

Public Transportation Agency Safety Plans

We believe FTA must keep a number of overarching concerns in the forefront as it crafts and proposes a regulatory framework for agency safety plans. First, **the regulatory framework must provide a great deal of flexibility** to accommodate the monumental differences among public transportation agencies and how they and the governments that sponsor them approach safety. As an example, in the case of states, we believe an individual state should have the ability to adopt a safety plan format that works for that individual state. Given the broad variation among states – whether their departments of transportation serve as operators, facilitators, or simply funders of public transportation – each must be free to adopt a sensible, verifiable, effective plan that fits their unique circumstances. A state may choose to direct sub-grantees to develop agency specific plans, provide a template designed by the state or FTA, or even consolidate the safety function for its sub-grantees at the state level. Each of these approaches may be appropriate and FTA’s regulatory scheme must be flexible enough to accommodate them all.

The regulatory framework must be compatible with existing, FRA-compliant, safety regimes. Multi modal agencies that include commuter rail operations are already subject to system safety planning requirements through FRA. While APTA favors FTA’s selected approach, utilizing a performance-based system, there is little chance FRA will migrate to a similar system in the near term. Employing separate and distinct safety regimes, with applicability in some cases to the same workers and facilities, dictates the systems must be compatible.

The regulatory framework must be effective for all modes of public transportation. While the initial emphasis of the safety program is rail transit, the framework must be flexible enough to apply to all modes, including bus and paratransit operation. Clearly, FTA is cognizant of this requirement, focusing a number of questions in this section on small operations which tend to be limited to bus and paratransit.

The regulatory framework must be cognizant of contract operations. Particularly, in situations where contractors provide all or most of the equipment, personnel, and supervision, FTA must account for the wide variation in contract structure, funding, and control in contracted services.

FTA must take all authorized actions to safeguard safety sensitive information in federal, state, and local forums. While MAP-21 did not provide explicit federal preemption, FTA should aggressively act to maximize the safeguarding of safety information. It is only with protection from FOIA, sunshine laws, and discovery that a safety regime can be fully effective. Guarding transit agencies from potential plaintiffs is directly contrary to the strong program of self-analysis that this program will require.