



January 2, 2014

U.S. Department of Transportation
1200 New Jersey Avenue, SE
Docket Operations, M-30
West Building Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: Docket No. FTA-2013-0030

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on FTA's Advance Notice of Proposed Rulemaking (ANPRM) concerning safety plans, safety certification training, and transit asset management, which was published on October 3, 2013, at 78 FR 61251.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

APTA speaks for its members. Its Board of Directors reiterated that fact on March 9, 2013, when it adopted the following statement: "While APTA encourages its members to provide specific examples or impacts in support of the association's positions, APTA crafts its comments to represent those of all APTA members. The association goes to great lengths to ensure its regulatory comments represent the consensus views of our members. Every APTA member has the opportunity to review drafts, participate in discussions, and assist in crafting those consensus comments. In short, we speak with a single voice and, when the rare instance occurs that we cannot reach consensus, we do not speak at all. APTA's comments are those of our more than 1,500 members. This consensus-based method of crafting regulatory comments is a factor underlying APTA's selection as one of Washington's most trusted brands in a broad survey conducted by the National Journal and we encourage all federal agencies to recognize the representative nature of the association's regulatory comments."

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The National Public Transportation Safety Plan

Performance Criteria

FTA's safety performance criteria must remain focused on outcomes, not indicators.

Every transit agency is different, operating in a unique operating environment. To be effective, performance indicators must be tailored to that environment. Even differentiating among modes, sizes, and other indicators would be insufficient to capture the differences in operating environment and be effective at the agency level.

FTA's safety performance measures must remain simple, understandable, and at a high level. We recommend starting with the simplest, most measurable outcomes – casualties and other serious incidents – as the initial, most useful indicator of safety. FTA should remain mindful of eventual need for measures to be multi-modal and ensure definitional consistency with FHWA. As the program matures, FTA may wish to add other measures but starting simply is the most certain means of creating a successful program. Attempting to start with multiple measures would be confusing, lessen the value of the program for transit agencies, and provide skewed, unreliable data to FTA.

Responses to numbered questions

1. Individual agencies have developed myriad safety performance criteria and indicators. We do not believe summarizing those criteria out of context would be instructive, since they are matched to the individual agencies' operating environments, modes, and other factors. We recommend FTA simply work with outcomes to provide objective, measurable criteria.

Moreover, FTA should start this program simply, measuring casualties and other serious incidents first, and only later expanding the program to other measures, once FTA and the industry have experience with these concepts, reporting burdens, and other aspects of the program. FTA should also improve upon the current measures in NTD by providing more precise, clearer definitions, even in this seemingly clear-cut area. As an example, our members report experiences with FTA contractors requiring information on incidents unrelated to transit services, equipment, or facilities simply because they occurred in the vicinity of a bus stop. In this and other examples, clarifying the definitions would improve the value of the data while lessening the burden on agencies.

2. FTA should keep its criteria on a high level, outcome-oriented, and consistent with the highway program. Reporting should stay within the existing NTD metrics (improved upon, as above). FTA should not attempt to define indicators or other factors that might lead to safety risk, since these are necessarily unique to individual agencies.

3. While the TRACS categories may have value when better defined and within the context of a mature national safety system, there are far too many variables and uncertainties within those broad categories to write into the first version of the program. FTA should orient toward a simple, manageable program that can grow as both FTA and its grantees learn more about the burdens and other downstream consequences of this new regimen.

4. Individual member agencies may provide information on their experiences establishing outcomes, controls, and indicators, but FTA should focus solely on outcomes, as described above.
5. FTA should not attempt to create criteria for the four category discussed by TRACS at this time. Outside of the committee, there is no information available in what thought process led to those broad areas, what they mean, or how outcomes in each area might be measured. Attempting to go from no program to a series of criteria in each of those four categories will likely hinder the program, make the program less useful to the grantees it is designed to assist, and provide skewed data to FTA.
6. FTA should not attempt to expand into 'close call' counting. As recounted above, there are definitional issues even within the realm of safety-critical, high consequence events that must be addressed prior to any attempt to define and count 'close calls.'
7. FTA should work to make the data available sooner, and in a more user-friendly format. Currently, information is stale prior to becoming available, and thus of little value to industry practitioners. Streamlining FTA's information compilation and presentation practices would greatly enhance the value of the program to facilitate the industry's ability to analyze the data. Additionally, addressing the definitional problems noted above would improve the value and reliability of the output data.

State of Good Repair

The definition of 'State of Good Repair' must remain simple – "an asset fit for its intended purpose."

FTA must differentiate between safety and a state of good repair. FTA officials have often noted that equipment and facilities not in a state of good repair can be operated safely, just as equipment and facilities in a state of good repair can be operated unsafely. While these concepts are interrelated, FTA should not attempt to establish a "nexus" among safety, state of good repair, and transit asset management as has been suggested in some FTA presentations during the comment period.

Responses to numbered questions

8. While safety is a critical consideration in prioritizing assets for capital replacement v. ongoing maintenance, FTA cannot tie SGR to safety. They are not equivalent concepts. A state of good repair simply determines whether something is fit for its intended purpose. Safe operations can be achieved regardless of whether something is in good repair through inspections and maintenance. Attempting to intermingle these terms will almost certainly lead to unintended consequences, perhaps as drastic as necessary, safe equipment being removed from inventory based on SGR.
9. Once again, the concepts cannot be inextricably linked as this question suggests.

10. This question presumes half the equation has been solved. The target for SGR is that equipment remains fit for its intended purpose. The target for safety is that equipment and facilities are operated in a safe manner, without regard to whether they are defined as in a state of good repair.

Minimum Safety Performance Standards for Vehicles

FTA should not create standards outside of the existing structure. APTA is the recognized Standards Development Organization (SDO) for the transit industry and has established NIST compliant processes, a working network of SDO partners, and a strong, balanced structure. To overlay standards created outside of this framework would be confusing, potentially duplicative, and ultimately counterproductive.

Responses to numbered questions

11. The standards program is an integrated system of work undertaken by a number of partners across the industry. Among those organizations whose standards are applicable to public transportation, we count IEEE, SAE, ITE, and AASHTO. Our organizations work in concert, ensuring input in the others' standards development processes and broad applicability in and beyond transit. FTA should integrate these standards as well, since our cooperative efforts ensure that a standard created by one organization will not be recreated for another.

12. FTA should resume its support of the APTA standards program. That program is already designed to prioritize and develop performance based vehicle standards. Competitors for funding are carefully vetted through the industry to ensure the most pressing needs are met first.

13. FTA should fully embrace the standards created by the APTA program. These standards are the product of broad consensus across the industry, publicly vetted prior to approval, and created with input from FTA itself.

14. We have asked our member to suggest which standards provide the greatest cost-benefit value.

15. Same as above.

16. FTA should not adopt any NTSB recommendation without a careful cost benefit analysis. NTSB, by its nature, considers safety improvements in a vacuum, without regard to what the costs of those recommendations may require as a trade-off in application, or whether those trade-offs increase or decrease net safety.

The Public Transportation Agency Safety Plan

We believe FTA must keep a number of overarching concerns in the forefront as it crafts and proposes a regulatory framework for agency safety plans. First, **the regulatory framework must provide a great deal of flexibility** to accommodate the monumental differences among public transportation agencies and how they and the governments that sponsor them approach safety. As an example, in the case of states, we believe an individual state should have the ability to adopt a safety plan format that works for that individual state. Given the broad variation among states – whether their departments of transportation serve as operators, facilitators, or simply funders of public transportation – each must be free to adopt a sensible, verifiable, effective plan that fits their unique circumstances. A state may choose to direct sub-grantees to develop agency specific plans, provide a template designed by the state or FTA, or even consolidate the safety function for its sub-grantees at the state level. Each of these approaches may be appropriate and FTA's regulatory scheme must be flexible enough to accommodate them all.

The regulatory framework must be compatible with existing, FRA-compliant, safety regimes. Multi modal agencies that include commuter rail operations are already subject to system safety planning requirements through FRA. While APTA favors FTA's selected approach, utilizing a performance-based system, there is little chance FRA will migrate to a similar system in the near term. Employing separate and distinct safety regimes, with applicability in some cases to the same workers and facilities, dictates the systems must be compatible.

The regulatory framework must be effective for all modes of public transportation. While the initial emphasis of the safety program is rail transit, the framework must be flexible enough to apply to all modes, including bus and paratransit operation. Clearly, FTA is cognizant of this requirement, focusing a number of questions in this section on small operations which tend to be limited to bus and paratransit.

The regulatory framework must be cognizant of contract operations. Particularly, in situations where contractors provide all or most of the equipment, personnel, and supervision, FTA must account for the wide variation in contract structure, funding, and control in contracted services.

The regulatory framework must be compatible with existing safety regimes created under cooperative insurance arrangements. Insurance pools have used strong safety plans, created in conjunction with insurers, to control costs for many years. These very successful regimes should not be disturbed in creating the framework for agency safety planning.

FTA must take all authorized actions to safeguard safety sensitive information in federal, state, and local forums. While MAP-21 did not provide explicit federal preemption, FTA should aggressively act to maximize the safeguarding of safety information. It is only with protection from FOIA, sunshine laws, and discovery that a safety regime can be fully effective. The failure to guard transit agencies from potential plaintiffs is directly contrary to the strong program of self-analysis that this program will require.

Responses to numbered questions

17. While the SMS approach is scalable to any size or mode agency, the primary barrier to adopting SMS principles will clearly be gathering and applying the necessary training, technological support, and guidance to move the entire industry to an SMS mindset and terminology. It appears that many agencies employ what are essentially SMS principles but not in the verifiable, auditable form likely to be required. Templates, especially for smaller agencies, will be a key aspect of technical assistance necessary to ensure the success of the program. One specific training issue already apparent is the dearth of trained safety officers. Small agencies, in particular, are likely to continue to have difficulty attracting and retaining safety officers as the need for them balloons in a very short time span.

18. As noted above, templates, formats, and examples are extremely valuable and will be of particular importance in this program. Even agencies and states with substantial existing safety programs will find it helpful to have national models that they can base individualized programs on. Moreover, identifying the parameters of “adequately trained” safety officers early in the process, and providing widely available, cost efficient means of producing these assets will be a key aspect of technical assistance necessary.

With these requirements affecting agencies of all sizes, types, and missions, FTA should prepare and make available role and responsibilities checklists that look to states taking on very different roles in individual agency plans, contracted operations, and other aspects of plan implementation.

19. Agencies currently proactively seek out hazards and prioritize mitigation efforts but this process is carried out in vastly different ways among agencies. A number subscribe to APTA’s safety management programs and have relatively sophisticated methods of systematically analyzing hazards while others are far more informal, yet still effective.

20. FTA should consider allowing optional centralized safety management. State or regional safety officers could reasonably serve for smaller providers. Also, some local governments centralize safety management across departments and include transit in that allocation. FTA should consider such alternatives as valid based on the same level of comparable outcomes found in more mainstream approaches.

Plan Requirements

Responses to numbered questions

21. Agencies currently apply some risk-based approaches to human factors, including requiring rail operators to maintain commercial drivers’ licenses to help ensure continuing fitness for duty. Screening for sleep disorders is sometimes problematical, since there are multiple reasons for fatigue. Identifying sleep disorder candidates can easily conflict with negotiated work rules and other employee protections.

22. For some agencies there may be value in combined programs under some circumstances. We do not believe this will always be the case, given the resources involved and the fact that some agencies are so large as to make separate plans more manageable. Flexibility is needed to allow either approach.

23. "Equivalent entities" should generally be those making day-to-day policy decisions. This general rule must be tempered to account for practicality. While a city council may reasonably serve as an equivalent entity in one city, another may be so large as to make appointment of the city council both impractical and ineffective. Moreover, state agencies present a number of unique situations that suggest different approaches. FTA should remain open to unique solutions within that general framework of day-to-day policy decision making.

24. We have asked our members to provide examples of integrating performance milestones, targeted safety risks, and costs in developing mitigation strategies.

25. There is no practical role for FTA in annual agency plan reviews. The sheer number would be certain to create a bottleneck, require reviews to devolve to regions (which would be likely to adopt differing de facto standards), and add little, if any, value to what is essentially an internal, continuous process. States should only be required to be involved in review of plans they control or audit in the normal course of business and ensure that plans are being implemented as intended

26. Safety plans under 49 CFR 659 tend to be measured internally on an annual basis to ensure annual goals are established and met. Some plans are reviewed under the APTA safety management program to ensure continuing improvement.

27. We believe training requirements should be scaled and tailored for different roles. Training should be commensurate with the risk of different jobs as well as differences in agency size and the operating environment. For instance, bus operators in rural areas should be trained on a far different set of road hazards than those in a dense urban environment. Core competencies should include familiarity with the agency's safety emphasis and program. As with other aspects of the program, FTA can help alleviate what could otherwise be crushing costs by creating and packaging a series of tools and resources that agencies large and small can use as a basis for their individual programs. There is little value in hundreds of agencies or dozens of states spending duplicative sums to create similar products. Training should be available on-line to the extent practicable. FTA should develop a process to evaluate an agency's existing safety training regime to determine if that training can be used to meet FTAs requirements.

28. We have asked our members to provide specific information on current training regimes, curriculums, and costs.

29. Many agencies could not afford to dedicate a staff or individual solely to safety management, owing to the size of their operations and staffs. In those cases, we believe 'dual hatting' is appropriate, except no single individual should be both the chief safety officer and

responsible for operations as that would create a conflict or at least an apparent conflict of interest which could undermine the safety program or the public trust in the program.

In situations where a state or local government are organized to collectively oversee safety either among several transit agencies or among several agencies or departments including transit, the safety officer could come from outside of the agency staff, The safety officer may even come from outside of government, such as a safety officer from an insurance pool.

30. Guidance, templates, training, examples, and technical assistance in the building process are all ways to both reduce the burden on agencies as well as to keep required local variation to the practical minimum.

31. While all agencies should be subject to the same SMS requirements, FTA should allow states, regions, combinations of agencies, or other bodies to pool safety resources where it makes sense and alleviate the burdens on small providers. Sharing an effective safety team among a number of similarly situated providers could be far more beneficial than each acquiring individual resources that, through duplication of training and other expenses, would almost necessarily be less effective. As noted above, training requirements should be scaled and tailored. Not requiring training for a position that doesn't – as a practical matter – need that training will immediately save money and allow those dollars to be spent on more effective safety and safety related training and materials.

32. Reporting requirements must be limited. While we appreciate that FTA seeks situational awareness, checking the box on a reporting requirement does not generally add a benefit to the system. The current reporting requirements are not effective and can easily serve to skew data. Extreme cases of NTD seeking data on accidents that do not involve transit vehicles or passengers simply because they happened in the vicinity of a bus stop already exist and should be eliminated in this rulemaking process. A simple requirement to expeditiously report serious incidents to FTA regional offices, without attempting to detail every variation of whether something was or was not serious and avoiding second guessing filed determinations would make the system much more responsive and practical.

The State's Role

State Safety Oversight Agencies (SSOA) must have flexibility to utilize third party contractors to fulfill their oversight responsibilities. If SSOA salaries are governed by a state civil service system, it may be very challenging to attract and retain high level safety staff to work in areas with a high cost of living. Use of contractors will allow for salaries more in line with the qualifications required for safety oversight staff.

FTA must not utilize the punitive measures outlined in MAP-21 that allow FTA to withhold funding to regions whose SSOAs do not meet certification requirements. While we agree that SSOA certification is a key piece of the National Safety Plan, withholding formula funding to transit operators will negatively impact agencies' ability to address SGR needs through permanent capital investment.

Responses to numbered questions

33. We believe small operations should be a function of buses in peak service. It is a measure familiar throughout the industry and less subject to variation than passenger counts, budget, or other similar measures. That said, it is important that where requirements are scalable, those scales don't simply measure small operations and 'all others.' A mid-size operation is still subject to many of the same constraints on personnel and budget as a 100 bus property and FTA must allow any enhanced requirement to phase in rather than become effective once the 101st bus enters peak revenue service.

34. There does not appear to be a substantial majority of either states or small agencies that would seek consolidation of safety operations at the state or regional level. While we believe a state-wide plan that notes any unique situations of small providers covered by the plan would be a practical option, it should remain an option. FTA could facilitate this by drafting and circulating a template for a statewide plan. Drafting the document in cooperation with states in varying situations but interested in statewide safety planning could ensure the template was practical and useful.

35. Some states do lack the resources and expertise to draft statewide plans. Moreover, many state DOTs are already understaffed. This points to the need for comprehensive technical assistance to help the industry adjust to this substantial change in process and organization. It should be noted that statewide plans may not in all cases be the most effective way to implement the new safety requirements. In many cases, the transit agency will develop their Safety Plan following direction, where appropriate, from the State.

36. States could prepare a single plan, regional plans, or a number of plans that apply to areas based on density or other factors. The number should be a function of the state's own analysis. As noted above, it may also make sense for the State to prepare an outline that agencies within the state could use as guidance in directly developing their own plans.

37. Limiting states' roles to certification of individual plans may represent savings on one level, but prove costly on another. Allowing maximum variation among state approaches is key and vital to the success of the program.

38. It would reduce the overall burden if states created standardized plans or outlines that agencies could adapt. Centralizing template drafting at the national level would go even further to reduce the burden, as long as those national templates remained optional.

39. A national model is practicable and would prove extremely beneficial. Because of the non-binding nature of such a template or templates, FTA could work with APTA, CTAA, our members, and others to create such a model without the constraints of a cumbersome advisory committee process.

40. Customizing state models for individual small properties or simply including those properties in the statewide plan need not be a burdensome approach. Many plan details would require no customization and others could be categorized. We believe this could be reasonably accomplished without compromising safety factors and still avoid one-size-fits-all.

41. If states do not oversee their own plans, there is no one left to do it. Agencies have proven they can audit their own plans internally with great success. The safety process need not be reduced to a 'fox and henhouse' analogy when an agency, state, or organization is committed to continuing improvement of safety practices.

42. Again, if states do not do it, who is left?

43. N/A

44. Without some idea of the general contours of the plan, calculating resource requirements is left to guessing. In any case, states will need technical assistance resources, templates, training, and pre-packaged products to the maximum extent possible to make this program successful.

45. Oversight of non-rail transit systems appears to be presumed throughout this ANPRM and we have answered under that assumption.

46. While combining oversight of rail and non-rail transit safety may be practical in some states, it may not in others where simply coordinating the programs would work better. This should be a state choice, based on each state's individual program and structure.

47. Again, this should be up to the individual states. Some would doubtlessly find it most efficient to create a safety office in a DOT, others a separate structure. Enforcing a standardized model on widely varying operations with widely varying resources and expertise would be unfortunate and unsuccessful.

The Public Transportation Safety Certification Training Program

The safety certification program must be phased in to avoid creating an immediate dearth of qualified personnel. FTA's training certification program, as described in the ANPRM, is quite detailed and training-intensive. The program must allow for creation and maturation of training venues, as well as crediting for previous experience, to ramp up the vast number of certified safety professionals needed throughout the industry.

Responses to numbered questions

48. We have not yet identified any additional competencies or training outcomes necessary. We remain concerned that even the existing requirements will result in an immediate dearth of qualified safety professionals, straining agency budgets and the training opportunities available to the breaking point.

49. We have asked our members to identify any unnecessary competencies but, as a preliminary matter, caution that the competencies required in a small, rural, bus-only agency are far different from those required in a large, urban, multi-modal agency. Agencies with lesser risk factors should be allowed to work within standards appropriate to their risk profile.

50. Requiring certification prior to employment would exacerbate an already tight market for trained professionals. Training once hired, and even apprentice-like situations should be acceptable. The TRACS committee is already engaged on this and FTA should defer to their guidance.

51. We have asked our members to comment on this specific question. We do caution that the quality, not the quantity or frequency of training, should be the primary concern. Moreover, overlaying refresher training requirements on an already strained system would further slow training of new safety professionals.

52 through 55. We have asked our members to answer for their specific agencies.

The National Transit Asset Management System

As with the definition of 'state of good repair' (SGR), transit asset management (TAM) plans will require a great deal of variation and flexibility, with no practical way for FTA to create a comprehensive framework for each variable – size, mode or modes, management structure, operating environment, etc. Instead, FTA should concentrate its efforts on a single framework that is broad enough to apply across the full spectrum of transit agencies and simply exempt the smallest of agencies from some reporting requirements. This approach would be consistent with the SMS approach, which lays out principles and allows agencies flexibility to identify the best way to meet requirements.

We believe **FTA must create a framework that will allow existing TAM plans to continue.** Many transit agencies already have robust, well established programs that are clearly effective. These agencies have invested a great deal in creating these programs, they are consistent with existing FTA guidance and FTA-sponsored standards, and forcing those programs into a different framework would be counterproductive.

The baseline for the FTA program should be its October, 2012 Asset Management Guide, APTA SGR-TAM-RP-002-13, *Defining a Transit Asset Management Framework to Achieve a State of Good Repair*, APTA SGR-TAM-RP-001-13, *Creating a Transit Asset Management Program*, and APTA-SGR-TAM-RP-xxx-13, *Capital Asset Inventory and Condition Assessment*. This body of work represents to the consensus views of the industry, were each drafted or supported by FTA itself, and were created and intended to be applicable to all sizes, modes, and variations of public transportation operations. We strongly urge FTA to adopt those documents as the basis of the TAM program.

The TAM program should be phased in. For much of the transit industry, TAM concepts represent a substantial change in management practices. Small agencies in particular will be required to institute substantial, formal practices that will require a gradual implementation. Our members believe that can best be accomplished by starting with a single asset class – rolling stock – and using that experience to build strong, useful programs at all transit agencies. Those agencies with established programs can continue, refine, and improve their programs, but the baseline requirement for those with less experience should be limited.

Reporting burdens must be minimized. FTA's pilot program made it clear that overly onerous NTD reporting is among the biggest potential barriers to implementing a strong program. Agencies, large and small alike, already spend substantial time and money completing NTD reporting requirements. FTA must guard against collecting information for information sake. As with SGR, we urge FTA to, in each instance where some compilation or submission of information is contemplated, consider the collection, compilation, and reporting burden, compare it against the value of the information to both FTA and the individual agency.

Assets owned, operated, and maintained by third parties must be differentiated. While we believe TAM plans must consider future capital liabilities of the agency, FTA must acknowledge that third party contractors obligated to provide serviceable, functional, safe equipment cannot be brought fully into the agency's TAM plan. The further assets are from agency control and future capital liability, the further outside agency control those assets should be. As an example, an agency that utilizes taxicab vouchers as an aspect of its paratransit program should not have to manage the condition of private taxicabs that accept those vouchers.

FTA review must remain at the highest level to be successful. We caution that FTA should not attempt to gather information on inventories, specific equipment, or similar detail in the normal course of business. Not only would such requirements tip the cost benefit scale into negative territory for agencies, but they would also lead to an uncoordinated national program with differing standards across the country and an overwhelming burden on FTA itself.

Overview and Considerations for Small Operators

Responses to numbered questions

56. Small operators should follow the same basic guidance and requirements, except that reporting should be simplified in recognition of the less complex nature of small operations inventories. Utilizing the existing standards and guidance as the basis for all TAM planning will ensure tools of varying complexity can be used for capital planning and asset management (e.g., spreadsheet formats, off-the-shelf management tools, custom tools) and remains scalable. Relaxing reporting requirements, as well as phasing in those reporting requirements starting with a single asset class, will ease the burden on small operations. Phasing in the requirements will ease the burden on all agencies and allow time for the reporting process to be refined before the requirement is rolled out for all asset classes.

57. FTA should not create a separate, new, and possibly different definition of small operations. States should be free to develop or certify small operations TAM plans based on the individual state's capabilities.

58. States and other direct recipients should be responsible for overseeing their sub-recipients in the TAM process, consistent with those responsibilities in other aspects of the transit program.

59. Yes, states should maintain a list of certified sub-recipients and their plans.

60. N/A

61. Generally, recipients should not be responsible for tracking assets owned, operated, and maintained by contractors. While they must remain vigilant to ensure equipment any used by contractors remains in a state of good repair, agencies that contract out services in this manner should not take on responsibility for assets that do not affect the future capital liabilities of the agency.

62. States should have the option of creating and administering a state-wide TAM plan.

Defining State of Good Repair

The definition of 'State of Good Repair' must remain simple – "an asset fit for its intended purpose."

Responses to numbered questions

63. The balance must be heavily weighted to minimize the costs of measuring state of good repair. Evaluation of costs should look to the level of precision obtained, what exactly FTA would do (or not do) with this additional information, what agencies would do (if anything) with this additional information, and the cost of compiling and reporting the information to query whether the cumulative costs to the industry – operators, oversight agencies, and FTA – is justified. As a starting point, it seems abundantly clear that reporting must be broad categories and certainly not asset-by-asset and all efforts should be made to ensure that agencies can continue to use their existing TAM processes (e.g., if SGR is measured using age and condition, that process should be allowed to continue). We recommend FTA adopt the asset breakdown structure in RP-xxx-00x-13 and require only top tier reporting. Individual properties could elect to collect data on more precise tiers for internal purposes, but the federal reporting requirement should remain top tier.

FHWA and state departments of transportation have developed a partnership over many years in developing and expanding asset management practices. We recommend FTA incorporate FHWA lessons learned into this rulemaking and employ a similar collaborative approach.

64. FTA should not attempt to dictate particular approaches for any mode or size of grantee, Grantees should be free to adopt locally relevant measure(s), and to utilize differing measures or combinations of measures for different assets. Each method has merit and limitations under particular circumstances. For example, Age can be a strong indicator for assets that predictably degrade over time, but rates of degradation are powerfully impacted by local operating conditions. Similarly, FTA dictating measures based on mode or agency size would ignore the unique operating environments of otherwise similar agencies and limit the value of data obtained. Therefore FTA should find a way to 'normalize' typical measures so that, once compiled, results will provide a meaningful picture of the state of the nation's transit infrastructure.

65. Reporting on general asset classes is appropriate, as described in RP-xxx-00x-13, but in measuring SGR, FTA must keep in mind the basic definition – whether an asset is fit for its intended purpose. FTA dictating particular approaches will simply make the process more complex than it must be and the quality of information gathered will suffer

66. FTA should not dictate approaches in this manner. RP-xxx-00x-13 includes a functional, adaptable methodology, created by industry consensus, and drawn from the real-world experience of the Chicago Regional Transportation Authority and other agencies that worked on the APTA standards documents, that should serve as the basis for the FTA program.

67. FTA adoption of a single approach, without freedom among its grantees to approach performance measures and target suited to their individual properties would limit the industry's ability to craft and implement achievable plans. The high level definition that an asset should be fit for its intended purpose will give agencies the flexibility to identify the most appropriate factors to assess the condition of each asset class.

68. & 69. The wording of these questions presume the answers to the questions above. FTA should not require the industry to adopt a condition or performance based approach or dictate how asset assessments are conducted. Rather than establish prescriptive requirements, FTA should disseminate guidance and best practices based on national and international experience.

70. The definition of SGR should remain simple. Attempting to add and balance the factors enumerated in this question would make it almost impossible to craft the definition itself. The 'fit for intended purpose' definition allows all relevant factors to be considered at the agency level.

71. See answers 68 & 69. Any weighting should be determined by agencies or states, respectively.

72. This should be up to individual properties. FTA is not adequately positioned, staffed, or resourced to get into this fine level of detail and effectively account for varying local conditions across the spectrum of operations.

73. A good example of what agencies currently do is in Appendix A, RP-xxx-00x-13. We have asked our members to supply associated costs with this effort.

74. FTA should simply adopt the industry standard expressed in RP-xxx-00x-13, RP-001-13, and RP-002-13.

Transit Asset Management Plans

Responses to numbered questions

75. Where there is only a residual interest in the assets, FTA should not require TAM plan submission.

76. FTA should not enlarge on TAM plan requirements. Best practices could be collected and disseminated but FTA must remain clear with its oversight contractors and others that best practices are not requirements.

77. FTA must scrupulously avoid dictating what would essentially be contract terms. Contractors must remain free to determine how best to manage their own assets, since their concerns are often different from the public agencies they serve. Taxation, depreciation, and other factors may influence contractor decisions in this way. Moreover, extension of TAM plans into contractor owned, operated, and maintained assets would require some degree of limitation based on sound reasoning to avoid attempts to control asset management of those taxicabs in our example.

78. TAM plans should only apply to assets that represent future capital liabilities of the transit agency. FTA must acknowledge that numerous factors outside the control of the agency affect condition, not the least of which is the condition of the roads over which transit operates. Limiting TAM plans to future capital liabilities is the only logical means of avoiding the slippery slope of reporting on city streets and taxicabs.

79. TAM plans should apply to assets owned by the transit agency, even if operated by third parties. Replacement of these assets represents a future capital liability of the agency. While the TAM plan requirements should not extend to lessees (which may be small, unsophisticated community or faith based operations) but the lessor agency should maintain control and accountability for the assets.

80. FTA should require only minimal details for capital asset inventories. Categories of assets should remain at the highest level (i.e., asset class) and minimal details of the underlying assets submitted. Information would include the number of assets in the class, the percentage of those asset that are fit for their intended purpose, and a general description of the types of assets in the class. Requiring detail beyond this would be expensive and time consuming for agencies of all sizes and the information rendered of limited value to FTA. This also points out the need for transitioning into reporting by starting with a single asset class. Lessons can be learned more efficiently and then be more easily extended to other classes of assets to achieve the optimal balance of reporting pain and useful industry wide information.

81. Condition assessment is asset specific but, as discussed throughout our comments, agencies should be required to report only on broad asset categories. The parameters of the condition assessment should not be codified in a regulation since they must remain adaptable to multiple situations and different types of agencies. Each agency should be responsible for developing its own criteria to use for condition assessment, allowing FTA to track progress rather than asset specific data from thousands of grantees.

82. FTA could provide useful technical assistance with templates and collected best practices, provided it guards against those templates and best practices becoming de facto requirements through the review process.

83. FTA should only require reporting at the high level looking only to asset classes. Going further risks creating conflicts between TAM plans and TIPs rather than consistency between them and precludes FTA's ability to aggregate information across agencies.

84. TAM plans should coordinate with the TIP and STIP processes. Flexibility is needed in determining the time period for prioritization. Agencies typically prioritize projects as they develop multi-year capital plans. This information is subsequently included in the TIP or STIP but the TIP or STIP may not be on a consistent cycle with the agency capital plans. In some regions, a second level of prioritization may occur at the MPO as well.

85. FTA should neither recommend nor require for balancing competing interests. Local choices must be honored to preserve local control and to choose options best suited to an individual community. TAM plans may discuss trade-offs but FTA should not be second guessing informed choices.

86. This is too finite of a detail for FTA review or intervention. Ensuring an organization is coordinated and well run is beyond the FTA role. FTA should simply continue to use its triennial review program to assess agency compliance with federal requirements, including the TAM plan.

87. FTA should not delve into this level of detail. Priorities change and local agencies and communities should not be shackled to past decisions in the face of changing priorities.

88. Safety is an element of consideration in asset management. Whether to prioritize replacement of an asset that can be operated safely subject to constraints or operate it under those constraints in favor of investing in something deemed more important is a local decision. While FTA should disseminate best practices and facilitate information sharing, it should not dictate procedures or requirements for incorporating safety into TAM plans. Dictating specific safety procedures or requirements for TAM plans would preclude agencies from becoming more efficient and restrict their ability to find new ways to continuously improve.

89. The asset condition assessment and prioritization is, by its nature, a risk based approach. Agencies employ multiple locally developed factors that are most relevant to their service (e.g., age, criticality, condition, reliability, safety) to prioritize investments.

90. As discussed above, locally developed investment prioritization practices, by their nature, ensure that an agency's greatest vulnerabilities are addressed. We do not believe that a risk based process would have to change to accommodate an agency's greatest vulnerabilities but have asked members to send in examples where their own processes have evolved over time.

Performance Measures

Responses to numbered questions

91. FTA should seek information on the broad asset classes as defined in RP-xxx-00x-13 and consider the percent of assets in each class that are fit for purpose. It should not continue with the approach taken in the SGR pilot. In that pilot program, a range of agencies found the reporting requirements unduly onerous and the data collected not necessarily useful to them or internally or to FTA to assess the capital investment needs of the industry. No data should be required to be collected and reported unless it has utility to the agency in the first instance.

92. Using the "performance-based approach" to defining SGR is not recommended because of the challenge to establishing a national definition of outcome measures (e.g., OTP). In addition, basing state of good repair assessment on outcome measures such as mean distance between failures would quickly lead to erroneous comparisons between agencies that have different operating environment and usage rates. The outcome measures suggested in the FTA white paper should inform maintenance and operations decisions and also be considered when agencies assess the condition of their assets. This information is critical for internal purposes, but collecting it on a national level would not be useful and should not be required.

93. Differing standards would not be necessary under a performance based approach drawn from the standards documents referenced throughout this section.

94. State of good repair targets must be locally developed and maintained, as outlined in MAP-21 (which requires annual *submission* of SGR targets). MAP-21 does not require additional reporting of targets through any other means, so duplicative reporting should not be required. With no protection of data, differences in targets could be used against agencies through the courts and political processes. Agencies striving for strong continued improvement would do so at their own peril and the system would encourage 'achievable' goals, weakening the SGR program overall. In addition, it is critical that agencies have more than three months to set targets following the Secretary's establishment of SGR measures. By comparison state DOT grantees are afforded one year to set targets after the Secretary defines performance measures

95. Setting targets must be left to local authorities and should be done by asset class, as discussed above. Dictating system-wide, asset-class, or other targets limits the utility of the program and discourages sound performance-based planning. We also encourage FTA to take an incremental approach and phase in the target-setting requirement beginning with vehicles.

96. We strongly oppose basing measures and results on data reported through the NTD. MAP-21 requires agencies submit an annual report on progress as required by 49 USC 5326. Submission of SGR measures and results should be included in that report, so also reporting through the NTD would be duplicative and unnecessary. Review could be performed as part the triennial review - a third venue for reporting and reviewing is unnecessary. In addition, this question presumes national targets, centrally set, an approach likely to degrade rather than enhance the program, as discussed above.

97. MAP-21 does not specify the horizon of the targets that must be reported on annually. Multiple targets will make the required task of reporting on progress toward targets unduly complicated. Targets will likely very greatly based on a variety of factors unique to individual agencies. Since annual reporting is required, we suggest that agencies set ten-year targets and evaluate progress toward that target each year. At that time, agencies would have the opportunity to adjust targets based on changes to fund availability, adjustments to agency priorities and other factors.

98. Agencies should be allowed to certify SGR and eligibility if they have an SGR program in place and are making satisfactory progress toward their established goals. This must stay at a high level to be workable for any transit agency from the largest to smallest.

Technical Assistance and Tools

FTA's technical assistance should be heavily weighted toward examples, workshops, and other illustrative work. FTA cannot reasonably be prescriptive in this program but can serve as a clearing house for best practices by making examples of successful programs from a variety of agencies and situations available to all grantees.

Responses to numbered questions

99. Best practices examples and peer exchanges are most helpful and would be welcome. Please keep in mind that FTA must guard against best practices becoming *de facto* standards.

100. We see no reason for FTA to compete with the private sector in this market.

101-104. We recommend FTA look to the FHWA model. The highway community has, albeit on a less complex level, engaged in asset management planning for some time and has taken on similar issues over time.

105. We have asked our members to directly submit examples.

106. Pilot grants, and funding to evaluate technology, peer exchanges, deterioration schedules, and condition assessment methodologies would all be extremely helpful in creating successful programs at every level.

Certification of Transit Agency Safety Plans and Transit Asset Management Plans

Responses to numbered questions

107. We believe certification of TAM plans should be handled in the same fashion as others, through the annual certs and assurances exercise.

108. We do not believe an FTA-furnished self-assessment tool would be helpful. Since agencies will differ substantially in their plans and practices, such a tool would necessarily be over simplistic or overly complex and, in either case, not of great value.

109. The triennial review process is the optimal point for TAM plan sampling and review. Adding yet another review to the grant process would unnecessarily delay grants.

110. The concept of sampling in addition to triennial reviews is redundant. FTA should limit itself to assessing TAM plans in the triennial review process.

111. FTA should not dictate particular methods for states and other designated recipients to review or approve TAM plans of subrecipients. Simply rolling the TAM program into the triennial review process is the most cost effective means of monitoring compliance.

112. There should be no extraordinary procedures imposed on states as they develop or certify safety plans for subrecipients. Doing so would interfere with the concept of allowing states to determine how best to implement safety plans for subrecipients and push states toward a 'one-size-fits-all' solution which would be, at some level, inefficient and unworkable.

113. Progress is likely to be slow and incremental. Annual updates would, in many cases, simply require a 'paper drill' that would not render useful information to the grantees involved or FTA. As such, updates should be in line with local agency processes, with a maximum time between updates only.

114. Designating a particular position for certification presents difficulties for states and larger agencies. FTA should simply require a responsible official to certify TAM plans.

115. Board of director approval of TAM plans likewise are problematic. This is a technical document, not a policy decision for a board. Certification by a responsible official is sufficient.

Coordination of Targets and Plans with Metropolitan, Statewide, and Non-Metropolitan Planning

As with other aspects of this expansive rulemaking, the need to guard against a record-keeping, reporting, Goliath is quite evident in these areas. Kept with appropriate parameters, a strong SGR/TAM program can very effectively inform the planning process. We believe the challenge for FTA in this aspect of rulemaking will be to ensure that information flow is strong and free of unnecessary requirements. FTA must remain cognizant of the significant differences in these

functions and avoid forcing a 'square peg into a round hole' in fitting SGR/TAM information into planning.

While TAM plans are well suited to inform the planning process, **the planning process should not overtake the TAM process at agency level.** Transit agencies must conduct independent transit asset management. Just as FTA must create a framework that will allow existing TAM plans to continue, it must guard against those processes being subordinated to the planning process.

Reasonable time horizons must be used for the TAM process. FTA must acknowledge the different nature of TAM plans and TIPs. Differing focuses call for differing time horizons and the TAM process should not be forced into TIP planning horizons for mere convenience. Moreover, TAM plans should not be forced to fit into the fiscally constrained long range TIPs. TAM plans establish agency requirements and prioritization and will not necessarily fit neatly into these fiscally-constrained TIPs.

Targets cannot be a 'one-size-fits-all' proposition. Transit agencies within a single MPO may find themselves in widely divergent operational situations, and none are directly comparable to highways. Targets that do not take that into consideration cannot be reasonably established, managed, or met.

Responses to numbered questions

116. MPOs receive input to their processes via TAM plans and other documents. The MPO then develops the TIP which may or may not include each transit or highway requirement. There is no realistic, effective means of dictating inclusion.

117. Individual agencies must set their own targets. Attempting to consolidate these targets at the MPO level would add nothing to the process, would effectively tie the MPO's hands on funding allocations, and would not be a reliable measure of effectiveness for any purpose. Different agencies operate within different dynamic envelopes and cannot be compared in any simplistic way.

118. Much like MPOs. This should be a 'flow-up' exercise. Also like MPOs, there is no realistic, effective means of dictating inclusion.

119. Again, this cannot be dictated in any effective way. Simply directing MPOs to effectively integrate goals, measures, and targets into their products is the best FTA will be able to do, short of completely taking over the planning process in each and every community.

120. & 121. FTA should not interpret the STIP as a funding document. Targets should be compiled, with no attempt to consolidate them into a 'one-size-fits-all' target. Doing a consolidated target would, in most cases, direct all potential funding to highways, the most dangerous mode of all. Rolling up agency targets is the best means of ensuring equitable treatment.

Estimating the Benefits and Costs of Requirements

Responses to numbered questions

122. & 123. Our members wrestled with these questions, concluding that any answer would be so laden with assumptions so as to be rendered useless. As a general rule, we caution FTA to move slowly, learning costs and benefits incrementally rather than trying to guess at them before any program is in place.

We appreciate the opportunity to assist in this important rulemaking. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael P. Melaniphy". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael P. Melaniphy
President & CEO

MPM/jpl