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TITLE 16. DEPARTMENT OF TRANSPORTATION
CHAPTER 53E. FIXED GUIDEWAY SYSTEMS STATE SAFETY AND SECURITY OVERSIGHT

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:25-8c, 48:2-12 and 52:14D-6; 49 CFR Part 659; October 5, 1978 Executive Reorganization Plan; and Executive Order No. 65 (1997)

EXPIRES ON FEBRUARY 11, 2018

16:53E-1.1 Purpose

This chapter establishes rules concerning the State's oversight of the safety of rail fixed guideway systems through the Department of Transportation (Department), designated as the State's oversight agency by Executive Order No. 65 (1997), which conform to the requirements established pursuant to section 5330 of the "Intermodal Surface Transportation Efficiency Act of 1991" (Pub.L. 102-240, 49 U.S.C. §5330). The Office of Fixed Guideway Safety and Security Oversight in the Department is responsible for the administration of this chapter.

16:53E-1.2 Application and scope

(a) This chapter is applicable to every transit agency operating exclusively within the boundaries of this State or between New Jersey and adjacent states. The Department may designate other fixed guideway systems to which this rule shall apply.

(b) Additional information and guidance for a transit agency's compliance with this chapter is contained in "New Jersey Department of Transportation Safety and Security Oversight Program, Standard and Procedures," which can be obtained from the Office of Fixed Guideway Safety and Security Oversight at:

New Jersey Department of Transportation
Office of Fixed Guideway Safety and Security Oversight
PO Box 600
Trenton, New Jersey 08625-0600
phone: 609 530-2551
fax: 609 530-6397

or by e-mail at:
njofgssso@dot.state.nj.us

(c) Except as provided in N.J.A.C. 16:53E-1.4, nothing in this chapter prevents the transit agency or the Department from using contractors or consultants (public, non profit or private) to assist with their respective duties under this chapter or in the course of their respective business operations.

16:53E-1.3 Incorporations by reference

(a) The New Jersey Department of Transportation adopts and incorporates by reference the following regulations and standards, as amended and supplemented:

1. 49 CFR Part 659 and Appendices;
2. The Federal Transit Administration's (FTA) "Implementation Guidelines for State Safety Oversight of Rail Fixed Guideway Systems, July 1996, Final Report" and all appendices;

3. The FTA's "Transit System Security Program Planning Guide," Final Report, January 1994, Reprint November 1997, and all appendices;
4. The FTA's "Transit Security Procedures Guide," Final Report, December 1994, Reprint November 1997, and all appendices; and
5. The FTA's "Transit Security Handbook," Final Report, May 1998, and all appendices.

16:53E-1.4 Conflict of interest

(a) A party or entity is prohibited from providing services to both the Department and the transit agency when a conflict of interest, as determined by the Department, exists.

(b) A transit agency may not be a contractor for the Department under the State safety oversight program.

16:53E-1.5 (Reserved)

16:53E-1.6 (Reserved)

16:53E-1.7 (Reserved)

16:53E-1.8 (Reserved)

16:53E-1.9 (Reserved)

16:53E-1.10 (Reserved)

16:53E-1.11 (Reserved)

16:53E-1.12 (Reserved)

16:53E-1.13 (Reserved)

16:53E-1.14 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:53E-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Contractor" means an entity that performs tasks required on behalf of the oversight or transit agency.

"Day(s)" or "business day(s)" means the normal working hours of the Department, unless otherwise specified.

"Department" means the New Jersey Department of Transportation.

"Fixed guideway system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, railroad or automated guideway that is:

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

"FTA" means the Federal Transit Administration.

"Hazard" means a condition that may endanger human life or property.

"Individual" means a passenger, employee, contractor, other transit facility worker, pedestrian, trespasser or any person on or impacted by transit-controlled property.

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

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

"Passenger operations" means the period of time when any aspect of transit agency operations are initiated with the intent to carry passengers.

"Preliminary Hazard Analysis" or "PHA" means an initial or early hazard analysis of a system or subsystem.

"Safety" means freedom from harm resulting from unintentional acts or circumstances.

"Safety and Security Oversight Program Standard and Procedures" or "Standard" means the standard developed by the Department to comply with 49 CFR 659.15.

"Security" means freedom from harm resulting from intentional acts or circumstances.

"System safety program plan" or "SSPP" means a document developed and adopted by the transit agency describing its safety policies, objectives, responsibilities and procedures.

"System security plan" or "SSP" means a document developed and adopted by the transit agency describing its security policies, objectives, responsibilities and procedures.

"Transit agency" means an entity that owns a fixed guideway system.

"Transit-controlled property" means property that is used by the transit agency and may be owned, leased or maintained by the transit agency.

"Transit vehicle" means the transit agency's rolling stock including, but not limited to, passenger and maintenance vehicles.

SUBCHAPTER 3. SAFETY AND SECURITY OVERSIGHT PROGRAM STANDARD AND PROCEDURES

16:53E-3.1 Requirements

Pursuant to 49 CFR Part 659, §15, the Department, in its role as the oversight agency, devel-

ops safety and security oversight program rules that establish processes and procedures that govern the conduct of the oversight agency and provide guidance to the regulated transit agencies and other fixed guideway systems regarding the content of the plans and procedures they must have in place in order to be in compliance with the State program.

SUBCHAPTER 4. SYSTEM SAFETY PROGRAM PLAN

16:53E-4.1 Requirements

(a) A transit agency shall not operate a fixed guideway system unless the Department has provided written approval of, and the transit agency has implemented, its SSPP for that system. If a transit agency is found to be in violation of any Federal or State requirement, the Department can withdraw its approval of a transit system's current SSPP after giving a 30-day advance notice by certified letter sent to the chief executive officer of the transit agency.

(b) Every transit agency shall develop and implement a written SSPP that complies with the requirements of this chapter for each fixed guideway system it operates. The SSPP shall be reviewed, in part or whole, by the transit agency on an annual basis. Updated or revised SSPP's shall be submitted to the Department for review and written approval each time a major modification, extension or update is made to the system or as directed by the Department.

(c) A transit agency shall not publicly disclose the security aspects of its approved system safety program plan.

(d) An SSPP shall include the following:

1. A policy statement that acknowledges the Department's oversight responsibility regarding the transit agency's internal safety and security review process;
2. A statement establishing the procedures for notification to the Department prior to the commencement of the transit agency's internal review;
3. A policy statement signed by the transit agency's chief executive that endorses the system safety program and describes the authority that establishes the SSPP;
4. A clear definition of the goals and objectives for the system safety program and stated management responsibilities to ensure the goals and objectives are achieved;
5. An overview of the management structure of the transit agency;
6. The process used to control changes to the SSPP;
7. A description of the specific activities required to implement the system safety program;
8. A description of the hazard management program and the process used to implement the hazard management program;
9. A description of the process used 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;

10. A description of the safety certification process required to ensure that safety concerns and hazards are addressed prior to passenger operations for the New Starts Project and subsequent major projects to extend, rehabilitate or modify an existing system or to replace vehicles and equipment;
11. A description of the process used to collect, maintain, analyze and distribute safety data, to ensure that the transit agency receives the necessary information to support implementation of the system safety program;
12. A description of the process used to perform incident notification, investigation and reporting;
13. A description of the emergency management program, including the process used to develop an approved, coordinated schedule for all emergency management program activities;
14. A description of the process used to ensure that planned and scheduled internal safety reviews are performed to evaluate compliance with the SSPP;
15. A description of the process used to develop, maintain and ensure compliance with rules and procedures having a safety impact;
16. A description of the process used for facilities and equipment safety inspections;
17. A description of the maintenance audits and inspections program, including identification of the affected facilities and equipment, maintenance cycles, documentation required and the process for integrating identified problems into the hazard management process;
18. A description of the training and certification program for employees and contractors;
19. A description of the configuration management control process;
20. A description of the safety program for employees and contractors that incorporates the applicable local, State and Federal requirements;
21. A description of the hazardous materials program, including the process used to ensure knowledge of and compliance with program requirements;
22. A description of the drug and alcohol program and the process used to ensure knowledge of and compliance with program requirements; and
23. A description of the measures, controls and assurances in place to ensure that safety principles, requirements and representatives are included in the transit agency's procurement process.

(e) The SSPP shall be recommended by both the System Safety Manager and the manager of the rail system and approved by the chief executive officer of the rail transit agency. If the rail system is operated and maintained by a contractor, the signatures of the contractor's system safety manager and manager are also required.

SUBCHAPTER 5. SYSTEM SECURITY PLAN

16:53E-5.1 Requirements

(a) A transit agency shall not operate a fixed guideway system unless the Department has provided written approval of, and the transit agency has implemented, its SSP for that system. If a transit agency is found to be in violation of any Federal or State requirement, the Department can withdraw its approval of a transit system's current SSP after giving a 30-day advance notice by certified letter sent to the chief executive officer of the transit agency.

(b) Every transit agency shall develop and implement a written SSP that complies with requirements of this chapter. The SSP shall be developed and maintained as a separate document and may not be part of the transit agency's SSPP. Updated or revised SSP's shall be submitted to the Department for review and written approval each time a major modification, extension or update is made to the system or as directed by the Department.

(c) A transit agency shall not publicly disclose the security aspects of its approved system security plan.

(d) The SSP shall include the following:

1. A policy statement that acknowledges the Department's oversight responsibility regarding the transit agency's internal safety and security review process;
2. A statement establishing the procedures for notification to the Department prior to the commencement of the transit agency's internal review;
3. An identification of the policies, goals and objectives for the security program endorsed by the transit agency's chief executive;
4. The process for managing threats and vulnerabilities during operations, and for major projects, extensions, new vehicles and equipment, including integration with the safety certification process;
5. An identification of the controls in place that address the security of visitors, passengers and employees;
6. The process for conducting internal security reviews to evaluate compliance and measure the effectiveness of the SSP; and
7. The process for making its SSP, along with any updates or revisions and accompanying procedures available to the Department for review and approval.

(e) The SSP shall be recommended by the System Security Manager and manager of the rail system and approved by the chief executive officer of the rail transit agency. If the rail transit agency has a transit police department, the signature of the senior police official is required. If a part of the system is under the security of a non-police security staff, a separate SSP for that portion shall be developed, recommended by the System Security Manager and approved by the chief executive officer of the rail transit agency.

SUBCHAPTER 6. DEPARTMENT APPROVAL OF THE SYSTEM SAFETY PROGRAM PLAN

16:53E-6.1 SSPP approval

(a) The Department shall approve a transit agency's SSPP if:

1. The SSPP addresses the requirements of N.J.A.C. 16:53E-4 and as described in the Department's Safety and Security Oversight Program Standards and Procedures;
2. The necessary controls are in place to assure the transit agency's compliance with this chapter, including the notification of incidents, accidents and hazards;
3. The SSPP meets the minimum requirements for the internal safety audit process; and
4. The SSPP provides a clear and feasible process for the identification, recording and classification of hazards.

(b) If the Department determines that an SSPP does not meet the requirements of (a) above, the transit agency shall revise its submission as required by the Department and within the time frame specified by the Department in its notification to the transit agency.

SUBCHAPTER 7. DEPARTMENT APPROVAL OF THE SYSTEM SECURITY PLAN

16:53E-7.1 SSP approval

(a) The Department shall approve a transit agency's system security plan if:

1. The SSP addresses the requirements of N.J.A.C. 16:53E-5 and as described in the Department's Safety and Security Oversight Program Standard and Procedures; and
2. The SSP meets the requirements for the internal security audit process.

(b) If the Department determines that an SSP does not meet the requirements of (a) above, the transit agency shall revise its submission as required by the Department, and within the time frame specified by the Department in its notification to the transit agency.

SUBCHAPTER 8. TRANSIT AGENCY ANNUAL INTERNAL AUDIT REPORTS

16:53E-8.1 Annual internal audit reports

Every transit agency shall annually submit to the Department for its review, a copy of the transit agency's annual safety audit report and its annual security audit report prepared by the transit agency as a result of the internal safety and security audit processes. The deadline for submission shall be February 28. The internal audit process and internal audit reports conducted for each system shall meet the specifications described in the "New Jersey Department of Transportation Safety and Security Oversight Program Standard and Procedures."

SUBCHAPTER 9. DEPARTMENT SAFETY AND SECURITY REVIEW

16:53E-9.1 Safety and security review

(a) At least every three years, the Department shall conduct a comprehensive on-site safety review and security review at each transit agency.

(b) The three-year safety review shall assess the efficacy of the transit agency's SSPP and its

SSP in their entirety.

(c) The Department shall issue its findings from the on-site safety and security review in a written report, which shall include a determination of whether the transit agency shall be required to update or correct its SSPP and SSP.

SUBCHAPTER 10. TRANSIT AGENCY NOTIFICATION OF INCIDENTS, ACCIDENTS AND HAZARDS

16:53E-10.1 Notification

(a) The transit agency or its contractor-operator shall provide the notifications for the following incidents to the Department within two hours. Said notification shall be by telephone where one or more of the following occurs:

1. A fatality at the scene; or where an individual is confirmed dead within 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 due to life safety reasons;
5. A collision at a grade crossing;
6. A main-line collision;
7. A collision with an individual on rail right-of-way;
8. A collision between a rail transit vehicle and a second rail transit vehicle or a rail transit non-revenue vehicle; or
9. An incident for which the rail transit agency must also notify the Federal Railroad Administration according to FRA regulations.

(b) For all other incidents, accidents or hazards, a transit agency or its contractor-operator shall notify the Department by the next business day after the occurrence. Notification shall be made by e-mail or facsimile and shall include the time of the occurrence and a full description.

SUBCHAPTER 11. TRANSIT AGENCY INVESTIGATION REPORTS ON INCIDENTS, ACCIDENTS AND HAZARDS

16:53E-11.1 Reports

(a) Every transit agency shall investigate incidents, accidents and hazards according to their Department-approved incident and accident procedure and hazard process, to determine the root cause(s) and contributing cause(s).

(b) The transit agency's written report to the Department shall include the time of the accident or discovery of the hazard; description of the incident, accident or hazard; any analysis; an estimate of damages; and a determination by the transit agency of the probable cause of the incident, accident or hazard. The report shall contain a corrective action section with any corrective actions noted.

(c) If the report is incomplete or further information is needed, the Department may request additional investigation or analysis or require additional information or notations be included in the report. The request by the Department to do additional analysis may include engineering, scientific and technical analysis by outside firms at the expense of the transit agency.

SUBCHAPTER 12. DEPARTMENT INVESTIGATIONS

16:53E-12.1 Investigations

(a) Every transit agency shall fully cooperate with the Department in its investigation of incidents, accidents and hazards.

(b) The Department's investigation shall consist of, but in the Department's discretion need not be limited to, the review and approval of the transit agency's determination of the probable cause of the incident, accident or hazard.

(c) If the Department determines that the transit agency's determination of probable cause is not supported by a preponderance of the evidence submitted by the agency, the Department may require additional submissions as it deems necessary until it is satisfied that the transit agency's determination is appropriate, or that a preponderance of the evidence submitted by the agency supports a determination other than that of the agency.

(d) Neither the transit agency's report of an incident, accident or hazard under this section, nor any investigation report that may be prepared by the Department or its contractor regarding such incident, accident or hazard, shall be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in either of the reports.

(e) The Department may delegate generally, or on an individual basis, the investigation of incidents, accidents and hazards to the transit agency and once delegated to the transit agency may take such delegation back on an individual or wholesale basis. Such delegation does not affect the responsibility of the transit agency to notify the Department of all incidents, accidents or hazards.

SUBCHAPTER 13. CORRECTIVE ACTIONS

16:53E-13.1 Corrective action plans

(a) After the occurrence of an incident, accident or the discovery of a hazard, the transit agency shall submit to the Department a corrective action plan that sets forth in detail the actions the agency shall take to minimize, control, correct or eliminate it. The agency shall specify the person and department or section responsible for the resolution and provide a schedule. Corrective action plans shall be submitted to the Department as a result of any internal audits together with the internal audit report, inspections or investigations by any agencies of State, local or Federal government together with the agency notice, memo or report. Corrective action plans shall also be submitted as a result of any findings from a review, audit or inspection done by the Department.

(b) After the Department reviews and approves the corrective action plan, and within the time period specified by the Department, the transit agency shall implement the approved corrective action plan.

(c) A transit agency shall submit monthly status reports to the Department and notify the Department in writing when its approved corrective action plan has been fully implemented.

SUBCHAPTER 14. REPORTS

16:53E-14.1 Reports

All reports and information required to be submitted under this chapter shall be submitted to

New Jersey Department of Transportation
Office of Fixed Guideway Safety and Security Oversight
PO Box 600
Trenton, New Jersey 08625-0600