



July 15, 2013

U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Docket Operations, M-30  
West Building Ground Floor  
Room W12-140  
Washington, DC 20590-0001

**RE: Docket No. TSA-2013-0005**

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Transportation Security Administration's (TSA) request for comments concerning security training for surface mode employees, published on June 14, 2013, at 78 FR 35945.

*About APTA*

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

APTA speaks for its members. Its Board of Directors reiterated that fact on March 9, 2013, when it adopted the following statement: "While APTA encourages its members to provide specific examples or impacts in support of the association's positions, APTA crafts its comments to represent those of all APTA members. The association goes to great lengths to ensure its regulatory comments represent the consensus views of our members. Every APTA member has the opportunity to review drafts, participate in discussions, and assist in crafting those consensus comments. In short, we speak with a single voice and, when the rare instance occurs that we cannot reach consensus, we do not speak at all. APTA's comments are those of our more than 1,500 members. This consensus-based method of crafting regulatory comments is a factor underlying APTA's selection of one of Washington's most trusted brands in a broad survey conducted by the National Journal and we encourage all federal agencies to recognize the representative nature of the association's regulatory comments."

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## GENERAL COMMENTS

We appreciate TSA's commitment and efforts to engage affected industries and the public as it drafts its notice of proposed rulemaking. APTA believes these efforts will do much to ensure the final product is both comprehensive and practical.

As a general rule, the elements of the 9/11 Act are already addressed within the scope of security training programs throughout the public transportation industry. Our members have recognized that no two transit agencies are alike. Differences in size, location, mode, threat, and security structures have led those agencies to craft unique implementation strategies. We believe transit agencies should remain free to adapt the training matrix for each job category to best fit the individual agency's needs, capabilities, and resources.

While we do not have specific cost data, we believe TSA would be well served by determining what percentage of transit security grant program funds have been used for training by those agencies eligible for such funding, then extrapolating from that data. Integration of security with other training would make it exceptionally difficult for agencies that have not been eligible for that funding to provide consistent, reliable data.

## SPECIFIC COMMENTS

We have reviewed the training program elements from the 9/11 Act and incorporated into Table 1 of the Notice and offer the following observations:

*Determination of seriousness of occurrence or threat:* This is not an appropriate task for frontline employees.

*Crew and passenger coordination and communication:* This is recognized as an important element and is already required by 49 CFR 239 for on-board personnel.

*Appropriate self-defense, including use of "non-lethal defense devices":* The reference to "self-defense" and "non-lethal defense devices" could be excessive to industry interests. The focus should be on development of interpersonal skills to de-fuse aggressive behaviors. We believe TSA should further define "appropriate self-defense, including use of 'non-lethal defense devices'" to facilitate that focus and help avoid transit agency liability issues, unintended impacts on job descriptions, and associated costs. Drivers and other front line employees are not police officers, and should not be placed in a defensive tactics role.

*Use of personal protection devices and equipment:* TSA should clarify that this refers to standard personal protection equipment (PPE). Left undefined, this requirement would be overly broad and redundant with other safety training. It should be noted that OSHA already requires that employees receive training in the use of any PPE required by their job functions.

*Evacuation procedures:* Evacuation procedures are covered by transit agencies within their system safety and emergency preparedness programs. This also required by 49 CFR 239 for on-board personnel and is covered through regular fire drills for other personnel. The proposed rule should defer to these existing requirements to avoid overlapping or conflicting requirements.

*Behavioral and psychological understanding of terrorist incidents, including coping with hijacker behavior and passenger response:* In the context of front line employees, this is excessive to actual needs.

Training could include an abbreviated version of “BASS” or “SPOT” training. Training should focus on behaviors and be geared to specific job functions.

*Live situational training exercises:* This should not be applied to all trainees. To do so would be impractical and extremely burdensome. Organizational drills and exercises to test plans and emergency procedures and capabilities are already covered within the transit agency’s security and emergency preparedness plans.

*Recognition and reporting of dangerous substances and suspicious activities and items.*

*Understanding security incident procedures, including communicating and interacting with governmental entities and first responders:* This element has more applicability to supervisory personnel and is already covered in 49 CFR 239 training and ICS training.

*Operation and maintenance of security equipment:* TSA should clarify the term “security equipment.” Depending on the ultimate definition, this element may be noted as a requirement for particular job functions.

*Other matters deemed appropriate:* While we understand the legislative intent to provide flexibility to the Secretary and TSA, the draft rule should clearly define what additional matters TSA deems appropriate at this time.

We have reviewed the categories of frontline employees from the 9/11 Act and incorporated into Table 2 of the Notice and offer the following observations: Public transportation is provided, in substantial part, by contractors and their employees. Similarly, police and security functions are very often carried out by officers who are not transit agency employees, but often members of local police departments. As such, the draft rule should clearly be inclusive contractor and others who while not employees, serve in the listed roles.

This distinction is also important when determining funding. Training funds must be made available to all public transportation agencies and be sufficient to provide training not just for direct employees, but those serving via contract, inter-governmental agreement, or otherwise.

Finally, we believe TSA should simply define front line employees by functions. Transit agencies are in the best position to determine what job titles best fit those functional definitions.

We appreciate TSA’s proactive outreach efforts and stand ready to assist in appropriate follow on efforts as TSA continues the drafting process. For additional information, please contact James LaRusch, APTA’s chief counsel and vice president-corporate affairs, at (202) 496-4808 or [jlarsch@apta.com](mailto:jlarsch@apta.com).

Sincerely yours,



Michael P. Melaniphy  
President & CEO