



September 29, 2014

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

**RE: Docket No. FTA-2014-0018**

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) Bus and Bus Facilities Formula Program: Proposed Circular, published July 30, 2014 at 79 FR 44241.

***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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## **FTA Must Amend the Draft Program Circular to Incorporate Bus Overhaul and Other Capital Maintenance**

While 49 USC 5339(a)(1) authorizes grantees to utilize section 5339 funding to “rehabilitate” buses, the draft circular unilaterally replaces the word “rehabilitate” with the word “rebuild,” then proceeds to differentiate “rebuild” from “overhaul,” effectively withholding the statutory authority of grantees to use these funds for mid-life capital maintenance.

We object to this unauthorized limitation on program funding in the strongest of terms. FTA has no statutory authority to make preventive maintenance ineligible under section 5339. In fact, while original drafts of the bill may have suggested the restriction FTA currently proposes, that position is contradicted by the final language as enacted, leaving intact applicability of “the requirements of section 5307...” in their entirety, not just subsections (b) or (c) thereof. Section 5307(a) specifically authorizes expenditures for “capital projects,” defined at 49 USC 5302 as including rehabilitating a bus, remanufacturing a bus, and performing capital maintenance.

Capital maintenance, in its various forms as contemplated in section 5302, has long been a cornerstone of FTA bus programs and, by using the term “rehabilitate” and specifically referencing “the requirements of section 5307,” Congress clearly envisioned that this practice would continue. To restrict the program as proposed threatens to upend maintenance activities throughout the industry and threatens the very core of efforts to achieve and maintain a state of good repair across all public transportation agencies. Individual properties will find it difficult, if not impossible, to adequately replace the federal dollars utilized for these significant maintenance activities and are likely to defer that maintenance out of economic necessity – an almost certain path to increased costs, reduced reliability, and reduced useful life.

FTA must remain consistent with the clear intent of 53 USC 5339 and acknowledge that funding is thereby authorized for all capital maintenance activities, whether in the nature of rehabilitation, remanufacturing, rebuilding, overhauling, or other preventive maintenance.

## **FTA Should Clarify Its Understanding of the Intended Purpose of Section 5339 Funding**

We recommend the purpose section of the circular be amended to read:

**PURPOSE.** This circular is an issuance of guidance on the Bus and Bus Facilities Program administered by the Federal Transit Administration (FTA) under 49 U.S.C. § 5339. This circular provides guidance for applying for grants under the Bus and Bus Facilities Program and addresses the requirements that must be met in the application for Section 5339 program assistance. This circular includes the most current available guidance on statutory and programmatic requirements for the federal public transportation program as of the date of publication. It incorporates authorizing provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21; Pub. L. 112-141, July 6, 2012), that supplement formula funding for bus capital needs available under previous programs.

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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 prominent loop at the end.

Michael P. Melaniphy  
President & CEO

MPM/jpl