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November 4, 2024

Mr. Vinn White
Deputy Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Subject: APTA Request for Five-Year Exemption from the Under-the-Hood Testing Requirement of 49 C.F.R. § 383.113 (a)(1)

Dear Deputy Administrator White,

The American Public Transportation Association (APTA) is a nonprofit international association of 1,600 public- and private-sector organizations, representing a \$79 billion-dollar industry that directly employs 430,000 people and supports millions of private-sector jobs. **On behalf of public transit agencies and their contractor partners, APTA submits this application for a five-year exemption from the "under-the-hood" testing requirement (49 C.F.R. § 383.113(a)(1)(i)) of the Federal Motor Carrier Safety Administration's (FMCSA) Commercial Driver's License (CDL) Pre-Trip Vehicle Inspection Rules** to allow States to waive the under-the-hood requirement for CDL applicants seeking to operate vehicles in public transportation, including interstate transportation.

The public transit industry continues to experience a severe shortage of drivers and is struggling to maintain its workforce. APTA has identified FMCSA's CDL under-the-hood testing requirement as a significant impediment to hiring bus operators, contributing to the nationwide shortage of drivers, which leads to reduced transit service, missed trips, and higher costs for public transit agencies. These missed trips directly impact safety because traveling by public transit is significantly safer than traveling by car and modest increases in transit ridership can slash traffic fatalities.

A five-year exemption from the CDL under-the-hood requirement will alleviate the critical shortage of public transit bus operators, advance equity, and achieve an equivalent or greater level of safety.

Public Transportation Driver Shortage

Public transit provides critical access to jobs, education, medical appointments, and daily activities. If there are not enough bus operators, customers miss trips and lose their ability to smoothly go about their daily activities. The public transit industry is still struggling to recruit and retain bus operators in the wake of a nationwide driver shortage during the COVID-19 public health emergency.¹

A November 2024 APTA report found that an overwhelming majority of public transit agencies (84.6 percent) continue to face worker shortages.² Bus operator positions are particularly difficult to fill, with two-thirds of agencies saying it is either very difficult or difficult to hire bus operators.³ Transit agencies identified factors that make it difficult to hire bus operators, including the complexity of obtaining a CDL (85.5 percent of respondents) and the length of time to obtain a CDL (77.8 percent).⁴

FMCSA's under-the-hood requirement⁵ was rated as the most challenging aspect of getting a CDL.⁶ Many otherwise qualified candidates are intimidated by this knowledge test. Moreover, this test increases costs and extends the time for public transit agencies to train new operators, which also impacts the ability to hire. Failure to hire bus operators translates directly into missed trips—to work, to school, and to medical appointments.

An Exemption from the Under-the-Hood Testing Requirement Will Achieve a Level of Safety that is Equivalent to, or Greater than, the Current Level of Safety

For the public transportation industry, safety is a core value—a non-negotiable operating principle and a promise to our riders, workers, and communities. The people responsible for managing and operating public transportation systems are fully committed to the safety of their passengers, employees, systems, and the public.⁷ As a result, **traveling by public transportation is 10 times**

¹ According to a 2023 APTA Workforce Shortage Survey and Report, 96 percent of agencies reported experiencing a workforce shortage, 84 percent of which said the shortage affects their ability to provide service. *See* APTA, [Transit Workforce Shortage Synthesis Report](#) (March 2023) at 1; *see also* [Transit Workforce Shortage: Root Causes, Potential Solutions, and the Road Ahead](#) (September 2022).

² APTA, [Impact of CDL Under-the-Hood Testing Requirement on Public Transit Agencies' Ability to Hire Bus Operators](#) (November 2024) (APTA CDL Under-the-Hood Report), at 9.

³ *Id.* at 10.

⁴ *Id.* at 11.

⁵ Applicants applying for a passenger (P) endorsement, which allows CDL holders to operate passenger vehicles, must pass knowledge and skills tests, including the under-the-hood test. This regulation requires CDL applicants to identify each safety-related part and explain what needs to be inspected within the engine compartment (e.g., loose hoses, oil and coolant levels). *See* FMCSA, Commercial Driver's License Standards, [49 CFR § 383.113\(a\)\(1\)](#).

⁶ APTA CDL Under-the-Hood Report at 11.

⁷ APTA's public transit agencies and their contractor partners employ 108,000 bus and paratransit operators nationwide, who provided more than 3.3 billion passenger trips in 2023. APTA members serve the public interest by providing safe, efficient, and equitable transit services, and more than 90 percent of public transit trips are taken on APTA member systems. Many transit agencies provide passenger trips regionally, including connecting cities and communities across State lines.

safer for passengers than traveling by car, and modest increases in public transit ridership can slash traffic fatalities by one-half.⁸

The CDL under-the-hood test is completely unrelated to a transit bus operator's job responsibilities: safe operation of the vehicle, safety of bus passengers and all users of the streets and sidewalks, customer service, and timely completion of routes. **Transit bus operators are not responsible for—and in some cases are prohibited by labor contracts from—maintaining public transit vehicles.**

APTA's report includes a survey of 117 large, medium-size, and small public transit agencies and finds that **no agency uses bus operators to conduct vehicle maintenance.**⁹ Mechanical diagnostics and repairs are made by trained mechanics or an outside consultant/manufacturer who will either fix or tow a vehicle to an agency maintenance shop. Given that bus operators do not use the under-the-hood content and that trained agency mechanics conduct inspections, diagnostics, and repairs, **an equivalent or greater level of safety would be achieved if FMCSA granted this exemption.**

An Exemption from the Under-the-Hood Testing Requirement Removes a Barrier to Entry and Advances Equity in the Transportation Workforce

Public transit agencies have identified the under-the-hood testing requirement as a significant impediment to hiring bus operators, which impacts agencies' ability to provide critical services and help grow the economy. Both the complexity and length of time required to obtain a CDL contribute to these hiring challenges. Overwhelmingly, transit agencies said the most difficult part of obtaining a CDL is the under-the-hood component of the exam. Nearly two-thirds of agencies (64 percent) said the under-the-hood requirement is very difficult or difficult for operators seeking a CDL.¹⁰

In fact, the difficulty of learning the CDL under-the-hood information creates equity concerns in hiring. For decades, bus operator positions have presented an important opportunity for new Americans to gain a foothold and thrive in the public sector workforce. Yet, public transit agencies note that candidates with lower literacy levels or for whom English is a second language find the test much more difficult to complete successfully. The same holds true for older candidates and individuals who struggle with rote memorization.¹¹ The CDL under-the-hood test is irrelevant to operators' job responsibilities and is not determinative of who might be a good bus operator. Yet, it serves as a deterrent to certain individuals who would otherwise thrive in this career.

In addition, training operators to pass the under-the-hood portion of the CDL examination is time and resource intensive. On average, agencies devote 11.8 days to training operators on the material necessary to pass this portion of the exam and all agencies support candidates through at least one

⁸ See APTA, [Public Transit Is Key Strategy in Advancing Vision Zero, Eliminating Traffic Fatalities](#) (August 2018).

⁹ APTA CDL Under-the-Hood Report at 4.

¹⁰ *Id.* at 11.

¹¹ *Id.* at 20-21.

retake opportunity.¹² Many agencies report that they have lost operator candidates because of this aspect of the exam. Importantly, **all public transit agencies have separate maintenance workers who are responsible for pre-trip inspections and support bus operators during breakdowns, while bus operators focus on passenger safety.**¹³

After bus operators become fully licensed, they typically do not use the under-the-hood content. While operators spend about 12 minutes on average conducting a pre-trip safety inspection of their vehicles (e.g., checking the inside and outside of the bus, verifying that safety equipment is working, and checking for indicator lights and fluid leaks), this pre-trip inspection does not involve an inspection of the engine compartment.¹⁴

Accordingly, while perhaps necessary for over-the-road driver applicants (e.g., truck drivers) who maintain their own vehicles, the under-the-hood test is unnecessary for transit agency bus operators and does not impact safety because trained mechanics are responsible for either fixing or towing the vehicles to the agency maintenance shops.

APTA is aware that FMCSA approved a new, modernized version of the CDL skills exam, and that States are in the process of adopting this new version. However, APTA public transit agency members indicate that, even in States that have adopted the new modernized testing, the CDL under-the-hood component of the test is still challenging and unnecessary.¹⁵

Moreover, as transit agencies transition their fleets to zero-emission buses, and away from diesel buses upon which the CDL under-the-hood testing is based, the under-the-hood test is quickly becoming obsolete. Electrified buses have few mechanical components, and the engine compartments are often locked for safety and not accessible to bus operators. Today, there are more than 1,500 zero-emission buses in service, and 32 percent of all vehicles on order are battery-electric or hydrogen fuel cell-electric buses.¹⁶ Many States plan to transition their entire bus fleets to zero-emission vehicles, and the number of zero-emission buses is projected to increase from 11.5 to 50.4 percent over the next 10 years.¹⁷

FMCSA Has Provided Relief from the Under-the-Hood Testing Requirement for Other Industries Facing Driver Shortages With No Negative Safety Impact

APTA members' bus operator hiring issues are very similar to those faced by the school bus industry.¹⁸ CDL applicants that seek to operate school buses must obtain a School Bus (S) endorsement, which also requires successfully passing the under-the-hood test. On January 3, 2022, FMCSA issued a temporary 90-day waiver allowing States to waive the under-the-hood requirement for CDL applicants in response to the significant driver shortage brought on by the

¹² *Id.* at 16, 20.

¹³ *Id.* at 4.

¹⁴ *Id.* at 14.

¹⁵ *Id.* at 19.

¹⁶ APTA, [2023 Vehicle Database](#) (September 2023).

¹⁷ APTA CDL Under-the-Hood Report at 12-13.

¹⁸ *Id.* at 31.

COVID-19 public health emergency. It then issued two subsequent 90-day waiver extensions on March 28, 2022, and June 30, 2022.¹⁹

On June 24, 2022, the National School Transportation Association (NSTA) submitted a five-year exemption application to FMCSA, noting that the “Under the Hood testing requirement is a barrier to entry for new school bus drivers, contributing to the nationwide driver shortage.”²⁰ On October 27, 2022, FMCSA granted a two-year exemption to allow States to waive the under-the-hood requirement for CDL applicants through November 27, 2024.²¹ In granting the exemption for school bus operators, FMCSA determined that “. . . previous ‘under-the-hood’ waivers were likely to achieve a level of safety that is equivalent to the level of safety that would be obtained absent the waiver. The exemption would similarly achieve an equivalent level of safety.” (emphasis added)²²

FMCSA Should Grant a Public Transit Under-the-Hood Exemption for Five Years

Given the substantial harm to bus riders’ ability to get to work, school, medical appointments, and other activities caused by the driver shortage, APTA strongly urges FMCSA to grant a public transit exemption of the under-the-hood testing requirement for five years. A five-year exemption will provide each State’s Driver’s License Authority (SDLA) with adequate time to adopt and implement the necessary changes.²³

¹⁹ FMCSA, [Commercial Driver's License: Application for Exemption; National School Transportation Association](#), 87 Fed. Reg. 65114 (October 27, 2022) (FMCSA NSTA CDL Exemption).

²⁰ NSTA, Request-Five Year Exemption from the Under the Hood Testing Requirements of 49 CFR §383.113(a)(1)(i) (June 24, 2022).

²¹ FMCSA NSTA CDL Exemption at 65114. The exemption is narrow, and drivers issued a CDL under this exemption are “restricted to the intrastate operation of school buses only.”

²² *Id.* On February 28, 2024, NSTA applied to FMCSA for renewal of the exemption for an additional three years. FMCSA, [Commercial Driver’s License: Application for Exemption, National School Transportation Association](#), 89 Fed. Reg. 46986 (May 30, 2024). NSTA notes in its extension request that the current under-the-hood exemption for school bus operators “has been successful in aiding with the recruitment of school bus drivers that otherwise may not have obtained a CDL” and has had “no negative impact on safety.” *Id.* at 46987. To date, FMCSA has not issued a final decision on NSTA’s extension request.

²³ According to NSTA, only 12 States are known to have adopted the under-the-hood exemption for school bus operations. NSTA, Request to Extend the Exemption from the Under-the-Hood Testing Requirements of 49 CFR §383.113(a)(1)(i) for Three Additional Years (February 28, 2024), at 2. NSTA notes that at least 6 to 12 months is necessary for many SDLAs to address upgrades and changes to their information systems to implement the requirements. *See* NSTA, Comments on Commercial Driver’s License: Application for Exemption (July 1, 2024), at 3.

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Conclusion

APTA strongly urges FMCSA to approve a five-year exemption from the CDL under-the-hood testing requirement (49 C.F.R. § 383.113(a)(1)(i)) to allow States to waive the requirement for CDL applicants seeking to operate vehicles in public transportation, including interstate transportation.

The CDL under-the-hood test is completely unrelated to transit bus operators' job responsibilities; creates equity concerns and serves as a deterrent to certain individuals who would otherwise thrive in this career; and is increasingly becoming obsolete with the transition to zero-emission vehicles.

Without an exemption from the FMCSA's CDL under-the-hood requirement, public transit agencies will continue to experience severe driver shortages. These shortages impact the ability of agencies to efficiently and effectively meet the mobility and equity needs of their communities and force more drivers on the roadways, which negatively impacts the level of safety.

A five-year exemption of the CDL under-the-hood testing requirement will help alleviate the critical shortage of public transit bus operators, address equity concerns in hiring and service, and achieve an equivalent or greater level of safety.

If you have any questions regarding this letter, please contact Ward McCarragher, Vice President, Government Affairs and Advocacy, at wmccarragher@apta.com.

Thank you for your consideration.

Sincerely,



Paul P. Skoutelas
President and CEO

Encl.

cc: Ms. Veronica Vanterpool, Deputy Administrator, Federal Transit Administration