



NATIONAL TRANSPORTATION SAFETY BOARD
Investigative Hearing

Washington Metropolitan Area Transit Authority Metrorail train 302 that encountered heavy smoke in the tunnel between the L'Enfant Plaza Station and the Potomac River Bridge on January 12, 2015

GROUP	F
EXHIBIT	
3	

Agency / Organization

Tri-State Oversight Committee

Title

TOC Program Standard and Procedures,
January 2011

Tri-State Oversight Committee (TOC)



District of Columbia
Department of Transportation



Maryland Department of
Transportation



Virginia Department of Rail and
Public Transportation

TOC Program Standard & Procedures

FINAL

January 2011

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Certification of TOC Representatives

I certify that this January 2011 revision of the Tri-State Oversight Committee Program Standard and Procedures replaces all previous versions and represents the Virginia Department of Rail and Public Transportation, the Maryland Department of Transportation, and the District of Columbia Department of Transportation.

For the Commonwealth of Virginia: [Redacted Signature] 1/6/2011

(Chair)

For the State of Maryland: [Redacted Signature] 1/6/2011

For the District of Columbia: [Redacted Signature] 1/6/2011

Revision Table

Revision Date	Description of Revisions
April 10, 1997	Original issue of <i>Tri-State Oversight Committee Procedures Manual</i>
July 15, 1997	Revised <i>Tri-State Oversight Committee Procedures Manual</i>
July 22, 1998	Revised <i>Tri-State Oversight Committee Procedures Manual</i>
October 6, 1999	Revised <i>Tri-State Oversight Committee Procedures Manual</i>
June 23, 2000	Revised <i>Tri-State Oversight Committee Procedures Manual</i>
February 16, 2006	Changed <i>Tri-State Oversight Committee Procedures Manual</i> to <i>Tri-State Oversight Committee Program Procedures</i> and created a separate document, <i>Tri-State Oversight Committee Program Standard</i> . Updated content to comply with Federal Transit Administration revised State Safety Oversight Final Rule (49 CFR Part 659), as issued April 29, 2005 and subsequent implementation guidance.
September 15, 2006	Response to FTA comments on May 1, 2006 Initial Submission and selected additional revisions.
February 12, 2009	To combine TOC Program Standard and Program Procedures into a single document
October 8, 2010	Response to FTA findings from March 2010 SSO audit report and new TOC Internal MOU (September 2010)
January 2011	Revisions based on discussions with WMATA during November/December 2010

1. Introduction

This document, the Tri-State Oversight Committee (TOC) Program Standard & Procedures, describes the approach to implement the requirements of TOC’s State Safety Oversight (SSO) Program as well as the associated methodology for reviewing WMATA’s System Safety Program Plan (SSPP) and Security and Emergency Preparedness Plan (SEPP), and assessing their implementation. The TOC Program Standard describes the requirements of TOC’s SSO Program, as well as the minimum content that TOC requires for WMATA’s SSPP and SEPP. TOC will also use a set of internal operating procedures.

The TOC Program Standard Procedures are based upon the Federal Transit Administration’s revised State Safety Oversight Final Rule (49 CFR Part 659), as issued April 29, 2005. However, in accordance with TOC’s authority as the designated SSO agency, as well as the Memorandum of Understanding (MOU) between the three jurisdictions comprising TOC, many of the provisions contained in this document go above and beyond those stated in 49 CFR Part 659. Note that it has been determined that the SEPP, as defined by FTA Guidelines, meets the requirements for System Security Plans in 49 CFR Part 659.23. In developing its safety and security programs, WMATA should utilize the guidance provided by the FTA in the Resource Toolkit for SSO Agencies. Appendix A is the MOU among the three jurisdictions comprising TOC.

The following is a breakdown of which parts of the SSO Final Rule are covered in each document:

Section of Federal Transit Administration revised State Safety Oversight Final Rule (49 CFR Part 659), as issued April 29, 2005	Corresponding Section in TOC Program Standard & Procedures
§ 659.7 Withholding of funds for noncompliance	3. State Safety Oversight
§ 659.9 Designation of oversight agency	3. State Safety Oversight
§ 659.15 System safety program standard	
(a) General Requirement	
(b) Contents	
(1) Program management section	4. Program Management
(2) Program standard development section	5. Program Standard Development
(3) Oversight of rail transit agency internal safety and security reviews	6. Internal Safety and Security Reviews
(4) Oversight agency safety and security review section	7. TOC Triennial On-Site Safety and Security Reviews
(5) Accident notification section	8. Accident / Incident/ Hazardous Condition Notification
(6) Investigations section	9. Accident/ Incident/ Hazardous Condition Investigation
(7) Corrective actions section	11. Corrective Actions
(8) System safety program plan section	12. WMATA System Safety Program Plan
(9) System security plan section	13. WMATA Security and Emergency Preparedness Plan
§ 659.17 System safety program plan: general requirements	14. Annual Review of the SSPP and SEPP
§ 659.19 System safety program plan: contents	12. WMATA System Safety Program Plan Appendix D: SSPP Checklist
§ 659.21 System security plan: general requirements	14. Annual Review of the SSPP and SEPP
§ 659.23 System security plan: contents	13. WMATA Security and Emergency Preparedness Plan Appendix E: SEPP Checklist
§ 659.25 Annual review of system safety program plan and system security plan	14. Annual Review of the SSPP and SEPP
§ 659.27 Internal safety and security reviews	6. Internal Safety and Security Reviews

Section of Federal Transit Administration revised State Safety Oversight Final Rule (49 CFR Part 659), as issued April 29, 2005	Corresponding Section in TOC Program Standard & Procedures
§ 659.29 Oversight agency safety and security reviews	7. TOC Triennial On-Site Safety and Security Reviews
§ 659.31 Hazard management process	10. Hazard Management Process
§ 659.33 Accident notification	8. Accident and Hazard Notification
§ 659.35 Investigations	9. Investigations
§ 659.37 Corrective action plans	11. Corrective Actions
§ 659.39 Oversight agency reporting to the Federal Transit Administration	4. Program Management
§ 659.41 Conflict of interest	16. Conflict of Interest
§ 659.43 Certification of compliance	4. Program Management

2. Definitions & Acronyms

The following definitions and acronyms are provided for better understanding of this document and as a source of guidance for WMATA. These definitions and acronyms may be copied and added to plans and documents created in compliance with the TOC Program Standard and Procedures.

Accident – Any incident meeting the following criteria:

1. A fatality at the scene; or where an individual is confirmed dead within thirty (30) days of a rail transit-related incident;
2. Injuries requiring immediate medical attention away from the scene for two or more individuals;
3. Property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities and non-transit property that equals or exceeds \$25,000;
4. An evacuation (vehicles or facilities) due to life safety reasons;
5. A collision at a grade crossing;
6. A main line derailment that includes revenue vehicles or powered non-revenue vehicles;
7. A collision with an individual on a rail right of way; or
8. A collision between a rail transit vehicle and any other vehicle

Assessment – The evaluation and interpretation of measurements and other information to provide a basis for decision-making.

CAP or Corrective Action Plan – A plan developed by the rail transit agency that describes the actions the rail transit agency will take to minimize, control, correct, or eliminate hazards, and the schedule for implementing those actions.

Capabilities Assessment – A formal evaluation, conducted by the public transportation system, to identify the status of its security and emergency preparedness activities. This activity enables the system to determine its existing capacity to: (1) Reduce the threat of crime and other intentional acts, (2) Recognize, mitigate, and resolve incidents that occur in service and on system property, (3) Protect passengers, employees, emergency responders, and the environment during emergency operations, and (4) Support community response to a major event.

CFR – Code of Federal Regulations.

Consultant or Contractor – An entity that performs tasks required on behalf of the oversight or rail transit agency. The rail transit agency may not be a consultant or contractor for the oversight agency.

Electronic Approval Process – An approval that does not occur during a formal meeting or telecon that could include through e-mails and/or informal telecons. Documentation of decisions

would occur during formal meetings/telecons and would be recorded in the subsequent minutes.

Emergency – A condition, situation or occurrence of a serious nature, developing suddenly and unexpectedly, and requiring immediate action.

Emergency Preparedness – Plans, organization, equipment, training/procedures, and exercises/evaluation, for preparedness to perform the prevention, detection, response and recovery capabilities applicable to mass transit employees and operations during catastrophic natural disasters, or terrorist attacks, appropriately coordinated/integrated with emergency response/management jurisdictions in the transit agency's service area.

Evacuation – Organized, phased, and supervised withdrawal, dispersal, or removal of civilians from dangerous or potentially dangerous areas, and their reception and care in safe areas.

Event – A planned, non-emergency activity.

Federal Transit Administration (FTA) – The agency of the U.S. Department of Transportation which administers the federal program of financial assistance to public transit and the SSO program.

Final Rule – The State Safety Oversight of Rail Fixed Guideway Systems regulations promulgated by the Federal Transit Administration and defined at 49 CFR Part 659.

Federal Railroad Administration (FRA) – An agency within the U.S. Department of Transportation.

Hazard or Hazardous Condition – Any real or potential condition (as defined in the rail transit agency's hazard management process) that can cause injury, illness, or death; damage to or loss of a system, equipment or property; or damage to the environment.

Hazard Severity –

Catastrophic – A hazard severity category defined as “Category I” failure condition that could result in a large number of serious injuries and/or fatalities, and/or significant loss of system capability.

Critical – A hazard severity category defined as “Category II” failure condition that could result in severe injury to one or more persons, and/or significant system damage.

Marginal – A hazard severity category defined as “Category III”, failure conditions that could result in minor injury, minor occupational illness, or minor system damage.

Negligible – A hazard severity category defined as “Category IV” failure conditions that cause less than minor injuries, illness, or system damage.

Hazard Threat Probability – The probability a hazard or threat will occur. Probability may be expressed in quantitative or qualitative terms and the ranking system is as follows: (a) frequent, (b) probable, (c) occasional, (d) remote, (e) improbable, and (f) impossible.

Hazard Resolution – The analysis and subsequent actions taken to reduce, to the lowest level practical, the risk associated with an identified hazard.

Incident – An occurrence or event, natural or human-caused, which requires an emergency response to protect life or property.

Individual – A passenger; employee; contractor; other rail transit facility worker; pedestrian; trespasser; or any person on rail transit-controlled property.

Injury – Injury to a person requiring medical attention necessitating transport to a medical facility by ambulance or police vehicle for medical treatment.

Investigation – The process used to determine the causal and contributing factors of an accident or hazard, so that actions can be identified to prevent recurrence.

Internal Reviews/Audits – The requirement for the transit agency to conduct internal safety and security reviews of the implementation of the SSPP and SEPP, respectively.

ITOM or Internal TOC Operations Manual – A written document, developed and adopted by the oversight agency, that describes the detailed responsibilities and relationships among the oversight agency chair and members, transit agency staff, oversight agency consultant, FTA, and other relevant parties consistent with the oversight agency's Program Standard and Procedures.

MWAA or Metropolitan Washington Airports Authority – The entity responsible for advancing the Dulles Corridor Metrorail Project in cooperation with WMATA, which will be responsible for the extension's operations and maintenance.

New Starts Project – Any rail fixed guideway system funded under FTA's 49 U.S.C. 5309 discretionary construction program.

NTSB or National Transportation Safety Board – An independent Federal agency that investigates every civil aviation accident in the United States and significant accidents in the other modes of transportation, conducts special investigations and safety studies, and issues safety recommendations to prevent future accidents.

OSHA or Occupational Safety and Health Administration – The department of the United States government with the responsibility to ensure safety and healthful work environments

Oversight Agency – The entity, other than the rail transit agency, designated by the state or several states to implement this part. In particular for this document, Oversight Agency refers to the Tri-State Oversight Committee (TOC), the State Safety Oversight (SSO) agency for the District of Columbia, the State of Maryland, and the Commonwealth of Virginia.

Passenger – A person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.

Passenger Operations – The period of time when any aspect of rail transit agency operations are initiated with the intent to carry passengers.

Preparedness – The range of deliberate, critical tasks and activities necessary to build, sustain, and improve the operational capability to prevent, protect against, respond to, and recover from domestic incidents.

Prevention – Actions to avoid an incident or to intervene to stop an incident from occurring. Prevention involves actions to protect lives and property. It involves applying intelligence and other information to a range of activities that may include such countermeasures as deterrence operations; heightened inspections; improved surveillance and security operations; investigations to determine the full nature and source of the threat; public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and, as appropriate, specific law enforcement operations aimed at deterring, preempting, interdicting, or disrupting illegal activity and apprehending potential perpetrators and bringing them to justice.

Procedures – Established and documented methods to perform a series of tasks.

Program Standard & Procedures (or System Safety Program Standard & Procedures) – A written document, developed and adopted by the oversight agency, that describes the elements of state safety and security oversight as well as the minimum content required for the transit agency's System Safety Program Plan and System Security Plan, according to 49 CFR Part 659. This document also describes in detail the procedures to carry out the elements of state safety and security oversight as well as the associated procedures for reviewing the transit agency's System Safety Program Plan and the Security and Emergency Preparedness Plan and assessing their implementation, according to 49 CFR Part 659.

Rail Transit Agency, Transit Agency, or Transit System – An entity that operates a rail fixed guideway system, i.e., the WMATA Metrorail system.

Rail Transit-Controlled Property – Property that is used by the rail transit agency and may be owned, leased, or maintained by the rail transit agency.

Rail Transit Vehicle – The rail transit agency's rolling stock, including but not limited to passenger and maintenance vehicles.

Recovery – The development, coordination, and execution of service- and site-restoration plans; the reconstitution of government operations and services; individual, private sector, nongovernmental, and public-assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of the incident to identify lessons learned; post-incident reporting; and development of initiatives to mitigate the effects of future incidents.

Response – Activities that address the short-term, direct effects of an incident. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of emergency operations plans and of mitigation activities designed to limit the loss of life, personal injury, property damage, and other unfavorable outcomes. As indicated by the situation, response activities include applying intelligence and other information to lessen the effects or consequences of an incident; increased security operations; continuing investigations into nature and source of the threat; ongoing public health and agricultural surveillance and testing processes; immunizations, isolation, or quarantine; and specific law enforcement operations aimed at preempting, interdicting, or disrupting illegal activity, and apprehending actual perpetrators and bringing them to justice.

RFGS (or Rail Fixed Guideway System) – Any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that:

- (1) Is not regulated by the Federal Railroad Administration; and
- (2) Is included in FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); or
- (3) Has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).

Risk Assessment –

Initial Risk Index - The index of the worst credible consequences resulting from the hazard.

Residual Risk Index - The index of the worst credible consequences resulting from the hazard once corrective actions have been implemented

Safety – Freedom from harm resulting from unintentional acts or circumstances.

Safety Certification – An element of the System Safety Program that documents the functional working of the System Safety Program, and provides a documented database from which to validate the active processes necessary to produce a safe system, ready for revenue service. Used primarily on new systems and expansions of operational properties.

Security – Freedom from harm resulting from intentional acts or circumstances.

Security Breach – An unforeseen event or occurrence which endangers life or property and may result in the loss of services or system equipment.

Security Threat – Any intentional action with the potential to cause harm in the form of death, injury, destruction, disclosure, interruption of operations, or denial of services.

Sensitive Security Information (SSI) – Information as described in 49 CFR § 1520.5 / 49 CFR § 15.5. SSI is information obtained or developed in the conduct of security activities, the disclosure of which would be detrimental to transportation safety. SSI includes: security program plans, security and vulnerability assessments, threat information, incident response plans, security directives and measures, security inspection or investigative information, security screening information or procedures, specifications for devices for detection of weapons or destructive devices or substances, specifications for communications equipment used for transportation security, and critical infrastructure information.

SEPP or Security and Emergency Preparedness Plan – A document developed and adopted by the rail transit agency that meets FTA requirements for System Security Plans and fulfills the Department of Homeland Security (DHS) / Office of Domestic Preparedness (ODP) requirements for Transit Security Grant Program (TSGP) assistance.

SSO – State Safety Oversight in accordance with 49 CFR Part 659. TOC is the designated SSO for the WMATA Metrorail system.

SSP or System Security Plan – A document developed and adopted by a transit agency describing its security policies, objectives, responsibilities, and procedures.

SSPP or System Safety Program Plan – A document developed and adopted by the rail transit agency describing its safety policies, objectives, responsibilities, and procedures.

State – A State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

System – A composite of people (employees, passengers, others), property (facilities and equipment), environment (physical, social, institutional), and procedures (standard operating, emergency operating, and training) which are integrated to perform a specific operational function in a specific environment.

System Security – The application of operating, technical, and management techniques and principles to the security aspects of a system throughout its life to reduce threats and vulnerabilities to the most practical level through the most effective use of available resources.

System Security Program – The combined tasks and activities of system security management and system security analysis that enhance operational effectiveness by satisfying the security requirements in a timely and cost-effective manner through all phases of a system life cycle.

System Security Management – An element of management that defines the system security requirements and ensures the planning, implementation, and accomplishments of system security tasks and activities.

Terrorism – Under the Homeland Security Act of 2002, terrorism is activity that involves an act dangerous to human life or potentially destructive of critical infrastructure or key resources and is a violation of the criminal laws of the United States or of any state or other subdivision of the United States in which it occurs and is intended to intimidate or coerce the civilian population or influence a government or affect the conduct of a government by mass destruction, assassination, or kidnapping.

Threat – An indication of possible violence, harm, or danger. Any real or potential condition that can cause injury or death to passengers or employees, or damage to or loss of transit equipment, property, and/or facilities.

Threat and Vulnerability Assessment – An evaluation performed to consider the likelihood that a specific threat will endanger the system, and to prepare recommendations for the elimination or mitigation of all threats with attendant vulnerabilities that meet predetermined thresholds. Critical elements of these assessments include:

Threat Analysis - Defines the level or degree of the threats against a specific facility by evaluating the intent, motivation, and possible tactics of those who may carry them out.

Threat Probability - The probability a threat will occur at a specific facility during its life cycle (typically quantified as 25 years), for example:

Frequent: Event will occur within the system's lifecycle.

Probable: Expect event to occur within the system's lifecycle.

Occasional: Circumstances expected for that event; it may or may not occur within the system's lifecycle.

Remote: Possible but unlikely to occur within the system's lifecycle.

Improbable: Event will not occur within the system's lifecycle.

Threat Severity – A qualitative measure of the worst possible consequences of a specific threat in a specific facility:

Category 1 -Catastrophic: May cause death or loss of a significant component of the transit system, or significant financial loss.

Category 2 -Critical: May cause severe injury, severe illness, major transit system damage, or major financial loss.

Category 3 -Marginal: May cause minor injury or transit system damage, or financial loss.

Category 4 -Negligible: Will not result in injury, system damage, or financial loss.

Threat Resolution – The analysis and subsequent action taken to reduce the risks associated with an identified threat to the lowest practical level.

TOC – The Tri-State Oversight Committee, a committee created through a Memorandum of Understanding (MOU) among the District of Columbia, the State of Maryland, and the Commonwealth of Virginia to oversee the rail fixed guideway system (Metrorail) of the Washington Metropolitan Area Transit Authority (WMATA). The TOC is comprised of two (2) members from each jurisdiction.

Vulnerability – Characteristics of passengers, employees, vehicles, and/or facilities which increase the probability of a security breach.

Vulnerability Analysis – The systematic identification of physical, operational and structural components within transportation facilities and vehicles that can be taken advantage of to carry out a threat. This includes vulnerabilities in the design and construction of a given transit facility or vehicle, in its technological systems, and in the way it is operated (e.g., security procedures and practices or administrative and management controls). Vulnerability analysis identifies specific weaknesses with respect to how they may invite and permit a threat to be accomplished.

WMATA – The Washington Metropolitan Area Transit Authority, an agency which provides transit service in the District of Columbia, the State of Maryland, and the Commonwealth of Virginia, and which operates under TOC's State Safety Oversight Program.

3. State Safety Oversight

3.1 Designation of the Oversight Agency

In 49 CFR Part 659, the Federal Transit Administration (FTA) requires states with defined rail fixed guideway systems (including light rail and heavy rail transit, monorails, trolleys, etc.) to conduct safety and security oversight of those systems. Section 9(e) of 49 CFR Part 659 states:

“In cases of a rail fixed guideway system that will operate in more than one state, each affected state must designate an agency of the state, other than the rail transit agency, as the oversight agency to implement the requirements in this part [659]. To fulfill this requirement, the affected states:

1. May agree to designate one agency of one state, or an agency representative of all states, to implement the requirements in this part; and
2. In the event multiple states share oversight responsibility for a fixed guideway system, the states must ensure that the fixed guideway system is subject to a single program standard, adopted by all affected states.”

The Washington Metropolitan Area Transit Authority (WMATA) operates within the District of Columbia, the State of Maryland, and the Commonwealth of Virginia. These jurisdictions did not have to designate a single oversight entity for WMATA under 49 CFR Part 659 but chose to create the Tri-State Oversight Committee (TOC) through a Memorandum of Understanding (MOU, included in Appendix A) created in 1997 and subsequent updates. TOC consists of two representatives from each of the jurisdictions, with each jurisdiction providing a chairperson on a two-year rotating basis. As of this revision of the TOC Program Standard and Procedures, WMATA is the only transit agency under the jurisdiction of TOC’s State Safety Oversight (SSO) Program.

The overall objectives of TOC’s SSO Program are to reduce the potential for safety and security incidents and to increase awareness of safety and security. TOC’s SSO Program is intended to address these and related objectives and goals in a proactive manner, with the belief that preventing accidents and incidents through reasonable measures is preferable to reacting to them after they occur.

3.2 Roles & Responsibilities

The FTA’s SSO Final Rule delineates the responsibilities of the state, the rail safety oversight agency (TOC), the transit agency (WMATA), and the FTA in implementing the SSO Program. A brief overview of these responsibilities and roles follows:

3.2.1 The State(s)

The primary responsibility of the State(s) is to designate an oversight agency to oversee the safety of any fixed guideway system that is:

1. Included in FTA’s calculation of fixed guideway route miles or receives funding under FTA’s formula program for urbanized areas (49 U.S.C. 5336);
2. Not regulated by the Federal Railroad Administration.

The District of Columbia, the State of Maryland, and the Commonwealth of Virginia have designated TOC as the oversight agency for WMATA.

3.2.2 TOC Executive Committee

The TOC serves under the direction of the TOC Executive Committee, composed of the Secretaries of Transportation for Maryland and Virginia, and the Director of the District of Columbia Department of Transportation. The Executive Committee meets on at least a quarterly basis to review TOC safety and security oversight issues. The TOC Chair and other designated TOC members and staff shall be present for meetings with the TOC Executive Committee.

3.2.3 TOC Chair

The TOC Chair has been granted the executive authority to elevate critical unresolved WMATA safety concerns to the TOC Executive Committee and to communicate TOC Executive Committee decisions and requests on their behalf to WMATA; to draft and approve correspondence to WMATA on behalf of TOC; to request that WMATA initiate investigations of accidents and hazardous conditions on behalf of TOC; to address immediate and time-sensitive safety situations or incidents at WMATA falling under TOC jurisdiction; to meet with appropriate WMATA personnel to address findings, corrective action plans, and other key issues; to take temporary actions on TOC's behalf, such as closing out corrective action plans, until a quorum of TOC members can take official actions.

3.2.4 TOC

TOC, as the oversight agency, is required to develop and adopt a System Safety and Security Program Standard, a document (this document) that establishes the relationship between the oversight agency and the transit agency and specifies the requirements which the transit agency must follow. The Program Standard is to include requirements for (1) safety practices to reduce the likelihood of unintentional events that may lead to death, injury, or property damage, and (2) security practices to reduce intentional wrongful or criminal acts or terrorist activities.

Other responsibilities of TOC include:

- Requiring WMATA to develop a SSPP and SEPP that complies with the TOC's Program Standard.
- Reviewing and approving WMATA's SSPP and SEPP on an annual basis or as additional changes are proposed by WMATA. TOC also has the right to require revisions per Section 14 of the TOC Standard and Procedures: Annual Review of SSPP and SEPP.
- Requiring WMATA to conduct safety and security reviews as an on-going activity and submitting an incremental and annual audit report to TOC for review, pursuant to Section 6 of the TOC Program Standard and Procedures.
- Conducting on-site safety and security reviews every three years (at a minimum) to assess whether WMATA's safety and security practices and procedures comply with its SSPP and SEPP, pursuant to Section 7 of the TOC Program Standard and Procedures.

- Requiring WMATA to report the occurrence of reportable accidents, incidents, and hazardous conditions as defined in Section 8 Accident Notification.
- Investigating reports of accidents and hazards and requiring WMATA to prepare corrective action plans to minimize, control, correct, or eliminate the accidents and hazards, pursuant to Section 11 of the TOC Program Standard and Procedures.
- Reporting annually, and as requested, to the FTA with respect to oversight activities.

3.2.5 WMATA

WMATA, specifically the Metrorail system, is subject to the SSO Rule and must develop and implement a SSPP and a SEPP that comply with the oversight agency's Program Standard & Procedures. WMATA is responsible for these Plans, which describe various WMATA responsibilities, including the following:

- Conducting internal safety and security reviews and submitting an annual report to TOC summarizing the results of its internal safety and security review process.
- Identifying and classifying hazards.
- Reporting any accident or hazard in accordance with the procedures outlined in the Accident and Hazard Notification section of the Program Procedures.
- Conducting accident and hazard investigations on behalf of TOC when directed to do so.
- Preparing corrective action plans and then implementing the plans so as to minimize, control, correct, or eliminate the hazard or conditions that have caused an accident.

3.2.6 The Federal Transit Administration

The FTA assesses whether the oversight agency has complied with 49 CFR Part 659 or has made adequate efforts to comply with it. If the FTA determines that the oversight agency is not in compliance or has not made adequate efforts to comply, it may withhold up to five percent of the amount apportioned for use in the State(s) or affected urbanized areas under FTA's formula program for urbanized areas (49 U.S.C. 5336). In addition, the FTA receives annual, triennial, and other submissions, as requested, from the oversight agency. These submissions are detailed in Section 4: Program Management.

4. Program Management

4.1 TOC Interface with FTA

In conformity with the FTA SSO rules, TOC must make specific initial, annual, and periodic reports to the FTA. All submissions to the FTA must be made electronically using a reporting system specified by the FTA. The objective of these reporting requirements is to provide the FTA with information regarding the operation of the SSO program. These reporting requirements are identified as follows.

4.1.1 Initial submission

The following information, contained in TOC's initial submission to the FTA (made on May 1, 2006), must be updated as necessary.

1. The names and addresses of TOC members, with the Chair and Vice Chair designated. The jurisdiction of each member should be noted.
2. The name(s) and address(es) of the transit agency or agencies subject to TOC jurisdiction under this part; and
3. A written description of TOC, including the following information:
 - a. A copy of TOC Program Standard and Procedures;
 - b. Its procedures or process for reviewing and approving WMATA's SSPP and SEPP;
 - c. Certification that WMATA's SSPP and SEPP have been developed, reviewed, and approved [659.39(b)];
 - d. Its investigatory procedures for accidents and hazards; and
 - e. Its procedures for ensuring that appropriate corrective actions have been taken by WMATA to correct, eliminate, minimize, or control investigated hazards.

4.1.2 Annual submission

Before March 15 of each year, TOC must submit the following to the FTA:

- A publicly available annual report summarizing its oversight activities for the preceding twelve months, including a description of the casual factors of investigated accidents, status of corrective actions, updates and modifications to WMATA documentation, and the level of effort used to carry out oversight activities [659.39(c)(1)].
- A report documenting and tracking findings from three-year safety review activities, and whether a three-year safety review has been completed since the last annual report was submitted [659.39(c)(2)].
- Program standard and supporting procedures that have changed during the preceding year [659.39(c)(3)].
- Certification that any changes or modifications to WMATA's SSPP or SEPP have been reviewed and approved by TOC [659.39(c)(4)].

- Certification that TOC has complied with the requirements of 49 CFR Part 659.

TOC will submit the annual certification electronically to the FTA using a reporting system specified by the FTA. TOC will maintain a signed copy of each annual certification to the FTA, subject to audit by the FTA.

4.1.3 Triennial submission

TOC must submit a report describing the on-site safety and security review of WMATA. This report will include:

- Verification that the SSPP and SEPP are an integral part of WMATA's overall management, engineering, operating, and maintenance practice.
- Verification that the SSPP and SEPP contain provisions for modifications/updates in order to ensure that they remain dynamic and viable documents.
- Verification that WMATA regularly monitors compliance with the SSPP and SEPP.
- Verification that WMATA identifies potentially serious conditions such that methods to eliminate, control, and mitigate them are implemented.
- Principal findings and observations including an evaluation of the efficacy of the SSPP and SEPP.
- Recommendations for updating the SSPP and SEPP.
- Submitted comments and/or exceptions taken by WMATA.
- Status of review findings and recommendations.
- Include verification of CAP's as specified in Section 11.

4.1.4 Requested submissions

Status reports of accidents, hazards, and corrective action plans must be forwarded to the FTA upon request.

4.2 TOC Interface with WMATA

4.2.1 Meetings with WMATA Staff

TOC will hold formal meetings on a monthly basis. Such meetings shall generally be conducted in-person, and must be in-person on at least a quarterly basis. A teleconference may be held at other times. TOC will prepare and distribute a Meeting Agenda to all involved parties with sufficient advance notice for WMATA safety and security personnel. TOC or their consultant will prepare Draft Meeting Minutes which, upon review and approval of all TOC members, will be finalized as the Final Meeting Minutes. The Final Meeting Minutes will include any attachments of documents provided at the meeting and will be considered a formal record of the issues discussed and actions taken at the meeting. Monthly TOC meetings shall be attended by the TOC members, TOC's consultant (if required), and representatives from WMATA Safety and Security. At least one TOC member from each of the three jurisdictions must be present at the monthly meeting to have a quorum. TOC will invite a representative(s) from the FTA and any additional personnel TOC deems appropriate. Potential attendees can be found in the Contact list in Appendix B.

TOC may also hold other formal and informal meetings with WMATA staff to discuss safety and security issues. TOC will work directly with the Chief Safety Officer and the Chief of Metro Transit Police to facilitate safety and security oversight.

4.2.2 Meeting with WMATA General Manager

In accordance with the Internal TOC Memorandum of Understanding (MOU), TOC will meet with WMATA's General Manager on at least a quarterly basis to discuss TOC's SSO Program and any relevant issues. In the event of a serious safety concern identified by TOC, or where other significant safety issues remain unresolved, TOC will communicate such issues directly with the WMATA General Manager.

4.2.3 Meeting with WMATA Board of Directors

TOC will interface with the WMATA Board of Directors on at least an annual basis to discuss TOC's SSO Program and any relevant issues. In the event of a serious safety concern identified by TOC, or where other significant safety issues remain unresolved, TOC will communicate such issues directly with the Board of Directors. Additionally TOC will attend a formal presentation by WMATA on safety issues and performance to the WMATA Board of Directors on an annual basis.

4.2.4 Annual Certification of Compliance with the SSPP and SEPP

On or before February 1st of each year, WMATA shall submit to TOC a letter signed by the General Manager certifying that WMATA is in compliance with the SSPP and SEPP. WMATA shall submit this Annual Certification letter along with the Annual Internal Safety and Security Audit Report, described herein in Section 6.3. These certification letters must describe compliance with all of the provisions contained in the SSPP and SEPP, and not just those elements that were subjected to internal audits in the previous year. For areas not in compliance, the transit agency is required to identify the activities to be undertaken to achieve compliance.

4.2.5 TOC Approval Process

All items that must be approved by TOC will be approved at the formal TOC/WMATA Meetings, either in-person or via teleconference, and the approval status will be recorded in the appropriate minutes. Three members of the TOC, one from each designated agency, constitute a quorum for formal meetings and teleconferences. However, the affirmative vote of a majority of the entire TOC is necessary to take any action on a formal approval. A majority must also include at least one member appointed by each jurisdiction.

In addition to monthly meetings, TOC may employ an electronic approval process, whereby formal approvals may be made in writing via email or through informal teleconferences involving a quorum of TOC members, and subject to the above criteria necessary for formal approval. . Documentation of decisions shall occur during formal meetings/teleconferences and will be recorded in the subsequent minutes.

In between monthly meetings, individual or subsets of TOC members who are responsible for given functional areas of safety and security oversight (e.g., Accident/Incident Investigation, Internal Safety Audits, etc.), as well as TOC's consultant (as-needed), may review items requiring formal TOC approval or action and provide a recommendation for the full TOC at the subsequent monthly meeting, or through the electronic approval process outlined above. On an informal basis, TOC members may be assigned specific oversight program implementation responsibilities by the TOC Chair.

4.2.6 WMATA Submission Procedures

WMATA will make all electronic submissions in the form of a Microsoft Word, Microsoft Excel, or portable document format (PDF) file, as appropriate. (Note that comment forms and other documents requiring editing by TOC should not be submitted in .pdf nor some other unalterable format). All TOC members and staff, including consultants, must be included in the submission, unless directed otherwise by the TOC Chair. WMATA will make all hard-copy submissions to the TOC Chair or to the designated TOC member or staff. TOC contact information can be found in Appendix B.

TOC shall receive copies of all WMATA safety and security reports prepared for the WMATA General Manager and Board of Directors.

4.3 TOC Website

TOC maintains a public website, <http://www.tristateoversight.org>. The website contains TOC background information, relevant program documentation, and the ability to contact the TOC.

5. Program Standard Development

TOC's Program Standard and Program Procedures are developed and maintained as follows:

5.1 Development

TOC's original SSO document, *Procedures Manual for State Safety Oversight of WMATA Metrorail System*, was originally issued in April of 1997 but has been updated to reflect TOC policy and the changes required when the FTA revised the SSO Final Rule in April 2005. The most recent version (revised in 2006) consisted of two separate documents – the TOC Program Standard and the TOC Program Procedures. In this revision, the document has been combined into a single Program Standard and Procedures to eliminate redundancy. The Program Standard and Procedures describe the elements involved in TOC's SSO Program as well as the minimum content that TOC requires for WMATA's SSPP and SEPP. It also describes the approach to implement the requirements of TOC's SSO Program as well as the associated methodology for reviewing the SSPP and SEPP, and assessing their implementation.

5.2 Revision

The TOC Program Standard and Procedures will be reviewed on at least an annual basis by TOC, and will be updated as needed. Any updates required by FTA rules, as well as any improvements suggested by changes in industry best practices, will be added during this revision process. In addition, TOC will continue to discuss its Program Standard and Procedures with WMATA personnel, and where possible, will incorporate any suggested changes that enhance safety or security, or facilitate WMATA compliance with this document.

5.3 Distribution

The most current version of the TOC Program Standard and Procedures will be distributed directly to the designated WMATA contact person(s) for system safety and system security. When TOC makes significant revisions to this document, or when other conditions dictate, TOC will provide a draft of its revised Program Standard and Procedures and will seek comments from the designated WMATA contact person(s) for system safety and system security. When immediate changes are needed to the Program Standard and Procedures, TOC will issue interim changes to the designated WMATA contact person in written form, to be followed by a revised Program Standard and Procedures as soon as possible. Revisions to the TOC Program Standard and Procedures will be submitted to the FTA as part of TOC's annual submission.

6. Internal Safety and Security Audits

6.1 Safety and Security Audit Items

TOC requires that internal safety and security audits be conducted by WMATA of the SSPP and the SEPP. Over a three-year period WMATA must audit the implementation of all 21 elements of the SSPP and all 7 elements of the SEPP. The checklists in Appendices D and E list these elements for the SSPP and the SEPP, respectively. Each calendar year, on or before a date designated by the TOC, WMATA must submit a schedule to TOC detailing when they will audit these elements over the next three-year period, and provide specific scheduling details (at a minimum the month or quarter of anticipated schedule) for any audits in the next calendar year. TOC reserves the right to participate in WMATA's internal safety and security audits as conducted. TOC will provide WMATA with notification of its intent to participate in internal safety or security audits.

6.2 WMATA Incremental Internal Safety and Security Audit Reports

TOC requires WMATA to develop and document a process for the performance of on-going internal safety and security audits to assess implementation of the SSPP and the SEPP.

The internal safety and security audit process must, at a minimum:

1. Describe the process used by WMATA to determine if all identified elements of its SSPP and SEPP are performing as intended;
2. Determine if hazards are being identified in a timely manner; and
3. Ensure that all elements of the SSPP and SEPP are audited in an ongoing manner and completed over a three-year cycle.

At a minimum, WMATA must notify TOC at least 30 calendar days before the conduct of scheduled internal safety and security audits. As schedule information becomes more certain, WMATA should update TOC as soon as possible (email or phone notification is acceptable). WMATA must submit to TOC all checklists and procedures it will use during the audit. A list of the elements that must be audited at least once during a three year cycle can be found in the lists in Section 12: WMATA System Safety Program Plan (21 elements) and Section 13: WMATA Security and Emergency Preparedness Plan (7 elements). If WMATA determines that findings from its internal safety and security audits indicate that WMATA is not in compliance with its SSPP, the general manager/chief executive officer must identify the activities that WMATA will take to achieve compliance.

After WMATA completes each safety or security audit, it must submit a safety or security audit report to TOC. The report must include the following information:

1. A summary of the internal audit.
2. The completed internal audit checklists.
3. Findings of the internal audit
4. Suggested corrective actions to address the findings in accordance with the requirements contained in Section 11.

These reports will be approved (possibly with comments), conditionally approved, or TOC will state that it is "unable to approve" at formal TOC meetings or teleconferences according to the process detailed in Section 4.2.

6.3 WMATA Annual Internal Safety and Security Audit Report and Certification of Compliance with the SSPP and SEPP

On or before February 1st of each year, WMATA must submit an annual safety and security audit report to TOC. The final written report must include the following information:

1. A summary of the internal audit,
2. The completed internal audit checklists,
3. Findings of the internal audit, and
4. Suggested corrective actions to address the findings in accordance with CAP requirements.

Within 45 calendar days of receipt of the report, TOC will approve, conditionally approve, or state that it is “unable to approve” the report in a written response. If TOC does not approve the report, WMATA will have 15 calendar days to address noted deficiencies and requested changes in the report and submit a revised report to TOC. TOC, at its discretion, may arrange for a meeting with WMATA to discuss the noted deficiencies and requested changes.

If the annual safety and security audit report is approved by TOC, then no further related actions will be required by TOC for that annual period. TOC may require other information or analysis, however, which relates to the safety and security audit process, as part of some other aspect of TOC’s SSO Program.

In the event WMATA objects to a noted deficiency or requested change from TOC, it shall state its objections and suggest alternatives within 15 calendar days. TOC and WMATA shall audit the objections and suggested alternatives and agree to an appropriate course of action within 15 calendar days. The revised and updated report shall be submitted to TOC for audit and approval within 30 calendar days after agreement on a course of action.

The annual safety and security audit report may be delivered to TOC in a format agreed to by the TOC Chair (electronic or hard copy). However, the report must be submitted in an unalterable format with all required approval signatures visible.

Along with the report, WMATA must also submit to TOC a letter signed by the General Manager certifying that WMATA is in compliance with the SSPP and SEPP. This certification letter must describe compliance with all of the provisions contained in the SSPP and SEPP, and not just those elements that were subjected to internal audits in the previous year. For areas not in compliance, the transit agency is required to identify the activities to be undertaken to achieve compliance.

7. TOC Triennial On-Site Safety and Security Review

In accordance with the FTA's SSO Final Rule (Part 659.29), TOC must, "[a]t least every three years ... conduct an on-site review of the rail transit agency's implementation of its system safety program plan and system security plan." Alternatively, TOC may opt to conduct on-site reviews in an ongoing manner, such that all topics are covered throughout a three-year period. The TOC SSO Program utilizes more formal and structured triennial reviews, as well as ongoing meetings and periodic, smaller reviews to accomplish its safety and security oversight objectives.

As part of TOC's SSO program, every safety- and security-critical aspect of WMATA's operations will be evaluated at least once every three years. A list of the elements to be evaluated can be found below in Section 7.1. The review process is intended as an independent evaluation of WMATA operations and should allow TOC to determine if the system is following its own system safety and security procedures. Key objectives are as follows:

1. Determine if the SSPP is being followed by WMATA.
2. Determine if the SEPP is being followed by WMATA.
3. Determine if hazards are being identified in a timely manner.
4. Determine effectiveness of WMATA's internal safety and security review process.

7.1 Safety and Security Elements to Review

As part of the review of the implementation of the SSPP, TOC will review the following elements:

1. Policy Statement and Authority
2. Goals and Objectives
3. Overview of Management Structure
4. SSPP Control and Update Procedure
5. SSPP Implementation Activities and Responsibilities
6. Hazard Management Process
7. Safety Certification
8. System Modification
9. Safety Data Collection and Analysis
10. Accident/Incident Investigations
11. Emergency Management Program
12. Internal Safety Audits
13. Rules Compliance
 - a. Rail Transportation, Supervision, and Control
 - b. Right-of-Way (ROW) Safety
14. Facilities and Equipment Inspections
 - a. Stations
 - b. Elevators and Escalators
 - c. Tunnels and Structures
 - d. Subway Emergency Exits and Emergency Equipment
 - e. Communications
15. Maintenance and Inspection Programs
 - a. Railcars and Vehicle Maintenance
 - b. Automatic Train Control

- c. Traction Power
- d. Track Inspection and Maintenance
- 16. Training and Certification Programs
- 17. Configuration Management and Control
- 18. Employee and Contractor Safety Program
- 19. Hazardous Materials Programs
- 20. Drug and Alcohol Program
- 21. Procurement Process

As part of the review of the implementation of the SEPP, TOC will review the following elements:

1. SEPP Program Purpose, Goals & Objectives, Scope, Authority
2. Accuracy of the conditions written in the System Description
3. SEPP Management Activities
4. SEPP Program
5. Threat and Vulnerability Identification, Assessment and Resolution
6. Implementation and Evaluation of the SEPP
7. SEPP Review and Modification

7.2 On-Site Review Process Approach

On-site reviews will generally be structured as follows:

1. TOC, using its own personnel and/or authorized consultants, will work with WMATA safety and security personnel to identify a convenient period of time for on-site review activities. TOC personnel or its contractor and WMATA personnel will work together to schedule review periods for each of the major review topics.
2. TOC personnel or its contractor will request and review the most recent plans, procedures, and other important documents related to the transit system operation. TOC personnel or its contractor will formulate appropriate agendas, checklists, and/or guides for on-site review activities.
3. TOC personnel or its contractor will conduct an entrance briefing and an exit briefing. Each will be open to all concerned WMATA personnel. The first meeting will detail the project schedule and methodology, and the exit meeting will include an informal summary of findings to date.
4. TOC personnel or its contractor will interview WMATA personnel in charge of each of the review areas, assess records and documentation associated with each function reviewed, and examine a sample of operations, infrastructure, vehicles, or other units, to verify compliance with existing plans and procedures. All TOC members and their contractors conducting the review that may need to access the WMATA right-of-way or other areas restricted to the public will have completed all WMATA-required training and certification, will comply with all WMATA rules and procedures, and will only enter the right-of-way with an authorized WMATA escort.
5. Any urgent findings/hazards identified will be brought to the immediate attention of WMATA throughout the review so that WMATA can prepare the appropriate response.

6. TOC personnel or its contractor will issue a draft review report, and will seek comment from WMATA personnel on that draft. Comments will be due to TOC 30 calendar days after initial receipt of the draft report. A final report will be issued by TOC or its contractors within 30 calendar days of the end of the comment period, based on WMATA personnel comments (as appropriate). WMATA personnel will be required to respond to review findings as part of the ongoing corrective action plan process.

8. Accident/Incident Notification

8.1 Notification Procedures for Accidents/ Incidents

One of TOC's primary functions is to investigate accidents and incidents in accordance with the requirements of the FTA SSO Final Rule, Parts 659.33 (Accident notification) and 659.35 (Investigations). WMATA must report all accidents and incidents meeting the criteria defined in the TOC Program Standard and Procedures.

If an accident or incident occurs that meets any of these criteria, WMATA must notify TOC within two (2) hours of the accident's occurrence, and provide the information listed in the TOC Program Standard and Procedures.

WMATA must report all accidents and incidents to TOC that meet the criteria set forth in the TOC Program Standard and Procedures. TOC's definition of an accident or incident is:

- **A fatality** at the scene; or where an individual is confirmed dead within thirty (30) days of a rail transit-related incident;
- **Injuries** requiring immediate medical attention away from the scene for two or more individuals;
- **Property damage** to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities and non-transit property that equals or exceeds \$25,000;
- **An evacuation** due to life safety reasons;
- **A collision at a grade crossing**;
- **A main line derailment** that includes revenue vehicles or powered non-revenue vehicles.
- **A collision with an individual** on a rail right of way; or
- **A collision between a rail transit vehicle and any other vehicle.**

TOC members should be informed of all accidents and incidents that have a safety or security impact on the transit system, even if they do not meet the accident reporting threshold defined above.

If an accident occurs that meets any of these criteria, WMATA must notify the TOC Chair (or an otherwise designated TOC representative) within two (2) hours of the accident's occurrence. If WMATA is unable to contact the TOC Chair or designated TOC representative by phone, WMATA must call other TOC members until someone is contacted. If WMATA is unable to contact any TOC members, they may leave a message on voicemail or on a pager. In addition to a phone call, WMATA must provide a written email notification to all TOC members and to TOC's consultant. **(The contact information for all TOC members and for TOC's consultant can be found in Appendix B.)** WMATA must provide the following information in both verbal and written form as part of the initial 2-hour notification:

- a. Caller's name and contact phone number;
- b. Time and date of accident/ incident;
- c. Type of accident/ incident;

- d. Location and direction of travel of incident;
- e. Transit vehicle identifying information, including line, direction, vehicle number, etc;
- f. Information about any other vehicles involved
- g. Number of persons injured and requiring medical attention away from the scene
- h. Number of fatalities
- i. Estimated property damage (in dollars);
- j. A description of the accident/incident
- k. A description of accident investigation activities completed and anticipated in the short term
- l. Preliminary determination of cause, if available

8.2 Notification Procedures for Security Incidents

TOC recognizes that due to differences in resources, procedures and missions, MTPD security incident notifications require a different process than safety notifications from SSRM. A security incident is defined as an incident which occurred or might have occurred due to intentional and potentially criminal acts by a person or persons. The criteria for reportable security incidents parallel those outlined in Section 8.1. For example, a fight on WMATA property resulting in the hospital transport of two individuals would constitute a reportable security incident, just as an accident on the right-of-way, which resulted in hospital transport for two workers, would be a reportable accident. And vandalism to WMATA property causing \$25,000 or more worth of damage would be a reportable security incident, just as an accident in a rail yard causing \$25,000 worth of damage would be a reportable accident.

8.2.1 The following instances constitute reportable security incidents:

- **A fatality** at the scene; or where an individual is confirmed dead within thirty (30) days of a rail transit security incident;
- **Injuries** requiring immediate medical attention away from the scene for two or more individuals secondary to a security incident;
- **Property damage** to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities and non-transit property that equals or exceeds \$25,000;
- **An evacuation** due to security reasons including but not limited to bomb threats and/or suspicious packages;
- **A main line derailment** that includes revenue vehicles or powered non-revenue vehicles.
- **A collision with an individual** on a rail right of way; or
- **A collision between a rail transit vehicle and any other vehicle.**

8.2.2 Upon the occurrence of one of these incidents, the TOC and MTPD have agreed to the following process:

- 1) MTPD will notify all TOC members of the essential facts of the incident within the 2-hour notification time frame via their Command Page system, as well as providing updates in the event of an ongoing incident. It is the responsibility of TOC members

to provide MTPD with current e-mail and mobile device contact information to ensure timely reception of command pages.

- 2) TOC members, based on the nature of the incident and the information contained in the command page, may need further information. TOC members should then call the Metro Transit Police emergency operations telephone number at (202) 962-2121. They should identify themselves as TOC members and ask to speak with the watch commander. The watch commander, depending on the incident, will either provide the information directly or take down the TOC member's contact number and call them back as quickly as is practical.
- 3) TOC members who speak with the MTPD watch commander should then provide the information received to other TOC members via e-mail to reduce the potential for duplication of effort.
- 4) TOC members who choose to report to the scene of a security incident should inform the watch commander of their intent, as well as the other TOC members. When on scene at a security incident, TOC members function as Agency Representatives under the National Incident Management System and as such fall under the authority of the scene's Incident Commander.

8.2.3 Upon the occurrence of a reportable security incident meeting the criteria outlined in section 8.2.1, the WMATA Metro Transit Police Department (MTPD) will submit a Reportable Incident Investigation Cover Sheet form to the TOC. This form will include:

- The criteria from the TOC Program Standard and Procedures as the reason the report is being generated (from the list of criteria above)
- The date and time of the notification
- The TOC member or authorized TOC representative notified
- The date and time of the notification
- Whether the incident was preventable
- If any corrective actions will be/ have been taken
- Whether the investigation is complete

The MTPD representative will submit the cover sheet document along with an attached MTPD event or incident report to TOC for review and final acceptance.

8.3 TOC Response to Safety Situations

At the discretion of the Chair, TOC may respond to accidents and incidents of significant magnitude (typically those involving injuries or fatalities). The TOC Chair, Vice Chair, other TOC members, or designated TOC staff (including consultants) may respond to the scene of an accident or incident to observe and/or participate in investigative activities, in a manner agreed upon with the WMATA Chief Safety Officer and the Chief of the Metro Transit Police Department. The TOC Chair shall have the executive authority to determine if the circumstances of a particular accident or incident may warrant that TOC perform an independent investigation (see Section 9 below). The TOC Chair may also delegate such authority to other TOC members.

The TOC Chair shall also have the authority to request that WMATA initiate investigations of accidents, incidents, and hazardous conditions, and to address immediate and time-sensitive safety situations or incidents at WMATA that fall under TOC jurisdiction.

8.4 Notification Procedures for Hazards

WMATA shall provide TOC with notification of Hazards according to the requirements outlined in Section 10, Hazard Management Program.

8.5 Accident Reporting Protocols of Other Agencies

Depending on the situation, accident reporting to other oversight agencies such as the NTSB, OSHA, et al, may be required. The requirements of this document do not obviate other reporting obligations.

8.6 Federal Railroad Administration Reportable Accidents/ Incidents

For rail transit systems and modes that share track with the general railroad system and are subject to **both** the Federal Railroad Administration and the Tri-State Oversight Committee for oversight, WMATA must notify the TOC within two (2) hours of an accident/ incident for which WMATA must also notify the Federal Railroad Administration. [This statement does not apply to WMATA, but is required by the FTA.]

9. Accident /Incident Investigation

The purpose of accident investigation is to gather and assess facts in order to determine the cause(s) and to identify, and to make recommendations from which Corrective Action Plans (CAPs, see Section 11) can be proposed to prevent recurrence. These can consist of Short Term Mitigation (that can be instituted unilaterally by WMATA) and longer term CAPs (that require TOC review, approval, monitoring, and verification of implementation and completion – see Section 11). TOC's accident investigation will occur according to one of the following models (or, less frequently, in accordance with a combination of these models):

1. WMATA is authorized by TOC to conduct investigation on TOC's behalf;
2. TOC conducts the investigation;
3. Another agency conducts the investigation; or
4. Joint investigations conducted by both TOC and WMATA.

Note that TOC may withhold an investigation report that was prepared or adopted by TOC from being admitted as evidence or used in a civil action for damages resulting from a matter mentioned in the report. To the greatest extent permissible, and in accordance with the TOC-WMATA MOU, the Internal TOC MOU, and the FOIA/PIA regulations of the three TOC jurisdictions, TOC will attempt to keep all accident, incident and hazard investigation reports and records submitted to TOC as confidential. This applies to all investigation reports regardless of whether they are developed by TOC or WMATA.

9.1 Final Accident/Incident Report Content

All final accident/ incident reports produced for the TOC (and referenced throughout this section) must contain, at a minimum, the information contained in the list below (from 49 CFR Part 659.35(d):

1. Description of investigation activities
2. Identification of causal and contributing factors
3. Corrective action plan to prevent recurrence, and to address a specific finding, recommendation, or other conclusion of the report. (This may comprise corrective actions already taken, in which case no further corrective action plans may need to be developed.)

More information may be included, based on WMATA's accident investigation procedures or external recommendations (such as APTA accident investigation procedure standards, RT-S-OP-002-02). Likewise, the TOC may request more information in order to gain information about a particular accident/ incident or about accident/ incident trends.

Unless the TOC specifically requests that WMATA's designated safety and/or security staff produce their own accident investigation report, WMATA may use multiple documents (e.g., field reports, analyses, logs, etc.) to fulfill the report content requirements in this section. WMATA may also use a summary report to help fulfill the reporting requirements.

In cases where non-safety department reports are used to make up the final accident report, or where the safety department's summary report is the only available document, all of the content requirements in this section must still be met. WMATA's designated safety and/or security staff may use a summary report to outline the final accident/ incident report content, or to highlight its

location in other departments' reports. This summary report may be a completed, hand-written form, a database report, or some similar document. WMATA safety and/or security representatives are encouraged to review the format of such reports with the TOC to ensure that their content is sufficient to address TOC (and FTA) requirements.

9.2 WMATA Authorized by TOC to Conduct Investigation on Behalf of TOC

In accordance with the FTA SSO Final Rule (49 CFR Part 659.35(c)), the TOC may authorize WMATA to conduct an accident/ incident investigation on the TOC's behalf, in accordance with WMATA's accident investigation procedures. Unless otherwise noted, this will be the standard method for accident/incident investigation – that is, WMATA shall generally assume responsibility for the investigation of accidents and incidents unless specifically noted otherwise by TOC. As stated above, TOC must review and formally approve WMATA's accident investigation procedures.

The TOC requires that WMATA conduct an accident/ incident investigation for all reportable accidents and incidents. Such investigations must include the final accident report content as noted above in Section 9.1. WMATA may utilize investigations from its safety or security departments or from front-line departments such as operations or maintenance. In each case, however, a clear and objective identification of cause must be made, and the report content requirements above must be met. [The TOC will accept transit agency accident/ incident investigation reports without explicit corrective action plans when existing corrective action plans address the causes identified in the accident.]

WMATA must notify the TOC of all reportable accidents and incidents according to the criteria set forth in Section 8. Accident/ incident investigation reports, comprised of reports from operations, maintenance, etc. as appropriate, and System Safety department investigation documentation as appropriate, must be sent to the TOC according to the following schedule:

1. **Initial Notification:** Basic information about the reportable accident/ incident must be transmitted verbally and via email to the TOC, as set forth in Section 8.
2. **Preliminary Report:** As soon as possible after the accident/ incident, but within three (3) business days, WMATA must fax, email, or hand-deliver preliminary written information, including any investigation summary information, preliminary reports from field personnel, and other available information.
3. **Investigation Status Report:** The TOC may, at its discretion, request from WMATA a report indicating the status of an investigation, including any significant new reports or report components, and any preliminary investigation conclusions within ten (10) days of the accident/ incident. If the investigation process is not complete within 30 calendar days of the occurrence, WMATA must submit an Investigation Status Report including an adjusted schedule for the completion of the investigation.
4. **Final Accident/ Incident Investigation Report:** At the conclusion of its investigation, WMATA System Safety must submit to the TOC a final accident report authored by the safety department or its authorized representative. **At a minimum, the final written report must meet all of the requirements set forth in Section 9.1 above.** The TOC will work with WMATA to close open accident/ incident investigations with consideration of needed investigative processes, including (but not limited to) transportation investigations,

derailment reports, police investigations, medical examiner reports, and other required materials to close an accident/ incident investigation.

If the TOC requires more information, it will notify WMATA. TOC may periodically provide WMATA with a copy of the TOC Accident/ Incident Tracking Database to outline what accident/ incident report documentation has been received and what additional documentation it requests of WMATA for each open accident/ incident. If the TOC does not require more information, TOC may formally approve and adopt an investigation report, including any associated reports, conclusions, and corrective actions, in accordance with the TOC approval procedures in Section 4.2.4. If the TOC approves the report, it will ask WMATA to finalize it and will make the final version the TOC's own accident investigation report. If the TOC requests changes to the report, WMATA shall revise the report according to a time frame to be determined jointly by TOC and WMATA on a case-by-case basis. Accident/ incident investigation reports may be delivered to TOC via a hard copy or electronically as a .pdf (or some other unalterable format) with all required WMATA signatures visible. If the TOC requires that the WMATA safety department conduct an investigation with a formal, independent report, it will request such an investigation in accordance with the procedures outlined below in Section 9.3.

9.3 Investigation of High-Severity Accidents and Incidents

For certain types of accidents and incidents, generally including those listed below, the TOC will require that the WMATA safety department issue a formal written report completed in accordance with WMATA's accident investigation procedures. These accidents/ incidents may include, but are not limited to:

- Accidents/ incidents with a significant number of injuries
- Accidents/ incidents with fatalities (excluding suicides and fatalities resulting from criminal acts)
- Accidents/ incidents which, upon preliminary report, involve a seemingly significant unmitigated, unidentified, or unquantified risk
- Accidents/ incidents involving vehicle, infrastructure, rules, or systems anomalies which have caused or could cause significant loss
- Accidents/ incidents where a more independent investigation seems necessary

As part of this investigation methodology, the TOC may explicitly request a formal safety department report containing all factual, investigative, and corrective action information. Alternatively, the TOC may request, or WMATA may suggest, that a safety department memorandum or other document be used to address specific issues or information deficiencies in operating, maintenance, or engineering reports. Formal reports will generally require additional and/or more detailed information than a standalone summary report.

In the event that significant safety issues identified by TOC or WMATA in the course of an accident or incident investigation remain unresolved, TOC may elevate such concerns to the highest levels of the respective TOC jurisdictional agencies, the WMATA General Manager, and/or the WMATA Board of Directors.

9.4 TOC Conducts Investigation

TOC, at its discretion, and depending upon the particular circumstances of the accident, may choose to conduct an investigation of the accident utilizing its own personnel or a TOC

authorized consultant. All TOC authorized accident investigation personnel are granted authority under the TOC SSO Program to conduct an investigation and evaluate records, materials, data, analysis, and other information which is pertinent to the investigation. It is expected that WMATA will provide to the TOC investigation team the resources and information necessary to conduct the investigation in an effective and efficient fashion.

The TOC on-site team will wait until WMATA and/or other emergency response personnel have secured the accident scene area before commencing its on-site accident investigation. TOC reserves the right to request that WMATA hold the accident scene to the maximum extent feasible until the arrival of TOC accident investigation team members. TOC will assess physical evidence of the accident scene including, but not limited to: damage and debris analysis; skid mark analysis; and the use of measurements, diagrams and photographs.

TOC accident investigation personnel will conduct field analysis, operational surveys, interviews, record checks, data analysis, and other on-site and off-site tasks which may be necessary for a comprehensive investigation. TOC will also assess compliance with operating rules and procedures; conduct follow-up interviews (if required); analyze employee records and the results of post accident drug and alcohol tests; and conduct vehicle and equipment inspections. TOC will comply with the American Public Transportation Association's (APTA's) Operating Practices standard RT-OP-002-02: Recommended Process for Performing Rail Transit Accident/Incident Investigations.

Within 45 calendar days of completion of the on-site and off-site accident investigation requirements, the TOC investigation team will prepare a draft accident investigation report. The draft accident investigation report will be provided to WMATA for its review. Comments will be due to TOC 30 calendar days after initial receipt of the draft report. A final accident investigation report will be issued by TOC within 30 calendar days of the end of the comment period.

Any urgent findings/hazards identified will be brought to the immediate attention of WMATA so that WMATA can prepare the appropriate response.

9.5 Other Agency Conducts Investigation

Depending on the accident, another agency such as the NTSB may conduct an investigation of the accident utilizing its own procedures and personnel.

The NTSB may investigate a reportable event to achieve its primary function to promote safety in transportation. In such case, the NTSB is responsible for the investigation; the determination of facts, conditions, and circumstances; the cause or probable cause or causes; and recommendations to reduce the likelihood of recurrence.

In the event of an NTSB investigation, WMATA shall be responsible for timely briefing TOC on NTSB activities including meetings, interviews, requests for data, functional testing, examination of equipment, and the results of drug and alcohol tests. TOC should participate as an official party to the investigation, and WMATA should also conduct their investigation on TOC's behalf. TOC will support the NTSB as a member of its Party System. WMATA shall provide TOC with a copy of all written correspondence to the NTSB concerning a reportable event or investigation, and also shall provide TOC a copy of all NTSB reports and any recommendations concerning the event or its investigation, upon receipt by WMATA. TOC will assist the NTSB by providing information requested about WMATA critical practices and other matters as appropriate.

If the NTSB releases preliminary findings and recommendations, TOC is authorized to participate in any discussions and reviews with WMATA and the NTSB. TOC and WMATA will review the NTSB findings, draft report, and final report, and make a determination of whether or not to adopt the NTSB report and recommendations. Should the NTSB recommendations be adopted by TOC as its own, WMATA shall implement the findings. If TOC does not formally adopt the NTSB investigation report as its own, TOC must prepare its own report.

9.6 Joint Investigations Conducted by TOC and WMATA

WMATA and TOC may choose to conduct a joint investigation of the accident. WMATA and TOC may use WMATA's procedures, TOC's procedures, or a combination of the two procedures to investigate the accident. The procedures to be used must be established prior to the investigation and agreed upon by both WMATA and TOC. The resulting report becomes TOC's report of the accident as required by the SSO Rules.

10. Hazard Management Program

10.1 Guidelines for Fulfillment of Hazard Management Program Requirements

WMATA must have a Hazard Management Program that actively analyzes the agency's operating environment, policies and procedures, system modifications and extensions, and other areas that affect safety for potential hazards. The hazard management process must identify report, classify, resolve, and track safety and security hazards in a manner that is planned, consistent, and rigorous, as well as appropriate to WMATA's size and operating situation. WMATA shall input incident summary statistics, trends, and analyses from WMATA that could identify potential hazards. The information in this section is provided as guidance in the development and operation of a hazard management program. This section is in compliance with Part 659.31.

10.2 Hazard Identification

In the hazard identification section of the SSPP, WMATA should describe the processes used to identify and record hazards. This section should describe any hazard identification programs associated with capital projects, mechanisms for soliciting hazard reports and input from employees, any committees where the scope includes safety issues, etc. Hazard identification can be formal or informal, and WMATA should describe all methodologies used. These may range from structured hazard analysis programs to simple field observation. WMATA's hazard management program should have continuous hazard identification as its core.

10.3 Hazard Investigation, Evaluation, and Analysis

Investigation and evaluation procedures, including those associated with the safety department and any committees that may have safety responsibility, should be detailed in this section. These two steps frequently involve both investigations of severity and frequency as well as detailed discussion among WMATA personnel to assess the impact of a hazard.

The analysis component of this section should detail the methodology used to categorize and prioritize identified hazards. In this section, WMATA should define a primary quantitative-qualitative methodology for hazard analysis, such as Military Standard 882 D. [Military Standard 882 has been a popular method for hazard analysis among transit agencies. Other methods may be used, so long as WMATA can demonstrate that appropriate personnel are familiar with the method and can apply it appropriately and consistently.] This methodology, as well as any other internal WMATA procedures, should be used to establish the severity and probability of occurrence for each hazard.

Investigation, evaluation, and analysis will often require input from multiple WMATA personnel or groups. For more complicated hazards, more extensive analysis can be helpful in identifying and evaluating possible hazard scenarios.

10.4 Hazard Control and Elimination

Overall, the control and elimination section should identify WMATA priorities for hazard mitigation and elimination. WMATA may place an emphasis on certain classifications of high-frequency, high-severity hazards. It may also place an emphasis on more permanent control and elimination measures such as design or equipment changes, versus procedure or training changes.

The control and elimination section should describe the process for hazard mitigation and elimination. WMATA should describe a consistent methodology for minimizing hazards within its resources. This process should be grounded in an ongoing, consistent process and appropriate levels of intra-agency review. Hazard control and elimination may require separate discussions and descriptions relative to large projects and system modifications versus ongoing operations and maintenance.

10.5 Hazard Tracking

WMATA should establish an appropriate means for tracking all hazards, including information such as the following:

- Hazard description
- Immediate mitigation (if needed)
- Origin of hazard (e.g., accident investigation, capital project hazard analysis, employee safety committee, etc.)
- Date hazard was identified
- Hazard analysis results (frequency and severity, hazard score, etc., depending on analysis method)
- Proposed permanent hazard resolution
- Hazard resolution verification/follow-up activities
- Date hazard closed
- Responsible investigator or committee leader
- Other relevant information

Hazard logs may be kept in separate files for separate projects, ongoing operations/maintenance, etc. It is important, however, that all hazard logs, including open and closed items, be accessible (within a reasonable amount of time) for review by TOC personnel upon request. Hazard logs should also be available in electronic format so that they can easily be transmitted to TOC for review. On a monthly basis at a time designated by TOC (generally two weeks after the formal monthly TOC meeting or teleconference), WMATA shall submit its hazard logs. Hazard logs shall be formatted to show at a minimum all open/current hazards and all hazards that were open within the last 120 days. TOC will review hazard logs independently, and may review select hazard items with WMATA during monthly meetings. To accommodate the ongoing changes to the hazard management program, the format in which WMATA keeps its hazard logs may change as long as all of the appropriate information remains included.

From time to time, TOC may also request a complete hazard log for a particular topic or project, or a complete history of all hazards within a range of dates. TOC will allow a reasonable amount of time for WMATA to fulfill such requests, typically not less than 5 days.

10.6 Requirements for Ongoing Reporting

WMATA shall notify TOC of all hazardous conditions that affect the immediate safety or security of the rail system within a two-hour window, according to the notification requirements set forth in Section 8 of the TOC Program Standard and Procedures. At a minimum, WMATA shall notify TOC of those hazardous conditions that meet the following criteria set forth in the WMATA Hazard Identification/Resolution Matrix:

- I-A – (Catastrophic/Frequent)
- II-A – (Critical/Frequent)
- III-A (Marginal/Frequent)
- I-B (Catastrophic/Probable)
- II-B (Critical/Probable)
- I-C (Catastrophic/Occasional)

The TOC is not responsible for assigning severity/probability ratings to hazardous conditions. Therefore, to ensure that WMATA appropriately notifies TOC of all hazardous conditions affecting rail safety or security that are not necessarily assigned the severity/probability ratings meeting the above criteria, WMATA shall also notify TOC of all hazardous conditions and incidents that meet the criteria listed below.

- Incidents involving employees working in the WMATA right-of-way that are investigated by WMATA.
- Malfunctions of safety-critical systems that could result in a catastrophic or single-point failure.
- All derailments along the Metrorail system (including derailments within yard limits – note that main line derailments also fall under the notification and investigation criteria set forth in Sections 8 and 9 of the TOC Program Standard and Procedures).

Notification of such hazardous conditions, near misses, and other incidents described above shall take place in accordance with the notification requirements set forth in Section 8 of the TOC Program Standard and Procedures. WMATA shall develop Corrective Action Plans (CAPs) to address such conditions pursuant to the provisions of Section 11 of this document.

11. Corrective Actions

In accordance with the oversight authority granted TOC under 49 CFR Part 659, TOC monitors and verifies the implementation of Corrective Action Plans (CAPs) in response to findings and recommendations related to the safety and security of the Metrorail system. TOC shall also be responsible for verifying completion of these CAPs, and therefore requires WMATA to provide TOC with documentation or other evidence of completion, and/or, if applicable, regular and timely status updates on the progress made in the implementation of the CAP. Upon verification of the completion of a CAP, TOC will consider that CAP to be “closed,” along with the original finding or recommendation that generated it. WMATA may be able to develop a single CAP that will address more than one finding simultaneously, and may be able to reference an already-existing CAP.

Each CAP must include the following information:

- i. Identify noted finding and its source
- ii. Process, plan, or mechanism to address and resolve finding
- iii. Target date for implementation of plan of action
- iv. Department(s) and person(s) who will be responsible for implementation

11.1 CAP Development

The objective of every CAP should be to address the original finding or recommendation that generated it. TOC’s ability to approve a CAP depends on whether the proposed CAP addresses the original finding or recommendation satisfactorily. Good CAPs are achievable, measurable, assigned to an individual (not just a department or office), and include a realistic target date for completion. CAPs are not conditional, nor are they simply recommendations from one WMATA department to another (i.e., SAFE to CMNT). CAPs are statements of specific actions that will take place, and TOC expects that WMATA will fully implement all CAPs according to the proposed timeframe established in the target date.

Many CAPs are short-term and address issues that are simple to fix. Many other CAPs, however, are long-term, and may require WMATA to expend a high level of effort and resources to address over a period that could span years. There is no penalty for keeping a CAP “open” long-term as long as TOC is able to verify that it is being implemented appropriately and that TOC receives documentation demonstrating as such, including status reports, intermediate milestones, and other information from WMATA demonstrating progress. Additionally, and particularly for long-term CAPs that may be resource-intensive, WMATA shall consider interim or temporary steps where resources may not be immediately available. TOC shall evaluate the appropriateness of CAP alternatives on a case-by-case basis.

In accordance with the authority of TOC under 49 CFR Part 659, the WMATA CAPs that TOC must monitor and verify may come from several different sources. These are listed below. For each CAP that WMATA generates, WMATA must, at a minimum, submit the above-listed (items i through iv) information for TOC’s review and approval.

a. Triennial On-Site Safety and Security Review

Upon notification of the findings of the final report, or receipt of the final report, WMATA will have 45 calendar days to develop a CAP to address all findings, including identified areas of concern and deficiencies.

b. Accident/Incident Investigation

TOC generally deputizes WMATA to conduct accident investigations on its behalf, and “adopts” the WMATA investigation report as its own. However, regardless of whether WMATA or TOC conducts an accident investigation, the investigation report may contain findings and recommendations related to deficient conditions or other safety issues identified during the investigative process. Not all accident investigations will result in findings or recommendations, and thus not all accidents will generate CAPs; however, any findings or recommendations from such investigations must be addressed through the CAP process. The development of CAPs will be the primary responsibility of WMATA, with assistance provided by TOC, as may be required. Upon TOC receipt of the final accident/ incident investigation report, WMATA will have 30 calendar days to develop a CAP to address any identified findings and recommendations. Alternatively, WMATA may indicate corrective actions already taken to address a given deficiency, directly in the final accident/ incident investigation report. Finally, as mentioned above, there may be cases of investigations that result in no findings or recommendations, and in such cases, WMATA should explicitly indicate in writing to TOC that no corrective actions have been taken or will be forthcoming.

c. Hazard Investigation

WMATA may initiate, or TOC may specifically request, the investigation of a hazard. Generally WMATA will conduct such investigations; however, regardless of whether WMATA or TOC conducts a hazard investigation, the investigation report may contain findings and recommendations related to deficient conditions or other safety issues identified during the investigative process. WMATA should develop CAPs to address any findings or recommendations that result from the investigation of the hazard. Development of CAPs will be the primary responsibility of WMATA, with assistance provided by TOC, as may be required. Upon TOC receipt of the final investigation report, WMATA will have 45 calendar days to develop a CAP to address any identified findings and recommendations. Alternatively, WMATA may indicate corrective actions already taken to address a given deficiency, directly in the final hazard investigation report. Finally, as with (b) above, there may be cases in investigations that result in no findings or recommendations, and in such cases WMATA should explicitly indicate in writing to TOC that no corrective actions have been taken or will be forthcoming.

d. Internal Safety and Security Audits and Reviews

If WMATA finds areas of non-compliance during incremental internal audits of the SSPP or SEPP, those areas of non-compliance must be addressed by a CAP. The corrective action plan must be developed within 30 days of the audit or review. WMATA should also develop CAPs for safety- or security-related findings by WMATA’s Inspector General.

e. NTSB Investigations

If the National Transportation Safety Board (NTSB) conducts an investigation at WMATA, it may issue a formal report with recommendations to the transit agency. Should this occur, the transit agency shall review the recommendations and determine their appropriateness. Unless TOC and WMATA agree that a

recommendation is inappropriate, WMATA shall develop a corresponding CAP to address the recommendation. TOC shall monitor such CAPs as soon as they are acknowledged by NTSB.

f. Other Sources

TOC may require WMATA to develop one or more CAPs to address findings and recommendations made as a result of peer reviews, APTA reviews, and other external reviews. Additionally, if TOC becomes aware of a safety issue by some other means in the course of the implementation of the oversight program, such an issue will be brought to the immediate attention of appropriate WMATA management so that WMATA can prepare an appropriate CAP. The timeframe for the CAP will be specified in written notification from TOC. A hazard that can be immediately mitigated will not require a CAP.

To the extent that WMATA must develop a CAP to address a finding or recommendation generated by one of the above-described scenarios, WMATA must forward the CAP to TOC for approval. This must be done in writing, either electronically or in hard copy. TOC will notify WMATA whether it approves, conditionally approves, or is unable to approve the CAP within 30 calendar days after receipt of the CAP.

If TOC approves the CAP, it will notify WMATA as such. Note that, for immediate or other significant safety hazards, WMATA need not wait for TOC approval to take immediate hazard mitigation measures. In cases where TOC is unable to approve a proposed CAP, TOC will work with WMATA on a case-by-case basis to help formulate a CAP that is acceptable.

11.2 CAP Implementation, Verification, and Completion

Alongside approval of a CAP, TOC's ability to verify the implementation and completion of a CAP depends upon WMATA adhering to the stated approach and timeframe specified in the CAP. To verify implementation and completion of a CAP, TOC must either obtain documents clearly demonstrating as such, or else conduct an on-site, in-person verification. To better facilitate the flow of documentation and information between TOC and WMATA, TOC offers the following guidance on the types of information, documents, etc., that are necessary for TOC to verify the implementation and completion of a CAP. TOC will retain the authority to request specific documents to verify CAP implementation and completion on a case-by-case basis.

CAPs may be grouped into the following general categories:

- Rules and procedures compliance
- Maintenance of rail vehicles, systems, facilities and equipment
- Engineering
- Training/qualification/certification
- SSPP, SEPP, and other plans, policies, and procedures

1. Rules and Procedures Compliance

- **Non-compliance with operating rule or procedure.** To verify CAP implementation and completion, TOC will generally require documentation of the actions taken to come into compliance, such as:
 - Memos, bulletins, special orders, etc., to affected employees to address compliance with the operating rule or procedure

- Documentation of refresher training (curricula, syllabi, training schedules, sign-in-sheets, etc.) given to affected employees to address compliance with the operating rule or procedure
- Documentation of the process used to review and/or revise the rule or procedure should WMATA determine it necessary to do so (meeting minutes, memoranda, copy of the revised, final rule or procedure)
- **Lack of an appropriate operating rule or procedure.** To verify CAP implementation and completion, TOC will generally require documentation such as:
 - Memos, meeting minutes, correspondence, etc., demonstrating the rule/procedure review/development process is being implemented
 - The finalized rule or procedure upon its completion.

2. Maintenance of Rail Vehicles, Systems, Facilities, and Equipment

- **Non-compliance with established maintenance policies and procedures.** To verify CAP implementation and completion, TOC will generally require documentation of the actions taken to come into compliance, such as:
 - Memos, bulletins, special orders, etc., to affected employees to address compliance with the maintenance policy or procedure
 - Evaluation of the policy or procedure at hand to determine its appropriateness (meeting minutes, correspondence, etc.)
 - Documentation of refresher training (curricula, syllabi, training schedules, sign-in-sheets, etc.) provided to affected employees to address compliance with the maintenance policy or procedure
 - Documentation of the process used to review and/or revise the rule or procedure should WMATA determine it necessary to do so (meeting minutes, memoranda, copy of the revised, final rule or procedure)
- **Lack of an appropriate maintenance policy or procedure.** To verify CAP implementation and completion, TOC will generally require documentation such as:
 - Memos, meeting minutes, correspondence, etc., demonstrating the maintenance policy/procedure review/development process is being implemented
 - The finalized maintenance policy or procedure upon its completion.

3. Engineering

- **Findings and recommendations related to rail system engineering issues** generally stem from internal and external reviews and audits, and usually require a CAP.. To verify implementation and completion of the CAP, TOC generally requires the following types of documentation, such as:
 - Written documentation demonstrating that established engineering processes are taking place to address the original finding/recommendation (memoranda, meeting minutes, correspondence, etc.).
 - Written documentation that the actions taken to address the engineering issue in the original finding/recommendation have been completed (e.g., engineering bulletins, manuals, memoranda, correspondence, etc.)

4. Training/Qualification/Certification

- **Non-compliance with established training/qualification/certification requirements.** To verify CAP implementation and completion, TOC will generally require documentation of the actions taken to come into compliance, such as:
 - Lists of employees who must complete required training/qualification/certification requirements
 - Schedule showing when each affected employee will complete the training/qualification/certification requirements
 - Copies of certificates of completion, final exams, sign in sheets, etc., showing each employee as having completed the required training/qualification/certification requirements
- **Lack of an appropriate training/qualification/certification program for a safety-related area (including, but not limited to, rail operations, maintenance, right of way safety, etc.).** To verify CAP implementation and completion, TOC will generally require documentation such as:
 - Memoranda, meeting minutes, correspondence, etc., demonstrating the process for developing/reviewing/revising training program is being implemented
 - .A list of employees who must complete the new/revised training/ qualification/ certification
 - Course schedule (including duration and frequency)
 - Curricula, syllabi, etc., including documentation on minimum criteria for successful completion (exams, evaluations, etc.)

5. SSPP, SEPP, and Other Plans, Policies, and Procedures

- **Non-compliance with processes described in SSPP, SEPP, and other Plans, Policies, and Procedures.** To verify CAP implementation and completion, TOC will generally require documentation of the actions taken to come into compliance, such as:
 - Memos, meeting minutes, correspondence, etc., demonstrating actions being taken to achieve compliance with applicable document
- **SSPP/SEPP/Other Plans, Policies, and Procedures do not accurately reflect current practice.** To verify CAP implementation and completion, TOC will generally require documentation such as:
 - Memos, meeting minutes, correspondence, etc., demonstrating the process being implemented to review and revise the appropriate plan, policy or procedure (SSPP, SEPP, etc.)
 - A copy of the revised plan, policy, or procedure (SSPP, SEPP, etc.) that accurately reflects current practice.
- **Lack of appropriate plan, policy, or procedure.** To verify CAP implementation and completion, TOC will generally required such documentation as:
 - Memos, meeting minutes, correspondence, etc., demonstrating the process being implemented to review/revise/develop the plan/policy/procedure in question
 - A copy of the final, new/revised plan, policy, or procedure.

11.3 CAP Monitoring and CAPTURE

TOC and WMATA have established the Corrective Action Plan Technical Review Entity (CAPTURE) as a regular, in-person meeting designed to facilitate TOC verification of completion of CAPs. Unless specifically stated otherwise by the TOC Chair, CAPTURE meetings shall take place monthly, at a time and location agreed upon by TOC and WMATA. TOC and WMATA will generally hold these meetings immediately prior to a monthly TOC meeting. Appropriate WMATA representatives from the Safety Department and operating departments (such as Rail Transportation, Car Maintenance, Vehicle Engineering, Track & Structures, etc.) shall be present as needed to discuss CAP implementation and to provide verification documentation to TOC. TOC members and staff shall be present at CAPTURE meetings to help verify CAP implementation and completion, and to receive status updates and progress reports on CAPs of a longer-term nature. WMATA shall review and update the implementation status of open CAPs each month, and provide TOC with all CAP-related updates and documentation prior to each CAPTURE meeting. CAP tracking logs shall be formatted to show at a minimum all open/current CAPs and all CAPs that were closed within the last 30 days.

12. WMATA System Safety Program Plan

TOC requires WMATA to develop and implement a written SSPP that comply with the TOC Program Standard and Procedures, and that follow the format presented in 49 CFR Part 659.19 and outlined below. WMATA must review its SSPP annually and provide TOC with an annual update of its review, in accordance with the requirements set forth in Section 14 of this document.

WMATA's SSPP shall address, at a minimum, the following:

1. Executive Approval (Policy Statement) - §659.19 (a)
2. Purpose, Goals and Objectives - §659.19 (b)
 - 2.1. Purpose
 - 2.2. Goals
 - 2.3. Objectives
3. Management Structure - §659.19 (c)
 - 3.1. Overview
 - 3.1.1. General Overview and History of Transit Agency
 - 3.1.2. Scope of Transit Services
 - 3.1.3. Physical Plant
 - 3.1.4. Operations
 - 3.1.5. Maintenance
 - 3.2. Integration of Safety Function
 - 3.3. Lines of Authority for Safety
4. Plan Review and Modification - §659.19 (d)
 - 4.1. Annual SSPP Review
 - 4.2. SSPP Control and Update Procedures
 - 4.3. SSPP Review and Approval by the State Oversight Agency
 - 4.4. SSPP Change Management
5. SSPP Implementation – Tasks and Activities - §659.19 (e)
 - 5.1. Overview
 - 5.2. System Safety Function
 - 5.2.1. Methodology Used by the System Safety Unit
 - 5.3. Safety Responsibilities of Other Departments
 - 5.4. Safety Task Responsibility Matrix (Or Narrative Description)
6. Hazard Management Process - §659.19 (f)
 - 6.1. Overview
 - 6.2. Hazard Management Process – Activities and Methodologies
 - 6.3. Coordinating with the State Oversight Agency
7. Safety Certification - §659.19 (g)
8. Managing Safety in System Modifications - §659.19 (h)
9. Safety Data Acquisition - §659.19 (i)

- 9.1. Data Acquisition Process
- 9.2. Access to Data
- 10. Accident/Incident Notification, Investigation and Reporting - §659.19 (j)
 - 10.1. Overview
 - 10.2. Accident/Incident Investigation Criteria
 - 10.3. Accident/Incident Investigation Procedures
 - 10.4. Internal Notification Procedure
 - 10.5. External Notification Procedure
 - 10.6. Accident/Incident Reporting and Documentation
 - 10.7. Corrective Action Resulting from Accident Investigation
 - 10.8. Coordination with State Oversight Agency
- 11. Emergency Response Planning/Coordination/Training - §659.19 (k)
 - 11.1. Responsibilities for Emergency Preparedness
 - 11.2. Coordinated Schedule
 - 11.3. Emergency Exercises
 - 11.4. Emergency Procedures
 - 11.5. Emergency Training
 - 11.6. Familiarization Training
- 12. Internal Safety Audit Process - §659.19 (l)
 - 12.1. Overview
 - 12.2. Scope of Activities
 - 12.3. Audit Process
 - 12.3.1. Integrity of Audit Process
 - 12.3.2. Cycle/Schedule
 - 12.3.3. Checklists and Procedures
 - 12.3.4. Audit Reporting
 - 12.3.5. Annual Audit Report
 - 12.3.6. Coordination with the Oversight Agency
 - 12.3.7. Audit Completeness
- 13. Rules Compliance/Procedures Review - §659.19 (m)
 - 13.1. Overview
 - 13.2. Review of Rules and Procedures
 - 13.3. Process for Ensuring Rules Compliance
 - 13.4. Compliance Techniques – Operations and Maintenance Personnel
 - 13.5. Compliance Techniques – Supervisory Personnel
 - 13.6. Documentation
- 14. Facilities and Equipment Inspections - §659.19 (n)
 - 14.1. Facilities and Equipment Subject to Inspection
 - 14.2. Regular Inspection and Testing
 - 14.3. Checklists
 - 14.4. Coordination with Hazard Management Process

- 15. Maintenance Audits/Inspections - §659.19 (o)
 - 15.1. Systems and Facilities Subject to Maintenance Program
 - 15.2. Resolution of Audit/Inspection Findings
 - 15.3. Checklists
- 16. Training and Certification Review/Audit - §659.19 (p)
 - 16.1. Overview
 - 16.2. Employee Safety
 - 16.3. Contractor Safety
 - 16.4. Record Keeping
 - 16.5. Compliance with Training Requirements
- 17. Configuration Management - §659.19 (q)
 - 17.1. Overview
 - 17.2. Process for Changes
 - 17.3. Authority for Change
- 18. Employee and Contractor Safety Program - §659.19 (r)
 - 18.1. Employee Safety Program
 - 18.2. Working on or near Rail Transit Controlled Property
 - 18.3. Compliance with Required Safety Programs
- 19. Hazardous Materials - §659.19 (s)
- 20. Drug & Alcohol Abuse - §659.19 (t)
- 21. Procurement - §659.19 (u)

13. WMATA Security and Emergency Preparedness Plan

TOC requires WMATA to develop and implement a written SEPP that complies with the TOC Program Standard and Procedures and that generally follows the format presented in 49 CFR Part 659.23 and outlined below. It has been determined that the SEPP, as defined by FTA Guidelines, meets the requirements for System Security Plans in 49 CFR Part 659.23. The SEPP must be developed and maintained as a separate document from the SSPP. Due to the security sensitive nature of the SEPP, distribution of the SEPP is restricted. WMATA must review its SEPP annually and provide TOC with an annual update of its review, in accordance with the requirements set forth in Section 14 of this document.

WMATA's SEPP shall address, at a minimum, the following:

1. SEPP Program Introduction
 - 1.1. Purpose of the SEPP
 - 1.2. Goals and Objectives
 - 1.3. Scope of Program
 - 1.4. Security and Law Enforcement
 - 1.5. Management Authority and Legal Aspects
 - 1.6. Government Involvement
 - 1.7. Security Acronyms and Definitions
2. System Description
 - 2.1. Background & History of System
 - 2.2. Organizational Structure
 - 2.3. Human Resources
 - 2.4. Passengers
 - 2.5. Services and Operations
 - 2.6. Operating Environment
 - 2.7. Integration with Other Plans and Programs
 - 2.8. Current Security Conditions
 - 2.9. Capabilities and Practices
3. SEPP Management Activities
 - 3.1. Responsibility for Mission Statement and System Security Policy
 - 3.2. Management of the SEPP Program
 - 3.3. Division of Security Responsibilities
4. SEPP Program Description
 - 4.1. Planning
 - 4.2. Organization
 - 4.3. Equipment
 - 4.4. Training and Procedures
 - 4.5. Emergency Exercises and Evaluation
5. Threat and Vulnerability Identification, Assessment, and Resolution
 - 5.1. Threat and Vulnerability Identification

- 5.2. Threat and Vulnerability Assessment
- 5.3. Threat and Vulnerability Resolution
- 6. Implementation and Evaluation of SEPP
 - 6.1. Implementation Tasks for Goals and Objectives
 - 6.2. Implementation Schedule
 - 6.3. Evaluation (Internal Security Review)
- 7. Modification of System Security Plan
 - 7.1. Initiation
 - 7.2. Review Process
 - 7.3. Implementation of Modifications

14. Annual Review of the SSPP and SEPP

TOC requires WMATA to conduct an annual review of its SSPP and SEPP. Before January 1st of each year, WMATA must provide TOC with an annual update of its SSPP and SEPP, including an identification and explanation of any and all changes for review and approval.

In addition to annual updates, WMATA shall identify changes that require modification of the SSPP and SEPP on an on going basis. WMATA shall incorporate necessary changes in the SSPP and SEPP and submit these changes to TOC for approval within 45 calendar days of the date of the change.

TOC may request modifications to WMATA's SSPP or SEPP due to internal audit report results, on-site reviews and investigations, changing trends in accident/incident or security data, or other reasons that may come to the attention of TOC. Upon receipt of a written request for SSPP or SEPP modifications from TOC, WMATA shall submit a revised SSPP or SEPP within 30 calendar days.

Within 45 calendar days of receipt of the plans, TOC will issue a response stating that it approves, conditionally approves, or is unable to approve the SSPP and SEPP, along with checklists used to review the plans. These checklists can be found in Appendix D and E, respectively. If TOC conditionally approves or is unable to approve either plan, WMATA will have 30 calendar days to address noted deficiencies and requested changes in the plan(s) and submit a revised plan(s) to TOC. TOC, at its discretion, may arrange for a meeting with WMATA to discuss the noted deficiencies and requested changes.

In the event WMATA objects to a noted deficiency or requested change from TOC, it shall state its objections and suggest alternatives within 30 calendar days. TOC and WMATA shall review the objections and suggested alternatives and agree to an appropriate course of action within 30 calendar days. The revised and updated plan(s) shall be submitted to TOC for review and approval within 30 calendar days after agreement on a course of action.

Plans may be delivered to TOC in a format agreed to by TOC (electronic except for the SEPP). Once a plan has been approved by TOC, WMATA must submit a copy to TOC in an unalterable format (electronic or hard copy) with all required WMATA approval signatures visible.

15. Other TOC Reviews

TOC may conduct reviews and special studies of issues related to the safety of the Metrorail system at its discretion. In addition to the two general review areas listed below (system expansions and modifications, and SSPP readiness reviews) TOC may initiate a review of a particular subject matter area in response to a particular accident, incident (including near-misses), or hazardous condition, or trend or pattern in a safety-related area. Such reviews and studies may result in a final report containing findings and recommendations that shall be subject to the CAP process outlined in Section 11.

15.1 Reviews of Safety and Security Certification Program

WMATA is required to have a Safety and Security Certification (SSC) program to help ensure that safety and security concerns, and hazards, threats, and vulnerabilities are adequately addressed prior to the initiation of passenger operations for New Starts and subsequent major projects to extend, rehabilitate, or modify an existing system, or to replace vehicles and equipment. Though TOC is not a signatory to the SSC program, TOC shall provide general review and oversight of the SSC process. WMATA shall submit SSC plans and documents to TOC for review and comment on all projects subject to the SSC process. TOC shall participate in SSC-related meetings and document reviews, and may issue specific findings, guidance, and/or directives to WMATA in order to address safety and security issues related to certifiable elements and certifiable items and potential workarounds.

The role of TOC in the oversight of the SSC process shall also extend to projects being implemented by entities other than WMATA that extend or modify the Metrorail system, such as the Dulles Corridor Metrorail Project (DCMP), which is being implemented by the Metropolitan Washington Airports Authority (MWAA).

15.2 Reviews of System Expansions and System Modifications

In order to assess safety and security of new projects, and to verify safety and security processes within WMATA, TOC may review major system modifications and expansions, and other projects that have a significant safety or security impact. The following lists types and examples of WMATA expansions or modifications that WMATA shall submit for TOC review:

- New starts or system expansions
- Major reconstruction of existing lines
- Major redesign and installation of system components
- New or significantly reconstructed maintenance and operating facilities
- New vehicle procurements or mid-life overhauls
- Other projects deemed to have significant safety implications, including projects implemented by others that have a direct impact on WMATA operations.

The review and oversight by TOC will depend significantly on the type of system expansion or modification under review. TOC may review any and all development phases of applicable projects including:

- Project Planning
- Preliminary Engineering
- Final Design

- Procurement
- Construction
- Operations and Maintenance Procedures and Plans
- Training
- Testing
- Start-Up

The TOC review may include each of these phases, so that any safety- and security-critical issues can be resolved as early as possible, to avoid or minimize the need for retroactive modifications and retrofits. This approach should allow WMATA to resolve safety and security issues in a timely manner, so as not to delay the project implementation schedule.

In reviewing each phase of a major system expansion or modification, TOC will focus its resources on providing an independent review of safety- and security-critical system elements and activities, in addition to the more general aspects of a project that could affect the safety and security of existing operations. The materials TOC will review throughout the project may include the following:

- Planning Studies (that evaluate alternatives and define a project's scope)
- Design Criteria and Standards Manual
- Design Documents
- Safety and Security Certification Plans
- Project Management Plans (required on major FTA-funded projects)
- Configuration Management Plans
- Construction Plan and Schedules
- Operating Changes and Plans during Project Construction
- Transportation & Maintenance Operating Procedures
- Training Programs and Procedures
- Integrated Test Program
- Emergency Procedures
- System Safety and Security Reviews
- Security Plans

After the review of a particular project phase has been completed, TOC will provide an immediate oral briefing to WMATA and issue a draft report detailing its findings and recommendations within 10 calendar days of the end of the review. Any WMATA comments shall be provided within 30 calendar days and the TOC Final Report will be issued within 30 calendar days of receipt of WMATA comments.

TOC may continue to review each phase of the project until project completion. At project completion, the system expansion and modification will be incorporated into TOC's triennial review of the operating and maintenance activities of WMATA.

15.3 SSPP Readiness Review

TOC may conduct an on-site SSPP Readiness Review of any major project as defined by TOC. This review will be conducted after receipt of WMATA's initial SSPP submission but prior to its entry into passenger operations. This assessment will focus on the capabilities of WMATA to implement its SSPP during passenger operations. This assessment may be conducted in conjunction with TOC review and approval of the initial SSPP submission.

This assessment may be conducted formally, following the procedures specified for the TOC Triennial On-Site Safety and Security Review, identified in Section 5 of this document. Or this assessment may be conducted less formally, as an on-site walk-through of WMATA's safety program with WMATA's safety point-of-contact and other WMATA personnel to ensure both the accuracy of its initial SSPP submission and the capacity of WMATA to implement its SSPP.

Based on the type of review conducted, TOC may issue an official report with identified deficiencies which may require corrective actions (see Section 9 of this document), or may address any findings through the review and approval process used for WMATA's SSPP.

16. Conflict of Interest

No individual or entity may provide services to both TOC and WMATA when there is a conflict of interest or an appearance of a conflict. A conflict of interest occurs when an individual or entity performing work for WMATA or TOC is unable, or potentially unable, to render impartial assistance or advice on the development or implementation of the TOC Program Standard and Program Procedures, or to objectively perform such work without bias. A third party consultant or contractor to TOC or WMATA may not have an unfair competitive advantage over other consultants or contractors. Each consultant or contractor is subject to full disclosure on all present and potential conflicts of interest in its activities or relationships prior to being awarded a contract with TOC or WMATA.

Appendix A: TOC Contact List

[REDACTED]

[REDACTED]

Appendix B: SSPP Checklist

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
1.	Policy Statement	<ul style="list-style-type: none"> • A policy statement is developed for the System Safety Program Plan (SSPP). • The policy statement describes the authority that establishes the system safety program plan. • The policy statement is signed and endorsed by the rail transit agency's chief executive. 			
2.	Purpose, Goals and Objectives	<ul style="list-style-type: none"> • The purpose of the SSPP is defined. • Goals are identified to ensure that the SSPP fulfills its purpose. • Objectives are identified to monitor and assess the achievement of goals. • Stated management responsibilities are identified for the safety program to ensure that the goals and objectives are achieved. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
3.	Management Structure	<ul style="list-style-type: none"> • An overview of the management structure of the rail transit agency is provided including an organization chart. • Organizational structure is clearly defined and includes: <ul style="list-style-type: none"> ○ History and scope of service, ○ Physical characteristics, and ○ Operations and Maintenance. • A description of how the safety function is integrated into the rest of the rail transit organization is provided. • Clear identification of the lines of authority used by the rail transit agency to manage safety issues is provided. 			
4.	Plan Review and Modification	<ul style="list-style-type: none"> • An annual assessment of whether the system safety program plan should be updated is specified. • The process used to control changes to the system safety program plan is described. • Specific departments and persons responsible for initiating, developing, approving, and issuing changes to the SSPP are identified. • Required coordination with the oversight agency regarding plan modification, including timeframes for submission, revision, and approval, is addressed. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
5.	Plan Implementation	<ul style="list-style-type: none"> • A description of the specific activities required to implement the system safety program plan is included. • Tasks to be performed by the rail transit safety function, by position and management accountability, are identified and described. • A description of the methodologies used by the system safety function to achieve their safety responsibilities should be provided. • Safety-related tasks to be performed by other rail transit departments, by position and management accountability, are identified and described. • A task matrix (or an equivalent narrative description) showing: all identified safety responsibilities, interfaces among all rail transit units responsible for each task, and the key reports or actions required, should be provided. 			
6.	Hazard Management Process	<ul style="list-style-type: none"> • The process used by the rail transit agency to implement its hazard management program, including the role of the oversight agency in providing on-going monitoring, is described. • The hazard management process includes activities for: hazard identification, hazard investigation, evaluation, and analysis, hazard control and elimination, hazard tracking. • Requirements for on-going reporting to the oversight agency relating to hazard management activities and status are specified. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
7.	Safety Certification Process	<ul style="list-style-type: none"> • A description of the safety certification process required by the rail transit agency to ensure that safety concerns and hazards are adequately addressed prior to the initiation of passenger operations for New Starts and subsequent major projects to extend, rehabilitate, or modify an existing system, or to replace vehicles and equipment. 			
8.	System Modifications	<ul style="list-style-type: none"> • The process used by the rail transit agency to ensure that safety concerns are addressed in modifications to existing systems, vehicles, and equipment, which do not require formal safety certification, but which may have safety impacts, is described. 			
9.	Safety Data Acquisition	<ul style="list-style-type: none"> • The process used to collect, maintain, analyze, and distribute safety data is clearly defined. • The management process for ensuring that the safety function within the rail transit organization receives the necessary information to support implementation of the system safety program is clarified. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
10.	Incident Notification, Investigation, and Reporting	<ul style="list-style-type: none"> • A description is provided regarding the process used by the rail transit agency to perform accident notification, investigation and reporting. • Criteria for determining what accidents/incidents require investigation, and who is responsible to conduct specific investigations are developed. • A description of the procedures for performing investigations, including proper documentation and reporting of findings, conclusions reached, use of hazard resolution process to develop corrective action recommendations, and follow-up to verify corrective action implementation is provided. • Notification thresholds for internal departments/functions are defined. • Criteria are specified for notifying external agencies (NTSB, state oversight agency) of accidents and incidents. • Procedures are established for documenting and reporting on accident investigations. • Process used to develop, implement, and track corrective actions that address investigation findings is specified. • Coordination with the oversight agency is specified. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
11.	Emergency Management Program	<ul style="list-style-type: none"> • The agency's emergency planning responsibilities and requirements are identified. • A description of the process used by the rail transit agency to develop an approved, coordinated schedule for emergency management program activities is provided. • Required meetings with external agencies regarding the emergency management program are specified. • The process used to evaluate emergency preparedness, such as annual emergency field exercises, is documented. • After action reports and implementation of findings are required. • The process is explained to be used by the rail transit agency for the revision and distribution of emergency response procedures. • The agency's responsibilities for providing employee training are identified. • The agency's responsibilities for providing familiarization training to local public safety organizations are identified. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
12.	Internal Safety Audit Program	<ul style="list-style-type: none"> • A description of the process used by the rail transit agency to ensure that planned and scheduled internal safety audits are performed to evaluate compliance with the SSPP is included. • Identification of departments and functions subject to audit is performed. • Auditors must be independent from the first line of supervision responsible for the activity being audited. • A three-year audit schedule must be developed, reviewed, maintained and updated to ensure that all 21 SSPP elements are reviewed during the audit cycle. • The process for conducting audits, including the development of checklists, and procedures for conducting audits and issuing of findings is described. • The SSPP must describe the requirement of an annual audit report that summarizes the results of individual audits performed during the previous year and includes the status of required corrective action items. This report must be submitted to the state oversight agency for review and approval. • The process for resolving problems and disagreements, report distribution, and follow-up on corrective action procedures is described. • The ISAP process and reporting must be coordinated with the state oversight agency. • The ISAP process should be comprehensive. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
13.	Rules Compliance	<ul style="list-style-type: none"> • Operating and maintenance rules and procedures that affect safety are identified. • Operating and maintenance rules and procedures that affect safety are reviewed for their effectiveness and determinations are made regarding their need to be updated. • Description of process for developing, maintaining, and ensuring compliance with operating and maintenance rules and procedures. • Techniques used to assess the implementation of operating and maintenance rules and procedures by employees, such as performance testing/compliance checks. • Techniques used to assess the effectiveness of supervision relating to the implementation of operating and maintenance rules. • Process for documenting results and incorporating them into the hazard management program. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
14.	Facilities and Equipment Inspections	<ul style="list-style-type: none"> • Identification of the facilities and equipment that are subject to regular safety related-inspection and testing is provided. • A description of how safety-related equipment and facilities are included in a regular inspection and testing program is provided. • Use of a written checklist for conducting facility inspections. • Descriptions of how identified hazardous conditions are entered into the Hazard Resolution Process. 			
15.	Maintenance Audit and Inspection Program	<ul style="list-style-type: none"> • A list of systems and facilities subject to a maintenance program, along with established maintenance cycle and required documentation of maintenance performed for each item, is provided. • A description of the process for tracking and resolving problems identified during inspections is provided. • Use of a written checklist for conducting maintenance audits is required. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
16.	Training and Certification Program	<ul style="list-style-type: none"> • A description of the training and certification program for employees and contractors is provided. • Categories of safety-related work requiring training and certification are identified. • Description of the training and certification program for employees and contractors in safety-related positions is provided. • Description of the training and certification program for contractors is provided. • The process used to maintain and access employee and contractor training records is described. • The process used to assess compliance with training and certification requirements is described. 			
17.	Configuration Management Process	<ul style="list-style-type: none"> • A description of the configuration management control process is provided and appropriate references are made to other rail transit agency documents governing this process. • Process for making changes is described. • Authority to make configuration changes is described and assurances are provided for formal notification of all involved departments. 			

TOC REVIEW OF WMATA SSPP

Sample Checklist

#	CHECKLIST ITEM	SSPP REQUIREMENTS Does the SSPP contain or provide for the following:	INCLUDED Yes — No	§ REF.	COMMENTS
18.	Compliance with Local, State and Federal Safety Requirements	<ul style="list-style-type: none"> • A description of the safety program for employees and contractors that incorporates the applicable local, state, and federal requirements is provided. • Safety requirements that employees and contractors must follow when working on, or in close proximity to, rail transit agency controlled property are identified. • Processes for ensuring the employees and contractors know and follow the requirements are described. 			
19.	Hazardous Materials Program	<ul style="list-style-type: none"> • A description of the hazardous materials program, including the process used to ensure knowledge of and compliance with program requirements is provided. 			
20.	Drug and Alcohol Program	<ul style="list-style-type: none"> • A description of the drug and alcohol program and the process used to ensure knowledge of and compliance with program requirements is provided. 			
21.	Procurement	<ul style="list-style-type: none"> • A description of the measures, controls, and assurances in place to ensure that safety principles, requirements, and representatives are included in the rail transit agency procurement process. 			

**TOC REVIEW OF WMATA SSPP
Sample Checklist**

GENERAL COMMENTS – WMATA SSPP REVIEW

. § REF.	COMMENT

Appendix C: SEPP Checklist

Sample Checklist for Reviewing the System Security and Emergency Preparedness Plan

Rail Transit Agency (RTA): WMATA

State Oversight Agency Reviewer: _____ Date: _____

#	CHECKLIST ITEM	PLAN REQUIREMENTS Does the PLAN contain or provide for the following:	INCLUDED Yes — No	PAGE REF.	COMMENTS
	General Document Comments	<ul style="list-style-type: none"> • The table of contents and revision record pages are not numbered 			
		<ul style="list-style-type: none"> • Date of this version of the SEPP 			
		<ul style="list-style-type: none"> • Document Revision Record 			
		<ul style="list-style-type: none"> • SEPP Revisions in 2008 			
		<ul style="list-style-type: none"> • Policy statement 			
		<ul style="list-style-type: none"> • Section Heading 1.0-Program Intro from 			
		<ul style="list-style-type: none"> • Footer informing of SSI 			
		<ul style="list-style-type: none"> • Empty Headings 			
		<ul style="list-style-type: none"> • Bibliography 			

Sample Checklist for Reviewing the System Security and Emergency Preparedness Plan

#	CHECKLIST ITEM	PLAN REQUIREMENTS Does the PLAN contain or provide for the following:	INCLUDED Yes — No	PAGE REF.	COMMENTS
1.	Policy Statement	<ul style="list-style-type: none"> A policy statement should be developed for the System Security and Emergency Preparedness Plan. The policy statement should describe the authority that establishes the SEPP, including statutory requirements and the rail transit agency's relationship with the oversight agency. The policy statement is signed and endorsed by the rail transit agency's chief executive. 			
1.1	Purpose	<ul style="list-style-type: none"> The SEPP should identify the purpose of the security program endorsed by the agency's chief executive. The SEPP should introduce the concept of "system security." The SEPP introduce the concept of "emergency preparedness." 			
1.2	Goals and Objectives	<ul style="list-style-type: none"> The SEPP should identify the goals of the SEPP program endorsed by the agency's chief executive. The SEPP should identify the objectives of the SEPP program endorsed by the agency's chief executive. 			
1.3.	Scope	<ul style="list-style-type: none"> Describe the scope of the SEPP and Program. 			
1.4	Security and Law Enforcement	<ul style="list-style-type: none"> Describe the security and law enforcement functions that manage and support implementation of the SEPP. 			
1.5	Management Authority and Legal Aspects	<ul style="list-style-type: none"> Describe the authority which oversees the operation and management of the rail transit agency, including its security/police function. 			
1.6	Government Involvement	<ul style="list-style-type: none"> Describe how the SEPP interfaces with local, state and federal authorities to ensure security and emergency preparedness for the system. 			

Sample Checklist for Reviewing the System Security and Emergency Preparedness Plan

#	CHECKLIST ITEM	PLAN REQUIREMENTS Does the PLAN contain or provide for the following:	INCLUDED Yes — No	PAGE REF.	COMMENTS
1.7	Security Acronyms and Definitions	<ul style="list-style-type: none"> Provide a listing of acronyms and definitions used in the SEPP. 			
2.1	Background and History	<ul style="list-style-type: none"> A description of the agency including general overview, a brief history and scope of rail transit services provided. 			
2.2	Organizational Structure	<ul style="list-style-type: none"> Organizational charts showing the lines of authority and responsibility as they relate to security and emergency preparedness. 			
2.3	Human Resources	<ul style="list-style-type: none"> Provide a categorization and break-down of all employees and contractors who work for/on the rail transit agency. 			
2.4	Passengers	<ul style="list-style-type: none"> Provide a description of the rail transit agency's ridership. 			
2.5	Services and Operations	<ul style="list-style-type: none"> Describe the rail transit agency's operations and services. 			
2.6	Operating Environment	<ul style="list-style-type: none"> Describe the rail transit agency's operating environment. 			
2.7	Integration with Other Plans	<ul style="list-style-type: none"> Describe how the SEPP integrates with other plans and programs maintained by the rail transit agency. 			
2.8	Current Security Conditions	<ul style="list-style-type: none"> Description of the current security conditions at the rail transit agency and the types of security incidents experienced by the transit system and their frequency of occurrence. 			
2.9	Capabilities and Practices	<ul style="list-style-type: none"> Summary description of methods and procedures, devices, and systems utilized to prevent or minimize security breaches, including passenger education, campaigns, delay, detection, and assessment devices, and others that may be applicable. 			

Sample Checklist for Reviewing the System Security and Emergency Preparedness Plan

#	CHECKLIST ITEM	PLAN REQUIREMENTS Does the PLAN contain or provide for the following:	INCLUDED Yes — No	PAGE REF.	COMMENTS
3.1	Responsibility for Mission Statement	<ul style="list-style-type: none"> • Identification of the person(s) responsible for establishing transit system security and emergency preparedness policy and for developing and approving the SEPP. 			
3.2	Management of the SEPP Program	<ul style="list-style-type: none"> • Identification of the person(s) with overall responsibility for transit security and emergency preparedness, including day-to-day operations, SEPP-related internal communications, liaison with external organizations, and identifying and resolving SEPP-related concerns. 			
3.3	Division of Security Responsibility	<ul style="list-style-type: none"> • Listing of SEPP-related responsibilities of the personnel who work within the transit agency security/police function. • Listing of SEPP-related responsibilities of other departments/functions, including their relationship to the security/police function. • Listing of security-related responsibilities for other (non-security/police) rail transit agency employees, including their relationship to the employee's other duties. • A SEPP Program Roles and Responsibilities Matrix should be developed showing interfaces with other transit system departments/functions and the key reports or actions required. • The responsibilities of external agencies for supporting SEPP development and implementation should be identified. • The committees developed by the rail transit agency to address security issues should be identified. 			
4.1	Planning	<ul style="list-style-type: none"> • Identification of SEPP activities and programs in place at the rail transit agency to support planning for system security and emergency preparedness. 			
4.2	Organization	<ul style="list-style-type: none"> • Identification of the organization of SEPP-related activities and programs and the ability to coordinate with external response agencies. 			

Sample Checklist for Reviewing the System Security and Emergency Preparedness Plan

#	CHECKLIST ITEM	PLAN REQUIREMENTS Does the PLAN contain or provide for the following:	INCLUDED Yes — No	PAGE REF.	COMMENTS
4.3	Equipment	<ul style="list-style-type: none"> Description of the equipment used to support implementation of the SEPP program. 			
4.4	Training and Procedures	<ul style="list-style-type: none"> Description of SEPP-related training and procedures available to ensure employee proficiency. 			
4.5	Exercises and Evaluation	<ul style="list-style-type: none"> Description of SEPP-related activities to ensure the conduct of emergency exercises and evaluation. 			
5.1	Threat and Vulnerability Identification	<ul style="list-style-type: none"> Description of the rail transit agency's activities to identify security and terrorism-related threats and vulnerabilities. 			
5.2	Threat and Vulnerability Assessment	<ul style="list-style-type: none"> Description of the rail transit agency's activities to assess the likely impacts of identified threats and vulnerabilities on the system and to identify particular vulnerabilities which require resolution. 			
5.3	Threat and Vulnerability Resolution	<ul style="list-style-type: none"> Description of how response strategies (both short- or long-term strategies) are developed for prioritized vulnerabilities, including the decision process used to determine whether to eliminate, mitigate, or accept security problems. 			
6.1	Required Tasks for Goals and Objectives	<ul style="list-style-type: none"> Identification of tasks to be performed to implement the goals and supporting objectives required to implement the SEPP. 			
6.2	Task Schedule	<ul style="list-style-type: none"> General schedule with specific milestones for implementation of the security program, threat and vulnerability analyses, staff security training, and regular program reviews during the implementation process. 			
6.3	Evaluation	<ul style="list-style-type: none"> Description of the types of internal management reviews to be conducted, the frequencies of the reviews, and the person(s) responsible. 			
7.1	Initiation of SEPP Revisions	<ul style="list-style-type: none"> Description of process used to initiate revisions to the security plan, gather input for the revisions, procedures for updating the security plan, and identification of responsible person(s). 			

Sample Checklist for Reviewing the System Security and Emergency Preparedness Plan

#	CHECKLIST ITEM	PLAN REQUIREMENTS Does the PLAN contain or provide for the following:	INCLUDED Yes — No	PAGE REF.	COMMENTS
7.2	Review Process	<ul style="list-style-type: none"> • Description of the process used to review and revise the security plan as necessary, including frequency of reviews, and responsible person(s). 			
7.3	Implement Modifications	<ul style="list-style-type: none"> • Description of process used to communicate and disseminate new and revised procedures and other elements of the security plan to appropriate transit agency staff. 			

Appendix D: TOC Internal Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) made and entered into this 13th day of September, 2010, by and between the VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION, the MARYLAND DEPARTMENT OF TRANSPORTATION, and the DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION, hereinafter collectively referred to as the “Parties”.

WITNESSETH THAT:

WHEREAS, Section 3028 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires that the Federal Transit Administration (FTA) implement the requirements of 45 U.S.C. 5330 known as 49 C.F.R. Part 659 Regulation (as revised on April 29, 2005), requiring states to designate an agency to oversee the safety of rail fixed guideway systems operating in the State; and

WHEREAS, in the interest of public safety and security the Parties hereto have agreed to accept the responsibility to perform the designated oversight requirements and have agreed to participate collectively and for the common good to implement the requirements of 49 C.F.R. Part 659; and

WHEREAS, the Secretary of Transportation of the Commonwealth of Virginia has designated the Virginia Department of Rail and Public Transportation, and the Secretary of Transportation of the State of Maryland has designated the Maryland Department of Transportation, and the Director of the District of Columbia Department of Transportation has designated the Progressive Transportation Services Administration [under authority of D.C. Official Code §§ 9-1109.01 – 9-1109.07 (D.C. Law 11-261); Mayor’s Order 97-13 (January 24, 1997); and D.C. Official Code §§ 50-921.02(b) and 50-921.05 (D.C. Law 14-137)] - each as the agency responsible for the safety oversight required by 49 C.F.R. Part 659; and

WHEREAS, the Washington Metropolitan Area Transit Authority (WMATA) operates the Metrorail system, a rail fixed guideway system that operates within and between the Commonwealth of Virginia, the State of Maryland and the District of Columbia, whose collective action created WMATA by means of the WMATA compact; and

WHEREAS, it is mutually agreed by the Parties hereto to create a single oversight entity known as the TRI-STATE OVERSIGHT COMMITTEE (TOC) that is composed of representatives of the three designated agencies and able to effectively carry out its oversight duties transparently, independently, and with adequate authority; and

WHEREAS, under 49 C.F.R. Part 659, and the information noted above, TOC has the right and duty to perform safety and security oversight over WMATA; and

WHEREAS, an original Memorandum of Understanding between the same parties was entered into on March 7, 1997, and amended in December, 2008, the TOC has been in continuous operation performing safety and security oversight of the WMATA Metrorail system since that date, and certain changes to the MOU are required. As such, this MOU replaces the MOU of March 7, 1997.

NOW, THEREFORE, the Parties hereto, each in consideration of the promises and undertakings of the others as herein provided, do hereby covenant and agree, each with the other, as follows:

- §1. The TOC shall serve under the guidance and direction of the TOC Executive Committee. The TOC Executive Committee shall be composed of the Secretary of Transportation of the Commonwealth of Virginia, the Secretary of Transportation of the State of Maryland, and the Director of the District of Columbia Department of Transportation. These members of the Executive Committee shall have the right to appoint and utilize alternates as they deem appropriate in carrying out TOC Executive Committee responsibilities. The TOC Executive Committee shall meet to review TOC safety and security oversight issues on a schedule as it directs, and generally on a quarterly basis. The TOC Executive Committee may develop an agenda for its meetings and take those actions necessary to provide executive leadership to the TOC during the meetings. The TOC Chair shall be the primary point of contact between the TOC Executive Committee and the appointed TOC members.
- §2. The TOC shall be composed of and guided by six members, consisting of two representatives from each of the Parties. Each of the Parties shall have sole jurisdiction and discretion to appoint their respective members to serve on the TOC. One appointed member from each of the Parties shall serve as a full-time TOC representative, while the other may serve as a full-time or part-time TOC representative. Each of the parties may also, at their sole discretion, appoint up to two alternate representative members to serve on the TOC. When serving as the substitute for a TOC member, these members will function in the same role as the TOC member and may serve at the discretion of the respective jurisdiction.
- §3. Three members of the TOC, one from each designated agency, shall constitute a quorum. The affirmative vote of a majority of the TOC shall be necessary to take any official action. A majority shall include at least one member appointed by each Party. Scheduled meeting dates shall be established prior to the beginning of each calendar year to allow for formal meetings approximately quarterly with additional meetings and teleconferences scheduled, as required and agreed to by the TOC. All meeting dates may be revised by the TOC as needed.
- §4. The nominee for TOC Chair shall be approved by the TOC membership by a majority vote of the TOC. The TOC Chair shall serve for a two-year period beginning with the second quarterly meeting of the year, and the nominee for TOC Chair shall rotate among the Parties as follows: 2010-VA, 2012-MD, 2014-DC, and so on. The TOC Chair shall be responsible for specific duties and responsibilities determined by and agreed to by the TOC. In the event of an absence by the TOC Chair, the TOC Vice-Chair shall serve as the TOC Chair during such absence. The TOC Chair shall be required to serve in a full-time capacity in order to perform the critical duties of the TOC Chair.
- §5. The TOC Chair shall have the executive authority to: (a) elevate critical unresolved WMATA safety concerns to the TOC Executive Committee and communicate TOC Executive Committee decisions and requests on their behalf to WMATA; (b) draft and

approve correspondence relating to official TOC communications with WMATA; (c) request WMATA to initiate investigations of accidents and hazardous conditions on behalf of the TOC; (d) address immediate and time-sensitive safety situations or incidents at WMATA which fall under TOC jurisdiction; (e) meet with appropriate WMATA personnel in order address Findings, Corrective Action Plans, and other key issues; and (f) take temporary actions on behalf of the TOC, including closing out Corrective Action Plans, until such time as a quorum of the TOC can take official actions.

- §6. The nominee for TOC Vice-Chair shall be one of the two members serving as members from the jurisdiction which is scheduled to next provide the Chair for the TOC, in order to ease the transition of the TOC Chair from year to year. The schedule for which of the three jurisdictions is to provide the TOC Chair is noted in § 4 above. The TOC Vice-Chair shall be approved by a majority vote of the TOC at the same meeting at which the nominee for TOC Chair is approved, also as noted in § 4 above. The nominee for TOC Vice-Chair shall rotate among the parties as follows: 2010-MD, 2012-DC, 2014-VA, and so on.
- §7. Each Party to the TOC shall have the authority to temporarily assign TOC-related responsibilities and authority to a non-TOC member from that jurisdiction, in the event of a vacancy by a member from that jurisdiction. This authority may be assigned by the respective Party's remaining TOC member. Such authority shall include, but not be limited to, the right to be included as a quorum for meeting purposes and to vote on TOC issues. In this paragraph, "temporary" and "temporarily" shall be defined as the period of time necessary for that jurisdiction to formally fill the vacant TOC member position, as described in §2.
- §8. When there is the need for a jurisdiction to fill a vacant TOC member position, each jurisdiction shall attempt to do so in as expeditious a manner as possible so as not to adversely affect the operation of the TOC.
- §9. The TOC shall have the authority to hire a consultant to perform specified work that will allow the TOC to make informed determinations, findings, decisions and recommendations. All actual costs associated with contracting for consultant services shall be the responsibility of the TOC, and allocation of costs shall be on an equal one-third appointment to each of the Parties. Each Party's own internal administrative costs shall not be included in the costs allocated to the TOC. Each Party shall be responsible for obtaining its share of funds to defray the costs of the TOC through each Party's normal budget approval process.
- §10. The TOC shall be responsible for the preparation and adoption of a System Safety and Security Program Standards and Procedures (PS&P) manual, Internal Operations manuals, and other such guidance documents that comply with the minimum requirements of 49 C.F.R. Part 659, as amended, and which it deems appropriate for carrying out its safety and security oversight mission.
- §11. The TOC shall require WMATA, as the transit agency, to create a System Safety Program Plan and a separate Security and Emergency Preparedness Plan that comply with the

TOC's PS&P. These Plans shall be reviewed by WMATA annually and, if any changes are made, submitted to TOC for review and approval, within a time frame specified by the TOC.

- §12. The TOC shall monitor the implementation of the System Safety Program Plan and Security and Emergency Preparedness Plan and require updates or modifications as deemed necessary, within a time frame specified by the TOC.
- §13. The TOC shall require WMATA to conduct internal safety and security audits in accordance with TOC PS&P, and submit annual safety and security audit reports to the TOC, within a time frame specified by the TOC.
- §14. The TOC shall require WMATA to report to the TOC the occurrence of accidents, incidents, and hazards as defined in TOC's PS&P, within a time frame specified by the TOC. The TOC shall require WMATA to establish procedures for investigating accidents, incidents, and hazards, and those procedures shall be subject to review and approval by the TOC. The TOC shall conduct, or cause to be conducted, investigations of accidents, incidents, and hazards and shall have full access to all information and evidence collected by WMATA and/or its agents.
- §15. The TOC shall require WMATA to develop Corrective Action Plans for TOC review and approval that minimize, control, correct or eliminate deficiencies identified in accident or incident investigations, internal audits or reviews, external audits or reviews including the TOC's Triennial Safety and Security Review, the WMATA hazard management program, and other sources identifying deficiencies needing corrective action, in a time frame specified by the TOC.
- §16. To the greatest extent possible, and in conformance with the governing applicable laws of its three member jurisdictions, the TOC shall keep all accident, incident, and hazard investigation reports and Security Plans confidential. This applies to all investigation reports and Security Plans regardless if they are developed directly by the TOC and/or its authorized agents, or developed at the direction of the TOC by WMATA (and its agents), in accordance with TOC's PS&P.
- §17. If a request for information related to documents which are defined as confidential by the TOC in § 16 above is made, the following provision shall govern. The TOC shall treat all investigation reports and Security Plans as confidential and shall not release such documents, without compelling necessity, as defined by the TOC, or if required by law. If an action in law is instituted within one of the three TOC jurisdictions against the TOC for the release of such confidential information, the prevailing and applicable laws of the jurisdiction (DC, MD, or VA) in which the action is instituted shall govern. If legal actions are instituted in more than one jurisdiction, then the TOC, in consultation with the TOC Executive Committee and legal counsel, shall determine an appropriate course of action for the potential defense of such action.
- §18. If a TOC member, while serving as a duly authorized representative of the TOC and acting in good faith, is individually named in a legal proceeding, then their appointing

jurisdiction shall be responsible for their legal defense. This assumption of liability by the appointing jurisdiction shall be equivalent to any legal defense which the representative would be entitled to as an employee and/or agent of their appointing jurisdiction, and in accordance with any appropriate statutes governing the employer/employee relationship. If the TOC as an oversight organization is named in a legal proceeding, then each jurisdiction shall provide counsel to represent its interests in such proceeding. Each jurisdiction shall be responsible for its own costs associated with defending the TOC in a proceeding. The three TOC jurisdictions, at their discretion and by mutual agreement, may also appoint one jurisdiction to represent the interests of the TOC or retain special counsel, as the jurisdictions deem appropriate. The costs for any such joint representation shall be borne equally by the three jurisdictions, except for the salaries of government employees of the member jurisdictions, unless the TOC Executive Committee approves an alternative arrangement.

- §19. Nothing in this Memorandum of Understanding shall require TOC to provide, or prohibit TOC from providing oversight of a rail fixed guideway system (subject to 49 C.F.R. Part 659) other than WMATA. TOC shall also have the flexibility to apportion costs, including any consultant costs, on some basis other than equal shares for rail systems other than WMATA. If a member of the TOC were to request that the TOC conduct oversight of a non-WMATA rail system, after the member obtains any necessary legislative authority (if applicable), then the TOC may require a separate agreement and/or MOU to govern the relationship between the TOC and the jurisdiction(s) in which that rail system is located.
- §20. This Memorandum of Understanding may be amended in writing, as conditions warrant, if agreed to by each of the participating Parties.
- §21. Participation in the TOC may be terminated by any Party upon 60 days written notice to all other Parties, provided that any Party withdrawing from participation according to the terms of this section shall be responsible for its prorata share of any costs actually incurred up until the effective date of the termination, absent the approval of an alternative financial arrangement. If participation by any Party is terminated, FTA shall be promptly notified in writing by the remaining Parties to the TOC.
- §22. A TOC representative may terminate their role and participation in the TOC upon written notice to the TOC member's respective appointing authority, and to all other remaining TOC members. The respective appointing authority shall be responsible for appointing a replacement member in a timely fashion.
- §23. TOC and/or the TOC Executive Committee shall hold formal meetings with the WMATA General Manager on at least a quarterly basis to review significant safety and security events, and to assess the effectiveness of WMATA's safety and security policies, programs, and performance.
- §24. TOC and/or the TOC Executive Committee shall attend a formal presentation by WMATA on safety issues and performance to the WMATA Board of Directors on an annual basis.

- §25. TOC shall develop and provide updates on its safety and security oversight efforts of WMATA to the WMATA Board of Directors on at least an annual basis. TOC, at its discretion, may provide such updates at the WMATA Board of Directors' regularly scheduled monthly meetings.
- §26. TOC shall hold formal and informal meetings with WMATA in accordance with this MOU and with TOC's PS&P. Meeting minutes shall be action-based, with recorded votes, clear deliverables and assignments of responsibility. TOC shall strive for a transparent oversight role that is accessible to the public. TOC may hold public informational meetings as the TOC deems necessary.
- §27. Because a blend of knowledge, skills and experience among the entire TOC membership is essential to a credible oversight program and role, the TOC Executive Committee shall establish appropriate qualifications and requirements for TOC membership, including programmatic and management oversight experience; safety program experience; and industry-specific experience. The TOC Executive Committee shall require that all TOC members, as well as all consultants, complete any training and/or certification programs required by program policy, and/or federal and state requirements.
- §28. The TOC shall designate a single individual responsible for TOC and TOC Executive Committee meeting minutes.
- §29. The TOC shall develop and maintain a publicly available website that provides access to oversight program background information, relevant program documentation, and the ability to contact the TOC.
- §30. The TOC, and its duly authorized agents, shall be granted access to the WMATA operating system, rights-of-way, and facilities in a manner agreed upon in advance by TOC and WMATA.
- §31. The TOC shall work directly with the WMATA Chief Safety Officer and Chief of Metro Transit Police in implementing its safety and security oversight role. If at any point in carrying out its defined mission the TOC believes that WMATA is not meeting its requirements under law, regulation or this MOU, or is not acting in good faith, the TOC Executive Committee, in consultation with the TOC, may communicate its concerns to the WMATA General Manager and Board of Directors in a manner deemed necessary to resolve such outstanding issues. In the event that attempts to resolve any issues between the TOC and WMATA have not been effective, the TOC Executive Committee reserves the right to take any action that is permitted by law, including, but not limited to, the delay, suspension or cancelling of capital funding to WMATA.
- §32. At the discretion of the TOC Executive Committee, the TOC shall have the authority to make use of an office located near a Metro Rail line that is provided by one of the three jurisdictions in an existing facility. The jurisdiction providing such space, equipment, and supplies may determine the cost of providing these materials, which may be duly shared with the other two jurisdictions.

§33. The TOC shall meet with the TOC Executive Committee on a schedule as established by the Executive Committee, to review monthly reports that may identify current activities, outstanding safety issues, unresolved deficient conditions at WMATA, status of accident and incident investigations, and updates on the implementation of Corrective Action Plans.


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IN WITNESS WHEREOF, this Memorandum of Understanding replaces the previous 1997 MOU and has been executed the day and year heretofore set out on the part of the Virginia Department of Rail and Public Transportation, the Maryland Department of Transportation and the District of Columbia Department of Transportation by authority duly given.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF RAIL AND
PUBLIC TRANSPORTATION

BY: 
DIRECTOR

ATTEST:



STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION

BY: 
SECRETARY OF TRANSPORTATION

ATTEST:



DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: 
DIRECTOR

ATTEST:

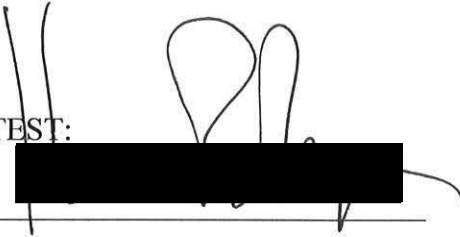



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DISTRICT OF COLUMBIA
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BY: 

DIRECTOR

ATTEST:





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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF RAIL AND
PUBLIC TRANSPORTATION

BY: 

DIRECTOR

ATTEST:



STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION

BY: 

SECRETARY OF TRANSPORTATION

ATTEST:


DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: 

DIRECTOR

ATTEST:


Appendix E: TOC-WMATA Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE WASHINGTON METROPOLITAN AREA TRANSIT
AUTHORITY AND THE TRI-STATE OVERSIGHT COMMITTEE**

This AGREEMENT, made and entered into this 29th day of December, 2010, by and between the Washington Area Metropolitan Transit Authority (“WMATA”) and the Tri-State Oversight Committee (“TOC”), which is composed of the Commonwealth of Virginia through the Virginia Department of Rail and Public Transportation (“VDRPT”), the State of Maryland through the Maryland Department of Transportation (“MDOT”), and the District of Columbia through the District Department of Transportation (“DDOT”),

WHEREAS, Section 3028 of the Intermodal Surface Transportation Efficiency Act of 1991 (“ISTEA”) requires that the Federal Transit Administration (“FTA”) implement the requirements of 49 U.S.C. § 5330 known as 49 C.F.R. Part 659 (as revised on April 29, 2005) requiring states to designate an agency to oversee the safety and security of rail fixed guideway systems operating in the State; and

WHEREAS, in the interest of public safety and security, the Commonwealth of Virginia, the State of Maryland, and the District of Columbia have agreed to participate collectively and for the common good to implement the requirements of 49 C.F.R. Part 659 by creating a single oversight entity known as the TOC that is able to effectively carry out its oversight duties transparently, independently, and with adequate authority; and

WHEREAS, VDRPT, by § 33.1-391.5 of the *Code of Virginia 1950*, as amended, MDOT, by §§ 2-102 – 2-103 of the Transportation Article of the *Maryland Code*, and DDOT, by *Official Code* §§ 9-1109.01 – 9-1109.07 (D.C. Law 11-261), *Mayor’s Order* 97-13 (January 24, 1997), and *D.C. Official Code* §§ 50-921.02(b) and 50-921.05 (D.C. Law 14-137), have been duly designated as the agencies responsible for the safety and security oversight required by 49 C.F.R. Part 659; and

WHEREAS, the Secretary of Transportation of the Commonwealth of Virginia, the Secretary of Transportation of the State of Maryland, and the Director of DDOT comprise the TOC Executive Committee, which provides guidance and direction for TOC; and

WHEREAS, WMATA operates the Metrorail system, a rail fixed guideway system that operates within and between the Commonwealth of Virginia, the State of Maryland, and the District of Columbia, whose collective action created WMATA by means of the WMATA compact; and

WHEREAS, under 49 C.F.R. Part 659, TOC has the authority and duty to perform safety and security oversight over WMATA; and

WHEREAS, pursuant to 49 C.F.R. Part 659, TOC performs safety and security oversight in accordance with the TOC Program Standards and Procedures, and the Internal TOC Operations Manual; and

WHEREAS, TOC has been in continuous operation performing safety and security oversight of the WMATA Metrorail system since a Memorandum of Understanding between the Commonwealth of Virginia, the State of Maryland, and the District of Columbia ("TOC MOU") was entered into on March 7, 1997 and revised on September 13, 2010; and

WHEREAS, recent events have demonstrated that an agreement between TOC and WMATA must be created to enhance and facilitate effective safety and security oversight of the WMATA Metrorail system, and to prescribe lines of authority, communication, and responsibility, subject to federal, regional, state, actions and decisions.

NOW, THEREFORE, in consideration of the promises and undertakings of the other as herein provided and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

ARTICLE 1
STATE SAFETY AND SECURITY OVERSIGHT: SCOPE, PROGRAM
REQUIREMENTS AND DEFINITIONS

- §1.1 This Agreement applies solely to the conduct of safety and security oversight of the Metrorail system and facilities as contained in the Adopted Regional System ("ARS"), a rail fixed guideway system, as required pursuant to 49 C.F.R. Part 659.
- §1.2 Before January 1 of each year, WMATA shall review and, if appropriate, update and submit to TOC the WMATA System Safety Program Plan ("SSPP") and Security and Emergency Preparedness Plan ("SEPP") in accordance with the requirements set forth in Section 14, *Annual Review of the SSPP and SEPP*, of the TOC Program Standards and Procedures. TOC shall review the WMATA SSPP and SEPP, and shall provide WMATA with a response within forty-five (45) calendar days of January 1 of each year. TOC's response shall indicate whether it approves the SSPP and SEPP. TOC shall include with its response the checklist(s) used to complete the reviews of the SSPP and SEPP, and any noted deficiencies preventing approval. If TOC does not approve the SSPP or SEPP, WMATA shall have thirty (30) calendar days to address deficiencies or requested changes in the plan(s) noted by TOC and submit a revised plan(s) to TOC, or otherwise state its objections and suggest an alternative. WMATA shall work with TOC to resolve any disagreements regarding the SSPP and SEPP. Review shall be for substantive purposes, and it is understood that matters of style and format are the province of the initiating office.

§1.3 From time to time, TOC shall make changes to the TOC MOU, Program Standard and Procedures, and Internal TOC Operations Manual, according to the requirements set forth in the TOC Program Standards and Procedures. WMATA shall be given sufficient opportunity to review and provide comments to the TOC on proposed changes to the Program Standard and Procedures, at TOC's request. Final approval of changes to these documents shall be made by the TOC Executive Committee.

§1.4 Definitions

- (a) "Major Capital Project" refers to any project covered by the definition of major capital project contained in 49 C.F.R. 633.5.
- (b) "Parties" refers to WMATA and TOC.
- (c) "Unacceptable Hazardous Condition" refers to the level of urgency in the application of risk suppression countermeasures. Using the Hazard Identification/Resolution Matrix contained in the TOC Program Standards and Procedures, Section 10.6 it refers to conditions that could yield Catastrophic or Critical results and are likely to occur on a minimally occasional basis.

ARTICLE 2 ACCIDENT/INCIDENT AND HAZARD NOTIFICATION, INVESTIGATION, MONITORING, AND REPORTING

§2.1 WMATA shall (a) notify TOC no later than two hours after the occurrence of certain accidents, incidents, or the detection of an Unacceptable Hazardous Condition that meets the thresholds as defined and set forth in Section 8, *Accident/Incident and Hazard Notification, Investigation, Monitoring and Reporting* and Section 10.6, *Hazard Management Program, Requirements for Ongoing Reporting*, of the TOC Program Standards and Procedures, and (b) submit to the TOC, no later than one (1) week after the occurrence of an accident, incident, or the detection of an Unacceptable Hazardous Condition (1) a comprehensive analysis of the hazard, including documentation of steps taken since the occurrence, and any amendments or additions to future plans, and (2) an assessment of any communications problems which contributed to any delay in communicating the occurrence identified by WMATA or the TOC, and a plan for eliminating them. WMATA shall also follow the notification procedures set forth in Section 8, *Accident/Incident and Hazard Notification, Investigation, Monitoring and Reporting*, of the TOC Program Standards and Procedures, including, but not limited to, the telephone and email notification requirements.

§2.2 TOC shall be responsible for the investigation of all accidents, incidents, and Unacceptable Hazardous Conditions meeting the thresholds set forth in Sections 8 and 10 of the TOC Program Standards and Procedures, and in doing so, may deputize WMATA to conduct such investigations, as authorized by 49 C.F.R. Part 659 and provided in §§2.3 and 2.4 below. The parties shall work

diligently together to facilitate the investigation of all accidents, incidents, and Unacceptable Hazardous Conditions as requested by TOC.

§2.3 In accordance with Section 9, *Accident/Incident Investigation*, of the TOC Program Standards and Procedures and this Agreement, TOC may deputize WMATA to conduct, on TOC's behalf, the investigation of accidents, incidents, and Unacceptable Hazardous Conditions that meet the reporting and investigation thresholds set forth in Sections 8, 9, and 10.6 of the TOC Program Standards and Procedures. WMATA shall submit a Preliminary Report to TOC within three (3) business days of the occurrence. WMATA shall submit a Draft Final Investigation Report for TOC review and approval within thirty (30) days of the occurrence. If the investigation is not concluded within thirty (30) days of the occurrence, TOC may request an Investigation Status Report. TOC shall review the Draft Final Investigation Report and approve it or provide comments to WMATA within ten (10) days of receipt. If TOC approves the Draft Final Investigation Report, TOC shall adopt the report as its own, and the report will become the TOC Final Investigation Report. Upon notice of approval, WMATA shall provide TOC with an unalterable copy of the approved Final Investigation Report and adopt as its own all such investigation reports. If TOC is unable to adopt an investigation report, it shall communicate its comments to WMATA. WMATA shall then have fifteen (15) calendar days from the date of TOC notification to develop and submit a revised report to TOC. The parties shall work together in good faith to resolve any disagreements regarding the investigation of an accident/incident/hazardous condition. As necessary and appropriate, and based upon the totality of the circumstances, TOC may modify these deadlines in a particular case to allow for additional time.

§2.4 Since TOC reserves the right to deputize WMATA to investigate accidents, incidents, and Unacceptable Hazardous Conditions meeting the thresholds specified above, WMATA shall provide any revisions and/or updates to its accident/incident/hazardous condition investigation procedures to TOC for formal review and approval. TOC shall provide any comments or changes to WMATA within fifteen (15) days of receipt or it shall be regarded as having accepted the revisions and/or updates. The parties shall work together to resolve any outstanding issues in developing acceptable investigation procedures.

§2.5 WMATA shall provide a written monthly progress report to the TOC and TOC Executive Committee on the implementation of measures that are intended to conclude all (a) open accident, incident, and Unacceptable Hazardous Condition investigations meeting the notification and investigation thresholds set forth in Sections 8, 9, and 10.6 of the TOC Program Standards and Procedures that TOC has not been able to adopt and (b) open Corrective Action Plans ("CAPs"). For all open accident, incident, and Unacceptable Hazardous Condition investigations that have not been completed within six (6) months, WMATA shall develop a recovery plan to complete them. TOC shall review the recovery plan and approve it or provide comments to WMATA within ten (10)

days of receipt. If TOC is unable to adopt a recovery plan, it shall communicate its comments to WMATA. WMATA shall then have fifteen (15) calendar days from the date of TOC notification to develop and submit a revised recovery plan to TOC. The parties shall work together in good faith to resolve any disagreements regarding the recovery plan. As necessary and appropriate, and based upon the totality of the circumstances, TOC may modify these deadlines in a particular case to allow for additional time.

§2.6 WMATA shall monitor all identified hazardous conditions on its Metrorail system and shall maintain hazard log(s) in accordance with Section 10.5, *Hazard Management Program*, of the TOC Program Standards and Procedures. WMATA shall actively address the identified hazardous conditions and work to close all open items on the hazard log as required by Section 10.6 of the TOC Program Standards and Procedures. On a monthly basis, WMATA shall submit the hazard log(s) to TOC. TOC shall review the WMATA logs, and shall provide written comments and guidance to WMATA to assist in the remediation of hazards. WMATA shall address all TOC comments in writing in the monthly hazard log submittal to TOC. For all open hazard log items that have not been closed within six (6) months, WMATA shall develop a recovery plan to close them. TOC shall review the recovery plan and approve it or provide comments to WMATA within ten (10) days of receipt. If TOC is unable to adopt WMATA's recovery plan, it shall communicate its comments to WMATA. WMATA shall then have fifteen (15) calendar days from the date of TOC notification to develop and submit a revised recovery plan to TOC. The parties shall work together in good faith to resolve any disagreements regarding the recovery plan. As necessary and appropriate, and based upon the totality of the circumstances, TOC may modify these deadlines in a particular case to allow for additional time.

ARTICLE 3

INTERNAL AND EXTERNAL SAFETY AND SECURITY REVIEWS, AUDITS, AND CERTIFICATION

§3.1 WMATA shall implement Internal Safety and Security Audit programs that meet the requirements set forth in Section 6, *Internal Safety and Security Audits*, of the TOC Program Standards and Procedures. The Internal Safety and Security Audit Programs shall audit the implementation of all the elements set forth in the WMATA SSPP and SEPP. WMATA shall maintain Internal Safety and Security Audit Program Procedures, and shall submit these Procedures to TOC for review and approval. WMATA shall develop checklists for all Internal Safety and Security Audits, and submit these checklists to TOC. TOC shall be given adequate notice and the opportunity to participate in all WMATA Internal Safety and Security Audits. Upon completion of each internal audit, WMATA shall develop a safety or security audit report, and provide the report to TOC. On an annual basis, WMATA shall submit an Annual Internal Safety and Security Audit Report to TOC that meets the requirements set forth in Section 6, *Internal Safety and Security Audits*, of the TOC Program Standards and Procedures.

WMATA shall develop an internal WMATA safety audit recovery plan for all open Internal Safety and Security Audit items that have not been closed within six (6) months, which TOC shall review and approve.

§3.2 The WMATA General Manager shall certify compliance with all elements of the WMATA SSPP and SEPP on an annual basis. This certification shall be provided to TOC in the form of a formal letter signed by the WMATA General Manager. Alternatively, in the event that the WMATA General Manager is unable to certify compliance with all elements of the WMATA SSPP and SEPP, WMATA shall provide a letter to TOC, signed by the WMATA General Manager, indicating the specific actions that WMATA is implementing in order to achieve full compliance with its SSPP and SEPP.

§3.3 TOC shall be responsible for the conduct of an On-Site Safety and Security Review every three (3) years, at a minimum, as specified in Section 7, *TOC Triennial On-Site Safety and Security Review*, of the TOC Program Standards and Procedures. TOC shall review the implementation of all elements of the WMATA SSPP and SEPP. WMATA shall work cooperatively with TOC to facilitate an effective and successful review. A draft report of the results of the review shall be prepared by TOC. WMATA shall provide written comments to TOC on the draft report within thirty (30) days of receipt. As appropriate, the TOC will incorporate WMATA comments into its final report. Whether or not comments are accepted, the TOC will acknowledge all substantive WMATA comments in its final report.

§3.4 WMATA shall develop CAPs in accordance with the requirements set forth in Section 11, *Corrective Actions*, of the TOC Program Standards and Procedures. WMATA shall develop CAPs responding to all deficiencies identified through the following: the On-Site Safety and Security Review; Accident/Incident/Hazardous condition investigations; Internal Safety and Security Audits; and other means by which a deficiency may be identified, such as industry peer reviews. WMATA shall include the following information with all CAPs: identification of the noted hazard or deficiency and its source; the date the CAP was opened; the process, plan, or mechanism to address and resolve the deficiency; the deadline for implementation of the plan of action; and the department(s) and person(s) responsible for implementation of the CAP. WMATA shall submit all CAPs to TOC for review and formal approval in accordance with the timeframes set forth in Section 11, *Corrective Actions*, of the TOC Program Standards and Procedures. If TOC is unable to approve a CAP, it shall develop comments and submit them to WMATA according to the established timeframe. WMATA shall respond to all written TOC comments, and consistent with WMATA's responsibility to accept a residual level of risk, shall provide TOC with a revised CAP. TOC shall document the CAP review process described herein in TOC's Program Standard and Procedures and WMATA shall document the same process described herein in WMATA's SSPP. WMATA shall maintain a CAP log that contains all of the above-described information, and that

contains a status report on all open CAPs. WMATA shall submit the CAP log to TOC on a monthly basis. WMATA shall work with TOC to facilitate the monitoring of open CAPs. Once a CAP has been implemented, WMATA shall provide TOC with verification documentation. Once TOC is able to verify that a CAP has been completed, TOC will consider the CAP closed and so notify WMATA. As necessary and appropriate, and based upon the totality of the circumstances, TOC may modify the time requirements for the submittal of CAPs to allow for additional time.

§3.5 TOC shall provide WMATA with a copy of the TOC Action Items List on a monthly basis, as specified in Section 11, *Corrective Actions*, of the TOC Program Standards and Procedures. WMATA shall monitor the TOC Action Items List and work to address open items for which WMATA is responsible as quickly as possible. WMATA shall suggest updates and revisions to the TOC Action Items List, as appropriate. TOC shall work with WMATA to evaluate CAP alternatives that may be necessary as a result of capital and operating program resource limitations.

§3.6 WMATA shall provide TOC with all requested information in support of TOC Annual Reports that must be submitted to FTA, FTA audits of TOC's oversight program, open FTA audit findings, and special studies conducted by TOC. TOC shall work with WMATA to establish timelines for all such information requests.

ARTICLE 4 CAPITAL PROJECT OVERSIGHT

§4.1 WMATA shall communicate progress on and shall facilitate TOC oversight of Major Capital Projects involving Safety and Security Certification to assure compliance with FTA Circular 5800.1. WMATA shall ensure that TOC has a full opportunity to observe and to review any and all development phases of any Major Capital Project including: project planning, preliminary engineering, final design, procurement, construction, operations and maintenance procedures and plans, training, testing, and start-up. At the conclusion of this process, TOC shall review and shall comment within ten (10) days on any of WMATA's proposed safety certifications. TOC shall be invited to participate in all FTA Quarterly Review Meetings and monthly WMATA Safety Certification Review Committee ("SCRC") Meetings.

§4.2 TOC shall conduct Pre-Revenue Service Assessments of all Major Capital Projects, including New Starts and extensions to verify completion of the Safety and Security Certification process or, alternatively, implementation of appropriate workarounds or mitigation strategies, and to determine overall operational readiness. TOC shall work with WMATA to establish timeframes and reporting for such assessments. WMATA shall comment on all TOC draft reports related to

Pre-Revenue Service Assessments, and shall address all TOC Findings through the established CAP process.

ARTICLE 5 COMMUNICATIONS, MEETINGS AND PERFORMANCE MANAGEMENT

Communications

- §5.1 All formal correspondence between TOC and WMATA requiring actions or responses authorized by the WMATA General Manager shall be between the WMATA General Manager and the TOC Chair or their respective designees. For all other communications, TOC shall interface with the WMATA Chief Safety Officer who is the primary safety and security points of contact, as designated by the WMATA General Manager under §5.2 below. TOC may also interface with the Chief of Police on system security and emergency preparedness. The TOC Chair or designee may also communicate with other WMATA executive or management level personnel as appropriate or necessary based upon the unique circumstances or criticality of the issue and shall, in good faith, inform the WMATA Chief Safety Officer of such communications, except that TOC may communicate with a member of the Board of Directors, the General Counsel or the Inspector General without notice to the Chief Safety Officer. For all correspondence between the TOC Executive Committee and WMATA on matters relating to the TOC, the TOC Chair shall be the primary point of contact for the TOC Executive Committee.
- §5.2 The Chief Safety Officer has been designated by the General Manager as the primary point of contact for safety and security, and shall notify TOC immediately of any changes in personnel affecting TOC communication with WMATA.
- §5.3 TOC shall submit to the WMATA General Manager and Board of Directors monthly reports that may identify current activities, outstanding safety issues, unresolved deficient conditions at WMATA, status of accident and incident investigations, and updates on the implementation of CAPs subsequent to submission and review by the TOC Executive Committee.
- §5.4 The parties recognize that TOC is entitled to review all documents relevant to safety and security issues under its SSO authority. This includes, but is not limited to, all reportable rail incidents and hazardous conditions. Since the respective TOC jurisdictions' Public Information Acts ("PIA") and Freedom of Information Acts ("FOIA") recognize that certain information, including, but not limited to, accident/incident documents preliminary to a final decision, documents containing Sensitive Security Information ("SSI") and Critical Infrastructure Information ("CII"), and proprietary financial information, is not appropriate for public disclosure, the parties may agree upon procedures regarding the release of

such information which are in compliance with the FOIAs and PIAs of the three TOC jurisdictions.

§5.5 The TOC Chair shall (a) elevate critical unresolved WMATA safety concerns to the TOC Executive Committee and communicate TOC Executive Committee decisions and requests on their behalf to WMATA, (b) request WMATA to initiate investigations of accidents and hazardous conditions on behalf of the TOC and TOC Executive Committee, (c) address immediate and time-sensitive safety situations or incidents at WMATA which fall under TOC jurisdiction, (d) meet with appropriate WMATA personnel in order to address Findings, Corrective Action Plans, and other key issues, (e) notify the Chief Safety Officer within 10 days of the appointment of a new member of the TOC or of the Executive Committee, (f) inform the Chief Safety Officer of all communication between TOC members and other WMATA personnel and (g) take temporary actions on behalf of the TOC, until such time as a quorum of the TOC can take official actions. In these and other situations in which coordinated action is needed to allow the TOC to respond quickly and professionally and implement decisions more efficiently and effectively, WMATA shall cooperate with the TOC Chair to pursue activities within the scope of TOC's duties as a State Safety Oversight agency.

§5.6 WMATA shall communicate with TOC in the same time, fashion, and detail as it communicates with the WMATA Board of Directors before transmitting or responding to or from the media or the general public in any Press Release or public information relating to safety or security incidents or issues.

§5.7 Under the MOU between the three jurisdictions which defines TOC, each jurisdiction is responsible for responding to PIA and FOIA requests under the laws and regulations of each jurisdiction. TOC shall provide the WMATA Chief Safety Officer with copies of any FOIA, PIA, or other such request received within five (5) days of receipt of the request by the TOC and shall provide WMATA with copies of any response to such a request. In a reciprocal manner, the WMATA Chief Safety Officer shall provide the TOC Chair with copies of any request involving a matter within the jurisdiction of TOC received by WMATA pursuant to its Public Access to Records Policy (PARP) within five (5) days of the PARP Administrator's receipt of the request and shall provide the TOC Chair with copies of any response to such a request.

Meetings

§5.8 WMATA shall provide a formal presentation to the WMATA Board of Directors and the TOC Executive Committee on an annual basis on safety issues and performance.

- §5.9 TOC, at its discretion, may develop and provide updates on its safety and security oversight efforts of WMATA to the WMATA Board of Directors at the Board's regularly scheduled monthly meetings.
- §5.10 TOC and/or the TOC Executive Committee shall hold formal meetings with the WMATA General Manager on at least a quarterly basis to review significant safety and security events, and to assess the effectiveness of WMATA's safety and security policies, programs and performance. WMATA shall work with TOC to facilitate such meetings at the TOC's request.
- §5.11 WMATA shall invite TOC to participate in the Executive Safety Committee ("ESC"). WMATA shall provide a copy of the minutes from all ESC meetings to TOC.
- §5.12 TOC and WMATA shall conduct monthly working meetings to address specific topics, including, but not limited to, open accident, incident, and hazard investigations; and open CAPs. WMATA will work with TOC to facilitate such working meetings and ensure that appropriate representatives from various WMATA divisions and departments are present for such meetings. The goal of such meetings is to facilitate the completion and adoption of investigation reports by TOC and the closing of CAPs by TOC. TOC may request additional meetings based on specific circumstances which shall be identified so that the meetings can be appropriately staffed.
- §5.13 TOC and WMATA shall conduct State Safety and Security Oversight coordination meetings on a monthly basis. The meeting shall take place in a location in the Washington metropolitan area agreed upon by TOC and WMATA that is accessible to all required participants via the Metrorail system. Representatives from all three (3) TOC jurisdictions shall participate in each meeting. Representatives from WMATA's Department of System Safety and Environmental Management ("SAFE"), Metro Transit Police Department ("MTPD"), and Emergency Management shall participate in each meeting in person. The WMATA Chief Safety Officer shall participate in each monthly meeting, and shall appear in person at the meeting on at least a quarterly basis. From time to time, TOC may request and WMATA shall mandate the participation of representatives from other WMATA divisions and departments, including, but not limited to, Rail Transportation, Capital Projects, and Track/Structures/Systems Maintenance, to the extent issues requiring their particular attention are on the meeting agenda. TOC shall invite representatives from FTA, the Transportation Security Administration ("TSA"), and, as deemed appropriate by TOC, the National Transportation Safety Board ("NTSB") to participate in each meeting. The TOC Chairman shall develop a draft agenda in collaboration with WMATA and TOC members. Meeting minutes shall be taken, and final draft meeting minutes shall be developed by the TOC Chair in collaboration with WMATA and TOC to be formally voted on for adoption at the

next TOC meeting. A final version, including appropriate meeting handouts, shall be saved in an unalterable format and provided to all attendees for their record.

Performance Management

§5.14 WMATA has implemented and will continue to implement a performance management system making safety a factor in evaluating all non-represented employees. The General Manager is conducting and will continue to conduct monthly accountability meetings to review organizational progress. At the annual meeting mandated by paragraph 5.8, WMATA shall report on the results of its effort to link performance goals to safety and security measures.

§5.15 WMATA shall make publicly available on its website meaningful performance metrics reflecting safety and security on Metrorail, including crime rates, employee accident rates, customer injury rates and revenue rail accident rates.

ARTICLE 6 WMATA STRUCTURE AND GOVERNANCE

§6.1 WMATA's safety and police functions shall have direct reporting relationships to the WMATA General Manager.

§6.2 The WMATA General Manager shall, on an annual basis, work with the Chair of the WMATA Board of Directors to ensure that safety and security are represented in the WMATA Board of Directors' Committee structure, assignments, and meetings for the purpose of assisting in the coordination of TOC interactions with WMATA, and to ensure the involvement of the WMATA Board of Directors in the WMATA Safety Program.

ARTICLE 7 ACCESS TO FACILITIES

§7.1 TOC, and their duly authorized agents, shall be granted access to the WMATA operating system and facilities at any time requested by TOC in the course of TOC official business. WMATA shall provide TOC with all specialized training required to gain access to the WMATA operating system and facilities such that TOC may conduct its required field verification activities of all safety- and security-critical operations and maintenance functions, and conduct special studies as deemed necessary by TOC. TOC access to WMATA facilities shall include, but not be limited to: observations of operational rules and procedures compliance from the operating cab of a revenue train, limited to no more than one (1) TOC representative at a time; observations by a trained and qualified TOC representative of systems and infrastructure maintenance and inspection rules and procedures compliance in WMATA maintenance facilities and along the WMATA right-of-way; and observations by a trained and qualified

TOC representative of roadway worker protection (“RWP”) rules compliance along an active WMATA right-of-way. In routine situations, TOC shall notify WMATA of its intent to gain such access at least twenty-four (24) hours in advance of the proposed observation date. An authorized and qualified WMATA representative shall accompany TOC on all such observations. TOC shall follow all established WMATA rules and procedures in conducting such observations and special studies. However, TOC may request immediate access to facilities without giving twenty-four (24) hours’ notice on a case-by-case basis at its sole discretion based upon the totality of the circumstances, in non-routine situations.

ARTICLE 8 WMATA BUDGET DEVELOPMENT

§8.1 In order to participate in the development of WMATA’s annual Operating and Capital Budgets, TOC shall designate a representative to attend and participate in meetings of the Jurisdictional Coordinating Committee (“JCC”).

ARTICLE 9 DISPUTE RESOLUTION

§9.1 As the designated State Safety Oversight agency for WMATA, TOC is responsible for the independent evaluation of safety and security issues related to the WMATA rail system. In undertaking its defined oversight duties, TOC shall act in good faith to carry out its activities and WMATA shall likewise act in good faith in meeting and responding to TOC’s oversight authority. TOC and WMATA agree to work cooperatively and diligently to meet the oversight requirements and to address issues raised in the oversight process.

§9.2 If the TOC Executive Committee determines that there are any conditions or practices in any Metrorail transit facility which present a danger which could reasonably be expected to cause death or serious physical harm and which WMATA has failed to timely abate, following notice from the TOC, the TOC Executive Committee may communicate its concerns to the WMATA General Manager and Board of Directors and the appointing authorities of the Board members to resolve such outstanding issues. At the request of either party, a joint meeting of the WMATA Board of Directors and of the TOC Executive Committee shall be held to resolve any such dispute. If notwithstanding these efforts, the matter is not resolved to the satisfaction of the TOC Executive Committee, the TOC Executive Committee, may, by unanimous vote, take any action that is permitted by law, including, but not limited to, the delay, suspension or cancelling of funding to WMATA.


**ARTICLE 10
AMENDMENTS**

§10.1 This Memorandum of Understanding may be amended by a writing signed by all of the Parties. Upon the passage of federal legislation and promulgation of implementing Federal Transit Administration regulations affecting regulation of fixed guideway rail systems, or upon significant changes to the structure or governance of the TOC or WMATA the parties will meet to review this Agreement and to determine whether changes are necessary.

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IN WITNESS WHEREOF, this Memorandum of Understanding has been executed as of the day first mentioned on the part of the Tri-State Oversight Committee (which body being composed of the Commonwealth of Virginia, through the Virginia Department of Rail and Public Transportation; the State of Maryland, through the Maryland Department of Transportation; and the District of Columbia, through the District of Columbia Department of Transportation) and the Washington Metropolitan Area Transit Authority by their duly authorized officials

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF RAIL AND
PUBLIC TRANSPORTATION

BY: 

DIRECTOR

WITNESS:




STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION

BY: 

SECRETARY OF TRANSPORTATION

WITNESS:



DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: 

DIRECTOR

WITNESS:



WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

BY: 

GENERAL MANAGER

WITNESS: