

**From:** [REDACTED]  
**To:** [Correspondence](#)  
**Subject:** FW: Follow-up Response to Yesterday's Discussion with NTSB Member Graham  
**Date:** Friday, March 19, 2021 1:25:02 PM

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During Talgo's meeting yesterday with NTSB Member Graham and Special Assistant Michael Hampton, we had a discussion in which Talgo was asked about its statement that NTSB safety recommendation R-19-017 is unprecedented, in light of NTSB recommendations related to WMATA subway cars. Talgo stands by its statement, and has provided the additional information below to Member Graham & Mr. Hampton.

We want to provide the same information to all of the Board Members, so are forwarding this correspondence via [correspondence@ntsb.gov](mailto:correspondence@ntsb.gov). Talgo welcomes any other questions from Board Members, Special Assistants, or NTSB staff. Please do not hesitate to contact me if you desire additional information, and I can coordinate a response from Talgo.

All the best,

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**From:** Rodriguez, Jamie ([REDACTED])  
**Sent:** Friday, March 19, 2021 1:11 PM  
**To:** 'Michael Hampton' <[REDACTED]>  
**Subject:** Follow-up Response to Yesterday's Discussion

Member Graham & Mr. Hampton,

Thank you very much for meeting with Talgo yesterday, Thursday, March 18, 2021. During the meeting, you inquired about Talgo's statement that NTSB safety recommendation R-19-017 is unprecedented. Talgo stands by that statement. In further response to your questions about the NTSB's past recommendations related to the Washington Metro Area Transit Authority (WMATA) transit cars, we explain below how the NTSB recommendations regarding the WMATA transit cars differ from the NTSB recommendation to discontinue use of the Talgo Series VI trainsets.

As a starting point, the WMATA cars were transit cars, not passenger railcars regulated by the

Federal Railroad Administration (FRA). The WMATA cars were not regulated vehicles in the sense railcars have a formal regulatory structure that establishes manufacturing compliance standards, such as the regulations with which the Talgo Series VI railcars comply. As mentioned by Mr. Coran yesterday, the Federal Transit Administration (FTA), did not and does not have the same authority the FRA has possessed for decades.

As we discussed, in the DuPont accident report, which documents the NTSB's first experience with the Talgo Series VI trainsets, the NTSB issued safety recommendation R-19-017 to the Washington State Department of Transportation (WSDOT) to:

Discontinue the use of the Talgo Series VI trainsets as soon as possible and replace them with passenger railroad equipment that meet all current United States safety requirements. (R-19-017).

RAR-19/01, *Amtrak Passenger Train 501 Derailment, DuPont, Washington, December 18, 2017* at 126 (issued May 21, 2019) (emphasis added). This is the first time we are aware that such an action was taken with regard to railcars, and it comes under circumstances where the FRA fundamentally differed with the NTSB by finding Talgo's cars performed "exceedingly well" in the accident.

Contrary to the DuPont report, the NTSB did not issue a safety recommendation to WMATA to discontinue use of WMATA transit cars the first three times the NTSB investigated accidents involving those cars.

Following its investigation of the 1982 derailment of a 1000-series WMATA transit car, the NTSB issued 36 recommendations, none of which were related to modification or removal of the 1000-series cars from service. See RAR-82/06, *Derailment of Washington Metropolitan Area Transit Authority Train No. 410 at Smithsonian Interlocking, January 13, 1982* (issued Oct. 14, 1982); Letter from Jim Burnett, NTSB Acting Chairman, to Richard Page, WMATA General Manager (Mar. 19, 1982); Letter from Jim Burnett, NTSB Chairman, to Richard Page, WMATA General Manager (Oct. 15, 1982); Letter from Jim Burnett, NTSB Chairman, to Marion Barry, Mayor, District of Columbia (Oct. 15, 1982).

Following the investigation of the 1996 WMATA accident at Shady Grove Metro Station, the NTSB recommended that WMATA:

Undertake, with the assistance of qualified engineering support, a comprehensive evaluation of the design and design specifications of all series of Metrorail cars with respect to resisting carbody telescoping and providing better passenger protection, and make the necessary modifications, such as incorporating underframe bracing or similar features, to improve the crashworthiness of cars in the current and/or future Metrorail fleet. (R-96-37)

RAR-96/04, *Collision of Washington Metropolitan Area Transit Authority Train T-111 with Standing Train at Shady Grove Passenger Station, Gaithersburg, Maryland, January 6, 1996* at 71 (adopted Oct. 29, 1996) (emphasis added). Here, the NTSB recommended WMATA undertake "evaluation" and "necessary modifications," not removal of the transit cars from service.

In the NTSB report on the collision of two WMATA transit cars at Woodley Park on November 3, 2004, the NTSB again did not recommend removal of the 1000-series transit cars

from service. Instead, the NTSB recommended to WMATA to:

Either accelerate retirement of Rohr-built railcars, or if those railcars are not retired but instead rehabilitated, then the Rohr-built passenger railcars should incorporate a retrofit of crashworthiness collision protection that is comparable to the 6000-series railcars. (R-06-2)

RAR 06/01, *Report on the Collision Between Two Washington Metropolitan Area Transit Authority Trains at the Woodley Park-Zoo/Adams Morgan Station in Washington, D.C. on November 3, 2004* at 52 (adopted March 23, 2006) (emphasis added). Notable in Woodley Park recommendation R-06-2, the NTSB provided WMATA options for compliance with the recommendation. The NTSB recommended WMATA *either* "accelerate retirement," as opposed to "discontinue use ... *as soon as possible*," or, optionally, retrofit the series-1000 to bring its crashworthiness up to that of the 6000-series transit cars.

The NTSB closed recommendation R-06-2 as Unacceptable Action when WMATA responded it did not intend to retrofit the 1000-series cars and would continue to use them due to lease obligations through 2014. See <https://data.nts.gov/carol-main-public/sr-details/R-06-002>. In contrast, Talgo, in addressing NTSB concerns with the Series VI safety straps, proposed addition of new straps to increase retention capability, already replaced all existing straps, and is now routinely inspecting and periodically replacing the straps. See Talgo Party Submission at 34; Talgo Petition for Reconsideration at 8–9.

The Shady Grove accident involved WMATA 3000-series cars. RAR 96/04 at 65. The 2004 Woodley Park accident involved both WMATA 1000-series and 4000-series cars. RAR 06/01 at 16. In the NTSB Woodley Park report the NTSB noted, "the original contract specifications for the 2000-, 3000-, and 4000-series cars show that the car collision posts have the same section modulus and yield stress material as the 1000-series cars, but the ultimate shear value was increased by 50 percent. No crashworthiness improvements were required in the recent rehabilitation of the 2000- and 3000-series cars." RAR 06/01 at 34. Also in the Woodley Park report, the NTSB copied a figure from the Shady Grove report and noted, "in that report, the figure was used to illustrate the underframe of a Breda Metrorail car. Here it represents the underframe of a typical Rohr Metrorail car in that the structural configuration is very similar." RAR 06/01, Figure 6 and accompanying text at 34. NTSB safety recommendation R-06-2 is to bring the 1000-series cars up to the safety of the WMATA 6000-series cars.

Only following another collision of WMATA 1000-series cars in 2009 at Fort Totten station, did the NTSB recommend to WMATA that it:

Remove all 1000-series railcars as soon as possible and replace them with cars that have crashworthiness collision protection at least comparable to the 6000-series railcars. (R-10-20)

RAR-10/02, *Collision of Two Washington Metropolitan Area Transit Authority Metrorail Trains Near Fort Totten Station, Washington D.C., June 22, 2009* at 127 (adopted July 27, 2010).

Thus unlike R-19-017 applicable to the Talgo Series VI trainsets, the NTSB first did not make recommendations related to 1000-series modifications, then recommended evaluation and

necessary modification of WMATA cars, then provided WMATA the option to retrofit the 1000-series transit cars. Only following its fourth investigation of WMATA transit cars, and after WMATA expressly declined to retrofit the 1000-series cars, did NTSB recommended removal of the 1000-series transit cars from service.

We would also point out that in addition to the differing NTSB safety recommendation history, the regulatory environments governing the WMATA transit cars and the Talgo Series VI railcars are distinguishable. The FTA oversight of the WMATA transit cars is vastly different from the detailed FRA regulations with which the Talgo Series VI railcars are required to comply, and with which our analysis demonstrates the Talgo Series VI cars do comply. The Talgo Series VI railcars are designed for use in mixed traffic on the general system of railroads regulated by FRA. The WMATA transit cars were not subject to any federal crashworthiness standards because WMATA is regulated by FTA, and FTA does not have congressional authority to issue such crashworthiness regulations. Instead, since 2012, FTA has managed a public transportation safety program to assist States in overseeing transit system safety, under which FTA may withhold funding from States. *See* 49 U.S.C. § 5329 (amended by Public Law 112–141 (JULY 6, 2012)); 49 C.F.R. § 659.7. FRA, on the other hand, promulgates and enforces detailed crashworthiness regulations. The Talgo Series VI complied with the previous standards, including a single grandfathered provision under an equivalency standard, and with the more recent provisions implemented six months before the DuPont final report was issued. Thus, in the case of the Talgo Series VI, we have a regulated vehicle in the passenger rail sector with a regulatory authority that has the power to regulate it, and has regulated it consistently. The NTSB had never previously sought to remove such vehicles from service even when other railcars involved in other accidents were found to not be in compliance with the FRA standards.

We hope this information helps you understand the differing NTSB recommendation history and regulatory compliance environments between the WMATA transit cars and the Talgo Series VI trainsets, and why Talgo perceives the NTSB recommendation for the Series VI to be unprecedented. Please do not hesitate to contact us if you have other questions or would like additional information.

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