

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 24-4, Notice No. 1]

**Special Directive Under 49 U.S.C. § 5329 and 49 CFR Part 670
Required Actions to Ensure Sufficient Resources and Capabilities**

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

SUMMARY: FTA issues Special Directive (SD) 24-4 to require the Pennsylvania Department of Transportation (PennDOT) to address findings documented in FTA's Safety Management Inspection (SMI) report released on July 5, 2024 to increase resources and technical capacity. FTA conducted this SMI of PennDOT and the Southeastern Pennsylvania Transportation Authority (SEPTA) between August 10, 2023 and January 31, 2024 to assess an escalating pattern of safety incidents and concerns on SEPTA's rail transit and fixed-route bus transit system and to assess the effectiveness of PennDOT's State Safety Oversight (SSO) program for SEPTA's rail transit system.

This Special Directive identifies three findings requiring actions that PennDOT must take to ensure sufficient resources and capabilities.

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:

SEPTA is a regional public transportation authority created by the Commonwealth of Pennsylvania that operates rail transit, bus, commuter rail, electric trolleybus and oversees paratransit services, for nearly four million people in Philadelphia and the four surrounding counties, Delaware, Montgomery, Bucks, and Chester. SEPTA is the sixth largest mass transit system in the U.S. by ridership, and the largest in Pennsylvania.

PennDOT's SSO Division is the State Safety Oversight Agency (SSOA) designated by the Commonwealth of Pennsylvania as responsible for overseeing rail transit safety in Pennsylvania. PennDOT's SSOA was certified by FTA in April 2018 in accordance with the requirements of Federal transportation law (49 U.S.C. § 5329(e)) and FTA's SSO regulation (49 CFR part 674). PennDOT receives FTA grant funds to carry out its SSO program in accordance with Federal regulations.

This Special Directive addresses PennDOT's oversight of SEPTA's rail transit system, including the Market Frankford Line subway-elevated, the Broad Street Line subway, the Norristown High Speed Line, and SEPTA's six subway-surface trolley and two suburban lines. PennDOT's safety

oversight activities do not extend to SEPTA's bus transit system or other SEPTA transit modes.

In response to an escalating pattern of safety incidents and concerns on the SEPTA system, FTA initiated an SMI at SEPTA in August 2023. FTA also included PennDOT's oversight of SEPTA's safety program as part of the SMI, after an Immediate Action Letter to PennDOT in March 2023 failed to yield significant improvements in SEPTA's safety performance.

The SMI assessed the identified causes and contributing factors for recent safety events, the effectiveness of SEPTA's safety training programs, the level and quality of supervision provided for safety-critical activities, and the safety impacts of an increasing number of assaults on workers for SEPTA's transit workers and passengers. Additionally, the SMI evaluated the effectiveness of PennDOT's SSO program in overseeing and enforcing safety at a rail transit system of SEPTA's size and complexity, including a review of PennDOT's policies and practices for identifying areas of safety concern and compelling SEPTA to address rail transit safety concerns.

FTA published the SMI report on July 5, 2024. In the report, FTA issued a total of 14 findings and 17 required actions to PennDOT in two categories:

- Category 4 – PennDOT SSO Program Resources
- Category 5 – PennDOT Safety Oversight of SEPTA's Rail Transit System

This Special Directive addresses Category 4 and identifies three findings requiring actions that PennDOT must take to ensure sufficient resources and capabilities to oversee a rail transit agency (RTA) with SEPTA's size, complexity, and systemic safety challenges.

Finding 1. PennDOT's SSO Program Must Be Strengthened to Address the Size and Complexity of the SEPTA System

Per 49 CFR § 674.5(a), each State with an RTA must ensure that the designated SSOA has sufficient authority, resources, and qualified personnel to oversee the number, size, and complexity of the RTAs that operate within the State. The safety challenges facing SEPTA's operations and maintenance require significantly more oversight resources and attention than PennDOT currently provides.

FTA's SMI finds that PennDOT's current program is not staffed adequately to address the size and complexity of the SEPTA rail transit system. FTA finds that PennDOT's SSO program requires more resources to:

- address deficiencies in SEPTA's Safety Risk Management and Safety Assurance practices and ensure Safety Management System implementation;
- address deficiencies in SEPTA's safety training, operations and maintenance supervision, and compliance with safety rules;
- ensure SEPTA safety concerns are identified, assessed, mitigated, and monitored;
- support SEPTA internal safety review improvement and thoroughness;

- improve SEPTA corrective action plans (CAPs) and safety event investigation management;
- enforce requirements included in SEPTA CAPs; and
- drive SEPTA to action and ensure timely resolution of identified safety issues.

PennDOT has access to a significant reserve of Federal funding to support improvements in its SSO program.

Finding 2. PennDOT Is Tracking Many SEPTA CAPs from SSO Audits, Accidents/Incidents, Hazards, SEPTA Internal Audits, and Other Sources with Extended Timelines Past Initial Due Dates

As of December 2023, PennDOT was tracking 104 open CAPs at SEPTA, 73 of which were open and 31 of which were open pending PennDOT verification. Of the 104 open CAPs, 103 open CAPs, dating from 2013 to present, have been open for an average of 327 days. The remaining CAP has been open since calendar year 1999. SEPTA frequently requests CAP timeline extensions, which PennDOT approves. As a result, CAPs are not consistently closed within the original timeline.

The length of time CAPs remain open, and the numerous extensions granted to complete the actions necessary to address the safety concern the CAP is designed to address means that known safety issues remain unresolved. Extended CAP timelines may also mean that the actions identified in the CAP are not as effective as they could be or may no longer be relevant. It also indicates a need for greater PennDOT involvement in SEPTA's CAP implementation process to ensure SEPTA takes immediate action to close safety gaps, create safety policies and procedures to address identified safety concerns, train SEPTA workers to address identified safety concerns, and work actively to implement their Safety Management System.

Given the extent of both the number of open CAPs and the challenges that SEPTA is experiencing in managing its CAP process, FTA finds that PennDOT must take additional action to ensure the timely resolution of open safety issues and concerns. PennDOT must do more to ensure that known safety risks are effectively mitigated and not left unaddressed for extended periods of time.

Finding 3. PennDOT Has Many Open SEPTA Accident and Incident Investigation Reports Not Approved or Adopted Past Initial Due Date

Per 49 CFR § 674.35(a), an SSOA must investigate or require an investigation of any accident and is ultimately responsible for the sufficiency and thoroughness of all investigations, whether conducted by the SSOA or RTA. If an SSOA requires an RTA to investigate an accident, the SSOA must conduct an independent review of the RTA's findings of causation.

Per 49 CFR § 674.35(b), within a reasonable time, an SSOA must issue a written report on its investigation of an accident or review of an RTA's accident investigation in accordance with the reporting requirements established by the SSOA. The report must describe the investigation activities; identify the factors that caused or contributed to the accident; and set forth a corrective

action plan, as necessary or appropriate. The SSOA must formally adopt the report of an accident and transmit that report to the RTA for review and concurrence. If the RTA does not concur with an SSOA's report, the SSOA may allow the RTA to submit a written dissent from the report, which may be included in the report, at the discretion of the SSOA.

As permitted under Part 674, PennDOT's Program Standard specifies that SEPTA must conduct its own accident investigation and produce its own accident investigation reports that PennDOT reviews and adopts instead of PennDOT conducting its own accident investigation process.

FTA reviewed PennDOT's November 2022-January 2023 accident investigation process audit conducted of SEPTA as required under Part 674. The audit found that:

- SEPTA's submitted investigation reports do not contain consistent levels of information.
- SEPTA does not develop CAPs following accident/incident investigations as PennDOT requires.
- SEPTA does not consistently meet the deadline for resubmitting CAPs within the 15-day required timeframe.
- SEPTA's investigation reports do not consistently include sufficient descriptions of post-event testing and research. Recommendations in the report are limited.
- SEPTA does not currently provide PennDOT with a regular progress report on open investigations.

During SMI interviews, PennDOT communicated to FTA that SEPTA accident investigation reports required significant review and revision for PennDOT to accept and adopt them and proceed with CAP development and implementation. PennDOT estimated that it requires resubmission for at least 50 percent of all submitted reports. PennDOT reported that SEPTA's ability to determine causal factors is adequate, but the Authority struggles to document them. PennDOT stated they are actively working with SEPTA to generate more consistency in final reports on root causes.

Although PennDOT is aware of SEPTA's accident investigation deficiencies and working with SEPTA to remedy these concerns, as of December 2023, PennDOT was tracking over 50 open accident investigation reports. More emphasis and attention are required to improve SEPTA accident investigation reports and PennDOT must guarantee the development of thorough and comprehensive investigation reports, with CAPs to prevent recurrence, that can be adopted by PennDOT in a timely manner.

DIRECTIVE AND REQUIRED ACTIONS:

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

Category 4 – PennDOT SSO Program Resources			
Findings		Tracking #	Required Actions
Finding 1	PennDOT's SSO Program Must be Strengthened to Address the Size and Complexity of the SEPTA System	FTA-24-4-001	Within 45 days of issuance of this Special Directive, PennDOT must conduct a workload assessment for its SSO program devoted to SEPTA oversight. which must include additional available and accountable personnel resources. Specifically, the workload assessment must include activities and associated personnel to expedite oversight action regarding closure of SEPTA's open corrective action plans, improve both the timeliness and quality of SEPTA's safety event investigation reports adopted by PennDOT and ensure their sufficiency and thoroughness, work with SEPTA to oversee SMS implementation and effectiveness, and be prepared to respond to new and emerging safety concerns. The workload assessment must be submitted to FTA for review, approval, and implementation monitoring.
Finding 2	PennDOT is Tracking Many Open SEPTA Corrective Action Plans (CAPs) from SSO Audits, Accidents/incidents, Hazards, SEPTA Internal Audits, and Other Sources with Extended Timelines Past Initial Due Dates	FTA-24-4-002	Within 60 days of issuance of this Special Directive, PennDOT must submit a prioritized CAP list and action plan for overseeing SEPTA actions to expedite the closing of open CAPs. At a minimum, the CAP action plan must include an updated CAP matrix with schedules and responsible parties and detailed explanations for any CAPs that will not be addressed within 12 months of the original due date. This prioritized CAP list and action plan must be submitted to FTA for review, approval, and implementation monitoring.
Finding 3	PennDOT Has Many Open SEPTA Accident and Incident Investigation Reports Not Approved or Adopted Past Initial Due Date	FTA-24-4-003	Within 90 days of issuance of this Special Directive, PennDOT must develop a prioritized action plan and schedule to complete open accident investigation reports for FTA- and PennDOT-reportable events and improve the quality of these reports, including definition of causal factors. PennDOT must submit this action plan and schedule to FTA for review, approval, and implementation monitoring.

In accordance with the timeframes specified above, PennDOT must submit the required plans to FTA which demonstrate the specific actions PennDOT will take to address the required actions specified in this Special Directive and propose a milestone schedule for completing each activity; identify the responsible parties for each action and their contact information; and the verification strategy for ensuring the completion of required work.

FTA will review and approve (with revisions as necessary) PennDOT's plan(s) and will monitor PennDOT's progress in resolving each finding and required action. FTA will conduct scheduled meetings with PennDOT to review its 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), PennDOT has 30 calendar days from the date of this Special Directive to petition for reconsideration with the FTA Acting Administrator. The petition must be in writing and signed by the PennDOT Secretary, and must include a brief explanation of why PennDOT 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 may 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 Acting Administrator, this Special Directive will remain in effect and must be observed pending review of a petition for reconsideration.

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

ENFORCEMENT

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 may result in a determination by FTA that PennDOT's State Safety Oversight Program does not meet the requirements of 49 U.S.C. § 5329(e), and attendant actions, including: (1) withholding SSO formula grant funds from PennDOT; (2) withholding up to five percent of Pennsylvania's Urbanized Area Formula Funding authorized under 49 U.S.C. § 5307; or (3) requiring fixed guideway public transportation systems under PennDOT's SSO program to provide up to one hundred percent of Federal funding under 49 U.S.C. Chapter 53 only for safety-related improvements until PennDOT's SSO Program can be certified.

Issued on: July 5, 2024



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