

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 22-7, 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 Lapsed Certifications**

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

SUMMARY: FTA issues Special Directive 22-7 to require the Massachusetts Bay Transportation Authority (MBTA) to address ongoing safety concerns at MBTA and interim findings uncovered during FTA’s Safety Management Inspection (SMI) that was initiated in April 2022. This Special Directive mandates that MBTA undertake three required actions within its system to address the pattern of safety incidents and interim safety findings concerning lapsed training certifications of safety-sensitive rail personnel.

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.

MBTA documentation reviewed by FTA in late April 2022 on the training and recertification status of rail transit operations personnel indicates that substantial numbers of personnel had not been recertified as specified in MBTA's training program. MBTA's rail transit operations training program specifies annual recertification for all rail transit personnel. Certification status is monitored by the MBTA Training Department. Of the four rail transit lines, the Green Line had the highest levels of non-compliance, with 221 motorpersons (41%), 25 inspectors (26%), 8 supervisors (50%), and 12 yard masters (100%) late for annual recertification. Recent safety events on the Green Line have highlighted challenges with knowledge of and compliance with key safety rules.

Deficiencies also existed for heavy rail transit lines. While non-compliance among motorpersons was less than 5%, 25% of Orange Line, 14% of Red Line, and 33% of Blue Line supervisors were out of compliance with recertification requirements.

MBTA's Agency Safety Plan, dated June 3, 2021, confirms that rail transit operations employees must "receive all mandatory MBTA-wide training courses" to ensure MBTA employees "are trained and competent to perform in their job functions."

Review of recent safety events and results of interviews, on-site observations, and inspections on MBTA's system also identified numerous instances of non-compliance with MBTA's operating rules and procedures, including on speeding and unlocked switches; failure to follow right-of-way safety program requirements specified for train motorpersons and rules governing the movement of trains into and out of carhouses; and numerous challenges associated with safely troubleshooting rail transit vehicles. FTA also identified out-of-date rules, policies, and procedures for operations and the right-of-way safety program.

Given these challenges, FTA is concerned that existing training and related materials may not adequately support motorpersons in understanding MBTA's written rules, procedures, and current requirements. FTA also found that the MBTA's Operations Training Department is significantly understaffed and, while recent improvements have been made, additional resources are required to update rules, procedures, and training and to monitor the performance and recertification of MBTA's operations personnel.

This Special Directive identifies three (3) required actions that MBTA must take to ensure that all employees responsible for the movement of trains are currently trained and certified according to the MBTA's training program and consistent with 49 CFR § 673.29(a). FTA and DPU will monitor 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 the 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 Staff Are Recertified	
Finding	Required Actions
<p>Finding 1 MBTA does not ensure that operations personnel are recertified.</p>	<p>FTA-LC- 22-001 MBTA must ensure that staff operating revenue service trains and supervising train movements and revenue service trains 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 revenue service schedule for each MBTA rail line. This document shall include employee number, route employee is assigned, length of shift in hours, last date of training compliance, 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 that verifies that each 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 there is satisfactory demonstration 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 week’s operation the “as performed” schedule. This form will validate that any changes to schedule due to</p>

	<p>employee substitutions were filled with certified personnel. 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 certified personnel.</p>
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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 Staff Are Recertified	
Finding	Required Actions
<p>Finding 2 MBTA does not ensure it meets its operational training and recertification requirements for personnel responsible for the movement of railcars.</p> <p>Note: MBTA’s rail transit operations training program for its rail transit lines specifies annual recertification for all rail transit personnel. Certification status is monitored by the MBTA Training Department.</p>	<p>FTA-LC- 22-002 MBTA must ensure that personnel with lapsed certifications are not placed on duty to perform or supervise train operations. MBTA must develop and implement procedures to ensure that only trained and certified personnel are scheduled to operate or supervise the movement of railcars.</p>

<p>Finding 3 MBTA does not effectively train and certify personnel responsible for the movement of railcars.</p>	<p>FTA-LC- 22-003 MBTA must create, review, and/or update its training materials to include:</p> <ul style="list-style-type: none"> • Training and certification manuals for each line, to include manuals for operators and supervisors. • Updated rulebooks for all train lines, enforce version control. • A compilation of temporary and permanent orders. <p>MBTA must make training materials available electronically and ensure that employees who have enrolled for training have completed the training.</p>
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Thirty-five (35) 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



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