

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

AI-4
R-386B

ISSUED: December 30, 1981

Forwarded to:

Honorable Drew Lewis
Secretary
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

SAFETY RECOMMENDATION(S)

R-81-117

The National Transportation Safety Board recently completed the final report of a special investigation of eight subway train fires on the New York City Transit Authority (NYCTA) with evacuation of passengers (NTSB-SIR-81-5); a copy is enclosed for your information.

This special investigation identified serious deficiencies in NYCTA's car maintenance program and emergency preparedness and revealed a lack of adequate oversight of NYCTA safety at any level of government. The Safety Board's investigation also identified the need for the continuation and improvement of the Department's authority to investigate unsafe conditions in federally-funded rail rapid transit systems pursuant to Section 107 of the National Mass Transportation Assistance Act of 1974.

Four of the subway train fires examined in this special investigation originated in the current collectors of NYCTA's R-46 subway cars. The current collectors involved, manufactured by the firm Profabco, had been installed by NYCTA following an investigation of unsafe conditions of NYCTA's R-46 cars by the Urban Mass Transportation Administration (UMTA) under the Secretary's delegated authority.

UMTA's investigation of the unsafe conditions of NYCTA's R-46 subway cars was the only test of the Department's Section 107 authority. In most respects, it operated well and resulted in the identification of safety problems, the development of a corrective action plan, and the implementation of the plan with UMTA's direct approval and oversight. However, this oversight broke down in one critical area when NYCTA, without UMTA's approval, installed the Profabco current collectors which were not part of the agreed-upon corrective action plan. If UMTA had monitored and evaluated NYCTA's corrective actions for the current collector problem as carefully as it had monitored actions to correct the other more serious problems identified by UMTA in NYCTA's R-46 cars, the four current collector fires might have been prevented.

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With the exception of the current collector problem, UMTA's exercise of its Section 107 authority did operate as it was intended--to assure the correction of unsafe conditions which create a serious hazard of death or injury. In a July 22, 1981 letter to the Secretary of Transportation, the Safety Board expressed its views on the Department's proposal to repeal Section 107:

...we cannot agree that this Federal investigative authority has led to "an intrusive role in rail transit safety." In fact, as the Safety Board's evaluation noted, the Urban Mass Transportation Administration has exercised its authority under Section 107 on only one occasion, and that investigation identified serious safety problems in federally-funded R-46 transit vehicles. These results certainly benefited the local transit authority, the safety of its passengers, and the taxpayers' investment in rail rapid transit. In any case, it is our view that repeal of Section 107 would not relieve the Department of its responsibility to the public to insure that the rail rapid transit systems which it funds with taxpayers' dollars, and whose use it encourages, operate safely. It would only make it more difficult for the Department to fulfill its safety oversight responsibility.

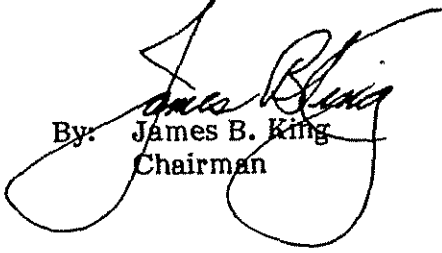
One of the reasons given for UMTA's proposal to repeal Section 107 was that it overlaps or duplicates the authority of other Federal agencies such as the National Highway Traffic Safety Administration (NHTSA), the Federal Railroad Administration (FRA), and the Safety Board. In July 1981, the UMTA Administrator wrote to NHTSA, FRA, the Federal Highway Administration, the U.S. Coast Guard, the Occupational Safety and Health Administration, and the Safety Board to solicit information as to the legislative authority and willingness of those agencies to assume responsibility for investigating unsafe conditions in federally-funded mass transit systems. The Safety Board is aware that in some areas of mass transit other Federal agencies have investigative authority which overlaps or duplicates UMTA's Section 107 authority. For example, NHTSA has the authority to investigate and recall buses for safety defects, FRA has regulatory and investigative authority in light rail and commuter rail transit, and the U.S. Coast Guard has regulatory and investigative authority over ferryboat operations. In rail rapid transit, however, no other Federal agency has the authority to conduct extensive safety oversight. While the Safety Board investigates certain rail rapid transit accidents and performs occasional studies, its oversight capabilities are limited. The Safety Board does not have (nor does it seek) the authority for comprehensive and systematic safety oversight in rail rapid transit.

Investigative authority is an important and valuable safety oversight tool. While Section 107 provides that tool to UMTA, its authority is too narrow in that the existence of an unsafe condition creating a serious hazard of death or injury is a prerequisite to investigation. This tool would be far more effective if it were directed to investigation of accidents and incidents or any condition which affects or could affect passenger safety for the purpose of determining whether or not an unsafe condition exists. This authority, coupled with the existing Section 107 authority to require submission of a corrective action plan and implementation of the approved plan under direct oversight, would provide one means of assuring the resolution of safety problems before they result in accidents. It is particularly important for UMTA to exercise an oversight role and maintain adequate investigative authority in this area because of its role in providing Federal financial assistance to rail rapid transit authorities. Safety must be a major area of consideration in providing Federal funding to rail rapid transit systems.

Therefore, as a result of this special investigation, the National Transportation Safety Board recommends that the Secretary of Transportation:

Propose legislation to amend Section 107 of the National Mass Transportation Assistance Act of 1974 to substitute, for the Secretary's authority to investigate unsafe conditions in federally-funded mass transit systems, the authority to investigate any mass transit accident or incident in such systems, or any condition which affects or could affect the safety of passengers. (Class II, Priority Action) (R-81-117)

KING, Chairman, DRIVER, Vice Chairman, GOLDMAN, and BURSLEY, Members, concurred in this recommendation. McADAMS, Member, did not participate.


By: James B. King
Chairman