

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

Administrative Bulletin No. OE-2024-07

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, HON. PEDRO R. PIERLUISI, TO REPEAL ADMINISTRATIVE BULLETIN NO. OE-2017-078 AND UPDATE THE POLICIES AND DESIGNATION OF THE PUERTO RICO EMERGENCY AND DISASTER MANAGEMENT BUREAU AS THE OFFICE THAT WILL CARRY OUT THE REGULATIONS ESTABLISHED BY THE FEDERAL TRANSIT ADMINISTRATION PURSUANT TO 49 U.S.C. SEC. 5329

WHEREAS: The Federal Transit Administration (“FTA”) regulations require each State that has an operational fixed guideway system that is not regulated by Federal Railroad Administration (“FRA”) to designate an agency to be responsible for overseeing said system’s safety practices. In alignment with 49 U.S.C. sec. 5329(e), every State must establish a State Safety Oversight Program and State Safety Oversight Agency (SSOA) for the purpose of overseeing the safety of rail fixed guideway public transportation systems (RFGPTS) within that State.

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

WHEREAS: As stated by Administrative Bulletin No. OE-2017-078, the Government of Puerto Rico designated the Puerto Rico Emergency and Disaster Management Bureau (“PREDMB”) as the State Safety Oversight Agency that would carry out the regulations established by the Federal Transit Administration.

WHEREAS: On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat 429 (2021), to amend 49 U.S.C. sec. 5329, in order to require State Safety Oversight Agencies to conduct risk-based inspections of the rail fixed guideway public transportation systems.

WHEREAS: On October 21, 2022, the Federal Transit Administration issued Special Directive No. 22-45, specifying that each State Safety Oversight Agency must develop policies and procedures for inspection access and data collection in consultation with each rail transit agency that it oversees. The policies and procedures must address the State Safety Oversight Agency authority and capability to enter and conduct inspections of the rail fixed guideway public



transportation system with or without advance notice. Additionally, the policies and procedures must address how the State Safety Oversight Agency will collect data from each rail transit agency. The Special Directive also requires Puerto Rico State Emergency and Disaster Management Agency to develop and implement a risk-based inspection program compliant with 49 U.S.C. sec. 5329(k).

WHEREAS: Given the recent amendments to the law, it is essential to update the Administrative Bulletin No. OE-2017-078, thereby empowering the Puerto Rico State Emergency and Disaster Management Agency to conduct inspections, gather data, and implement risk-based inspection programs.

THEREFORE: I, PEDRO R. PIERLUISI, 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:

SECTION 1: **DEFINITIONS.** 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 any 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 or the Administrator's designee.
3. "Agency" means the Puerto Rico Emergency and Disaster Management Bureau.
4. "Contractor" means an entity that performs tasks on behalf of the Federal Transit Administration, a State Safety Oversight Agency, or a Rail Transit Agency, through contract or 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 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" means the Public Transportation Agency Safety Plan. The comprehensive agency safety plan for a transit agency, including rail fixed guideway public transportation systems, that is required by federal public transportation law (49 U.S.C. sec. 5329(d)) and based on Safety Management System.
14. "Rail fixed guideway public transportation system (RFGPTS)" means any fixed guideway system that uses rail, is operated for public transportation and falls within 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.

SECTION 2:

DESIGNATION, DUTIES, AND POWERS. In compliance with the law and regulations, I hereby designate the Puerto Rico Emergency and Disaster Management Bureau (also known as the Puerto Rico Emergency Management and Disaster Administration Bureau), to continue as the Puerto Rico Safety Oversight Agency and administrator of the State Safety Oversight Program. According to the FTA regulation, the SSOA shall:

1. Oversee the safety of rail fixed guideway public transportation systems within the State, in accordance with the requirements of 49 U.S.C. sec. 5329(e) and 49 CFR Part 674.
2. Be financially and legally independent from any rail fixed guideway public transportation agency under the oversight of the SSOA, unless the Administrator has issued a waiver of this requirement in accordance with sec. 674.13(b).
3. Be responsible for overseeing all aspects of RFGPTS safety (including design, engineering, and construction); in accordance with sec. 672.11(a).
4. Not receive funding from the RFGPTS to operate the SSOA; in accordance with sec. 674.11(f).
5. Establish minimum standards for the safety of all rail fixed guideway public transportation systems within its oversight with the State Safety Oversight (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, and all applicable Federal and State law; in accordance with sec. 674.25(a).

6. Have the power to investigate and enforce authority with respect to the safety of all rail fixed guideway public transportation systems within the State, in accordance with sec. 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 Sec 674.11(b).
8. Have the authority to review, approve, oversee and enforce the Agency Safety Plan, in accordance with sec. 674.13(a)(4), sec. 674.25(b) and sec. 674.11(a)(b)(c).
9. Have the responsibility for the investigation of any allegation of noncompliance with the Public Transportation Agency Safety Plan with the Protocol established in the SSO Program Standard, in accordance with sec. 674.25 (c).
10. Have authority to require corrective action or mitigation, verifying its implementation and shall establish the protocol in the SSO Program Standard, in accordance with sec. 674.27(a)(8) and sec. 674.37(a).
11. Have investigative and enforcement authority with respect to the safety of the RFGPTS in Puerto Rico, 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 sec. 674.13(a)(5), sec. 674.25(d) and sec. 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 sec. 674.27(a)(6).
13. Establish policies and procedures to conduct risk-based inspections of the rail fixed guideway public transportation systems that oversees, in compliance with Special Directive No. 22-45 and its future updates incorporating them into the SSO Program Standard, 49 U.S.C. sec. 5329(k).



14. Have the authority and capability to enter or access the facilities of each rail fixed guideway public transportation system it oversees to inspect infrastructure, equipment, records, personnel, and data, including the data the RTA collects when identifying and evaluating safety risks. The RTA shall fulfill and observe all the SSOA requirements, 49 U.S.C. sec. 5329(k)(1)(A). Also, the RTA shall provide the SSOA the data it collects when identifying hazards and assessing and mitigating safety risk, 49 U.S.C. sec. 5329(k)(2)(A).
15. Have the Authority to conduct inspections of the rail fixed guideway public transportation system and each RTA it oversees, including access for inspections with or without advance notice to the rail fixed guideway public transportation agency, 49 U.S.C. sec. 5329(k)(1)(B). The RTA shall allow such inspections.
16. 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 sec. 674.25(b), sec. 674.35 (a)(b) and sec. 674.37(a).
17. 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).
18. Have sufficient and competent resources to conduct the inspections, 49 U.S.C. sec. 5329(k)(4)(C).

SECTION 3: **OUTSOURCING**. The Agency may use a contractor to act on its behalf in carrying out duties under this section.

SECTION 4: **DATA COLLECTION AND INVESTIGATION REPORTS**. 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.

SECTION 5: **LIMITATION OF LIABILITY.** 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.

SECTION 6: **RESERVATION CLAUSE.** This Administrative Bulletin will remain effective even if the Agency changes its name.

SECTION 7: **SEVERABILITY.** The provisions of this Executive Order are separate and independent of each other, and if any part, section, provision, or sentence of this Executive Order is declared unconstitutional, void, or invalid by a court of jurisdiction and venue, such decision shall not affect the validity of the remaining provisions, which shall remain in full force.

SECTION 8: **NON-CREATION OF ENFORCEABLE RIGHTS.** This Executive Order is not intended to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative, against the Government of Puerto Rico or its agencies, officials, employees, or any other person.

SECTION 9: **REPEAL.** Administrative Bulletin No. OE-2017-078 of December 29, 2017 is repealed. This Executive Order renders ineffective any other executive order that is inconsistent, whether in whole or in part, with the provisions herein to the extent of such inconsistency.

SECTION 10: **PUBLICATION.** This Executive Order must be filed immediately with the Department of State and the broadest possible publication thereof is hereby ordered.

SECTION 11: **EFFECTIVENESS.** This Executive Order shall take effect immediately and shall remain in effect until this Order is amended or repealed by a subsequent Executive Order or by law.



IN WITNESS WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed, in San Juan, Puerto Rico, on this 12th day of April 2024.

**PEDRO R. PIERLUISI
GOVERNOR**

Promulgated pursuant to law on this 12th day of April 2024.

**OMAR J. MARRERO
SECRETARY OF STATE**