

CURRENT 49 CFR Part 659	PROPOSED NPRM
<p><b>§ 659.1 Purpose</b></p>	<p><b>§ 659.01 Purpose</b></p>
<p>This part implements 49 U.S.C 5330 by requiring a State to oversee the safety of rail fixed guideway systems through a designated oversight agency.</p>	<p>This part implements 49 U.S.C 5330 by requiring a State to oversee the safety and security of rail fixed guideway systems through a designated oversight agency.</p>
<p><b>§ 659.3 Scope</b></p>	<p><b>§ 659.03 Scope</b></p>
<p>This part applies to a State that has within its boundaries a rail fixed guideway system not regulated by the Federal Railroad Administration (FRA).</p>	<p>This part applies to a State that has within its boundaries a rail fixed guideway system as defined in this part.</p>
<p><b>§ 659.5 Definitions</b></p>	<p><b>§ 659.05 Definitions</b></p>
<p>Accident As used in this part— Accident means any event involving the revenue service operation of a rail fixed guideway system is as a result:</p> <ul style="list-style-type: none"> <li>⇒ An individual dies;</li> <li>⇒ An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or</li> <li>⇒ A collision, derailment, or fire causes property damage in excess of \$100,000.</li> </ul>	<p>Incorporated into notification (659.27) and investigation (659.29) sections of rule text.</p>
<p>APTA Guidelines means the American Public Transit Associations "Manual for the Development of Rail Transit System Safety Program Plans," published on August 20, 1991.</p>	<p>No longer incorporated by reference.</p>
<p>Contractor means an entity that performs tasks required by this part on behalf of the oversight or transit agency. The transit agency may not be a contractor for the oversight agency.</p>	<p>Contractor means an entity that performs tasks required by this part on behalf of the oversight or rail transit agency. The rail transit agency may not be a contractor for the oversight agency.</p>
<p><i>(added definition) – Corrective action plan</i></p>	<p>Corrective action plan means a plan developed by the rail transit agency that sets forth the actions the rail transit agency will take to minimize, control, correct, or eliminate hazardous conditions and the schedule for implementation for those actions.</p>
<p>FTA means the Federal Transit Administration, an agency within the U.S. Department of Transportation.</p>	<p>FTA means the Federal Transit Administration, an agency within the U.S. Department of Transportation.</p>

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<i>(added definition) - FRA</i>	FRA means the Federal Railroad Administration, an agency within the U.S. Department of Transportation.
Hazardous condition means a condition that may endanger human life or property. It includes unacceptable hazardous conditions.	Hazard means any real or potential condition (as defined in the rail transit agency's hazard management process) that can cause injury, illness, or death; damage to or loss of a system, equipment or property; or damage to the environment.
<i>(added definition) - Individual</i>	Individual means a passenger; employee; contractor; rail transit facility occupant; other transit facility worker; or trespasser.
Investigation means a process to determine the probable cause of an accident or 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.	Investigation means the process used to determine the causal factors of an accident or hazard such that actions can be identified to prevent recurrence.
Oversight agency means the entity, other than the transit agency, designated by the State or several States to implement this part.	Oversight agency means the entity, other than the rail transit agency, designated by the State or several States to implement this part.
<i>(added definition) - Passenger</i>	Passenger means a person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.
<i>(added definition) - Passenger operations</i>	Passenger operations means the period of time commencing when any aspect of rail transit agency operation is initiated with the intent to carry passengers.
<i>(added definition) - Program standard</i>	Program standard means a written document developed and adopted by the oversight agency that describes the policies, objectives, responsibilities, and procedures used to provide rail transit agency safety and security oversight.
<p>Rail fixed guideway system means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that is:</p> <p>(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</p> <p>(2) Not regulated by the Federal Railroad Administration.</p>	<p>Rail fixed guideway system means, as determined by FTA, any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that:</p> <p>(1) is not regulated by the Federal Railroad Administration; and</p> <p>(2) is included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); or</p> <p>(3) has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).</p>
<i>(added definition) - Rail transit agency</i>	Rail transit agency means an entity that operates a rail fixed guideway system.
<i>(added definition) - Rail transit-controlled property</i>	Rail transit-controlled property means property that is utilized by the rail transit agency and may be owned, leased, or maintained by the rail transit agency.
<i>(added definition) - Rail transit vehicle</i>	Rail transit vehicle means the rail transit agency's rolling stock.
Safety means freedom from danger.	Safety means freedom from harm resulting from unintentional acts or circumstances.
Safety review means a formal, comprehensive, on-site examination by the oversight agency 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.	Incorporated into the "Oversight agency safety and security reviews" section of the rule text.
Security means freedom from intentional danger.	Security means freedom from harm resulting from intentional acts or circumstances.
<i>System safety program plan</i> means a document adopted by the rail transit agency detailing its safety policies, objectives, responsibilities, and procedures.	System safety program plan means a document developed and adopted by the rail transit agency detailing its safety policies, objectives, responsibilities, and procedures.
<i>(added definition) - System security plan</i>	System security plan means a document developed and adopted by the rail transit agency

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	detailing its security policies, objectives, responsibilities, and procedures.
System safety program plan standard means the standard developed and adopted by the State oversight agency which, at a minimum, complies with the APTA guidelines and which addresses personal security.	Replaced with "Program standard" definition (see above).
Unacceptable hazardous condition means a hazardous condition determined to be an unacceptable hazardous condition using the APTA Guidelines' Hazard Resolution Matrix (APTA Guidelines, checklist #7).	Thresholds now determined by using the "Hazard management process" (659.25).

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<p><b>§ 659.7 Withholding of funds for noncompliance</b></p>	<p><b>§ 659.07 Withholding of funds for noncompliance</b></p>
<p>The Administrator of the FTA may withhold up to five percent of the amount required to be apportioned for use in any State or affected urbanized area in such State under FTA's formula program for urbanized areas for any fiscal year beginning after September 30,1997, if the State in the previous fiscal year has not met the requirements of this part and the Administrator determines that the State is not making adequate efforts to comply with this part.</p>	<p>The Administrator of the FTA may withhold up to five percent of the amount required to be apportioned for use in any State or affected urbanized area in such State under FTA's formula program for urbanized areas if the State in the previous fiscal year has not met the requirements of this part and the Administrator determines that the State is not making adequate efforts to comply with this part.</p>
<p><b>§ 659.21 Designation of oversight agency</b></p>	<p><b>§ 659.09 Designation of oversight agency</b></p>
<p>For a transit agency or agencies operating within a single State, the State must designate an agency of the State, other than a transit agency, to serve as the oversight agency and to implement the requirements of this part. For a transit agency operating a system within more than one State, those States may designate a single entity, other than the transit agency, to implement the requirements of this part.</p>	<p>(a) States with oversight agencies designated for rail fixed guideway systems in passenger operations prior to the publication of this rule are not required to re-designate to FTA. (b) For a rail fixed guideway system that will operate in only one State, the State must designate an agency of the State, other than the rail transit agency, as the oversight agency to implement the requirements in this part. (c) For a rail fixed guideway system that will operate in more than one State, each affected State must designate an agency of the State, other than the rail transit agency, as the oversight agency to implement the requirements in this part. To fulfill this requirement, the affected States: (1) may agree to designate one agency of one State, or an agency representative of all States, to implement the requirements in this part. (2) In the event multiple States share oversight responsibility for a rail fixed guideway system, the States must ensure that the rail fixed guideway system is subject to a single program standard, adopted by all affected States. (d) The State designation of the oversight agency must: (1) coincide with the execution of any grant agreement between FTA and the rail fixed guideway system within the State's jurisdiction; or (2) occur prior to the application for funding under FTA's formula program for urbanized areas (49 U.S.C. 5336) by an entity determined by FTA as meeting the definition of rail fixed guideway system. (e) Within (60) days of designation of the oversight agency, the State must submit the following to FTA: (1) the name of the oversight agency designated to implement requirements in this part; (2) documentation of the oversight agency's authority to provide State oversight; (3) contact information for the representative identified by the designated oversight agency as having responsibility for oversight activities; (4) a description of the organizational and financial relationship between the designated oversight agency and the rail transit agency; (5) a schedule for the designated agency's development of its state safety oversight program including the projected date of its initial submission, as required in section 659.31(a); and (f) The State's designation of its oversight agency and submission of required information is subject to review and approval by FTA.</p>
<p><b>§ 659.23 Confidential investigation reports.</b></p>	<p><b>§ 659.11 Confidential investigation reports.</b></p>
<p>The State may prohibit an investigation report that may be prepared by the oversight</p>	<p>The State may prohibit an investigation report that may be prepared by the oversight agency</p>

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agency from being admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.	from being admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.
<b>§ 659.31 The system safety program standard.</b>	<b>§ 659.13 Program standard.</b>
<p>(a) The oversight agency must develop and adopt a system safety program standard that, at a minimum—</p> <p>(1) Complies with the American Public Transit Association's "Manual for the Development of Rail Transit System Safety Program Plans" (APTA Guidelines) published on August 20,1991, hereby incorporated by reference: and</p> <p>(2) Requires the transit agency to address the personal security of its passengers and employees.</p> <p>(b) The APTA Guidelines specify procedures for developing a system safety program plan, generally discuss the principles of system safety, and specifically address certain issues critical to the safe operation of a rail fixed guideway system.</p> <p>(c) The incorporation by reference of the APTA Guidelines has been approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.</p>	<p>(a) The oversight agency must develop a written program standard that meets the requirements as specified in this part and includes, at a minimum, the following sections:</p> <p>(1) Oversight agency program management – In this section, the oversight agency must explain its authority, policies, and roles and responsibilities for the provision of safety and security oversight of the rail transit agencies within its jurisdiction. This section must provide an overview of planned activities to ensure on-going communication with each affected rail transit agency regarding safety and security information, as well as policies for communication with FTA, including initial, annual and periodic submissions.</p> <p>(2) Oversight agency program standard development – In this section, the oversight agency must describe its process for the development and review and adoption of the program standard, the modification and/or update of the program standard, and the process through which the program standard and any subsequent revisions are distributed to each affected rail transit agency.</p> <p>(3) Requirements for rail transit agency system safety program plan – In this section, the oversight agency must specify the minimum requirements to be addressed in the system safety program plan developed by each affected rail transit agency within its jurisdiction. This section must also describe the process and timeframe through which the oversight agency must receive, review, and approve the rail transit agency system safety program plan.</p> <p>(4) Requirements for rail transit agency system security plan – In this section, the oversight agency must identify the minimum requirements to be addressed in the system security plan developed by each affected rail transit agency within its jurisdiction. This section must also describe the process through which the oversight agency will review and approve the rail transit agency system security program plan.</p> <p>(5) Rail transit agency internal safety and security reviews – In this section, the oversight agency must describe its role in overseeing the rail transit agency internal safety or security review process. This includes a description of the process used by the oversight agency to receive rail transit agency checklists and procedures and approve the rail transit agency's annual report on findings.</p> <p>(6) Oversight agency safety and security review – In this section, the oversight agency must specify its process and criteria to be used every three years for conducting a complete review of each affected rail transit agency's implementation of its system safety program plan and system security plan. This section must also include the process to be used by the affected rail transit agency and the oversight agency to manage findings and recommendations from this review.</p> <p>(7) Hazard management process – In this section, the oversight agency must specify information to be contained in the affected rail transit agency's system safety program plan regarding the hazard management process, including requirements for on-going communication and coordination regarding the identification; categorization; resolution; and reporting of hazardous conditions to the oversight agency.</p> <p>(8) Notification – In this section, the oversight agency must identify the specific requirements for</p>

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	<p>the notification of accidents by the rail transit agency to the oversight agency. This section must include required timeframes, means for notification, and the information to be submitted upon notification.</p> <p>(9) Investigations – In this section, the oversight agency must identify the thresholds for events which require an oversight agency investigation. The roles and responsibilities for conducting investigations must include: coordination with the rail transit agency investigation process; the role of the oversight agency in supporting investigations conducted by the National Transportation Safety Board; and review and approval of investigation reports, including formats and sign-offs.</p> <p>(10) Corrective actions – In this section, the oversight agency must specify its criteria for the development of a corrective action plan by the rail transit agency; its process for the review and approval of a corrective action plan; and its policies for the verification and tracking of corrective action plan implementation.</p> <p>(b) The program standard and any referenced program procedures must be submitted to FTA as part of the initial submission. Subsequent revisions and updates must be submitted to FTA as part of the oversight agency's annual submission.</p>
<p><b>§ 659.33 System safety program plans.</b></p> <p>(a) Except as provided in § 659.33(b), the oversight agency must require the transit agency to—</p> <p>(1) Implement, beginning on January 1, 1997, a system safety program plan conforming to the oversight agency's system safety program standard; and</p> <p>(2) Approve in writing January 1, 1997, the transit agency's system safety program plan.</p> <p>(b) The oversight agency must require the transit agency to—</p> <p>(1) Implement, beginning on January 1, 1998, the security portions of its system safety program plan; and</p> <p>(2) Approve in writing before January 1, 1998, the security portions of the transit agency's system safety program plan.</p> <p>(c) After December 31, 1996, the oversight agency must review and approve, in writing, the transit agency's system safety program plan, as necessary, and require the transit agency to update its system safety program plan, as necessary.</p> <p>(d) The oversight agency may prohibit a transit agency from publicly disclosing the security aspects of the system safety program plan.</p>	<p><b>§ 659.15 System safety program plans.</b></p> <p>(a) The oversight agency must require the rail transit agency to develop and implement a written system safety program plan that complies with requirements in this part and the oversight agency's program standard.</p> <p>(b) The system safety program plan must include, at a minimum:</p> <p>(1) A policy statement signed by top management which endorses the safety program and provides a description of the authority that establishes the system safety program plan.</p> <p>(2) A clear definition of the goals and objectives for the safety program and stated management responsibilities to ensure that they are achieved.</p> <p>(3) An overview of the management structure of the rail transit agency, including: (i) an organization chart; (ii) a description of how the safety function is integrated into the rest of the rail transit organization; and (iii) clear identification of the lines of authority used by the rail transit agency to manage safety issues.</p> <p>(4) The process used to control changes to the system safety program plan, including: (i) specification of an annual assessment regarding whether the system safety program plan should be updated; and (ii) required coordination with the oversight agency, including timeframes for submission, revision and approval.</p> <p>(5) A description of the specific activities required to implement the system safety program, including: (i) tasks to be performed by the rail transit safety function, specified by position and management accountability, in matrices and/or narrative format; and (ii) safety-related tasks to be performed by other rail transit departments, specified by position and management accountability, in matrices and/or narrative format.</p> <p>(6) A description of the process used by the rail transit agency to implement its hazard management program, including activities for: (i) hazard identification; (ii) hazard investigation, evaluation and analysis; (iii) hazard control and elimination; (iv) hazard tracking; and (v) requirements for on-going reporting to the oversight agency regarding hazard management activities and status.</p>

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	<p>(7) A description of the process used by the rail transit agency 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.</p> <p>(8) A description of the safety certification process required by the rail transit agency to initiate passenger operations and for subsequent major projects undertaken to extend, rehabilitate, or modify the existing system or to replace vehicles and equipment.</p> <p>(9) A description of the process used to collect, maintain, analyze, and distribute safety data to ensure that the safety function within the rail transit organization receives the information necessary to support implementation of the system safety program.</p> <p>(10) A description of the process used by the rail transit agency to perform accident notification, investigation and reporting, including (i) notification thresholds for internal and external organizations; (ii) accident investigation process and references to procedures; (iii) the process used to develop, implement and track corrective actions that address investigation findings; (iv) reporting to internal and external organizations; and (v) coordination with the oversight agency.</p> <p>(11) A description of the process used by the rail transit agency to develop an approved, coordinated schedule for all emergency management program activities, which include: (i) meetings with external agencies; (ii) emergency planning responsibilities and requirements; (iii) process used to evaluate emergency preparedness, such as annual emergency field exercises; (iv) after action reports and implementation of findings; (v) revision and distribution of emergency response procedures; (vi) familiarization training for public safety organizations; and (vii) employee training.</p> <p>(12) A description of the process used by the rail transit agency to ensure that planned and scheduled internal safety reviews are performed to evaluate compliance with the system safety program plan, including (i) identification of departments and functions subject to review; (ii) responsibility for scheduling reviews; (iii) process for conducting reviews, including the development of checklists and procedures and the issuing of findings; (iv) review reporting requirements; (v) tracking the status of implemented recommendations, and (vi) coordination with the oversight agency.</p> <p>(13) A description of the process used by the rail transit agency to develop, maintain, and ensure compliance with rules and procedures, identified as having a safety impact, including: (i) identification of operating and maintenance rules and procedures subject to review; (ii) techniques used to assess the implementation of operating and maintenance rules and procedures by employees, such as performance testing; (iii) techniques used to assess the effectiveness of supervision provided regarding the implementation of operating and maintenance rules; and (iv) process for documenting results and incorporating them into the hazard management program.</p> <p>(14) A description of the process used for facilities and equipment safety inspections, including: (i) identification of the facilities and equipment subject to regular safety related-inspection and testing; (ii) techniques used to conduct inspections and testing; (iii) inspection schedules and procedures; and (iv) description of how results are entered into the hazard management process.</p> <p>(15) A description of the maintenance audits and inspections program including identification of the affected facilities and equipment, maintenance cycles, documentation required, and the</p>

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	<p>process for integrating identified problems into the hazard management process.</p> <p>(16) A description of the training and certification program for employees and contractors, including (i) categories of safety-related work requiring training and certification; (ii) a description of the training and certification program for employees and contractors in safety-related positions; (iii) process used to maintain and access employee and contractor training records; and (iv) process utilized to assess compliance with training and certification requirements.</p> <p>(17) A description of the configuration management control process, including: (i) the authority to make configuration changes, (ii) process for making changes, and (iii) assurances necessary for all involved departments to be formally notified.</p> <p>(18) A description of the safety program for employees and contractors that incorporates the applicable local, state, and federal requirements, including: (i) safety requirements that employees and contractors must follow when working on, or in close proximity to, rail transit agency property; and (ii) processes for ensuring the employees and contractors know the requirements and follow them.</p> <p>(19) A description of the hazardous materials program including the process used to ensure knowledge of and compliance with program requirements.</p> <p>(20) A description of the drug and alcohol program and the process used to ensure knowledge of and compliance with program requirements.</p> <p>(21) A description of the measures, controls, and assurances in place to ensure that safety is involved in the rail transit agency's procurement process.</p> <p>(c) The oversight agency must review and approve the rail transit agency system safety program plan.</p> <p>(d) Upon approval of the system safety program plan, the oversight agency must issue a formal letter of approval to the rail transit agency.</p>
<p><b>§ 659.19 System security plan. (new section)</b></p>	<p><b>§ 659.17 System security plan. (new section)</b></p>
	<p>(a) The oversight agency must require the rail transit agency to implement a system security plan that complies with requirements in this part and the oversight agency's program standard. The system security plan must be developed and maintained as a separate document and may not be part of the rail transit agency's system safety program plan.</p> <p>(b) The system security plan must, at a minimum:</p> <ol style="list-style-type: none"> <li>(1) identify the policies, goals, and objectives for the security program endorsed by top management;</li> <li>(2) document the rail transit agency's process for managing threats and vulnerabilities during operations and for major projects, extensions, new vehicles and equipment;</li> <li>(3) identify controls in place that address the personal security of passengers and employees;</li> <li>(4) document the rail transit agency's process for conducting internal security reviews to evaluate compliance and measure the effectiveness of the system security plan; and</li> <li>(5) document the rail transit agency's process for making available its system security plan and accompanying procedures to the oversight agency for review and approval.</li> </ol> <p>(c) The oversight agency may prohibit a rail transit agency from publicly disclosing the system security plan.</p> <p>(d) Upon approval of the system security plan, the oversight agency must issue a formal letter</p>

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<p>§ 659.21 Rail transit agency annual review of its system safety program plan and system security plan (new section)</p>	<p>of approval to the rail transit agency.                      § 659.19 Rail transit agency annual review of its system safety program plan and system security plan (new section)</p>
	<p>(a) The oversight agency must require the rail transit agency to conduct an annual review of its system safety program plan and system security plan.                      (1) In the event the rail transit agency's system safety program plan is modified, the rail transit agency must submit the modified plan and any subsequently modified procedures to the oversight agency for review and approval. Upon approval of the plan the oversight agency must issue a formal letter of approval to the rail transit agency.                      (2) In the event the rail transit agency's system security plan is modified, the rail transit agency must make the modified system security plan and accompanying procedures available to the oversight agency for review, subject to requirements specified in section 659.17(b)(5). Upon approval of the plan the oversight agency must issue a formal letter of approval to the rail transit agency.</p>
<p>§ 659.35 Transit agency annual audit reports.                      The oversight agency must—                      (a) Require that the transit agency submit, annually, a copy of the annual safety audit report prepared by the transit agency as a result of the Internal Safety Audit Process (APTA Guidelines, checklist number 9); and                      (b) Review the annual safety audit reports prepared by the transit agency.</p>	<p>§ 659.21 Rail transit agency internal safety and security reviews.                      (a) The oversight agency must require the rail transit agency to develop and document in its system safety program plan, a process for the performance of on-going internal safety and security reviews.                      (b) The internal safety and security review process must, at a minimum:                      (1) describe the process used by the rail transit agency to determine if all identified elements of its system safety program plan and system security plan are performing as intended.                      (2) ensure that all elements of the system safety program plan and system security plan are reviewed in an on-going manner and completed over a three-year cycle. The three-year cycle commences [date of rule effectiveness].                      (c) The rail transit agency must notify the oversight agency at least (30) days prior to the conduct of scheduled internal safety and security reviews.                      (1) the rail transit agency must submit to the oversight agency any checklists or procedures it will use during the safety portion of its review.                      (2) any checklists or procedures the rail transit agency will use for the security portion of its review must be made available to the oversight agency subject to section 659.17(b)(5).                      (d) The oversight agency must require the rail transit agency to submit, annually, a report documenting internal safety and security review activities and the status of subsequent findings and recommendations. The security portion of this report must be made available for oversight agency review subject to section 659.17(b)(5).                      (e) The annual report must be accompanied by a formal letter of certification signed by the rail transit agency's executive director or general manager indicating that the rail transit agency is in compliance with its system safety program plan and system security plan.                      (f) The oversight agency must formally review and approve the annual report.</p>
<p>§ 659.37 Safety reviews.                      At least every three years the oversight agency must conduct an on-site safety review of the transit agency's implementation of its system safety program plan and prepare and issue a report containing findings and recommendations resulting from that review, which, at a minimum, must include an analysis of the efficacy of the system safety</p>	<p>§ 659.23 Oversight agency safety and security reviews.                      Every three years, or in an on-going manner, commencing with the initiation of rail transit agency passenger operations, the oversight agency must conduct an on-site review of the rail transit agency's implementation its system safety program plan and system security plan.</p>

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program plan and a determination of whether it should be updated.	
<b>§ 659.29 Hazard Management Process. (new section)</b>	<b>§ 659.25 Hazard management process. (new section)</b>
	<p>(a) The oversight agency must require the rail transit agency to develop and document in its system safety program plan a process to identify and resolve existing hazards conditions during its operation, as well as any hazards arising due to subsequent system extensions or modifications, operational changes, or other changes within the rail transit environment.</p> <p>(b) The hazard management process must, at a minimum:</p> <ol style="list-style-type: none"> <li>(1) define the rail transit agency's approach to hazard management and the implementation of an integrated system-wide hazard resolution process;</li> <li>(2) specify the sources of, and the mechanisms to support, the on-going identification of hazards;</li> <li>(3) define the process by which identified hazards will be evaluated and prioritized for elimination or control;</li> <li>(4) identify the mechanism used to track to resolution the identified hazard(s);</li> <li>(5) define minimum thresholds for the notification and reporting to state oversight agencies of hazardous conditions; and</li> <li>(6) specify the process by which the rail transit agency will provide on-going reporting of hazard resolution activities to the oversight agency.</li> </ol>
<b>§ 659.39 Transit agency report on accidents and unacceptable hazardous conditions.</b>	<b>§ 659.27 Notification.</b>
The oversight agency must require that the transit agency report accidents and unacceptable hazardous conditions to the oversight agency within a specified period of time.	<p>(a) The oversight agency must require the rail transit agency to notify the oversight agency within two (2) hours of any event involving a rail transit vehicle or taking place on rail transit-controlled property where one or more of the following occurs:</p> <ol style="list-style-type: none"> <li>(1) a fatality, where an individual is confirmed dead within 30 days of a transit-related incident, excluding suicides and deaths from illness;</li> <li>(2) injuries requiring immediate medical attention away from the scene for two or more individuals;</li> <li>(3) property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities that equals or exceeds \$25,000;</li> <li>(4) an evacuation due to life safety reasons; or</li> <li>(5) a main-line derailment.</li> </ol> <p>(b) The oversight agency must require rail transit agencies that share track with the general railroad system and are subject to the Federal Railroad Administration notification requirements to notify the oversight agency within two (2) hours of an incident for which the rail transit agency must notify the Federal Railroad Administration</p> <p>(c) The oversight agency must identify in its program standard the method of notification and the information to be given by the rail transit agency.</p>
<b>§ 659.41 Investigations.</b>	<b>§ 659.29 Investigations.</b>
<p>The oversight agency must—</p> <ol style="list-style-type: none"> <li>(a) Establish procedures to investigate accidents and unacceptable hazardous conditions.</li> <li>(b) Unless the National Transportation Safety Board has investigated or will investigate an accident, the oversight agency must investigate accidents and unacceptable</li> </ol>	<ol style="list-style-type: none"> <li>(a) The oversight agency must investigate, or cause to be investigated, at a minimum, any event involving a rail transit vehicle or taking place on rail transit-controlled property meeting the fatality, injury, or property damage thresholds identified in section 659.27(a).</li> <li>(b) The oversight agency must use approved investigation procedures that have been submitted to FTA as required in the initial submission or annual submission.</li> </ol>

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hazardous conditions occurring at a transit agency under its jurisdiction.	<p>(c) In the event the oversight agency designates the rail transit agency to conduct investigations on its behalf, it must do so formally and require the rail transit agency to use investigation procedures that have been formally approved by the oversight agency.</p> <p>(d) Each investigation must be documented in a final report that includes a description of investigation activities, identified causal factors, and a corrective action plan.</p> <p>(1) The final investigation report must be submitted to the oversight agency in a format and timeframe specified by the oversight agency.</p> <p>(2) The oversight agency must review and formally approve each final investigation report.</p> <p>(3) The oversight agency shall have the authority to require periodic status reports that document investigation activities and findings in a time frame determined by the oversight agency.</p>
<b>§ 659.43 Corrective actions.</b>	<b>§ 659.31 Corrective actions plans.</b>
<p>The oversight agency must require the transit agency to minimize, control, correct or eliminate any investigated hazardous condition within a time period specified by and in accordance with a corrective action plan approved by the oversight agency.</p>	<p>(a) The oversight agency must, at a minimum, require the development of a corrective action plan for the following:</p> <p>(1) results from investigations in which identified causal factors are determined by the rail transit agency or oversight agency as requiring corrective actions; and</p> <p>(2) findings from safety and security reviews performed by the oversight agency.</p> <p>(b) Each corrective action plan should identify the action to be taken by the rail transit agency and the schedule for its implementation.</p> <p>(c) The corrective action plan must be reviewed and formally approved by the oversight agency.</p> <p>(d) The rail transit agency must provide the oversight agency:</p> <p>(1) verification that the corrective action(s) has been implemented as detailed in the corrective action plan or that a proposed alternate action(s) has been implemented subject to oversight agency review and approval; and</p> <p>(2) periodic reports as requested by the oversight agency detailing the status of each corrective action(s) not completely implemented as detailed in the corrective action plan.</p> <p>(e) The oversight agency must monitor and track the implementation of each approved corrective action plan.</p>
<b>§ 659.45 Oversight agency report to the Federal Transit Administration.</b>	<b>§ 659.33 Oversight agency report to the Federal Transit Administration.</b>
<p>(a) Initial submissions. Before January 1, 1997, the oversight agency must submit to FTA the following information, which must be updated as necessary:</p> <p>(1) The name and address of the oversight agency;</p> <p>(2) The name(s) and address(es) of the transit agency or agencies subject to the oversight agency's jurisdiction under this part; and</p> <p>(3) A written description of the oversight agency's oversight program including the following information:</p> <p>(i) A copy of its system safety program standard;</p> <p>(ii) Its procedures or process for reviewing and approving the transit agency's system safety program plan;</p> <p>(iii) Its investigatory procedures; and</p> <p>(iv) Its procedures for ensuring that appropriate corrective actions have been taken by the transit agency to correct, eliminate, minimize, or control investigated hazardous</p>	<p>(a) Initial submission: in States with rail fixed guideway systems in passenger operations as of the publication date of this rule, the designated oversight agency must make its initial submission to FTA by [date of rule implementation]. In States with rail fixed guideway systems initiating passenger operations after the publication date of this rule, the designated oversight agency must make its initial submission within the time frame specified by the State in its designation submission.</p> <p>(b) The initial submission must include the following:</p> <p>(1) oversight agency program standard and referenced procedures; and</p> <p>(2) certification that the system safety program plan and the system security plan have been developed, reviewed, and approved.</p> <p>(c) Annual Submission: before March 15 of each year, the oversight agency must submit the following to FTA:</p> <p>(1) a publicly available annual report summarizing its oversight activities for the preceding</p>

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<p>conditions.</p> <p>(b) Annual submissions. Before January 1 of each year, the oversight agency must submit to FTA a publicly available annual report summarizing its oversight activities for the preceding twelve months, including a description of the most common probable causal factors of accidents and unacceptable hazardous conditions.</p> <p>(c) Periodic submissions. Status reports of accidents, hazardous conditions, and corrective action plans must be forwarded to the FTA upon request</p> <p>(d) Addresses. Reports and annual summaries must be sent to: Federal Transit Administration. Office of Safety and Security, 400 7th Street, S.W., Washington, D.C. 20590.</p>	<p>twelve months, including a description of the causal factors of investigated accidents and status of corrective actions, updates and modifications to rail transit agency program documentation;</p> <p>(2) a report documenting findings from three-year safety review activities, if a three-year safety review has been completed since the last annual report was submitted; and</p> <p>(3) program standard and supporting procedures that have been changed during the preceding year.</p> <p>(d) Periodic submission – FTA retains the authority to periodically request program information.</p> <p>(e) Electronic reporting -- All submissions to FTA required in this part must be made electronically using an electronic reporting system specified by FTA.</p>
<p><b>§ 659.47 Use of contractors.</b></p> <p>(a) The oversight agency may use a contractor to—</p> <ol style="list-style-type: none"> <li>(1) Develop a system safety program standard;</li> <li>(2) Review system safety program plans;</li> <li>(3) Review annual audit reports;</li> <li>(4) Conduct safety reviews;</li> <li>(5) Prepare safety review findings;</li> <li>(6) Establish investigation procedures;</li> <li>(7) Conduct investigations;</li> <li>(8) Review corrective action plans; and/or</li> <li>(9) Prepare initial or annual submissions to FTA.</li> </ol> <p>(b) The oversight agency may allow a transit agency to use a contractor to—</p> <ol style="list-style-type: none"> <li>(1) Develop or update a system safety program plan;</li> <li>(2) Prepare annual audit reports; and/ or</li> <li>(3) Develop a corrective action plan.</li> </ol>	<p><b>§ 659.35 Conflict of interest.</b></p> <p>The oversight agency must prohibit a party or entity from providing services to both the oversight agency and rail transit agency when there exists a conflict of interest.</p>
<p><b>§ 659.48 Certification of compliance.</b></p> <p>(a) Before January 1, 1997, and annually thereafter, the oversight agency must certify to the FTA that it has complied with the requirements of this part. Each certification shall comply with the applicable sample certification provided in the appendix to this part.</p> <p>Each certification shall be sent to: Federal Transit Administration. Office of Safety and Security. 400 7th Street. S.W., Washington. D.C. 20590.</p> <p>(b) Each certification must be signed by an official authorized by the oversight agency and must comply with the applicable sample certification provided in the appendix to this part.</p>	<p><b>§ 659.37 Certification of compliance.</b></p> <p>(a) Annually, the oversight agency must certify to the FTA that it has complied with the requirements of this part.</p> <p>(b) Each certification shall be made electronically to FTA using an electronic reporting system specified by FTA.</p> <p>(c) The oversight agency must maintain a signed copy of each annual certification to FTA, subject to audit by FTA.</p>