



*A bold voice for transportation workers*

October 13, 2015

Ms. Lynn Everett  
Office of Transit Safety and Oversight  
Federal Transit Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

**RE: Public Transportation Safety Program  
Notice of Proposed Rulemaking  
Federal Transit Administration  
Docket No. FTA-2015-0009  
RIN 2132-AB22**

Dear Ms. Everett,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to comment on the Federal Transit Administration's (FTA) Notice of Proposed Rulemaking (NPRM) on the Public Transportation Safety Program. By way of background, TTD consists of 32 affiliated unions that represent workers in all modes of transportation, including those whose members work in the public transit sector.<sup>1</sup> We therefore have a vested interest in this rulemaking.

With the passage of MAP-21, Congress provided FTA the much needed authority to regulate safety across our nation's transit systems. Codified at 49 USC 5329, the mandate requires FTA to develop a comprehensive Public Transportation Safety Program intended to improve the safety performance of transit systems. This NPRM seeks to implement several components of that Program by formally adopting Safety Management Systems (SMS) as the foundation of FTA's safety oversight and regulations; establishing procedures for FTA to conduct inspections and audits of equipment, facilities, and operations; creating procedures for the agency to make enforcement actions against noncomplying transit agencies; and setting the framework for the National Public Transportation Safety Plan (National Safety Plan).

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<sup>1</sup> Attached is a complete list of TTD's 32 affiliated unions.

**Transportation Trades Department, AFL-CIO**

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Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



The transit employees represented by our affiliate unions are dedicated to ensuring a high level of safety across our public transportation systems. These employees work on the frontlines as bus drivers, rail operators, mechanics, and station attendants, and are well-positioned to identify safety deficiencies in our transit systems. We applaud FTA for its commitment to improving safety and for issuing this NPRM to begin implementing its new authority. This new responsibility must be established carefully to ensure its full effect, and we urge FTA to use its authority to address the important transit employee issues described below.

As noted, MAP-21 requires FTA to create a National Safety Plan that improves the safety of all transit systems that receive federal funds. In this NPRM, FTA sets the minimum elements required of all future National Safety Plans and states that it will propose the inaugural Plan soon. As FTA puts together the first National Safety Plan, we urge the agency to include provisions that adequately address employee issues, including driver assaults, restroom breaks, and blind spots. Additionally, we urge FTA to require transit agencies to demonstrate compliance with these important worker provisions in their Public Transportation Agency Safety Plans.<sup>2</sup>

### **Bus Driver Assaults**

Transit bus driver assaults have become an epidemic, as operators working for public transportation systems around the country face risks of passenger violence every day. Transit drivers face threats of assault with a deadly weapon, sexual assault, punching, spitting, and verbal abuse. By way of example, in the Washington Metro Area Transit Authority (WMATA) system, 175 bus driver attacks were recorded from 2012 to 2015. WMATA is not unique. Metropolitan Transportation Authority (MTA) bus operators in New York City are reporting three to four serious assaults each week and New Jersey Transit recorded 133 assaults on bus drivers between 2010 and 2012.

And this is not just a big city problem. Last month, a bus driver in Davenport, Iowa was punched in the head by a passenger after the driver asked to see a fare discount card. We know from our affiliated unions and their members that driver assaults are happening across the country, at agencies of all sizes, and with alarming frequency and regularity.

The attacks pose risks beyond the physical, emotional, and psychological harm they inflict on drivers. For the passengers riding on a bus when an attack occurs, their safety is jeopardized if the assailant forces the driver to lose control of the bus. Passengers may also be put at risk if they defend the driver, or if the violence moves down the aisles. The safety of motorists and pedestrians is also jeopardized if a driver loses control during an assault.

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<sup>2</sup> As part of the Public Transportation Safety Program, FTA is required to promulgate a rule on Public Transportation Agency Safety Plans. In this NPRM, FTA writes that it will issue that rulemaking soon. Pursuant to statute, upon completion of that rule, transit agencies must develop and certify safety plans in accordance with that rulemaking and that demonstrate compliance with the National Safety Plan.

To help address this problem, the National Safety Plan must require that buses be equipped with Plexiglas partitions that act as barriers to separate drivers from passengers. This physical barrier offers drivers a first line of defense to protect themselves from an assailant. To make these partitions effective while also practical, they should be installed in consultation with bus drivers and their unions, provide enough physical space to ensure the drivers' range of motion and access to controls is not impeded, and allow for adequate airflow to the driver cab.

Partitions have already been installed on some transit buses – a clear demonstration that this approach is a workable response to the epidemic of driver assaults. In New York and Philadelphia for example, transit labor called for local summits on driver safety, which in turn led to plans to increase the number of buses that include these protections. FTA must now support these efforts and ensure that all bus drivers are similarly protected by the swift implementation of driver partitions.

In addition to partitions, the National Safety Plan should also require that new buses include a driver side door or window to provide the driver an emergency exit if needed. Currently, if a passenger attacks the driver, the operator has no place to escape, as the path to an exit is physically blocked by the assailant. By providing drivers with access to an additional escape route, they may be able to avoid or reduce the length of an attack. To further defend a driver's safety, buses should be equipped with an emergency alarm that the driver can activate during an attack to immediately notify law enforcement of the assault. This device would help ensure quick assistance during an attack and increase the chance of perpetrators being apprehended.

TTD's Executive Committee elevated these issues to a national level, calling on DOT to hold a summit on bus driver assaults. In July 2014, DOT hosted a Summit on Transit Assault Prevention to discuss driver assaults and prevention efforts with unions, transit agency representatives, law enforcement officials, and others. This broad coalition agreed that assaults are increasing, and that action must be taken. Now, with the authority provided by Congress, FTA is in a position to address this safety problem head on, and we urge the agency to do so.

Finally, the National Safety Plan should require increased use of wayside fare collection, which is a safer means to collect payment. The system, commonly used on bus rapid transit, requires that riders pass through a sidewalk turnstile, paying the fare before they board a bus. This ensures that the operator is no longer responsible for policing fare evasion. Given that fare evasion is one of the more common causes of driver assault, eliminating the fare transaction between rider and operator will serve to keep drivers safer, and prevent assaults before they begin.

### **Transit Bus Blind Spots**

FTA's National Safety Plan must also move to mitigate blind spots that make safe operation of transit buses difficult. While public transit continues to be a safe mode of transportation, blind spots caused by poor engineering lead to unnecessary pedestrian injuries and deaths. From 2000 to 2011, 462 pedestrians were killed by transit buses. The placement of mirrors, even fare boxes,

can obstruct drivers' field of vision, putting pedestrians needlessly at risk. An estimated 80% of accidents could be avoided if mirror placement issues are addressed. By addressing blind spots, FTA can take steps to avoid vehicle-pedestrian accidents.

### **Scheduled Restroom Breaks**

Finally, the National Safety Plan must also address the need for operators to have scheduled restroom breaks. Operators face serious occupational health problems because many transit agencies do not provide time or facilities for drivers to use a restroom. Many routes do not begin or end in a location with a restroom, and where they do, the facility is not always safe or hygienic. The stress caused by tight schedules and inadequate restroom access creates medical issues, including urinary tract infections, incontinence, and even bladder cancer. In addition to these medical problems, drivers without restroom access may be less able to focus on the road and safely operating a bus. In fact, a study found that not responding to the need to urinate had similar cognitive effects as being awake for 24 consecutive hours or having a blood alcohol level of .05%. By making adjustments to schedules and routes, transit agencies can ensure that drivers are able to remain focused on the road while reducing the risk of unnecessary medical problems.

With regard to the actions that FTA undertakes with the present rulemaking, we offer support for various provisions as described below.

### **Investigative and Enforcement Authority**

We support FTA's proposed procedures to investigate, inspect, audit, examine, and test transit agency equipment, facilities, rolling stock, and operations. The NPRM sets a process for FTA to carry out this oversight function to help ensure safety is a priority at transit agencies. By doing so, the agency will be better positioned to ensure a transparent process for conducting this new authority.

Similarly, we support procedures for carrying out FTA's authority to enforce safety regulations and improve safety deficiencies. In particular, FTA may require more frequent oversight of a transit agency by its State Safety Oversight Agency when warranted; require transit agencies to more frequently report on its activities; order an agency to develop and implement a plan to correct safety deficiencies; issue safety directives and advisories to groups of or individual agencies to address safety concerns; and withhold federal funds from agencies that engage in a pattern or practice of conduct that violates the Public Transportation Safety Program or safety directive or advisory issued by FTA.

Working together, the procedures outlined by FTA to employ this enforcement authority will help ensure real action is taken when safety is jeopardized. Instructing agencies to improve safety and being able to hold them accountable for failure to do so gives FTA the force it needs to carry out this safety mission.

### **Adoption of Safety Management Systems**

The NPRM correctly adopts Safety Management Systems (SMS) as the foundation of FTA's safety oversight and regulatory approach. SMS is a collaborative labor-management approach to

managing safety risks. The system seeks to ensure that resources are allocated according to the unique safety needs of a particular transit agency, that lines of safety decision-making accountability are established, and that agencies identify and mitigate risks before they occur. When implementing SMS, FTA must ensure that transit workers' voices are heard on issues concerning their safety.

Public transportation continues to play a vital role in the U.S., linking an ever increasing number of Americans to their destinations. As ridership increases, so does the need to ensure the systems are running safely and its employees are protected from risks. This NPRM helps FTA to accomplish these goals by establishing its authority to regulate and enforce transit system safety. And as FTA moves forward with its initial National Safety Plan and with a proposed rule on Public transportation Agency Safety Plans, we urge the agency to incorporate the important worker safety issues we discussed above.

We appreciate the opportunity to comment on this NPRM, and we look forward to working with the agency as it continues to roll out its safety authority.

Sincerely,



Edward Wytkind  
President



**Transportation Trades Department, AFL-CIO**  
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***TTD MEMBER UNIONS***

Air Line Pilots Association (**ALPA**)  
Amalgamated Transit Union (**ATU**)  
American Federation of Government Employees (**AFGE**)  
American Federation of State, County and Municipal Employees (**AFSCME**)  
American Federation of Teachers (**AFT**)  
Association of Flight Attendants-CWA (**AFA-CWA**)  
American Train Dispatchers Association (**ATDA**)  
Brotherhood of Railroad Signalmen (**BRS**)  
Communications Workers of America (**CWA**)  
International Association of Fire Fighters (**IAFF**)  
International Association of Machinists and Aerospace Workers (**IAM**)  
International Brotherhood of Boilermakers, Iron Ship Builders,  
Blacksmiths, Forgers and Helpers (**IBB**)  
International Brotherhood of Electrical Workers (**IBEW**)  
International Longshoremen's Association (**ILA**)  
International Organization of Masters, Mates & Pilots, ILA (**MM&P**)  
International Union of Operating Engineers (**IUOE**)  
Laborers' International Union of North America (**LIUNA**)  
Marine Engineers' Beneficial Association (**MEBA**)  
National Air Traffic Controllers Association (**NATCA**)  
National Association of Letter Carriers (**NALC**)  
National Conference of Firemen and Oilers, SEIU (**NCFO, SEIU**)  
National Federation of Public and Private Employees (**NFOPAPE**)  
Office and Professional Employees International Union (**OPEIU**)  
Professional Aviation Safety Specialists (**PASS**)  
Sailors' Union of the Pacific (**SUP**)  
Sheet Metal, Air, Rail and Transportation Workers (**SMART**)  
SMART-Transportation Division  
Transportation Communications Union/ IAM (**TCU**)  
Transport Workers Union of America (**TWU**)  
**UNITE HERE!**  
United Mine Workers of America (**UMWA**)  
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service  
Workers International Union (**USW**)

*These 32 labor organizations are members of and represented by the TTD*

