Transit Rail Advisory Committee for Safety (TRACS) Meeting Minutes

May 29-30, 2013

Transportation Workers Union of America Headquarters

#### 501 3rd St., NW

#### Washington, DC

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## Attendance

### TRACS Members in Attendance

**Eric Cheng**, Utah Department of Transportation

**Diane Davidson (TRACS Chairperson)**, Oak Ridge National Laboratory

**James Dougherty**, Washington Metropolitan Area Transportation Authority

**Bernadette Fowlkes-Bridges,** Maryland Transit Administration

**Grace Gallucci**, Regional Transportation District

**David Genova,** Denver Regional Transportation District

**William Grizard**, American Public Transportation Association

**Henry Hartberg,** Dallas Area Rapid Transit Authority

**Susan Hausmann**, Texas Department of Transportation

**Jackie Jeter**, Amalgamated Transit Union

**Tamara Lesh**, Tri-County Metropolitan Transportation District

**Phyllis McDonald**, Johns Hopkins University

**Alvin Pearson**, Memphis Area Transit Authority

**Nagal Shashidahara**, New Jersey Transit

**Edward Watt**, Transport Workers Union of America

### TRACS Work Group Members

**Diane Brown,** American Federation of State, County, and Municipal Employees(WG-12-01)

**Araceli De La Cruz,** Chicago Transit Authority (WG-12-02)

**John Goodwin**, Bay Area Rapid Transit (WG-12-02)

**Donald Jacob**, Niagara Frontier Transportation Authority (WG-11-01)

**Timothy Kelly**, Metropolitan Transit Authority of Harris County (WG-11-01)

**Vijay Khawani,** Los Angeles County Metropolitan Transportation Authority(WG-12-02)

**Paul King**, California Public Utilities Commission (WG-12-01)

**Kate Legrow**, Massachusetts Bay Transportation Authority (WG-11-01)

**Joyce Rose**, Operation Lifesaver (WG-12-01)

**Robbie Sarles**, RLS & Associates (WG-11-01)

**Harry Saporta,** Tri-County Metropolitan Transportation District (WG-12-02)

**Michael Taborn**, Metro Transit Police Chief

### FTA/Volpe Center

**Bruce Walker**, FTA Office of Chief Counsel

**Esther White**, FTA Office of Transit Safety & Oversight

**Richard Wong**, FTA Office of Chief Counsel

**Bridget Zamperini**, FTA Office of Transit Safety & Oversight

**Gerald Powers**, FRA Office of Railroad Safety

**Debbie Freund**, FMCSA, Detailed to the FTA Office of Safety

**Richard Gerhart**, FTA Office of Transit Safety & Oversight

**Ruth Lyons**, FTA Office of Transit Safety & Oversight

**Iyon Rosario**, FTA Office of Transit Safety & Oversight

**Vincent Valdes,** TRACS Designated Federal Official, FTA Office of Transit Safety & Oversight

**Bill Voss**, FAA, Detailed to the FTA Office of Transit Safety & Oversight

**Maria Wright**, FTA Office of Transit Safety & Oversight

**Jeffrey Bryan,** U.S. DOT Volpe Center, TRACS Facilitator

**Aaron Jette,** U.S. DOT Volpe Center, **Meeting** Recorder

**Eve Rutyna**, U.S. DOT Volpe Center

**Mirna Gustave**, U.S. DOT Volpe Center

## FTA Implementing MAP-21 Requirements

The Acting Associate Administrator, Vincent Valdes, Office of Safety and Oversight explained FTA’s efforts to establish an Office of Safety and promulgate rules based on MAP-21. FTA has assigned teams to develop guidelines for Public Transportation Agency Safety Plans and establish a framework for the National Public Transportation Safety Plan. The intent of FTA is to embed safety management systems (SMS) in all things related to safety. FTA has used the expertise of employees from other DOT modal administrations to bring SMS expertise into the organization. The result has been the development of a phased maturity model for fully integrating SMS into FTA safety programs and roles. FTA is also working with State Safety Oversight Agencies (SSOs) to ensure that they also understand and are promoting an SMS approach.

The Associate Administrator highlighted several safety initiatives. First, the FTA is making grants available to support the activities of SSOs through the SSO Grant Program. Second, FTA is planning to work with individual transit agencies to implement pilot SMS projects. The pilot projects will help FTA understand how SMS works and how to scale it to meet the needs of different transit agencies. FTA is also preparing to establish an Office of Transit Safety and Oversight. FTA will hire an Associate Administrator to lead the office and hire a staff of SMS experts. Finally, FTA is making progress on rulemaking stemming from MAP-21. FTA plans to release a notice of proposed rulemaking in the fall.

FTA plans to use the renewal of the TRACS charter in November as an opportunity to broaden the base membership to be more representative of bus operations, SSOs, state departments of transportation (DOTs) and rail operators. Existing members will continue to be on TRACS until replaced.

## Prescription and Over the Counter (Rx/OTC) Drug Work Group

The meeting facilitator explained that the purpose of the first session was to review the draft memo to the Administrator regarding Prescription and Over-the-Counter drug use by safety sensitive transit employees. The facilitator explained that several TRACS members had expressed concerns that the recommendations included in an initial draft memo had exceeded the scope of the tasking by including Fitness for Duty and Medical Qualifications. As a result, the memo had been rewritten to remove reference to Fitness for Duty.

The group discussed the revisions included in the new draft. Several TRACS members explained that Fitness for Duty determinations could affect the livelihood of transit workers and should be the exclusive purview of an employees’ personal care physician. While, no one wants someone in a safety sensitive position that is not fit for duty to perform his/her job duties, the implementation of Fitness for Duty policies has not always been perceived as fair to workers. They suggested that the draft report did not sufficiently address due process issues for transit employees.

Members of the working group explained why the fitness for duty language was included in the draft memo. The intent of the work group was to develop recommendations based on best practices not to build a regulatory framework. The working group examined the current fitness for duty guidelines and tried to develop recommendations for processes that would be both fair to the employee and sure to improve safety. The goal was to create a blueprint and allow the details to be worked out through collective bargaining. Transit agencies have demonstrated that it is possible for management and labor to work out safety issues to minimize safety risks when there is a fitness for duty issue. Physicians making such determinations must err on the side of caution because the results of safety incidents can be irreparable.

The working group believed the processes recommended in the memo could be designed to serve everyone fairly. For example, one recommendation is that transit agencies include an appeal process as part of determining whether an employee is fit for duty. The medical professionals on the working group believed that Rx/OTC issues cannot be fully addressed without addressing employee health and fitness for duty. The purpose of such transit programs should be to ensure everyone’s safety and help to improve the health of employees. Decisions should be made in close consultation with an employee’s personal care physician to come up with solutions that are safe, healthy and maintain employees’ livelihoods. That might involve adjusting an employee’s job duties, or prescriptions, or otherwise finding ways to accommodate an employee while making sure they get the treatment they need.

Several TRACS members suggested that the report should be included a greater emphasis on employee education and wellness. The Chair recommended that the work group identify the issues around Fitness for Duty and Medical Qualifications and prepare a straw man tasking statement to send to the FTA Administrator to address issues that are not included in the memo.

The TRACS group voted unanimously to accept the revised draft as is and asked that FTA develop a draft Fitness for Duty Tasking for TRACS.

## National Public Transportation Safety Plan Working Group Presentation

The working group lead presented the work of the group developing recommendations for the National Public Transportation Safety Plan (NPTSP). The tasking asked the group to develop a framework and measures for NPTSP. The work group formed four subgroups:

1. Performance Measures;
2. Safety Standards for Vehicles;
3. Safety Certification Standards and National Database; and
4. Potential Safety Tools.

The group recommended a set of guiding principles for the plan.

* SMS principles should be at the forefront of the NPTSP.
* The NPTSP should set broad standards so that agencies may implement agency safety plans.
* The NPTSP should facilitate consistency between various systems and modes.

The Performance Measures subgroup recommended that the plan establish two types of measures to start - casualty metrics and operations metrics. FTA should also support the development of leading indicators, such as a close call reporting system as recommended under TRACS report 11-01 to identify safety trends and use that information to prioritize national safety risks. Other categories of measures to be developed include systems and equipment and SMS and safety culture. Transit agencies should set the measures and it should be the responsibility of SSOs to monitor them. The measures should be integrated and build from the measures currently in the National Transit Database.

The Standards Work subgroup was tasked with developing vehicle standards. It was the consensus of the group that FTA should go beyond vehicle standards to develop standards for design, procurement and maintenance of safety critical elements of transit systems. The FRA’s Rail Safety Advisory Council may be a good model for the standard setting process. Vehicle standards should start with crash worthiness. The subgroup suggested a consensus based approach to developing standards.

The Training and Certification subgroup recommended an approach similar to the model FRA has in place. The subgroup wants SSOs to have certain training and certifications and for FTA to provide more specialized training as needed. SSOs should be required to maintain full-time staff in needed competencies and certification should ensure the agencies conform to the requirements. SSOs authority should include inspections, remediation, the ability to issue emergency stop orders, and enforcement of standards. SSOs should also establish preventative inspection programs to make sure findings are implemented. Enforcement mechanisms for SSOs may include withholding administrative support funds, withholding funding, and requiring transit agencies use funding for safety improvements (work group thinks that this is the best option).

FTA should set national safety policy, develop the NTSP, develop safety requirements for SSOs, develop funding programs, and implement national data collection and reporting requirements. FTA should be responsible for policy, risk management, assurance, and promotion. Finally, FTA should consider making safety audits more frequent than every three years.

The NPTSP has to be an evolving and living document that is continuously updated.

There was a discussion regarding the extent to which the document addresses bus issues. The Moving Ahead for Progress in the 21st Century Act (MAP-21) is clear that performance criteria should be established for all modes of public transportation, but the only governance mechanisms are for rail by statute. The working group believes that FTA’s safety authority regarding bus agencies should be expanded and that the national plan should be applicable to all modes. Some expressed concern that bus agencies would be unable to meet the standards set forth in the NTSP.

MAP-21 explicitly gives the authority to FTA for vehicle standards, but does explicitly give the authority to set standards for other elements. Some believed that FTA should set standards for infrastructure through New Starts to end debates regarding safe design standards.

Some TRACS members believed that the draft should more closely align the NTSP to the SMS framework and place a greater emphasis on information, communications, leadership and culture. Others felt that FTA standards should be consistent with FRA requirements. Some believed that there should be a dispute resolution process in place for cases where SSOs and the transit agencies disagree about Federal standards. Others emphasized the importance of data collection and reporting, in particular there was concern regarding the protection of sensitive safety data.

TRACS members wanted more information regarding FTA’s plans for safety certification. Several members believed that there should be more of an emphasis on training for transit agency leadership and for SSO staff. Others were concerned that FTA would set a standard for training that would be costly for transit agencies to meet without providing commensurate funding.

There was discussion regarding standard for rail vehicles. What is meant by the word “standards?” What should be the process for developing standards? Could FTA utilize existing standards set in the rail industry? The memo, some suggested, should define what is meant by “standards” and recommend a process for developing standards.

## Agency Safety Plan Working Group Presentation

The working group lead summarized the work of the Public Transportation Agency Safety Plan (PTASP) working group. The working group formed three sub-groups on the following topics: risk management, training, and metrics. The PTASP should actionable; scalable; applicable to all modes; and aligned with SMS principles. The PTASP should create greater transparency and accountability.

The current safety plan requirements do not fit SMS approach. For the PTASP the primary audience is no longer the regulator but the agency itself. This entails a more proactive approach. This approach acknowledges that there is always going to be some element of risk involved and that it is not possible to eliminate all hazards. There is a need to identify the most significant risks, and to establish a methodology for assessing risks. Most transit agencies currently use hazard analysis but this is not the only methodology. There is a need for a wide range of methodologies appropriate to the agency or the risk. The plan should be applicable to risks through the whole lifecycle of the system.

Plan should identify:

* Scope – what are critical safety elements?
* Methodology – how are hazards identified?
* Inputs – what data are used?
* Strategies – What control methods will be implemented?
* Metrics – How is safety performance measured?

The report provides examples of performance metrics. Some metrics should be specific to transit agencies and others consistent across the Nation. The report identifies five major components of safety training needs: 1) SMS Approach; 2) Operational Safety; 3) Emergency Management; 4) Transit System Safety; and 5) SMS Tools.

The report recommends developing a high-level strategic plan that makes references to other documents of processes, but the specifics would be found elsewhere. Every year, a transit agency would assess priority risk areas and identify specific strategies for addressing priority risks.

The group discussed how the PTASP would be used by transit agencies and SSOAs and whether this approach would supersede existing safety planning and reporting requirements. Some TRACS members recommended that the report explain the SMS approach and define terms such as performance metrics. There was further discussion regarding the protection of safety sensitive information. TRACS members commented that the report needs to explain the process by which the plan is developed, updated and used more clearly. There were also concerns expressed regarding Board approval of the plan.

## FTA Training and Certification Provisions Presentation

An FTA representative gave a presentation on interim provisions for training and certification. The audience is Federal and State employees who conduct audits of designated agencies as well as public transportation employees directly responsible for safety oversight. She asked for input regarding:

* Who are public transportation employees directly responsible for safety oversight?
* What courses should they take?

She explained the various tracks and curricula that FTA was developing for different groups. The proposed certificate programs will be 40 hours each and have four tracks per concentration. Every participant will have an individual training program (ITP), based on their duties and experience. These ITPs will be scalable. FTA is considering requiring Federal employees to take up to two hundred hours of instruction over two years.

The interim provisions will use the training that is available currently but the program will grow. The certification program will eventually develop more robust and blended learning opportunities. Equivalency standards will be defined to give participants credit for previous education and experience.

TRACS members provided feedback to FTA on the proposed requirements; in particular, they recommended that the training curricula more closely align with TRACS Committee Safety Management Systems recommendations by clearly identifying core competencies of leadership, communication, employee participation, safety culture.

## Breakout Groups

Breakout groups were formed to address gaps in the current reports.

The PTASP group identified the following gaps:

* Process Issues
* SMS Issues
* Training

The NTSP group identified the following gaps:

* Bus Oversight
* SMS Portion of National Plan
* Data Collection and Confidentiality
* Dispute Resolution
* Standards and Safety Performance Criteria
* Certification