

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Special Directive No. 18 -1

Special Directive Under 49 U.S.C. § 5329 and 49 C.F.R. Part 670 Required Actions to Address Findings from the Federal Transit Administration State Safety Oversight Audit at the New York State Department of Transportation, Public Transportation Safety Board

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

SUMMARY: The FTA issues Special Directive 18-1 to require the New York State Department of Transportation (NYSDOT), Public Transportation Safety Board (PTSB) to address safety findings identified through FTA's 2017 Triennial Audit of its State Safety Oversight (SSO) Program. This Special Directive mandates that PTSB: (1) submit Corrective Action Plans (CAPs) to FTA that address findings from FTA's 2017 Triennial Audit and obtain FTA approval of the CAPs within 60 days of the issuance of this directive, and (2) conduct an independent triennial audit of the Metropolitan Transportation Authority's (MTA) New York City Transit (NYCT) and Niagara Frontier Transportation Authority (NFTA) rail transit systems within 180 days of the issuance of this directive.

FOR FURTHER INFORMATION, CONTACT: For program matters, Patrick Nemons, Acting Director, FTA Office of Safety Review, telephone (202) 366-4986 or Patrick.Nemons@dot.gov; for legal matters, Candace Key, Attorney Advisor, FTA, telephone (202) 366-9178 or Candace.Key@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

On January 10-11, 2017, the FTA conducted a Triennial Audit of the PTSB's SSO Program. The review identified reoccurring findings reflected in multiple prior FTA SSO Triennial Audits regarding PTSB's compliance with the requirements for state safety oversight at 49 C.F.R. part 659, including NYSDOT's failure to provide adequate resources for PTSB's SSO Program. In the audit report issued today, FTA found that, due in large part to NYSDOT's failure to direct sufficient funding to PTSB and the SSO Program, the PTSB must:

- Conduct the mandatory, independent three-year review of NYCT's and NFTA's implementation of their System Safety Program Plan (SSPP) and Security and Emergency Preparedness Plan (SEPP);
- Ensure that internal safety and security reviews conducted by NYCT and NFTA address all required elements;
- Actively monitor and investigate hazards reported to them by NYCT and NFTA; and
- Verify implementation of CAPs developed by NYCT and NFTA.

In all, FTA identified 11 findings regarding PTSB's SSO Program, including three (3) findings that remain open from the FTA's 2013 SSO Triennial Audits and three (3) reoccurring findings from other prior FTA SSO Triennial Audits.

The PTSB's inadequate oversight in these critical and required areas weakens New York's SSO Program and reduces its ability to ensure the safety of NYCT's and NFTA's passengers and employees. Despite funding provided by FTA to address these efforts, NYSDOT has drawn down only a fraction of the approximately \$11.8 million in State Safety Oversight formula grant funds that FTA has apportioned to NYSDOT since Federal fiscal year 2013.

DIRECTIVE AND REQUIRED ACTIONS:

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

- (1) Submit CAPs to FTA that address all FTA 2017 SSO Program Triennial Audit findings and obtain FTA approval of the CAPs within 60 days of the issuance of this directive, and
- (2) Conduct an independent triennial audit of NYCT and NFTA within 180 days of the issuance of this directive.

A list of each required action along with an individual tracking number is included at the end of this Special Directive. The CAPs must identify the specific activities that PTSB will perform to address the actions required under 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.

The FTA will review PTSB's CAPs and may require revisions before approving the submissions. FTA will monitor PTSB's progress in resolving each finding and required actions, including conducting progress meetings with PTSB, as needed.

Petition for Reconsideration

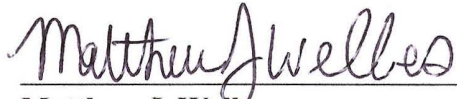
Within 30 days of the issuance of this Special Directive, PTSB may petition for special approval to take actions not in accordance with this Special Directive or may petition for reconsideration. Any such petition must be submitted in accordance with 49 C.F.R. § 670.27.

In accordance with 49 C.F.R. § 670.27(g), the FTA Administrator or his or her designee reviews and disposes of petitions for reconsideration. PTSB must transmit a petition to the Acting Administrator via email through Patrick Nemons, Acting Director, Office of Safety Review, Patrick.Nemons@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 withholding up to 5% of the State of New York's section 5307 Urbanized Area Formula Funds pursuant to 49 U.S.C. § 5330(b) and 49 C.F.R. § 659.7(a)(2).

Issued on: November 2, 2017



Matthew J. Welbes

Acting Deputy Administrator
Federal Transit Administration
U.S. Department of Transportation

PTSB Triennial Audit Findings	
FTA Finding	FTA Required Action
Finding 1 While the PTSB provided a staffing analysis demonstrating the need for 10 full-time equivalents to meet Part 659 oversight requirements, it has averaged less than three full-time equivalents dedicated to its oversight program for the last four years.	FTA-18-001 The PTSB must ensure that its resources are sufficient to support the SSO Program requirements, practices, and procedures.
Finding 2 Neither the SSPP nor the P.I. 10.28.1 specifies that NYCT must notify PTSB of these incidents within 24 hours of identification.	FTA-18-002 The PTSB must demonstrate compliance with its process to assess and monitor contractor compliance with drug and alcohol testing policies for safety sensitive personnel.
Finding 3 The NYCT near miss program logged at least a dozen near miss incidents with roadway workers during 2015. However, PTSB did not review NYCT's actions related to this trend nor conduct a separate investigation of a trend in hazards related to roadway workers.	FTA-18-003 The PTSB must ensure that unacceptable hazards are reported, investigated, and tracked to resolution.
Finding 4 The 2015 PTSB annual report shows that NYCT did not report 30 of the 191 total accidents within two hours, and NFTA did not report one of three accidents within two hours.	FTA-18-004 The PTSB must ensure that rail transit agencies (RTAs) notify and submit investigation reports for all accidents meeting 49 C.F.R. Part 659 thresholds.
Finding 5 The NFTA's Rail Accident Investigation Standard Operating Guideline does not include causal and contributing factors and corrective actions. NFTA accident investigation reports submitted to PTSB do not include all requirements specified in the PTSB Program Standard and NFTA's standard operating guidelines.	FTA-18-005 The PTSB must ensure that all information is included in NFTA's accident investigation procedure and reports, such as video review evidence and accident causal and contributory factors.

Finding 6	The PTSB is not in compliance with its own PTSB Program Standard for CAP approval.	FTA-18-006	The PTSB must formally review and approve of Corrective Action Plans (CAPs) as required by the Program Standard.
Finding 7	The PTSB does not regularly conduct the independent verification of NYCT CAPs that the PTSB Program Standard specifies.	FTA-18-007	The PTSB must consistently verify CAP implementation.
Finding 8	The NYCT Roadway Worker Protection (RWP) corrective actions are discussed at the Track Safety Task Force Committee meetings, but PTSB does not participate in NYCT's Track Safety Task Force Committee, and not all the RWP corrective actions were tracked in the PTSB CAP log.	FTA-18-008	The PTSB must monitor and track CAP implementation activities.
Finding 9	The NYCT and NFTA did not conduct a review of all 21-safety elements during the three-year cycle.	FTA-18-009	The PTSB must ensure that the internal safety and security reviews address all necessary elements during the three-year cycle.
Finding 10	The PTSB's three-year review schedule does not address NYCT's SSPP elements 13, 14 and 15, nor does it address its security elements. The PTSB did not develop independent review checklists or comprehensive three-year safety and security reports for NYCT during 2015 or 2016. PTSB has not conducted its 2015 review of NFTA as required.	FTA-18-010	The PTSB must ensure that the three-year safety and security reviews are independent of the RTA internal reviews, and that all required safety and security elements have been consistently reviewed
Finding 11	The PTSB does not always report accurate accident information for the FTA annual SSO report.	FTA-18-011	The PTSB must report accurate accident information for the FTA annual SSO report.