



DEPARTMENT OF TRANSPORTATION

4910-9X

Office of the Secretary

49 CFR Part 37

[Docket DOT-OST-2015-0075]

Transportation for Individuals with Disabilities; Service Criteria for Complementary Paratransit Fares

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

ACTION: Notification of disposition of petition for rulemaking.

SUMMARY: This document announces the disposition of a petition for rulemaking from Access Services concerning the Department's regulations implementing the Americans with Disabilities Act (ADA) with respect to the method of determining the fare for a trip charged to an ADA paratransit-eligible user. The petition asked the Department to revise its regulation to allow for a "coordinated" or two-tier fare structure. The current regulation provides that the fare shall not exceed twice the fare that would be charged to an individual paying full fare for a similar trip on the fixed route system. On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation (FAST) Act. Section 3023 of the FAST Act allows the fare structure Access Services supported in its petition for rulemaking, thereby rendering the petition for rulemaking moot.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Attorney-Advisor, Office of General Counsel, DOT, 1200 New Jersey Avenue SE., Washington, D.C.,

20590, telephone: 202-493-0308, or email, Jill.Laptoosky@dot.gov; or Bonnie Graves, Assistant Chief Counsel for Legislation and Regulations, Office of Chief Counsel, Federal Transit Administration, same address, telephone: 202-366-4011, or email, Bonnie.Graves@dot.gov.

SUPPLEMENTARY INFORMATION:

On March 4, 2015, the U.S. Department of Transportation (DOT) received a petition for rulemaking from Access Services, the Americans with Disabilities Act (ADA) complementary paratransit provider for 44 fixed route transit providers in Los Angeles County, California. Access Services described that it uses a “coordinated” or two-tier fare structure where it generally charges \$2.75 for one-way trips up to 19.9 miles, and \$3.50 for one-way trips of 20 miles or more. In some cases, these fares exceed twice the fixed route fare. The DOT’s ADA regulation at 49 CFR 37.131(c) provides that the fare for a trip charged to an ADA paratransit-eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare for a trip of similar length, at a similar time of day, on the entity’s fixed route system. In recent triennial reviews of some fixed route providers in Los Angeles County, the Federal Transit Administration (FTA) has made findings that the ADA paratransit fares exceed twice the fixed route fare. In other words, some paratransit riders had been paying more for ADA paratransit fares than they should have been under the Department’s regulations.

On August 20, 2015, the Department placed Access Services’ petition for rulemaking in a public docket and sought comments on the petition in order to help the Department determine whether to grant or deny the petition. The Department received

approximately 179 comments to the docket, several with multiple signatures. With the exception of one person, all those in support of the petition were in Access Services' service area, and all opposed were outside of the service area.

On December 4, 2015, Congress enacted the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-94). Section 3023 of the FAST Act provides that notwithstanding 49 CFR 37.131(c), any paratransit system currently coordinating complementary paratransit service for more than 40 fixed route agencies shall be permitted to continue using an existing tiered, distance-based coordinated paratransit fare system, if the fare for the existing tiered, distance-based coordinated paratransit fare system is not increased by a greater percentage than any increase to the fixed route fare for the largest transit agency in the complementary paratransit service area.

Given this statutory provision, the Department has determined the issue is moot and no further action is necessary with regard to this petition for rulemaking. As a result, Access Services may continue to operate its coordinated fare structure notwithstanding 49 CFR 37.131(c) and in compliance with section 3023 of the FAST Act.

Issued in Washington, D.C., this 5th day of May, 2016, under authority delegated in 49 CFR 1.27(a).

Kathryn B. Thomson,
General Counsel.

[FR Doc. 2016-11182 Filed: 5/23/2016 8:45 am; Publication Date: 5/24/2016]