasonable accommodation requirement recognized by the U.S. Supreme Court (see, e.g., *Choate* and *Davis*). The revised section 27.7 will clarify that recipients of Federal financial assistance are required to provide reasonable

accommodations to policies, practices, or procedures when the accommodations are necessary to avoid discrimination on the basis of disability unless making the modifications (1) would fundamentally alter the nature of the service, program, or activity, or (2) would result in undue financial and administrative burdens.

With regard to the Department's ADA regulations in part 37, we are revising the regulation to further clarify this requirement and to fill in the gap identified by the courts. Under our revised part 37 regulations, public transportation entities may deny requests for modifications to their policies and practices on one or more of the following grounds: Making the modifications (1) would fundamentally alter the nature of the service, program, or activity, (2) would result in a direct threat to the health or safety of others, or (3) without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose. Please note that under our section 504 regulations at part 27, there is an undue financial and administrative burden defense, which is not relevant to our ADA regulations at part 37.

This final rule revises section 37.169, which focuses on the reasonable modification obligations of public entities providing designated public transportation, including fixed route, demand-responsive, and complementary paratransit service. The key requirement of the section is that these types of transportation entities implement their own processes for making decisions on and providing reasonable modifications to their policies and practices. In many cases, agencies are handling requests for modifications during the paratransit eligibility process, customer service inquiries, and through the long-existing requirement in the Department's section 504 rule for a complaint process. Entities will need to review existing procedures and conform them to the new rule as needed. The Department is not requiring that the process be approved by DOT, and the shape of the process is up to the transportation provider, but it must meet certain basic criteria. The DOT can, however, review an entity's process as part of normal program oversight, including compliance reviews and complaint investigations.

First, the entity must make information about the process, and how to use it, readily available to the public, including individuals with disabilities. For example, if a transportation

provider uses printed media and a Web site to inform customers about bus and paratransit services, then it must use these means to inform people about the reasonable modification process. Of course, like all communications, this information must be provided by means accessible to individuals with disabilities.<sup>1</sup>

Second, the process must provide an accessible means by which individuals with disabilities can request a reasonable modification/accommodation. Whenever feasible, requests for modifications should be made in advance. This is particularly appropriate where a permanent or long-term condition or barrier is the basis for the request (e.g., difficulty in access to a paratransit vehicle from the passenger's residence; the need to eat a snack on a rail car to maintain a diabetic's blood sugar levels; lack of an accessible path of travel to a bus stop, resulting in a request to have the bus stop a short distance from the bus stop location). In the paratransit context, it may often be possible to consider requests of this kind in conjunction with the eligibility process. The request from the individual with a disability should be as specific as possible and include information on why the requested modification is needed in order to allow the individual to use the transportation provider's services.

Third, the process must also provide for those situations in which an advance request and determination is not feasible. The Department recognizes that these situations are likely to be more difficult to handle than advance requests, but responding to them is necessary. For example, a passenger who uses a wheelchair may be able to board a bus at a bus stop near his residence but may be unable to disembark due to a parked car or utility repair blocking the bus boarding and alighting area at the stop near his destination. In such a situation, the transit vehicle operator would have the front-line responsibility for deciding whether to grant the on-the-spot request, though it would be consistent with the rule for the operator to call his or her supervisor for guidance on how to proceed.

Further, section 37.169 states three grounds on which a transportation provider could deny a requested modification. These grounds apply both to advance requests and on-the-spot requests. The first ground is that the request would result in a fundamental alteration of the provider's services (e.g., a request for a dedicated vehicle in

<sup>1</sup> See 28 CFR 35.160(b)(1).

paratransit service, a request for a fixed route bus to deviate from its normal route to pick up someone). The second ground is that fulfilling a request for a modification would create a direct threat to the health or safety of others (e.g., a request that would require a driver to engage in a highly hazardous activity in order to assist a passenger, such as having to park a vehicle for a prolonged period of time in a no-parking zone on a high-speed, high-volume highway that would expose the vehicle to a heightened probability of being involved in a crash). Third, the requested modification would not be necessary to permit the passenger to use the entity's services for their intended purpose in a nondiscriminatory fashion (e.g., the modification might make transportation more convenient for the passenger, who could nevertheless use the service successfully to get where he or she is going without the modification). Appendix E provides additional examples of requested modifications that transportation entities usually would not be required to grant for one or more of these reasons.

Where a transportation provider has a sound basis, under this section, for denying a reasonable modification request, the entity would still need to do all it could to enable the requester to receive the services and benefits it provides (e.g., a different work-around to avoid an obstacle to transportation from the one requested by the passenger). Transportation agencies that are Federal recipients are required to have a complaint process in place. The Department has added a new section 37.17 that extends the changes made to 49 CFR 27.13 to all public and private entities that provide transportation services, regardless of whether the entity receives Federal funds.

By requiring entities to implement a local reasonable modification process, the Department intends decisions on individual requests for modification to be addressed at the local level. The Department does not intend to use its complaint process to resolve disagreements between transportation entities and individuals with disabilities about whether a particular modification request should have been granted. However, if an entity does not have the required process, it is not being operated properly (e.g., the process is inaccessible to people with disabilities, does not respond to communications from prospective complainants), it is not being operated in good faith (e.g., virtually all complaints are routinely rejected, regardless of their merits), or in any particular case raising a Federal

interest, DOT agencies may intervene and take enforcement action.

### Regulatory Analyses and Notices

*Executive Order 12866 (Regulatory Planning and Review), DOT Regulatory Policies and Procedures, and Executive Order 13563 (Improving Regulation and Regulatory Review)*

This final rule is not significant for purposes of Executive Orders 12866 and 13563 and the Department of Transportation's Regulatory Policies and Procedures. Therefore, it has not been reviewed by the Office of Management and Budget under Executive Order 12866 and Executive Order 13563. The costs of this rulemaking are expected to be minimal for two reasons. First, modifications to policies, practices, and procedures, if needed by an individual with a disability to enable him or her to participate in a program or activity, are already required by other Federal law that applies to recipients of Federal financial assistance. Since virtually every entity subject to this final rule receives Federal financial assistance, each entity should already be modifying its policies, practices, and procedures when necessary. Second, the reasonable modification/accommodation requirements contained in this final rule are not very different from the origin-to-destination requirement already applicable to complementary paratransit service, as required by current DOT regulations at 49 CFR 37.129(a) and as described in its implementing guidance. However, the Department recognizes that it is likely that some regulated entities are not complying with the current section 504 requirements and origin-to-destination regulation. In those circumstances only, the Department estimates that increased costs from improved service could amount to \$55 million per year nationwide for those public transportation entities who are not in compliance with the current DOT origin-to-destination regulations and section 504 requirements. Those costs are not a cost of this rule, but rather a cost of coming into compliance with current law.

*Executive Order 13132 (Federalism)*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This final rule does not include any provision that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various level

of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. Therefore, the rule does not have federalism impacts sufficient to warrant the preparation of a Federalism Assessment.

*Executive Order 13084 (Consultation and Coordination With Indian Tribal Governments)*

The final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084. Because this final rule does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule may affect actions of some small entities (e.g., small paratransit operations). However, the bulk of paratransit operators are not small entities, and the majority of all paratransit operators already appear to be in compliance. There are not significant cost impacts on fixed route service at all, and the number of small grantees who operate fixed route systems is not large. Since operators can provide service in a demand-responsive mode (e.g., route deviation) that does not require the provision of complementary paratransit, significant financial impacts on any given operator are unlikely.

### Paperwork Reduction Act

This rule imposes no new information reporting or recordkeeping necessitating clearance by the Office of Management and Budget.

### National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing

procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to provide that transportation entities are required to make reasonable modifications/ accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

There are a number of other statutes and Executive Orders that apply to the rulemaking process that the Department considers in all rulemakings. However, none of them is relevant to this rule. These include the Unfunded Mandates Reform Act (which does not apply to nondiscrimination/civil rights requirements), Executive Order 12630 (concerning property rights), Executive Order 12988 (concerning civil justice reform), and Executive Order 13045 (protection of children from environmental risks).

#### List of Subjects

##### 49 CFR Part 27

Administrative practice and procedure, Airports, Civil rights, Highways and roads, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements.

##### 49 CFR Part 37

Buildings and facilities, Buses, Civil rights, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, the Department of Transportation amends 49 CFR parts 27 and 37, as follows:

#### PART 27—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

- 1. The authority citation for part 27 is revised to read as follows:

**Authority:** Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); 49 U.S.C. 5332.

- 2. Amend § 27.7 by adding a new paragraph (e) to read as follows:

##### § 27.7 Discrimination prohibited.

\* \* \* \* \*

(e) *Reasonable accommodations.* A recipient shall make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability unless the recipient can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden. For the purposes of this section, the term reasonable accommodation shall be interpreted in a manner consistent with the term "reasonable modifications" as set forth in the Americans with Disabilities Act title II regulations at 28 CFR 35.130(b)(7), and not as it is defined or interpreted for the purposes of employment discrimination under title I of the ADA (42 U.S.C. 12111–12112) and its implementing regulations at 29 CFR part 1630.

- 3. Revise § 27.13 to read as follows:

##### § 27.13 Designation of responsible employee and adoption of complaint procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of complaint procedures.* A recipient shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures shall meet the following requirements:

(1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the recipient's Web site;

(2) The procedures must be accessible to and usable by individuals with disabilities;

(3) The recipient must promptly communicate its response to the

complaint allegations, including its reasons for the response, to the complainant by a means that will result in documentation of the response.

#### PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

- 4. The authority citation for part 27 continues to read as follows:

**Authority:** 42 U.S.C. 12101–12213; 49 U.S.C. 322.

- 5. In § 37.3, add a definition of "Origin-to-destination service" in alphabetical order to read as follows:

##### § 37.3 Definitions.

\* \* \* \* \*

*Origin-to-destination service* means providing service from a passenger's origin to the passenger's destination. A provider may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode. When an ADA paratransit operator chooses curb-to-curb as its primary means of providing service, it must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in a fundamental alteration or direct threat.

\* \* \* \* \*

- 6. Amend § 37.5 by revising paragraph (h) and adding paragraph (i) to read as follows:

##### § 37.5 Nondiscrimination.

\* \* \* \* \*

(h) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

(i) *Public and private entity distinctions.*— (1) *Private entity—private transport.* Private entities that are primarily engaged in the business of transporting people and whose operations affect commerce shall not discriminate against any individual on the basis of disability in the full and equal enjoyment of specified transportation services. This obligation includes, with respect to the provision of transportation services, compliance with the requirements of the rules of the Department of Justice concerning

eligibility criteria, making reasonable modifications, providing auxiliary aids and services, and removing barriers (28 CFR 36.301–36.306).

(2) *Private entity–public transport.* Private entities that provide specified public transportation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(3) *Public entity–public transport.* Public entities that provide designated public transportation shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability or to provide program accessibility to their services, subject to the limitations of § 37.169(c)(1)–(3). This requirement applies to the means public entities use to meet their obligations under all provisions of this part.

(4) In choosing among alternatives for meeting nondiscrimination and accessibility requirements with respect to new, altered, or existing facilities, or designated or specified transportation services, public and private entities shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate to the needs of individuals with disabilities.

■ 7. Add § 37.17 to read as follows:

**§ 37.17 Designation of responsible employee and adoption of complaint procedures.**

(a) *Designation of responsible employee.* Each public or private entity subject to this part shall designate at least one person to coordinate its efforts to comply with this part. (b) *Adoption of complaint procedures.* An entity shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 27, 38 and 39. The procedures shall meet the following requirements:

(1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the entity's Web site;

(2) The procedures must be accessible to and usable by individuals with disabilities;

(3) The entity must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response.

■ 8. Add § 37.169 to read as follows:

**§ 37.169 Process to be used by public entities providing designated public transportation service in considering requests for reasonable modification.**

(a)(1) A public entity providing designated public transportation, in meeting the reasonable modification requirement of § 37.5(g)(1) with respect to its fixed route, demand responsive, and complementary paratransit services, shall respond to requests for reasonable modification to policies and practices consistent with this section.

(2) The public entity shall make information about how to contact the public entity to make requests for reasonable modifications readily available to the public through the same means it uses to inform the public about its policies and practices.

(3) This process shall be in operation no later than July 13, 2015.

(b) The process shall provide a means, accessible to and usable by individuals with disabilities, to request a modification in the entity's policies and practices applicable to its transportation services.

(1) Individuals requesting modifications shall describe what they need in order to use the service.

(2) Individuals requesting modifications are not required to use the term "reasonable modification" when making a request.

(3) Whenever feasible, requests for modifications shall be made and determined in advance, before the transportation provider is expected to provide the modified service, for example, during the paratransit eligibility process, through customer service inquiries, or through the entity's complaint process.

(4) Where a request for modification cannot practicably be made and determined in advance (e.g., because of a condition or barrier at the destination of a paratransit or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel of the entity shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with the entity's management before making a

determination to grant or deny the request.

(c) Requests for modification of a public entity's policies and practices may be denied only on one or more of the following grounds:

(1) Granting the request would fundamentally alter the nature of the entity's services, programs, or activities;

(2) Granting the request would create a direct threat to the health or safety of others;

(3) Without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose.

(d) In determining whether to grant a requested modification, public entities shall be guided by the provisions of Appendix E to this Part.

(e) In any case in which a public entity denies a request for a reasonable modification, the entity shall take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by the entity.

(f)(1) Public entities are not required to obtain prior approval from the Department of Transportation for the process required by this section.

(2) DOT agencies retain the authority to review an entity's process as part of normal program oversight.

■ 9. Add a new Appendix E to Part 37 to read as follows:

**Appendix E to Part 37—Reasonable Modification Requests**

A. This appendix explains the Department's interpretation of §§ 37.5(g) and 37.169. It is intended to be used as the official position of the Department concerning the meaning and implementation of these provisions. The Department also issues guidance by other means, as provided in § 37.15. The Department also may update this appendix periodically, provided in response to inquiries about specific situations that are of general relevance or interest.

B. The Department's ADA regulations contain numerous requirements concerning fixed route, complementary paratransit, and other types of transportation service. Transportation entities necessarily formulate policies and practices to meet these requirements (e.g., providing fixed route bus service that people with disabilities can use to move among stops on the system, providing complementary paratransit service that gets eligible riders from their point of origin to their point of destination). There may be certain situations, however, in which the otherwise reasonable policies and practices of entities do not suffice to achieve the regulation's objectives. Implementing a fixed route bus policy in the normal way may

not allow a passenger with a disability to access and use the system at a particular location. Implementing a paratransit policy in the usual way may not allow a rider to get from his or her origin to his or her destination. In these situations, subject to the limitations discussed below, the transportation provider must make reasonable modifications of its service in order to comply with the underlying requirements of the rule. These underlying provisions tell entities the end they must achieve; the reasonable modification provision tells entities how to achieve that end in situations in which normal policies and practices do not succeed in doing so.

C. As noted above, the responsibility of entities to make requested reasonable modifications is not without some limitations. There are four classes of situations in which a request may legitimately be denied. The first is where granting the request would fundamentally alter the entity's services, programs, or activities. The second is where granting the request would create a direct threat to the health or safety of others. The third is where without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose. The fourth, which applies only to recipients of Federal financial assistance, is where granting the request would cause an undue financial and administrative burden. In the examples that follow, these limitations are taken into account.

D. The examples included in this appendix are neither exhaustive nor exclusive. Transportation entities may need to make determinations about requests for reasonable modification that are not described in this appendix. Importantly, reasonable modification applies to an entities' own policies and practices, and not regulatory requirements contained in 49 CFR parts 27, 37, 38, and 39, such as complementary paratransit service going beyond 3/4 mile of the fixed route, providing same day complementary paratransit service, etc.

#### Examples

1. *Snow and Ice.* Except in extreme conditions that rise to the level of a direct threat to the driver or others, a passenger's request for a paratransit driver to walk over a pathway that has not been fully cleared of snow and ice should be granted so that the driver can help the passenger with a disability navigate the pathway. For example, ambulatory blind passengers often have difficulty in icy conditions, and allowing the passenger to take the driver's arm will increase both the speed and safety of the passenger's walk from the door to the vehicle. Likewise, if snow or icy conditions at a bus stop make it difficult or impossible for a fixed route passenger with a disability to get to a lift, or for the lift to deploy, the driver should move the bus to a cleared area for boarding, if such is available within reasonable proximity to the stop (see Example 4 below).

2. *Pick Up and Drop Off Locations with Multiple Entrances.* A paratransit rider's request to be picked up at home, but not at

the front door of his or her home, should be granted, as long as the requested pick-up location does not pose a direct threat. Similarly, in the case of frequently visited public places with multiple entrances (e.g., shopping malls, employment centers, schools, hospitals, airports), the paratransit operator should pick up and drop off the passenger at the entrance requested by the passenger, rather than meet them in a location that has been predetermined by the transportation agency, again assuming that doing so does not involve a direct threat.

3. *Private Property.* Paratransit passengers may sometimes seek to be picked up on private property (e.g., in a gated community or parking lot, mobile home community, business or government facility where vehicle access requires authorized passage through a security barrier). Even if the paratransit operator does not generally have a policy of picking up passengers on such private property, the paratransit operator should make every reasonable effort to gain access to such an area (e.g., work with the passenger to get the permission of the property owner to permit access for the paratransit vehicle). The paratransit operator is not required to violate the law or lawful access restrictions to meet the passenger's requests. A public or private entity that unreasonably denies access to a paratransit vehicle may be subject to a complaint to the U.S. Department of Justice or U.S. Department of Housing and Urban Development for discriminating against services for persons with disabilities.

4. *Obstructions.* For fixed route services, a passenger's request for a driver to position the vehicle to avoid obstructions to the passenger's ability to enter or leave the vehicle at a designated stop location, such as parked cars, snow banks, and construction, should be granted so long as positioning the vehicle to avoid the obstruction does not pose a direct threat. To be granted, such a request should result in the vehicle stopping in reasonably close proximity to the designated stop location. Transportation entities are not required to pick up passengers with disabilities at nondesignated locations. Fixed route operators would not have to establish flag stop or route-deviation policies, as these would be fundamental alterations to a fixed route system rather than reasonable modifications of a system. Likewise, subject to the limitations discussed in the introduction to this appendix, paratransit operators should be flexible in establishing pick up and drop off points to avoid obstructions.

5. *Fare Handling.* A passenger's request for transit personnel (e.g., the driver, station attendant) to handle the fare media when the passenger with a disability cannot pay the fare by the generally established means should be granted on fixed route or paratransit service (e.g., in a situation where a bus passenger cannot reach or insert a fare into the farebox). Transit personnel are not required to reach into pockets or backpacks in order to extract the fare media.

6. *Eating and Drinking.* If a passenger with diabetes or another medical condition requests to eat or drink aboard a vehicle or in a transit facility in order to avoid adverse

health consequences, the request should be granted, even if the transportation provider has a policy that prohibits eating or drinking. For example, a person with diabetes may need to consume a small amount of orange juice in a closed container or a candy bar in order to maintain blood sugar levels.

7. *Medicine.* A passenger's request to take medication while aboard a fixed route or paratransit vehicle or in a transit facility should be granted. For example, transit agencies should modify their policies to allow individuals to administer insulin injections and conduct finger stick blood glucose testing. Transit staff need not provide medical assistance, however, as this would be a fundamental alteration of their function.

8. *Boarding Separately From Wheelchair.* A wheelchair user's request to board a fixed route or paratransit vehicle separately from his or her device when the occupied weight of the device exceeds the design load of the vehicle lift should generally be granted. (Note, however, that under § 37.165(b), entities are required to accommodate device/user loads and dimensions that exceed the former "common wheelchair" standard, as long as the vehicle and lift will accommodate them.)

9. *Dedicated vehicles or special equipment in a vehicle.* A paratransit passenger's request for special equipment (e.g., the installation of specific hand rails or a front seat in a vehicle for the passenger to avoid nausea or back pain) can be denied so long as the requested equipment is not required by the Americans with Disabilities Act or the Department's rules. Likewise, a request for a dedicated vehicle (e.g., to avoid residual chemical odors) or a specific type or appearance of vehicle (e.g., a sedan rather than a van, in order to provide more comfortable service) can be denied. In all of these cases, the Department views meeting the request as involving a fundamental alteration of the provider's service.

10. *Exclusive or Reduced Capacity Paratransit Trips.* A passenger's request for an exclusive paratransit trip may be denied as a fundamental alteration of the entity's services. Paratransit is by nature a shared-ride service.

11. *Outside of the Service Area or Operating Hours.* A person's request for fixed route or paratransit service may be denied when honoring the request would require the transportation provider to travel outside of its service area or to operate outside of its operating hours. This request would not be a reasonable modification because it would constitute a fundamental alteration of the entity's service.

12. *Personal Care Attendant (PCA).* While PCAs may travel with a passenger with a disability, transportation agencies are not required to provide a personal care attendant or personal care attendant services to meet the needs of passengers with disabilities on paratransit or fixed route trips. For example, a passenger's request for a transportation entity's driver to remain with the passenger who, due to his or her disability, cannot be left alone without an attendant upon reaching his or her destination may be denied. It would be a fundamental alteration of the driver's function to provide PCA services of this kind.

13. *Intermediate Stops.* The Department views granting a paratransit passenger's request for a driver to make an intermediate stop, where the driver would be required to wait, as optional. For example, a passenger with a disability arranges to be picked up at a medical facility and dropped off at home. On the way, the passenger with a disability wishes to stop by a pharmacy and requests that the driver park outside of the pharmacy, wait for the passenger to return, and then continue the ride home. While this can be a very useful service to the rider, and in some cases can save the provider's time and money (by scheduling and providing a separate trip to and from the drug store), such a stop in the context of a shared ride system is not required. Since paratransit is, by its nature, a shared ride system, requests that could disrupt schedules and inconvenience other passengers could rise to the level of a fundamental alteration.

14. *Payment.* A passenger's request for a fixed route or paratransit driver to provide the transit service when the passenger with a disability cannot or refuses to pay the fare may be denied. If the transportation agency requires payment to ride, then to provide a free service would constitute a fundamental alteration of the entity's service.

15. *Caring for Service Animals.* A paratransit or fixed route passenger's request that the driver take charge of a service animal may be denied. Caring for a service animal is the responsibility of the passenger or a PCA.

16. *Opening Building Doors.* For paratransit services, a passenger's request for the driver to open an exterior entry door to a building to provide boarding and/or alighting assistance to a passenger with a disability should generally be granted as long as providing this assistance would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.<sup>1</sup> Note that a request for "door-through-door" service (*i.e.*, assisting the passenger past the door to the building) generally would not need to be granted because it could rise to the level of a fundamental alteration.

17. *Exposing Vehicle to Hazards.* If the passenger requests that a vehicle follow a path to a pick up or drop off point that would expose the vehicle and its occupants to hazards, such as running off the road, getting stuck, striking overhead objects, or reversing the vehicle down a narrow alley, the request can be denied as creating a direct threat.

18. *Hard-to-Maneuver Stops.* A passenger may request that a paratransit vehicle navigate to a pick-up point to which it is difficult to maneuver a vehicle. A passenger's request to be picked up in a location that is difficult, but not impossible or impracticable,

to access should generally be granted as long as picking up the passenger does not expose the vehicle to hazards that pose a direct threat (*e.g.*, it is unsafe for the vehicle and its occupants to get to the pick-up point without getting stuck or running off the road).

19. *Specific Drivers.* A passenger's request for a specific driver may be denied. Having a specific driver is not necessary to afford the passenger the service provided by the transit operator.

20. *Luggage and Packages.* A passenger's request for a fixed route or paratransit driver to assist with luggage or packages may be denied in those instances where it is not the normal policy or practice of the transportation agency to assist with luggage or packages. Such assistance is a matter for the passenger or PCA, and providing this assistance would be a fundamental alteration of the driver's function.

21. *Request to Avoid Specific Passengers.* A paratransit passenger's request not to ride with certain passengers may be denied. Paratransit is a shared-ride service. As a result, one passenger may need to share the vehicle with people that he or she would rather not.

22. *Navigating an Incline, or Around Obstacles.* A paratransit passenger's request for a driver to help him or her navigate an incline (*e.g.*, a driveway or sidewalk) with the passenger's wheeled device should generally be granted. Likewise, assistance in traversing a difficult sidewalk (*e.g.*, one where tree roots have made the sidewalk impassible for a wheelchair) should generally be granted, as should assistance around obstacles (*e.g.*, snowdrifts, construction areas) between the vehicle and a door to a passenger's house or destination should generally be granted. These modifications would be granted subject, of course, to the proviso that such assistance would not cause a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

23. *Extreme Weather Assistance.* A passenger's request to be assisted from his or her door to a vehicle during extreme weather conditions should generally be granted so long as the driver leaving the vehicle to assist would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. For example, in extreme weather (*e.g.*, very windy or stormy conditions), a person who is blind or vision-impaired or a frail elderly person may have difficulty safely moving to and from a building.

24. *Unattended Passengers.* Where a passenger's request for assistance means that the driver will need to leave passengers aboard a vehicle unattended, transportation agencies should generally grant the request as long as accommodating the request would not leave the vehicle unattended or out of visual observation for a lengthy period of time, both of which could involve direct threats to the health or safety of the unattended passengers. It is important to keep in mind that, just as a driver is not required to act as a PCA for a passenger making a request for assistance, so a driver is not intended to act as a PCA for other

passengers in the vehicle, such that he or she must remain in their physical presence at all times.

25. *Need for Return Trip Assistance.* A passenger with a disability may need assistance for a return trip when he or she did not need that assistance on the initial trip. For example, a dialysis patient may have no problem waiting at the curb for a ride to go to the dialysis center, but may well require assistance to the door on his or her return trip because of physical weakness or fatigue. To the extent that this need is predictable, it should be handled in advance, either as part of the eligibility process or the provider's reservations process. If the need arises unexpectedly, then it would need to be handled on an ad hoc basis. The paratransit operator should generally provide such assistance, unless doing so would create a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

26. *Five-Minute Warning or Notification of Arrival Calls.* A passenger's request for a telephone call 5 minutes (or another reasonable interval) in advance or at time of vehicle arrival generally should be granted. As a matter of courtesy, such calls are encouraged as a good customer service model and can prevent "no shows." Oftentimes, these calls can be generated through an automated system. In those situations where automated systems are not available and paratransit drivers continue to rely on hand-held communication devices (*e.g.*, cellular telephones) drivers should comply with any State or Federal laws related to distracted driving.

27. *Hand-Carrying.* Except in emergency situations, a passenger's request for a driver to lift the passenger out of his or her mobility device should generally be denied because of the safety, dignity, and privacy issues implicated by hand-carrying a passenger. Hand-carrying a passenger is also a PCA-type service which is outside the scope of driver duties, and hence a fundamental alteration.

Issued this 6th day of March, 2015, at Washington, DC, under authority delegated in 49 CFR 1.27(a).

**Kathryn B. Thomson,**

*General Counsel.*

[FR Doc. 2015-05646 Filed 3-12-15; 8:45 am]

**BILLING CODE 4910-9X-P**

<sup>1</sup> Please see guidance issued on this topic. U.S. Department of Transportation, *Origin-to-Destination Service*, September 1, 2005, available at [http://www.fta.dot.gov/12325\\_3891.html](http://www.fta.dot.gov/12325_3891.html) (explaining that, "the Department does not view transit providers' obligations as extending to the provision of personal services. . . . Nor would drivers, for lengthy periods of time, have to leave their vehicles unattended or lose the ability to keep their vehicles under visual observation, or take actions that would be clearly unsafe. . . .").

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DATE: March 16, 2015  
TO: SolanoExpress Intercity Transit Consortium  
FROM: Judy Leaks, SNCI Program Manager  
RE: SNCI Call Center/Transportation Info Depot Update

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**Background:**

STA's Solano Napa Commuter Information (SNCI) program staff routinely provides an update to the Consortium on several key issues: Transportation Info Depot, Mobility Management Call Center, Napa and Solano transit schedule distribution, marketing, promotions and events. Other items are included as they become relevant.

**Discussion:**

**Oliver Road Park & Ride Lot:**

In an effort to increase the number of vanpool groups using the Oliver Park & Ride lot instead of the Fairfield Transportation Center (FTC), STA staff supported the new facility by holding two early morning events at the Oliver Road lot, the week of March 9. Email invitations were sent to all vanpools that travel by the lot and staff put flyers about the events on vehicles parked at the FTC.

**Bike to Work Day:**

Staff is preparing for Bike to Work Day (BTWD), which is scheduled for May 14 this year. Marketing materials are being produced and will be ready to distribute on April 9. Energizer station locations are being confirmed. Tote bags and t-shirts have been designed and will be available in May.

**Events:**

The 4<sup>th</sup> Annual Napa Commute Challenge will take place April 1 – June 30. Staff has prepared and mailed marketing materials and activated the Napa Challenge website. Napa employers are beginning to register. Staff attended three (3) employer events during the week of March 16: UTC Aerospace in Fairfield, Duckhorn Winery in St Helena, Far Niente Winery in Oakville.

**Vanpools:**

Six (6) vanpools were started in February and three (3) new vanpools added through mid-March, bringing the total of new vans started to 19 during FY2014-15. Eight (8) of these vanpools are destined for Solano County.

**Transportation Info Depot/Mobility Call Center:**

Staff provides a variety of informational services at the Transportation Info Depot at the Suisun City Amtrak Station as well as at the Solano Mobility Call Center. See attached table for the February customer service update.

**Recommendation:**

Informational.

Call Center/Info Depot	Feb 2015	YTD Totals**
<b>Activity</b>		
<b><u>Emergency Ride Home (ERH)</u></b>		
New Employees	8	46
New Employers	1	3
Trips Taken	1	17
<b><u>Bucks for Bikes</u></b>		
New Applications	0	0
Incentives Awarded	0	0
Follow up Surveys sent	3	34
<b><u>Train Depot Activity</u></b>		
Amtrak	225	938
Greyhound	55	328
General Transit Questions	21	77
Trip Planning	16	71
RTC Questions	15	17
Clipper Questions	4	19
Other – Taxi, Misc	13	13
<i>Total</i>	<i>349</i>	<i>1463</i>
<b><u>ADA Call Center Telephone Calls</u></b>		
ADA Paratransit Eligibility	18	36
RTC Questions	16	35
Adult Clipper Questions	3	6
Senior Clipper Questions	1	3
Senior Trip Planning	3	9
Transit Training – Trainer	1	3
Transit Training – Trainee	0	0
Taxi Scrip Local	3	9
Taxi Scrip InterCity	2	5
Materials Mailed	7	10
<b>Calls Referred to Outside Agencies</b>		
➤ NonProfit	0	9
➤ Private	0	1
➤ Transit Agency	6	7
<i>Total</i>	<i>60</i>	<i>133</i>
<b><u>Call Center ADA Customer Walk Ins</u></b>	<b>39</b>	<b>66</b>
<b><u>RTC Apps processed to Date</u></b>	<b>26</b>	<b>66</b>
<b><u>Clipper Cards Sales</u></b>		
Senior	3	8
Adult	2	16
Youth	0	0
<i>Total</i>	<i>5</i>	<i>24</i>



DATE: March 16, 2015  
 TO: Solano Express Intercity Transit Consortium  
 FROM: Drew Hart, Associate Planner  
 RE: Summary of Funding Opportunities

**Discussion:**

Below is a list of funding opportunities that will be available to STA member agencies during the next few months, broken up by Federal, State, and Local. Attachment A provides further details for each program.

	FUND SOURCE	AMOUNT AVAILABLE	APPLICATION DEADLINE
<b>Regional</b>			
1.	Carl Moyer Memorial Air Quality Standards Attainment Program (for San Francisco Bay Area)	Approximately <b>\$15 million</b>	Due On First-Come, First-Served Basis
2.	Carl Moyer Off-Road Equipment Replacement Program (for Sacramento Metropolitan Area)	Approximately <b>\$10 million</b>	Due On First-Come, First-Served Basis
3.	Air Resources Board (ARB) Clean Vehicle Rebate Project (CVRP)	Up to <b>\$2,500</b> rebate per light-duty vehicle	Due On First-Come, First-Served Basis (Waitlist)
4.	Bay Area Air Quality Management District (BAAQMD) Hybrid Electric Vehicle Purchase Vouchers (HVIP) (for fleets)	Approximately <b>\$10,000 to \$45,000</b> per qualified request	Due On First-Come, First-Served Basis
5.	TDA Article 3	<b>\$67,000</b>	No Deadline
6.	Yolo Solano Air Quality Management District – Clean Air Funds*	<b>\$340,000</b>	March 27, 2015
<b>State</b>			
1.	Highway Safety Improvement Program (HSIP): High Risk Rural Roads	<b>~\$100-150 million</b> federally	Announcement Anticipated Spring 2015
2.	Active Transportation Program*	<b>\$360 million</b>	May 29, 2015
<b>Federal</b>			

\*New funding opportunity

**Fiscal Impact:**

None.

**Recommendation:**

Informational.

**Attachment:**

A. Detailed Funding Opportunities Summary

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The following funding opportunities will be available to the STA member agencies during the next few months. Please distribute this information to the appropriate departments in your jurisdiction.

Fund Source	Application Contact**	Application Deadline/Eligibility	Amount Available	Program Description	Proposed Submittal	Additional Information
<b>Regional Grants<sup>1</sup></b>						
<b>Carl Moyer Memorial Air Quality Standards Attainment Program (for San Francisco Bay Area)</b>	Anthony Fournier Bay Area Air Quality Management District (415) 749-4961 <a href="mailto:afournier@baaqmd.gov">afournier@baaqmd.gov</a>	Ongoing. Application Due On First-Come, First Served Basis  Eligible Project Sponsors: private non-profit organizations, state or local governmental authorities, and operators of public transportation services	Approx. <b>\$15 million</b>	Carl Moyer Memorial Air Quality Standards Attainment Program provides incentive grants for cleaner-than-required engines, equipment, and other sources of pollution providing early or extra emission reductions.	N/A	Eligible Projects: cleaner on-road, off-road, marine, locomotive and stationary agricultural pump engines <a href="http://www.baaqmd.gov/Divisions/Strategic-Incentives/Funding-Sources/Carl-Moyer-Program.aspx">http://www.baaqmd.gov/Divisions/Strategic-Incentives/Funding-Sources/Carl-Moyer-Program.aspx</a>
<b>Carl Moyer Off-Road Equipment Replacement Program (for Sacramento Metropolitan Area)</b>	Gary A. Bailey Sacramento Metropolitan Air Quality Management District (916) 874-4893 <a href="mailto:gbailey@airquality.org">gbailey@airquality.org</a>	Ongoing. Application Due On First-Come, First-Served Basis  Eligible Project Sponsors: private non-profit organizations, state or local governmental authorities, and operators of public transportation services	Approx. <b>\$10 million</b> , maximum per project is \$4.5 million	The Off-Road Equipment Replacement Program (ERP), an extension of the Carl Moyer Program, provides grant funds to replace Tier 0, high-polluting off-road equipment with the cleanest available emission level equipment.	N/A	Eligible Projects: install particulate traps, replace older heavy-duty engines with newer and cleaner engines and add a particulate trap, purchase new vehicles or equipment, replace heavy-duty equipment with electric equipment, install electric idling-reduction equipment <a href="http://www.airquality.org/mobile/moyererp/index.shtml">http://www.airquality.org/mobile/moyererp/index.shtml</a>
<b>Air Resources Board (ARB) Clean Vehicle Rebate Project (CVRP)*</b>	Graciela Garcia ARB (916) 323-2781 <a href="mailto:ggarcia@arb.ca.gov">ggarcia@arb.ca.gov</a>	Application Due On First-Come, First-Served Basis (Currently applicants are put on waitlist)	Up to <b>\$5,000</b> rebate per light-duty vehicle	The Zero-Emission and Plug-In Hybrid Light-Duty Vehicle (Clean Vehicle) Rebate Project is intended to encourage and accelerate zero-emission vehicle deployment and technology innovation. Rebates for clean vehicles are now available through the Clean Vehicle Rebate Project (CVRP) funded by the Air Resources Board (ARB) and implemented statewide by the California Center for Sustainable Energy (CCSE).	N/A	Eligible Projects: Purchase or lease of zero-emission and plug-in hybrid light-duty vehicles <a href="http://www.arb.ca.gov/mspr/og/aqip/cvpr.htm">http://www.arb.ca.gov/mspr/og/aqip/cvpr.htm</a>
<b>Bay Area Air Quality Management District (BAAQMD) Hybrid Electric Vehicle Purchase Vouchers (HVIP)*</b>	To learn more about how to request a voucher, contact: 888-457-HVIP <a href="mailto:info@californiahvip.org">info@californiahvip.org</a>	Application Due On First-Come, First-Served Basis	Approx. <b>\$10,000 to \$45,000</b> per qualified request	The California Air Resources Board (ARB) created the HVIP to speed the market introduction of low-emitting hybrid trucks and buses. It does this by reducing the cost of these vehicles for truck and bus fleets that purchase and operate the vehicles in the State of California. The HVIP voucher is intended to reduce about half the incremental costs of purchasing hybrid heavy-duty trucks and buses.	N/A	Eligible Projects: Purchase of low-emission hybrid trucks and buses <a href="http://www.californiahvip.org/">http://www.californiahvip.org/</a>

<sup>1</sup> Regional includes opportunities and programs administered by the Solano Transportation Authority and/or regionally in the San Francisco Bay Area and greater Sacramento

<b>TDA Article 3</b>	Cheryl Chi Metropolitan Planning Commission (510) 817-5939 cchi@mtc.ca.gov	No deadline	Approx. <b>\$67,000</b>	The Metropolitan Transportation Commission (MTC) administers TDA Article funding for each of the nine Bay Area counties with assistance from each of the county Congestion Management Agencies (e.g. STA). The STA works with the Pedestrian Advisory Committee (PAC), Bicycle Advisory Committee (BAC) and staff from the seven cities and the County to prioritize projects for potential TDA Article 3 funding.	N/A	
<b>Yolo Solano Air Quality Management District – Clean Air Funds</b>	Jim Antone YSAQMD (530) 757-3653 <a href="mailto:jantone@ysaqmd.org">jantone@ysaqmd.org</a>	March 27, 2015	\$340,000	The purpose of the Clean Air Funds Program is to provide financial incentives for reducing emissions from the mobile sources of air pollution within the Yolo-Solano Air Quality Management District (YSAQMD).	N/A	

\*New Funding Opportunity

\*\*STA staff, Drew Hart, can be contacted directly at (707) 399-3214 or [ahart@sta-snci.com](mailto:ahart@sta-snci.com) for assistance with finding more information about any of the funding opportunities listed in this report

Fund Source	Application Contact**	Application Deadline/Eligibility	Amount Available	Program Description	Proposed Submittal	Additional Information
<b>State Grants</b>						
<b>Highway Safety Improvement Program (HSIP):</b> High Risk Rural Roads*	Slyvia Fung California Department of Transportation (Caltrans) (510) 286-5226 <a href="mailto:slyvia.fung@dot.ca.gov">slyvia.fung@dot.ca.gov</a>	Announcement Anticipated Spring of 2015	Approx. <b>\$100-150 M</b> nationally	The purpose of this program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land.  <a href="http://www.dot.ca.gov/hq/LocalPrograms/hsip.htm">http://www.dot.ca.gov/hq/LocalPrograms/hsip.htm</a>	N/A	Eligible Projects: HSIP funds are eligible for work on any public road or publicly owned bicycle/pedestrian pathway or trail, or on tribal lands for general use of tribal members, that corrects or improves the safety for its users.
<b>Active Transportation Program (ATP)</b>	Laurie Waters California Transportation Commission (CTC) (916) 651-6145 <a href="mailto:Laurie.Waters@dot.ca.gov">Laurie.Waters@dot.ca.gov</a>	May 29, 2015	\$260 M which includes: \$183M Statewide and \$30M Regional	The Active Transportation Program (ATP) was created to encourage increased use of active modes of transportation, such as biking and walking.	Currently being discussed between agencies	Call for projects will be on March 26, 2015. This is a 4-year funding cycle and can include environmental, engineering, and construction.