



AGENDA

TRANSIT OPERATORS ADVISORY COMMITTEE (TRANSCOM)
Thursday, August 13, 2015, 1:30 P.M.
Camarillo City Hall, Administrative Conference Room
601 Carmen Drive, Camarillo, CA

- Item #1** **CALL TO ORDER**
- Item #2** **INTRODUCTIONS AND ANNOUNCEMENTS**
- Item #3** **PUBLIC COMMENTS**
- Item #4** **MAY 14, 2015 MEETING MINUTES – PG. 3**
- Approve the May 14, 2015 meeting minutes.
- Item #5** **REVISION TO METROLINK PROPOSITION 1B TRANSIT SECURITY CAPITAL PROGRAM – PG. 5**
- Approve transferring the unused balance of the Metrolink Tunnel 26 Security Improvements project to the projects at the Moorpark Yard and Station.
- Item #6** **FY 2015/16 PROGRAM OF PROJECTS – PG. 7**
- Approve the Program of Projects for federal transit operating, planning and capital assistance for Fiscal Year 2015/16.
- Item #7** **STATUS OF FEDERAL STP AND CMAQ PROJECTS – PG. 14**
- Review and update project schedules.
- Item #8** **RADIO ANTENNA UPGRADES – PG. 22**
- Discuss potential radio antenna upgrades.
- Item #9** **DISCUSSION REGARDING FEDERAL TRANSIT ADMINISTRATION FINAL RULE REGARDING ADA REASONABLE MODIFICATIONS OF POLICY AND PRACTICES – PG. 23**
- Receive and file information regarding the Federal Transit Administration Final Rule regarding ADA reasonable modifications of policy and practices.
- Item #10** **TSUNAMI AWARENESS PREPAREDNESS TRAINING – PG. 48**
- Receive information regarding a training course

Item #11

**ADA CERTIFICATION AND MILEAGE REIMBURSEMENT PROGRAM
UPDATE – PG. 50**

- Receive and file the monthly ADA Certification Services Reports and Mileage Reimbursement Program update.

Item #8

ADJOURNMENT

In consideration of our host, the City of Camarillo, please exit this meeting quietly through the Exit door located directly right of the Administrative Conference Room, not back through front section of Camarillo City Hall. Thank you.

**MINUTES OF THE
VENTURA COUNTY TRANSPORTATION COMMISSION (VCTC)
TRANSIT OPERATORS ADVISORY COMMITTEE (TRANSCOM)**

May 14, 2015

1. Call to Order

Chair Vanessa Rauschenberger called the meeting to order at 1:34 p.m. The following people were present (an asterisk represents voting Member Agencies):

Bill Golubics	Camarillo*	Lindy Moore	Camarillo
Matt Miller	Gold Coast Transit Dist.	Claire Johnson-Winegar	Gold Coast Transit Dist.
Margaret Heath	Gold Coast Transit Dist.	Vanessa Rauschenberger	Gold Coast Transit Dist.*
Shaun Kroes	Moorpark*	Mike Culver	MMP, Inc.
Jason Lott	Port Hueneme*	Joseph Briglio	SCAG
John Webster	Simi Valley*	Alex Portlier	Thousand Oaks
Mike Houser	Thousand Oaks*	Kathy Connell	Ventura County*
Amy Ahdi	VCTC	Kara Elam	VCTC
Peter De Haan	VCTC	Treena Gonzalez	VCTC
Vic Kamhi	VCTC Intercity Bus*		

2. Introductions and Announcements

Shaun Kroes noted the Air Resources Board Advanced Clean Transit Regulation will establish requirements of transit agencies with heavy duty vehicles to convert to zero emission vehicles by 2040. Shaun Kroes also noted that Moorpark City Council will consider changes to Moorpark City Transit's demonstration plan, potentially effective as of August 1, 2015. Kathy Connell noted the Kanan Shuttle began Saturday service on April 11. Mike Houser noted their summer beach bus will operate from June 15 to August 21, the City of Agoura Hills approved their general purpose Dial-a-ride service being provided by Thousand Oaks (effective July 1) and a vendor has been selected for Thousand Oaks' Transit Master Plan. Claire Johnson-Winegar noted that GCTD is applying for a TIGER grant for their new facility. Vanessa Rauschenberger introduced Matt Miller, GCTD Transit Planner.

3. Public Comments

No public comments were made.

4. April 9, 2015 Meeting Minutes – Action

Shaun Kroes noted a correction to Item 8 (ADA Certification and Mileage Reimbursement Program Update) within the April 9, 2015 meeting minutes in that, during March 2015, eighty five applications were for "re-certification" not "new" certifications. Shaun Kroes moved to approve the April 9, 2015 meeting minutes, as corrected. The motion was seconded by Mike Houser. A voice vote was taken and the motion passed unanimously.

5. Approve Fiscal Year 2015/16 Program of Projects – Action

Discussion was had on the FY 15/16 Program of Projects line items for Countywide Planning, CalVans Vanpool Operations, ADA Paratransit Service within the Camarillo Urbanized Area and the Valley Express. Shaun Kroes moved to approve the FY 15/16 Program of Projects. The motion was seconded by Mike Houser. A voice vote was taken and the motion passed unanimously.

6. Draft Short Range Transit Plan and VCTC Intercity Five-Year Service Plan

Discussion was had on both the draft Short Range Transit Plan and VCTC intercity Five Year Service Plan; staff noted that an overview was provided to CTAC members. TRANSCOM members provided comments and feedback, as follows:

- Within section 3-15 of the SRTP, add origin and destination headers, include information on how wait time was calculated and consider adding the Esplanade stop, as well as the Wells Road stop, as major transfer points.
- Within section 3-15 of SRTP document, when referencing the County Government Center as a transfer point, specify the three different stop areas (Victoria Avenue, Hill Street and the County circle area) for the three different route destinations (Highway 101, Highway 126 and Coastal Express).

- Within section 3-14 of the SRTP document, correct the error within the table which notes VCTC Intercity service transfer wait times; the table describes wait time between the East County and Coastal Express but should state “Highway 101” instead of Coastal Express.

Additionally, it was noted that a section of text near the end of the SRTP document could have mistakenly been omitted. Amy Ahdi noted that a section pertaining to the countywide route re-numbering was omitted from the SRTP, based on feedback from TRANSCOM members, but she will look into the closing sections of the document. Final suggestions and comments regarding both the SRTP and the VCTC Intercity Five-Year Service Plan documents are due to Amy Ahdi by Wednesday May 20, 2015.

7. ADA Certification and Mileage Reimbursement Program Update

Mike Culver provided an update on ADA Certification services. The April 2015 ADA Certifications Services Report was provided to TRANSCOM members; 158 applications were submitted, 126 interviews were scheduled and twenty five “no-shows” occurred. Mike Culver provided an update on the Mileage Reimbursement Program (MRP). To date, the MRP has had 284 referrals, and 167 individuals are eligible to submit mileage claims. In April 2015, there were twenty six new referrals and fifty claims submitted for reimbursement. Discussion was had on evaluator processes for determining episodic conditions and full functional evaluations. TRANSCOM determined that an ADA Work Group should be formed with the intent to meet and review initiatives to improve the ADA certification processes. Staff will work with Transit Managers to schedule the ADA Work Group meeting within the next month.

8. Adjournment – Action

Chair Vanessa Rauschenberger moved to adjourn the meeting at 2:52 p.m. A voice vote was taken and the motion passed unanimously.



Item #5

August 13, 2015

MEMO TO: TRANSIT OPERATORS ADVISORY COMMITTEE

FROM: PETER DE HAAN, PROGRAMMING DIRECTOR

**SUBJECT: REVISION TO METROLINK PROPOSITION 1B TRANSIT SECURITY
CAPITAL PROGRAM**

RECOMMENDATION:

- Recommend approval to transfer the \$262,000 unused balance of the Metrolink Tunnel 26 Security Improvements project to the projects at the Moorpark Yard and Station, as listed in the attached table.

BACKGROUND:

SCRRA has completed its project funded with Proposition 1B Transit Safety, Security & Disaster Response bond funds, to improve Tunnel 26 security through improved fencing and upgrading to the tunnel's electric system. The project was completed with a \$262,000 balance. SCRRA has identified additional projects to use the remaining balance, primarily to provide added security features for the Moorpark layover yard. In addition, SCRRA proposes to replace pedestrian crossing panels at the Moorpark Station, as these panels have exceeded their anticipated useful life. VCTC staff has reviewed the proposed SCRRA projects and recommends approval.

There is a possibility that additional upgrades will be made to the Moorpark Yard should there be a decision to move forward with trains to Santa Barbara during commuter hours. At present there is significant interest on the part of the state in initiating such a service using state intercity rail funds. Should that project proceed, the Moorpark Yard security upgrades can be made as part of the overall yard upgrade project. Should the Santa Barbara service not be implemented, the Moorpark Yard security upgrades would be implemented by SCRRA as a stand-alone project.

Within the next few months staff plans to initiate a new call for projects to utilize the remaining Proposition 1B Transit Security funds.

Item #5, Attachment

Facility	Address	Description of Work	Budget
Moorpark Metrolink/Amtrak Station	300 High Street, Moorpark, CA 93201	Replacement of pedestrian grade crossing panels	\$ 50,000
Metrolink Layover Yard	585 Moorpark Ave, Moorpark, CA 93201	Entrance improvements (security gate, access control system, video surveillance system)	\$ 52,000
		Perimeter improvements (block wall)	\$ 160,000
		Total	\$ 262,000



Item #6

August 13, 2015

MEMO TO: TRANSPORTATION TECHNICAL ADVISORY COMMITTEE

FROM: PETER DE HAAN, PROGRAMMING DIRECTOR

SUBJECT: APPROVE FY 2015/16 PROGRAM OF PROJECTS

RECOMMENDATION:

- Approve the Program of Projects (POP) for federal transit operating, planning and capital assistance for Fiscal Year (FY) 2015/16.

BACKGROUND

The Federal Transit Administration (FTA) requires that the public be provided an opportunity to review transit projects proposed to be funded with federal dollars. As the designated recipient of federal transit funds, the VCTC is required to hold a public hearing and adopt a POP which lists projects to be funded with federal funds in each urban areas of Ventura County. Since 2003, VCTC has prepared the POP using separate programs for the Oxnard/Ventura, Thousand Oaks/Moorpark, and Camarillo urbanized areas, as defined by the U.S. Census Bureau. Later, VCTC also began to prepare the POP for Simi Valley based on a decision by Caltrans to delegate to VCTC the Designated Recipient status for Simi Valley.

The proposed FY 2015/16 POP was put together using the same methodology that was first developed for the FY 2003/04 POP, to provide a distribution of revenues and expenses between the four urbanized areas in the County. A draft of this POP was reviewed and approved by TRANSCOM at its May, 2015 meeting, and by the VCTC on June 5, 2015.

DISCUSSION

The attached Program of Projects table shows the recommended projects for each of the urbanized areas. There are three changes from the draft POP:

1. Add \$40,000 in FTA funds for Camarillo for ADA operations, to provide as was done in prior years the funds associated with unincorporated areas for paratransit service to those areas.

2. Add \$31,200 in FTA funds for Camarillo to provide a second replacement bus, to replace a bus lost due to an accident. These funds are to cover the amount not provided by insurance.
3. Provide toll credits for all Section 5339 funds. Although these funds are generated by all transit operators, VCTC has been swapping each operator's share with 5307 funds to consolidate the 5339 funding requirements with a single agency. However, VCTC's ability to continue this practice is lessened by a new FTA decision that preventive maintenance is ineligible for 5339. By removing the 5339 match requirement, VCTC will be better able to continue using the county's entire 5339 apportionment.

Subsequent to the TRANSCOM meeting, staff will publish the POP for public notice, and will present the POP to the VCTC for Public Hearing and approval at the September 11th meeting.

Program of Projects

The Ventura County Transportation Commission (VCTC) will hold a public hearing on the Program of Projects (POP) for the Oxnard, Thousand Oaks, Camarillo and Simi Valley Urbanized Areas (UAs) for projects to be funded with Federal Transit Administration funds in the 2015/16 Fiscal Year (FY 2016). The funds available in FY 2016 are estimated to be \$270,000 in Section 5310 funds and \$21,893,000 in other funds for the Oxnard UA, \$160,000 in Section 5310 funds and \$8,712,000 in other funds for the Thousand Oaks UA, \$2,680,000 for the Camarillo UA, and \$3,141,000 for the Simi Valley UA, based on anticipated FY 2016 funds, prior year carry-over funds, and federal discretionary funds. The public hearing will be held at 9:00 a.m. on Friday, September 11, 2015, in the Camarillo City Council Chamber, 601 Carmen Drive, in Camarillo. The POP is available for public inspection at 950 County Square Drive, Suite 207, Ventura CA 93003. Unless a subsequent list is published, this list will become the final Program of Projects for inclusion in the Southern California Association of Governments Federal Transportation Improvement Program.

FY 2015/16 Federal Transit Program of Projects

				Total Cost	Federal Share	Local Share & Other
OXNARD/VENTURA URBANIZED AREA						
Gold Coast Transit						
<u>Operating Assistance</u>						
	Wells/Nyland Acres Demo (CMAQ Funds)			\$ 2,615,840	\$ 2,315,803	\$ 300,037
	Operating Assistance			\$ 2,100,000	\$ 1,050,000	\$ 1,050,000
				<u>\$ 4,715,840</u>	<u>\$ 3,365,803</u>	<u>\$ 1,350,037</u>
<u>Planning Assistance</u>						
	Transit Service Administration & Support			\$ 125,000	\$ 100,000	\$ 25,000
	Marketing & Passenger Awareness Activities			\$ 125,000	\$ 100,000	\$ 25,000
				<u>\$ 250,000</u>	<u>\$ 200,000</u>	<u>\$ 50,000</u>
<u>Capital Assistance</u>						
	Preventive Maintenance			\$ 1,990,864	\$ 1,592,691	\$ 398,173
	Operations and Maintenance Facility			\$ 125,000	\$ 100,000	\$ 25,000
	Service Vehicles			\$ 50,000	\$ 40,000	\$ 10,000
	Bus Stop Upgrades (Enhancement Funds)			\$ 50,000	\$ 40,000	\$ 10,000
	Business System Upgrades			\$ 100,000	\$ 80,000	\$ 20,000
	Five Buses (CMAQ Funds)			\$ 2,800,000	\$ 2,478,840	\$ 321,160
	ADA Paratransit Service			\$ 1,050,000	\$ 840,000	\$ 210,000
				<u>\$ 6,165,864</u>	<u>\$ 5,171,531</u>	<u>\$ 994,333</u>
		Total Gold Coast		<u>\$ 11,131,704</u>	<u>\$ 8,737,334</u>	<u>\$ 2,394,370</u>
Ventura County Transportation Commission						
<u>Operating Assistance</u>						
	CalVans Vanpool Operations (JARC Funds)			\$ 31,500	\$ 15,750	\$ 15,750
	VCTC Intercity Operating Assistance			\$ 2,045,948	\$ 1,022,974	\$ 1,022,974
	East/West Connector Demo (CMAQ funds)			\$ 1,242,000	\$ 1,099,543	\$ 142,457
				<u>\$ 3,319,448</u>	<u>\$ 2,138,267</u>	<u>\$ 1,181,181</u>
<u>Planning Assistance</u>						
	Transit Planning and Programming (FY 16/17)			\$ 248,089	\$ 198,471	\$ 49,618
	Transit Information Center (FY 16/17)			\$ 237,500	\$ 190,000	\$ 47,500
	Fare Collection/Passenger Counting Data Management (FY 16/17)			\$ 400,000	\$ 320,000	\$ 80,000
	Elderly/Disabled Planning/Evaluation (FY 16/17)			\$ 262,500	\$ 210,000	\$ 52,500
	Transit Marketing (FY 16/17)(CMAQ Funds)			\$ 500,000	\$ 500,000	\$ -
	Bus Service Planning (FY 16/17)			\$ 468,750	\$ 375,000	\$ 93,750
				<u>\$ 2,116,839</u>	<u>\$ 1,793,471</u>	<u>\$ 323,368</u>

Item #6, Attachment (cont'd)

<u>Capital Assistance</u>					
	Two Buses for VCTC Intercity (CMAQ funds)	\$ 1,218,506	\$ 1,078,743	\$ 139,763	
	Ojai Bus Shelters and Amenities (CMAQ Funds)	\$ 225,001	\$ 199,193	\$ 25,808	
	Two Buses for Ventura Trolley (CMAQ Funds)	\$ 399,517	\$ 353,692	\$ 45,825	
	VISTA Svcs - Cap Leases (FY 14/15) (Sec 5339)	\$ 164,703	\$ 164,703	\$ -	
	Fare Collection/Ridership Monitoring Equipment (Section 5339)	\$ 525,000	\$ 525,000	\$ -	
	NextBus for Bus Stop Signage (Transit Enhancement Funds)	\$ 93,750	\$ 75,000	\$ 18,750	
	Metrolink Capital Rehabilitation (FY 15/16)	\$ 298,409	\$ 129,000	\$ -	
	Metrolink Capital Rehabilitation (FY 16/17)	\$ 1,594,538	\$ 1,594,538	\$ -	
	Metrolink Capital Rehab (FY 16/17)(Sec 5337)	\$ 4,225,118	\$ 4,225,118	\$ -	
		<u>\$ 8,744,541</u>	<u>\$ 8,344,987</u>	<u>\$ 230,145</u>	
	Total VCTC	\$ 14,180,828	\$ 12,276,725	\$ 1,734,694	
Valley Express					
<u>Operating Assistance</u>					
	Operating Assistance (FY 15/16)	\$ 1,005,082	\$ 502,541	\$ 502,541	
		<u>\$ 1,005,082</u>	<u>\$ 502,541</u>	<u>\$ 502,541</u>	
<u>Capital Assistance</u>					
	Bus Stop Improvements (CMAQ Funds)	\$ 110,000	\$ 82,500	\$ 27,500	
		<u>\$ 110,000</u>	<u>\$ 82,500</u>	<u>\$ 27,500</u>	
	Total Valley Express	\$ 1,115,082	\$ 585,041	\$ 530,041	
Ventura County Human Services Agency					
<u>Operating Assistance</u>					
	Work Reliability Transport (JARC Funds)	\$ 75,600	\$ 37,800	\$ 37,800	
	Total HSA	\$ 75,600	\$ 37,800	\$ 37,800	
	TOTAL	<u>\$ 26,503,213</u>	<u>\$ 21,636,900</u>	<u>\$ 4,696,904</u>	

THOUSAND OAKS/MOORPARK URBANIZED AREA			
Ventura County Transportation Commission			
<u>Operating Assistance</u>			
CalVans Vanpool Operations (JARC Funds)	\$ 18,500	\$ 9,250	\$ 9,250
	\$ 18,500	\$ 9,250	\$ 9,250
<u>Planning Assistance</u>			
Transit Planning and Programming (FY 16/17)	\$ 847,768	\$ 423,884	\$ 423,884
	\$ 847,768	\$ 423,884	\$ 423,884
<u>Capital Assistance</u>			
VISTA Svcs - Cap Leases (FY14/15) (Sec 5339)	\$ 211,172	\$ 211,172	\$ -
Metrolink Capital Rehabilitation (FY 16/17)	\$ 892,609	\$ 892,609	\$ -
Metrolink Capital Rehab (FY 16/17)(Sec 5337)	\$ 2,832,786	\$ 2,832,786	\$ -
NextBus Upgrade for Bus Stop Signage (Transit Enhancement Funds)	\$ 37,500	\$ 30,000	\$ 7,500
	\$ 3,974,067	\$ 3,966,567	\$ 7,500
Total VCTC	\$ 4,840,335	\$ 4,399,701	\$ 440,634
City of Thousand Oaks			
<u>Operating Assistance</u>			
Metrolink Shuttle	\$ 100,000	\$ 50,000	\$ 50,000
Beach Bus	\$ 100,000	\$ 50,000	\$ 50,000
	\$ 200,000	\$ 100,000	\$ 100,000
<u>Planning Assistance</u>			
Transit Marketing	\$ 50,000	\$ 40,000	\$ 10,000
Transit Planning and Technical Support	\$ 203,250	\$ 162,600	\$ 40,650
	\$ 253,250	\$ 202,600	\$ 50,650
<u>Capital Assistance</u>			
Transit Vehicle Maintenance	\$ 475,000	\$ 380,000	\$ 95,000
Transit Facilities / Bus Stops Maintenance	\$ 187,500	\$ 150,000	\$ 37,500
Transit Vehicle Capital Lease	\$ 125,000	\$ 100,000	\$ 25,000
Four Fixed-Route Buses (CMAQ Funds)	\$ 1,875,000	\$ 1,500,000	\$ 375,000
Transp Center Improvements (CMAQ Funds)	\$ 1,875,000	\$ 1,500,000	\$ 375,000
Inter-City ADA	\$ 125,000	\$ 100,000	\$ 25,000
	\$ 4,662,500	\$ 3,730,000	\$ 932,500
Total Thousand Oaks	\$ 5,115,750	\$ 4,032,600	\$ 1,083,150
City of Moorpark			
<u>Operating Assistance</u>			
Fixed Route/Paratransit Operating Assistance	\$ 195,000	\$ 97,500	\$ 97,500
	\$ 195,000	\$ 97,500	\$ 97,500
<u>Capital Assistance</u>			
Fixed Route Vehicle Capital Maintenance	\$ 72,285	\$ 57,828	\$ 14,457
Dial-a-Ride Capital Leases / Cap Maint	\$ 80,000	\$ 64,000	\$ 16,000
	\$ 152,285	\$ 121,828	\$ 30,457
Total Moorpark	\$ 347,285	\$ 219,328	\$ 127,957
Ventura County Human Services Agency			
<u>Operating Assistance</u>			
Work Reliability Transport (JARC Funds)	\$ 44,400	\$ 22,200	\$ 22,200
Total HSA	\$ 44,400	\$ 22,200	\$ 22,200
TOTAL	\$ 10,347,770	\$ 8,673,829	\$ 1,673,941

CAMARILLO URBANIZED AREA						
Ventura County Transportation Commission						
	<u>Planning Assistance</u>					
	Transit Planning and Programming (FY 16/17)	\$ 70,288	\$ 35,144	\$ 35,144		
		\$ 70,288	\$ 35,144	\$ 35,144		
	<u>Capital Assistance</u>					
	VISTA Svcs - Cap Leases (FY16/17) (Sec 5339)	\$ 149,392	\$ 149,392	\$ -		
		\$ 149,392	\$ 149,392	\$ -		
	Total VCTC	\$ 219,680	\$ 184,536	\$ 35,144		
City of Camarillo						
	<u>Planning Assistance</u>					
	Transit Planning	\$ 30,000	\$ 24,000	\$ 6,000		
		\$ 30,000	\$ 24,000	\$ 6,000		
	<u>Operating Assistance</u>					
	Camarillo Area Transit Operating Assistance	\$ 1,383,000	\$ 691,500	\$ 691,500		
		\$ 1,383,000	\$ 691,500	\$ 691,500		
	<u>Capital Assistance</u>					
	Two Replacement Paratransit Vehicles	\$ 226,500	\$ 181,200	\$ 45,300		
	Two Expansion Transit Vehicles	\$ 250,000	\$ 200,000	\$ 50,000		
	ADA Paratransit Service	\$ 50,000	\$ 40,000	\$ 10,000		
	Camarillo Rail Station / Bus - Capital Maintenance	\$ 604,486	\$ 483,589	\$ 120,897		
		\$ 1,130,986	\$ 904,789	\$ 226,197		
	Total Camarillo	\$ 2,543,986	\$ 1,620,289	\$ 923,697		
	TOTAL	\$ 2,763,666	\$ 1,804,825	\$ 958,841		
SIMI VALLEY URBANIZED AREA						
Ventura County Transportation Commission						
	<u>Planning Assistance</u>					
	Transit Planning and Programming (FY 16/17)	\$ 105,002	\$ 52,501	\$ 52,501		
		\$ 105,002	\$ 52,501	\$ 52,501		
	<u>Capital Assistance</u>					
	VISTA Svcs - Cap Leases (FY16/17) (Sec 5339)	\$ 296,533	\$ 296,533	\$ -		
		\$ 296,533	\$ 296,533	\$ -		
	Total VCTC	\$ 401,535	\$ 349,034	\$ 52,501		
City of Simi Valley						
	<u>Operating Assistance</u>					
	Simi Valley Transit Operating Assistance	\$ 2,973,822	\$ 1,486,911	\$ 1,486,911		
		\$ 2,973,822	\$ 1,486,911	\$ 1,486,911		
	<u>Capital Assistance</u>					
	Preventive Maintenance	\$ 910,100	\$ 728,080	\$ 182,020		
	Non Fixed-Route ADA Paratransit Capital	\$ 319,026	\$ 255,221	\$ 63,805		
	Transit Management System (CMAQ Funds)	\$ 425,000	\$ 292,100	\$ 132,900		
	Dispatch Software	\$ 36,900	\$ 29,500	\$ 7,400		
		\$ 1,691,026	\$ 1,304,901	\$ 386,125		
	Total Simi Valley	\$ 4,664,848	\$ 2,791,812	\$ 1,873,036		
	TOTAL	\$ 5,066,383	\$ 3,140,846	\$ 1,925,537		

FY 2015/16 SECTION 5310 / NEW FREEDOM PROGRAM OF PROJECTS						
OXNARD/VENTURA URBANIZED AREA						
<u>Planning Assistance</u>						
	Program Administration			\$ 27,409	\$ 27,323	\$ -
				\$ 27,409	\$ 27,323	\$ -
<u>Operating Assistance</u>						
	County Area Agency on Aging MediRide Program			\$ 150,206	\$ 99,266	\$ 50,940
				\$ 150,206	\$ 99,266	\$ 50,940
<u>Capital Assistance</u>						
	Mobility Management Partners Catch-A-Ride			\$ 78,117	\$ 78,117	\$ -
				\$ 78,117	\$ 78,117	\$ -
	TOTAL			\$ 255,732	\$ 204,706	\$ 50,940
THOUSAND OAKS/MOORPARK URBANIZED AREA						
<u>Planning Assistance</u>						
	Program Administration			\$ 16,028	\$ 16,028	\$ -
				\$ 16,028	\$ 16,028	\$ -
<u>Operating Assistance</u>						
	County Area Agency on Aging MediRide Program			\$ 68,764	\$ 45,444	\$ 23,320
	Senior DAR Intercity between Thousand Oaks and Moorpark			\$ 50,000	\$ 40,000	\$ 10,000
				\$ 118,764	\$ 85,444	\$ 33,320
<u>Capital Assistance</u>						
	Mobility Management Partners Catch-A-Ride			\$ 35,762	\$ 35,762	\$ -
	Thousand Oaks Group Travel Training			\$ 12,500	\$ 10,000	\$ 2,500
				\$ 48,262	\$ 45,762	\$ 2,500
	TOTAL			\$ 183,054	\$ 147,234	\$ 35,820



Item #7

August 13, 2015

MEMO TO: TRANSIT OPERATORS COMMITTEE
FROM: PETER DE HAAN, PROGRAMMING DIRECTOR
SUBJECT: STATUS OF FEDERAL STP AND CMAQ PROJECTS

RECOMMENDATION:

- Review and update project schedules.

DISCUSSION:

Under federal law, STP and CMAQ funds apportioned to California lapse if they are not used within three years. AB 1012, which became law in October, 1999, applies the three-year lapsing rule to CMAQ and STP funds in each county. It is important for VCTC to have an accurate schedule of STP and CMAQ projects to ensure that our region does not lose funds. Currently, Ventura County is at risk of losing \$3.7 million CMAQ and \$5.3 million STP if FY 14/15 projects are not obligated before November 1, 2015.

VCTC also uses this project schedule to ensure that the Federal Transportation Improvement Program (FTIP) includes all of the projects which are ready-to-go and to manage the county's Obligational Authority (OA). The 2015 FTIP is now federally-approved and VCTC has also gotten approval of amendments for the projects on this list. Furthermore, projects that were approved by the Commission's CMAQ and STP programming actions earlier this month are also in the process of being amended into the TIP.

The first of the attached tables show the latest status of projects scheduled to be obligated during FY 2014/15 to avoid lapsing funds this year. The following tables show for the first time the projects that are possibly in line for delivery in FY 2015/16. These tables were reviewed at the July TTAC meeting, and some information provided by TTAC has been included in the tables; however the CMAQ tables include transit projects that fall under TRANSCOMs purview.

Staff requests that the transit operators provide updates to the listed CMAQ transit projects at the TRANSCOM meeting. For transit projects, the obligation date in the table is the effective date of the transfer of funds to FTA, since that is when the funds are removed from the Ventura County CMAQ apportionment balance. Since the new projects programmed in the recent

CMAQ call for projects are included in a TIP amendment anticipated for approval in mid-August, the CMAQ status table assumes that the FTA fund transfer will be complete in October.

STP PROJECTS FY 2014/15**Balance as of June 30, 2015****\$ 22,898,703**

Project Title	Agency	Planned Obligation (E-76 date)	TIP ID	Amount	Current Project Status	FTIP Status
Route 101 / Wendy Drive Cost Increase	Thousand Oaks	Aug-15	07-VEN056406	\$1,500,000	Awaiting info from City	Approved for post- programming.
Pavement Rehab	Moorpark	Aug-15	07-VEN54032	\$637,416	ROW cert. was approved.	Currently in 2015 FTIP
Camino Del Sol Resurfacing	Oxnard	Jul-15	07-VEN54032	\$400,000	RFA authorized by HQ.	Currently in 2015 FTIP
Pavement Rehab	Simi Valley	Aug-15	07-VEN54032	\$575,000	ROW cert. was submitted and is under review.	Currently in 2015 FTIP
Route 118 PAED	Caltrans	Aug-15	07-VEN131202	\$3,000,000	Caltrans to approve co- op.	Currently in 2015 FTIP

Total to be obligated by 10/1/2015**\$6,112,416****Balance****\$16,786,287****Potential Lapse (AB1012)****\$3,126,730****Repayment of OCTA Loan (Feb 2013)****\$3,126,730** Lapses October 1, 2015**FY 2013/14 apportionment****\$9,886,711** Lapses October 1, 2016**FY 2014/15 apportionment****\$9,885,986** Lapses October 1, 2017**TOTAL****\$22,899,427**

CMAQ PROJECTS FY 2014/15

Balance as of June 30, 2015

\$20,377,397

Project Title	Agency	TIP ID	Planned Obligation (E-76 date)	Amount	Current Project Status	FTIP Status
Erbes Road Improvements	Thousand Oaks	VEN110308	Aug-15	\$1,222,000		Currently in 2015 FITP.
West LA Ave Bike Lanes CON	Simi Valley	VEN120417	Aug-15	\$3,543,000	Draft RFA package has been reviewed by Caltrans, not yet submitted by SV.	Currently in 2015 FITP.

Total obligations in FY 14/15 \$4,765,000
Remaining balance \$15,612,397
Lapsing Funds \$3,733,653

FY 2012/13	\$3,733,653	Lapses October 1, 2015
FY 2013/14	\$8,321,872	Lapses October 1, 2016
FY 2014/15	\$8,321,872	Lapses October 1, 2017
TOTAL	<u>\$20,377,397</u>	

STP PROJECTS FY 2015/16

Estimated Beginning Balance

\$ 26,496,287

(includes FY 15/16 apportionment estimate)

Project Title	Agency	Planned Obligation (E-76 date)	TIP ID	Amount	Current Project Status	FTIP Status
Route 118 - Moorpark to e/o Spring	Moorpark	Jul-16	07-VEN34089	\$796,770	Design and ROW acquisition in progress	Currently in 2015 FTIP
Sta Rosa Rd Widening Upland/Woodcrk CON	Camarillo	Nov-15	07-VEN040502	\$152,365	Ready to Advertise	TIP Amendment Required
Route 101 PAED	VCTC	Jul-16	07-VEN131201	\$14,000,000		TIP Amendment Required
Rehabilitation	Moorpark	2016/17	07-VEN54032	\$200,000		TIP Amendment Required
Vineyard/Patterson Resurfacing	Oxnard		07-VEN54032	\$1,044,343		TIP Amendment Required
Street Rehabilitation	Simi Valley	Apr-16	07-VEN54032	\$647,662		TIP Amendment Required
Pavement Overlay	Thousand Oaks	Mar-16	07-VEN54032	\$661,681		TIP Amendment Required
California St Bridge Improvements	Ventura	Nov-15		\$429,286		TIP Amendment Required
Street Resurfacing	Ventura	Jun-16	07-VEN54032	\$129,440		TIP Amendment Required

Total to be obligated by 10/1/2016

\$18,061,547

Balance

\$8,434,740

Potential Lapse (AB1012)

\$6,900,301

FY 2013/14 apportionment

\$6,900,301 Lapses October 1, 2016

FY 2014/15 apportionment

\$9,885,986 Lapses October 1, 2017

FY 2015/16 apportionment (estimated)

\$9,710,000 Lapses October 1, 2018

TOTAL

\$26,496,287

STP PROJECTS
FY 2016/17 and beyond

Route 23 Widening High/Third	Moorpark	Aug-17	07-VEN051213	\$1,500,000	Prelim. Design and ROW needs in progress.	Currently in 2015 FTIP
Pleasant Valley/E. 5th St Improvements (CON)	County	Aug-17	07-VEN130104	\$1,460,000	RW by 1/15/15. CON expected 8/2017.	Currently in 2015 FTIP
Various Streets Repaving	Camarillo		07-VEN54032	\$342,288		TIP Amendment Required
Pavement Rehabilitation	Fillmore		07-VEN54032	\$200,000		TIP Amendment Required
Road Rehabilitation	Ojai		07-VEN54032	\$200,000		TIP Amendment Required
Pavement Rehabilitation	Port Hueneme		07-VEN54032	\$200,000		TIP Amendment Required
Peck/Faulkner Rehabilitation	Santa Paula		07-VEN54032	\$200,000		TIP Amendment Required
Pavement Rehabilitation	County		07-VEN54032	\$1,795,400		TIP Amendment Required

CMAQ PROJECTS FY 2015/16**Estimated Beginning Balance****\$24,162,397**

(includes FY 15/16 apportionment estimate)

Project Title	Agency	TIP ID	Planned Obligation (E-76 date)	Amount	Current Project Status	FTIP Status
Sheridan Way/Ventura River Bike Trail PE	S.B. Ventura	VEN110304	Oct-15	\$44,265		Currently in 2015 FTIP
Fox Canyon Barranca Bike Bridge	Ojai	VEN130601		\$102,975		Currently in 2015 FTIP
Bike facilities for NECSP	Oxnard	VEN130101		\$585,360		Currently in 2015 FTIP
Arneill/Dunnigan Traffic Signal	Camarillo	VEN130106		\$200,000		Currently in 2015 FTIP
Hwy 126 Bike Path Gap Closure RW	S.B. Ventura	VEN031230		\$53,118	F. Bral & T. Mericle 7/16/15: Caltrans/City of Ventura dicussing ROW issues and attempting to put ROW together.	Currently in 2015 FTIP
C Street Bike Facilities	Oxnard	VEN130102		\$278,250		Currently in 2015 FTIP
Bike Trail in Railroad ROW	Santa Paula	VEN111102		\$1,110,000	F. Bral on 7/16/15: Caltrans and SP are in communication on project status.	Currently in 2015 FTIP
Sheridan Way/Ventura River Bike Trail CON	S.B. Ventura	VEN110304		\$177,060		Currently in 2015 FTIP
Hwy 126 Bike Path Gap Closure CON	S.B. Ventura	VEN031230		\$743,652		Currently in 2015 FTIP
Rose Ave Sidewalk CON	Oxnard	VEN120402		\$401,555		Currently in 2015 FTIP
Ventura Blvd Sidewalk CON	Oxnard	VEN120403		\$846,346		Currently in 2015 FTIP
Countywide Transit Marketing	VCTC	VEN54070	Oct-15	\$500,000		Currently in 2015 FTIP
East-West Connector Service	VCTC	VEN150608	Oct-15	\$2,178,286		Amendment submittd
Wells Road - Nyland Acres Route	Gold Coast Transit	VEN150609	Oct-15	\$2,315,803		Amendment submittd
Passenger Rail Ticket Vending Machines	SCRRA		Oct-15	\$900,251		Amendment submittd
Heritage Valley Bus Stops Impr	Santa Paula	VEN150610	Oct-15	\$82,500		Amendment submittd

Item #7, Attachment (cont'd)

Heritage Valley Bus Stops Impr	Santa Paula	VEN150610	Oct-15	\$82,500		Amendment submittd
Shelters and Stop Improvements	Ojai	VEN150611	Oct-15	\$199,193		Amendment submittd
Transit Management System	Simi Valley	VEN150612	Oct-15	\$292,100		Amendment submittd
Downtown Trolley	Downtown Vta Partners	VEN150613	Oct-15	\$176,846		Amendment submittd
Five Points Improvements	Ventura	VEN150618		\$300,000		Amendment submittd
Moorpark Rd Impr PE	Thousand Oaks	VEN150622		\$87,480		Amendment submittd

Total obligations in FY 14/15 \$11,575,040
Remaining balance \$12,587,357
Lapsing Funds \$7,290,525

FY 2013/14	\$7,290,525	Lapses October 1, 2016
FY 2014/15	\$8,321,872	Lapses October 1, 2017
FY 2015/16	\$8,550,000	Lapses October 1, 2018
TOTAL	\$24,162,397	

FY 16/17 and Beyond

Pleasant Valley Rd / E Fifth Str Impr	County	VEN130104		\$840,000		Amendment submittd
Rio Real School Ped Improvements	County	VEN150619		\$280,000		Amendment submittd
Camarillo Heights School Ped Improv	County	VEN150621		\$400,000		Amendment submittd
Ojai Ave / Maricopa Ped Impr	Ojai	VEN150620		\$500,000		Amendment submittd
Moorpark Rd Impr Con	Thousand Oaks	VEN150622		\$483,200		Amendment submittd
Pedestrian Crossing Beacons	Oxnard			\$295,274		Amendment needed
Oxnard Blvd Bike/Ped Facility	Oxnard			\$1,379,000		Amendment needed



Item #8

August 13, 2015

MEMO TO: TRANSIT OPERATORS ADVISORY COMMITTEE
FROM: VICTOR KAMHI, BUS SERVICES DIRECTOR
SUBJECT: DISCUSSION REGARDING RADIO ANTENNA UPGRADES

RECOMMENDATION:

- Discuss potential radio antenna upgrades.

BACKGROUND:

During the Ventura County Office of Emergency Services (OES) 2013 Emergency Exercise, as well the OES in the years preceding the exercise, the challenges of direct and uninterrupted communications with and between transit operators and vehicles was identified as a significant flaw and a potentially a problem in case of a major disaster in Ventura County. The City of Thousand Oaks took the lead in initiating a joint remediation, and received a grant from VCTC for this purpose. Since then, there have not been any concerted efforts made to implement the grant, which will be potentially lapsing if no actions are taken within the coming year.

TRANSCOM asked at the last meeting that this item be placed on the agenda for discussion.



Item #9

August 13, 2015

MEMO TO: TRANSIT OPERATORS ADVISORY COMMITTEE
FROM: VIC KAMHI, BUS SERVICES DIRECTOR
**SUBJECT: DISCUSSION REGARDING FEDERAL TRANSIT ADMINISTRATION FINAL
RULE REGARDING ADA REASONABLE MODIFICATIONS OF POLICY AND
PRACTICES**

RECOMMENDATION:

- Receive and file information regarding the Federal Transit Administration Final Rule regarding ADA reasonable modifications of policy and practices.

BACKGROUND:

On March 13, 2015, the Federal Transit Administration (FTA) released a final rule addressing the responsibility that transportation entities are required to make regarding reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities. The effective date of the rule was July 13, 2015. IT IS IMPORTANT TO RECOGNIZE THAT THE RULE APPLIES TO BOTH FIXED ROUTE AND PARATRANSIT SERVICES. While there is discussion that the FTA will revisit this rule as part of the review of a final, consolidated ADA circular, the rule as published is in effect. A copy of the full rule is attached (Attachment A).

In summary, 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. The specifics of the rule are:

Designation of responsible employee to coordinate its efforts to comply with this part.

Adoption of complaint procedures and procedures which incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints:

- 1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee as responsible for the reasonable accommodation, 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.

The rule does identify situation where a “request for reasonable modification” may be denied, which does provide some guidance for transit providers to use.

A copy of the draft VCTC transit verbiage for the website and the request for reasonable modification is also attached to this report (Attachment B).

Federal Register /Vol. 80, No. 49 / Friday, March 13, 2015 /Rules and Regulations 13253
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. 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; and, for rail, Linda Martin, Office of Chief Counsel, Federal Railroad Administration, same address, Room W31–304, 202–493–6062, 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. 12101–12213.

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 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.¹

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 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 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 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.² 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 handheld 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

¹ See 28 CFR 35.160(b)(1).

² 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 (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 . . .").



Reasonable Accommodation Requests

This form allows customers to request reasonable modifications of VCTC Transit's bus services.

Please complete [this form](#) to request a reasonable modification of VCTC Transit's bus services.

Submit the completed form to the Reasonable Modification Coordinator via email at reasonablemods@goventura.org, via fax at 805-642-4860, or via mail at 950 County Square Drive, Suite 207, Ventura, CA 93003.

Comments regarding a reasonable modification request can be sent to reasonablemods@goventura.org or you may call 805-642-1591.



VCTC REASONABLE ACCOMMODATION REQUEST FORM

Please complete this form to request a reasonable modification of VCTC Transit's bus services. Submit the completed form to the Reasonable Modification Coordinator via email at reasonablemods@goventura.org, via fax at 805-642-4860 or via mail at 950 County Square Drive, Suite 207. Ventura, CA 93003.

Date: _____ Name: _____

Phone Number: _____ Email Address: _____

Address: _____

Description of Request: _____

Location & Routes Used: _____

Are you able to ride without this modification? : _____

Comments regarding a reasonable modification request can be sent to RiderComments@goventura.org, or you may call 1-(800) 438-1112.

Denials of Requests for Reasonable Accommodation:

Requests for accommodation and modification of the VCTC's transportation system 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 VCTC's transportation services, programs or activities.
2. Granting the request would create a direct threat to the health or safety of others.
3. The request is not necessary in order for the individual to fully access the transportation services, programs or activities.

In any instance in which a request is denied, the VCTC will 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 full access to transportation services.



Item #10

August 13, 2015

MEMO TO: TRANSIT OPERATORS ADVISORY COMMITTEE
FROM: VICTOR KAMHI, BUS SERVICES DIRECTOR
SUBJECT: TSUNAMI AWARENESS PREPAREDNESS TRAINING

RECOMMENDATION:

- Receive and file information regarding a Tsunami training program.

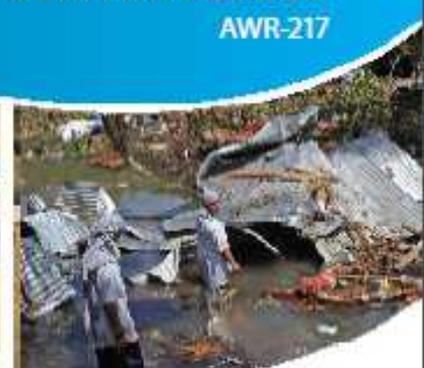
DISCUSSION:

The Ventura County Office of Emergency Services is sponsoring a training class on Tsunami awareness and preparedness. Given the potential for a Tsunami to strike Ventura County, and the transit community to respond to such an event, TRANSCOM members should consider attending the program.

Attached is a copy of the flyer. The course (AWR-217 Tsunami Awareness Course) will be held on September 10, 2015 from 08:00 AM -5:00 PM in the Sheriff's West County Training Room. For registration, contact Yvette LaDuke at (714) 330-1026 or yvette.laduke@caloes.ca.gov.

TSUNAMI AWARENESS

AWR-217



This awareness-level course provides a basic understanding of tsunamis, hazard assessment, warning and dissemination, and community response strategies to effectively reduce tsunami risk. No advanced knowledge and experience of tsunamis is required. The goal of this course is to enhance participants' abilities to support their organizational preparedness and response efforts.

Course modules cover science and assessment tools used to build tsunami resilient communities, the tsunami detection and warning process, and the products and methods used to warn all levels of government and coastal communities. Effective response requires pre-event planning and preparation to ensure that the public knows what to do and where to evacuate to before destructive waves arrive, and that afterward, knows when it is all-clear and safe to return.

WHO SHOULD TAKE THIS COURSE

This course is targeted for a broad cross section of professionals involved in emergency management, fire services, coastal zone managers, planners, developers, and municipal services.

MODULES

- Hazard Assessment
- Warning
- Preparedness, Mitigation, and Response
- Exercise Scenario
- End to End Tsunami Warning

COURSE DELIVERY

September 10, 2015
8:00 AM - 5:00 PM
Ventura, CA

LOCATION AND DETAILS:

Ventura County Emergency Operations Center
West County Training Room
800 South Victoria Avenue
Ventura, CA 93009

REGISTER WITH:

Yvette LaDuke • 714-330-1026 • yvette.laduke@caloes.ca.gov

Please include the following information:

- Full Name
- Agency
- Phone Number
- FEMA Student ID (to obtain your FEMA ID number click on the link provided here: <https://cdp.dhs.gov/FEMASID/>)

REGISTRATION ASSISTANCE CONTACT:

Yvette LaDuke • 714-330-1026 • yvette.laduke@caloes.ca.gov

828 Fort Street Mall • Suite 320
 Honolulu, Hawaii 96813
 Phone: 808-956-0600
 Fax: 808-536-9110
 website: ndptc.hawaii.edu



As a member of the National Domestic Preparedness Consortium, the NDPTC is a DHS/ FEMA training partner dedicated to providing all-hazards training throughout the United States and its territories with an emphasis on Natural hazards and island and coastal communities.





Item #11

August 13, 2015

MEMO TO: TRANSIT OPERATORS ADVISORY COMMITTEE
FROM: PETER DE HAAN, PROGRAMMING DIRECTOR
SUBJECT: ADA CERTIFICATION SERVICES AND MILEAGE REIMBURSEMENT PROGRAM UPDATE

RECOMMENDATION:

- Receive and file the monthly ADA Certification services report and Mileage Reimbursement Program update.

DISCUSSION:

The May and June 2015 ADA Certification Services Report from Mobility Management Partners, Inc. (MMP) is attached.

MMP received Section 5310 funding to expand its services to include the development and implementation of a pilot volunteer driver mileage reimbursement program in cooperation with the Area Agency on Aging and other agencies serving the needs of the county's senior population. MMP will provide an oral update on the Mileage Reimbursement Program (MRP).

Monthly ADA Certification Services Report																					
May-15																					
Category	Item Measured	May	April	March	Feb	Jan	Dec	Nov	Summary												
Call Center	Inbound ADA Calls	1058	1126	1503	1201	1459	1178	891	Total phone calls inbound/outbound: 1383												
	Outbound ADA calls	305	368	343	292	203	204	86													
	Average hold time for ADA calls (in seconds)	7.54	8.49	8.71	6.17	4.35	2.97	2.75													
	Out of Area Transmittals	3	2	3	2	1	0	6													
Applications Received	Recertification Applications	40	37	35	30	29	37	21	Total applications received: 148 (New: 106 Recertification:40)												
	New Applications	108	121	121	83	78	89	67													
Completed Evaluations (In-person, Emergency and Recertifications)	Complete, with functional evaluation	48	59	31	20	28	32	21	A Total of 108 Evaluations were completed during the month of May												
	Complete, without functional evaluation	43	42	32	35	26	17	24													
	Complete, Emergency Certification (60 days)	0	0	1	1	4	1	2													
	Complete, Recertifications	18	26	21	20	28	18	15													
Delays In Processing (Cumulative)	Total Evaluations	109	127	85	76	84	68	62	Total Delays In Processing due to Incomplete applications or pending receipt of Professional Evaluations: 63												
	Due to Incomplete application by client	4	2	4	4	5	3	0													
	Pending Professional Evaluation (PE)	49	71	45	37	26	7	34													
	Applications that failed to meet 21 day rule	0	0	0	0	0	0	0	Total of applicants scheduled for in-person Interviews: 86												
	Applicants scheduled for in-person Interviews	85	100	86	47	34	31	48													
May-15																					
Assessments summary	Appointment date		5/4/15	5/5/15	5/6/15	5/7/15	5/12/15	5/12/15	5/13/15	5/13/15	5/14/15	5/19/15	5/20/15	5/21/15	5/26/15	5/27/15	5/28/15	5/28/15	5/29/15	Over 85	
	Appointment location	Totals	T.O.	Simi	T.O.	OAC	OAC	Simi	OAC	Simi	OAC	Moorpar	T.O.	OAC	Simi	Trillon	Cam	OAC	CAM		
	With Physical Assessment	29	1	4	1	2	2	3	1	2	4	2	2	3	2	0	0	0	0		
	With Cognitive Assessment	19	2	0	1	3	1	1	0	1	1	0	3	2	0	4	0	0	0		
	Field Assessment	43	4	1	4	1	0	1	2	1	0	2	0	2	1	1	1	9	2	11	
	Recert/Photo/Field Assessment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	No Shows	23	2	1	1	1	3	2	2	2	3	1	2	0	2	0	0	1	0		
	Total number of interviews scheduled	114	9	6	7	7	6	7	5	6	8	5	7	7	5	5	1	10	2	11	
	Determination Types:		Total																		%
	Unconditional (including: 18 recerts & 11 "Over85+")		94																		86%
Conditional (including: 5 "Epsodic")		9																		8%	
Temporary		5																		5%	
Denials		1																		<1%	
Emergency Certifications		0																		0%	

Monthly ADA Certification Services Report																					
June-15																					
Category	Item Measured	June	May	April	March	Feb	Jan	Dec	Summary												
Call Center	Inbound ADA Calls	1148	1058	1178	1503	1201	1450	1178	Total phone calls inbound/outbound: 1360												
	Outbound ADA calls	202	305	368	343	292	203	204													
	Average hold time for ADA calls (in seconds)	11.97	7.54	8.49	8.71	8.17	4.35	2.97													
	Out of Area Transmittals	5	3	2	3	2	1	0													
Applications Received	Recertification	31	40	37	35	30	29	37	Total applications received: 168 (New: 126 Recertification: 31)												
	New Applications	125	108	121	121	83	75	69													
Completed Evaluations In-person, Emergency and Recertifications	Complete, with functional evaluation	52	48	59	31	20	28	32	A Total of 137 Evaluations were completed in the month of June												
	Complete, without functional evaluation	55	43	42	32	35	28	17													
	Complete, Emergency Certification (60 days)	4	0	0	1	1	4	1													
	Complete, Recertifications	26	18	25	21	20	28	18													
Delays In Processing (Cumulative)	Total Evaluations	137	109	127	85	78	84	68	Total: 34 Delays In Processing due to incomplete applications or pending receipt of Professional Evaluations:												
	Due to incomplete application by client	1	4	2	4	4	5	3													
	Pending Professional Evaluation (PE)	33	49	71	45	37	28	7													
	Applications that failed to meet 21 day rule	0	0	0	0	0	0	0													
Applicants awaiting in-person interviews		86	85	100	86	47	34	31	Total of applicants awaiting in-person interviews: 88												
Jun-16																					
Assessments summary	Appointment date		8/1/15	8/2/15	8/3/15	8/4/15	8/5/15	8/9/15	8/9/15	8/9/15	8/11/15	8/15/15	8/18/15	8/17/15	8/18/15	8/22/15	8/23/15	8/25/15	8/30/15		
	Appointment location	Totals	Simi	OAC	T.O.	OAC	CAM	Simi	Simi	OAC	OAC	CAM	corp/IS	T.O	OAC	Cam.	OAC	Simi	OAC	Simi	
	With Physical Assessment	34	0	3	3	3	0	2	0	3	3	0	3	1	3	0	3	3	1	3	
	With Cognitive Assessment	18	4	1	1	1	0	0	0	1	3	0	1	2	1	0	1	1	1	0	
	Field Assessment	88	2	1	1	1	4	2	5	1	0	3	1	2	2	3	1	3	3	0	
	Recert/Photo/Field Assessment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
	No Shows	25	1	2	1	1	0	2	3	1	1	0	1	2	2	0	3	1	2	2	
	Total number of interviews scheduled	132	7	7	6	6	4	6	6	6	7	3	6	7	6	3	8	8	7	5	
	Determination Types:		Total																		
	Unconditional (including 20 "Over95+")		121																	88%	
Conditional		12																	9%		
Temporary		3																	2%		
Denials		1																	<1%		