



# COMMONWEALTH of VIRGINIA

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The Honorable Terence McAuliffe  
Governor of Virginia  
1111 Broad Street  
Richmond, Virginia 23219

Re: Annual Status Report on Rail Fixed Guideway State Safety Oversight Program Performance in the Commonwealth of Virginia

Dear Governor McAuliffe:

Pursuant to the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) and 49 CFR 674, the Virginia Department of Rail and Public Transportation (DRPT) submits this inaugural annual report of rail transit state safety oversight program activities for the period November 1, 2015 through October 30, 2016. The attached report outlines the program's mission and describes its current activities while detailing ongoing efforts to comply with recently finalized and pending federal rules.

Please do not hesitate to contact our Rail Transit Safety Programs Administrator, Sharmila Samarasinghe ([sharmila.samarasinghe@drpt.virginia.gov](mailto:sharmila.samarasinghe@drpt.virginia.gov), 703-259-3248) should you or your staff have questions or wish to discuss the program.

Sincerely,

Jennifer L. Mitchell

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## Program Background and Overview

In 1996 the Federal Transit Administration (FTA) issued the Rail Fixed Guideway Systems; State Safety Oversight rule 49 CFR 659. Under this rule, each state with rail fixed guideway systems that are not subject to the regulatory authority of the Federal Railroad Administration is responsible for overseeing the safety and security program implementation of these rail fixed guideway systems. As one of the impacted states, Virginia was required to designate an agency to oversee the safety and security of its rail fixed guideway system within its jurisdiction. In Virginia, the designated Rail State Safety Oversight Agency (SSOA) is the Virginia Department of Rail and Public Transportation (DRPT). The rail fixed guideway systems covered by this regulation and overseen by DRPT include Hampton Roads Transit (HRT) TIDE Light Rail System and Washington Metropolitan Area Transit Authority (WMATA) Metrorail.

A new rule issued in March 2016 - 49 CFR 674 - significantly strengthens states' authorities to prevent and mitigate accidents and incidents on rail fixed guideway systems by providing the necessary enforcement authority, legal independence, and financial and human resources for overseeing the number, size, and complexity of rail transit systems within their jurisdictions.

Due to the continuing federal oversight of the WMATA Metrorail, this report will address state safety oversight as it pertains to HRT TIDE Light Rail only.

## State Safety Oversight Philosophy

DRPT's rail state safety oversight activities are intended to be a proactive safeguard to preserve safety considerations in all decision making, practices and programs at the rail transit agency; and to maintain safety as the first priority above operational expediency. In practical terms the SSOA has to persistently validate that the rail system is carrying out its documented programs designed to ensure the safety of its passengers and its employees. DRPT's rail state safety oversight efforts are conducted with full transparency to HRT. All of DRPT's rail state safety oversight actions, including those that denote various deficiencies at HRT, are communicated openly with the goal of improving HRT's rail safety posture, and not to assign fault. HRT's Safety and Security Department is the custodian of HRT's safety program. However, the entire HRT organization is empowered and responsible for upholding its safety goals, including its senior executives, its middle managers, supervisors and its front line personnel.

The DRPT rail state safety oversight program activities are described in the Rail State Safety Program Standard (SSPS). This document describes DRPT's program and DRPT's procedures in conducting a federally compliant rail state safety oversight program. This is a dynamic document that is reviewed annually and updated to reflect enhancements in our practice. This document and the practices it represents are subject to FTA review.

While states are required to comply with the minimum requirements mandated by the regulation, states also have the prerogative to scale its program to meet the unique characteristics and challenges within the rail system(s) it oversees.

## Key Program Activities

Key program activities include:

- Regular work sessions with HRT rail safety, security, operations and maintenance personnel
- Conducting audits and special assessments of HRT's light rail operations
- Review and approval of primary HRT rail safety, security, and emergency preparedness plans
- Review, approval and adoption of HRT rail investigations of accidents, incidents, and hazards
- Tracking and field verification of HRT's progress in correcting safety and security gaps on its light rail system

## Staffing

DRPT's rail state safety oversight responsibilities are performed by a team of three full time DRPT staff. There is one dedicated Rail State Safety Oversight Manager performing safety oversight for each of the rail fixed guideway systems in the Commonwealth of Virginia with programmatic decision making and supervisory tasks being performed by the Rail Transit Safety Programs Administrator. The DRPT rail state safety oversight team reports directly to the agency Director, Jennifer Mitchell.

The DRPT Rail State Safety Oversight Manager for HRT's TIDE Light Rail, Andrew Ennis, is fully trained in all of the currently mandated certifications and training. One of the changes enacted through the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) and 49 CFR 674, was a more standardized approach to certification and training of designated state personnel who conduct rail safety audits and examinations with direct rail safety oversight responsibility. With the new regulations enacted through MAP-21, there is a greater regulatory emphasis on rail state safety oversight staff having certain certifications and competencies as well as a specific knowledge base of the rail system they oversee.

DRPT's rail state safety oversight capacities are further augmented through a team of consultants, including subject matter experts in the fields of train signaling, civil engineering, track and structures, rail vehicles and rail operations. These consultant resources can be leveraged in the event that staff resources need to be augmented for a finite period or if DRPT would benefit from the subject matter expertise on a particular issue.

## Budget/Funding

Since the passage of MAP-21, the USDOT and the FTA has provided a dedicated source of funding, based on the complexity and operational characteristics of the rail system, to states with rail state safety oversight responsibilities. These FTA funds can be utilized for rail state safety oversight staff salaries, to complete FTA mandated training, for consultant services, and for the purchase of equipment.

## Program Highlights from 2016

### Triennial Audits

One of the mechanisms the DRPT rail state safety oversight utilizes to assess the ongoing health of HRT's rail safety performance is the triennial audit process. Triennial audits gauge the level to which safety is

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integrated into rail operations, maintenance, training, human resources, procurement, engineering, quality assurance departments and into HRT's management structure. All of these separate departments and the organization as a whole support the safe operation of the rail system. The methodology associated with the triennial audits is the continuous and robust assessment of all of these departments and the associated documented efforts at ensuring safety of HRT's passengers and employees. Instead of a single audit of the entire program being conducted once every three years DRPT conducts these audits on a continual three year cycle. During these audits if the DRPT rail state safety oversight concludes that any aspects of HRT's documented programs related to rail safety are not being executed as officially described, DRPT will record these as deficiencies. HRT is obligated to address such deficiencies through Corrective Action Plans (CAPs). These CAPs either take the form of re-calibrating a program to better match the practical applications of such a program, re-instruction, instituting procedures or programs, anew, or in some cases completely overhauling a program or practice. The DRPT rail state safety oversight reviews and approves such corrective action plans proposed by HRT, and then monitors these CAPs to ensure completion within established timeframes.

DRPT conducted three safety and security audits of HRT in November 2015, April 2016 and October 2016. In November 2015, the audit reviewed HRT's performance in the areas of rail operator training and operating rule compliance. The April 2016 audit focused on security and emergency preparedness. The October 2016 audit reviewed Light Rail Vehicle (LRV) Maintenance and Training.

#### Accident Notification and Investigation

Federal regulation requires DRPT to investigate incidents such as collisions with rail vehicles, damage to rail facilities above a certain dollar threshold, derailments, fatalities and injuries to employees or passengers or rule violations by employees on the rail system. In conducting these investigations, DRPT may authorize HRT to conduct an investigation on its behalf, or DRPT can conduct its own independent investigation. In the event the National Transportation Safety Board (NTSB) launches an investigation into a HRT light rail accident, DRPT can participate in the investigative process. DRPT rail state safety oversight staff closely scrutinizes the conduct of any accident investigation carried out by HRT, evaluates all of the investigation reports prepared by HRT for completeness and accuracy, and approves and adopts each report as its own official investigative report.

During the period covered by this annual report there were two collisions involving TIDE light rail vehicles, a destruction of a wayside facility due to a natural disaster, one evacuation from a light rail vehicle due to a fuel spill, and several rule violations by rail operators. The investigations into each of these accidents concluded:

- The collisions were the fault of a pedestrian and a driver of a privately owned vehicle and were not operator caused;
- The evacuation was due to a patron bringing a gas powered bike onto the LRV which resulted in a fuel spill; this incident was not due to HRT Operator error; and
- The operator rule violations were addressed through re-instruction and one operator was terminated due to repeated rule violations.

#### Approval of Program Documents

The federal regulation mandates that the Rail State Safety Oversight Agency reviews and approves the key documents associated with safety and security at the rail transit system it oversees. Accordingly, the DRPT rail state safety oversight reviews and approves HRT's System Safety, Security and Emergency Preparedness plans. These plans are described in HRT's System Safety Program Plan (SSPP) and the

Security and Emergency Preparedness Plan (SEPP). In doing so, DRPT has the ability to scrutinize changes from year to year, and to prevent any degradation of safety programs at HRT that impact the TIDE light rail system.

#### Technical Assistance and Field Observations

In addition to the above standardized portions of the DRPT's state safety oversight work program, the DRPT Rail State Safety Oversight Manager provides technical assistance and monitors all aspects of HRT's TIDE light rail activities. The DRPT Rail State Safety Oversight Manager has the training and the certifications required to observe various maintenance activities within the rail right of way. The DRPT Rail State Safety Oversight Manager is frequently on site at HRT either providing technical assistance, participating in work sessions with HRT staff, accompanying employees who are conducting inspections or maintenance activities on the light rail system, or participating in various HRT committees and work groups. All of these efforts combined to promote a very collaborative environment that encourages HRT to be open and transparent about both its accomplishments and its challenges concerning rail system safety.

### **Federal and State Legislative Changes**

The MAP-21 Act of 2012 has numerous implications for Rail State Safety Oversight Agencies and rail transit agency safety programs. Four years following the enactment of these sweeping changes, FTA is currently in the midst of completing its federal rulemakings that will serve as mandated regulations impacting rail state safety oversight activities across the country, including DRPT's Rail State Safety Oversight Program and HRT. The MAP-21 rule most pertinent to DRPT is the State Safety Oversight regulation (49 CFR Part 674).

In order to be fully compliant with this new set of regulations, Rail State Safety Oversight programs such as DRPT's have to demonstrate adherence with several key programmatic enhancements, including the following:

- The DRPT SSOA must be financially and legally independent from the transit agency(s) it oversees. The SSOA has to demonstrate that it is neither obligated financially, nor that it utilizes any rail agency employees to conduct state safety oversight responsibilities. Any further perceived conflicts have to be mitigated through the adoption of a formal Conflict of Interest policy.
- DRPT must provide an Annual Report to the Governor of Virginia and a bi-annual summary of Rail State Safety Oversight Program activities to HRT's Board of Directors.
- The DRPT SSOA must have a closer involvement in HRT accident/incident investigations.
- The DRPT SSOA must engage in more frequent field verification of changes/improvements made by HRT's light rail system.
- DRPT must provide technical training for dedicated rail state safety oversight staff and ensure that its contractors, including subject matter experts, are compliant with any relevant regulations on training and competencies.
- The DRPT SSOA must ensure that HRT overhauls its safety plan and hazard management process to meet the new Safety Management Systems (SMS) approach of data driven, risk based safety performance.
- The DRPT SSOA must have enforcement authority to compel the transit agency to take action in response to hazards. This could include the power to require removal of employees who violate

rules and engage in repetitive negligent behavior, or shut down rail service until any potentially catastrophic safety gaps are satisfactorily addressed by HRT.

## Next Steps and Timeframe

FTA's new SSO final rule took effect April 15, 2016, starting a three-year timeframe for DRPT to make the programmatic changes outlined above, to have its authority expanded to include enforcement authority, and to be certified by FTA as a fully compliant SSOA.

The Commonwealth of Virginia is required to comply with this Federal regulation by April 2019. With the passage of the FAST Act, and as demonstrated by the action taken against the Tri State Oversight Committee (TOC), the USDOT and FTA has shown that it has the regulatory latitude to withhold funds from states that do not show adequate progress in the area of state safety oversight.

DRPT's efforts, at complying with these new regulations as it pertains to HRT TIDE light Rail, are moving at a satisfactory pace.

For further information, please feel free to contact the DRPT Rail Transit Safety Programs Administrator as noted below.

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