

## Transportation Alternatives Program (TAP) Questions & Answers

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### Recreational Trails Program (RTP)

#### 1. How does the Recreational Trails Program (RTP) change under MAP-21?

MAP-21 makes RTP funding a set-aside from the TAP. Unless the Governor opts out in advance, an amount equal to the State's FY 2009 RTP apportionment is to be set aside from the State's TAP funds for recreational trails projects. RTP requirements under 23 U.S.C. 206 continue to apply to RTP set-aside funds. (23 U.S.C. 213(f)(g)).

#### 2. Are there new Recreational Trails Program (RTP) requirements that apply to the RTP set-aside funds?

Yes. Under 23 U.S.C. 213(f)(2), each State shall "return 1 percent of those funds to the Secretary for the administration of that program." This is comparable to the requirement under SAFETEA-LU for FHWA to take funds off the top of the RTP funding for this purpose before apportioning the funds to the States.

Each State shall "comply with the provisions of the administration of the recreational trails program, including the use of apportioned funds." (23 U.S.C. 213(f)(3)). Therefore, RTP requirements under 23 U.S.C. 206 continue to apply to RTP set-aside funds.

"A State may opt out of the recreational trails program [set-aside] if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year." (23 U.S.C. 213(g)).

#### 3. Did MAP-21 change what agency manages the RTP set-aside?

No. The statute requires the State Governor to designate the State agency or agencies to administer the RTP. (23 U.S.C. 206(c)).

#### 4. Do the provisions in 23 U.S.C. 206, which governed RTP before MAP-21, still apply to the RTP under MAP-21?

Yes. While RTP funds will be a set-aside of TAP funds, MAP-21 provides that States must comply with the provisions of section 206 when using the MAP-21 set-aside funds. (23 U.S.C. 213(f)(3)). This includes following the provisions in section 206(d) relating to the use of funds. It also allows use of the Federal share provisions in section 206(f) and project administration provisions in section 206(h).

#### 5. Is the State Recreational Trail Advisory Committee still required?

Yes. For a State to be eligible to use funds set aside for the RTP under 23 U.S.C. 213(f), the State must comply with the requirements of 23 U.S.C. 206, including the requirement under 23 U.S.C. 206(c)(2) that "...the State shall establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year." If a State does not meet this requirement, it is not eligible to use RTP set-aside funds.

## **6. What is the RTP Opt-Out Provision?**

MAP-21 allows the Governor of the State to opt out of the set-aside for the RTP on an annual basis. (23 U.S.C. 213(g)). Instructions on how to opt out of the program for FY 2013 were included in a Notice to the States. See the following webpage:

[www.fhwa.dot.gov/legsregs/directives/notices/n4510755.cfm](http://www.fhwa.dot.gov/legsregs/directives/notices/n4510755.cfm) for additional information.

## **7. If a State opts out of the RTP, can it fund recreational trail projects with TAP funds?**

Yes. Recreational trail projects are eligible for TAP funds, but the RTP provisions and requirements under 23 U.S.C. 206 would not apply. (23 U.S.C. 213(c)(4)(b)). Recreational trails projects funded with TAP funds other than the RTP set-aside are subject to the requirements in 23 U.S.C. 213, including selection through a competitive process. The "treatment of projects" provision under 23 U.S.C. 213(e) would apply; this means that projects would have to be treated as projects on Federal-aid highways.

## **8. What happens to the funding if a State opts out of the RTP?**

The funds remain part of the TAP.

## **9. If a State opts out of the RTP, will it still have access for administrative funds to administer projects from previous years?**

No. The ability to use RTP funds for State administrative costs is limited to a percentage "of the apportionment made to the State for the fiscal year" (which would include the RTP set-aside funds). (23 U.S.C. 206(d)(2)(H)). If there is no program to administer, then the administrative funds cannot be permitted.

## **10. Are recreational trails projects eligible under other Federal-aid programs?**

Yes. Recreational trail projects that would be eligible under the RTP will be broadly eligible under STP and TAP. (23 U.S.C. 213(b)(2), 23 U.S.C. 133(b)(20)). TAP provisions and requirements under section 213 would apply to recreational trail projects using TAP funds (other than RTP set-aside funds). STP provisions and requirements apply to STP funds used for recreational trails projects.

## **11. Does the transferability provision apply to the RTP? Can a State transfer funds from the RTP to TAP?**

No. MAP-21 does not have a transferability provision for the RTP set-aside. Some projects may be eligible both under the RTP and TAP, and a State can choose whether to obligate RTP or TAP funds for such projects. Also, States have broad discretion to use STP funds for projects eligible under TAP or RTP. Note that if a State opts out of the RTP, such funds remain TAP funds, and the transferability provisions pertaining to TAP would apply.