

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 22-6, Notice No. 1]

Special Directive Under 49 U.S.C. § 5329 and 49 CFR Part 670

Required Actions to Address Findings from Federal Transit Administration Safety Management Inspection Conducted at the Massachusetts Bay Transportation Authority Related to the Operations Control Center

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

SUMMARY: FTA issues Special Directive 22-6 to require the Massachusetts Bay Transportation Authority (MBTA) to address ongoing safety concerns at MBTA and interim findings from FTA’s Safety Management Inspection (SMI) that was initiated in April 2022. This Special Directive mandates that MBTA take seven required actions within its system to address the pattern of safety incidents and interim safety findings related to actions within the Operations Control Center (OCC) at MBTA.

FOR FURTHER INFORMATION CONTACT: For program matters, Mr. Joseph DeLorenzo, Associate Administrator for Transit Safety and Oversight and Chief Safety Officer, telephone (202)-366-1783 or joseph.delorenzo@dot.gov; for legal matters, Ms. Emily Jessup, Attorney Advisor, FTA, telephone 202-366-8907 or emily.jessup@dot.gov.

SUPPLEMENTARY INFORMATION:

MBTA is a division of the Massachusetts Department of Transportation (MassDOT), providing heavy rail (subway), light rail bus, commuter rail, ferry, and paratransit service to eastern Massachusetts and parts of Rhode Island. While MBTA has recently embarked on a significant program of capital improvements, the agency faces systemic challenges in maintaining its aging infrastructure in a state of good repair and managing the ongoing operations of its complex equipment and systems. These challenges require greater focus, assessment, and resource prioritization, at all levels of the organization, to ensure that the system remains safe for both passengers and workers. Under FTA’s State Safety Oversight Rule, the Massachusetts Department of Public Utilities (DPU) was certified in 2018 as the State Safety Oversight Agency charged with providing Federally required safety oversight of the MBTA rail transit system.

In response to MBTA’s continued safety challenges, FTA decided in April 2022 to conduct a Safety Management Inspection (SMI) of MBTA. This Special Directive is based on the MBTA’s ongoing safety issues and on the interim findings of FTA’s SMI, which began in April 2022 and is still in progress. FTA is issuing this Special Directive while the SMI remains in progress because the SMI has revealed several serious safety issues that warrant immediate corrective action.

The Operations Control Center (OCC) at the MBTA houses the dispatchers, supervisors, and managers who coordinate all train movements throughout the system. Through review of recent safety events, in-depth interviews, site visits and observations of the Operations Control Center (OCC), and document and data reviews, FTA finds that MBTA's OCC is not meeting its own requirements to ensure that OCC dispatchers and supervisors are adequately trained and certified. Through April 29, 2022, MBTA records showed that 13 of 16 heavy rail dispatchers and six of 11 OCC supervisors had not completed biennial right of way (ROW) safety recertification. In addition, four of 14 dispatchers for the Green Line had not completed annual recertification for their dispatch duties.

FTA also finds that the OCC is not appropriately staffed. Records through April 29, 2022 also show the OCC has four heavy rail dispatcher vacancies (out of 18 positions) and two supervisor vacancies (out of 11) from fiscal year 2022 budgeted positions and is down six total heavy rail dispatchers from OCC personnel requests (out of 20). The OCC does not have a dedicated trainer, and supervisors and OCC's management team fill many roles, including covering dispatcher shifts and providing training.

This lack of staffing creates challenges for OCC management and contributes to unpredictable and extended work schedules for dispatchers, supervisors, and members of OCC's management team. MBTA's hours of service requirements, which allow dispatchers and supervisors to work up to 20 hours on with only four hours off, corroborated by recent safety concerns reported by employees regarding mandated overtime in the OCC, do not ensure that OCC dispatchers and supervisors are properly rested. As noted above, staffing shortages exacerbate challenges in the OCC, particularly for heavy rail dispatchers, who must regularly work 16-hour and occasionally 20-hour shifts to ensure coverage.

Taken together, MBTA has created a management process whereby OCC staff members are required to work without certifications, in a fatigued state, and often fulfilling multiple roles at once. MBTA's failure to ensure that personnel within the Operations Control Center (OCC), including train and power dispatchers, are trained and certified, properly rested, and concentrating on one role at a time is a significant safety risk—one that is compounded by inadequate procedures. These circumstances create an increased safety risk for trains, equipment, personnel and property. While FTA is mindful that these practices are the product of systemic staffing shortages, MBTA must nevertheless fulfill its duty to operate the OCC and the system safely.

This Special Directive identifies seven required actions that MBTA must take to ensure OCC personnel are trained and certified to perform their job function, are provided the opportunity for proper rest between shifts, and are not required to fulfill multiple roles within one shift. FTA and DPU will oversee MBTA's implementation of these safety-critical required actions.

As MBTA works to improve the quality of its MOW programs, the findings and required actions outlined in this Special Directive will assist the agency in focusing its attention on

safety-critical priorities as it addresses these immediate concerns.

Additionally, FTA will work with DPU and MBTA to review and revise all pre-existing corrective action plans as appropriate to ensure that MBTA continues to make timely progress towards building and maintaining a robust safety culture within the agency.

DIRECTIVE AND REQUIRED ACTIONS:

In accordance with 49 U.S.C. § 5329 and 49 CFR Part 670, FTA directs MBTA to take the following actions:

Category 1: Immediate Actions Ensuring that Operations Control Staff are Recertified and Rested	
Finding	Required Actions
<p>Finding 1 MBTA does not ensure that OCC staff are recertified as indicated in training materials and required by 49 CFR § 673.29(a).</p>	<p>FTA-OCC-22-001 MBTA must ensure that staff working in the OCC, including dispatchers and supervisors, are certified.</p> <p>Specific Details: <u>Submittal #1:</u> MBTA must submit to FTA and DPU each week prior to the next week’s day’s service a detailed OCC revenue service schedule for each MBTA rail line. This document shall include employee number, line the employee is responsible for or supervising, length of shift in hours, most recent training and certification date, and number of hours between assigned shift and current shift. This form must be signed by the Director of Operations, the Chief of Safety, and the General Manager to verify that each OCC employee assigned to work a shift is certified to MBTA’s certification and retraining standards. This action is required beginning 48 hours after the issuance of this Directive and will be required each week for a minimum of six (6) weeks and until the MBTA satisfactorily demonstrates that schedules are made with certified personnel.</p>

	<p><u>Submittal #2:</u> MBTA must submit to FTA and DPU within 24 hours of each day's operations the "as performed" schedule. This action is required for a minimum of six (6) weeks following the initial schedule submission and will be required until MBTA satisfactorily demonstrates that substitutions are made with certified personnel.</p>
<p>Finding 2 MBTA does not ensure its OCC staff are given sufficient opportunity for recovery between shifts.</p>	<p>FTA-OCC-22-002</p> <p>MBTA must ensure OCC staff, including dispatchers, supervisors, and management working within the OCC, have sufficient time off to recover between shifts, consistent with MBTA hours of service policy for rail transit motorpersons.</p> <p>Specific Details:</p> <p><u>Submittal #1:</u> MBTA must submit to FTA and DPU each week prior to the next week's service a detailed staffing plan that validates appropriate duty periods and rest periods for OCC staff. This document shall include for each 24-hour period: employee number, line the employee is responsible dispatching/or supervising, length of shift in hours, most recent training and certification date, and number of hours between assigned shift and current shift. This form must be signed by the Director of Operations, the Chief of Safety, and the General Manager to verify that each employee assigned to work a shift within the OCC works a shift consistent with MBTA's hours of service policy for rail transit motorpersons. This action is required beginning 48 hours after the issuance of this Directive and will be required each week for a minimum of six (6) weeks and until the MBTA satisfactorily demonstrates that schedules are made with rested personnel.</p>

	<p><u>Submittal #2:</u> MBTA must submit to FTA and DPU within 24 hours of each day’s operations the “as performed” schedule. This form will validate that any changes to schedule due to employee substitutions were filled with employees that had sufficient opportunity for recovery between shifts. This action is required for a minimum of six (6) weeks following the initial schedule submission and will be required until there is satisfactory demonstration that substitutions are made with appropriately rested personnel.</p>
<p>Finding 3 MBTA requires OCC staff to perform two distinct roles (supervisor and dispatcher) during portions of shifts, preventing proper execution of either role.</p>	<p>FTA-OCC-22-003 MBTA must submit to FTA and DPU each week prior to the next week’s service that, for each shift, OCC supervisors and managers are not dual scheduled for both supervisory duties and dispatcher duties at any time during assigned shifts. This action is required beginning 48 hours after the issuance of this Directive and will be required for a minimum of six (6) weeks following the initial schedule submission and will be required until there is satisfactory demonstration that substitutions are made with appropriately rested personnel.</p>

MBTA will begin reporting on Friday, June 17, 2022, for the next work week starting Sunday, June 19 or Monday, June 20 to respond to the required actions set out in Category 1 of this Special Directive, including providing additional information for consideration and proposing any equivalent alternate actions for consideration by FTA's Administrator.

FTA will validate that MBTA is submitting the weekly required submissions associated with Category 1, and FTA will continue to conduct weekly meetings with MBTA and DPU to review progress until such time as FTA determines that these meetings are no longer needed or may be conducted with less frequency.

Category 2: Corrective Plans and Procedures to Ensuring that Operations Control Center Staff Are Recertified and Rested

Finding	Required Actions
<p>Finding 4 MBTA requires its OCC personnel to work in a fatigued state as a pattern and practice.</p>	<p>FTA-OCC-22-004 MBTA must develop and enforce policies that require OCC personnel to work in a rested state. MBTA must modify its hours-of-service policy to require sufficient hours of rest, consistent with MBTA’s hours of service policy for rail transit motorpersons.</p>
<p>Finding 5 MBTA’s OCC is significantly understaffed.</p>	<p>FTA-OCC-22-005 MBTA must adequately staff the OCC for current operational needs. MBTA must provide a plan to meet the operational needs of the system, consistent with MBTA’s hours of service policy for rail transit motorpersons and meeting scheduled leave requirements.</p>
<p>Finding 6 MBTA faces major challenges in recruiting and training new rail transit dispatchers.</p>	<p>FTA-OCC-22-006 MBTA must identify and address major challenges in recruiting and training new rail transit dispatchers, the quality and performance of their training, and the certification of new candidates.</p>
<p>Finding 7 MBTA allows dispatchers who are not current in their certifications to work in the OCC.</p>	<p>FTA-OCC-22-007 MBTA must verify that all dispatchers working within the OCC are current in their certifications prior to starting their shift.</p>

Twenty (20) calendar days after the date of this Special Directive, MBTA must submit a corrective action plan(s) to FTA and DPU that identifies the specific actions that will be

performed to address required action specified in Category 2 of this Special Directive; the milestone schedule for completing corrective action; the responsible parties for action and their contact information; and the verification strategy for ensuring the completion of required work.

FTA, in consultation with DPU, will review and approve (with revisions as necessary) MBTA's corrective action plan(s) and will monitor the agency's progress in resolving each finding and required action.

FTA will continue to conduct bi-weekly meetings with MBTA and DPU to review progress until such time as FTA determines that these meetings are no longer needed or may be conducted with less frequency.

PETITIONS FOR RELIEF OR RECONSIDERATION

As set forth in 49 CFR § 670.27(d), the MBTA has thirty (30) calendar days from the date of this Special Directive to petition for reconsideration with the FTA Administrator. The petition must be in writing and signed by the Chair of the MBTA and must include a brief explanation of why the MBTA believes the Special Directive should not apply to it or why compliance with the Special Directive is not possible, is not practicable, is unreasonable, or is not in the public interest. In addition, the petition must include relevant information regarding the factual basis upon which the Special Directive was issued, information in response to any alleged violation or in mitigation thereof, recommend alternative means of compliance for consideration, and any other information deemed appropriate. Unless explicitly stayed or modified by the Administrator, this Special Directive will remain in effect and must be observed pending review of a petition for reconsideration.

Within ninety (90) days of receipt of the petition, the Administrator will provide a written response. In reviewing the petition, the Administrator shall grant relief only where the MBTA has clearly articulated an alternative action that will provide, in the Administrator's judgment, a level of safety equivalent to that provided by compliance with this Special Directive. In reviewing any petition for reconsideration, the Administrator shall grant petitions only where the MBTA has clearly articulated legal or material facts not in evidence at the time of this Special Directive.

ENFORCEMENT

FTA may take enforcement action for any violation of this Special Directive or the terms of any written plan adopted pursuant to this Special Directive in accordance with FTA's authorities under 49 U.S.C. § 5329, including but not limited to (1) directing MBTA to use Federal financial assistance to correct safety deficiencies; (2) withholding up to 25 percent of financial assistance to MBTA under 49 U.S.C. § 5307; and (3) issuing restrictions or prohibitions (*e.g.*, mandatory speed restrictions, shutdown of a rail line, or complete system shutdown) as necessary and appropriate to address unsafe conditions or practices that present a substantial risk of death or personal injury.

Issued on: June 15, 2022

A handwritten signature in blue ink that reads "Vanterpool". The signature is written in a cursive, flowing style.

Veronica Vanterpool
Deputy Administrator
Federal Transit Administration
U.S. Department of Transportation