

# UNION'S PROPOSED INTERIM SOLUTION TO ADA CALL OUT NON-COMPLIANCE ON TRIMET'S FIXED ROUTE SYSTEM

November 17, 2003

## Preface

Currently, TriMet expects bus operators to comply with the American's with Disabilities Act mandate of announcing all major intersections and bus transfer points. It expects them to do so using a manual system. Since the mandate was issued, TriMet has threatened almost every TriMet driver with discipline, suspension and termination for non-compliance. These threats have not made a difference. It is the Union's opinion that 100% compliance is impossible. This opinion is supported by the fact that **no** urban area has come close to being 100% compliant.

Most bus operators see themselves as people-oriented. They want to serve their passengers and they hold their disabled passengers in special regard. Some disabled passengers depend on bus operators to call out locations. These passengers, particularly the vision-impaired, find bus riding a life-threatening and/or intensely frustrating experience if their bus operator fails to call out bus stops. The majority of TriMet's bus operators do not want to jeopardize the safety of their disabled passengers nor do they want to increase the stress on their disabled passengers. Unfortunately, the nature of the current workload of the urban bus operator makes 100% manual call out compliance an impossible goal. The Federal Transit Administration has recently ruled that less than 100% call out compliance is not acceptable.

The procedure below is an interim approach that has the goal of increasing the level of bus operator call outs. It is interim because the **only** viable long term solution is technology known as automated call out systems. Thus, the seven part approach set forth below begins with TriMet's commitment to convert the fixed route system to 100% automated call outs within a time certain.

## Step 1.

### Convert the System Entirely to Automated Call Outs

Fact: No bus system in the country has been able to achieve 100% ADA call out compliance through the use of manual call outs. As a result, bus systems are converting to automated call outs.

Goal: TriMet needs to purchase or retrofit all of its fixed route buses so that every bus uses an automated call out system. It must complete that conversion by January 1, 2007.

Procedure: Incremental retrofit/conversion needs to be undertaken to address the routes with the greatest need. Therefore:

- a. For a one month period, in order to determine which routes that have the highest disabled passenger volume, operators should be asked to key in one number on the BDS system whenever their bus is boarded by a potentially disabled passenger who would benefit from call outs. The bus on the routes with the highest percentage of disabled passengers should be converted first. This identification should be done in advance of installation of the first automated call out system in a TriMet bus.
- b. Buses on routes with the highest number of passengers per trip should be converted second.
- c. Once this program has been implemented, buses on routes with highest percentages of ADA complaints and/or notices of non-compliance overall would be converted first.

## Step 2

### Pre-Conditions for Manual Call Outs

Fact: Operators have no way of knowing the level of compliance that will be required. They have difficulty remembering a requested stop over the length of the route and they are being asked to remember call out points that are not ADA-Required.

Goal: Give operators increased control, streamlined duties and clearer directions so as to improve compliance rates.

Procedure:

- a. Operator control -
  - 1) Identify on bid sheets whether the bus on the run has automated call out system **AND** the total number of scheduled ADA call outs that are

required for that run.

- 2) Provide a mounted, dry erase board so that operators can note requested stops.

b. Streamlined duties - call out all non-ADA required call out points from the ADA Call Out Handbook. Have Union review and make suggestions prior to printing and distribution.

c. Clearer directions - in the Call Out Handbook, at the bottom of every route page, include the following statements in **bold** print.

- 1) If you see a person with obvious disabilities standing at the bus stop you must open your door and tell them your bus route number/destination.
- 2) At the downtown mall, wait to pull up to the corner rather than pulling around the bus in front.
- 3) If a passenger requests that you call out a particular stop, it is mandatory that you do so.

### **Step 3 Changing Sleuth Observer Duties**

Fact: Bus operators think that the sleuth observer process or sleuth observer reports are unreliable, unfair and violate their due process rights.

Goal: Increase the reliability and fairness of sleuth observer ride process.

Procedures:

- a. Routes to be monitored by sleuth observers shall be identified as follows:
  - 1) 80% selected randomly from those route buses without automatic call out systems.
  - 2) 20% of routes without call out systems with the highest number of CSI complaints.
- b. At a minimum the sleuth observer rider must:
  - 1) Ride the subject bus between no more than the first three stops of the run to no less than the second to the last stop of

the run.

- 2) Sit close enough to the driver to hear stop announcement requests made by passengers.
- c. Sleuth observer must complete the accompanying revised ADA Evaluation Report including:
- 1) Specific identification of the stops missed.
  - 2) Absence of mitigating factors
- d. Sleuth observer must make the following recommendations under the following circumstances.
- 1) Commendation if operator makes 100% of the ADA call outs when the sleuth observer is on the bus.
  - 2) Notice of non-compliance if two or more call outs are not made or if driver fails to call out a requested stop.
  - 3) Notice of inaudibility.
- e. The sleuth observer report must be turned in to TriMet for distribution to the Station Manager no later than 24 hours after the report is generated.

#### **Step 4 Station Manager Action**

**Fact:** The station manager has factual information about other mitigating factors that should be in the report and will be able to identify status.

**Goal:** Make sure that certain mitigating factors are considered and used to deny issuance of non-compliance notice and that status is tracked.

**Procedure:** Station manager or designee fills in the Station manager section on ADA Evaluation report which recommends 1) commendation; 2) notice of non-compliance; 3) notice of inaudibility.

- a. Mitigating factors identified

- b. Status Information
  - 1) Number of non-compliance notices in last rolling twelve month period.
  - 2) Number of commendations in last rolling twelve month period.
  - 3) Number of inaudibles in last rolling twelve month period .
  
- c. Station manager recommends action taken and sent to operator within two working days
  - 1) A commendation
  - 2) Notice of non-compliance
  - 3) Notice of inaudibility
  - 4) Five commendations which then acts to cancel one non-compliance in the same rolling twelve month period.
  
- d. Initial referral to counseling or training when, during a rolling twelve month period,
  - 1) A net total (total minus commendation subtraction) of three non-compliance notices have been issued to the operator.
  - 2) Two notices of inaudibility, provided the inaudibility is not the result of mechanical or physical problems, results in referral to on route training with trainer.

### **Step 5 Operator Response**

Fact: At present, operators never know which intersections were not called. They know of instances when there have been good reasons why they've missed a call, there have been instances where sleuths have made mistakes and worst of all, the operators never learn of their purported failure to make a call out until too many days have past and they can no longer remember the particular run.

Goal: Operators receive timely and sufficient information to know what they are being accused of and an opportunity to respond.

Procedure: Operator responds and supervisor acts.

- a. The operator will receive the ADA Evaluation report and have two working days to respond by citing mitigating factors and other reasons why the non-compliance notice should not be issued.
- b. Supervisor accepts mitigation explanation and issues no notice OR supervisor issues notice.

### **Step 6. Counseling and Training**

#### **ADA Callout Procedure**

Fact: Discipline and threats of discipline are ineffective and actually increase any negative attitudes operators may have about the fairness of having ADA call outs mandated on top of a job they already believe is too heavily-laden with mandates and other demands. As noted many times before, the operator's perception of their job stress is borne out by the fact that, as an occupation, urban bus operators have higher incidences of morbidity and mortality with statistics showing that bus operators become disabled and die younger than workers in other professions.

Goal: Educate operators to the consequences of not calling out stops and provide them with an opportunity to learn how to perform the task more effectively and do so in a non-threatening atmosphere.

Procedure:

- a. First Referral: Bus operators with three non-compliance notices in a rolling twelve month period will be sent to counseling under the following conditions:
  - 1) Counseling is conducted by a three person team consisting of the following:
    - a) One bus operator with history of ADA compliance selected by TriMet
    - b) One bus operator with history of ADA compliance selected by Union
    - c) One visually impaired individual, with no connection to TriMet or the CAT, selected by an outside organization such as Oregon Disability Commission, Independent Living Resources or other nonprofit disability advocate organization that has no ties to TriMet.
  - 2) Counseling session is completely and totally confidential. All

counseling team members agree not to share or reveal the contents of any notes they take nor will they make reports or discuss what happens in the counseling session with anyone other than each other. Nothing said or happening in the counseling session can ever be used in subsequent discipline or grievance procedure.

- 3) Counseling team will send only a notice to TriMet that the referred employee did attend the session.
- 4) TriMet will pay the counseling team and the bus operator for attending the session.

b. Second Referral: Bus operators with a second set of three non-compliance notices in a rolling twelve month period will be sent to counseling under the following conditions:

- 1) Counseling is again conducted by the same three person team if that team is available.
- 2) Three person team is authorized to refer the individual to empathy training.
- 3) Training will be developed and conducted by an outside organization such as Oregon Disability Commission, Independent Living Resources or other nonprofit disability advocate organization that has no ties to TriMet.

#### **ADA Inaudible Call Outs**

a. First Referral: After three notices of inaudibility in a rolling 12 month period: Bus operator is referred to the TriMet training department for on-route training in using the microphone or calling out.

b. Second Referral: After two notices of inaudibility in a rolling 12 month period bus operator is referred to TriMet training department for on-route training with a different trainer in using the microphone or calling out.

**Step 7.**  
**Monitoring the Sleuth Observers**

Fact: Operators believe that the sleuth observers invent violations for purposes of job security. They have seen strangers standing on the mall noting bus numbers and routes and peering at their faces and writing on clipboards but never getting on the bus. Sleuth observers have also reported non-compliance when, in fact, the operator was absolutely positive he or she was in compliance on that particular trip. Other transit districts monitor sleuth observers and have discovered fraud in sleuthing reports.

Goal: TriMet needs to monitor the sleuth observers to insure the veracity of the ADA Evaluation reports.

Procedure: Since TriMet will be generating the random bus routes to be ADA sleuth observed, it can send monitors out on those same routes to spot check the sleuth observers by conducting redundant reports. The person doing the monitoring cannot be known to the sleuth observers nor can the monitor identify himself or herself to the sleuth observer. At no time can the reports be compared by the sleuth observer and the monitor.



Operator Response Stating the Reason Why No Notice Should Be Issued:

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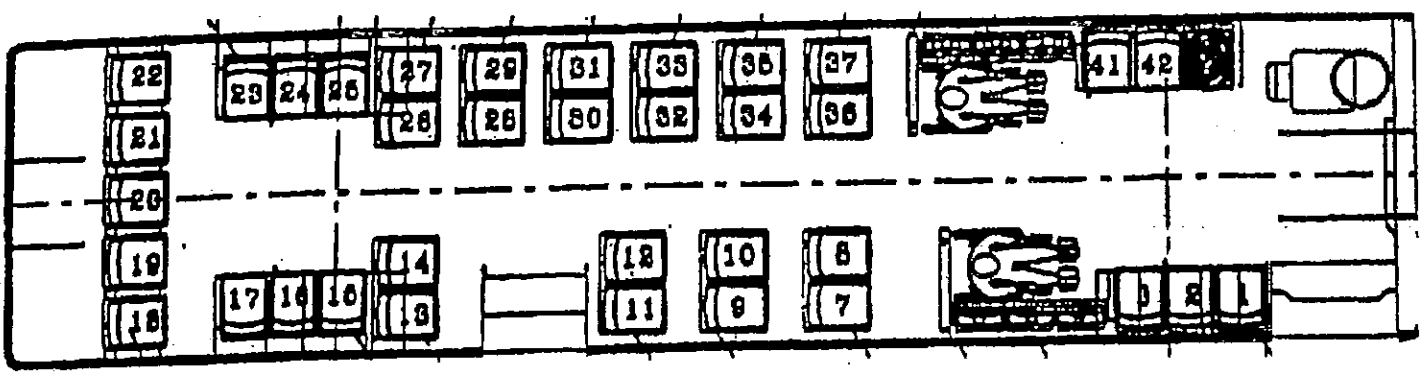
Date:

Station Manager's Final Recommendation:

- No Action  Notice of Inaudible  Notice NonCompliance Missed 2  Referral to Counseling

Date: \_\_\_\_\_

Observer Seat Circled Below:



**Operator Response Stating the Reason Why No Notice Should Be Issued:**

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**Date:** \_\_\_\_\_

**Station Manager's Final Recommendation:**

No Action     Notice of Inaudible     Notice NonCompliance Missed 2     Referral to Counseling

**Date:** \_\_\_\_\_

**Observer Seat Circled Below:**

