

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to revise  
General Order 164- C.

FILED  
PUBLIC UTILITIES COMMISSION  
OCTOBER 5, 2006  
SAN FRANCISCO, CALIFORNIA  
RULEMAKING 06-10-004

**ORDER INSTITUTING RULEMAKING  
Revision of General Order 164-C  
In Response to Revisions to  
49 Code of Federal Regulations Part 659  
Fixed Rail Guideway Systems  
State Safety Oversight**

**Summary**

By this order, the Commission institutes a rulemaking to revise Commission's General Order (GO) 164-C, *Rules and Regulations Governing State Safety Oversight of Public Transit Guideway Systems*. The Federal Transit Administration (FTA) revision to 49 Code of Federal Regulations (CFR) Part 659, *Rail Fixed Guideway Systems; State Safety Oversight*; dated April 29, 2005 (Final Rule) more clearly defines State Safety Oversight activities that are set forth in proposed GO 164-D.

Commission GO 164-C sets forth certain rules and regulations governing the safety of rail fixed guideway systems in California. GO 164-C currently includes provisions concerning System Safety Program Plans, Internal Safety Audits, Reporting and Investigating Accidents, Unacceptable Hazardous Conditions, Safety Certification Plans, and Safety Certification Verification Report Requirements.

The Commission staff (Staff) has proposed revisions to GO 164-C as set forth in the attached proposed GO 164-D which conform to the FTA's State Safety Oversight Final Rule. Staff and rail transit agencies (RTA) have agreed

upon proposed GO 164-D except for confidentiality statements in Sections 3.3, 4.4, 8.3c, 8.3e, and 8.4.

Staff worked closely with the Rail Operations and Regulatory Committee (ROAR), a California Rail Transit Agency committee that represents the seven RTAs in California on regulatory matters, in drafting the language for Section 10, *Requirements for At-Grade Rail Crossings*. A working group of three ROAR and three Staff representatives was formed to draft Section 10. The working group had several electronic mail correspondences and met in person on May 30, 2006. The group was able to reach consensus on a final language, which is included in the proposed GO 164-D.

The Commission invites interested parties to submit written comments on the Staff proposal, or to submit alternative recommendations, for consideration by the Commission.

## **Background**

The Commission's responsibilities regarding rail transit safety are set forth in the California Public Utilities Code. In addition, there are applicable Federal provisions relating to the Commission's oversight of the seven major rail transit systems in the state. The key provisions include Public Utilities Code Section 99152 and 49 CFR Part 659.

Public Utilities Code Section 99152 states:

99152. Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, is subject to regulations of the Public Utilities Commission relating to safety appliances and procedures.

The commission shall inspect all work done on those guideways and may make further additions or changes necessary for the purpose of safety to employees and the general public.

The commission shall develop an oversight program employing safety planning criteria, guidelines, safety standards, and safety procedures to be met by operators in the design, construction, and operation of those guideways. Existing industry standards shall be used where applicable.

The commission shall enforce the provisions of this section.  
(Amended by Stats. 1986, Ch. 483, Sec. 1.)

The FTA's State Safety Oversight Final Rule is the basis for the changes contained within proposed GO 164-D. In California, the Commission is the State Safety Oversight Agency.

The Commission oversees seven major RTAs, including the Bay Area Rapid Transit District (BART), Los Angeles County Metropolitan Transportation Authority (LACMTA), Sacramento Regional Transit District (SRTD), San Diego Trolley Incorporated (SDTI), San Francisco Municipal Railway (MUNI), Santa Clara Valley Transportation Authority (SCVTA), and North County Transit District (NCTD). In addition to these agencies, the Commission has safety oversight responsibility for other public transit guideways operating in California.

The FTA has recently revised its rule on state safety oversight of rail fixed guideway systems not regulated by the Federal Railroad Administration (FRA). The FTA Final Rule revised the State Safety Oversight rule and added clarifying sections. The Final Rule also includes specifications that states must require in order to monitor safety and security of non-FRA rail systems. The purpose of the Final Rule is to improve the performance of the State Safety Oversight Program and to ensure the following outcomes: (1) Enhance program efficiency; (2) increase responsiveness to recommendations from the National Transportation Safety Board (NTSB) and emerging safety and security issues; (3) improve consistency in the collection and analysis of accident causal factors through

increased coordination with other Federal reporting and investigation programs; and (4) improve performance of hazard management process. Finally, the rule addressed heightened concerns for rail transit security and emergency preparedness.

The proposed GO-164-D conforms to the FTA's State Safety Oversight Final Rule. The proposed GO 164-D includes new requirements for:

1. System Safety Program Plan
2. System Security Plans
3. Internal Safety and Security Audits
4. Hazard Management Process
5. Reporting Accidents
6. Investigating Accidents
7. Corrective Action Plans
8. At Grade Rail Crossings

## **Discussion**

Updates to the rules and regulations in GO 164-C are needed to conform to the FTA Final Rule. The Commission's goal is to provide the California RTAs and other public transit guideways with a standard set of rules and guidelines designed to ensure safe and secure construction and operation.

## **Comments by RTAs**

Staff transmitted the proposed revision to GO 164-C to RTAs on December 15, 2005 via US Mail. Staff also held individual meetings with all RTAs to review the proposed GO 164-D and answer questions relating to the FTA Final Rule. Additionally, the proposed GO 164-D was posted on the Commission's public website to allow for public comment.

A public workshop, in an attempt to resolve outstanding conflicts in the proposed GO 164-D, was held on March 27, 2006. Staff and RTAs reached agreement on proposed GO 164-D wording except in those sections in which the RTAs have proposed edits to allow for nondisclosure of records and documents deemed to be confidential and/or protected under attorney-client privilege.

The Public Utilities Code (PU Code), Section 315, provides that,

. . . Neither the order or recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of such loss of life, or injury to person or property. Every public utility shall file with the commission, under such rules as the commission prescribes, a report of each accident so occurring of such kinds or classes as the commission from time to time designates.

However, RTAs have voiced concern that the California Public Records Act may supersede PU Code Section 315.

Irreconcilable differences between Staff and RTAs in those sections are outlined as follows:

### ***Section 3.3, Requirements for System Safety Program Plans (SSPP)***

#### **Staff Proposed**

Staff may perform inspections, investigations, and reviews of the design, construction, operation, maintenance and administration of each RTA to assess whether the actual safety procedures and practices of the RTA comply with its SSPP. RTA shall permit Staff access to all facilities, documents, and records and provide reports when requested.

**RTAs' Proposed Edits**

Staff may perform inspections, investigations, and reviews of the design, construction, operation, maintenance and administration of each RTA to assess whether the actual safety procedures and practices of the RTA comply with its SSPP. RTA shall permit Staff access to all facilities, documents, and reports for review except those documents that are protected by attorney-client privilege or considered confidential.

***Section 4.4, Requirements for System Security Plans***

**Staff proposed**

Staff may perform inspections, investigations, and reviews of the design, construction, operation, maintenance and administration of each RTA to assess whether the actual security procedures and practices of the RTA comply with its Security Plan. RTA shall permit Staff access to all facilities, documents, and records.

**RTAs' Proposed Edits**

Staff may perform inspections, investigations, and reviews of the design, construction, operation, maintenance and administration of each RTA to assess whether the actual security procedures and practices of the RTA comply with its Security Plan. RTA shall permit Staff access to all facilities, documents, and reports for review except those documents that are protected by attorney-client privilege or considered confidential.

***Section 8.3c, Requirements for Investigating Accidents***

**Staff proposed**

RTA shall document in a written report each item investigated, the investigation findings, the most probable cause of the accident, contributing causes, and recommendations for corrective action to prevent a recurrence of the accident.

**RTAs' Proposed Edits**

RTA shall document in a written report each item investigated, except those documents that are protected by the attorney-client privilege, the investigation findings, the most probable cause of the accident, contributing causes, and recommendations for corrective action to prevent a recurrence of the accident.

***Section 8.3e, Requirements for Investigating Accidents***

**Staff proposed**

Submit its final investigation report within 60 calendar days of the occurrence of the accident...

**RTAs' Proposed Edits**

Submit its final investigation report within 60 calendar days of the occurrence of the accident, except in cases where report forms described in Section 7.5 adequately close the investigation...

***Section 8.4, Requirement for Investigating Accidents***

**Staff Proposed**

Investigation reports and corrective action plans prepared by an RTA and filed with the Commission or Staff shall not be admissible as evidence in any action for damages based on or arising out of

matters covered therein unless specifically authorized by the Commission (Ref. PU Code Section 315).

### **RTAs' Proposed Edits**

Investigation reports and corrective action plans prepared by an RTA and submitted to the Commission staff and any information contained therein, shall not be discoverable and/or admissible as evidence in any civil action for damages based on or arising out of matters covered therein unless specifically authorized by the Commission and the RTA.

Further, investigation reports and corrective action plans shall be exempt from disclosure under the California Public Records Act (Govt. Code Sec. 6251, et seq.) and similar statutes and ordinances.

If a subpoena and /or request for public information seeking investigation reports, corrective action plans, or any related document or information is received by the Commission, the subpoena/request will be declined, and the RTA whose documents are being sought will be immediately notified of the subpoena or request.

### **Public Comment**

The Commission invites interested parties to submit written comments on the proposed GO 164-D, or submit alternative recommendations, for consideration by the Commission as described in the Preliminary Scoping Memo section of this order.

### **Summary of Proposed GO 164-D Changes**

The proposed GO 164-D amends several sections of GO 164-C. These changes are summarized below.



***Definitions:***

Proposed GO 164-D eliminates the following definitions: American Public Transportation Association (APTA) Guidelines, Business Day, Fatality, First Aid, Hazardous Condition, Immediate Notification, Notice, Protest, Protester, Replies to Protests, Serious Injury, and Unacceptable Hazardous Conditions.

Proposed GO 164-D redefines the following definitions: Certifiable Elements List, Existing Industry Standards, Hazard Analysis, Major Projects, Person, Rail Fixed Guideway System, Safety, Safety Certification Plan, Safety Design Criteria, Security, Staff, and System Safety Program Plan.

Proposed GO 164-D introduces the following new definitions: Contractor, Corrective Action Plan, FRA, Hazard, Individual, Investigation, Mainline, Passenger, Person, Rail Transit Agency, Rail Transit Controlled Property, Rail Transit Vehicle, and System Security Plan.

***Requirements for System Safety Program Plan (SSPP)***

Proposed GO 164-D identifies the minimum requirements for the RTA's development of its SSPP. In GO 164-C, some of these requirements were contained in the APTA Manual, which was incorporated by reference, into the regulation. Proposed GO 164-D requires Staff to oversee an annual review by the RTA of its SSPP to determine whether or not plan must be modified or updated. Staff must review and approve any modifications or updates.

***Requirements for System Security Plan***

Proposed GO 164-D identifies the minimum requirements for the RTA's development of its System Security Plan. It requires the RTA to develop and maintain a separate System Security Plan. Staff must oversee an annual review by the RTA of its System Security Plan to determine whether or not plan must be modified or updated. Staff must review and approve any modifications or

update. Additionally proposed GO 164-D requires the System Security Plan address the personal security of passengers, employees, and the general public. It allows Staff to perform inspections to assess whether the RTA complies with its System Security Plan.

### ***Requirements for Internal Safety and Security Audits***

Proposed GO 164-D continues to require the RTA to conduct annual internal safety and security audits. It requires Staff to review and approve the RTA's annual report documenting RTA internal safety and security audit findings. The RTA annual report must be accompanied by a formal letter of certification, signed by the RTA's chief executive officer, indicating that RTA is in compliance with its SSPP and Security Plan.

### ***Requirements for Hazard Management Process***

Proposed GO 164-D requires the RTA to develop a hazard management process as part of its SSPP, to be reviewed and approved by Staff. It requires the RTA to develop, in coordination with Staff, threshold for notification and reporting of hazards to Staff. Measures to eliminate or control hazards and the associated corrective actions are to be managed through the hazard management process, including RTA procedures for providing Staff for reports to track mitigation.

### ***Requirements for Reporting Accidents***

Proposed GO 164-D modifies the threshold for the notification and investigation of accidents. It requires RTAs to report the occurrence of accidents within two (2) hours. In those instances where the RTA shares track with the general railroad system and is subject to FRA notification requirements, the RTA must notify Staff within two (2) hours of an incident for which FRA is notified.

### ***Requirements for Investigating Accidents***

Proposed GO 164-D requires each RTA to investigate, on behalf of the Commission, all accidents meeting the notification and investigation thresholds. Staff may also perform separate, independent investigations at its own discretion. The proposed GO requires Staff to review and approve all procedures that will be used to conduct an investigation on its behalf.

In the event Staff does not accept the RTA's investigative report, it must either conduct its own investigation, or formally transmit its dissent to the findings of the accident investigation to the RTA, and negotiate with the RTA until a resolution on the findings is reached.

Furthermore, proposed GO 164-D includes the requirement that following any accident investigation conducted by the NTSB, the Staff and the RTA shall meet to address the NTSB findings and determine the appropriate corrective actions to be taken based on those findings and all other information available on the incident.

### ***Requirements for Corrective Action Plan***

Proposed GO 164-D requires the RTA to develop corrective action plans to address findings from accidents and Staff's three-year safety and security review. The proposed GO requires each RTA to submit an investigation corrective action plan to Staff within 60 calendar days of the occurrence of the accident as part of the investigation report or in a separate document. If the corrective action plan implementation takes longer than 60 calendar days to complete, the RTA shall submit interim status reports every 30 calendar days. The corrective action plan shall identify the action to be taken with an accompanying implementation schedule, and the individual or department responsible for the implementation.

Each RTA shall submit a corrective action plan based on the recommendations contained in the Staff triennial safety and security review reports as adopted by the Commission. RTA shall submit each corrective action plan to Staff for review and approval. The corrective action plan shall identify the action to be taken with an accompanying implementation schedule, and the individual or department responsible for the implementation. RTA shall submit to Staff corrective action plan interim status reports according to the Commission Resolution.

If Staff finds the corrective action plan acceptable, Staff shall issue a formal letter to the RTA approving the corrective action plan. If rejected, Staff shall identify the areas in the plan to be corrected. If the RTA does not agree with the rejection, RTA shall negotiate with Staff until resolution is achieved. If no resolution is achieved, the RTA shall appeal to the Commission pursuant to the Commission Rules of Practice and Procedure. Each RTA shall submit to Staff verification that the corrective action(s) has been implemented as described in the corrective action plan, or that a proposed alternate action(s) has been implemented subject to Staff approval.

### ***Requirements for At-Grade Rail Crossings***

Proposed GO 164-D establishes new procedures for Commission approval of the construction of at-grade crossings.

The new procedures require the RTA to consult with Staff in the initial phase of a new crossing project. The initial phase is defined as during either development of Draft Environmental Impact Report or prior to initiating preliminary engineering. The purpose of the consultation is for the RTA to provide justification to Staff why each at-grade crossing is not a good candidate for closure or grade-separation.

In the second phase, defined as during the preliminary engineering phase of the project, the RTA shall request Commission authorization for every at-grade crossing by either filing a Rail Crossing Hazard Analysis Report (RCHAR) or filing a formal application in accordance with Commission's Rules of Practice and Procedures.

If the RTA chooses to request Commission authorization by filing a RCHAR, then procedures are established for review and approval of requested authorization through a Commission Resolution.

### **Preliminary Scoping Memo**

Pursuant to Rule 7.1(d) of the Commission's Rules of Practice and Procedure, this rulemaking is preliminarily classified as a quasi-legislative proceeding and may require hearings. In the preceding sections, we have listed the issues to be considered in this rulemaking. This is a preliminary list of issues. The scope of this rulemaking may be expanded once we take comments from parties and conduct the initial Prehearing Conference (PHC). Comments are due 60 days after the effective date of this order. They must be filed with the Presiding Officer and copies served on all parties on the initial service list, and on such other parties as may be added at the PHC.

The Presiding Officer will convene a PHC, inform respondents and other interested parties when to file PHC statements, develop a revised service list for this proceeding, and further delineate issues related to scope and schedule for this proceeding. The date of the PHC will be set by the Presiding Officer.

The initial service list is attached to this order and shall be used for service until a revised service list for this proceeding is established at the PHC. Persons who want to become a "party" to this proceeding shall appear at the PHC, or

subsequent hearings, and fill out the "Notice of Party/Non-Party Status" form (appearance form).

Those persons who do not want to be parties, and only want notice of the hearings, rulings, proposed decisions, and decisions may either fill out an appearance form at hearing, or they may mail a written request to the Process Office requesting that they be added to the service list for information only.

Those persons employed by the State of California who are interested in this proceeding may request that they be added to the "state service" section of the service list either by appearing at the PHC or at the formal hearing and filling out an appearance form, or by mailing a written request for "state service" status to the Process Office. Parties are obligated to serve all documents they may submit or file in this proceeding on all names appearing on the state service list.

The Process Office shall compile the service list based on the appearances at the first PHC, and shall publish it on the Commission's website, <http://www.cpuc.ca.gov>, as soon as practicable.

Any party interested in participating in this rulemaking who is unfamiliar with the Commission's procedures may contact the Commission's Public Advisor Office in Los Angeles (866) 849-8391, or in San Francisco (866) 849-8390 for assistance.

Consistent with Rule 6.2, we expect this proceeding to be concluded within 18 months.

### **Ex Parte Communications**

This proceeding is subject to Rule 8.2, which specifies standards for engaging in ex parte communications and the reporting of such communications. Pursuant to Rules 8.2(a) and 8.4, ex parte communications will be allowed in this

proceeding without any restrictions or reporting requirements unless and until the Commission modifies this determination of category.

Therefore, **IT IS ORDERED** that:

1. A rulemaking is instituted on the Commission's own motion to revise General Order 164-C, Rules and Regulations Governing State Safety Oversight of Public Transit Guideway Systems, to conform to the Federal Transit Administration's 49 CFR Part 659 Rail Fixed Guideway Systems; State Safety Oversight; Final Rule, dated April 29, 2005.

2. The seven rail transit agencies, Bay Area Rapid Transit District, Los Angeles County Metropolitan Transportation Authority, Sacramento Regional Transit District, San Diego Trolley Incorporated, San Francisco Municipal Railway, Santa Clara Valley Transportation Authority, North County Transit District and other public transit guideways as identified in the attached service list, are made respondents to this proceeding.

3. The Executive Director shall cause this Order Instituting Rulemaking to be served on the respondents and on the service list.

4. A Prehearing Conference (PHC) will be scheduled to establish a procedure that will allow the Commission staff and all interested parties an opportunity to participate in the adoption of the revised General Order (GO) 164-D.

5. A schedule should be established for adoption of the revised GO 164-D. The Commission will assign an Administrative Law Judge to preside over these proceedings. Attached to this rulemaking is a copy of the proposed GO 164-D.

6. The Presiding Officer shall convene a PHC, inform respondents and other interested parties when to file PHC statements, develop a service list for this proceeding and further delineate issues related to scope and schedule for this proceeding.

7. The temporary service list is attached and shall be used for service of all pleadings until a service list for this proceeding is established. The official service list for this proceeding shall be created by the Process Office and posted on the Commission's website ([www.cpuc.ca.gov](http://www.cpuc.ca.gov)) as soon as practicable after the first PHC. Parties may also obtain the service list by contacting the Commission's Process Office at (415) 703-2021.

8. This rulemaking is preliminarily categorized as quasi-legislative as that term is defined in Rule 1.3(d) of the Commission's Rules of Practice and Procedure.



9. Persons interested in having their names added to the service list for this proceeding shall follow the procedures described in this order.

This order is effective today.

Dated October 5, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners

**ATTACHMENT**

**SERVICE LIST**

**R.06-10-004**

Vijay Khawani  
LACMTA  
One Gateway Plaza  
Los Angeles, CA 90012-2952

John H. Welborne  
Angels Flight Railway  
P.O. Box 712345  
Los Angeles, CA 90071

Benjamin H. Scharf  
Santa Clara Valley Transportation Authority  
3331 North First Street - Bldg C-2  
San Jose, CA 95134

Michael Taborn  
Federal Transit Administration  
400 Seventh Street SW  
Washington, DC 20590

Leonard Hardy  
BART  
300 Lakeside Drive, 18<sup>th</sup> Floor  
Oakland, CA 94612

Edward Carranza, Jr.  
Federal Transit Administration  
201 Mission Street  
San Francisco, CA 94105

Rufus Francis  
SRTD  
P.O. Box 2110  
Sacramento, CA 95812-2110

James P. Jones  
United Transportation Union  
1005 - 12<sup>th</sup> Street, Suite 4  
Sacramento, CA 95814-3920

Mike Cannell  
Foothill Extension Construction Authority  
406 E. Huntington Drive, Suite 202  
Monrovia, CA 91016-3633

Peter D. Tereschuck  
San Diego Trolley, Inc.  
1255 Imperial Avenue, Suite 900  
San Diego, CA 92101

Annabelle Boyd  
BCG Trans  
1145 Grove Park Lane  
Earlysville, VA 22936

Michael Kirchanski  
San Francisco Municipal Railway  
949 Presidio Avenue, Room 219  
San Francisco, CA 94103

Jim Lithicum  
SANDAG  
401 B Street, Suite 800  
San Diego, CA 92101

Robert Hertan  
MUNI  
875 Stevenson Street, Suite 204  
San Francisco, CA 94103

Don Bullock  
North County Transit District  
810 Tremont Street  
Oceanside, CA 92054

Joshua Shaw  
California Transit Association  
1415 L Street Suite 200  
Sacramento, CA 95814

Kurt Arend  
Port of Los Angeles Red Car Line  
425 S. Palos Verdes Street  
San Pedro, CA 90731

Lee Mitchell  
AirTrain/ San Francisco International Airport  
PO Box 8097  
San Francisco, CA 94128

Rich Clark  
CPSD  
505 VAN NESS AVE  
San Francisco, CA 94102

Pat Berdge  
CPUC  
505 VAN NESS AVE  
San Francisco, CA 94102

Georgetta Gregory  
CPSD  
320 WEST 4TH STREET SUITE 500  
Los Angeles, CA 90013

Process Office  
Administrative Law Judge Division  
505 VAN NESS AVE Room 2000  
San Francisco, CA 94102

CPUC Executive Division  
320 WEST 4TH STREET SUITE 500  
Los Angeles CA 90013

**(END OF ATTACHMENT)**

**GENERAL ORDER NO. 164-D**

(Supersedes General Order No. 164-C)

**PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

**RULES AND REGULATIONS GOVERNING STATE SAFETY  
OVERSIGHT OF RAIL FIXED GUIDEWAY SYSTEMS**

**Adopted September 20, 1996. Effective September 20, 1996.**

**(D.96-09-081 in R.96-04-021)**

**Amended September 3, 1997. Effective October 1, 1997.**

**Resolution No. ST-27**

**Amended December 2, 1999. Effective December 2, 1999.**

**Resolution No. ST-44**

**Adopted February 27, 2003. Effective February 27, 2003.**

**(D.03-02-048 in R.02-01-009)**

**Amended [month] [date], [year]. Effective [month] [date], [year].**

**(D. \_\_\_\_\_ in R.06-10-004)**

TABLE OF CONTENTS

<i>Section</i>	<i>Title</i>	<i>Page No.</i>
1	General Provisions	3
2	Definitions	4
3	Requirements for System Safety Program Plans	7
4	Requirements for System Security Plans	14
5	Requirements for Internal Safety and Security Audits	16
6	Requirements for Hazard Management Process	18
7	Requirements for Reporting Accidents	18
8	Requirements for Investigating Accidents	20
9	Requirements for Corrective Action Plans	22
10	Requirements for At Grade Rail Crossings	24
11	Requirements for Safety Certification Plan	27
12	Requirements for Safety Certification Verification Report	29
13	Commission Approval	30

**IT IS ORDERED** that the following rules and regulations governing the safety oversight of Rail Transit Agencies and Rail Fixed Guideway Systems shall hereafter be observed in this State unless otherwise directed by the California Public Utilities Commission (Commission).

## **1 GENERAL PROVISIONS**

- 1.1 *Authority.* These rules and regulations are authorized by and implement the provisions of 49 U.S.C. 5330, Intermodal Surface Transportation Efficiency Act of 1991, Sec. 3029, Title 49 of the Code of Federal Regulation, Part 659, Rail Fixed Guideway Systems, State Safety Oversight; Final Rule, and Sections 778 and 99152 of the California Public Utilities Code.
- 1.2 *Applicability.* These rules and regulations are applicable to all Rail Transit Agencies and Rail Fixed Guideway Systems in California.
- 1.3 *Additional Rules.* The Commission may make such additional rules and regulations or changes to these rules and regulations as necessary for the purpose of safety.
- 1.4 *Exemptions or Modifications.* Requests for exemptions from or modifications of these rules and regulations, must be filed by Rail Transit Agencies, and shall contain a full statement of the reasons justifying the request and demonstrating that safety is not reduced. Any exemption or modification so granted shall be limited to the particular matter covered by the request. All exemptions and modifications shall require Commission approval.

## **2 DEFINITIONS**

- 2.1 *Certifiable Elements List* means a list that contains all facilities, systems, rail at-grade crossings, and other items that are subject to safety certification due to their safety functions.
- 2.2 *Contractor* means an entity that performs tasks required on behalf of the Commission or Rail Transit Agency (RTA).
- 2.3 *Corrective Action Plan* means a plan developed by an RTA that describes the actions the RTA will take to minimize, mitigate, control, correct, or eliminate hazard, and the schedule for implementing those actions.
- 2.4 *Existing Industry Standards* means the currently accepted industry and professional engineering standards and/or guidelines relating to the design, construction, operation, and maintenance of Rail Fixed Guideway Systems such as ANSI, APTA, AREMA, ASCE, ASEE, ASME, FRA, FTA, IEEE, NFPA, and others.
- 2.5 *FRA* means the Federal Railroad Administration
- 2.6 *FTA* means the Federal Transit Administration.
- 2.7 *Hazard* means any real or potential condition (as defined in the RTA'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.
- 2.8 *Hazard Analysis* means any analysis performed to identify hazards for the purpose of their elimination, mitigation, or control.
- 2.9 *Individual* means a passenger; employee; contractor; other



- rail transit facility worker; pedestrian; trespasser; or any person on rail transit-controlled property.
- 2.10 *Investigation* means the process used to determine the causal and contributing factors of an accident or hazard, so that the actions can be identified to prevent recurrence.
- 2.11 *Mainline* means all tracks used for the purpose of the movement of passengers on rail transit vehicles. Mainline does not include storage tracks, yard tracks or other tracks used for the purpose of storage.
- 2.12 *Major Projects (Projects)* means new rail systems or extensions, the acquisition and integration of new vehicles and safety critical technologies into existing service or major safety critical redesign projects, excluding functionally and technologically similar replacements.
- 2.13 *May* is permissive.
- 2.14 *Passenger* means a person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.
- 2.15 *Person* means any individual.
- 2.16 *Rail Fixed Guideway System (RFGS)* means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, cable car, automatic people mover, or automated guideway transit system used for public transit and not regulated by the FRA or not specifically exempted by statute from Commission oversight.
- 2.17 *Rail Transit Agency (RTA)* means the entity that plans, designs, constructs, and/or operates a RFGS.
- 2.18 *Rail Transit-Controlled Property* means property that is used by the RTA and may be owned, leased, or maintained by the

RTA.

- 2.19 *Rail Transit Vehicle* means an RTA's rolling stock, including but not limited to passenger and maintenance vehicles.
- 2.20 *Safety* means freedom from harm resulting from unintentional acts or circumstances.
- 2.21 *Safety Certification* is the series of acts or processes that collectively verify the safety readiness of a Project for public use.
- 2.22 *Safety Certification Plan (SC Plan)* means a Project-specific document developed by an RTA, which ensures that elements critical to safety are planned, designed, constructed, analyzed, tested, inspected, implemented, employees trained and rules and procedures followed, in compliance with RFGS and regulatory safety requirements.
- 2.23 *Safety Certification Verification Report (SCVR)* means a Project-specific document that will be the final certificate of compliance verifying that the Project complies with all safety requirements identified by an RTA's SC Plan.
- 2.24 *Safety Design Criteria* means the organized listing of safety codes, regulations, rules, design procedures, existing industry standards, recommended practices, analyses, handbooks and manuals prepared to provide guidance to Project designers in development of technical specifications that meet minimum safety parameters.
- 2.25 *Security* means freedom from harm resulting from intentional acts or circumstances.
- 2.26 *Shall* is mandatory.
- 2.27 *Staff* means Commission employees responsible for safety

oversight of RTAs.

2.28 *System Safety Program Plan (SSPP)* means a document adopted by an RTA detailing its safety policies, objectives, responsibilities, and procedures.

2.29 *System Security Plan (Security Plan)* means a document adopted by an RTA detailing its security policies, objectives, responsibilities, and procedures.

### **3 REQUIREMENTS FOR SYSTEM SAFETY PROGRAM PLANS**

3.1 Each new RTA shall submit its initial SSPP to Staff for Commission approval. No new RTA shall begin transit operations prior to Commission approval of its initial SSPP. Each RTA shall annually certify, with a letter to Staff, that it has reviewed the SSPP to determine whether the plan should be modified or updated. If an RTA determines revisions to the SSPP is necessary, the RTA shall submit the revised SSPP for Staff approval. Staff shall issue a formal letter to the RTA approving the revised SSPP.

3.2 The SSPP shall include, at a minimum:

- a. A policy statement signed by the RTA's chief executive that endorses the safety program and describes the authority that establishes the SSPP.
- b. A clear definition of the goals and objectives for the safety program and stated management responsibilities to ensure they are achieved.
- c. An overview of the RTA's management structure, including:
  - i. An organization chart;

- ii. A description of how the safety function is integrated into the entire RTA organization; and
  - iii. The line of authority and responsibility for safety related matters.
- d. The process used to control changes to the SSPP, including:
  - i. Specifying annual assessment of updating the SSPP; and
  - ii. Requiring coordination with the Commission, including timeframes for submission, revision, and approval.
- e. 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, by position and management accountability, specified matrices and/or narrative format; and
  - ii. Safety related tasks to be performed by other rail transit departments, by position and management accountability, specified matrices and/or narrative format.
- f. A description of the process used by the RTA to implement its hazard management program including activities for:
  - i. Hazard identification;
  - ii. Hazard investigation, evaluation and analysis;
  - iii. Hazard mitigation, control, and elimination;
  - iv. Hazard tracking; and
  - v. Requirements for on-going reporting to the Commission relating to hazard management activities

and status.

- g. A description of the process used by the RTA to ensure that safety concerns are addressed in modifications to existing systems, vehicles, and equipment, which do not require formal safety certification.
- h. A description of the safety certification process used to ensure that safety concerns and hazards are adequately addressed prior to initiation of Projects and subsequent Projects to extend, rehabilitate, or modify an existing system, or to replace vehicle and equipment. Refer to Sections 11 and 12 for Project Requirements for Safety Certification Plan and Requirements for Safety Certification Verification Reports.
- i. A description of the process used to collect, maintain, analyze, and distribute safety data within the RTA, to ensure the safety function receives the necessary information to support implementation of the system safety program.
- j. A description of the process used 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. Ensuring full participation and coordination with the Commission.
- k. A description of the process used 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, including plan for and frequency of emergency drills;
  - 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.
- l. A description of the process used to ensure that planned and scheduled internal safety reviews are performed to evaluate compliance with the SSPP, including:
  - i. Identification of the departments and functions subject to review;
  - ii. Responsibility for scheduling reviews;
  - iii. Process for conducting reviews, including the development of the checklists and procedures and issuing of findings;
  - iv. Reporting requirements;
  - v. Tracking the status of recommendations and corrective action plans; and

- vi. Ensuring full participation and coordination with the Commission.
- m. A description of the process used to develop, maintain, and ensure compliance with rules and procedures 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 rules and procedures by employees, such as performance testing;
  - iii. Techniques used to assess the effectiveness of supervision relating to implementation of operating and maintenance rules; and
  - iv. Process for documenting results and incorporating them into the hazard management program
- n. 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 in the hazard management process.
- o. A description of the maintenance audits and inspections program, including identification of the affected facilities and equipment, maintenance cycles, documentation required, and the process for integrating identified problems into the hazard

management process.

- p. A description of the training and certification program for employees and contractors, including:
  - i. Categories of safety-related work requiring training and certification and the required retraining and recertification period for each category;
  - ii. A description of the training/retraining and certification/recertification program for employees and contractors in safety-related positions;
  - iii. Process used to maintain and access employee and contractor training records; and
  - iv. Process used to assess compliance with training and certification requirements.
- q. A description of the configuration management control process, including:
  - i. The authority to make configuration changes;
  - ii. Process for making changes; and
  - iii. Process and assurances for notifying all involved departments.
- r. 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, RTA property; and
  - ii. Processes for ensuring the employees and contractors know and follow the requirements.
- s. A description of the hazardous materials program,



- including the process used to ensure knowledge of and compliance with program requirements
  - t. A description of the drug and alcohol program and the process used to ensure knowledge of and compliance with program requirements.
  - u. A description of the measures, controls, and assurances in place to ensure that safety principles, requirements and representatives are included in the procurement process.
- 3.3 Staff may perform inspections, investigations, and reviews of the design, construction, operation, maintenance and administration of each RTA to assess whether the actual safety procedures and practices of the RTA comply with its SSPP. RTA shall permit Staff access to all facilities, documents, and records and provide reports when requested.
- 3.4 Each RTA shall undergo an on-site review of the implementation of its SSPP by Staff at least once every three years to verify compliance with and evaluate the effectiveness of the SSPP. Staff may conduct the on-site review with its own personnel or by employing the services of a contractor other than the RTA.
- 3.5 Following each triennial on-site review, the Commission will issue a resolution based upon the Staff findings and recommendations, including an analysis of the efficacy of the SSPP and the need, if any, for updating the plan.

#### **4 REQUIREMENTS FOR SYSTEM SECURITY PLANS**

- 4.1 Each new RTA shall submit its initial Security Plan to Staff for Commission approval. No new RTA shall begin transit operations prior to Commission approval of its initial Security Plan. Each RTA System Security Plan must be developed and maintained as a separate document and shall not be part of the RTA SSPP. Each RTA shall annually certify, with a letter to Staff, that it has reviewed the Security Plan to determine whether the plan should be modified or updated. If an RTA determines revisions to the Security Plan is necessary, the RTA shall submit the revised Security Plan for Staff approval. Staff shall issue a formal letter to the RTA approving the revised Security Plan.
- 4.2 The Security Plan shall address the personal security of passengers, employees, and the general public. FTA's applicable report shall serve as a set of guidelines for preparation of the Security Plan. Procedural details that the RTA classifies as confidential information to prevent or mitigate breaches of security shall not be revealed in the Security Plan. RTAs should identify all information they deem confidential for security purposes pursuant to Public Utilities Code Section 583.
- 4.3 At a minimum, the Security Plan shall address the following:
  - a. Identify the policies, goals, and objectives for the security program endorsed by RTA's chief executive (e.g. Chief Executive Officer, General Manager, President, etc.)
  - b. The process for managing threats and vulnerabilities

during operations, and for Projects, extensions, new vehicles and equipment, including integration with the safety certification process.

- c. The controls in place that address the personal security of passengers and employees.
  - d. The process for conducting internal security reviews to evaluate compliance and measure the effectiveness of the Security Plan.
  - e. The process for making the Security Plan and accompanying procedures available to the Commission for review and approval.
  - f. The process for notifying, investigating, and reporting security breaches that meet the accident notification and investigation thresholds in Sections 6 and 7.
- 4.4 Staff may perform inspections, investigations, and reviews of the design, construction, operation, maintenance and administration of each RTA to assess whether the actual security procedures and practices of the RTA comply with its Security Plan. RTA shall permit Staff access to all facilities, documents, and records.
- 4.5 Each RTA shall undergo an on-site review of the implementation of its Security Plan by Staff at least once every three years to verify compliance with and evaluate the effectiveness of the Security Plan. Staff may conduct the on-site review with its own personnel or by employing the services of an organization other than the RTA.
- 4.6 Following each triennial on-site review, the Commission will issue a decision based upon Staff findings and

recommendations, including an analysis of the efficacy of the Security Plan and the need, if any, for updating the plan.

## **5 REQUIREMENTS FOR INTERNAL SAFETY AND SECURITY AUDITS**

- 5.1 Each RTA shall annually perform planned and scheduled internal safety and security audits to evaluate compliance and measure the effectiveness of its SSPP and Security Plan.
- 5.2 All of the elements described in Sections 3 and 4, and the RTA's SSPP and Security Plan shall be included in the scope of the activities to be audited by each RTA. This total scope must be completely covered by the internal safety and security audits conducted within a 3-year period, and every 3-year period thereafter.
- 5.3 Each RTA shall prepare a schedule of internal safety and security audits to be performed during each calendar year. Each RTA shall submit this schedule, including any subsequent changes, to Staff at least 30 calendar days before any scheduled audits.
- 5.4 Each RTA shall perform each internal safety and security audit in accordance with written checklists by personnel technically qualified to verify compliance and judge the effectiveness of the SSPP activity or Security Plan activity being audited. Each RTA shall provide the checklists to Staff prior to the audit. The auditors may be organizationally assigned to the unit responsible for management of the activity being audited, but they must be independent from the first line of supervision responsible for

performance of the activity being audited.

- 5.5 Each RTA shall document the internal safety and security audit in an annual report that covers the audits performed during each calendar year.
- a. The annual report shall state the results of each audit in terms of the adequacy and effectiveness of the SSPP and the Security Plan. It shall include the status of subsequent findings and corrective actions.
  - b. Prior to the 15<sup>th</sup> of February each year, the RTA shall submit to Staff the annual report for the internal safety and security audits performed during the preceding year.
  - c. The annual report must be accompanied by a formal letter of certification signed by the RTA's chief executive indicating that the RTA is in compliance with its SSPP and Security Plan. If the RTA determines that findings from its internal safety and security audits indicate that the RTA is not in compliance with its SSPP or Security Plan, the chief executive must identify the activities the RTA will take to achieve compliance.
  - d. Staff shall approve or reject the RTA's Internal Safety and Security Audit Annual Report. If rejected, Staff shall identify the areas in the report to be corrected. The RTA shall revise the rejected report and resubmit to Staff. If the RTA does not agree with the rejection, RTA shall negotiate with Staff until resolution is achieved. If no resolution is achieved, the RTA shall

appeal to the Commission pursuant to the Commission Rules of Practice and Procedure.

## **6 REQUIREMENTS FOR HAZARD MANAGEMENT PROCESS**

Each RTA SSPP's discussion of the hazard management process shall include a process to identify and resolve hazards during operations, including any hazards resulting from system extensions and modifications, operational changes or other changes within the rail transit environment. The hazard management process must, at a minimum:

- a. Define the approach to hazard management and the implementation of an integrated system-wide hazard resolution process.
- b. Specify the sources of, and mechanisms to support the on-going identification of hazards.
- c. Define the process by which identified hazards are evaluated and prioritized for elimination or control.
- d. Identify the mechanism used to track to resolution the identified hazard(s).
- e. Define minimum thresholds for the notification and reporting of hazard(s) to Staff.
- f. Specify the process for reporting of hazard resolution activities to Staff.

## **7 REQUIREMENTS FOR REPORTING ACCIDENTS**

- 7.1 Each RTA shall submit immediately reportable incident reports to Staff. An immediately reportable incident is one, which meets or exceeds the thresholds established in

Section 7.2. The RTA shall notify the Staff representative or designee within two hours of any immediately reportable incident involving a rail transit vehicle or taking place on a rail transit-controlled property. Notification shall be by telephone to the designated contact person.

7.2 Each RTA shall immediately notify Staff of incidents where one of the following occurs:

- a. A fatality at the scene; or where an individual is confirmed dead within 30 calendar days of a rail transit-related incident;
- b. Injury to two or more individuals requiring immediate medical attention away from the scene;
- c. Property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities, and non-transit property that equals or exceeds \$25,000;
- d. A collision at an at-grade crossing;
- e. A mainline derailment;
- f. A collision with an individual on a rail right-of-way;
- g. A collision between a rail transit vehicle and a second rail transit vehicle, or a rail transit non-revenue vehicle;
- h. An evacuation due to life safety reasons

7.3 The Rail Transit Agency shall provide as part of the notification:

- a. The time and date of the incident;
- b. The location of the incident, including CPUC grade

- crossing number if applicable;
  - c. The number of fatalities or injuries;
  - d. The rail transit vehicles involved in the incident, if any;
  - e. The factor from Section 7.2 that makes the incident immediately reportable; and
  - f. The emergency response organizations at the scene of the incident.
- 7.4 An RTA that shares track with the general railroad system and is subject to the Federal Railroad Administration incident notification requirements, shall, within two hours, notify Staff of any incident requiring notification to the Federal Railroad Administration.
- 7.5 Each RTA shall submit written accident reports on forms prescribed by Staff. Each RTA shall submit such written reports within 30 calendar days after the last day of the month in which the accident occurred. Each RTA shall file written reports for all immediately reportable accidents.
- 7.6 Each RTA shall file a monthly accident corrective action summary report. Each RTA shall file this report on a form prescribed by Staff within 30 calendar days from the last day of the month covered. Each RTA shall file the monthly summary report whether or not any reportable accident occurred during the month.

## **8 REQUIREMENTS FOR INVESTIGATING ACCIDENTS**

- 8.1 Each RTA shall investigate, on behalf of the Commission, all reportable accidents involving rail transit vehicle or taking place on rail transit-controlled property. Staff may also



perform separate, independent investigations at its own discretion

8.2 The accident investigations performed by each RTA shall be conducted in accordance with written procedures. Each RTA Accident Investigation Procedure, including any changes, shall be submitted to Staff for approval.

8.3 When investigating accidents that require immediate notification per 7.2, the RTA shall:

- a. Notify Staff when additional investigation is conducted by an investigation team or panel performing interviews, questioning witnesses, or conducting inspections, measurements, examinations, or tests, etc. as part of the investigation beyond the initial on scene investigation;
- b. Provide for Staff's participation to the fullest extent possible in accident investigations and make all information related to the accident investigation, including data from event recorders, available to Staff for review;
- c. Document in a written report each item investigated, the investigation findings, the most probable cause of the accident, contributing causes, and recommendations for corrective action to prevent a recurrence of the accident;
- d. Prepare a corrective action plan as a part of the investigation report or in a separate document. For corrective action plan detail refer to Section 9.
- e. Submit its final investigation report within 60 calendar

days of the occurrence of the accident. If the investigation takes longer than 60 calendar days to complete, the RTA shall submit interim status reports every 30 calendar days. If Staff finds the final investigative report acceptable, Staff shall issue a formal letter to the RTA approving the report. If rejected, Staff shall identify the areas in the report to be corrected. If the RTA does not agree with the rejection, the Staff shall either, conduct its own investigation, or formally transmit its dissent to the findings of the accident investigation, report its dissent to the rail transit agency, and negotiate with the rail transit agency until a resolution on the findings is reached.

- 8.4 Investigation reports and corrective action plans prepared by an RTA and filed with the Commission or Staff shall not be admissible as evidence in any action for damages based on or arising out of matters covered therein unless specifically authorized by the Commission (Ref. PU Code 315).

## **9 REQUIREMENTS FOR CORRECTIVE ACTION PLANS**

- 9.1 Rail Transit Agencies shall develop corrective action plans for the following:
- a. Results from investigations, in which identified causal and contributing factors are determined by RTA or Staff as requiring corrective actions.
  - b. Recommendations contained in the Staff triennial safety and security review reports as adopted by the

Commission.

- 9.2 Each RTA shall submit an investigation corrective action plan to Staff within 60 calendar days of the occurrence of the accident as part of the investigation report or in a separate document. If the corrective action plan implementation takes longer than 60 calendar days to complete, the RTA shall submit interim status reports every 30 calendar days. The corrective action plan shall identify the action to be taken with an accompanying implementation schedule, and the individual or department responsible for the implementation.
- 9.3 Each RTA shall submit a corrective action plan based on the recommendations contained in the Staff triennial safety and security review reports as adopted by the Commission. The corrective action plan shall identify the action to be taken with an accompanying implementation schedule, and the individual or department responsible for the implementation. Each RTA shall submit to Staff corrective action plan interim status reports according to the Commission Resolution.
- 9.4 Each RTA shall submit each corrective action plan to Staff for review and approval. If Staff finds the corrective action plan acceptable, Staff shall issue a formal letter to the RTA approving the corrective action plan. If rejected, Staff shall identify the areas in the plan to be corrected. If the RTA does not agree with the rejection, RTA shall negotiate with Staff until resolution is achieved. If no resolution is achieved, the RTA shall appeal to the Commission pursuant to the Commission Rules of Practice and Procedure.

- 9.5 If the National Transportation Safety Board (NTSB) investigates an accident involving an RTA, Staff and the RTA shall meet to address NTSB's findings and determine the appropriate corrective actions to be taken based on those findings and all other information available on the incident.
- 9.6 Each RTA shall submit to Staff verification that the corrective action(s) has been implemented as described in the corrective action plan, or that a proposed alternate action(s) has been implemented subject to Staff approval.

## **10 REQUIREMENTS FOR AT-GRADE RAIL CROSSINGS**

- 10.1 The procedures described in this section apply to the construction of all at-grade crossings established after the effective date of this General Order.
- 10.2 In the initial phase, the RTA shall consult with Staff during the process of developing a Draft Environmental Impact Report (DEIR) for projects that requires such a document to be prepared. For other proposed crossings, where a DEIR is not required, the RTA shall consult with Staff prior to initiating preliminary engineering. The purpose of this consultation is for the RTA to provide to Staff justification, with supporting evidence, why each at-grade crossing is not a good candidate for closure or grade separation. Staff shall provide feedback by a letter to RTA. The following information is recommended to be provided to Staff as part of the consultation:
- a. Current and projected railroad operations - number, type (must indicate if crossing is planned to be used by other types of trains such as freight trains), and speed(s) of trains;

- b. Current and projected highway usage – number, type (cars, trucks, buses, pedestrians, bicyclists, etc.), and speed of vehicles;
- c. Existing and projected facilities that generate traffic in the area, such as shopping centers, major industries, schools, entertainment venues, or emergency services (hospitals, fire stations, police departments, etc.);
- d. Preliminary drawings and/or aerial photographs, or site maps of the crossing and vicinity – include information on nearby roads to determine if they can accommodate additional vehicular traffic if existing intersections are eliminated.

10.3 In the second phase, the RTA shall request Commission authorization for every crossing during the preliminary engineering phase of the project. At its option, the RTA may choose either of the following processes to request Commission approval:

- i. Filing a Rail Crossing Hazard Analysis Report (RCHAR) as outlined below, or
- ii. Filing a formal application in accordance with the Commission's Rules of Practice and Procedures.

10.4 If the RTA chooses option (i) in Section 10.3, it shall submit to Staff an RCHAR listing every at-grade rail crossing. The RCHAR shall include the following:

- a. Detailed engineering drawings for each at-grade crossing
- b. Proposed rail operations
- c. Updates of data provided during consultation (see Section 10.2)

- d. Analysis of identified hazards at each proposed at-grade crossing, such as:
    - Queuing on tracks
    - Pedestrian movements
    - Turning movements
    - Sightlines
  - e. Identification of hazard mitigation measures, such as:
    - Crossing warning devices
    - Active and passive signs
    - Median islands
    - Fencing
- 10.5 After an RCHAR that meets the requirements of Section 10.4 is submitted, Staff shall schedule field diagnostic review meetings, with all affected agencies, within 60 days after receiving the RCHAR, to assess the safety aspects of the proposed at-grade crossing design(s). Within 90 days after the field diagnostic reviews are completed, Staff shall provide preliminary recommendations to the RTA pertaining to the design of each at-grade crossing.
- 10.6 If the RTA accepts Staff's preliminary recommendations, then those recommendations will be considered to be final and the RTA shall submit plans incorporating the changes for approval by Commission Resolution.
- 10.7 If the RTA does not accept Staff's preliminary recommendations, then the RTA can request a meeting with Staff to discuss the design of the at-grade crossings. Within 30 days after this meeting, Staff shall provide their final recommendations to the RTA. If the RTA accepts Staff's final recommendations, the RTA shall submit final

plans incorporating the changes for approval by Commission Resolution.

- 10.8 If the RTA and Staff cannot reach agreement on the design of specific at-grade crossings, then the RTA may file a formal application with the Commission for those crossings, in accordance with Section 10.3 (ii), where agreement was not reached
- 10.9 Nothing in this GO shall preclude the RTA from filing a formal application in accordance with Section 10.3 (ii) at any point in the process.

## **11 REQUIREMENTS FOR SAFETY CERTIFICATION PLAN**

- 11.1 Each RTA shall be responsible for Safety Certification of all Projects that initiate preliminary engineering after February 27, 2003. The RTA shall ensure that all entities involved in design, construction, operation, and maintenance of all Projects shall comply with the requirements of the Safety Certification process.
- 11.2 Each RTA shall prepare a Project specific Safety Certification Plan (SC Plan) for each of its Projects. Applicable FTA guidelines shall be used as a reference.
- 11.3 Each RTA shall submit the SC Plan to Staff for review and Commission approval during the preliminary engineering phase. The RTA shall revise and expand the SC Plan as the Project progresses, as necessary. The RTA shall file any revision of the SC Plan with Staff. Within 45 calendar days, Staff shall approve or reject the proposed revisions.
- 11.4 The SC Plan shall address safety certification management including organizational authority and responsibilities, safety

certification activities, processes and procedures, documentation requirements and responsibilities, and reporting requirements.

- 11.5 The SC Plan shall describe the controls used to maintain effective communications and liaison with Staff throughout the life of the Project. It shall also include procedures to obtain and adequately address Staff's written comments on safety and security design reviews conducted throughout Project development lifecycle.
- 11.6 The SC Plan shall identify the process used to verify and document conformance with safety and security requirements during design, construction, testing, and operational readiness. The SC Plan shall include the following:
- a. The hazard management process to conduct safety hazard analyses and safety hazard resolution. The document shall include a list of hazard analyses to be performed. Each RTA shall submit hazard analyses to Staff upon request.
  - b. A list of all safety and security design criteria that will be used in the planning, design, and construction of Projects.
  - c. Certifiable elements and sub-elements list.
  - d. Safety certification audits conducted in accordance with written checklists to verify compliance and judge the effectiveness of the SC Plan.
  - e. Format of Conformance checklists, and a list of the actual checklists as they become available: the actual checklists shall be submitted upon request.



- f. Safety Certification milestones.
- g. Procedure for updates.

## **12 REQUIREMENTS FOR SAFETY CERTIFICATION**

### **VERIFICATION REPORT**

- 12.1 Each RTA shall submit a Safety Certification Verification Report to verify Project compliance with the SC Plan.
- 12.2 Each RTA shall submit the SCVR to Staff at least 21 calendar days prior to the start of service. The SCVR shall certify that: (a) all requirements of the SC Plan have been completed except for listed open items, if any, (b) that all safety hazards have been adequately mitigated, and (c) adequate restrictions/workarounds are in place to ensure the safety of operations until open items are closed. Staff shall respond to the SCVR within 9 calendar days of filing by approving the SCVR, or identifying areas that are not acceptable. Staff shall approve the SCVR by a formal letter to the RTA. The Project shall not be placed in service until the SCVR is approved.
- 12.3 The SCVR shall include a:
  - a. Letter of Intent to Operate;
  - b. Final Project Verification of Safety; and
  - c. Remaining Open Items List, if any, with appropriate workarounds.

### **13 COMMISSION APPROVAL**

- 13.1 All requests for Commission approval, as identified in this General Order, shall be by letter to Staff. Staff shall prepare a resolution on the request for Commission consideration at a public meeting.
- 13.2 All protests, comments, and appeals of initial Staff or Director determinations shall be submitted to the Commission pursuant to the Commission Rules of Practice and Procedure.

Dated \_\_\_\_\_, at San Francisco, California.

PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA

By STEVE LARSON  
Executive Director