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PUBLIC  
TRANSPORTATION  
ASSOCIATION

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Docket Operations  
U.S. Department of Transportation  
1200 New Jersey Avenue S.E.  
West Building Room W12-140  
Washington, DC 20590-0011

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Michael P. Melaniphy

**RE: Docket No. FTA-2014-0020**

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 the Federal Transit Administration (FTA) request for comments on the Notice of Proposed Rulemaking on Transit Asset Management; National Transit Database, published on September 30, 2015 at 80 FR 58912.

**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.

**General Comments**

We appreciate FTA's extensive efforts to be responsive to the industry comments gathered during the ANPRM process and to make TAM implementation minimally burdensome. We offer the following comments in furtherance of our shared goals of simplicity, utility, and flexibility.

The definition of Capital Asset must be limited and clearly communicated. The proposed definition is overly broad, particularly the phrase "unit of equipment." In outreach sessions, FTA representatives have provided conflicting interpretations of what assets would be swept into this definition, with some representatives advising anything

valued at more than \$1,000 and useful more than one year would meet the definition. Others have advised the minimum value would be \$1,500, demonstrating the need for an unambiguous definition. Additionally, FTA's existing guidance (C.5010.1D) would not consider anything a 'unit of equipment' until it had a capitalization of at least \$5,000, further confusing the issue.

Whether considering a minimum value of \$1,000, \$1,500, or \$5,000, that minimum value is too low. It would capture mundane assets such as trash dumpsters. It is also inconsistent with property disposal practices where no requirements attach until the residual value of an asset is at least \$5,000. Moreover, a low threshold would increase the cost and complexity of even the smallest agencies' asset management systems and markedly detract from the usefulness of the data obtained. For purposes of FTA's TAM program, no individual asset with an initial value under \$50,000 or such higher value as the agency has established for financial statement purposes should be tracked as a "unit of equipment."

Even with a \$50,000 or locally established threshold, transit agencies would be free to track other assets deemed critical to their operation. Rolling stock such as paratransit vans would continue to be captured as rolling stock. Both FTA and the individual agency would have useful data, free from the clutter of hundreds or thousands of line items of minimal value and not critical to the agency mission, consistent with the example in draft Appendix A.

Additionally, this would allow agencies to report with an eye to risk. Without linking the reporting requirement to operational risk, the transit industry is simply counting and spending money to gather irrelevant data.

The term 'State of Good Repair' must be clarified. In proposed section 625.17, FTA would define the phrase as capable of operating at a full level of performance. The discussion of ANPRM comments, while dismissing the suggested definition "fit for its intended purpose" as vague, describes the concept of "full level of performance" as aspirational. We do not believe FTA's proposed definition is more clear or useful than "fit for its intended purpose". In fact, the FTA proposal does not allow for the somewhat degraded performance of some assets experienced over time under even ideal conditions.

FTA should not alter its approach to the TERM scale. FTA's TAM guide utilizes 2.5 as the operative boundary score at which to consider replacement. Draft section 625.43(d) would move that score to 3.0. We do not believe there is a rational basis for deviating from current practice and believe FTA should not include this in its final regulation. The proper place for boundary scores is in individual TAM plans.

Similarly, Appendix A should align with the corresponding table in FTA's 2012 TAM guide. The appendix, as proposed, deviates from past, FTA-sanctioned practices and would likely disrupt systems already in use without improving the quality of data obtained.

Contracted assets should not be tracked. Where a contractual agreement requires a service contractor to provide a level of service utilizing assets of a prescribed quality, it is immaterial to the transit agency whether the contractor utilizes Asset A, Asset B, or both, provided the assets used meet the quality requirements. This is not a matter of TAM, it is contract administration. Contractors are free to make independent decisions on replacement cycles, relocate assets, or use assets for non-contractual purposes.

Moreover, agencies that utilize taxis to supplement paratransit service have no interest in whether a taxi provider uses one taxi or ten to complete ten trips during the day, provided the taxis used and the service provided meet contractual quality conditions. It is impractical in such cases to attempt to track the condition of private assets within an agency TAM.

Agencies would remain free to track contractor assets where the condition of a contractor's assets are deemed vital. As an example, a commuter railroad may determine that trackage rights or other contracted assets are vital to its operations and elect to include those assets within its TAM system.

Asset condition assessment must be more flexible. The data collected must be valuable to FTA in determining the collective state of the nation's assets but also to the individual agency. Age based reporting for rolling stock would,

in a national picture, likely prove useful in assessing the collective condition. At the agency level, age based reporting may be inadequate, particularly in small agencies. While knowing a cohort of buses is six years old contributes to the national picture, the local picture is very different if some number of those buses have been damaged through traffic accidents, flooding, or corrosion in a harsh environment. Individual agencies should have the option of age based reporting, but have the flexibility to adopt a more rigorous means of condition assessment and report the results of their local assessment process.

Additionally, FTA must guard against creating a system that discourages careful stewardship of assets. That same cohort of buses may be more than 12 years old – beyond the Useful Life Benchmark – yet through strong maintenance practices be roadworthy and safe. A strict age based reporting system would lead to the conclusion that the buses are not in a state of good repair when they are. Agencies would be discouraged from those strong maintenance practices, since even a well-maintained, fully functional bus would fail the test of age based asset condition reporting.

FTA should clarify aspects of its Tier I and Tier II requirements. FTA should define what constitutes a vehicle in revenue service during peak operations. We believe that definition should look only to buses, discounting paratransit vans and cutaways, as well as non-dedicated assets such as taxis and van pools. Limiting the definition for this single reporting purpose would allow maximum use of the Tier II reduced administrative burdens.

Additionally, FTA should clarify that Tier II reporting entities are not required to cede the role of Accountable Executive to their respective states, MPOs, or other direct recipients. This is a key concern for small agencies that would likely be brought into a group TAM plan but are fearful of ceding control of their agencies.

The interaction between TAM and safety must be clarified. FTA should reinforce the concept that while TAM and Safety are related, they are not coextensive. The safety of any asset should be the determining factor in prioritization of asset replacement. Useful Life Benchmarks must not be allowed to drive replacement cycles to the exclusion of safe operations.

This concept takes on particular importance as agencies are left with no viable option but to use assets that, while capable of safe operation, may be rated as in poor condition by age or some other factor. Failure to clearly make the case for the linkage between safety and asset management – and the limits of that linkage – could subject transit agencies to unnecessary litigation risk.

Additionally, FTA must take all possible actions to safeguard sensitive information related to condition and risk. The TAM and safety programs are both reliant on strong self-analysis. Any compromise of data is almost certain to limit any agency's motivation to fully embrace this strong self-analysis. We suggest that the TAM plan – i.e. the methodology – and the prioritization – i.e. the results – be publicly available.

Finally, we are concerned about the process for identifying 'unacceptable safety risks.' We do not believe this can be defined or addressed until FTA has established – through notice and comment – safety performance criteria for all modes and minimum safety performance standards for vehicles in revenue service. Until those criteria and standards are established, it will be impossible to undertake meaningful target setting as required by 49 USC 5326(c)(2). FTA should delay finalizing the instant rulemaking until such time as it promulgates these criteria and standards as directed by 49 USC 5329(b)(2)(A) and (C).

Lifecycle maintenance must be a fluid concept. With FTA's emphasis on lifecycle maintenance as a determining factor of an assets state of good repair, FTA must acknowledge that maintenance schedules are not bright line measurements. A bus that is due for maintenance is not rendered out of good repair simply because the oil change was delayed by a few days. Additionally, FTA should recognize that regulatory and technology changes could easily render assets obsolete prior to reaching their Useful Life Benchmark ages and FTA's minimum life requirements.

The cost of compliance must be reviewed. Our members have reported significant costs to comply with the program as proposed. As an example, the Los Angeles County Metropolitan Transportation Authority, in their comments to the docket, cite costs far in excess of FTA estimates simply to maintain a fairly mature TAM system. The costs to create or significantly overhaul a system would clearly dwarf the FTA estimates.

A significant driver of compliance costs will be the frequency of reporting. FTA should allow agencies to report asset conditions consistently with their established internal asset management practices. Forcing agencies to report in what would normally be off years would be expensive, disruptive to the agencies, and add little to the quality of the national view obtained by FTA.

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