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U.S. Department of Transportation  
Central Docket Office, PL-401  
Attention: Docket No. FTA-2004-17196 - / 3  
400 Seventh Street SW  
Washington, DC 20590

2004-05-11 A 11:49  
NOT RECORDED

May 27, 2004

**Subject: NPRM for 49 CFR Part 659, Rail Fixed Guideway Systems; State Safety Oversight Rule**

Dear Sir/Madam:

This is to submit comments on the subject NPRM on behalf of the California Rail Operations and Regulatory (ROAR) Committee. ROAR is a California Transit Association (CTA) committee that focuses on regulations affecting rail operations. Its membership includes the six major transit agencies in California. The comments are submitted in the attached table below. Reference numbers quoted are those in the new proposed rule.

If you have any questions or need further explanation on any item, please contact me at 510/874-7426 or email me at [LHardy@BART.gov](mailto:LHardy@BART.gov)

Sincerely,

Len Hardy  
Chairperson, CTA ROAR Committee

cc: APTA

Comment No.	Comment	Rationale
1	Remove definition of "individual" and use the term "person" in its place throughout the rule	Definition is confusing and unnecessary
2	Remove definition of "Rail Transit Controlled Property" and all reference to it in the rule	Definition is ambiguous and unnecessary
3	In the definition of "Corrective Action Plan" replace the term "hazardous conditions" with "hazards" and use hazards in the place of hazardous conditions throughout the rule	More succinct.
4	<p>Add a definition for "medical attention" (the term is used in Section 659.27) and "first aid" as follows:</p> <p>Medical attention: Treatment away from the scene beyond medical observations, diagnostic procedures such as x-rays and drawing blood samples, or first aid.</p> <p>First Aid: Typically a single treatment for minor conditions such as abrasions, cuts, or bruises.</p>	Clarifies that the intent is not to require immediate notification for very minor items.
5	Section 659.13 (10): change the phrase "... its process for the review and approval of a corrective action plan" to "... the Transit Agency's process for the review and approval of the corrective action plan"	This clarifies the point that the transit agency is approving the corrective action plan, not the oversight agency. The oversight agency is only specifying that this be done by the transit agency
6	Section 659.17 (5) (c): Change the wording to "The rail transit agency cannot be compelled to disclose or make public its Security Plan"	Better description of the point being made
7	Section 659.21 (c): For conducting internal audits change "... must notify the oversight agency at least (30) days prior ..." to "... at least (10) days prior ..."	Ten days is more reasonable in achieving the ultimate goal of conducting audits and responding more spontaneously to identified needs.
8	Section 659.21 (e): place a period after general manager, and remove: "indicating that the rail transit agency is in compliance with its system safety program plan and system security plan"	It may be fair that the general manager endorse the annual audit report. Each audit report, however, only covers one third of the total internal audit cycle. Additionally the report may contain findings that require corrective action. Thus requiring the statement that "everything" is in compliance is not practical or reasonable.

9	Section 659.21 (f): Remove the requirement for the oversight agency to formally approve the annual report	In California, only the Commission can formally approve the report. This would involve an unnecessary, lengthy, bureaucratic process.
10	Section 659.25: Delete this entire section	The section is redundant and creates confusion. The subject is adequately covered in Section 659.13 (a) (7) where the hazard management process must be defined in each transit agencies SSPP.
11	Section 659.27 (a): Change the 2 hours notice time to 4 hours	Two hours does not give the transit agency adequate time to respond, attend to the incident and evaluate whether notification is appropriate.
12	Section 659.27 (a): Replace "...any event involving a rail transit vehicle or taking place on rail transit controlled property..." with "any event involving the operation of a rail transit vehicle..."	Proposed language is clearer and more to the point.
13	Section 659.27 (a) (1): Place a period after "fatality" and drop the rest of the statement	Information of whether an individual dies later is not readily obtainable, and a suicide can not be confirmed within the immediately reporting period
14	Section 659.27 (a) (3): Change the property threshold from \$25,000 to \$100,000	\$25,000 is too low for immediately reporting, and will result in needless waste of time on the part of the transit agency and the oversight agency
15	Section 659.29 (a): Remove the rest of the statement after the word "event", and replace with "meeting the thresholds identified in Section 659.27 (a)"	The proposed change makes the statement shorter and clearer.
16	Section 659.29 (d) (2): Remove the requirement for the oversight agency to approve the transit agency's final investigation report.	The fact that one agency must approve the report of another entity corrupts the process. Once charged with investigating an accident, the investigating party must be given the autonomy to issue the report without tampering. The oversight agency may disagree while the report is in draft form and attempts can be made to resolve the differences. If differences cannot be resolved each agency can issue its own report. Additionally, the formal

		approval of each accident report would involve an extremely time-consuming bureaucratic process.
17	Section 659.31 (c): Remove the requirement for the oversight agency to formally approve each corrective action plan	Again, in California, only the Commission can formally approve the plans. This would involve an extremely time-consuming bureaucratic process and would unnecessarily consume valuable safety department resources.
18	Section 659.9 (e) (5): reference should be to Section 659.13 (a) not Section 659.31(a)	Typing error
19	Delete Section 659.15 (b) (18)	This element is redundant and already covered in Section 659.15 (b) (16) ii,iii,and iv. The training conducted under element 16 for employees and contractors includes safety requirements that must be followed when working on, or in close proximity to the rail transit agency property
20	Combine Section 659.15 (7) and Section 659.15 (17) under the heading of "System Modifications and Configuration Control"	The system modification process is inherent in configuration management. The intent is to ensure that any changes receive appropriate review, that potential safety impacts are considered, and that approved changes are appropriately documented.