TESTIMONY OF

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BEFORE THE

SUBCOMMITTEE ON HIGHWAYS, TRANSIT & PIPELINES

OF THE

HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

ON

THE FEDERAL TRANSIT ADMINISTRATION'S
STATE SAFETY OVERSIGHT PROGRAM

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SUBMITTED BY

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APTA is a nonprofit international association of more than 1,500 public and private member organizations including transit systems and commuter rail operators; planning, design, construction and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. More than ninety percent of persons using public transportation in the United States and Canada are served by APTA members.

Introduction

Chairman Petri, Ranking Member DeFazio, and members of the House Highways, Transit & Pipelines subcommittee, on behalf of the American Public Transportation Association (APTA), I thank you for this opportunity to testify today on the Federal Transit Administration's (FTA) State Safety Oversight program (SSO). Safety is a high priority of public transportation providers, state and local governments and APTA, and I am pleased to offer the transit industry's perspective on how to improve the already successful State Safety Oversight program which promotes the safe operation of rail transit systems, including subway, light-rail and trolley services.

At the outset, I want to remind the subcommittee that public transportation, particularly rail travel, continues to be one of the safest modes of travel in the U.S. According to the National Safety Council's 2005-2006 "Injury Facts", it is estimated that transit rail riders are 14 times safer than those traveling by car. The State Safety Oversight program has contributed to this outstanding safety record by promoting standards and by requiring fixed guideway transit providers to regularly examine their operations in order to promote safety under the watch of a designated state entity. The SSO program is largely based on concepts that have been led and developed by APTA, and we consequently have several thoughts on the direction of the program today.

APTA and SAFETY

APTA has been a key and primary partner for the advancements of transit safety, even prior to the inception of the State Safety Oversight program under the Intermodal Surface Transportation Efficiency Act of 1991. In the 1980s, APTA was requested by the U.S. rail transit industry and FTA's predecessor the Urban Mass Transit Administration (UMTA) to develop a standardized program for rail transit system safety. APTA subsequently developed a program that laid out the key components for a system safety program plan and also developed an audit program to provide audits on a trienniel basis. The focus for the audit is to assess the degree to which a transit system is applying its own system safety plan into its operations and to assist the transit system in making any improvements required. The program was founded on effective industry practices, as well as the U.S. Military Standard 882-C. This voluntary APTA program became known as the APTA Rail Safety Audit Program.

APTA's commitment to safety is also the basis for our Standards Development Program that was initiated in 1996 and currently spans areas including standards for rail transit, commuter rail, bus operations, procurement, intelligent communications interface protocols, and security. APTA's status as a standards development organization is recognized by the U.S. Department of Transportation and is also funded, in part, through grants provided by FTA.

APTA's Safety and Security Management Programs are recognized internationally and provide leadership in program development, benchmarking of effective practices, and delivery of safety and security program audits of transit systems. Currently, 56 public transportation systems participate in the rail, commuter rail or bus safety management programs offered by APTA in North America and Asia. These comprehensive management programs are designed to examine

every area of transit planning, construction, acquisition, operations, security, emergency preparedness and maintenance to ensure the safety of our public transportation passengers and employees.

SSO Program and Standards Development

The APTA Manual for the Development of Rail Transit System Safety Program Plans (APTA Manual) formed the substantive basis of FTA's SSO program when the program was initiated in 1996, and it guided the program until last year. To our concern and dismay, however, APTA's Manual was not referenced or acknowledged by the FTA in the recent update of the SSO regulation. Paradoxically, the FTA continues to acknowledge APTA as a Standards Development Organization and provides funding support to this program.

APTA is very concerned that FTA eliminated its reference to the APTA Manual in SSO program regulations in the 2005 rulemaking. APTA has on-going access to industry best practices, and our efforts promote continual and on-going improvement to perpetually raise the bar of safety excellence.

APTA undertook this role and became a Standards Development Organization (SDO) because existing SDO's were not interested in or not capable of meeting the transit industry's need for standards. APTA develops these standards through a set of formal procedures patterned after the process required by the American National Standards Institute (ANSI) to certify Standards Development Organizations. Some important characteristics of the process are:

- balanced representation of interested parties
- required public comment period
- formal process to respond to comments
- availabilities of an appeal procedure
- balloting group broadly representative of the industry
- consensus defined as a super majority of the balloting group
- a formal way to respond to requests for interpretations of or changes to the standard

To date, APTA has produced over 200 consensus standards for the public transportation industry and continues in this important effort.

FTA's decision to no longer incorporate the APTA Manual by reference in SSO program regulations is simply inconsistent with the Department of Transportation's (DOT) recognition of APTA as a Standards Development Organization. As noted in the National Technology Transfer and Advancement Act of 1995 (P.L. 104-113), the federal government should acknowledge those standardized formats develop by an industry's lead association. The FTA should permit the transit industry and the federal government to continue their collaborative relationship on important safety and security issues, but instead, the FTA has sought to spend additional funds on their own unnecessary, and less effective, standards development efforts.

FTA's action is also inconsistent with other U.S. DOT practice. In 1996, the Federal Railroad Administration (FRA) partnered with APTA and U.S. commuter rail agencies in the development of a voluntary system safety audit program known as the APTA Commuter Rail Safety Management Program (CRSMP). Within this very successful program there is no state safety oversight requirement and the commuter rail systems participate on a voluntary, although strongly encouraged, basis. Audits and on-going development are provided through APTA's system safety professionals. Also, unlike the FTA's SSO program, within the structure of the APTA CRSMP, FRA staff accompany the APTA system safety auditors as audit activities are provided.

Since the implementation of its initial program, APTA has grown its standard-setting and audit programs, and we continue to review and update those programs to ensure that they remain relevant and effective. Continuing to incorporate the APTA Manual by reference would ensure that the SSO program's regulations would continue to reflect the latest circumstances and standards. In short, we strongly urge FTA to reconsider its decision and reincorporate the APTA Manual as a part of its state safety oversight rule.

APTA Safety Management Audit Programs

APTA's role in the SSO program is not limited to the development of standards that help guide the program. APTA's Safety Management Audit Programs assist transit properties and State Oversight Agencies (SOAs) execute the triennial audit process called for under the SSO program. An APTA audit examines aspects of a transit provider's System Safety Program Plan (SSPP). Specifically, it asks:
- Does the transit system have a SSPP developed in accordance with the latest transit safety, security and emergency management practices / APTA guidelines?
- Is the transit system's SSPP fully implemented?
- Is the transit system conducting an internal audit program to identify, track and resolve system safety program deficiencies?
- What management practices exist in the areas of operations, maintenance, training, inspections, employee testing, emergency management and security?

Currently, 10 providers of fixed guideway transit service contract with APTA to execute system safety audits which can then serve as a resource for the "internal audit" requirements of the SSO program. The APTA audit is generally an external audit using a sampling technique for purposes of evaluating the management system safety elements. The internal safety review called for under the SSO program is intended to focus on the implementation of practices and procedures that support each of the specific safety elements, and they should be much more thoroughly reviewed beyond what a sampling process would provide.

Status of State Safety Oversight Audits

From our unique vantage point, we have several thoughts on the state of the current audit process called for by the SSO program. Our APTA audits, which are separate from the SSO program, reveal that the SSO program's internal safety audit element tends to be a weak area in many of the properties that we work with. In most agencies, the in–house staff involved with the

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review are either the same people who designed the program elements or they do not have the requisite experience and qualifications to make a reasoned and objective judgment as to the adequacy of the program being reviewed. Such a system would have difficulty to consistently pass muster in a review by an examination board of an audit certification bureau.

As the APTA audit process is a continual improvement program, APTA is currently reformatting APTA safety audit program checklists to provide the agencies with the ability to better address the juggernaut that the new internal safety review requirement of the SSO program creates for them. In fact, the members using the APTA program will be in a much better position of complying with the regulations than those who do not, as it will provide an additional level of independence, expertise, and qualification in conducting the review.

A further area of concern that APTA has with the SSO program is that the state by state application and management of this requirement varies enormously. Some states are specifically structured to manage this regulation and many others simply do not have the appropriate safety professional resources to provide sufficient oversight. This issue is further compounded in that the State Safety Oversight regulation is an unfunded mandate, and the program does not provide funding to ensure consistency across the states. APTA recognizes the efforts of the FTA to provide training support to the states through external contracted sources, but this simply does not take the support levels far enough and still leaves many states without the requisite subject matter expertise to effectively deliver an oversight program. There also needs to be an appreciation that no two rail transit systems are totally alike and, consequently, the needs and applications of system safety need to be scalable accordingly.

Conclusion

Unfortunately, FTA has focused on the needs of the state oversight agencies without considering local needs and differences among the rail transit agencies. As well, APTA's leadership in the system safety process has been eliminated by the current regulatory oversight rule. The subject matter knowledge of system safety applications reside within APTA and the industry's safety professionals. We strongly encourage that these sources and partnerships be embraced and renewed to guide system safety for rail transit systems and the states that have been required to provide oversight.

APTA recommends that the FTA either issue guidelines and enable a voluntary system safety process as per the FRA model, or that FTA should fund the SSO program in a way that will appropriately enable each state to achieve a consistent level of program application and industry support.

We appreciate the opportunity to testify on this important issue of system safety, and we continue to stand ready to help FTA in the implementation of its state safety oversight regulation. Partnership, collaboration, and communication have served us well in areas such as the joint Safety Certification Manual and the Memorandum of Understanding on Bus System Safety. APTA supports the same type of partnership, collaboration, and communication in the state safety oversight area, where APTA, FTA and the state oversight agencies all share a common goal.