UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Special Directive No. 18-1

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) recurring 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
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<th>PTSB Triennial Audit Findings</th>
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<tr>
<td><strong>FTA Finding</strong></td>
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<td><strong>Finding 1</strong> 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.</td>
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<td><strong>Finding 2</strong> Neither the SSPP nor the P.I. 10.28.1 specifies that NYCT must notify PTSB of these incidents within 24 hours of identification.</td>
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<td><strong>Finding 3</strong> 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.</td>
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<td><strong>Finding 4</strong> 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.</td>
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<td><strong>Finding 5</strong> 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.</td>
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<td>Finding 6</td>
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