

CHAPTER 53E
FIXED GUIDEWAY SYSTEMS STATE
SAFETY OVERSIGHT

Authority

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In accordance with N.J.S.A. 52:14B-5.1c, Chapter 53E, Fixed Guide-
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Chapter Historical Note

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**SUBCHAPTER 2. ADOPTION AND INCORPORATION
BY REFERENCE OF FEDERAL TRANSIT
ADMINISTRATION RAIL FIXED GUIDEWAY
SYSTEMS STATE SAFETY OVERSIGHT
REGULATIONS AND STANDARDS**

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SUBCHAPTER 1. GENERAL REQUIREMENTS

16:53E-1.1 Purpose

This chapter and appendix establish rules concerning the State's oversight of the safety of rail fixed guideway systems through the Department of Transportation, 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). This includes incorporation by reference of 49 C.F.R. Part 659, the American Public Transit Association (APTA) Guidelines, the Federal Transit Administration (FTA) Implementation Guidelines, the Federal Transit Administration (FTA) Transit System Security Program (TSSP) Planning Guide, and the Federal Transit Administration (FTA) Transit Security (TS) Procedures Guide, as supplemented and amended thereto; and Appendices to 49 C.F.R. Part 659, all as supplemented and amended.

16:53E-1.2 Application

The provisions of this chapter are applicable to every transit agency operating a rail fixed guideway system exclusively within the boundaries of this State or between New Jersey and adjacent states.

16:53E-1.3 Definitions

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

"Accident" means any event involving the revenue service operation of a rail fixed guideway system if as a result:

1. An individual dies;
2. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
3. A collision, derailment, or fire causes property damage in excess of \$100,000.

"APTA Guidelines" means "Manual for the Development of Rail Transit System Safety Program Plans," as amended and supplemented, published by the American Public Transit Association on August 20, 1991, 1201 New York Avenue, N.W., Washington, DC 20005-3917, Telephone: (202) 893-3917 or (202) 893-4000.

"Contractor" means an entity that performs tasks required by this chapter on behalf of the oversight or transit agency. The transit agency shall not be a contractor for the oversight agency.

"Department" means the New Jersey Department of Transportation.

"FTA" means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

"Hazardous condition" means a condition that may endanger human life or property, and it includes unacceptable hazardous conditions.

“Implementation Guidelines” means the “Implementation Guidelines for State Safety Oversight of Rail Fixed Guideway Systems, July 1996, Final Report” published by the FTA, United States Department of Transportation, Research and Special Programs Administration, John A. Volpe National Transportation Systems Center, Safety and Security Systems Division, Cambridge, MA 02142-1093, obtainable from the National Technical Information Service, Springfield, VA 22161.

“Internal safety audit process” means the formal process by which the transit agency audits itself in accordance with APTA Guidelines, checklist number 9.

“Investigation” means a process to determine the probable cause of an accident or an unacceptable hazardous condition; it may involve no more than a review and approval of the transit agency’s determination of the probable cause of an accident or unacceptable hazardous condition.

“Rail fixed guideway system” means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that is:

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

“Safety” means freedom from danger.

“Safety review” means a formal, comprehensive, on-site examination by the Department of a transit agency’s safety practices to determine whether they comply with the policies and procedures required under the transit agency’s system safety program plan.

“Security” means freedom from intentional danger.

“System safety program plan” means a document adopted by the transit agency detailing its safety policies, objectives, responsibilities, and procedures.

“System safety program standard” means the standard adopted by the Department to comply with 49 C.F.R. § 659.31, as set forth in N.J.A.C. 16:53E-1.4.

“Transit agency” means an entity operating, or responsible for the operation of, a rail fixed guideway system.

“TS Procedures Guide” means the FTA’s “Transit Security Procedures Guide,” Final Report, Reprinted November 1997, published by the United States Department of Transportation, Research and Special Programs Administration, John A. Volpe National Transportation Systems Center, Cambridge, MA 02142.

“TSSP Planning Guide” means the “Transit System Security Program Planning Guide,” Final Report, Reprinted November 1997, published by the FTA, United States Department of Transportation, Research and Special Programs Administration, John A. Volpe National Transportation Systems Center, Cambridge, MA 02142.

“Unacceptable hazardous condition” means a hazardous condition determined to be an unacceptable hazardous condition using the APTA Guidelines’ Hazard Resolution Matrix (APTA Guidelines, checklist number 7).

16:53E-1.4 State system safety program standard

(a) The primary purpose for the existence of a transit system is to move people, safely and securely. In order to move its passengers as safely as possible, an individual transit system must be able to identify all hazards, for their elimination, minimization, or control, and all safety and security related responsibilities, delegating these responsibilities to the proper units within the organization, and providing these respective units with the resources to carry out their assigned responsibilities. A transit system has the responsibility of maintaining oversight of its safety and security status and program to ensure all responsibilities are being carried out and coordinated. This process is known as system safety. A transit agency shall formalize this process in a written document called a System Safety Program Plan.

(b) A system safety program plan adopted by a transit agency shall contain the following sections and subsections, which shall be addressed in substantial conformance with the APTA Guidelines, the FTA’s TSSP Planning Guide, and the FTA’s TS Procedures Guide:

1. Introduction
 - i. Policy Statement from General Manager/Executive Director
 - ii. Statement of Legal Authority for System Safety Program Plan
 - iii. Purpose of System Safety Program Plan
 - iv. Scope of System Safety Program Plan
 - v. Goals for the System Safety Program Plan
 - vi. Policies in Place to Support the Implementation of the System Safety Program Plan
 - viii. System Safety Program Plan Update Procedures
2. Rail Fixed Guideway System Description
 - i. History
 - ii. Scope and Service
 - iii. Organizational Structure
 - iv. Physical Plant
 - v. Operations

- vi. Maintenance
 - vii. System Modifications
 - 3. Safety Department Activities
 - i. Management of the System Safety Program Plan—System Safety Unit Responsibilities
 - ii. Methodology for Managing Plan
 - iii. Safety Tasks
 - iv. Task Matrix (including milestones)
 - 4. Safety-Related Activities of Other Departments
 - i. Safety-Related Tasks
 - ii. Task Matrix
 - 5. System Safety Program Plan Implementation and Maintenance
 - i. Program Schedule
 - ii. System Safety Program Plan Update
 - iii. Safety Audits
 - 6. System Safety Program Plan Verification
 - i. New Systems
 - ii. Operational Systems
 - iii. Occupational Safety and Health
 - iv. Construction Safety
 - v. Fire Protection
 - vi. Safety Information and Reporting
 - vii. Safety Training
 - 7. Management of Security Activities
 - i. Management of Security Program
 - ii. Division of Security Responsibilities
 - iii. Proactive Measures (Including Relevant Committees)
 - iv. Response Measures (Including Relevant Committees)
 - 8. Security Roles and Responsibilities
 - i. Security Planning Activities
 - ii. Proactive Measures
 - iii. Response Measures
 - iv. Resource Allocation
 - v. Emergency Response Coordination/Training/Management
 - vi. Threat and Vulnerability Identification/Resolution Process
 - vii. Security Data Collection and Analysis
 - viii. Security Equipment and Facilities
 - ix. Interdepartmental/Interagency Communication and Coordination
 - x. Training
 - xi. Task Matrix
 - 9. Security-Related Activities of Other Departments
 - i. Security-Related Activities of Other Transit Departments
 - ii. Task Matrix
 - 10. Evaluation of Security Component of System Safety Program Plan
 - i. Internal Review
 - ii. External Review
- 16:53E-1.5 Transit agency's system safety program plan**
- (a) Every transit agency is required to prepare and submit to the Department, for its written approval, a system safety program plan that complies with the State's system safety program standard as set forth in this subsection and to update its system safety program plan as deemed necessary by the Department in response to changes affecting the safety and security elements of the system. Examples of such changes include, but are not limited to, changes in Federal regulations or State standards, changes or modifications to the system, changes in operating conditions, and changes necessitated by audits or reviews of the system by the transit agency or the Department of Transportation.
1. A transit agency shall not begin operation of a rail fixed guideway system unless it has prepared and submitted its system safety program plan to the Department for approval and has received the Department's written approval of the plan.
 2. A transit agency shall not operate a rail fixed guideway system unless it has implemented its approved system safety program plan.
 3. A transit agency shall not publicly disclose the security aspects of its approved system safety program plan.
 4. A transit agency may use a contractor to develop or update its system safety program plan.
- 16:53E-1.6 Approval of system safety program plan**
- (a) The Department shall approve a transit agency's system safety program plan if:
1. The system safety program plan addresses the general requirements of the State's system safety program standard, as set forth in N.J.A.C. 16:53E-1.4;

2. The necessary controls are in place to assure the transit agency's compliance with this chapter, including the notification of accidents and hazardous conditions;

3. The system safety program plan meets the minimum requirements for the internal safety audit process; and

4. The system safety program plan provides a clear and feasible process for the identification and classification of hazardous conditions.

(b) If the Department determines that a system safety program plan 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 allowed by the Department.

(c) The Department may use a contractor to review system safety program plans.

16:53E-1.7 Transit agency annual audit reports

(a) Every transit agency shall annually submit to the Department for its review, a copy of the transit agency's annual safety audit report prepared by the transit agency as a result of the internal safety audit process.

(b) A transit agency may use a contractor to prepare its annual safety audit reports.

(c) The Department may use a contractor to review annual audit reports.

16:53E-1.8 Department safety review

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

(b) The three-year safety review shall assess the efficacy of the transit agency's system safety program plan in its entirety.

(c) The Department shall issue its findings from the on-site safety review in a written report, which shall include a determination of whether the transit agency shall update its system safety program plan.

(d) The Department may use a contractor to conduct safety reviews, and to prepare safety review findings.

16:53E-1.9 Transit agency report on accidents and unacceptable hazardous conditions

(a) Every transit agency shall report accidents and unacceptable hazardous conditions to the Department in accordance with this section.

(b) As soon as practicable after the occurrence of an accident or the discovery of an unacceptable hazardous condition, a transit agency shall report the accident or condition to the Department by telephone, and shall include the time of the accident or discovery of the condition, description of the accident or condition, and an estimate of damages.

(c) A transit agency shall submit a written report to the Department of an occurrence of an accident or the discovery of a hazardous condition.

(d) In addition to the information set forth in (b) above, the transit agency's written report shall include a determination by the transit agency of the probable cause of the accident or unacceptable hazardous condition.

16:53E-1.10 Department investigations

(a) Every transit agency shall fully cooperate with the Department in its investigation of accidents and unacceptable hazardous conditions.

(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 accident or unacceptable hazardous condition.

(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) The Department may use a contractor to conduct investigations, and to prepare investigation reports.

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

16:53E-1.11 Corrective actions

(a) After the occurrence of an accident or the discovery of an unacceptable hazardous condition, 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 any investigated hazardous condition.

(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) The Department may use a contractor to review corrective action plans.

(d) A transit agency may use a contractor to develop a corrective action plan.

(e) A transit agency shall notify the Department in writing when its approved corrective action plan has been fully implemented.

16:53E-1.12 Document availability

The Department shall provide to transit agencies upon request a list of available documents for purposes of preparing and formalizing their system safety program plans. The list may be obtained by contacting:

New Jersey Department of Transportation
Bureau of Ports, Terminals, and Freight Services
1035 Parkway Avenue
PO Box 600
Trenton, New Jersey 08625-0600
(609) 530-8031

16:53E-1.13 Assistance

For general assistance and procedural questions in matters related to this chapter, interested persons may contact the New Jersey Department of Transportation, Bureau of Ports, Terminals, and Freight Services at (609) 530-8031.

16:53E-1.14 Reports

All reports and information required to be submitted under this chapter shall be submitted to the New Jersey Department of Transportation, Bureau of Ports, Terminals, and Freight Services, 1035 Parkway Avenue, PO Box 600, Trenton, New Jersey 08625-0600.

SUBCHAPTER 2. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL TRANSIT ADMINISTRATION RAIL FIXED GUIDEWAY SYSTEMS STATE SAFETY OVERSIGHT REGULATIONS AND STANDARDS

16:53E-2.1 Regulations and standards adopted and incorporated by reference

(a) The New Jersey Department of Transportation hereby adopts and incorporates by reference as part of this chapter, Federal Rail Fixed Guideway Systems State Safety Oversight Regulations and standards. They are as follows:

1. Code of Federal Regulations:
 - i. 49 C.F.R. Part 659 and Appendices, as amended and supplemented;
2. Federal Transit Administration:
 - i. "Implementation Guidelines for State Safety Oversight of Rail Fixed Guideway Systems, July 1996, Final Report" and all appendices, as amended and supplemented;
 - ii. "Transit System Security Program Planning Guide," Final Report, January 1994, Reprint November 1997, and all appendices, as amended and supplemented;
 - iii. "Transit Security Procedures Guide," Final Report, December 1994, Reprint November 1997, and all appendices, as amended and supplemented; and
 - iv. "Transit Security Handbook," Final Report, May 1998, and all appendices, as amended and supplemented;
3. American Public Transit Association:
 - i. "Manual for the Development of Rail Transit System Safety Program Plans," published on August 20, 1991, and all appendices, as amended and supplemented.