

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 22-4, Notice No. 1]

**Special Directive Under 49 U.S.C. § 5329 and 49 CFR Part 670
Required Actions to Address Findings from the Federal Transit Administration Safety
Management Inspection Conducted at the Massachusetts Bay Transportation Authority
Related to Track Maintenance**

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

SUMMARY: FTA issues Special Directive 22-4 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 take nine required actions in three distinct categories related to maintenance of way (MOW). These required actions are to address deficiencies in personal protective equipment (PPE) and right of way (ROW) safety; to correct defective track conditions; and to address management practices that negatively impact track repair.

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.

In 2021 and so far in 2022, MBTA has experienced several safety events resulting from deferred maintenance of assets in a poor state of repair, including six mainline derailments in 2021 (related to track, switches and/or vehicle conditions); accidents involving escalators and station facilities in poor condition; and safety events stemming from disabled trains, defective switches, and damaged equipment or tools in yards or maintenance facilities. MBTA's Engineering and Maintenance (E&M) Directorate serves as the primary custodian for the MBTA's physical infrastructure, including track, signals and communications, power, and facilities on the Red Line, Orange Line, Blue Line, and Green Line.

As a result of interviews, records reviews, on-site observations, and inspections conducted during part of the SMI, FTA finds that MBTA's E&M Directorate does not receive sufficient track access and resources to conduct a proactive inspection and maintenance program for MBTA's aging infrastructure. Further, while the E&M Directorate has a committed team working to transition the MBTA's paper-based recordkeeping system to digital records, the MBTA has not adequately resourced this transition; as a result, the agency does not have access to quality data regarding the state of its infrastructure to support safety decision making, maintenance planning, and selection of capital projects.

FTA further finds that while MBTA has a newly established and growing \$2 billion annual capital projects program, it spends just over \$70 million per year on the safety-critical MOW activities performed by the E&M Directorate. These critical activities include 24/7 emergency response to infrastructure failures; daily preventative maintenance and corrective repairs; inspections of safety critical infrastructure, such as track, switches, signals, stations, structures, and power system components; assistance for capital construction; and support for vehicle maintenance.

MBTA's E&M Directorate performs most of its critical activities, except for inspection of facilities and at-grade system components, during the nighttime maintenance window. Currently, that window affords only between two and two-and-a-half hours of track access. In that window of time, MBTA's MOW team may, for example, be able to replace 6 to 12 ties or 80 restraining rail bolts, complete inspections of individual power or signal system assets, or repair a section of a station platform or a rail joint. While the maintenance needs of the system are far greater than those addressable in the short nighttime maintenance windows, MBTA has, to date, not scheduled more substantial track access for MOW activities, even though it does schedule diversions and surges for capital projects.

Failures in aging work trains and other equipment further limit the ability of MOW personnel to access some of the MBTA's more challenging locations with equipment and supplies needed to perform corrective maintenance. For example, the SMI revealed that MBTA's Green Line work train has been inoperable for at least 8 months. In addition, MBTA lacks the capability to perform thermite welds, forcing it to rely on contractors to tie in rail, and it struggles in maintaining a crew to operate its production tamper. Some E&M divisions struggle with the performance of preventive maintenance inspections, and there is concern that aging assets may be deteriorating without a clear plan in place for corrective maintenance or renewal.

Records reviewed by FTA indicate that, under these conditions, between January 1, 2021 and April 29, 2022, MBTA has a growing backlog of open (4,195) and pending (12,423) defects related to track, signals and communication, power, and facilities. As reported in April and May of 2022, MBTA has almost 10

percent of its heavy rail track and over two miles of light rail track (mostly in the Central Subway) under speed restrictions. As part of the SMI, FTA inspected track on the Orange Line south of Tufts Medical Center Station that has been subject to speed restrictions since 2019. FTA found that portions of track displayed evidence of excessive wear and defects. These conditions were, in turn, managed through gauge rods, some of which showed signs of corrosion.

FTA further determined that MBTA focuses almost exclusively on addressing “red” condition defects – the most serious defects with the potential for failure, and which may require speed restrictions or removal of infrastructure elements from service. This focus on “red” conditions is due to both lack of track access and staffing shortages that leave some technical and supervisory positions with staffing vacancies approaching 20 percent. Focusing almost exclusively on “red” conditions leaves the MBTA rail system vulnerable to multiple risks. First, the system is exposed to the risk of undetected deterioration in restricted assets that potentially renders them out-of-service. Second, the system faces the risk that combinations of conditions in the less severely assessed “yellow” category collectively could approach an out-of-service condition.

These issues are compounded by inconsistent compliance with inadequate policies. For example, during the SMI, FTA found that MBTA has not established consistent PPE requirements for ROW access. In addition, FTA determined that MOW personnel and contractors do not consistently follow MBTA’s established PPE requirements or ROW safety procedures.

This Special Directive identifies nine required actions that the MBTA must take to address systemic MOW deficiencies requiring corrective action. FTA and DPU will oversee MBTA activity to implement these safety-critical required actions across its system.

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: Personnel Safety			
Findings		Required Actions	
Finding	MBTA has not established consistent PPE requirements for ROW access.	FTA-TRA-22-001	MBTA must establish consistent PPE requirements for ROW personnel access. Personnel is inclusive of all employees, contractors, oversight, or other individuals

			who access the rail system and facilities.
Finding 2	MOW personnel and contractors do not consistently follow MBTA's established PPE requirements or ROW safety procedures.	FTA-TRA-22-002	MBTA must implement and document consistent MOW compliance with ROW safety procedures, including PPE requirements for all personnel. Personnel is inclusive of all employees, contractors, oversight, or other individuals who access the rail system and facilities
Category 2: Required Track Maintenance			
Findings		Required Actions	
Finding 3	The curved track section on the Orange Line between the Tufts Medical Center and Back Bay Stations (both north- and south-bound) has been under speed restriction for an extended period dating back to 2019 due to excessive wear and defects.	FTA-TRA-22-003	MBTA must correct the track defects between Tufts Medical Center and Back Bay Stations on both north- and south-bound tracks.
Category 3: Management Practices			
Findings		Required Actions	
Finding 4	MBTA does not provide adequate time to complete necessary MOW maintenance activities.	FTA-TRA-22-004	MBTA must document its MOW maintenance needs and develop and implement a schedule to ensure adequate track access to meet maintenance requirements.
Finding 5	MBTA's MOW departments have growing maintenance needs.	FTA-TRA-22-005	MBTA must develop and implement work plans to address MOW maintenance needs and manage on-going MOW workload.
Finding 6	MBTA's data on MOW defects and work order status is insufficient to guide management planning.	FTA-TRA-22-006	MBTA must expedite and sufficiently resource the transition to its new Enterprise Asset Management (EAM) system. In the meantime, MBTA must formalize and implement procedures and protocols to ensure the MOW managers and MOW inspectors share information and establish data-driven maintenance priorities.
Finding 7	MBTA's MOW department is not providing prioritized and actionable information to	FTA-TRA-22-007	MBTA must develop and implement a process and reporting procedure that accurately communicates the number, severity, and significance of MOW defects to Executive

	Executive Leadership regarding the condition of MBTA's assets and infrastructure.		Leadership.
Finding 8	MBTA reports 9.6% of heavy rail track is under a speed restriction due to track defects and over two miles of Green Line track also are speed restricted. MBTA's management accepts an unsustainable level of speed restrictions due to deferred maintenance.	FTA-TRA-22-008	MBTA must develop and implement a special maintenance repair plan to reduce the percentage of system track that is under a speed restriction.
Finding 9	MBTA's Green Line work train has been inoperable for at least 8 months.	FTA-TRA-22-009	MBTA must restore Green Line work train capabilities.

Thirty (30) 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 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

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 22-5, 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 Vehicle Securement of Disabled Trains**

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

SUMMARY: FTA issues Special Directive 22-5 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 unintended and uncontrolled train movements by disabled trains in maintenance facilities and rail yards.

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.

Since January 1, 2021, the MBTA has reported five runaway train events that happened in yards or during maintenance-related movements. Two of these events occurred during FTA's SMI.

Date	Line	Status	Substantial Damage	Injuries	Probable Cause	CAP Developed	Corrective Action
2/28/21	Orange	Maintenance Recovery	No	None	Procedure not followed	None	None
9/28/21	Red	Maintenance Recovery	No	None	Insufficient Procedure	Yes	Develop and train new procedure
12/17/21	Red	Yard	Yes	3	Insufficient Procedure	Yes	Develop and train new procedure
5/28/22	Red	Yard	TBD	0	Pending	TBD	TBD
5/30/22	Red	Yard	TBD	0	Pending	TBD	TBD

These events raise serious safety concerns. Failure to properly secure disabled trains, including trains with insufficient brakes or propulsion systems, and failure to properly secure disabled trains in yards and maintenance facilities is a significant safety risk. Disabled trains may not be able to make moves directed by yard dispatchers or other personnel and may not be able to apply required braking or propulsion utilizing routine movement and securement methods, creating an increased likelihood of unintended and uncontrolled movements, resulting in collisions with other trains, equipment, or personnel injuries or fatalities.

In addition, these events amplify the need for clear procedures, training, and supervision on the management of disabled trains to prevent unintended train movement. During the course of the SMI, however, FTA found that MBTA does not have or use specific procedures for yard movements of rail vehicles with known or suspected defective brakes or propulsion equipment. In addition, MBTA does not adequately train personnel on the policies and procedures to safely move and secure rail cars with known or suspected defective brakes or propulsion equipment, nor does it verify that personnel consistently use policies and procedures for movement of trains that do not have working brakes and working propulsion equipment.

This Special Directive identifies three required actions that MBTA must take to ensure safe movement of disabled trains in maintenance facilities and rail yards. FTA and DPU will oversee MBTA activity to implement these safety-critical required actions across its system.

As MBTA works to improve the quality of its 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 I: Vehicle Securement Policies, Procedures and Compliance	
Finding	Required Actions
Finding 1 MBTA does not have or use specific procedures for yard movements of rail vehicles with known or suspected defective brakes or propulsion equipment.	FTA-VSC-22-001 MBTA must develop and implement specific written procedures for yard movements of rail vehicles with known or suspected defective brakes or propulsion equipment.
Finding 2 MBTA does not adequately train personnel on the policies and procedures to safely move and secure rail cars with known or suspected defective brakes or propulsion equipment.	FTA-VSC-22-002 MBTA must develop training and train personnel on the policies and procedures to safely move rail vehicles with known or suspected defective brakes or propulsion equipment. Personnel is inclusive of all employees, contractors, oversight, or other individuals who access the rail system and facilities.
Finding 3 MBTA does not verify that personnel consistently use policies and procedures for movement of trains that do not have working brakes and working propulsion equipment.	FTA-VSC-22-003 MBTA must create and implement a compliance program to ensure personnel consistently and accurately use policies and procedures for yard movements of rail vehicles with known or suspected defective brakes or propulsion equipment. Personnel is inclusive of all employees, contractors, oversight, or other individuals who access the rail system and facilities.

Fifteen (15) 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 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



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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 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



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

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:</p> <p><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
Finding 2	<p>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>	FTA-LC- 22-002	<p>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

UNITED STATES DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Special Directive No. 22-8, Notice No. 1]

**Special Directive Under 49 U.S.C. § 5329 and 49 CFR Parts 670 and 674
Required Actions to Address Findings from the Safety Management Inspection
Conducted at the Massachusetts Bay Transportation Authority**

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

SUMMARY: FTA issues Special Directive 22-8 to require the Massachusetts Department of Public Utilities (DPU) to oversee the implementation of the four Special Directives issued to the Massachusetts Bay Transportation Authority (MBTA) that address immediate safety issues based on interim findings made during FTA's ongoing Safety Management Inspection (SMI) of the MBTA. This Special Directive requires the DPU to take actions to oversee MBTA's corrective actions to address the pattern of safety incidents and interim safety findings concerning deferred track maintenance, uncontrolled train movements, management of the Operations Control Center (OCC), and lapsed training certifications of safety-sensitive rail personnel at the 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:

The DPU is the State Safety Oversight Agency designated by the Commonwealth of Massachusetts pursuant to 49 CFR § 673.13 and last certified in 2018 by FTA as the agency responsible for overseeing rail fixed guideway safety in the Commonwealth of Massachusetts. As set forth in Section 12(a) of Title XXII, Chapter 159 of the Massachusetts General Laws, the DPU has the power to supervise and regulate the transportation or carriage of persons or property, or both, by railroads, street railways, electric railroads, and trackless trolleys between points within the Commonwealth of Massachusetts. In exercise of its oversight authority, DPU can take actions including, but not limited to, review of Corrective Action Plans (CAPs) submitted by MBTA, oversight of MBTA's implementation of corrective actions, issuance of Orders, or the undertaking of any other action or enforcement proceeding authorized under State law, including judicial actions authorized under Sections 16 and 40 of Title XXII, Chapter 159 of the Massachusetts General Laws.

The MBTA is a division of the Massachusetts Department of Transportation (MassDOT),

providing heavy rail (subway), 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 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 MBTA to ensure that the system remains safe for both passengers and workers. Because of the MBTA's ongoing critical safety challenges, FTA undertook a Safety Management Inspection (SMI) that commenced in April 2022. The SMI is focused both on MBTA's rail transit operations and maintenance programs and on DPU's effectiveness and role as State Safety Oversight Agency.

This Special Directive to the DPU is based on several areas of concern. In October 2019, FTA conducted an audit of DPU's SSO program, issuing 16 findings of non-compliance, of which nine have been closed. The DPU submitted Corrective Action Plans (CAPs) to FTA to address the seven findings that remain open. The fact that those seven findings remain open gives rise to concerns regarding the DPU's ability to effectively oversee the MBTA's compliance with its own practices and procedures. The seven unresolved findings include procedures for addressing roadway worker protection, track maintenance, identification and analysis of hazards, investigations and root-cause analysis of accidents, and the MBTA's development of CAPs. In a letter dated March 14, 2022, FTA directed DPU to submit revised CAPs to address the seven open findings, which they submitted on April 25, 2022.

Despite these and other actions that the DPU has taken since October 2019 to address FTA's audit findings, it must exercise more robust oversight authority given MBTA's ongoing safety events and compliance issues with its own safety procedures.

The DPU is responsible for tracking an increasing number of CAPs that address safety-critical concerns at the MBTA. The number of CAPs has expanded from 4 in 2019, to 12 in 2020, to 42 in 2021. FTA is concerned that the DPU has not effectively utilized its existing regulatory and statutory enforcement authority to ensure the timely resolution and closure of these CAPs.

This Special Directive identifies immediate actions that DPU must take to provide effective safety oversight of MBTA's rail transit operations to ensure the safety of the MBTA's riders and employees. Consistent with 49 CFR Part 674, FTA will monitor the adequacy of the DPU's oversight activities and ensure that the MBTA is implementing safety-critical required actions to address FTA's immediate safety concerns.

In addition, FTA will provide technical assistance to the DPU as it initiates appropriate actions to ensure timely progress towards exercising effective oversight of the MBTA as the transit agency meets the requirements outlined in the four Special Directives issued today.

DIRECTIVE AND REQUIRED ACTIONS:

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

1. Take immediate action pursuant to Section 150.07(7) of Title 220 of the Code of Massachusetts Regulations to ensure the MBTA's timely implementation of FTA Special Directives 22-4, 22-5, 22-6, and 22-7. These actions include, but are not limited to, review of Corrective Action Plans submitted by MBTA, oversight of MBTA's implementation of corrective actions, issuance of Orders, or undertaking any other action or enforcement proceeding authorized under State law, including judicial actions authorized under Sections 16 and 40 of Title XXII, Chapter 159 of the Massachusetts General Laws.
2. Fully address FTA's open non-compliant audit findings of DPU's Program.

The DPU must identify the specific activities that it will undertake to ensure the MBTA's completion of the required actions, a milestone schedule for completion of the MBTA's required actions, and the parties at the DPU and MBTA responsible for completing the required actions. In addition, the DPU must develop and submit a Corrective Action Plan to FTA to address how it intends to ensure the MBTA's completion of the required actions.

FTA will review and approve (with revisions as necessary) DPU's Corrective Action Plan and will monitor the DPU's progress in addressing each finding and required action.

FTA will conduct weekly meetings with DPU to review the MBTA's weekly progress reports and the DPU's progress in effectively exercising its oversight responsibilities until such time as FTA determines that these meetings are no longer needed or may be conducted with less frequency.

Beyond the required actions described above, FTA makes the following findings and directs the DPU to take the following specific actions:

FINDINGS AND REQUIRED ACTIONS			
Finding		Required Actions	
Finding 1	The DPU has not ensured that the MBTA maintains its track.	FTA-DPU-22-001	<p>For each of the nine findings FTA issued to the MBTA in Special Directive 22-4 Related to Track Maintenance:</p> <ul style="list-style-type: none"> • The DPU must independently review and assess the CAPs received by the MBTA. The DPU must provide documentation to FTA that demonstrates how the DPU assessed and determined the CAP was sufficient to address the finding. • The DPU must identify any existing findings and associated CAPs the

	<p>DPU has already issued to the MBTA and must ensure that these findings and CAPs are deconflicted from the new findings issued due to FTA Special Directive 22-4. FTA's findings and subsequently approved CAPs supersede any prior inconsistent CAPs from the DPU.</p> <ul style="list-style-type: none"> • The DPU must provide to FTA an inspection and verification plan that outlines the processes and procedures the DPU will utilize to close each CAP. • The DPU must provide to FTA a plan for the DPU to utilize its enforcement authority if MBTA fails to adequately address any approved CAPs. • The DPU must attend the meetings FTA will hold with MBTA as a result of Special Directive 22-4.
<p>Finding 2 The DPU has not ensured that the MBTA has sufficient policies and procedures to address unintended train movements.</p>	<p>FTA-DPU-22-002 For each of the three findings FTA issued to the MBTA in Special Directive 22-5 Related to Unintended Train Movements:</p> <ul style="list-style-type: none"> • The DPU must independently review and assess the CAPs received by the MBTA. The DPU must provide documentation to FTA that demonstrates how the DPU assessed and determined the CAP was sufficient to address the finding. • The DPU must identify any existing findings and associated CAPs the DPU has already issued to the MBTA and must ensure that these findings and CAPs are deconflicted from the new findings issued due to FTA Special Directive 22-5. FTA's findings and subsequently approved CAPs supersede any prior inconsistent CAPs from the

	<p>DPU.</p> <ul style="list-style-type: none"> • The DPU must provide to FTA an inspection and verification plan that outlines the processes and procedures the DPU will utilize to close each CAP. • The DPU must provide to FTA a plan for the DPU to utilize its enforcement authority if MBTA fails to adequately address any approved CAPs. • The DPU must attend the bi-weekly meetings FTA will hold with MBTA as a result of Special Directive 22-5.
<p>Finding 3 The DPU has not ensured that the MBTA has sufficient policies and procedures related to the Operations Control Center.</p>	<p>FTA-DPU-22-003 For each of the seven findings FTA issued to the MBTA in Special Directive 22-6 Related to Operations Control Center:</p> <ul style="list-style-type: none"> • The DPU must independently review and assess the CAPs or other documentation received by the MBTA, as required based on the finding and action. The DPU must provide documentation to FTA that demonstrates how the DPU assessed and determined the CAP or documentation was sufficient to address the finding. • The DPU must identify any existing findings and associated CAPs the DPU has already issued to the MBTA and must ensure that these findings and CAPs are deconflicted from the new findings issued due to FTA Special Directive 22-6. FTA's findings and subsequently approved CAPs supersede any prior inconsistent CAPs from the DPU. • The DPU must provide to FTA an inspection and verification plan that outlines the processes

	<p>and procedures the DPU will utilize to close each CAP.</p> <ul style="list-style-type: none"> • The DPU must provide to FTA a plan for the DPU to utilize its enforcement authority if MBTA fails to adequately address any approved CAPs. • The DPU must attend the meetings FTA will hold with MBTA as a result of Special Directive 22-6.
<p>Finding 4 The DPU has not ensured that the MBTA has sufficient policies and procedures related to lapsed certifications.</p>	<p>FTA-DPU-22-004</p> <p>For each of the three findings FTA issued to the MBTA in Special Directive 22-7 Related to Lapsed Certifications:</p> <ul style="list-style-type: none"> • The DPU must independently review and assess the CAPs or other documentation received by the MBTA, as required based on the finding and action. The DPU must provide documentation to FTA that demonstrates how the DPU assessed and determined the CAP or documentation was sufficient to address the finding. • The DPU must identify any existing findings and associated CAPs the DPU has already issued to the MBTA and must ensure that these findings and CAPs are deconflicted from the new findings issued due to FTA Special Directive 22-7. FTA's findings and subsequently approved CAPs supersede any prior inconsistent CAPs from the DPU. • The DPU must provide to FTA an inspection and verification plan that outlines the processes and procedures the DPU will utilize to close each CAP. • The DPU must provide to FTA a plan for the DPU to utilize its enforcement authority if MBTA

	<p>fails to adequately address any approved CAPs.</p> <ul style="list-style-type: none"> • The DPU must attend the meetings FTA will hold with MBTA as a result of Special Directive 22-7.
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Thirty (30) days after the date of this Special Directive, DPU must submit Corrective Action Plans to FTA that demonstrates the specific actions the DPU will take to address actions specified in this Special Directive and if necessary, a milestone schedule for completing each activity; the responsible parties for 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) DPU's CAPs and will monitor the - DPU's progress in resolving each finding and required action.

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

PETITION FOR RECONSIDERATION

As set forth in 49 CFR § 670.27(d), the DPU 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 DPU and must include a brief explanation of why the DPU 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.

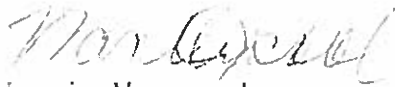
Within ninety (90) days of receipt of the petition, the Administrator will provide a written response. In reviewing the petition, the Administrator shall grant relief only where the DPU has clearly articulated an alternative action that will provide, in the Administrator's judgment, a level of safety equivalent to that provided by compliance with this Special Directive. In reviewing any petition for reconsideration, the Administrator shall grant petitions only where the DPU 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 the DPU's State Safety Oversight Program does not meet the requirements of 49 U.S.C. § 5329(e), and attendant financial penalties, including: (1) withholding SSO formula grant funds from the DPU; (2) withholding up to five percent of Massachusetts' Urbanized Area Formula Funding authorized under 49 U.S.C. § 5307; or (3) requiring MBTA to spend up to one hundred percent of Federal funding under 49 U.S.C. Chapter 53 only for safety-related improvements until the DPU's SSO Program can be certified.

Issued on: June 15, 2022



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