



*A bold voice for transportation workers*

March 16, 2017

Mr. Harry Shultz  
Office of Security Policy and Industry Engagement  
Transportation Security Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

**RE: Security Training for Surface Transportation Employees  
Docket Number TSA-2015-0001**

Dear Mr. Shultz:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I write to comment on TSA's Notice of Proposed Rulemaking (NPRM) implementing frontline transportation worker security training provisions mandated by Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). By way of background, TTD consists of 32 affiliate unions that represents workers in all modes of transportation, including frontline employees in freight and passenger rail, public transportation agencies, and over-the-road bus (OTRB) service who would be subject to this training. We therefore have a vested interested in the rulemaking and can offer some unique perspectives as TSA seeks to implement this important and overdue requirement.<sup>1</sup>

Through this NPRM, TSA seeks to implement three provisions of the 9/11 Act, (Sec. 1408, 1517, and 1534) which require security training programs for frontline employees of freight and passenger rail, public transportation and ORTB services. The statute outlines training components that must be included in these programs, and through this rulemaking process TSA proposes the regulatory framework for the development of these plans.

We note that TTD and a number of our affiliates played a central role in pushing for the training mandates that were eventually included in the 9/11 Act. We made the case to Members of Congress at the time that frontline workers were not receiving the type and level of training they needed to identify and respond to security threats. As TSA seek to finalize this rulemaking, we urge the agency to ensure that training mandate is implemented in a manner that will make real improvements to security. Our concerns are described in detail below.

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

**Transportation Trades Department, AFL-CIO**

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



### **Labor Participation**

The 9/11 Act required that TSA seek the input of labor unions in the crafting of this rulemaking. Congress understood that employees and their unions are in an excellent position to know the training gaps that currently exist, how to best deliver training to frontline workers and the information that needs to be communicated. We understand that TSA has in the past met with transportation unions on this training mandate and we are confident that the agency will take these and other comments into account when drafting a final rule. Consistent with the congressional recognition that transportation labor should be consulted in implementing this rulemaking, we urge TSA to require transit systems, rail carriers and OTRB operators to seek the input of unions when they are drafting and submitting their training programs to the TSA. By doing so, TSA will ensure that the plans are most likely to consider the individual circumstances of a transportation operation, and therefore achieve maximum effectiveness in promoting transportation security.

### **Training Program Content**

In the 9/11 Act, Congress outlined required training curriculum items for all of the impacted transportation modes. In the NPRM, TSA proposes to divide the statutory requirements for training programs into four broad categories: prepare, observe, assess, and respond, each containing training curricula which correspond to items in the statute. TSA further proposes that owners/operators will create security training programs which satisfy all of these requirements, and may do so with the inclusion of programs mandated by other agencies or jurisdictions, as well as voluntarily operated security programs. Finally, TSA would determine if the training program as designed satisfied all of the requirements.

TTD supports TSA's commitment to the statutory intent of the 9/11 Act, and the inclusion of all of the training curriculum that Congress mandated. Together, these training requirements can serve to meaningfully improve security at covered transportation systems. However, we are concerned that the proposed rule does not provide sufficient guidance on what type of training will satisfy the curriculum requirements. As a specific example, each training program includes a requirement concerning "defending oneself." The interpretation of what self-defense may entail and the appropriate tools for doing so may vary wildly between systems. As a general matter, we urge TSA to ensure that employers and employees understand the training options that are available to them and that will satisfy the requirements.

### **Training Format**

In reviewing submissions, TSA should be cognizant of both quality training content, as well as quality training formats. TTD notes that our affiliates, across modes, have reported that trainings are increasingly conducted as "training on your own." In this method, employees complete training requirements by viewing a video without further instruction. While this may be appropriate and cost effective in certain circumstances, we caution that given the sensitivity of security training in some cases employees may be better trained through in-classroom or in the field training. In any format, it is imperative that the training that employees receive is consequential, and allows them to better prepare and respond in the event of a terrorist attack. When reviewing submissions TSA should consider not only if the material that is being taught adequately covers the statutory and regulatory requirement, but also if the method by which it is taught is likely to improve the preparedness of transportation employees.

### **High Risk Operations**

While TSA has maintained the training content requirements from the 9/11 Act, TSA has narrowed the applicability of the training to high risk operations. TSA proposes a set of high risk locations for each transportation type, and only systems operating in these areas would be required to provide security training. While we appreciate TSA's interest in not requiring unnecessary or cost-ineffective training, we urge the Administration to reconsider the decision to narrow the program.

By requiring this training at only some locations TSA is "hardening" certain targets, strengthening them against a possible terrorist attack, and making these locations less appealing to those wishing to commit violence. However, it is a well-known phenomenon that terrorists participate in target-shifting, or displacement, through which individuals deterred from one target may select an alternate location.<sup>2</sup> By only improving security at some locations, this rule may inadvertently redirect terrorists to operations which they know to be un-hardened, or softer targets. For this reason, TTD supports requiring security training at all locations in which the discussed transportation operations exist.

We also note that the rule is explicit that for OTRB services, the proposal would impact any fixed-route service that originates, travels through, or ends in a geographic location proposed by the rule. However, we do not believe the rule states this explicitly for freight and passenger rail, as well as public transit systems, and it is critical that this requirement also applies to these operations. Existing gaps in security have been noted by TSA Acting Administrator Kenneth S. Kasprisin who stated "There are many places in the Midwest where you get on a train and won't have to deal with any type of security before you hit Chicago." Requiring security training only at high risk locations like Chicago, but not requiring it at nodes along the system offers terrorists a point of entry to high risk locations, creating dangerous gaps and vulnerabilities along the nation's transportation system.

### **Job Portability**

TTD notes that owners and operators may choose different ways to fulfill training requirements, resulting in unique programs at every system. We are therefore concerned that if a security-sensitive employee leaves one transportation operation and is hired at another, they would be required to start training from square one, restarting the sixty-day training period. In some occupations, including freight rail, it is common for employees to move between employers. Retraining entirely on the security curriculum when a full retraining may not be necessary may be overly burdensome on employees. Employers may be similarly burdened when trying to hire workers.

Through this notice, TSA proposes to enact a necessary component of ensuring security on our nation's transportation systems. TSA has correctly applied the statutory training requirements of the 9/11 Act, and TTD is hopeful that through these requirements owners and operators, in conjunction with labor, will be able to develop frontline security training programs that

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<sup>2</sup> Lakdawalla and Zanjani, Insurance, Self-Protection, and the Economics of Terrorism, 2004. Bier, Oliveros, Samuelson, Choosing What to Protect: Strategic Defensive Allocation Against an Unknown Attacker, 2007.

meaningfully improve transportation security. However, we caution that only focusing on some transportation operations may lead to vulnerabilities that are subject to terrorist attacks.

We thank TSA for the opportunity to comment on this notice, and for the Administration's continuing commitment promoting security on the nation's transportation systems.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the bottom.

Edward Wytkind  
President



**Transportation Trades Department, AFL-CIO**  
*A bold voice for transportation workers*

***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*

