STATEMENT OF

PETER M. ROGOFF
ADMINISTRATOR
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

U.S. HOUSE OF REPRESENTATIVES

MARCH 14, 2013

Mr. Chairman, Ranking Member DeFazio, and Members of the Committee:

Thank you for inviting me to appear before you today to highlight the Federal Transit Administration's (FTA) progress toward implementing key provisions in the Moving Ahead for Progress in the 21st Century Act, known as MAP-21. This two-year reauthorization codifies some of President Obama's highest priorities for enhancing the safety of public transportation, strengthening our nation's transportation infrastructure, and streamlining government to serve taxpayers' needs more efficiently. I want to thank the Committee for its support in passing MAP-21, which offers an opportunity for us to work together to support transit systems across the country at a time when national ridership has grown by 154 million trips in 2012 to 10.5 billion trips, the second highest level since 1957. This was the seventh year in a row that ridership has exceeded more than 10 billion trips. These investments spur new economic development to help build strong communities in cities, suburbs, and rural areas alike.

MAP-21, which took effect on October 1, 2012, authorizes $10.6 billion in FY 2013 and $10.7 billion in FY 2014 for public transportation. FTA has made a significant start toward implementation within the law's first six months by implementing key provisions and providing guidance to states, metropolitan planning organizations and transit agencies. We have an active and engaged legislative implementation team and an aggressive timetable in place.

We recognize, however, that much work and many challenges lie ahead. Our ability to fully implement MAP-21 is significantly hampered by the funding constraints imposed by the current fiscal year continuing resolution as well as the budget cuts imposed by the Budget Control Act of 2011. Nearly $5 million of cuts into our administrative budget will undoubtedly delay some aspects of MAP-21 implementation and reduce our ability to conduct outreach and training with stakeholders. Every budget request under my stewardship has sought additional funding to allow for additional staffing at the FTA to better address our core responsibilities as well as our new safety responsibilities. The Congress has yet to provide those resources. Moreover, reductions in FTA's capital investment program funding will mean few, if any, additional New Starts construction projects will be fundable in the near term. Also, sponsors of ongoing major capital projects will experience increased borrowing costs as FTA will be required by sequestration to slow its pay-out schedule on projects to which it has already made financing commitments. Nevertheless, FTA is committed to moving forward as quickly as possible to implement MAP-21 so that the American people may reap the benefits that come with investing in public transportation that improves transportation equity, provides access to jobs and services, reduces congestion, and stimulates our economic development in cities and communities throughout the nation.

Because MAP-21 closely reflects some key program and policy priorities well under way at FTA prior to its passage, our agency has been able to move ahead quickly in two important areas. First, FTA published in January 2013 a final rule for Major Capital Investment Projects—years in the making—that adopts a more straightforward approach for measuring a proposed transit project's cost-effectiveness; expands the range of environmental benefits used to evaluate proposed projects; adds new economic development factors to its ratings process; and streamlines the project evaluation process. The revised ratings and evaluation criteria will better capture the full range of benefits that FTA's transit investments provide through the New Starts/Small Starts program, while continuing an appropriate level of oversight of taxpayer dollars. These revisions align with major purposes of MAP-21, including improving the development and delivery of capital projects and moving us toward a more performance-driven system. We appreciate the Committee's support for this important achievement.

Second, on February 7, 2013, FTA jointly with the Federal Highway Administration (FHWA) published an important final rule streamlining the environmental review process under the National Environmental Policy Act (NEPA) that a proposed transit project seeking Federal funds must undergo. The rule establishes ten new categorical exclusions (CEs) defined specifically for transit projects. CEs significantly expedite FTA's environmental review of projects that have been shown to have little environmental impact while preserving critical community input on how planned transit projects affect the local environment. These NEPA revisions, like the New Starts changes, are closely aligned with the policy goals of MAP-21.

In addition to these significant rulemakings, FTA is making progress to implement MAP-21 on several fronts. For example, at the outset of FY 2013, FTA published interim guidance on all of our MAP-21 programs as part of our annual funding notice for the first half of the year under the continuing resolution. This guidance allowed FTA's funding recipients to begin compiling their FY 2013 funding applications without delay, and laid the groundwork for future-year grants. FTA is making good progress on developing more detailed guidance on which we will seek comment in the near future.

Public Transportation Emergency Relief Program

Nowhere has FTA made more aggressive progress in implementing the provisions of MAP-21 than in the area of emergency relief. The President's Budget first proposed in FY 2012 a new emergency relief program for the FTA to parallel a similar capability in the Federal Highway Administration. The President proposed this program to strengthen the agency's authority to provide disaster assistance to transit agencies in the wake of major natural disasters and other emergencies, and the program was authorized by Congress in MAP-21.

The authorization of this new program arrived just in time for Hurricane Sandy, which, based on the extent of storm damage, was the worst public transit disaster in the history of the United

States. Hurricane Sandy devastated transportation systems in the hardest-hit parts of New York and New Jersey—which together represent more than one-third of our nation's transit ridership—and triggered a very rapid implementation path for the program. The Disaster Relief Appropriations Act of 2013 (Pub. L. 113-2) appropriated $10.9 billion to FTA to help transit agencies repair and replace damaged vehicles and equipment affected by this storm, as well as to undertake work to mitigate the impact of future floods and other disasters on transportation assets and systems both inside and outside of public transit. Unfortunately, this amount was then reduced by $545 million as part of sequestration.

In accordance with the Disaster Relief Act, FTA announced on February 6, 2013, the availability of the first $2 billion in aid to reimburse FTA recipients for capital costs to repair, reconstruct, or replace equipment and public transportation systems facilities that suffered serious damage in the states impacted by Hurricane Sandy. To date, FTA has allocated more than $390 million to the New York Metropolitan Transit Authority (MTA), the Port Authority Trans-Hudson Corp. (PATH), and the Southeastern Pennsylvania Transportation Authority (SEPTA) for expenses incurred while preparing for and recovering from Hurricane Sandy. By the end of March, 2013, FTA intends to allocate the remainder of the initial $2 billion to impacted agencies that submit applications for assistance. We continue to accept applications from affected transit agencies on a rolling basis and expect to allocate funds to New Jersey Transit and others shortly.

The release of the remaining funds authorized in the Disaster Relief Appropriations Act is contingent on two activities. First, FTA and FEMA have signed a Memorandum of Agreement, which MAP-21 also stipulated, that clarifies coordination of roles and responsibilities of both agencies to ensure that assistance is delivered in a timely, responsible, and transparent manner. Second, FTA must publish an interim final rule for the Emergency Relief Program, laying out eligible activities and the criteria FTA will use to identify projects for future funding. The interim final rule is under review within the Administration and will become effective immediately, once it is finalized.

Safety Authority

MAP-21 gives FTA long-sought authority to establish safety performance criteria for all modes of public transportation and establish minimum safety performance standards for public transportation. In addition, MAP-21 significantly strengthens FTA's ability to oversee and enforce common-sense safety standards for rail fixed-guideway transit systems. The Administration first transmitted transit safety legislation to the Congress in December, 2009, and many of the provisions sought in the Administration's bill were included in MAP-21. At the time the Administration's bill was transmitted to Congress, Secretary LaHood also formally established the Department of Transportation's Transit Rail Advisory Committee on Safety (TRACS).

While Congress has yet to appropriate additional administrative funds to carry out this new area of responsibility, FTA has proceeded to stand up a new safety office as expeditiously as possible using already strained existing resources. We are developing a roadmap for a comprehensive MAP-21 safety roll-out plan that is sensitive to stakeholder's concerns about this new oversight initiative. FTA will build a 21st century regulatory program over a period of several years.

In the short term, FTA has tasked TRACS to provide strategic guidance on the forthcoming rulemaking framework. FTA has also articulated a strategic framework for safety oversight, predicated on a safety management systems approach that takes into account the differing characteristics among rail systems and operators. We will pursue an approach that is scalable—not a one-size-fits-all model. Our initial focus in the first few years is on establishing a safety oversight regime that is expressed through Federal rulemakings, and complemented by development assistance packages for state safety oversight organizations (SSOA) and agencies. We will administer grants to assist agencies in becoming eligible for state certification and devise strong safety training programs.

With respect to strengthening and adequately funding the SSOAs—a key provision of section 5329 under MAP-21—FTA has issued clear instructions to the governors in each of the 28 states that operate a rail fixed-guideway transit system (or where such a system is in engineering or construction) that is not already subject to regulation by the Federal Railroad Administration. Specifically, in August 2012, Secretary LaHood first informed every affected governor by letter that financial arrangements must be made to secure the matching funds necessary for receipt of FTA's state safety oversight funds. Under MAP-21, a percentage of the section 5307 Urbanized Area formula funds are set aside to assist eligible states with their state safety oversight programs. FTA is currently developing a formula to make those funds available to eligible states. MAP-21 requires a 20 percent state match to help cover reasonable costs of a state safety oversight program. Every eligible state will be expected to use program funds to strengthen their SSOA and to position them to comply with the requirements of MAP-21.

Going forward, FTA will act as the leader, facilitator, and final regulatory authority setting minimum safety standards, and be held fundamentally accountable for the overall safety performance of the nation's fixed-guideway rail transit systems. To achieve these goals, FTA will concentrate on strengthening the capacity of SSOs to serve as effective day-to-day safety regulators capable of holding these transit systems accountable for safe operations at the local level and ensuring they comply with minimum safety standards.

Additionally, FTA will work to adapt its comprehensive safety approach to all modes of public transportation within its safety authority. Specifically, we will work to ensure that the bus segment of public transportation, upon which millions of riders depend every day, receives the resources, tools and technical assistance it too will need to ensure the safety of the riding public.

However, we must sound an important note of caution. Regrettably, the House Continuing Resolution does not provide FTA with sufficient funds to carry out the safety provisions in MAP-21 that are at the heart of our effort to greatly improve an oversight regime that has been inadequate for half a century. This allows the current inefficient safety oversight mechanisms to remain in place longer than they otherwise would.

State of Good Repair and Transit Asset Management

Since 2008, FTA has staked out a leadership role in highlighting the critical need to bring the nation's aging transit assets into a state of good repair, especially in large urban areas—and to hold transit agencies accountable for implementing a more strategic approach to managing the lifecycle of their assets. The momentum we have initiated is real, but the gains that will truly benefit the American people require sustained investment. FTA obligated $1.9 billion—about one-fifth of our share of funds under the American Recovery and Reinvestment Act of 2009 for this very purpose, along with more than $2.2 billion in discretionary dollars over the last four years. Indeed, the Administration has made increased funding for a new State of Good Repair program the centerpiece of its annual budget requests for the FTA and a focal point of the President's American Jobs Act proposal. Congress incorporated our proposal on this essential area into MAP-21 by creating a more needs-based state-of-good-repair formula program for rail, ferry, and busway systems, and by folding the discretionary bus program into two formula-based programs. This new program will help further address our state-of-good-repair needs, so both bus and fixed guideway agencies have a predictable two-year stream of Federal funds to help them address an enormous maintenance and repair backlog that exceeds $78 billion nationwide. We have already awarded two grants totaling $8.4 million under the MAP-21 section 5337 State of Good Repair Program. Once FTA receives a full year of FY 2013 funding, we expect to roll out the remaining program funds as quickly as possible.

FTA recognizes that while a sustained Federal contribution to our state-of-good-repair needs is in the interest to our nation's public transportation system, this problem cannot be solved by Federal action alone. Tackling this problem requires a concerted effort by Federal, state, and local resources in a coordinated, strategic manner. That is why FTA is establishing a national Transit Asset Management System. The new section 5326 Transit Asset Management program established under MAP-21 is vitally important to carrying out these infrastructure investments effectively and responsibly. This innovative program requires all FTA funding recipients to adopt a strategic approach for managing their capital assets and be accountable for leveraging all available resources to bring their systems into a state of good repair. FTA has sponsored a successful public dialogue with over 700 stakeholders to obtain critical input on policy implementation. A rulemaking is expected to be issued soon. And FTA will shortly solicit comments in the *Federal Register* on ways to improve how asset inventories and asset conditions are reported to the National Transit Database—an important first step toward refining estimates of the nation's transit-related state-of-good-repair backlog. This is a very important initiative that will assist the FTA in ensuring that local transit investment financed with Federal dollars are being effectively targeted on each transit agency's greatest needs. It will also assist us in ensuring that Federal investments are being well managed and well utilized.

As part of our ongoing broader effort in this area, we are developing interim policy guidance to establish the agency's first formal definition for "state of good repair," which is important for setting funding criteria for the future. The new definition will also have a direct bearing on the implementation of two cross-cutting FTA programs under MAP-21, namely, the Core Capacity Improvement Program (which excludes state of good repair projects from eligibility) and the Pilot Program on Expedited Project Delivery (which requires grant applicants to certify that their existing systems are in a state of good repair).

Accelerated Project Delivery

Improving the development and delivery of capital transportation projects is a primary policy goal of the Administration. MAP-21 incorporates this effort to streamline and expedite infrastructure projects of regional and national significance. As cited above, FTA has already issued two significant rulemakings that streamline and in some cases accelerate the New Starts program and the NEPA process.

In addition, FTA and FHWA have jointly issued two other actions in February to improve project delivery. First, the two agencies jointly issued a regulation creating a categorical exclusion (CE) under NEPA for emergency actions pursuant to Section 1315 of MAP-21. This CE applies to all transit facilities and covers emergency repairs undertaken as part of FTA's Emergency Relief Program. And second, they jointly issued a notice of proposed rulemaking for CEs for projects within a rail transit system's operational right-of-way and projects receiving limited Federal assistance. These types of actions effectively cut red tape for funding recipients, reduce the administrative burden on state and local governments, and expedite results for the American public.

Public-Private Partnerships

FTA also recognizes the value of public-private partnerships as a means of augmenting public investments in infrastructure. On March 7, 2013, FTA published a proposed circular on Joint Development that clearly explains how FTA funds and FTA-funded real property may be used for public transportation projects that are related to and often co-located with commercial, residential, or mixed-use development. The circular emphasizes the concept of "value capture," which encourages FTA grantees to leverage Federal investments to capture revenue (such as the sale of publicly held land near transit facilities) that can in turn be used to offset capital and operating expenses.

Conclusion

MAP-21 offers an important opportunity to recalibrate the way our government evaluates and invests in our federally funded public transportation infrastructure. From a transit perspective, the law's major provisions enable FTA to focus limited resources on strategic investments that will result in a better riding experience for millions of Americans, while repairing and modernizing transit systems for generations to come.

Thank you and I am happy to answer any questions you may have.