

NOTICE OF ENFORCEMENT DISCRETION
PUBLIC TRANSPORTATION AGENCY SAFETY PLAN REGULATION
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

On July 19, 2018, the Federal Transit Administration (FTA) published the Public Transportation Agency Safety Plan (PTASP) regulation, 49 CFR Part 673, as required by 49 U.S.C. § 5329(d). The effective date of the regulation was July 19, 2019. The PTASP regulation implements a risk-based Safety Management System approach and requires recipients or subrecipients of financial assistance under FTA's Urbanized Area Formula Program (49 U.S.C. § 5307)¹ and rail transit agencies to establish and certify that they have an Agency Safety Plan in place that meets statutory requirements no later than July 20, 2020, as required by 49 U.S.C. § 5329(d)(1).

On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency under section 319 of the Public Health Service Act², and on March 13, 2020, the President issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease 2019 (COVID-19). During the COVID-19 public health emergency, transit agencies are providing essential transportation services. While ridership has fallen drastically during this emergency, transit agencies across the country are continuing to provide millions of trips a day to lifeline services and carry healthcare and other essential workers to critical jobs. Accordingly, Federal guidance³ includes transit workers on an advisory list of essential critical infrastructure workers.

In recognition of the extraordinary operational challenges that the COVID-19 public health emergency presents for transit agencies, FTA published a Notice of Enforcement Discretion on April 22, 2020. The Notice conveys that until after December 31, 2020, FTA will refrain from taking enforcement action if FTA recipients and subrecipients are unable to certify that they have established a compliant Agency Safety Plan.

FTA acknowledges that transit agencies continue to experience substantial operational challenges due to the COVID-19 public health emergency, including reduced or suspended service, and reduced ridership and financial resources. COVID-19 case numbers are high or rising across the Nation, resulting in a foreseeable continuing need for transit providers to focus resources to address the COVID-19 public health emergency. FTA recognizes that these challenges seriously impact the ability of many transit agencies to meet the compliance and

¹ FTA has deferred applicability of the PTASP regulation to recipients and subrecipients that only receive funding under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Formula program (5310) and the Rural Area Formula program (5311). In addition, the PTASP regulation does not apply to recipients and subrecipients that are subject to the safety jurisdiction of another Federal agency, including commuter rail operators and ferry operators. Accordingly, the aforementioned recipients and subrecipients were not required to comply with the PTASP regulation by July 20, 2020.

² The Secretary of Health and Human Services renewed the public health emergency determination on April 21, 2020; July 23, 2020; and October 2, 2020.

³ Cybersecurity and Infrastructure Security Agency, Advisory Memorandum on Ensuring Essential Critical Infrastructure Workers Ability to Work During the COVID-19 Response.
<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>.

certification requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673 by December 31, 2020. This Notice is to advise FTA recipients and subrecipients subject to the PTASP regulation that FTA will refrain from taking enforcement action pursuant to 49 U.S.C. § 5329(g) and the FTA Master Agreement (26) (October 1, 2019) until July 21, 2021, if those FTA recipients and subrecipients are unable to certify that they have established a compliant Agency Safety Plan.

This Notice supersedes FTA's Notice of Enforcement Discretion dated April 22, 2020, and will remain in effect through July 20, 2021. Notwithstanding this Notice's exercise of enforcement discretion, FTA expects affected recipients and subrecipients to continue to work toward meeting the PTASP compliance and certification requirements as soon as reasonably practicable under the current circumstances caused by the COVID-19 public health emergency. FTA expects recipients and subrecipients to certify promptly and without delay after establishing a compliant Agency Safety Plan.

This document is a temporary notice of enforcement discretion. Regulated entities may rely on this notice as a safeguard from departmental enforcement as described herein. To the extent this notice includes guidance on how regulated entities may comply with existing regulations, it does not have the force and effect of law and is not meant to bind the regulated entities in any way.
Issued

December 11, 2020, in Washington D.C.

A handwritten signature in black ink, appearing to read "K. Jane Williams", written over a horizontal line.

K. Jane Williams
Deputy Administrator
Federal Transit Administration