
Office of Inspector General

Audit Report

Review of the
**STATE SAFETY OVERSITE PROGRAM
FOR RAIL FIXED-GUIDWAY SYSTEMS**

Federal Transit Administration

Report No: TR-1999-071
Date Issued: March 12, 1999





**U.S. Department
Transportation**

Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: **INFORMATION:** Report on the
State Safety Oversight Program for
Rail Fixed-Guideway Systems
Report No. TR-1999-071

Date: March 12, 1999

From: Lawrence H. Weintrob
Assistant Inspector General
for Auditing

Reply to
Attn of: JA-1

To: Federal Transit Administrator

This report presents the results of our review of the State Safety Oversight Program for Rail Fixed-Guideway Systems (the Program). The objective of our review was to determine whether the Federal Transit Administration (FTA) is ensuring that states covered by the Program are (1) making adequate efforts to establish and carry out safety programs in accordance with the requirements of the Program, and (2) have designated a state agency to oversee the implementation of safety program plans for each rail fixed-guideway system.^{1,2}

BACKGROUND

FTA established the Program in December 1995 in response to the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA), which added Section 28 to the Federal Transit Act. This section required FTA to create the first state-managed oversight program for rail transit safety.³ The Program requires states with rail fixed-guideway systems that are not regulated by the Federal Railroad Administration to designate state oversight agencies to manage the safety of their rail transit systems and to develop system safety program standards.⁴ As of March 11, 1999, there are 19

¹ Although the Program responds to the need for security as well as safety, our audit focused on safety because that part of the Program has been in effect since January 1, 1997. The security part of the Program did not go into effect until January 1, 1998.

² The terms "rail fixed-guideway system" and "rail transit system" are used interchangeably throughout this report.

³ Section 28 was codified as Title 49 U.S.C. 5330. The Program regulations are at Title 49 Code of Federal Regulations Part 659, Rail Fixed Guideway Systems; State Safety Oversight.

⁴ When a rail fixed-guideway system operates in more than one state, the affected states may designate a single oversight agency.

states and the District of Columbia (hereafter referred to as 20 states) with transit agencies operating a total of 32 rail fixed-guideway systems. Rail transit agencies operating within these states are required to establish and implement system safety program plans that comply with the oversight agencies' standards. (See the Attachment for a description of the types of rail transit systems.)

The review was conducted between May 1998 and March 1999, at FTA Headquarters; the Bay Area Rapid Transit District, California; the San Francisco Municipal Railway, California; the Massachusetts Bay Transportation Authority, Massachusetts; New York City Transit, New York; the Southeastern Pennsylvania Transportation Authority, Pennsylvania; and the Washington Metropolitan Area Transit Authority, Washington, DC. We interviewed FTA program officials; and officials at the state oversight agencies, transit agencies, the American Public Transit Association (APTA), the National Transportation Safety Board (NTSB), and the Volpe National Transportation Systems Center. The review was conducted in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States.

RESULTS

We found states with rail fixed-guideway systems have generally complied with the initial requirements of the Program. As of March 11, 1999, 18 of the 20 states have implemented FTA-approved State Safety Oversight Programs. FTA withheld funds from 2 states that had not met the initial Program requirements.⁵ FTA's authority over safety programs and conditions at local transit agencies is limited to instances where specific hazardous safety conditions exist.

FTA's accident reporting system does not provide information needed to assess the underlying causes of accidents involving rail transit systems. An in-depth analysis of the causes and risk factors associated with accidents involving rail fixed-guideway systems is needed for FTA to determine whether states are doing an adequate job of ensuring safety at rail transit systems. If FTA finds that a broader federal role in transit safety would help to reduce accidents, it could then take action to modify its Program, request legislative changes, and obtain the necessary resources.

States Are Generally Complying With Program Requirements

FTA's Office of Safety and Security, which administers the Program, determines that a state meets the initial Program requirements if (1) the state has designated an oversight agency and (2) the oversight agency has implemented an FTA-approved State Safety Oversight Program. As of March 11, 1999, 18 of 20 states have

⁵ According to FTA officials, the State of Georgia recently established a State Safety Oversight Program, but the Program has not been approved by FTA. The State of Michigan has submitted several proposals to establish a state oversight agency, which FTA has rejected.

implemented FTA-approved Programs. Two States, Georgia and Michigan have not fully met the initial program requirements.

Currently, FTA has designated one person in the Office of Safety and Security to manage the Program. That staff person has other safety and security responsibilities in addition to managing the Program. FTA's initial focus has been to ensure that states comply with the Program by establishing state oversight agencies and that the state oversight agencies develop system safety program standards that comply with APTA's Manual for the Development of Rail Transit System Safety Program Plans.

If a state oversight agency fails to develop system safety program standards or does not comply with all Program requirements, the Secretary of Transportation can withhold up to 5 percent of the state's urban mass transit funding under the Formula Grant Program for Urbanized Areas.⁶ FTA withheld about \$2 million each from Georgia and Michigan for not meeting the initial Program requirements.

Currently, with contractor assistance, FTA is performing on-site audits to determine whether state oversight agencies are complying with all Program requirements and to make recommendations to improve their effectiveness.

FTA's Role in Program Oversight is Statutorily Limited

FTA's authority to mandate system safety compliance over local transit agencies is limited. Officials at FTA's Offices of Safety and Security and Chief Counsel told us FTA lacks the explicit authority to intervene in the safety operations of transit agencies except under special circumstances, such as instances where specific hazardous safety conditions exist. As evidence of this, FTA officials cited a 1990 United States Court of Appeals case, in which the Amalgamated Transit Union successfully challenged FTA's authority to take actions against transit agencies in a matter related to drug testing on transit employees.⁷ In its decision, the Court said about the underlying statutory basis for FTA's authority, "...[the] protocol for federal intervention into local safety matters ... does not include rulemaking on uniform, national criteria to be imposed on local transit authorities."

Under special circumstances, the Secretary of Transportation has authority to intervene in transit agency operations. Title 49 United States Code Section 5329(a) states the Secretary may investigate a "condition in equipment, a facility, or an operation" receiving FTA financing that "the Secretary believes causes a serious hazard of death or injury." If it is determined that a dangerous condition exists, the Secretary "shall require the local governmental authority ... to submit a plan for

⁶ In FY 1998, about \$2.3 billion was provided nationwide under the Formula Grant Program for Urbanized Areas. Of this amount, about \$2.1 billion was provided to the 20 states covered by the Program.

⁷ At the time of that court case (Amalgamated Transit Union v. Skinner, 282 U.S. App. D.C. 322, 894 F.2d 1362 (D.C. Circuit 1990), FTA was known as the Urban Mass Transit Administration.

correcting it.” The Secretary has the authority to withhold further financial assistance until such a plan is approved and implemented.

Improvements in Accident Reporting Data Could Aid Program Oversight

In their November 1998 report, Highway Special Investigation Report: Transit Bus Safety Oversight, NTSB concluded that FTA’s accident data involving transit buses are of limited value, can be used only to identify numeric trends, and are not useable to identify the underlying causes of or contributing factors to these trends.

While we did not audit FTA’s transit accident reporting system during our review of the State Safety Oversight Program, we observed that accident data involving rail fixed-guideway systems are taken from the same database used for transit bus accident reporting. For example, in Fiscal Year 1997 (the most current data available), rail transit agencies reported 80 fatalities, 13,388 injuries, and 16,343 incidents. However, like the transit bus reporting data, accident data involving rail fixed-guideway systems provide no details on the causes of the fatalities, injuries, and incidents.

Without better accident data, FTA is unable to identify trends in safety deficiencies at transit agencies or provide states with information that would assist them in targeting transit agencies that require closer oversight. An in-depth analysis of the causes and risk factors associated with accidents involving rail fixed-guideway systems is needed for FTA to determine whether states are doing an adequate job of ensuring safety at rail transit systems. If FTA finds that a broader federal role in transit safety would help to reduce accidents, it could then take action to modify its Program, request legislative changes, and obtain the necessary resources.

RECOMMENDATIONS

We recommend that FTA (1) take actions to improve the nature of rail transit accident reporting data to provide more complete information regarding the causes of accidents; and (2) analyze the causes of rail transit accidents and fatalities, and based on that analysis, determine whether an expanded FTA role can add value in the area of transit safety and/or whether modification of the State Safety Oversight Program is warranted.

MANAGEMENT RESPONSE

We discussed our report with FTA’s Associate Administrator for Program Management and his deputy, the Director of the Office of Safety and Security, and a representative of the Office of Chief Counsel. They agreed with our findings and recommendations, and we have incorporated their comments, where appropriate.

If you have any questions, please call me at (202) 366-1992 or Patricia J. Thompson, Deputy Assistant Inspector General for Surface Transportation at (202) 366-0687.

Attachment

#

Attachment

Types of Rail Fixed-Guideway Systems

Light rail:	Lightweight passenger rail cars operating singly on fixed rails in right-of-way that is not separated from other traffic. Also known as “trolley cars”.
Rapid rail:	High-speed, passenger rail cars operating singly or in trains of two or more cars on fixed rails in separate rights-of-way from which all other vehicular and foot traffic are excluded. Also known as “heavy rail,” “subway,” “elevated (railway),” or “metropolitan railway (metro)”.
Monorail:	Vehicles operating on or suspended from a single rail, beam or tube.
Inclined Plane:	Special tramway type of vehicles operating up and down slopes on rails via a cable mechanism, so that passenger seats remain horizontal while the undercarriage (truck) is angled parallel to the slope.
Funicular:	A cable railway on a mountain, in which an ascending car is counterbalanced by a descending car.
Cable Car:	Streetcar type of vehicles attached to a moving cable located below the street surface and powered by motors at a central location, not on board the vehicle.
Automated Guideway:	Guided transit passenger vehicles operating singly or in multi-car trains with a fully automated system (no crew on transit units).