

PROPOSED RESOLUTION

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAFETY AND ENFORCEMENT DIVISION
RAIL TRANSIT SAFETY BRANCH

Resolution ST-215
March 14, 2019

RESOLUTION

RESOLUTION ST-215 GRANTING APPROVAL OF THE
FINAL REPORT ON THE 2017 TRIENNIAL ON-SITE
SYSTEM SAFETY REVIEW OF SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

SUMMARY

This resolution approves the Safety and Enforcement Division final report, titled "2017 Triennial On-Site System Safety Review of San Francisco Bay Area Rapid Transit District," dated August 22, 2018. The report includes the results of the Commission staff review of the San Francisco Bay Area Rapid Transit District's System Safety Program.¹

BACKGROUND

Commission General Order (GO) No. 164-E,² "Rules and Regulations Governing State Safety Oversight of Rail Fixed Guideway Systems" requires Commission Staff (Staff) to conduct on-site system safety review of the transit agencies operating rail fixed guideway systems every three years.

¹ In Res. ST-216, the Commission approved SED's 2017 security review and report. The report, "2017 Triennial On-Site System Security Review of San Francisco Bay Area Rapid Transit District," is available online at: <http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=233348029>

² GO 164-D was in effect at the time Staff initiated the safety review. It has since been updated by GO 164-E. There is no significant difference between GO 164-D and GO 164-E with respect to the requirements regarding Triennial System Safety Reviews for Rail Transit Agencies.

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The Commission's Safety and Enforcement Division (SED), Rail Transit Safety Branch (RTSB) Staff conducted an on-site system safety review of the San Francisco Bay Area Rapid Transit District's (BART) safety program from September 11 – 22, 2017. The final report identified in this resolution can be found in Attachment A. Activities of each checklist developed by Staff can be found in Appendix C of the report.

Staff sent BART a copy of the draft safety review report for a 30-day comment period on May 4, 2018. On May 29, 2018, CPUC Staff and BART met and discussed BART's comments on the draft safety review report. BART responded with its official comments on June 5, 2018.

Subsequently, on October 22, 2018, the Commission issued D.18-10-020, closing the CPUC's formal investigation into the two fatalities in 2013 that occurred on BART tracks in Contra Costa County. The decision, among other things, placed BART on a three-year probation and levied fines for violating multiple safety rules in place at the time of the incident. The decision orders BART to establish a plan to improve its safety culture and enhanced compliance with all of the applicable safety rules, practices, policies, and procedures. The Commission also delegates SED to monitor and issue recommendations of BART's compliance with D.18-10-020.

DISCUSSION

The final report, "2017 Triennial On-Site System Safety Review of San Francisco Bay Area Rapid Transit District," dated August 22, 2018, included as Attachment A, identifies Staff's activities for each of the 39 checklists, which Staff developed, covering the 21 items which Title 49 of Code of Federal Regulations, Chapter 659 (49 CFR 659) and the Commission's GO 164-E require for inclusion in each Rail Transit Agency's SSPP.

Staff limited its on-site safety report to reviewing BART's compliance of its SSPP, GO 164-E, and other Commission safety requirements in effect at the time of review. Staff acknowledges that additional actions by BART are

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forthcoming as a result of the specific safety violations found in D.18-10-020. As I.16-06-010 was still pending when Staff completed the attached safety report, Staff hereby incorporates by reference D.18-10-020 in the final report.

During its review, Staff observed 42 findings of non-compliance, and provided 47 recommendations to improve the BART's system safety program.

Because of the passage of time since the audit occurred, BART addressed many of the findings and arranged for corrective actions. Staff continues to monitor these items however BART should be ordered to provide a written summary of the corrective actions already taken and develop final corrective action plans to address the remaining open items identified in the final report and submit them to Staff for review and approval.

SED Staff recommends that the Commission approve the final safety review report titled, "2017 Triennial On-Site System Safety Review of San Francisco Bay Area Rapid Transit District." Staff also recommends the Commission order BART to:

- Submit a report to the RTSB, which identifies the corrective action status for safety program areas of non-compliance identified by staff, for Staff's review and approval;
- Submit plans and schedules for implementing and completing the recommended corrective actions contained in the report;
- Implement the recommendations in accordance with the plans and schedules submitted; and
- Provide the RTSB with monthly progress reports on the status of the corrective actions until they are completed and implemented.

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NOTICE

On February 8, 2019, this Resolution was published on the Commission's Daily Calendar.

COMMENTS

The draft resolution of the Safety and Enforcement Division in this matter was mailed in accordance with Section 311 of the Public Utilities Code and Rule 14.2(d)(1) of the Commission's Rules of Practice and Procedure.

_____ comments were received.

FINDINGS

1. The SED RTSB staff conducted an on-site safety review of BART beginning September 11, 2017. Staff conducted a post-review exit conference with BART management on November 3, 2017.
2. Staff finalized report of its on-site safety review of BART on August 22, 2018.
3. The safety report results show 42 findings of non-compliance were identified during the review. These non-compliant items along with 47 recommendations for corrective actions are described, where applicable, in the Findings/Comments/Recommendations section of each checklist and in the body of the final report.
4. BART indicated to staff they have developed and implemented corrective action plans for the findings and recommendations for most items identified in the report and are working on the remaining items.
5. After Staff finalized its safety review report, the Commission issued D.18-10-020 on October 22, 2018 finding BART in violation of multiple safety rules related to fatalities that occurred in 2013. Among other things, D.18-10-020 requires BART to establish a plan to improve its

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safety culture and enhanced compliance with all the applicable safety rules, practices, policies, and procedures.

THEREFORE, IT IS ORDERED THAT:

1. The Safety and Enforcement Division's request for approval of the final safety review report, entitled "2017 Triennial On-Site System Safety Review of San Francisco Bay Area Rapid Transit District," dated August 22, 2018, is granted.
2. D.18-10-020, issued after the 2017 safety review report was finalized, is incorporated by reference in the final report.
3. San Francisco Bay Area Rapid Transit District shall submit information and data regarding corrective actions already taken, as well as plans and schedules for implementing all recommended corrective actions for items that remain open, to the Rail Transit Safety Branch no later than 45 days from the effective date of this resolution.
4. San Francisco Bay Area Rapid Transit District shall complete and implement all recommended corrective actions contained in the report, in accordance with the plans and schedules submitted to the Rail Transit Safety Branch.
5. San Francisco Bay Area Rapid Transit District shall prepare and provide monthly status reports to the Rail Transit Safety Branch. The reports shall contain detailed information on the implementation of all remaining recommended corrective actions contained in the final safety review report. Monthly status reports shall be provided until all recommended corrective actions are implemented and completed.
6. This resolution is effective today.

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I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting held on March 14, 2019. The following Commissioners voting favorably thereon:

ALICE STEBBINS
Executive Director

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ATTACHMENT A

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