

GOVERNMENT OF PUERTO RICO
THE FORTALEZA
SAN JUAN, PUERTO RICO

Administrative Bulletin No. OE-2017-078

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, HON. RICARDO A. ROSSELLÓ NEVARES, TO DESIGNATE THE PUERTO RICO EMERGENCY AND DISASTER MANAGEMENT BUREAU (PREDMB) AS THE OFFICE THAT WILL CARRY OUT THE REGULATIONS ESTABLISHED BY THE FEDERAL TRANSIT ADMINISTRATION PURSUANT TO 49 U.S.C. SECTION 5329 AND TO REPEAL ADMINISTRATIVE BULLETIN NO. OE-2014-026

WHEREAS: In Section 20021 of MAP-21 (Pub. L. 112-141, July 6, 2012), 49 U.S.C. 5329, Congress directed Federal Transit Administration (FTA) to establish a comprehensive public transportation safety program, one element of which is to establish a strengthened State Safety Oversight (SSO) Program for rail fixed guideway public transportation systems (RFGPTS).

WHEREAS: The FTA regulations, pursuant to MAP-21, require each State that has a RFGPTS in design, engineering, construction, or revenue operations in the State not regulated by the Federal Railroad Administration (FRA), to designate an agency to be responsible for overseeing said system's Safety practices. In accordance with 49 U.S.C. 5329(e), every State must establish a State Safety Oversight Program and a State Safety Oversight Agency for the purpose of overseeing the safety of rail fixed guideway public transportation systems (RFGPTS) within that State.

WHEREAS: The FTA issued a final rule 49 CFR Part 674 for State safety oversight of RFGPTS not regulated by FRA and whose effective date is April 15, 2016.

WHEREAS: The Government of Puerto Rico has a rail fixed guideway public transportation system known as *Tren Urbano*, which is not regulated by the FRA.

WHEREAS: The Government of Puerto Rico, pursuant to 49 CFR Part 659, designated the Puerto Rico Emergency Management Agency as the State Safety Oversight Agency, with the promulgation of Administrative Bulletin 2014-026.

WHEREAS: Both Federal regulations and local laws were amended, changing the administrative structure of the Program and the Agency structure in Puerto Rico. Therefore, the Government of Puerto Rico must update the existing Administrative Bulletin to comply with the recent amended laws and regulations.

THEREFORE: I, RICARDO A. ROSSELLÓ NEVARES, Governor of Puerto Rico, by virtue of the inherent powers of my position and the authority bestowed upon me by the Constitution and laws of Puerto Rico, hereby order and decree as follows:

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

- (1) "Accident" means an event that involves any of the following: a loss of life; a report of a serious injury to a person; a collision involving a rail transit vehicle; a runaway train; an evacuation for life safety reasons; or any derailment of a rail transit vehicle, at any location, at any time, whatever the cause.
- (2) "Administrator" means the Federal Transit Administrator or the Administrator's designee.
- (3) "Agency" means the Puerto Rico Emergency and Disaster Management Bureau (PREDMA).
- (4) "Contractor" means an entity that performs tasks on behalf of FTA, a State Safety Oversight Agency, or a Rail Transit Agency, through contract or other agreement.
- (5) "Corrective Action Plan (CAP)" means a plan developed by a rail fixed guideway public transportation system that describes the actions the rail fixed guideway public transportation system will take to minimize, control, correct, or eliminate risks and hazards and the schedule for taking those actions. Either the State Safety Oversight agency or the Federal Transit Administration may require a rail fixed guideway public transportation system to develop and carry out a corrective action plan.
- (6) "Event" means an accident, incident or occurrence.
- (7) "FTA" means the Federal Transit Administration, an agency within the United States Department of Transportation.
- (8) "Hazard" means any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a rail fixed guideway public transportation system; or damage to the environment.
- (9) "Incident" means an event that involves any of the following: a personal injury that is not a serious injury; one or more injuries requiring medical transport; or damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of a rail fixed guideway public transportation system.
- (10) "Investigation" means the process of determining the causal and contributing factors of an accident, incident, or hazard, for the purpose of preventing recurrence and mitigating risk.
- (11) "Occurrence" means an event without any personal injury in which any damage to facilities, equipment, rolling stock, or infrastructure does not disrupt the operations of a rail fixed guideway public transportation system.
- (12) "Person" means a passenger, employee, contractor, pedestrian, trespasser, or any individual on the property of a rail fixed guideway public transportation system.
- (13) "PTASP" Public Transportation Agency Safety Plan. The comprehensive agency safety plan for a transit agency, including

2
MSM

rail fixed guideway public transportation systems, that is required by Federal public transportation law (49 U.S.C. § 5329(d)) and based on a Safety Management System.

(14) "Rail fixed guideway public transportation system (RFGPTS)" means any fixed guideway system that uses rail, is operated for public transportation, is within the jurisdiction of a State, and is not subject to the jurisdiction of the Federal Railroad Administration, or any such system in engineering or construction. Rail fixed guideway public transportation systems include but are not limited to rapid rail, heavy rail, light rail, monorail, trolley, inclined plane, funicular, and automated guideway.

(15) "Rail transit agency (RTA)" means any entity that provides services on a rail fixed guideway public transportation system.

(16) "Risk mitigation" means a method or methods to eliminate or reduce the effects of hazards.

(17) "State Safety Oversight Agency (SSOA)" means an agency established by a State that meets the requirements and performs the functions specified in 49 CFR Part 674.

(18) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

7²
MSM
SECOND: In accordance with the Puerto Rico Emergency and Disaster Management Bureau (PREDMB), the State Safety Oversight (SSO) shall:

(1) Oversees the safety of rail fixed guideway public transportation systems within the State; in accordance with the requirements of 49 U.S.C. 5329(e) and 49 CFR Part 674.

(2) Be financially and legally independent from any rail fixed guideway public transportation system and from any public transportation agency under the oversight of the SSOA, unless the Administrator has issued a waiver of this requirement; in accordance with § 674.13(b).

(3) Be responsible for overseeing all aspects of RFGPTS safety (including design, engineering and construction); in accordance with § 674.11(a).

(4) Not received funding from the RFGPTS to operate the SSO Agency; in accordance with §674.11(f)

(5) Establish minimum standards for the safety of all rail fixed guideway public transportation systems within its oversight with the SSO Program Standard. This Program must be consistent with the National Public Transportation Safety Plan, the Public Transportation Safety Certification Training Program, the rules for Public Transportation Agency Safety Plans (once becomes effective) and all applicable Federal and State law; in accordance with §674.25(a).

(6) Have the power to investigative and enforce authority with respect to the safety of all rail fixed guideway public transportation systems within the State; in accordance with §674.13(a)(5).

(7) Have the ability to adopt and enforce Federal and relevant State law for safety in rail fixed guideway public transportation systems; in accordance with § 674.11(b).

(8) Have the authority to review, approve, oversee, and enforce the Agency Safety Plan or SSPP; in accordance with §674.13(a)(4), §674.25(b), §674.29(a)(b)(c).

(9) Have primary responsibility for the investigation of any allegation of noncompliance with the Public Transportation Agency Safety Plan or SSPP within the protocol established in the SSO Program Standard; in accordance with §674.25(c).

(10) Have authority to required corrective action, verifying its implementation, and managing conflicts between the SSO Agency and RFGPTS regarding findings or CAP implementation and shall establish the protocol in the SSO Program Standard; in accordance with §674.27(a)(8) and §674.37(a).

(11) Have investigative and enforcement authority with respect to the safety of the RFGPTS in the State, have primary responsibility for the investigation of an accident on the RFGPTS, and must identify thresholds for accidents that require the RTA to conduct an investigation in SSO Program Standard; in accordance with §674.13(a)(5), §674.25(d), and §674.27(a)(7).

(12) Establish in the SSO Program Standard requirements for the RTA to notify the SSOA of any event on the RTA's rail fixed guideway public transportation system that address, specifically, the time limits for notification, methods of notification, and the nature of the information the RTA must submit to the SSOA; in accordance with §674.27(a)(6).

(13) Have the authority to access the RFGPTS, including rail property, vehicles, records and personnel, accident scenes and other relevant locations, to conduct audits and investigations into accidents, implementation of the RTA Safety Plan, and implementation of corrective action plans; to comply with §674.25(b), §674.35(a)(b), and §674.37(a).

(14) Have the authority to withhold an investigation report prepared or adopted by the State, the SSOA, or the RTA, from being admitted as evidence or used in a civil action for damages resulting from a matter mentioned in the report. This part does not require public availability of any data, information, or procedures pertaining to the security of a rail fixed guideway public transportation system or its passenger operations; in accordance with 49 CFR Part 674.23(a)(b).

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

FOURTH: The data collected and the report of any Investigation conducted by the Agency 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: Notwithstanding any other provision of law to the contrary, the Agency, the SSOA, or its officers, employees, or agents are not liable for any act or omission in the implementation of the applicable sections.
- SIXTH: RESERVATION CLAUSE. This Administrative Bulletin will remain effective even if the Puerto Rico Emergency and Disaster Management Bureau changes its name.
- SEVENTH: REPEAL. Administrative Bulletin OE-2014-026 of June 17, 2014 is therefore repealed. This Executive Order invalidates any other order which in all or in part is incompatible with the order enacted today.
- EIGHTH: EFFECTIVENESS AND PUBLICATION. This Executive Order shall take effect immediately upon its promulgation. Widespread publication is so ordered.



IN TESTIMONY BY WHICH, I issue this Executive Order under my signature and I affix the Great Seal of the Government of Puerto Rico, at The Fortaleza, in San Juan, Puerto Rico, this 29th day of December, 2017.


RICARDO A. ROSSELLÓ NEVARES
GOVERNOR

Promulgated pursuant to law, this 29th day of December, 2017.


MARÍA A. MARCANO DE LEÓN, ESQ
ACTING SECRETARY OF STATE