STATEMENT OF

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SUBCOMMITTEE ON TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

U.S. HOUSE OF REPRESENTATIVES

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Chairman Latham, Ranking Member Pastor, 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 new authorization provides critical support to 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 exceeded more than 10 billion trips. And this increase occurred despite the devastating impact of Hurricane Sandy, which adversely affected roughly 40 percent of the nation's transit ridership at the height of the storm.

MAP-21 will help strengthen the nation's public transportation infrastructure and provide transit services people demand. The two-year authorization, providing $10.6 billion in FY 2013 and $10.7 billion in FY 2014 for public transportation, codifies some of the Administration'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.

In the eight months since MAP-21 was signed into law, FTA has started implementing key provisions, setting up new programs, and providing guidance and training to states, metropolitan planning organizations, and transit agencies. We have an active and engaged legislative implementation team and an aggressive timetable in place. 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, FTA and the Federal Highway Administration (FHWA) jointly published in February 2013 an important final rule to streamline the environmental review process under the National Environmental Policy Act (NEPA) for proposed transit projects seeking Federal funds. The rule establishes 10 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 helped FTA grantees get a jump on submitting their FY 2013 funding applications and laid the groundwork for future-year grants. FTA is making good progress on developing more detailed guidance on which we will seek public comment in the near future.

Despite these early achievements, we recognize 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 budget cuts imposed by the Budget Control Act of 2011. Nearly $5 million in cuts to our administrative budget will undoubtedly delay some aspects of MAP-21 implementation and reduce our ability to respond to our stakeholders' needs. Every budget request under this Administration 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. 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 may experience increased borrowing costs as FTA may be required by sequestration to amend 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.

Public Transportation Emergency Relief Program

As Deputy Transportation Secretary Porcari testified before this Committee last Friday, 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; the worst natural disaster in the history of public transit in 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.

Unfortunately, the balance of funds appropriated by Congress has been reduced by $545 million as part of sequestration. The reduction will affect DOT's ability to help strengthen and protect transportation systems, including transit agencies, from future storms and natural disasters.

Nevertheless, in just over seven weeks since President Obama signed the disaster relief bill into law, the FTA has responsibly allocated more than half a billion dollars to reimburse transit agencies for heroic efforts to protect people and equipment before, during, and after Hurricane Sandy. With millions of commuters using these systems each day and transit ridership approaching record highs across the nation, these funds will ensure that these systems are fully restored and needed services continue to be provided. These funds have provided much-needed assistance to the largest affected agencies, including the New York Metropolitan Transit Authority, the Port Authority Trans-Hudson Corp., and New Jersey Transit, as well as smaller agencies that can ill afford unanticipated emergency expenditures, such as the Milford Transit District in Connecticut.

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. 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, as also required by MAP-21, which 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 new 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 moved forward 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. MAP-21 also requires a 20 percent state match to help cover reasonable costs of a state safety oversight program. FTA is currently developing a formula to make those funds available to eligible states. 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 SSOAs to serve as effective day-to-day safety regulators capable of holding these locally governed transit systems accountable for safe operations by ensuring they comply with minimum common-sense 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 Continuing Resolution introduced by both the House and Senate gives FTA resources that are well below those sought by the Administration 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 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. Congress incorporated elements of our proposal on this essential area into MAP-21 by creating a more needs-based state-of-good-repair formula program.

FTA recognizes that this problem cannot be solved by Federal action alone and 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 structured approach for managing their capital assets and be accountable for leveraging all available resources to bring their systems into a state of good repair through reinvestment and replacement. Earlier this year, FTA sponsored a successful public dialogue with over 700 stakeholders to obtain critical input on how we implement these new requirements. And FTA will shortly solicit public comments through the *Federal Register* on ways to report asset inventories and asset conditions to FTA's 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 help FTA and Congress better understand how 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 also developing interim policy guidance to establish the agency's first formal definition of "state of good repair," which will be important for setting funding criteria in the future. The new definition will also have a direct bearing on the implementation of two cross-cutting FTA programs under MAP-21 – 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 for public comment 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 our 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.

This opportunity could not come at a more critical time for our nation. A major paradigm shift is under way in this country that has a profound impact on how people get from place to place—and how they're able to move around. We learned in the last Census, for instance, that our population as a nation is going to grow by 100 million people by 2050, and that population growth is not going to be spread evenly across the country, but will be concentrated in many of the areas where populations are concentrating now, especially our metropolitan areas. Moreover, a smaller percentage of the population by that point will be working, as the Baby Boom generation ages. At the same time, fewer young adults are driving—many prefer to take transit. These trends, combined with climbing rates of ridership, strongly indicate that the ability of the United States to compete and grow its economy depends, in large measure, on the health of our public infrastructure, including the transit rail and bus systems millions depend on every day to access jobs and contribute to their communities as productive citizens.

We can either plan for this growth now by making the necessary investments to accommodate the population increase, or we can be overwhelmed by it. This Administration has proposed budgets year after year that would help plan for that growth.

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