

April 5, 2016

Mr. Brian Alberts
Office of Transit Safety and Oversight
Federal Transit Administration
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: Public Transportation Agency Safety Plan
Notice of Proposed Rulemaking
Federal Transit Administration
Docket No. FTA-2015-0021
RIN 2132-AB23**

Dear Mr. Alberts,

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 Public Transportation Agency Safety Plans. 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.¹ We therefore have a vested interest in this rulemaking.

The employees represented by TTD's affiliates work on the frontlines of our transit networks and are committed to maintaining a high level of safety. We supported the MAP-21 provisions that granted FTA authority to regulate safety across transit systems, and we commend FTA for its work to roll-out this important responsibility.

In this NPRM, FTA requires that transit agencies receiving funds under 49 U.S.C. Chapter 53 and not regulated by another agency, develop and implement a Public Transportation Agency Safety Plan (Safety Plan). This NPRM establishes the core components that Safety Plans must contain, including methods to identify, evaluate, and minimize safety risk. Among other minimum components, Safety Plans must include training programs for personnel responsible for safety, and in certain cases, emergency preparedness and response plans. FTA requires that covered transit agencies develop their Safety Plans using a four-pillared Safety Management System (SMS) approach to ensure agencies' unique needs are met.

¹ Attached is a complete list of TTD's 32 affiliated unions.

TTD is encouraged by FTA's proposed rule, specifically the agency's continued application of SMS, the inclusion of anti-retaliation policies, and the requirements for rail transit agencies to develop emergency preparedness plans. We also believe that FTA could improve on the proposed rule by including requirements related to transit operator health and safety. Each of these issues are described at length below.

Safety Management System and Frontline Worker Input

As mentioned above, FTA proposes that transit agencies develop their Safety Plans by adopting SMS principles and methods. SMS is a collaborative labor-management approach to managing safety risks that identifies issues undermining safety and mitigating or preventing their occurrence. SMS allows transit agencies to ensure resources are properly allocated to meet their unique safety needs and establishes clear lines of accountability for safety-related decision-making.

TTD continues to support FTA's requirement that transit agencies use SMS principles to help achieve a high level of safety. To meet this goal, agencies must listen and incorporate the input from their frontline workers and their unions who have daily, firsthand experiences and in-depth knowledge of the transit system. These workers' expertise in a system's inner-workings would help identify safety risks and inform the agency of how best to devote its resources.

In this NPRM, FTA recognizes the benefits of incorporating frontline workers' knowledge into the development of Safety Plans. As a component of the SMS approach, FTA requires transit agencies to develop a process for employees to report safety conditions to senior management and that protects workers who report safety issues. This process would also clearly describe worker actions that are not acceptable and would be subject to disciplinary actions. As transit agencies move forward with this component of Safety Plans, TTD recommends that they draw heavily on the SMS letter report submitted by the Transit Rail Advisory Committee on Safety. The report provides recommendations on including front line workers in the safety process, and the indicators of effective safety management.

TTD has long advocated for anti-retaliation and whistleblower protections for transit and other transportation workers. We believe that allowing employees to have input on the safety issues that they observe without fear of retaliation can have a tremendous and positive impact on the overall safety culture of our Nation's transit systems.

Emergency Preparedness Plans

TTD expresses its support for the requirement that rail transit agencies develop a plan to include the delegation of responsibilities during an emergency. Improved preparation and readiness to deal with major safety issues can help mitigate risks during emergencies. In addition to delineating these responsibilities, it is crucial that transit agencies also ensure that workers receive proper training to carry out their duties. For the execution of emergency plans to be effective, frontline employees must be trained to be able to identify a safety risk, communicate with passengers and employees, and be proficient in evacuation and other critical procedures. TTD encourages FTA to include in the final rule a requirement that ensures transit agencies provide adequate training for workers responsible for tasks during emergencies.

Occupational Health

While occupational health issues are not currently addressed in the NPRM, TTD believes Safety Plans are an appropriate vehicle to address them. In the comments TTD filed to the preceding ANPRM, TTD recommended that FTA require that transit agencies address issues concerning the wellbeing of their employees in Safety Plans, specifically driver assault and restroom breaks.

Driver assault has become an epidemic across the Nation's transportation systems, as transit employees are at risk every day of being injured or even killed by passengers. The threat of attacks on drivers represents an unsafe and unfair working environment for employees and poses a major safety risk to passengers, other vehicles and pedestrians. While FTA can pursue a separate rulemaking to address driver assault, we believe that Safety Plans as proposed in this NPRM represent a viable path for the agency to take action on this issue.

TTD's comments to the ANPRM also recommended that FTA require transit agencies to include in their Safety Plans policies to provide restroom breaks for transit vehicle operators. Many transit agencies do not provide time or safe facilities for their drivers to use a restroom which unnecessarily puts passengers and drivers at risk. In fact, a study found that an individual's need to urinate produced similar effects as having a blood alcohol content level of .05%. This avoidable risk puts drivers, passengers, and other motorists in danger. Therefore, Safety Plans should include policies that provide transit operators the opportunity for restroom breaks in safe facilities.

In addition to the recommendations made previously, TTD recommends that Safety Plans include a fatigue management plan. Drivers operating a vehicle without adequate sleep are more likely to be less alert and make mistakes a well-rested driver would not. Transit agencies should address this safety risk by developing policies that mitigate and prevent operator fatigue in order to reduce the risk of fatigue-related accidents.

Ensuring the safety of our nation's transit system remains a top priority for the frontline workers our unions represent. We are encouraged by FTA's efforts to install its new authority to regulate safety and believe transit agency Safety Plans could be an effective tool to improve safety. These Safety Plans must be informed by workers' firsthand experience and must also be used to address remaining needs of the transit workforce.

We appreciate the opportunity to comment on this NPRM, and we look forward to working with the agency to improve the safety of our nation's transit systems.

Sincerely,



Edward Wytkind
President