

**COMMONWEALTH OF PUERTO RICO
LA FORTALEZA
SAN JUAN, PUERTO RICO**

Administrative Bulletin No. OE-2014-026

**EXECUTIVE ORDER OF THE GOVERNOR OF THE COMMONWEALTH OF
PUERTO RICO, HON. ALEJANDRO J. GARCÍA PADILLA, TO DESIGNATE THE
PUERTO RICO AGENCY FOR EMERGENCY AND DISASTER MANAGEMENT
AS THE AGENCY THAT WILL CARRY OUT THE REGULATIONS
ESTABLISHED BY THE FEDERAL TRANSIT ADMINISTRATION PURSUANT
TO 49 U.S.C. SECTION 5330 AND TO REPEAL ADMINISTRATIVE BULLETIN
NO. OE-2000-54**

- WHEREAS:** On January 5, 2009, the United States Congress amended Pub. L. 103–272, as amended, 49 U.S.C. section 5330, which required the Federal Transit Administration (“FTA”) to issue regulations creating a State Oversight Program for Rail Fixed Guideway Systems.
- WHEREAS:** The FTA regulations, pursuant to Pub. L. 103–272, require each State that has an operational fixed guideway system which is not regulated by the FTA, to designate an agency to be responsible for overseeing said system’s Safety practices
- WHEREAS:** The government of the Commonwealth of Puerto Rico has a fixed guideway system known as Tren Urbano, which is not regulated by the FTA.
- WHEREAS:** The government of the Commonwealth of Puerto Rico, pursuant to 49 C.F.R., Part 659, designated the Puerto Rico Agency for Emergency and Disaster Management as the Safety Oversight Agency, with the promulgation of Administrative Bulletin 2000-54.
- WHEREAS:** Federal regulations were amended. Therefore, the government of the Commonwealth of Puerto Rico must update the existing Administrative Bulletin to comply with the same.
- THEREFORE:** I, ALEJANDRO J. GARCÍA PADILLA, Governor of the Commonwealth of Puerto Rico, by virtue of the authority vested in me by the Constitution and laws of the Commonwealth of Puerto Rico, do hereby order as follows:

FIRST:

For the purpose of this Administrative Bulletin, the following terms will have the definitions that follow:

(1) "Accident" means: (a) any event involving the revenue service operation of a rail fixed guideway system as a result of which an individual dies or suffers bodily injury and immediately receives medical treatment away from the scene of the event; or (b) a collision, derailment, or fire that causes property damage in excess of \$100,000.

(2) "Commission" means the Puerto Rico Department of Transportation and Public Work.

(3) "Department" means the Puerto Rico Agency for Emergency and Disaster Management

(4) "Hazardous condition" means a condition that may endanger human life or property, including an unacceptable hazardous condition.

(5) "Investigation" means a process to determine the probable cause of an accident or an unacceptable hazardous condition. The term includes a review and approval of the Transit Agency's determination of the probable cause of an accident or unacceptable hazardous condition.

(6) "Rail Fixed Guideway Mass Transportation System" or "System" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway used for mass transportation that is included in the United States Government's computation of fixed guideway route miles or receives funding for urbanized areas under 49 U.S.C. Section 5336 and is not regulated by the United States Government.

(7) "Safety" means freedom from danger.

(8) "Security" means freedom from intentional danger.

(9) "Unacceptable Hazardous Condition" means a hazardous condition determined to be unacceptable using the American Public Transit Association's guidelines' hazard resolution matrix.

SECOND:

The Puerto Rico Agency for Emergency and Disaster Management shall:

(1) Oversee Safety and Security practices of the Rail Fixed Guideway Mass Transportation Systems in compliance with 49 U.S.C. Section 5330.

(2) Establish a Safety program for each entity operating a Rail Fixed Guideway Mass Transportation System within the State that provides:

(A) Safety requirements that, at a minimum, comply with the American Public Transit Association’s guidelines published in the “Manual for the Development of Rail Transit System Safety Program Plans” and which include standards for the personal Security of passengers and employees of Rail fixed Guideway Systems; (B) levels of authority; (C) levels of responsibility and accountability; and (D) documentation methods for the System.

(3) Conduct, at least every three years, an on-site Safety review of each entity’s System Safety Program Plan and prepare and issue a report containing findings and recommendations resulting from that review that, at a minimum, include an analysis of the efficacy of the system Safety program plan and a determination of whether it should be updated.

(4) Review and approve the Annual Internal Safety Audit conducted by an entity that operates a system.

(5) Establish procedures for the investigation of Accidents and Unacceptable hazardous conditions.

(6) Investigate Accidents and Unacceptable Hazardous Conditions at entities operating Systems, unless, the National Transportation Safety Board has investigated or will investigate an accident.

(7)Require, review and approve any plan of an entity operating a System to minimize, control, correct, or eliminate any investigated accident or hazard.

(8)Submit reports or other information required by the United States Department of Transportation.

THIRD:

The Department may use a contractor to act on its behalf in carrying out its duties under this section.


FOURTH:

The data collected and the report of any Investigation conducted by the Department or a contractor acting on its behalf, is confidential and subject to disclosure, inspection, or copying under Chapter 552, Government Code and may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the State.

- FIFTH:** Each entity operating a System shall:
- (1) Develop a System Safety Program Plan that complies with the Department's Safety program plan standards;
 - (2) conduct an annual Internal Safety Audit and submit the audit report to the Department;
 - (3) report accidents and unacceptable hazardous conditions to the Department in writing or by acceptable electronic means;
 - (4) minimize, control, correct, or eliminate any investigated Unacceptable Hazardous Condition as required by the Department; and
 - (5) provide all necessary assistance to allow the Department to conduct appropriate onsite investigations of Accidents and Unacceptable Hazardous Conditions.
- SIXTH:** Any part of a System Safety Program Plan that concerns Security for the System: (1) is confidential and not subject to disclosure, inspection, or copying under Chapter 552, Government Code and (2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the State.
- SEVENTH:** The Commission shall adopt rules to implement the applicable sections included in this Administrative Bulletin and applicable statutes.
- EIGHTH:** Notwithstanding any other provision of law to the contrary, the Commission, the Department, or its officers, employees, or agents are not liable for any act or omission in the implementation of the applicable sections.
- NINTH:** REPEAL. Administrative Bulletin OE-2000-54 of October 16, 2000 is therefore repealed. This Executive Order invalidates any other order which in all or in part is incompatible with the Order enacted today.
- TENTH:** EFFECTIVENESS AND PUBLICATION: This Executive Order shall take effect immediately upon its promulgation. Widespread publication is so ordered.

IN WITNESS WHEREOF, I sign the present and affix thereto the Great Seal of the Commonwealth of Puerto Rico, in the city of San Juan, on this 17 day of June of the year 2014.




ALEJANDRO J. GARCÍA PADILLA
GOVERNOR

Promulgated according to law, today 17 day of June 2014.


DAVID E. BERNIER RIVERA
SECRETARY OF STATE