

## Rail Law Alert: FTA – Title VI Equity Analyses Not Required for Temporary Service Changes and Extension of Deadline for Public Transportation Agency Safety Plans

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The Federal Transit Administration (FTA) recently announced that **Title VI equity analyses are not required for temporary service changes**, including changes to fare collection mechanisms, in response to the COVID-19 emergency. FTA also has effectively extended the **deadline** by which public transportation providers must certify that they have established a **Public Transportation Agency Safety Plan (PTASP) to December 31, 2020**.

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### Title VI Analyses and COVID-19

On its most recent update to the Frequently Asked Questions from FTA Grantees Regarding COVID-19 page of its website, FTA included the following question and answer:

**CR2: Are Title VI equity analyses required for emergency service cuts and changes during COVID-19?**

A: **No**. Under FTA’s Title VI Circular 4702.1B, transit providers that operate 50-or-more fixed route vehicles in peak service and are located in an urbanized area (UZA) with a population of 200,000 or more, must perform a service equity analysis whenever they make a major service change. The service equity analysis evaluates the impacts of the proposed service changes on Title VI-protected populations and low-income populations. **Temporary service changes in response to an emergency do not rise to the level of a major service change, so a service equity analysis is not required.** Similarly, **FTA exempts all temporary fare changes enacted as a result of an emergency from the fare equity analysis requirement.** However, if a transit agency chooses to make permanent any changes made during an emergency, then the transit agency must perform a service or fare equity analysis.

FTA does expect that all transit agencies take reasonable measures to implement temporary service or fare changes equitably to prevent unintentional discrimination. **FTA does not require a transit agency to document this process, get board approval prior to implementing changes, or share documentation on the changes with FTA, but FTA recommends that transit agencies document the rationale for specific service reductions, as well as steps taken to ensure equitable reductions in service, in the event someone files a complaint.**

Note that if your agency has a defined term for “temporary service changes,” in its Title VI Program, any specified time periods may provide guidance as to how long the changes may remain in effect without requiring a Title VI equity analysis.

FTA’s FAQ webpage also sets forth the following question and answer, related to Title VI Programs:



**CR10: Do transit agencies need to submit Title VI Programs during the COVID-19 public health emergency?**

A: **No.** FTA is postponing the submission of all Title VI Programs with current or upcoming due dates until October 1, 2020. **Recipients may use their current on-file Title VI Programs through November 30, 2020, unless a recipient voluntarily updates its program with a submission before that date.** FTA is making adjustments in TrAMS to ensure no outstanding civil rights program requirements will hold up the awarding of grants.

For more information on the FTA's Guidance related to the COVID-19 public health emergency, click [here](#).

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**PTASP Certification Deadline Effectively Extended to December 31, 2020**

On April 22, FTA issued a Notice of Enforcement Discretion effectively **extending** the **deadline to December 31, 2020**, for recipients or subrecipients of financial assistance under FTA's Urbanized Area Formula Program (49 U.S.C. § 5307) and rail transit agencies to have established and certified that they have a **PTASP** in place as required by 49 USC § 5329(d)(1) and 49 CFR Part 673.

FTA acknowledges that "current and anticipated disruptions to transit agencies due to the extraordinary operational challenges presented by the COVID-19 public health emergency are seriously impacting their ability to meet the compliance and certification requirements". Between July 21, 2020, and December 31, 2020, FTA will not take enforcement action against any public transportation agency that has failed to establish and certify its PTASP by the July 20, 2020, deadline. FTA emphasized that it "expects affected recipients and subrecipients to continue to work toward meeting the July 20, 2020, effective date to the extent practical under the current circumstances caused by the COVID-19 public health emergency."