

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 22-1 Notice No. 1]

Special Directive Under 49 U.S.C. § 5329 and 49 CFR Part 670

Required Actions to Close Corrective Actions from the Georgia Department of Transportation Allegations of Noncompliance Investigations of the Metropolitan Atlanta Rapid Transit Authority and Allegations of Conflict of Interest Claim with the Georgia Department of Transportation Commissioner

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

SUMMARY: The FTA issues Special Directive 22-1, Notice No. 1, to require the Georgia Department of Transportation (GDOT) to address required actions, Corrective Actions, and concerns identified through allegations of noncompliance brought to GDOT and FTA regarding the Metropolitan Atlanta Rapid Transit Authority's (MARTA) implementation of its Public Transportation Agency Safety Plan and GDOT's oversight capabilities. This Special Directive mandates that GDOT: (1) Ensure that MARTA completes the Corrective Actions associated with findings identified in GDOT's May 21, 2021, Allegations of Noncompliance Investigation Report of MARTA; (2) complete the two September 2021, Allegations of Noncompliance Investigations of MARTA, issue reports, and complete any Corrective Actions associated with findings; and (3) conduct an assessment of GDOT and MARTA policies and procedures and provide evidence that the GDOT Commissioner's position as an ex officio member of MARTA's Board of Directors and Operations and Safety Committee has not posed—and will not pose—a conflict of interest affecting GDOT's safety oversight of MARTA. These actions should be completed within 180 days of the issuance of this directive.

FOR FURTHER INFORMATION, CONTACT: For program matters, Dr. Melonie Barrington, Director, FTA Office of Safety Review, telephone (202) 366-0332 or Melonie.Barrington@dot.gov; for legal matters, Richard Wong, Attorney Advisor, FTA, telephone (202) 366-0675 or Richard.Wong@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Safety is a top priority in DOT and at FTA. The safety of public transportation passengers and workers is central to FTA's mission. Since 2019, the Office of Transit Safety and Oversight (TSO) has had compliance and safety concerns about, and has provided extensive Routine and Enhanced Monitoring of, GDOT's oversight of MARTA.

On May 21, 2020, in accordance with 49 CFR § 674.27(c), GDOT launched an Allegations of Noncompliance Investigation of MARTA based on an anonymous complaint. The complaint outlined 11 allegations. On September 23, 2020, another complaint was made containing an additional 13 allegations. GDOT requested and met with FTA on November 6, 2020, to share

what it called “Urgent Safety Concerns” it uncovered during its investigation of the two complaints. These Urgent Safety Concerns included, “violations of Federal safety rules, violations of State safety requirements, violations of MARTA safety policies, violations of MARTA’s Safety Plan and SOPs, and gross safety negligence.” Chief among these concerns were the qualifications of MARTA safety leadership and allegations that MARTA retaliated against employees and operated with an unapproved Public Transportation Agency Safety Plan.

On February 5, 2021, GDOT issued its Allegations of Noncompliance Draft Investigation Report of MARTA, followed by the final report issued on May 21, 2021, which substantiated GDOT’s Urgent Safety Concerns and included 11 Findings and specified 18 Corrective Actions. In accordance with 49 CFR § 674.37(a), GDOT directed MARTA to develop Corrective Action Plans (CAPs) to address the Corrective Actions. To date, 16 of the 18 Corrective Actions have not been completed.

On September 14 and 17, 2021, FTA received additional allegations of noncompliance from MARTA employees in similar areas previously substantiated and documented in GDOT’s May 21, 2021, final report. One complainant alleged being terminated for raising safety concerns, and the other alleged retaliation for doing the same. Both complainants expressed their lack of confidence in GDOT’s oversight of MARTA. In addition, one complainant expressed their concern that no actions have been taken against MARTA, suggesting that such action was because the GDOT Commissioner sits on the MARTA Board of Directors. On September 17, 2021, FTA notified GDOT of these allegations and directed GDOT to conduct an investigation, in accordance with 49 CFR § 674.27(c). The one complainant alleging retaliation contacted FTA on two other occasions, alleging escalating retaliation, and on a third occasion notified FTA of their termination.

GDOT’s inadequate oversight in these critical and required areas substantially weakens GDOT’s State Safety Oversight program and undermines its ability to ensure safety for the passengers and employees relying on MARTA.

DIRECTIVE AND REQUIRED ACTIONS:

In accordance with 49 U.S.C. § 5329, 49 CFR § 670.27, and the authority delegated to the FTA Administrator by the Secretary of Transportation, 49 CFR § 1.91, FTA directs GDOT to:

- (1) Ensure that MARTA completes the Corrective Actions associated with findings identified in GDOT’s May 21, 2021, Allegations of Noncompliance Investigation Report of MARTA;
- (2) Complete the two September 2021, Allegations of Noncompliance Investigations, issue reports, and complete any Corrective Actions associated with findings; and
- (3) Conduct an assessment of GDOT and MARTA policies and procedures and provide evidence that the GDOT Commissioner’s position as an ex officio member of MARTA’s Board of Directors and Operations and Safety Committee has not posed—and will not pose—a conflict of interest affecting GDOT’s safety oversight of MARTA.

A list of the findings and corrective actions from GDOT's May 21, 2021, Allegations of Noncompliance Investigation Report of MARTA is included at the end of this Special Directive. GDOT must direct MARTA to develop CAPs to address the open Corrective Actions and ensure they are completed. GDOT must also identify the specific activities it will perform to address the required actions specified in this Special Directive; the milestone schedule for completing the required actions; the responsible parties for the required actions and their contact information; and the verification strategy for ensuring the completion of required work.

FTA will review GDOT's processing of MARTA's CAPs until they are closed. FTA will monitor GDOT's progress in resolving each required action, including conducting progress meetings with GDOT, as needed.

Petition for Reconsideration

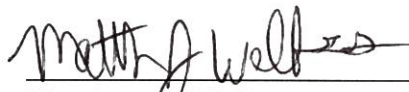
Within 30 days of the issuance of this Special Directive, GDOT may petition for special approval to take actions not in accordance with this Special Directive or may petition for reconsideration. Any such petition must be submitted in accordance with 49 CFR § 670.27.

In accordance with 49 CFR § 670.27(g), the FTA Administrator or his or her designee reviews and disposes of petitions for reconsideration. GDOT must transmit a petition to the Administrator via email through Dr. Melonie Barrington, Director, FTA Office of Safety Review, Melonie.Barrington@dot.gov.

Enforcement

A violation of this Special Directive or the terms of any written plan adopted pursuant to this directive may result in FTA taking additional enforcement action pursuant to 49 U.S.C. § 5329.

Issued on: April 5, 2022



Matthew J. Welbes

Executive Director

Allegations of Noncompliance Final Investigation Report of MARTA Findings and Corrective Actions

Item	Finding	Corrective Actions	Status
1.	<p>GDOT substantiated that, as it pertains to the investigation of non-compliance to the Agency Safety Plan, an allegation within the scope of GDOT’s authority, there were instances of non-compliance with the adopted System Safety Program Plan (SSPP)/Public Transportation Agency Safety Plan (PTASP), Anti- Retaliation Policy, and subordinate policies and procedures.</p>	<p>1.) MARTA must ensure it assigns individuals with the appropriate technical qualifications, experience, and training in these systems, facilities, infrastructure, operation and maintenance of both streetcar and heavy rail systems as well as rail system safety and emergency management to assure the roles and responsibilities of the AGM of DSQA, Director of Safety, and Manager of Safety are appropriately carried out in compliance with their Agency Safety Plan. These individuals must have the necessary authority and resources to carry out the rail safety responsibilities of the Department of Safety and Quality Assurance and to effectively comply to the requirements of the federal safety rules, Program Standard, and Agency Safety Plan.</p>	Open
		<p>2.) MARTA must void or revise the Confidentiality Agreement to ensure that it does not prohibit, discourage, or otherwise impact employees reporting safety conditions, protections for employees who report safety conditions to senior management, or the ability of employees to carry out the requirements of 49 CFR Part 673, the PTASP, and supporting policies, plans, and procedures.</p>	Closed
2.	<p>GDOT substantiated that MARTA has deviated from its established procedures for Accident/Incident Investigation, Emergency Removal and Restoration of Third Rail Power, and Person Hit by Train. Although MARTA has adopted the National Incident Management System as its framework for emergency response, since February 2020</p>	<p>1.) MARTA must develop and implement a process that ensures compliance with its existing Agency Safety Plan, policies and procedures that provide for Safety Operational Officers to have timely and consistent access to the scene of safety events on the rail system to perform their prescribed safety</p>	Open

	<p>MARTA DSQA leadership has instructed Safety Operational Officers not to respond to certain incidents, preventing them from having timely and consistent access to the scene of safety events to perform their prescribed safety duties, including those events involving fatalities on the rail system.</p>	<p>duties, with particular emphasis on events that meet the notification, investigation, and reporting thresholds of the Program Standard. The process must reinforce the role of the Safety Operational Officer as part of command staff in the National Incident Management System, MARTA's framework for emergency response.</p>	
		<p>2.) In concert with its rail operations and maintenance counterparts, MARTA should conduct a comprehensive review and refresher training of its emergency response procedures to ensure clarity, buy-in and adherence to the safety-critical roles and responsibilities of the Safety Operational Officer at rail safety events.</p>	<p>Open</p>
<p>3.</p>	<p>GDOT substantiated that MARTA station emergency lighting checks are not being overseen by the MARTA Safety function.</p>	<p>1.) MARTA must perform a Safety Management Inspection of the station emergency lighting systems within each of its 38 rail stations, and where failures or deficiencies are found, MARTA must take all needed actions in accordance with requirements of the PTASP and its Hazard Management Plan. Upon completion of the required activities, MARTA must provide GDOT with documented evidence of activities including emergency lighting system design requirements and specifications, inspection procedure and personnel, inspection schedule, pass/fail criteria, and the completed inspection reports for the station emergency lighting systems. Where failures or deficiencies are found, MARTA must submit evidence of repair or an action plan and schedule to bring the failed equipment into compliance. For long term corrective maintenance actions and consistent with the safety risk management process, MARTA must develop a workaround to mitigate the safety hazards associated with limited or failed emergency lighting systems for its rail stations.</p>	<p>Open</p>

<p>4.</p>	<p>GDOT substantiated that MARTA DSQA management directed Safety Operational Officers to stop assisting the Fire/Life Safety Engineer with scheduled emergency evacuation drills.</p> <p>Despite the requirement that plans with safety implications be submitted to GDOT for review and be incorporated into the PTASP, neither the Fire Life Safety Plan nor the Fire Life Safety Program Plan are described or incorporated by reference within the PTASP. MARTA did not transmit the Headquarters Evacuation Plan or Customer and Staff Evacuation Plans, nor are these plans referenced within the PTASP. Without GDOT review and approval of these plans, and without incorporation into the PTASP, MARTA's PTASP is not in compliance with the requirements of 673.11.</p>	<p>1.) MARTA should engage a qualified and experienced independent third-party professional services contractor to perform a comprehensive analysis of rail system safety at MARTA. The scope of the analysis must include an assessment of the resources required to fulfill the fire/life safety engineering, inspection, and evacuation duties and responsibilities for the MARTA rail system, and submit a copy of the current Fire Life Safety Plan, and Fire Life Safety Program Plan to GDOT for compliance review and approval.</p>	<p>Open</p>
<p>5.</p>	<p>Safety Operational Officers have not been consistently attending the Project Initiation Meeting.</p>	<p>1.) MARTA must review and update its Track Allocation and related procedures, to ensure the required attendees at its weekly and daily decision-making and coordination meetings are specified and include the active representation of MARTA Rail Accident Investigators, while assuring continued adherence to the corrective actions established following the NTSBs investigation of the April 2000 fatality event.</p>	<p>Open</p>
<p>6.</p>	<p>GDOT substantiated that MARTA DSQA has not demonstrated effective implementation of safety assurance and performance monitoring activities, identified by a special task force established following the Medical Center Station fatality on June 3, 2018, to prevent the recurrence of the accident.</p>	<p>1.) MARTA must review its accident investigation final report for the June 3, 2018, Medical Center fatality and the findings of the accident task force and develop specific and measurable performance improvement and monitoring strategies that should be undertaken by DSQA personnel, including Safety Operational Officers. At a minimum, strategies should include increased Rail Operator ride checks, unannounced safety inspections and safety audits for rail maintenance work zones by Safety Operational Officers, and participation at safety toolbox meetings.</p>	<p>Open</p>

		<p>2.) MARTA must develop and implement a safety assurance and performance monitoring plan that meets the requirements of the Program Standard for the June 3, 2018, Medical Center fatality, including a schedule and activities for monitoring the effectiveness of the wayside access refresher training for all badge levels, OTE refresher training, shunts on all OTEs, and Wayside Access Procedure.</p>	Open
7.	<p>GDOT substantiated that MARTA Rail Car Maintenance removed a protective safety device from married pairs of heavy rail vehicles that was designed to prevent trip and fall hazards. While the potential hazard was assessed, MARTA DSQA management did not communicate the outcomes of the hazard risk assessment to the Safety Operational Officers who raised concerns about the potential effect of this change to safety-critical equipment. The lack of safety employee feedback on reported safety risks is inconsistent with the tenets of a Safety Management System, and MARTA's System Safety Program Plan (SSPP) in effect at the time, the Agency Safety Plan, Hazard Management Plan, and employee reporting process. The risk assessment itself, while a thorough engineering analysis at the departmental level, did not conform to the hazard risk assessment and acceptance process defined in MARTA's Hazard Management Plan and required by the Program Standard</p>	<p>1.) MARTA must develop and submit compliant documentation of a hazard analysis for the removal of the tread plates from the CQ310 rail car fleet in accordance with its PTASP and Hazard Management Plan, including but not limited to hazards associated with patron and employee slips and falls between railcars and those hazards related to derailment. MARTA must ensure the hazard analysis is coordinated with all affected internal and external stakeholders, including GDOT. Based on the outcomes of the hazard risk assessment process, MARTA must demonstrate and document the hazard risk acceptance process in accordance with documents that govern MARTA's System Modification and Hazard Management processes.</p>	Open
8.	<p>GDOT substantiated that the MARTA Alertness Assurance Policy was violated by Safety Operational Officers with full awareness and at the direction of the management of DSQA.</p>	<p>1.) MARTA must amend its Alertness Assurance Policy or associated Standard Operating Procedures (SOP(s)) to include scheduling, deployment and management oversight of the Safety Operational Officers when on-call and required to respond to safety events on the rail system. The policy/SOP amendment should include a compliance and performance monitoring process for Safety Operational Officers' hours of duty that can be independently verified</p>	Open

		through an Authority-wide management information system, such as payroll.	
		2.) MARTA must ensure its staffing structure and schedule complies with the MARTA Alertness Assurance Policy under all known working conditions and emergency response scenarios. When amending the Policy/SOP(s), MARTA must ensure consultation with key stakeholders within DSQA and its operations and maintenance partners.	Open
9.	GDOT substantiated that the current Manager of Safety directed a Safety Operational Officer to complete an accident investigation final report of a fire event without obtaining the necessary documentation from departments involved.	1.) MARTA must develop a process that provides written verification that the required steps of the MARTA accident investigation procedure have been fulfilled at each appropriate stage of the investigation by the assigned Safety Operational Officer prior to submittal to GDOT. Ensure the written verification is auditable and readily accessible to GDOT; and, maintain the written verification, i.e. form, checklist, as part of the overall accident investigation file according to its retention policies for Safety Management System documents.	Open
10.	GDOT substantiated that MARTA Safety Operational Officers are being directed by current DSQA management to respond to active stabbings and shootings on the rail system without the requisite law enforcement and security training, equipment, authority, or responsibility for such events.	1.) MARTA must rescind or revise General Order 19-01 and General Order 19-02 such that it is consistent and compliant rail safety event definitions and thresholds outlined in the federal rules, Program Standard, MARTA PTASP and MARTA Accident/Incident Investigation SOP.	Closed
		2.) MARTA must revise the Accident/Incident Investigation Procedure to answer critical questions related to when and how it is safe and appropriate for Safety Operational Officers to respond to the scene of an event on the MARTA rail system involving terrorism, security threats and other criminal activity while at the same time fulfilling their non-criminal or non-security role in the accident, including ensuring the safety of MARTA rail and emergency response personnel on the	Open

		wayside, safe movement of rail vehicles, and adherence to procedures that involve third rail power removal and restoration, or other activities that are safety-critical and if not performed properly have the potential to result in serious injuries, property damage, or loss of system.	
11.	The current management of DSQA did not effectively respond to Safety Operational Officers when they sought clarification on the MARTA policies and standards.	<p>1.) MARTA must engage a qualified and experienced independent third-party professional services contractor to perform a comprehensive analysis of rail system safety at MARTA. The scope of the analysis must include a review of rail safety accidents and hazards on the streetcar and heavy rail system over the last five years; a detailed assessment of the rail safety event notification, investigation, reporting, corrective action, safety assurance and performance monitoring process; an assessment of the resources required to fulfill the fire/life safety engineering, inspection, and evacuation duties and responsibilities for the MARTA rail system; and broad analysis of the current state of the safety culture, and effectiveness of the policies, procedures, and practices that support the MARTA Agency Safety Plan. MARTA must also ensure the scope of the analysis involves a comparison of MARTA's practices to national best practices, including interface with the State Safety Oversight Agency.</p>	Open
		<p>2.) MARTA must develop a formal Rail Safety Investigator Certification Program specific to the MARTA rail system, facilities, vehicles, equipment, and procedures. MARTA must provide the certification training to Safety Operational Officers as a pre-requisite to the performance of rail safety event investigations. MARTA must ensure the following requirements are addressed in the certification program: Classroom Instruction, Field Observations, Written</p>	Open

		Course Evaluations, On-The-Job Training, and Certification Requirements.	
		3.) MARTA must demonstrate that the individuals in leadership positions responsible for the day-to-day oversight and management of the Safety Operational Officers, namely the AGM of DSQA, Director of Safety, and Manager of Safety currently have the necessary rail and safety competencies, credentials, and experience included in the Rail Safety Investigator Certification Program at the time of its development and implementation.	Open