

California

Rural Counties Task Force



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MAP-21 Fact Sheet Transportation Alternatives Program (TAP)

Summary

The Transportation Alternatives Program (TAP) is a new federal funding program established under MAP-21 that replaces and incorporates three discontinued programs: Transportation Enhancement (TE), Safe Routes to Schools (SRTS), and the Recreational Trails Program (RTP).

Existing State Law

Under general state programming law (Section 163, Streets and Highways Code), federal TE funding has been programmed through the State Transportation Improvement Program (STIP). The state law applying to federal TE funding (Section 2370 et seq., Streets and Highways Code) requires Caltrans and regional agencies to develop TE project selection criteria giving priority to project sponsors that partner with or employ the services of the California Conservation Corps or a community conservation corp. It also requires the California Transportation Commission to encourage the allocation of funds to such projects through its STIP guidelines.

Under the state law applying to Safe Routes to Schools (Section 2333.5), there are two separate but related programs, one funded from state funds and the other from federal funds. Each of them is administered by Caltrans, subject to allocation by the CTC, as a Local Assistance competitive grant program. Under the state law, the amount of federal funding designated for SRTS is "any federal funding received by the state that is designated for 'Safe Routes to School' projects pursuant to Section 1404 of SAFETEA-LU or any similar program funded through a subsequent transportation act."

MAP-21 did not amend Section 1404, though it altered the program's funding mechanism. Under SAFETEA-LU, a specific amount was apportioned to each state for the SRTS program. Under MAP-21, there are no longer separate apportionments designated for SRTS. Instead, each state has the option of deciding what portion of its TAP apportionment, if any, will be made available for the SRTS program.

The state law applying to the Recreational Trails Program (RTP) is the California Recreational Trails Act (Section 5070 et seq., Public Resources Code), which designates the Department of Parks and Recreation as the administering agency and directs that the federal funds be deposited in the Recreational Trails Fund, outside the purview of Caltrans or the CTC. The applicable federal law (23 US Code Section 206, unchanged by MAP-21) allows a minimum of 30% and a maximum of 70% of RTP funds to be spent on nonmotorized recreational trails. The state law specifies that the maximum 70% shall be available only for nonmotorized trails, with at least half of that amount available to local agencies and nonprofit organizations. The other 30% is available only for motorized off-road vehicle trails.

The state also has an option for funding the Recreational Trails Program, though MAP-21 makes it an all-or-nothing choice. Unless the state chooses to opt out at least 30 days prior to the beginning of each fiscal year (i.e., by August 31), an amount of its TAP apportionment equal to its FY 2009 Recreational Trails apportionment is set aside for the RTP. That amount for California is \$5,756,189 (FHWA Notice N4510.742; confirmed in the published FHWA computations for FY 2013 TAP Set-aside). One percent of this amount (\$57,562) is deducted for FHWA program administration. Another 7% (\$402,933) may be used for state program administration, and up to 5% (\$287,809) may be used for educational programs.

Without an amendment of existing state law, the annual set-aside for Recreational Trails would continue, there would be no federal funding for a separate Safe Routes to Schools program, and the remaining TAP funding would be subject to programming through the STIP.

Eligible Costs, TAP

Eligibility for TAP funding includes the following:

- The set-aside for the Recreational Trails Program, unless the state opts out.
- A set-aside for the Safe Routes to Schools Program, if the state chooses.
- “Roadways largely in the right-of-way for former Interstate System routes or other divided highways.” This category appears not to apply in California.
- “Transportation alternatives,” as defined in MAP-21.

The MAP-21 definition of transportation alternatives includes:

- Trail facilities for nonmotorized transportation, whether on-road or off-road, including projects to achieve Americans with Disabilities Act (ADA) compliance.
- Infrastructure-related projects to provide safe routes for non-drivers, including children, older adults, and individuals with disabilities, to access daily needs.
- Conversion and use of abandoned railroad corridors for nonmotorized transportation.
- Turnouts, overlooks, and viewing areas.
- Community improvement activities, including control of outdoor advertising, rehabilitation of historic transportation facilities, vegetation management in transportation rights-of-way, and archaeological activities related to transportation project implementation.
- Environmental mitigation activity to address stormwater control and water pollution prevention due to construction or highway runoff or to reduce vehicle-caused wildlife mortality or maintain connectivity of wildlife habitat.

These are generally the same as “transportation enhancements” under SAFETEA-LU, but do not include:

- Safety and educational activities for pedestrians and bicyclists.
- Acquisition of scenic easements and scenic or historic sights.
- Scenic or historic highway programs.
- Historic preservation unrelated to historic transportation facilities.
- Operation of historic transportation facilities.
- Archaeological planning and research, other than as highway project mitigation.
- Transportation museums.

Eligible entities for TAP projects include:

- Local governments.
- Regional transportation authorities and transit agencies.
- Natural resource and public land agencies.
- School districts or schools.
- Tribal governments.
- Other local or regional governments with responsibility for transportation or recreational trails that the state determines to be eligible (other than an MPO or State agency).

TAP Suballocation and Project Selection

MAP-21 provides that 50% of the state’s TAP apportionment shall be divided into 24 suballocations by population, including one suballocation for each of California’s 22 urbanized areas with a population over

200,000, one suballocation for all urban areas with a population between 5,000 and 200,000, and one suballocation for the rural remainder of the state. The other 50% of the TAP apportionment is available for expenditure anywhere in the state. These suballocations are applied after the set-aside for the Recreational Trails Program, if any. The set-aside for Safe Routes to Schools, if any, is deducted from the 50% of TAP available anywhere in the state.

MAP-21 requires each state and Metropolitan Planning Organization (MPO) to develop a competitive TAP project selection process. According to Federal Highway Administration (FHWA) guidance issued June 10, 2013, the suballocation of TAP to an MPO is based solely on the population within its large urbanized area(s) and not on the population of the entire area of the MPO. Thus the state suballocation for small urban and rural areas includes the populations of small urban and rural areas that lie within MPO boundaries. This, in turn, affects eligibility under the state and MPO selection processes. Funds suballocated for a large urbanized area may be expended beyond the bounds of that urbanized area provided that the expenditure is within the area of the MPO. However, no funds suballocated to the state for small urban or rural areas may be expended within a large urbanized area.

The FHWA guidance further specifies that the state may not suballocate either small urban or rural TAP funds by population to local jurisdictions. This precludes the state from suballocating TAP funds in the way that it has suballocated funds for the Regional Surface Transportation Program (RSTP) and Congestion Mitigation and Air Quality (CMAQ) programs. However, the guidance also states that TAP does not establish standards or procedures for competitive processes. MPOs and the state have discretion about establishing priorities and whether or not to fund particular categories of projects. There is no requirement to consider all federally eligible TAP activities equally.

According to the FHWA guidance, TAP funds suballocated to small urban and rural areas and TAP funds available to any area of the state will be administered by the state. For large urbanized areas, the MPO will select the projects in consultation with the state, though the process may be administered by either the MPO or the state (with the agreement of the MPO).

Active Transportation Program Proposal

Caltrans and the Administration have proposed the creation of a new state Active Transportation Program (ATP) for bicycle and pedestrian projects. The ATP would consolidate several existing programs and would be funded from federal TAP funding and from various other state and federal sources. A draft of proposed legislation for the ATP was released in February 2013, though no bill has yet been introduced in the Legislature. The draft proposal would have the ATP funded by an appropriation each year in the Budget Act. The appropriation would include "100 percent of the federal Transportation Alternatives Program funds and federal Recreational Trails Program funds; twenty-one million dollars (\$21,000,000) of federal Highway Safety Improvement Program funds or other federal funds [to take the place of the federal Safe Route to Schools program]; State Highway Account funds as appropriated for this purpose [to take the place of the state Safe Routes to Schools program and the state Environmental Enhancement and Mitigation Program]; and funds transferred to the State Highway Account from the Highway Users Tax Account pursuant to subdivision (b) of Section 2106 [the \$7.2 million per year that now goes to the Bicycle Transportation Account for statewide competitive grants].

Under the draft proposal, the ATP would be programmed by the California Transportation Commission (CTC), much like the STIP, subject to guidelines and criteria developed and adopted by the Commission. After the adoption of an initial 2-year program, subsequent programs would be for 4 years, adopted biennially in odd-numbered years. The draft specifies an ATP geographic distribution of 40% to MPOs for projects in large urbanized areas; 10% for projects in small urban and rural regions competitively awarded by the CTC; and 50% for projects competitively awarded by the CTC on a statewide basis. (The equivalent TAP split, based on 2010 census data, is 40.16% for large urbanized areas, 7.15% for small urban areas, 2.69% for rural areas, and 50% anywhere in the state.) The draft does not include language to exempt ATP funding from being part of the

computation of the north-south split and county shares that apply generally to state and federal transportation funding. If enacted, this could mean that a county receiving a relatively small share of TAP programming would be compensated by receiving a larger share of STIP funding.

ATP project eligibility and selection criteria would be defined through the Commission guidelines. According to the proposal, those guidelines “shall ensure that eligible projects meet one or more of the [following] goals”:

- a. Increase the proportion of trips accomplished by biking and walking.
- b. Increase safety and mobility for nonmotorized users.
- c. Advance the active transportation efforts of regional agencies to achieve greenhouse gas reduction goals.
- d. Enhance public health, including reduction of childhood obesity through the use of programs including, but not limited to, projects previously eligible for Safe Routes to Schools funding.
- e. Provide environmental mitigation that supports and encourages active transportation.

Budget Action on the Active Transportation Program Proposal

The 2013 Budget Act recognized the Administration proposal and the lack of implementing legislation by making a series of conditional ATP-related appropriations for 2013. For each of these appropriations, the following language was included in the Budget Act:

“These funds are not available for expenditure until the Secretary of the Business, Transportation and Housing Agency convenes a working group by August 31, 2013, regarding active transportation and until legislation is enacted that creates a new program to promote active transportation. For the purposes of this provision, “active transportation” means human-powered transportation, such as biking or walking, that achieves mobility and safety goals, promotes better health, and helps meet the greenhouse gas reduction targets established by the State Air Resources Board pursuant to Section 65080 of the Government Code. The new program shall promote these goals, as well as improve safety, achieve efficiencies, accelerate and streamline project delivery, and improve project outcomes by consolidating the program funded by this item and several other transportation programs that currently include funding for active transportation.”

The following appropriations in the 2013 Budget Act included this budget language:

- \$329,000 for the Safe Routes to Schools Program, Caltrans support payable from the State Highway Account.
- \$10,000 for Caltrans support payable from the Bicycle Transportation Account.
- \$7,200,000 for Caltrans local assistance payable from the Bicycle Transportation Account.
- \$10,000,000 for Caltrans local assistance payable from the Environmental Enhancement and Mitigation Program Fund.
- \$58,000,000 for the Local Transportation Enhancement grant program within the STIP, Caltrans local assistance payable from the Federal Trust Fund.
- \$24,000,000 for the Safe Routes to Schools grant program, Caltrans local assistance payable from the State Highway Account.
- \$20,211,000 for the Safe Routes to Schools grant program, Caltrans local assistance payable from the Federal Trust Fund.
- \$14,000,000 for the Capital Transportation Enhancement Program within the STIP, Caltrans capital outlay payable from the Federal Trust Fund.
- \$4,500,000 for the Department of Parks and Recreation, payable from the Recreational Trails Fund, with funding available for local assistance, capital outlay, and the Department’s costs to administer the grant program to the maximum extent allowable under federal law.

The ATP Proposal and the Recreational Trails Program

The draft ATP proposal would incorporate “100 percent of the federal Transportation Alternatives Program and federal Recreational Trails Program funds.” Yet the proposal does not include language to repeal or amend the California Recreational Trails Act (Section 5070 et seq., Public Resources Code). This is a conflict that should be resolved through changes in the ATP proposal or other implementing legislation. Federal law, unchanged by MAP-21, requires each state to designate an administering agency for the Recreational Trails Program. The California Recreational Trails Act designates the Department of Parks and Recreation as that agency and directs the federal funds to the Recreational Trails Fund. Some of the purposes mandated for the federal Recreational Trails Program appear to be inconsistent with the intent of the ATP and the Legislature’s budget language (e.g., the mandate that 30% of Recreational Trails funding be expended on motorized off-road vehicle trails and a requirement to establish a recreational trail advisory committee that represents both motorized and nonmotorized trail users). MAP-21 permits each state to opt out of the federal Recreational Trails Program, in which case the funds would remain with the state as part of the TAP and could still be used without limitation for any recreational trails project, motorized or nonmotorized. Opting out of the separate Recreational Trails program and retaining the federal funds through TAP would appear to be more consistent with the proposed ATP and the legislative intent declared in the Budget Act.

Options for Federal Safe Routes to Schools Funding

The elimination of the designated apportionment for federal Safe Routes to Schools funding in MAP-21 means that the SRTS funding level now depends on state law. Without an amendment of state law, there is no basis for continuing a separate SRTS program with any specific level of federal funding. Among the options are the following:

- Make no change in state law. Under this option, there would be no basis for setting aside a portion of TAP for the purposes of SRTS, and the federal funds would be retained for broader TAP purposes, which include infrastructure projects to provide safe routes to schools. The existing Local Assistance program for Safe Routes to Schools would no longer receive federal funding and could continue with state funding only.
- Maintain the existing state Local Assistance program for Safe Routes to Schools through an SRTS set-aside from TAP funds, as permitted by MAP-21. This would require an amendment of state law to designate how the amount of the annual set-aside would be determined, whether by naming a specific dollar amount, determining the amount through the annual state budget act, or by defining some other means of calculating or approving the level of SRTS federal funding. The amount set aside for SRTS would come from the 50% of TAP that is not suballocated under MAP-21. A variation on this option would be for state law to direct that the portion of TAP set aside for SRTS be backfilled by a transfer from STP or another federal program to TAP, as permitted by MAP-21.
- As proposed for the ATP, repeal the stand-alone Safe Routes to Schools program (from both federal and state funds), and redirect equivalent revenues to the ATP. The ATP proposal calls for the federal funds to come from the federal Highway Safety Improvement Program (HSIP) “or other federal funds.” Since the federal funds would not come through an SRTS set-side from TAP funds, that funding would be retained for broader TAP purposes. Infrastructure projects to provide safe routes to schools would be eligible for funding from TAP funds or from other federal funds. Non-infrastructure projects aimed at safety awareness may qualify for HSIP funding if consistent with the State Highway Safety Plan. Other non-infrastructure projects designed to create public awareness and encourage walking and bicycling to school would no longer be eligible for federal funding but could qualify for state funding.
- Discontinue funding for the stand-alone SRTS program without the proposed ATP redirection of HSIP or other federal funds. The federal funding would be retained for the broader TAP program, whether or not as part of an ATP. Infrastructure projects for safe routes to schools would qualify for TAP and could qualify for other federal programs.

State Options for TAP Generally

State law will determine how projects are selected for TAP funding. Among the options are the following:

- Make no change in state law. TAP funding would be programmed through the STIP, as TE funding has been. TAP funding would be included in the base for calculating STIP shares, and the CTC would need to observe the federal suballocations as TAP programming minimums. MPO project selections would be included in RTIPs. The STIP guidelines would need to provide a means to assure the access of all “eligible entities” to the programming process. MPOs, Caltrans, and other state agencies could no longer be project sponsors, and probably few, if any, projects would come from the STIP interregional share.
- Create a new Local Assistance program for the TAP with 25 separate competitive selection processes: one for each of the 22 large urbanized area suballocations and one each for the small urban areas, for the rural areas, and for the balance available anywhere in the state. One variation on this might be to consolidate and reduce the number of MPO processes, so that there is one each for MTC, SCAG, and SACOG and one each for the six one-county MPOs (San Diego, Kern, Fresno, Stanislaus, San Joaquin, and Tulare). The Caltrans selection processes might also be combined administratively while observing the federal suballocations.
- Create a new Local Assistance program for the TAP with a unified state selection process under which MPOs first make selections for funding within their suballocations and forward them to the state with further nominations for funding from state 50%.
- Create a new program like the proposed Active Transportation Program, which programs TAP together with other funds, in a process similar to but separate from the STIP. As with creating a separate Local Assistance program, this could involve either a large or small number of separate competitive selection processes or a unified state selection process.

Under the STIP option, programming would be for the STIP multiyear period. Under any of the other options, state law could define the programming as either multiyear programming incorporated into the federal TIP or as an annual selection process.