



April 28, 2015

Docket Management Facility
U.S. Department of Transportation,
1200 New Jersey Avenue S.E., W12-140
Washington, DC 20590-0001

RE: Docket No. FTA-2015-0003

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments to the Federal Transit Administration (FTA) Notice of Proposed Rulemaking, and Request for Comments on State Safety Oversight (SSO), published February 27, 2015 at 80 FR 11002.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

The draft rule would create a logjam of investigations

Assuming SSO personnel have the appropriate skill sets to not only conduct required safety audits but also to investigate accidents and incidents, requiring SSOs lead all accident and incident investigations would likely overwhelm most states' capacity and resources. The sheer number of incidents would be likely to delay agencies' return to service and delay corrective action, contrary to the intent of the program. This delay would occur because SSOs are responsible for drafting corrective action plans (draft section 674.35(b)) and agencies may not implement corrective actions without SSO approval.

To avoid overtaxing and diluting the effectiveness of SSOs, and to ensure corrective actions are promptly implemented, we recommend allowing SSOs to establish thresholds under which agencies would conduct their own investigations and design and implement corrective actions, with SSOs reviewing those activities retrospectively.

*Executive Committee
Chair
Phillip A. Washington*

*Vice Chair
Valarie J. McCall*

*Secretary-Treasurer
Doran J. Barnes*

*Immediate Past Chair
Peter Varga*

*Members-at-Large
Michael A. Allegra
Christopher P. Boylan
Nathaniel P. Ford Sr.
Huelon A. Harrison
Angela Iannuzziello
Paul C. Jablonski
Jeanne Krieg
Donna P. McNamee
Rosa Navejar
Keith T. Parker
Thomas F. Prendergast
Michael A. Sanders
Patrick J. Scully
Carl G. Sedoryk*

*President & CEO
Michael P. Melaniphy*

The definition and reporting of serious injuries should be amended

The proposed definition of a serious injury is unnecessarily broad, encompassing all manner of simple fractures without regard to the causes of any injury. The draft would require the same reporting immediacy for a simple fractured wrist as a fatal accident. Moreover, the draft would not differentiate among that fractured wrist, a fatality suffered in an accident, and a suicide where there is no indication of negligence on the part of the agency. Finally, the proposed broad definition of serious injury further taxes SSO capacity, since the draft requires SSOs investigate all accidents and any serious injury amounts to an accident.

The definition of serious injury should be limited, and reporting relaxed for all but the most serious injuries.

The compliance clock should be delayed

Publication of a final rule will trigger a three-year transition period. SSOs will be able to do little to prepare for that transition in the absence of final rules pertaining to agency safety plans, which have not yet been released for public comment. The transition period will be artificially shortened in this scenario.

FTA should delay its final rule to coincide with other safety regulations and avoid shortening the compliance period.

FTA should clarify next steps should an agency disagree with an SSO's determinations

The draft regulation allows for an agency to dissent from a final incident or accident report but provides only that an SSO may include that dissent in its report to FTA. Agencies require a realistic method of contesting perceived incorrect findings or conclusions, and a means to settle those differences. Safety is not always clear and objective and SSOs will not necessarily have superior experience, knowledge, or analysis.

We appreciate the opportunity to assist FTA in this important endeavor. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,



Michael P. Melaniphy
President & CEO