



**American
Public Transportation
Association**

EXECUTIVE COMMITTEE

CHAIR

Michele Wong Krause

VICE CHAIR

MJ Maynard

SECRETARY-TREASURER

Jeffrey Wharton

IMMEDIATE PAST CHAIR

Dorval R. Carter, Jr.

Jose Bustamante
Francis "Buddy" Coleman
Jim Derwinski
Charles DiMaggio
Dawn Distler
Denise Figueroa
Sharon Fleming
Gary S. Giovanetti
Carolyn Gonot
Beth Holbrook
Bacarra Mauldin
Allan Pollock
Naomi Renek
Leslie S. Richards
Erin Rogers
Rita A. Scott
Kimberly Slaughter
Doug Tisdale
Matthew O. Tucker
Jannet Walker-Ford
Evalynn "Eve" Williams

PRESIDENT AND CEO

Paul P. Skoutelas

1300 I Street NW
Suite 1200 East
Washington, DC 20005
p: (202) 496-4800
f: (202) 496-4324

APTA.COM

February 15, 2024

Department of Transportation
Docket Operations
M-30, West Building Ground Floor, Room W12-140
1200 New Jersey Avenue S.E.
Washington, DC 20590

Subject: Docket No. FTA-2023-0008

Dear Docket Clerk:

The American Public Transportation Association (APTA) represents a \$79 billion industry that directly employs 430,000 people and supports millions of private-sector jobs. Safety is the number one core value of the public transportation industry, including bus, rail, commuter and intercity rail and ferry operators. The employees responsible for managing and operating public transportation systems are fully committed to the safety of their systems, passengers, fellow employees, and the public. As a result of this commitment to safety, traveling by public transportation is 10 times safer per mile than traveling by car.

We greatly appreciate the ongoing dialogue between the Federal Transit Administration (FTA) and APTA regarding safety. We also appreciate the opportunity to respond to FTA's State Safety Oversight Notice of Proposed Rulemaking (SSO NPRM) published in the *Federal Register* at 88 FR 78269 on November 15, 2023.

After speaking with APTA's diverse membership of small, medium, and large size operators and bus, transit rail, commuter rail and ferry members, APTA supports much of what is proposed in the SSO NPRM. APTA's comments are focused on three key areas: (1) retaining the current definitions of accident, incident, and occurrence for reporting purposes; (2) increasing the length of time from two to at least four hours for reporting safety events to the FTA and State Safety Oversight Agency (SSOA); and (3) include in any final rule a 12-month "cooling off period" for a transit agency employee that moves to a SSOA and oversees the same portfolio as when they were a transit employee at the agency.

1. Definitions of Safety Event

APTA members do not agree with FTA’s proposal to change the definition of “safety event” to “an unexpected outcome resulting in injury or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment.”¹ Many agencies have used the definitions for “accident”, “incident” and “occurrence” for many years with historical data and are accustomed to using these terms to define and report certain types of events to the FTA and SSOA. APTA members are concerned that this new definition of “safety event” is insufficient to define all types of accidents and incidents for notification and reporting purposes. Moreover, retaining the three definitions enables continuation of longitudinal performance tracking at a more granular level to determine improvements in safety performance. Accordingly, APTA strongly encourages FTA to retain the current definitions for accident, incident, and occurrence, as opposed to combining them in one definition of “safety event.”

If FTA were to finalize this new definition for “safety event,” however, APTA encourages FTA to make sure that the National Transit Database (NTD) definition for “safety event” aligns exactly with this definition (including for collisions, etc.) so APTA members can avoid issues with reporting in the NTD. As APTA noted in its comments to the FTA’s Public Transportation Agency Safety Plan (PTASP) NPRM: “APTA recommends FTA ensure consistency between the final PTASP rule, Part 674 SSO rule, as well as the NTD definitions for “safety event.” Failure to provide consistent definitions across these three interrelated rules and data collection systems could lead to confusion and may result in over or underreporting of events.”²

2. Increase of Reporting Time to the FTA and SSOA

In section 674.33, FTA proposes to replace the term “accident” with “safety event” and includes specific notification criteria to replace the Appendix in current part 674.³ Specifically, FTA proposes to require an RTA to “notify FTA and the SSOA within two hours of any safety event occurring on a rail fixed guideway public transportation system that results in one or more of the following:

- (a) Fatality
- (b) Two or more injuries
- (c) Derailment
- (d) Collision resulting in one or more injuries
- (e) Collision between two rail transit vehicles
- (f) Collision resulting in disabling damage to a rail transit vehicle
- (g) Evacuation for life safety reasons

¹ FTA SSO NPRM, 88 Fed. Reg. 78269, 78277 (November 15, 2023).

² See APTA Comments on FTA PTASP NPRM (June 26, 2023) (APTA PTASP NPRM Comments), at 5.

³ See FTA SSO NPRM at 78272, 78281.

(h) Unintended train movement.⁴

Many APTA members are concerned about the restrictive two-hour notification period to report and believe the time for reporting should be extended to at least four hours. APTA members believe at least four hours for reporting is a better approach, as it often takes accident and incident investigators well over an hour to get to the event itself, and it usually takes two hours or more to get the broader investigation team to the scene of the event. In addition, allowing for at least a four-hour period for notification would enable better data collection and more accurate reporting to the SSOA and FTA.

Further, according to multiple rail transit agencies, it is rare for a SSOA to travel to an accident scene, so there should be no rush to report within two hours. One rail transit agency suggested that if FTA and SSOAs make a commitment that all SSOAs are on scene of an accident or incident within two hours or less, then this new requirement would make sense. In reality, however, SSOAs never make it to the scene of an accident within two hours (if they come at all).

One final thought from a larger rail transit agency about the reporting and notification from the rail transit agency to FTA and the SSOA: FTA could bifurcate the reporting requirement so that major events like collisions and those with fatalities are reported to the FTA and SSOA within two hours and less major events (e.g., those with minor injuries or a minor derailment.) could be reported within four to six hours. This added flexibility would provide additional time for RTAs to report such incidents.

3. State Safety Oversight Agencies and Conflicts of Interest – “Cooling off Period”

APTA raised the issue of conflict of interest in its comments to the PTASP NPRM, noting that: “another issue raised by a few rail transit agencies (RTAs) is that some former employees of the RTA now work for the State Safety Oversight Agency and oversee many of the areas of their previous employment. To preserve integrity and to avoid “conflicts of interest”, APTA recommends there be a “cooling-off period” of at least 12 months between when an employee leaves or retires from an RTA and then oversees the exact same area in which they previously worked in at a transit agency.”⁵

In many other lines of business and Federal and State Government positions, a cooling-off period is required when you move from one job to another where there may be a perceived or actual conflict of interest. Therefore, APTA recommends that FTA incorporate into any final SSO rule a cooling-off period of 12-months for an employee that leaves or retires from an RTA and finds employment at an SSOA overseeing the exact same area in which they previously worked in at a transit agency.

⁴ FTA SSO NPRM at 78281.

⁵ See APTA PTASP NPRM Comments, at 9.

Summary

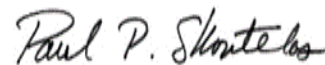
In summary, APTA appreciates this opportunity to provide comments on the State Safety Oversight NPRM. APTA's Working Group that developed these comments includes numerous large, medium, and small public transit agencies in the United States and represents all modes of public transportation (e.g., bus, commuter rail, rail transit and ferries). Many of these transit agencies also plan to submit similar comments on the State Safety Oversight NPRM from their individual agencies.

Safety is the number one core value of APTA and our member agencies. APTA is supportive of much of what is stated in the SSO NPRM. However, APTA strongly encourages the FTA to (1) retain the current definitions of accident, incident, and occurrence for reporting purposes; (2) increase the length of time for reporting safety events to the FTA and SSOA from two to at least four hours; and (3) include in any final rule a 12-month "cooling off period" for a transit agency employee that moves to a SSOA and oversees the same portfolio as when they were a transit employee at the agency.

If you have any questions regarding this letter, please contact Brian Alberts, APTA's Senior Director of Safety and Advisory Services, at balberts@apta.com or 202.496.4885.

Thank you for your consideration and we look forward to continuing to work with FTA to improve safety throughout the transit industry.

Sincerely,



Paul P. Skoutelas
President and CEO