



**American
Public Transportation
Association**

March 21, 2025

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The Honorable Shelley Moore Capito
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Committee on Environment and
Public Works
U.S. Senate
Washington, DC 20510

The Honorable Sheldon Whitehouse
Ranking Member
Committee on Environment and
Public Works
U.S. Senate
Washington, DC 20510

Dear Chairman Capito and Ranking Member Whitehouse:

The American Public Transportation Association (APTA) represents a \$79 billion industry that directly employs 430,000 people and supports millions of private-sector jobs. We greatly appreciate the opportunity to provide testimony for the record for the U.S. Senate Committee on Environment and Public Works hearing on February 19, 2025, titled, *"Improving the Federal Environmental Review and Permitting Processes."*

APTA has actively engaged our more than 1,600 public- and private-sector members organizations to identify and develop recommendations that prioritize common sense regulatory reform proposals to streamline public transportation projects and program delivery. Our members share the goal of accelerating the delivery of safe, high-quality public transportation projects as efficiently as possible.

Overall, APTA's members have found that coordination among agencies with different National Environmental Policy Act (NEPA) procedures and/or disparate interests can add to the complexity and timeline of the NEPA process. In addition, many APTA member projects fall under categorical exclusions (CE), and there are conflicting policies and definitions between Federal agencies on when they apply.

Outlined below are two policy recommendations for streamlining regulatory and administrative requirements that will go a long way toward expediting projects of importance to public transit agencies.

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Real Property Acquisition

Public transit agencies face difficulties purchasing real property for operations and maintenance facilities because Federal Transit Administration (FTA) policies restrict the purchase of real property where Federal funds will be, or are anticipated to be, used for the purchase or development of that property. In most cases, transit agencies cannot acquire such real property until NEPA processes are completed.¹ Expanded flexibility for early real property acquisition for public transportation projects is needed to reduce delays and associated costs of projects and to create certainty in property rights with a view toward future use.

We urge Congress to add flexibility to FTA's policy on land acquisition prior to NEPA by amending 49 U.S.C. § 5323(q) (Corridor Preservation) to replace the term “right-of-way” with “real property interests”. This proposal would bring FTA's authority into parity with the Federal Highway Administration's property acquisition authority, thereby expanding the opportunity for broader property acquisition prior to the completion of environmental reviews.

NEPA and NHPA Requirements for Bus Shelters

APTA members also experience project delivery delays due to the interaction of NEPA reviews with other regulatory requirements, such as National Historic Preservation Act (NHPA) Section 106 reviews. The Section 106 review process, administered by the Advisory Council on Historic Preservation (ACHP), generates additional mitigation requirements that become part of the NEPA decision document. However, NHPA reviews involve outside agencies (typically State and Tribal Historic Preservation Officers) that are not bound by the same review timeframes. Often, these review processes extend the environmental review process but are beyond the control of the Federal agency.

Specifically, transit agencies encounter obstacles funding and installing bus shelter projects in certain FTA regions due to NHPA requirements. Under NEPA, many bus shelter projects are exempt as CEs² if they are located in an existing right-of-way. However, NHPA continues to apply, and grant applicants must work with FTA to determine if the NHPA Section 106 review process must be utilized.

A letter exchange between an APTA member and then-FTA Acting Administrator K. Jane Williams in 2018 confirmed that, “The NEPA and Section 106 are Federal cross-cutting requirements that apply to all FTA projects when FTA is providing funding or approvals for the project, regardless of the project's size. The result of these legal requirements is that, even for a bus shelter project in an existing right-of-way that typically is subject to a categorical exclusion under NEPA, FTA needs to collect certain basic information before it can make that [Section 106] determination.”

¹ On July 11, 2022, FTA sent a [Dear Colleague letter](#) to remind project sponsors that the purchase of real property outside of existing transit corridors cannot proceed until the NEPA process is completed or until FTA has either determined that the project is exempt as a Categorical Exclusion (CE) (i.e., corridor preservation or there will be no substantial changes); issued a decision that there is “Finding of No Significant Impact”; or issued a combined or separate final Environmental Impact Statement and or Record of Decision, ultimately clearing the project.

² See 23 C.F.R. § 771.118; see also, FTA, [Guidance for Implementation of FTA's Categorical Exclusions](#) (23 C.F.R. § 771.118) (January 2023).

March 21, 2025

Page 3

Transit agencies must develop and provide the necessary additional information to determine NHPA Section 106 applicability and, as a result, experience delays and increased costs, including loss of local match, for bus shelter projects. **We urge Congress to direct FTA and ACHP to create a national Programmatic Agreement to categorically exclude bus shelter installation in an existing right-of-way for Section 106 determinations.**

APTA stands ready to work with your Committee and Congress to streamline and improve the Federal regulatory process to enable better and expanded public transportation services for Americans and drive economic growth across the nation.

Thank you for the opportunity to comment. If you have additional questions, you may contact me or Ward McCarragher, Vice President, APTA Government Affairs and Advocacy, at wmccarragher@apta.com.

Sincerely,



Paul P. Skoutelas
President and CEO

cc: The Honorable Kevin Cramer, Chairman, Subcommittee on Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate
The Honorable Angela Alsobrooks, Ranking Member, Subcommittee on Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate
The Honorable Tim Scott, Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate
The Honorable Elizabeth Warren, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate
The Honorable Katie Britt, Chairman, Subcommittee on Housing, Transportation, and Community Development, Committee on Banking, Housing, and Urban Affairs, U.S. Senate
The Honorable Tina Smith, Ranking Member, Subcommittee on Housing, Transportation, and Community Development, Committee on Banking, Housing, and Urban Affairs, U.S. Senate
The Honorable Sam Graves, Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives
The Honorable Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, U.S. House of Representatives
The Honorable David Rouzer, Chairman, Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, U.S. House of Representatives
The Honorable Eleanor Holmes Norton, Ranking Member, Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, U.S. House of Representatives