



November 1, 2010

U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Avenue, NW
Room N-2625
Washington, DC 20210

RE: Docket Number OSHA-2008-0027

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 Occupational Safety and Health Administration's (OSHA) Interim Final Rule; request for comments on Procedures for the Handling of Retaliation Complaints Under the National Transit Systems Security Act and the Federal Railroad Safety Act, published August 31, 2010, at 75 FR 53522.

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.

The Proposed Rule Fails to Acknowledge Legitimate Disciplinary Concerns

Section 1982.102(b)(3) of the proposed rule forbids discipline an employee for "requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician." The proposed rule ignores management's right to discipline employees whose injuries are directly caused by violation of required procedures, work rules, or other safety directives. As such, the employee who violates a safety directive causing injury to himself and others is protected from discipline by simply asking for medical aid.

The proposed rule should explicitly recognize management's continuing right to discipline employees for infractions of required procedures, work rules, or other safety directives, independent of management's obligation not to discipline employees for seeking medical treatment.

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We appreciate the opportunity to assist the OSHA in this important endeavor. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,

A handwritten signature in cursive script that reads "William Millar".

William Millar
President

WM/rk