

Metrorail Safety Commission

March 27, 2018

Agenda Item # 6 – Information

Activities To Seek FTA Certification – Status Report

Background	The FTA has published a detailed listing of the various items required to apply for and receive its certification of a State Safety Oversight Agency (SSOA). The current edition of this document (Certification Application) is dated May 11, 2017. State Policy Work Group with assistance with COG staff and consultants have been working to take appropriate action to meet the FTA Certification requirements as outlined in the FTA application. The FTA has been assistance this work activity be providing periodic review of the draft documents and offering guidance on other actions taken to date. Staff will review the attached document which serve as a status report on the certification items required.
Issues	None
Staff	
Recommendation	Receive briefing.

Activities To Seek FTA Certification Status Report

**In Conformance with 49 U.S.C. 5329(e) and
49 CFR Part 674**

March 27, 2018

Table of Contents

Section
Certification Items
Category 1: SSO Agency Independence
Category 2: General Program Requirements
Category 3: Enforcement Authorities
Category 4: Investigations and Audits
Category 5: SSO Staffing, Training, and Qualification
Category 6: Program Standard

Application for Certification of State Safety Oversight Program - Checklist of Items to be Submitted		
Certification Item	Requirement	Status Comments
Category 1: SSO Agency Independence		
a) Legal Entity Enabling legislation or other document establishing the State safety oversight agency (SSOA) as a legal entity of the State	49 CFR Part 674.11(c): 49 CFR Part 674.13(a): See also: 49 U.S.C. Section 5329(e)(3)(c)	Accomplished No outstanding tasks
b) Legal Independence from RFGPTS Certification of Legal Independence, with full disclosure of legal connections and waiver request (if applicable)	49 CFR Part 674.13(a)(1): 49 CFR Part 674.41: (a) See also: 49 U.S.C. Section 5329(e)(4)(A)(i)	Established (via Compact) Formal document will be submitted (along with Certification application)
c) Financial Independence from RFGPTS Certification of financial independence with full disclosure of financial connections and waiver request (if applicable)	49 CFR Part 674.13(a)(1): 49 CFR Part 674.41: (a) See also: 49 U.S.C. Section 5329(e)(4)(A)(i)	Established (via Compact) Formal document will be submitted (along with Certification application)
d) Overlap of Transportation Services Certification that the SSOA does not directly provide public transportation in same area as RFGPTS	49 CFR Part 674.13(a)(2): See also: 49 U.S.C. Section 5329(e)(4)(A)(i)	Established Formal document will be submitted (along with Certification application)
e) Employment Conflict of Interest Certification that the SSOA does not employ any individual who administers RFGPTS programs or Waiver Request (if applicable)	49 CFR Part 674.13(a)(3): 49 CFR Part 674.41(b): See also: 49 U.S.C. 5329(e)(4)(A)(iii)	Accomplished (via MSC COI Policy adopted) Formal document will be submitted (along with Certification application)
f) Contractor Conflict of Interest Conflict of Interest Policy established for any contractors providing services to the SSOA or Waiver Request (if applicable)	49 CFR Part 674.41(c): See also: 49 CFR Part 674.13(b)	Accomplished (via MSC COI Policy adopted) Formal document will be submitted (along with Certification application)
Category 2: General Program Requirements		
a) Acknowledgement of Responsibility Enabling legislation or other documentation explicitly acknowledging the State's responsibility for overseeing the safety of all RFGPTS within the State	49 CFR Part 674.11(a):	Established (via Compact and Program Standard) Formal document will be submitted (along with Certification application)
b) Funding Prohibition Legislation, directive, administrative code, or other vehicle through which the State prohibits RFGPTS from funding the SSO agency	49 CFR Part 674.11(f): See also: 49 U.S.C. Section 5329(e)(3)(F)	Established (via Compact and Program Standard) Formal document will be submitted (along with Certification application)

Application for Certification of State Safety Oversight Program - Checklist of Items to be Submitted

Certification Item	Requirement	Comments
c) Establishment of Minimum Standards for Safety Clear statement of the State's authority to establish minimum standards for the RFGPTS within the State consistent with FTA's Public Transportation Safety Program	49 CFR Part 674.25(a):	Established (via Compact and Program Standard) Formal document will be submitted (along with Certification application)
d) Annual Report Procedures to be used by the State to develop and provide an annual status report on RFGPTS safety to the Governor, FTA and the RFGPTS Board of Directors	49 CFR Part 674.13(a)(7): See also: 49 U.S.C. Section 5329(e)(4)(A)(vii)	Established (via Compact and Program Standard)
e) Multi-State System Oversight Agency Designation In an instance of a rail fixed guideway public transportation system that operates in more than one State, all States in which that rail fixed guideway public transportation system operates must either Or (b) Designate a single entity that meets the requirements for an SSOA to serve as the SSOA for that rail fixed guideway public transportation system, through an SSO program that has been approved by the Administrator.	49 CFR Part 674.15:	Accomplished (via Compact) No outstanding tasks
Category 3: Enforcement Authorities		
a) Enforcement Authorities Legislation, directive, administrative code, or other vehicle through which the State establishes its responsibility for overseeing all aspects of RFGPTS safety (including engineering and construction) and through which the SSOA has the authority and ability to enforce safety requirements and investigate safety concerns and accidents at the RFGPTS	49 CFR Part 674.11(a): 49 CFR Part 674.13(a)(5): See also: 49 U.S.C. Section 5329(e)(3)(A)	Established (via Compact and Program Standard) Also addressed through Standard Operating Procedures Formal document will be submitted (along with Certification application)
b) Adoption of Federal and State Laws Legislation, directive, administrative code, or other vehicle through which the State establishes its authority to adopt and enforce Federal and relevant State laws on all aspects of RFGPTS safety	49 CFR Part 674.11(b): See also: 49 U.S.C. Section 5329(e)(3)(B)	Established (via Compact and Program Standard) Formal document will be submitted (along with Certification application)

Application for Certification of State Safety Oversight Program - Checklist of Items to be Submitted

Certification Item	Requirement	Comments
c) Review, Approve, Oversee, and Enforce Agency Safety Plan Legislation, directive, administrative code, or other vehicle through which the State establishes its authority to review, approve, oversee, and enforce the RFGPTS Safety Plan	49 CFR Part 674.13(a)(4): 49 CFR Part 674.25(b): See also: 49 U.S.C. Section 5329(e)(4)(A)(iv)	Established (via Compact and Program Standard) Also addressed through Standard Operating Procedures Formal document will be submitted (along with Certification application)
d) Allegations of Noncompliance Legislation, directive, administrative code, or other vehicle through which the State establishes its authority to investigate any allegation of noncompliance with a Public Transportation Agency Safety Plan	49 CFR Part 674.25(c):	Established (via Compact and Program Standard) Formal document will be submitted (along with Certification application)
e) Requiring and Verifying Corrective Action Legislation, Program Standard section, and related procedures or process through which the SSOA requires, approves and tracks corrective action plans, and the procedures and/or checklists to be used by the State in conducting inspections at the RFGPTS, including unannounced, on-site inspections to verify CAP implementation.	49 CFR Part 674.27(a)(8): 49 CFR Part 674.37 (a):	Provisions included in the draft Program Standards that has been developed with FTA's assistance. Also addressed through Standard Operating Procedures MSC will be briefed on this document and asked to adopt the document. The adopted document will be submitted along with the Certification application.
Category 4: Investigations and Audits		
a) Investigative Authority Authority and primary responsibility of the MSC for the investigation of accidents	49 CFR Part 674.13(a)(5): 49 CFR Part 674.25(d): 49 CFR Part 674.27(a)(7): See also: 49 U.S.C. Section 5329(e)(3)(A)	Established (via Compact and Program Standard) Also addressed through Standard Operating Procedures Formal document will be submitted (along with Certification application)
b) Notification of Accidents and Other Safety Events Specifies the requirements for the notification of accidents	49 CFR Part 674.7 49 CFR Part 674.33:	Provisions included in the Compact and Program Standard. Also addressed through Standard Operating Procedures MSC will be briefed on this document and asked to adopt the document.

<p>c) Right to Access RFGPTS Legislation, directive, administrative code, or other method through which the State establishes its authority to access the RFGPTS, including rail property, vehicles, records and personnel, accident scenes and other relevant locations, to conduct audits and investigations into accidents, implementation of the Agency Safety Plan, and implementation of corrective action plans</p>	<p>49 CFR Part 674.35:</p>	<p>Established (via Compact and Program Standard)</p> <p>Also addressed through Standard Operating Procedures</p> <p>Formal document will be submitted (along with Certification application)</p>
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Application for Certification of State Safety Oversight Program - Checklist of Items to be Submitted

Certification Item	Requirement	Comments
d) Investigation Procedures Procedures to be used by the State (or SSOA) in carrying out investigations at the RFGPTS's in its jurisdiction	49 CFR Part 674.35:	Outlined in the draft Program Standards that has been developed with FTA's assistance. MSC will be briefed on this document and asked to adopt the document. The adopted document will be submitted along with the Certification application.
e) Protection from Disclosure Confidentiality of information policy, legislation or other vehicle to prohibit investigation reports from being admitted as evidence or used in a civil action for damages	49 CFR Part 674.23: 49 CFR Part 674.27(a)(7):	Detailed in the adopted Bylaws and the Freedom of Information Policy documents. The adopted document will be submitted along with the Certification application.
f) Triennial Audit Procedures and checklists to be used by the State in conducting the Three-Year Audit of the RFGPTS's implementation of its Agency Safety Plan	49 CFR Part 674.13(a)(6): 49 CFR Part 674.27(a)(5): 49 CFR Part 674.31:	Outlined in the draft Program Standards that has been developed with FTA's assistance. MSC will be briefed on this document and asked to adopt the document. The adopted document will be submitted along with the Certification application.
Category 5: SSO Staffing, Training and Qualification		
a) SSO Program Workload Assessment To demonstrate to the FTA, an appropriate staffing level for the SSOA that is commensurate with the number, size, and complexity of RFGPTS in the eligible State	49 CFR Part 674.11(d): See also: 49 U.S.C. Section 4329(e)(3)(D)	Accomplished (via Compact) Additional work is needed on this certification item: <ol style="list-style-type: none"> 1. An Executive Director needs to be hired (By 5/31) 2. A workload assessment and staffing plan needs to be determined and approved by the Executive Director and the MSC Board (By 6/19) 3. The appropriate resources need to be put in place either through new hires or contracted staff (By 7/31) WILL BE ADDRESSED DURING THE FOLLOWING MSC BOARD MEETINGS: 3/27, 4/10, 4/24

Application for Certification of State Safety Oversight Program - Checklist of Items to be Submitted

Certification Item	Requirement	Comments
b) SSOA Organization and Personnel Qualifications and Experience Set of submittals required to demonstrate that the SSOA has sufficient resources and qualified personnel to oversee the number, size, and complexity of the RFGPTS's within the State.	49 CFR Part 674.5: 49 CFR Part 674.11(e): 49 CFR Part 674.25(e): 49 CFR Part 674.35(c):	Accomplished (via Compact) Additional work is needed on this certification item: 1. Once workload assessment and staffing plan are adopted, the MSC Board will authorize the Executive Director to commence hiring process to fill positions (By 7/31) WILL BE ADDRESSED DURING THE FOLLOWING MSC BOARD MEETINGS: 4/10, 4/24, 5/8
c) Training Program Certification Certification of the SSOA's conformance with FTA's Public Transportation Safety Certification Training Program. Completed registration and certifications uploaded to the FTA's Safety Resource and Training Website	49 CFR Part 674.11(e):	Accomplished (via Compact) Additional work is needed on this certification item: 1. Depending on staffing plan selected, the MSC Board will authorize the Executive Director to ensure training is reflective in all position descriptions. If those hired have the training certification needed then no further action will be required. However, if those hired do need training certification, then at least a six-month time window would need to be allotted for the identified staff to complete the training requirements. (By 7/31) WILL BE ADDRESSED DURING THE FOLLOWING MSC BOARD MEETINGS: 4/24, 5/8, 5/22
Category 6: Program Standard		
a) Updated Program Standard Meeting 49 CFR Part 674 Requirements	49 CFR Part 674.27(a): 49 CFR Part 674.27(b):	The draft Program Standard has been developed and submitted to the FTA for review. MSC will be briefed on this document along with Standard Operating Procedures and asked to adopt the document on either 5/22 and/or 6/5. The adopted Program Standard will be submitted along with the Certification application.