

---

# Appendix A

## Notice of Intent (NOI)

CFR 1152.27(c)(2)<sup>3</sup> must be filed by September 28, 2009.<sup>4</sup> Petitions to reopen must be filed by October 6, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to RJCK's representative: Ronald A. Lane, Fletcher & Sippel LLC, 29 N. Wacker Dr., Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: September 10, 2009.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-22263 Filed 9-15-09; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Intent To Prepare a Supplemental Draft Environmental Impact Statement for the Capitol Expressway Light Rail Project in the City of San Jose and County of Santa Clara, CA.

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice of Intent to prepare a Supplemental Draft Environmental Impact Statement (EIS).

**SUMMARY:** The Federal Transit Administration and the Santa Clara Valley Transportation Authority (VTA) are planning to prepare a Supplemental Draft Environmental Impact Statement (EIS) for the proposed 2.3 mile extension of light rail along Capitol Expressway from the existing Alum Rock Station to Eastridge Transit Center in the City of San Jose. Pursuant to 23 C.F.R 771.129(a) and 771.130, the Supplemental Draft EIS will replace the Draft EIS that was made available for public review in April 2004. The Final EIS required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et. seq.*) (NEPA) was never completed for this project as a result of limited opportunities for securing

federal funds at that time. Due to dramatic declines in local and state funding sources as a result of the global economic recession, VTA is now preparing a Supplemental Draft EIS in order to be eligible for federal funds for this project. A Supplemental Draft EIS is needed to address major changes to the project since April 2004.

The Supplemental Draft EIS will be prepared in accordance with regulations set by the NEPA as well as the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The purpose of this Notice of Intent is to alert interested parties about the plan to prepare the Supplemental Draft EIS, to invite public participation in the scoping process and to announce that a public scoping meeting will be conducted.

**DATES:** Written comments on the scope of the Supplemental Draft EIS should be sent to Tom Fitzwater, VTA Environmental Programs and Resources Management Manager, by *October 19, 2009*. A Public scoping meeting will be held on *September 30, 2009* from 6 p.m. to 7:30 p.m. at the location indicated under **ADDRESSES** below.

**ADDRESSES:** Written comments on the scope of the Supplemental Draft EIS should be submitted via mail, e-mail, fax, or the project Web site, with attention to: Tom Fitzwater, Manager, VTA Environmental Programs and Resources Management, 3331 North First Street, Building B-2, San Jose, CA 95134-1927, *E-mail: Tom.Fitzwater@vta.org*, *Fax: (408) 321-5787*, *Project Web site: http://www.vta.org*.

Comments may also be offered at the public scoping meeting. The address for the public scoping meeting is in the Community Room on the second floor of Eastridge Shopping Center located at 2200 Eastridge Loop Road in San Jose California (Old Navy/JC Penney's entrance). The meeting facility will be accessible to persons with disabilities. If special translation or signing services or other special accommodations are needed, please contact VTA Customer Service five days prior to the meeting at (408) 321-2300, or e-mail [community.outreach@vta.org](mailto:community.outreach@vta.org).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the proposed project, environmental review process, or to be placed on the project mailing list, contact Tom Fitzwater, VTA Environmental Programs and Resources Management, at VTA, 3331 North First Street, Building B-2, San Jose, CA 95134-2709, (408) 321-5789 or Eric Eidlin, Community Planner, at Federal Transit Administration, San

Francisco Regional Office, 201 Mission Street, Room 1650, San Francisco, CA 94105-1926, (415) 744-2502.

#### SUPPLEMENTARY INFORMATION:

##### I. Scoping

Scoping is the process of determining the scope, focus and content of an EIS. FTA and VTA invite all interested individuals and organizations, public agencies, and Native American Tribes to comment on the scope of the Supplemental Draft EIS, including the project's purpose and need, the alternatives to be studied, the impacts to be evaluated, and the evaluation methods to be used. Comments should focus on: alternatives that may be less costly or have less environmental or community impacts while achieving similar transportation objectives, and the identification of any significant social, economic, or environmental issues relating to the alternatives.

NEPA "scoping" has specific and fairly limited objectives, one of which is to identify the significant issues associated with alternatives that will be examined in detail in the document, while simultaneously limiting consideration and development of issues that are not truly significant. It is in the NEPA scoping process that potentially significant environmental impacts—those that give rise to the need to prepare an environmental impact statement—should be identified; impacts that are deemed not to be significant need not be developed extensively in the context of the impact statement, thereby keeping the statement focused on impacts of consequence. Transit projects may also generate environmental benefits; these should be highlighted as well—the impact statement process should draw attention to positive impacts, not just negative impacts.

Once the scope of the environmental study, including significant environmental issues to be addressed, is settled, an annotated outline of the document will be prepared and shared with interested agencies and the public. The outline serves at least three worthy purposes, including (1) documenting the results of the scoping process; (2) contributing to the transparency of the process; and (3) providing a clear roadmap for concise development of the environmental document.

##### II. Description of Project Study Areas and Need

*Purpose of the Supplemental Draft EIS:* The original Notice of Intent to prepare a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) was issued on September 18,

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

<sup>4</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

2001. Following the circulation of the Draft EIS/EIR in April 2004, it was determined that the opportunity for securing federal funds at that time was limited. As a result, a Final EIS was never completed.

A Final EIR was prepared to comply with the state process (California Environmental Quality Act) and was certified by the VTA Board of Directors in May 2005. A Final Supplemental EIR was later prepared to address changes to the project and was certified by the VTA Board of Directors in August 2007.

Due to dramatic declines in local and state funding sources as a result of the global economic recession, a Supplemental Draft EIS will be prepared in order to be eligible for federal funds. The purpose of the Supplemental Draft EIS is to fully disclose the environmental consequences of building and operating the Project in advance of any federal decisions to commit substantial financial or other resources towards its implementation. The Supplemental Draft EIS explores the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts as required by current federal (NEPA) environmental laws and current Council on Environmental Quality and FTA guidelines.

**Project Description:** The proposed project will extend light rail along Capitol Expressway between the existing Alum Rock Light Rail Station and Eastridge Transit Center, a distance of approximately 2.3 miles. Light rail will operate primarily in the median of Capitol Expressway within exclusive and semi-exclusive rights-of-way. Property acquisition for the project will be minimized through the removal of two High Occupancy Vehicle (HOV) lanes on Capitol Expressway. The alignment will include an elevated section north of Capitol Avenue and south of Story Road, and an elevated crossing of Tully Road. The project will include new light rail stations at Story Road (aerial), Ocala Avenue (optional, at-grade) and Eastridge Transit Center (at-grade and aerial options). At Eastridge Mall, the existing transit center and park-and-ride lot will be modified and expanded to accommodate the project. The project will also include traction power substations at Ocala Avenue and Eastridge Transit Center. Approximately seven 115-kilovolt electrical transmission towers and two tubular steel poles (TSPs) will require relocation from the median of Capitol Expressway to the east side of Capitol Expressway in order to accommodate the project.

While the project will cross over Silver Creek, no work is anticipated below the top of the bank.

**Project Purpose and Need:** The Capitol Expressway Light Rail Project is needed to:

- Improve public transit service in the Capitol Expressway Corridor by providing increased capacity and faster, convenient access to downtown San Jose and major employment and activity centers;
- make transit an attractive alternative to the automobile for travel along the expressway; enhance regional connectivity through expanded, interconnected transit services along some of the primary travel corridors in Santa Clara County, including U.S. 101 (Guadalupe Corridor) and I-680 (Tasman East, Capitol Avenue, and Capitol Expressway Corridors);
- improve regional air quality by reducing the growth in automobile emissions;
- improve mobility options to employment, education, medical and retail centers for all corridor residents and in particular, low-income, transit dependent, youth, elderly, disabled, and ethnic minority populations; and
- support local economic and land development goals.

### III. Proposed Project Alternatives

The No-Build Alternative represents conditions that would be reasonably expected to occur in the foreseeable future if the proposed build alternative were not implemented. This includes existing transit conditions and programmed transportation projects that will be constructed by 2035. A Baseline Alternative representing the optimal level of bus service that could be provided in the corridor without an investment in major new infrastructure is not proposed. VTA is not only currently operating Line 522 Rapid Bus service in the Capitol Expressway Corridor, but is also proposing to improve this service with Bus Rapid Transit (BRT). BRT will provide more frequent headways, upgraded facilities, real-time information, transit priority, and specialized vehicles. VTA will also analyze any reasonable alternatives that are uncovered during public scoping.

### IV. Probable Effects

The Supplemental Draft EIS will explore the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts. Environmental issues to be examined may include: Changes in the physical environment (natural resources, air quality, climate change,

noise, water quality, geology, aesthetics); changes in the social environment (land use, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic resources. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. *Based on the findings of the Final and Supplemental EIR, it is anticipated that the project will result in adverse noise, vibration, and traffic impacts.*

### V. FTA Procedures

The regulations implementing NEPA, as well as provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), call for public involvement in the EIS process. Section 6002 of SAFETEA-LU requires that FTA and VTA do the following: (1) Extend an invitation to other Federal and non-Federal agencies and Native American tribes that may have an interest in the proposed project to become "participating agencies;" (2) provide an opportunity for involvement by participating agencies and the public to help define the purpose and need for a proposed project, as well as the range of alternatives for consideration in the EIS; and (3) establish a plan for coordinating public and agency participation in, and comment on, the environmental review process. An invitation to become a participating or cooperating agency, with scoping materials appended, will be extended to other Federal and non-Federal agencies and Native American tribes that may have an interest in the proposed project. It is possible that FTA and VTA will not be able to identify all Federal and non-Federal agencies and Native American tribes that may have such an interest. Any Federal or non-Federal agency or Native American tribe interested in the proposed project that does not receive an invitation to become a participating agency should notify at the earliest opportunity the Project Manager identified above under **ADDRESSES**.

A comprehensive public involvement program and a Coordination Plan for public and interagency involvement will be developed for the project and posted on <http://www.vta.org>. The public involvement program includes a full range of activities including the development and distribution of project newsletters, and outreach to local officials, community and civic groups, and the public. Specific activities or

events for involvement will be detailed in the public involvement program.

The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, it is FTA policy to limit insofar as possible distribution of complete printed sets of environmental documents. Accordingly, unless a specific request for a complete printed set of environmental documents is received (preferably in advance of printing), FTA and its grantees will distribute only the executive summary of the environmental document together with a Compact Disc of the complete environmental document. A complete printed set of the environmental document is available for review at the grantee's offices and elsewhere; an electronic copy of the complete environmental document is also available on <http://www.vta.org>.

The Supplemental Draft EIS will be prepared in accordance with NEPA and its implementing regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508) and with the FTA/Federal Highway Administration regulations "Environmental Impact and Related Procedures" (23 CFR part 771). In accordance with 23 CFR 771.105(a) and 771.133, FTA will comply with all Federal environmental laws, regulations, and executive orders applicable to the proposed project during the environmental review process to the maximum extent practicable. These requirements include, but are not limited to, the environmental and public hearing provisions of Federal transit laws (49 U.S.C. 5301(e), 5323(b), and 5324); the project-level air quality conformity regulation of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulation implementing section 106 of the National Historic Preservation Act (36 CFR part 800); the regulation implementing section 7 of the Endangered Species Act (50 CFR part 402); section 4(f) of the Department of Transportation Act (23 CFR 771.135); and Executive Orders 12898 on environmental justice, 11988 on floodplain management, and 11990 on wetlands.

**Related Documents:** The Final Environmental Impact Report (April 2005), and the Final Supplemental Environmental Impact Report (April 2007) for the Capitol Expressway Corridor are available by contacting

Tom Fitzwater at the address and phone number given above.

Issued on: September 9, 2009.

**Raymond Sukys,**

*Acting Regional Administrator.*

[FR Doc. E9–22322 Filed 9–15–09; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Issuance of Final Report of the 2008 Amateur-Built Aircraft Aviation Rulemaking Committee.

**AGENCY:** Federal Aviation Administration, DOT.

**SUMMARY:** This notice announces the issuance of the final report of the 2008 Amateur-Built Aircraft Aviation Rulemaking Committee (2008 ARC). The report provides the 2008 ARC's recommendations regarding the disposition of (1) public comments received on the proposed changes to Order 8130.2F and AC 20–27G; (2) the definition of "fabrication" as it differs from "assembly" within the scope of Title 14, Code of Federal Regulations (14 CFR) part 21, Certification Procedures for Products and Parts, § 21.191(g), Operating amateur-built aircraft; and (3) a process to minimize the impact of the proposed policy on amateur-built kits evaluated by the FAA before February 15, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Frank P. Paskiewicz, Manager, Production and Airworthiness Division, Aircraft Certification Service, AIR–200, Federal Aviation Administration, 950 L'Enfant Plaza, SW., 5th Floor, Suite 500, Washington, DC 20024; *telephone number:* (202) 385–6346. A copy of the final report may be obtained by accessing the FAA's Web site at [http://www.faa.gov/aircraft/gen\\_av/ultralights/amateur\\_built/media/ARC\\_FINAL\\_2008\\_report.pdf](http://www.faa.gov/aircraft/gen_av/ultralights/amateur_built/media/ARC_FINAL_2008_report.pdf).

**SUPPLEMENTARY INFORMATION:**

#### Background

On February 14, 2008, the 2006 Amateur-Built Aircraft Aviation Rulemaking Committee (ARC) published its Final Report. This report found that FAA directives setting policy for amateur-built aircraft "do not adequately address the issue of commercial assistance," determined that the "aircraft kit evaluation process is not standardized," and cited the need for additional training for inspectors to "fully understand the FAA's expectations when determining an aircraft's eligibility for an amateur-built certificate." Based on the ARC's report,

the FAA published a notice in the **Federal Register** on February 15, 2008,<sup>1</sup> temporarily suspending amateur-built aircraft kit evaluations. The FAA decided that its directives governing the amateur-built aircraft sector required review and revision.

Subsequently, the FAA published a notice in the **Federal Register** on July 15, 2008, announcing proposed changes to, and seeking public comments on (1) FAA Order 8130.2F, Airworthiness Certification of Aircraft and Related Products, Chapter 4, Special Airworthiness Certification, Section 9, Experimental Amateur-Built Airworthiness Certifications; and (2) AC 20–27G, Certification and Operation of Amateur-Built Aircraft.<sup>2</sup> The original comment period opened on July 15, 2008, and closed on August 15, 2008.

Upon request, the FAA extended the comment period to September 30, 2008,<sup>3</sup> and then reopened the comment period from October 31, 2008, through December 15, 2008.<sup>4</sup>

On November 4, 2008, the Amateur-Built ARC was rechartered with Order 1110.143A, Amateur-Built Aircraft Aviation Rulemaking Committee to advise the FAA on issues concerning disposition of the public comments, the enhanced definition of the term "fabrication" and grandfathering of FAA-listed amateur-built aircraft kits.

The 2008 ARC met in Washington, DC on January 27 through 29, 2009, to consider the items listed above; the ARC also—

- Reevaluated the 20/20/11 requirement;<sup>5</sup>
- Evaluated an updated FAA Form 8000–38, Fabrication/Assembly Operation Checklist;
- Discussed the creation of a National Kit Evaluation Team, consisting of FAA

<sup>1</sup> Notice of Temporary Suspension of Amateur-Built Aircraft Kit Evaluations Previously Conducted by the Federal Aviation Administration, Aircraft Certification Service (73 FR 8926, February 15, 2008).

<sup>2</sup> Notification of Policy Revisions, and Requests for Comments on the Percentage of Fabrication and Assembly that Must Be Completed by an Amateur Builder to Obtain an Experimental Airworthiness Certificate for an Amateur-Built Aircraft (73 FR 40652, July 15, 2008).

<sup>3</sup> See Notification of Policy Revisions, and Requests for Comments on the Percentage of Fabrication and Assembly That Must Be Completed by an Amateur Builder to Obtain an Experimental Airworthiness Certificate for an Amateur-Built Aircraft; Extension of Comment Period (73 FR 43278, July 24, 2008).

<sup>4</sup> The FAA reopened the comment period because the proposed Order 8130.2F and AC 20–27G had been inadvertently removed from the FAA Web site during the comment period. (See 73 FR 65007, October 31, 2008.)

<sup>5</sup> 20/20/11 was an FAA proposal requiring an amateur builder to fabricate a minimum 20 percent of an aircraft and assemble a minimum of 20 percent of the aircraft.

**Page is intentionally blank**

---