



U.S. Department  
of Transportation

**Federal Transit  
Administration**

Headquarters

1200 New Jersey Avenue, SE  
Washington, DC 20590

**SENT VIA EMAIL**

May 6, 2024

James M. (Jamie) Van Nostrand  
Chair  
Department of Public Utilities  
Commonwealth of Massachusetts  
One South Station  
Boston, MA 02110

**Subject: Closure of FTA-DPU-23-003 (Oversight of Rules Compliance Program for Right-of-Way Safety Rules and Procedures)**

Dear Mr. Van Nostrand:

On July 21, 2023, the Federal Transit Administration (FTA) issued a letter to the Massachusetts Department of Public Utilities (DPU) transferring the remaining open findings from FTA's 2019 State Safety Oversight (SSO) triennial audit to Special Directive 22-8.

DPU developed a Corrective Action Plan (CAP) to address the following finding and required action:

- **Finding:** DPU did not oversee and enforce [the Massachusetts Bay Transportation Authority's (MBTA)] System Safety Program Plan (SSPP)<sup>1</sup>] rules compliance procedures for right-of-way safety rules and procedures.
- **Required Action:** DPU must submit and implement a process that ensures the MBTA follows its rules compliance program as required in the SSPP for right-of-way safety rules and procedures.

DPU's CAP contained five action items and was approved by FTA on October 20, 2023.

To implement this CAP, DPU undertook the following action (and submitted documentation regarding their completion):

- Updated its Program Standard Operations Guide to reflect its process to ensure MBTA follows its rules compliance program for right-of-way safety rules and procedures.

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<sup>1</sup> At the time of the 2019 SSO triennial audit, MBTA was operating under a System Safety Program Plan, per the requirements of the now-superseded 49 CFR part 659. In addressing the open findings, MBTA, DPU, and FTA substituted the Agency Safety Plan required under 49 CFR part 673, Public Transportation Agency Safety Plan, for any requirement related to the System Safety Program Plan.

- Updated its Program Standard Operations Guide to reflect its process to review MBTA Day and Night Orders as they pertain to right-of-way safety.
- Provided the field observation form it uses when verifying MBTA implements its rules compliance program.
- Provided a list of dates on which DPU conducted oversight activities on the right-of-way in calendar year 2023, including monitoring MBTA's compliance with its own rules compliance program for right-of-way safety.
- Provided a demonstration of completed field observation forms that document examples of its actions to ensure MBTA follows its rules compliance program for right-of-way safety rules and procedures.

**Closeout Approval for FTA-DPU-23-003 (Oversight of Rules Compliance Program for Right-of-Way Safety Rules and Procedures)**

FTA carefully evaluated the submitted documentation. FTA's review focused on:

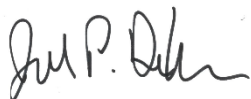
- The Program Standard Operations Guide language describing how DPU ensures MBTA follows MBTA's rules compliance program for right-of-way safety rules and procedures.
- Evidence of DPU carrying out the activities identified in the Program Standard Operations Guide.

FTA also considered joint oversight activities conducted with the FTA Safety Management Inspection (SMI) team over the previous two years as evidence that DPU ensures MBTA complies with MBTA's rules compliance program for right-of-way safety rules and procedures.

FTA's review of DPU activities focused exclusively on improvements required under Special Directive 22-8. As part of its separate, routine SSO triennial audit process, in calendar year 2024 FTA will assess DPU's overall execution of an SSO program in compliance with 49 CFR part 674, State Safety Oversight, including a broader review of DPU's actions to oversee safety at the MBTA.

FTA greatly appreciates your efforts. Please contact our Special Directive 22-8 Program Lead, Francis Alomia by phone at (470) 859-1677 or by email at [Francis.Alomia@dot.gov](mailto:Francis.Alomia@dot.gov) with any questions.

Sincerely,



Joe DeLorenzo  
Associate Administrator and  
Chief Safety Officer  
Office of Transit Safety and Oversight

cc: Peter Butler, Regional Administrator, FTA Region 1  
Staci Rubin, Commissioner, DPU  
Robert Hanson, Rail Safety Director, DPU