

American Public Transportation Association.txt
Subject: Comments: RIN 1601-AA14
Date: Mon, 16 Jun 2003 11:55:03 -0400
From: "Kristin O'Grady" <kograd@apta.com>
To: "RegComments, CII" <CII.RegComments@HQ.DHS.GOV>
CC: "Daniel Duff" <DDuff@apta.com>

Dear Associate General Counsel for General Law:

Please find attached the American Public Transportation Association's comments to the NPRM on Procedures for Handling Critical Infrastructure Information. Thank you for the opportunity to comment.

Sincerely,

Kristin O'Grady
Assistant Chief Counsel
American Public Transportation Association
Telephone: (202) 496-4808
Fax: (202) 496-4324

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June 16, 2003

Associate General Counsel (General Law)
Department of Homeland Security
Washington, DC 20528

RE: **RIN 1601-AA14**

Dear Associate General Counsel:

The American Public Transportation Association (APTA) is pleased to respond to the Department of Homeland Security's (DHS) Notice of Proposed Rulemaking (NPRM) on Procedures for Handling Critical Infrastructure Information.

About APTA

APTA is a nonprofit international trade association of over 1,500 public and private member organizations including transit systems and commuter railroads; planning, design, construction and finance firms; product and service providers; academic institutions, and state associations and departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. Over ninety percent of persons using public transportation in the United States and Canada are served by APTA members.

Background

APTA does not need to emphasize the critical importance of keeping our nation's surface transportation infrastructure secure in this time of heightened national security. In that connection, APTA is honored to play a critical role in public transportation security. We work closely with a number of Administration security agencies, and administer an industry audit program that oversees a system safety and security management plan for transit systems around the country. Our safety audit program for commuter rail, bus, and rail transit operations has been in place for many years, and contains security planning and emergency preparedness elements. Separately, in connection with Presidential Decision Directive Number 63, we are pleased to have been designated a Public Transportation Sector Coordinator by the Department of Transportation, and we have established a Public Transit Information Sharing Analysis Center (ISAC) that provides a secure two-way reporting and analysis structure for the transmission of critical alerts and advisories to transit agencies around the country. The ISAC effort is supported by a two-year grant made by the Federal Transit Administration (FTA) to APTA.

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Since the events of 9/11, state and local public transit agencies, like all state and local entities, have spent significant sums on police overtime, enhanced planning and training exercises, and capital improvements related to security. We appreciate the DHS response to these needs, and particularly appreciate the \$65 million recently directed by Secretary Ridge to the nation's largest transit agencies.

Comments

In general, APTA, in its role as a voice for the transit industry, as well as the sector coordinator for the Public Transit ISAC, strongly supports the proposed rule. We believe the adoption of this rule, along with the implementation of regulations protecting sensitive security information (SSI) found in Part 14 of the Code of Federal Regulations, will enable the DHS and other key federal agencies to protect information relating to critical infrastructure assets.

We believe the effectiveness of the proposed rule could be enhanced by a few clarifications. First, the proposed rule suggests that only items submitted "voluntarily" would be eligible for treatment as Critical Infrastructure Information (CII). A situation could arise where a transit agency would be submitting information as part of a condition on a grant (for example, a vulnerability assessment), and would want to receive CII treatment for that information submission. Strictly speaking, conditions on grants are accepted voluntarily by grantees in order to receive grant funds, so submissions associated with grants should be considered eligible for CII treatment, if they otherwise meet CII requirements.

Second, the rule should clarify how FOIA requests will be handled during the period in which the CII Program Manager is making the determination as to whether the submitted material meets the criteria of being CII. Although it seems reasonable to assume that no submissions would be disclosed until a determination is made, it was not clear from the Notice how disclosures would be handled during this interim period.

Associate General Counsel (General Law)
Department of Homeland Security
June 16, 2003

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Conclusion

We appreciate the opportunity to comment on this NPRM, and stand ready to help DHS in the implementation of provisions that enhance security. For further information, please contact Kristin O'Grady at (202) 496-4808, or internet e-mail at kogrady@apta.com.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Will W. Millar", written in a cursive style.

William W. Millar
President

WWM/cbo