



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

October 9, 2015

The Honorable Christopher A. Hart
Chairman
National Transportation Safety Board
490 L'Enfant Plaza East, SW
Washington, DC 20594

Dear Chairman Hart:

This correspondence is in response to Urgent Safety Recommendation R-15-31 and 32 issued by the National Transportation Safety Board (NTSB) on September 30, 2015. The NTSB issued these recommendations as part of its ongoing investigation of the smoke and arcing accident at the Washington Metropolitan Area Transit Authority (WMATA) Metrorail's L'Enfant Plaza station on January 12, 2015, as well as other events indicating inadequate safety oversight of WMATA.

We take every recommendation of the NTSB seriously, including how quickly we can implement an urgent recommendation. In this case, we agree on the problem identified by NTSB, but believe there is a faster, more effective way to address it.

NTSB is recommending that the U.S. Department of Transportation (DOT) seek a legislative change from Congress to transfer responsibility for oversight of WMATA's transit rail operations to the Federal Railroad Administration (FRA) from the Tri-State Oversight Committee (TOC), which is currently responsible for safety oversight of Metrorail, but lacks sufficient resources, technical capacity, and enforcement authority to provide the level of oversight that is needed. We agree that the TOC, as currently established, is ineffective. We disagree, however, that the best, most urgent and most effective solution is to transfer safety oversight of WMATA's rail transit system to the Federal Railroad Administration.

Through the Moving Ahead for Progress in the 21st Century Act (MAP-21) legislation, Congress provided the Federal Transit Administration (FTA) with greatly enhanced, independent safety oversight authority, which augments the enhanced authority of State Safety Oversight Agencies (SSOA), and if necessary, allows FTA to assume those same authorities in the absence of an effective SSO agency. FTA has the capability to assert this authority and, at my direction, will do so immediately.

This increased oversight means that FTA will now directly enforce and investigate the safety oversight of WMATA Metrorail until the District of Columbia, Maryland, and Virginia establish a fully functioning and capable SSOA. This expanded FTA enforcement effort will: include orders and directives pursuant to 49 U.S.C. § 5329(f) and (g); require WMATA to spend Federal funds to address safety deficiencies; and amend the Corrective Action Plan (CAP) to include previous TOC notices of deficiencies, the implementation of which will be overseen directly by FTA with assistance from the TOC.

The FTA investigation efforts will include unannounced facility inspections and issuance of directives as necessary to address safety deficiencies. The FTA will also coordinate a robust level of funding from existing resources to carry out enhanced oversight.

The FTA will maintain this higher level of oversight until a compliant and capable SSOA is established to replace the TOC. WMATA must also immediately hire a capable General Manager who is able to correct the course at the transit agency and aggressively manage the implementation of the Corrective Action Plan, which has been approved by the FTA. The urgency of having accountable leadership at the helm of WMATA cannot be overstated. Daily operations of WMATA will continue to be run by WMATA and must be responsive to the FTA as it assumes direct leadership of safety oversight from the TOC. We believe this approach accomplishes the same goals as the NTSB's urgent recommendations, albeit with greater speed and within the responsible agency.

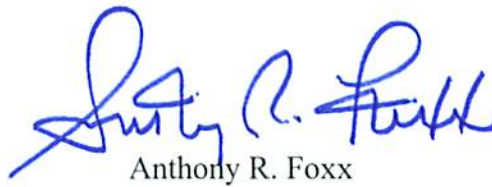
The FTA has already taken many direct oversight actions this year, as can be seen on the FTA website at <http://www.fta.dot.gov/>, and this would continue and intensify that effort. The FTA recently conducted a comprehensive safety management inspection of WMATA Metrorail and Metrobus that made 54 safety findings, including 44 related to Metrorail. As a result, FTA issued a Safety Directive outlining 91 required actions that WMATA must take to improve safety, including 78 specifically for Metrorail. FTA approved last month and is now actively tracking and monitoring the implementation of the CAP that WMATA developed to address these issues. The FTA also audited the TOC and came to many of the same conclusions as the NTSB did about its shortcomings.

By contrast, the NTSB recommendation shifts oversight from one agency to another one, creating confusion and a greater risk of slowing down improvements. More practically, WMATA does not have an understanding or familiarity with FRA regulations, and separating their rail and bus oversight into different regulatory structures would confuse and likely delay safety improvements. Because FTA has the authority under existing law, I am directing FTA to exert federal safety oversight over WMATA Metrorail and to use every reasonable aspect of its other authorities to address this situation.

Under the law, FTA can direct safety activities of the SSOAs as well as the transit agencies. To address the safety concerns of WMATA, FTA has already conducted a Safety Management Inspection and issued a Safety Directive requiring WMATA to take a series of corrective measures. The law provides grant funding to increase the resources available to carry out these new requirements, and a timeline by which they must be achieved.

Clearly, more needs to be done to ensure that there is sufficient safety oversight of WMATA until a MAP-21-compliant SSO regime is in place. The TOC has submitted a plan to achieve compliance, but it is not achievable in the short term. The approach we have outlined will allow for a ramping up of oversight of WMATA to a level consistent with what would be in place once a fully MAP-21-compliant SSOA is established. Therefore, it is essential that the District of Columbia, Maryland, and Virginia proceed with all due haste to establish a fully compliant SSOA. The DOT will engage with the State and Federal officials from the region to expedite the required steps to replace the TOC with a fully functioning, sufficiently resourced SSO organization. Until a fully capable SSO is in place, the FTA will lead all oversight, inspection, and enforcement activities over WMATA.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony R. Foxx". The signature is fluid and cursive, with the first name being the most prominent part.

Anthony R. Foxx