



NOTICE OF NON-COMPLIANCE:

C-0272, LIFE-SAFETY AND OCCUPATIONAL SAFETY AND HEALTH REQUIREMENTS IN RAILCAR MAINTENANCE FACILITIES

ISSUED OCTOBER 18, 2024

Summary

As part of the 2024 WMSC [Audit of Metrorail's Revenue Vehicles \(Railcar\) Program](https://wmsc.gov/audits/) (<https://wmsc.gov/audits/>), the WMSC found that Metrorail is putting its personnel at risk by not meeting its life-safety and occupational safety and health requirements in railcar maintenance facilities. As a result, corrective action plan (CAP) C-0272 should have been developed as required by Program Standard Sections 5.E.4 and 9.C. However, as of the date of this notice, the WMSC has not received a draft CAP..

Authority

The Washington Metrorail Safety Commission (WMSC) Compact (P.L. 115-54), Article IV, Powers, Sec. 30(a) states “In carrying out its purposes, the Commission, through its Board or designated employees or agents, shall, consistent with federal law: (a) Adopt, revise, and distribute a written State Safety Oversight Program[]” and Sec. 30(c) states “(c) Require, review, approve, oversee, and enforce the adoption and implementation of any Corrective Action Plans that the Commission deems appropriate[.]” Further, WMSC Compact Sec. 31(c) provides that the WMSC may “[c]ompel WMATA’s compliance with any Corrective Action Plan or order of the Commission by such means as the Commission deems appropriate...”.

Pursuant to WMSC Compact Sec. 30(a) and 30(b) and 49 CFR sec. 674.27(a)(1), version 7 of the WMSC Program Standard became effective on July 1, 2024 (may be found at <https://wmsc.gov/program-standard/>). Program Standard sec. 9.C states that “Each finding issued by the WMSC requires WMATA to develop a suitable CAP. The WMSC may also require WMATA to develop a CAP due to other types of findings or conclusions, including from the sources noted in Section 9.A.”

49 C.F.R. § 674.27(a)(5) states that “The SSO program standard must explain the process the SSOA will follow and the criteria the SSOA will apply in conducting a complete audit of the RTA’s compliance with its Public Transportation Agency Safety Plan at least once every three years, in accordance with 49 U.S.C. § 5329. Alternatively, the SSOA and RTA may agree that the SSOA will conduct its audit on an on-going basis over the three-year timeframe. The program standard must establish a procedure the SSOA and RTA will follow to manage findings and recommendations arising from the triennial audit.”

This Notice of Non-Compliance is brought in accordance with Program Standard sec. 11.B:

In the event WMATA fails to comply with any provision of this Program Standard, the WMSC may issue a notice of non-compliance, provide notice that the WMSC is invoking a power provided in Section 11.C, or both. The WMSC will identify the noncompliance issue and state any action required of WMATA in an email to the WMATA Executive Vice President and Chief Safety & Readiness Officer, or the General Manager. WMATA must then respond by the deadline set by the WMSC. If WMATA fails to address the issue, the WMSC may take further action described in this Section 11.

Background

On May 21, 2024, the WMSC issued its Audit of Metrorail's Revenue Vehicles (Railcar) Program. Finding 3 stated that "Metrorail is not meeting life-safety and occupational safety and health requirements in railcar maintenance facilities." C-0272 is the corresponding CAP identifier for this finding 3. Metrorail is required to initiate the CAP process by proposing a plan, it has, therefore, failed to do so as required.

Through observations and interviews for the Audit, the WMSC identified several life-safety and occupational health aspects that Metrorail was not compliant with, which included:

- Not complying with its hot works program related to metal grinding.
- Improper NFPA signage.
- Issues with required fall protection in place around repair pits.
- Personnel have differing understandings of the personal protective equipment and safety practices required during lifting operations.
- Hazards related to grease control and compressed gas.
- Issues with eyewash stations that were past due for cartridge replacement.

Full details of this finding may be found in the WMSC audit report linked above with the URL. As part of this finding, the WMSC issued the following minimum corrective action:

Metrorail must meet its life-safety and occupational safety and health requirements in railcar maintenance facilities. Metrorail must address each of the issues identified in this finding, and develop and implement a proactive program to mitigate the risk of deviations from life-safety and occupational safety and health requirements in railcar maintenance facilities in the future.

The WMSC Program Standard Section 9.C.3.a states that Metrorail has "30 days from the date the WMSC issues a finding or recommendation...[to] propose a suitable CAP." The finding was issued on May 21, 2024 (report date); therefore, the draft CAP was due no later than June 20, 2024. On June 20, 2024, Metrorail informed the WMSC:

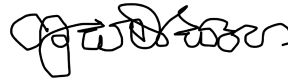
Please note that we have not submitted a CAP proposal for Finding #3 in light of WMATA's May 6, 2024 objections to the WMSC's Subpoena for records relating to the WMSC's audit of WMATA's Fitness for Duty and Occupational Health Programs. We understand there are ongoing discussions between WMATA and WMSC relating to the scope of WMSC's authority to oversee and enforce workplace safety and health matters, which would include the items raised in Finding #3 of this audit.

As of October 18, 2024 (the date of this notice of non-compliance), the WMSC has not received the draft CAP as required by the WMSC Program Standard. Worker safety is a fundamental part of the

safety of the WMATA Rail System, and it is identified in WMATA's Public Transportation Agency Safety Plan. The WMSC is obligated to oversee the safety elements in WMATA's Agency Safety Plan. The WMSC and WMATA have had ongoing discussions attempting to resolve the differences that are preventing Metrorail from producing worker safety-related documents. However, WMATA stated this month that it would stand by its objections for producing any worker safety information. As the WMSC explained in its written response to Metrorail's written objections, and in subsequent discussions, Metrorail's objections to the WMSC's authority are without merit and do not justify its refusal to fully respond and participate in the CAP development process.

Compliance

For WMATA to return to compliance with the WMSC Program Standard requirements for C-0272, WMATA must follow all processes regarding WMSC Corrective Action Plans as outlined in WMSC Program Standard Section 9.C.



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Washington Metrorail Safety Commission