

Overview of the Metrorail Safety Commission

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Presentation Overview

- Introduction
- Regulatory Requirements
- Overview of Metro Safety Commission (MSC)
- Discussion

Introduction

State Safety Oversight (SSO)

- **1996:** FTA establishes SSO for rail systems not regulated by FRA
- **2012:** MAP-21 establishes new requirements for SSO
 - Legally and financially independent from rail system
 - Dedicated, trained, and qualified staff
- **2015:** FAST Act augments the FTA's safety authority
- **April 2016:** FTA issues new SSO Final Rule giving states 3 years to comply

Milestones Leading to the MSC

- **1997 to Present:** TOC formed via an MOU between VA, MD and DC and acted as WMATA's SSO
- **September 2015:** FTA cited TOC's lack of enforcement authority and took over safety oversight of WMATA
- **February 2016:** FTA threatened to begin withholding up to 5% of Federal Urbanized Area funds to VA-DC-MD if new SSO is not established by February 9, 2017
 - Approximately \$6M/year impact to Virginia
- FTA must certify that the MSC is able to assume safety oversight

Overview of Metro Safety Commission Legislation



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MSC Development Process

- March 2015: Governor signed initial MOU creating MSC
- Since April 2015: DC-MD-VA Executive Policy Team has:
 - Identified and resolved policy issues
 - Evaluated potential legal structures for MSC
 - Incorporated FTA's Final Rule regulations (published in March 2016)
 - Hired independent legal advisors in February 2016 to draft final legislation
 - Created legislative working group in March 2016 to coordinate efforts
 - Sought and received FTA review and comments
 - Provided new Certification Work Plan to FTA
 - Engaged management consultant to benchmark other SSOs and present organization structure scenarios
 - Coordinated legislative approval process from DC, MD and VA, to be followed by Congressional approval



Policy Goals

- MSC will be an independent legal entity that performs safety oversight of WMATA metrorail
- Provide MSC with full safety oversight authority
- Have enforcement authority available under MAP-21 and FAST Act to compel action
- Create robust organization to match size and complexity of WMATA
- Assume all safety oversight responsibility from FTA once MSC is in place

Purpose and Functions

- DC, MD and VA will create the MSC pursuant to MAP-21, the FAST Act and the Final Rule to be the SSO agency for the WMATA Metrorail system
- The MSC is a common instrumentality of the signatories and will be financially and legally independent of WMATA
- Signatories – DC, MD and Virginia
 - Congressional ratification



Governance

- MSC is governed by a Board of Directors
 - 6 board members with 3 alternate members
 - Each signatory appoints 2 members and 1 alternate
 - Board members to have staggered terms
 - Member qualifications: background in transportation, safety, applicable engineering or public finance
 - Board elects its officers, establishes its bylaws, etc.
- Board appointed CEO will lead MSC staff and day-to-day operations

Administrative Powers

- Like WMATA, MSC operates as an independent governmental entity
 - Procurement, finance, personnel and records regulations based on federal law (not laws of the signatory jurisdictions)
- MSC Board will develop administrative and governance procedures through regulations
- MSC will adopt federal FOIA and open meeting laws
 - 5 U.S.C 552 (a)-(c) and 552b



Safety Powers

- The MSC is empowered to review, approve, oversee and enforce the safety plan of the WMATA rail system. The MSC may:
 - Review and approve WMATA's safety plan
 - Set and update minimum safety standards for WMATA
 - Require and enforce any Corrective Action Plans that the MSC deems appropriate

Enforcement Powers

- Compel compliance of MSC orders and standards by:
 - Taking legal action
 - Issuing citations or fines
 - Directing WMATA to prioritize spending on safety-critical items
 - Removing a vehicle, infrastructure element or hazard
 - Restricting, suspending or prohibiting rail service
 - Compelling WMATA to remove an individual from Safety Sensitive Position
 - Compelling WMATAs Office of the Inspector General to conduct safety-related audits or investigations
- MSC shall coordinate its enforcement activities with appropriate federal and state governmental authorities

Additional Powers and Procedures

- Investigate any emerging rail safety concerns
- Conduct inspections of WMATA property
 - MSC may access adjacent land to do perform inspections, if necessary
- Take primary responsibility for the investigation of accidents and prepare reports
- Audit WMATA's compliance with its own safety plan requirements

General Powers and Provisions

- The MSC must publish:
 - Annual Safety Report to FTA and signatories
 - Annual Report of Operations detailing its programs, operations and finances
 - Annual Independent Audit of its finances
- Due process provisions are included to permit WMATA to petition MSC to reconsider an order

Funding

- MSC is funded independently of WMATA
- FTA currently provides approximately \$1.5M/year in grants for SSO activities
- Non-Federal share to split equally by DC, MD, VA
- Virginia share estimated to be \$1M-\$2M/year
 - Jurisdictions currently examining organization structure
- DRPT expects to fund MSC through existing funding sources

Key Takeaways and Next Steps

- Safety is first and foremost the responsibility of WMATA
- Financial and legal independence is key to FTA Certification
- DC Council introduced legislation in July and plan to approve by December 2016
- Jurisdictions conducting early outreach now to identify major issues prior to 2017 legislative sessions

Discussion