Overview of the Metrorail Safety Commission

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Presentation Overview

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• Overview of Metro Safety Commission (MSC)
• Discussion
Introduction
State Safety Oversight (SSO)

• **1996**: FTA establishes SSO for rail systems not regulated by FRA

• **2012**: MAP-21 establishes new requirements for SSO
  – Legally and financially independent from rail system
  – Dedicated, trained, and qualified staff

• **2015**: FAST Act augments the FTA’s safety authority

• **April 2016**: FTA issues new SSO Final Rule giving states 3 years to comply
Milestones Leading to the MSC

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

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

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

• DC, MD and VA will create the MSC pursuant to MAP-21, the FAST Act and the Final Rule to be the SSO agency for the WMATA Metrorail system

• The MSC is a common instrumentality of the signatories and will be financially and legally independent of WMATA

• Signatories – DC, MD and Virginia
  – Congressional ratification
Governance

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

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

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

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

• MSC shall coordinate its enforcement activities with appropriate federal and state governmental authorities
Additional Powers and Procedures

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

• The MSC must publish:
  – Annual Safety Report to FTA and signatories
  – Annual Report of Operations detailing its programs, operations and finances
  – Annual Independent Audit of its finances

• Due process provisions are included to permit WMATA to petition MSC to reconsider an order
Funding

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

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