



Appendix B

Version: 12/2/2020

New Jersey Statutes and Administrative Codes

N.J.A.C. 16:53E – Fixed Guideway State Safety Oversight

Effective date 6/4/2018

Expiration date 6/4/2025

Related to the State Safety Oversight (SSO) Program

Intergovernmental Agreement Between the State of New Jersey and the State of Pennsylvania for Safety Oversight of the Port Authority Transit Corporation (PATCO)

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New Jersey Department of Transportation (NJDOT) State Safety Oversight (SSO) Program

Documents included in this appendix

- (1) New Jersey Statutes Annotated (N.J.S.A.) 27:25-8
- (2) N.J.S.A. 48:2-15
- (3) State of New Jersey Executive Order #65
- (4) New Jersey Administrative Code (N.J.A.C.) Title 16, Chapter 53E
- (5) Reorganization Plan for the Board of Public Utilities and the Department of Transportation
- (6) Intergovernmental Agreement Between the State of New Jersey and State of Pennsylvania for Safety Oversight of the Port Authority Transit Corporation (PATCO)

Authority for the NJDOT and SSO program

Initially, authority for transportation oversight was in the Department of Public Utilities. The authorities related to the Board of Public Utilities related to transportation were transferred to the NJDOT as part of the Reorganization Plan for the Board of Public Utilities and the Department of Transportation, October 5, 1978, effective January 1, 1979.

With respect to the functions, powers and duties hereby transferred to the Department of Transportation, whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Board of Public Utilities, the same shall mean and refer to the Department of Transportation.

N.J.S.A. [New Jersey Statutes Annotated] 27:25-8. Corporation not public utility, authority relative to fares, services; notice, public hearing.

Paragraph c. Notwithstanding any other provisions of P.L.1979, c.150 (C.27:25-1 et seq.) [New Jersey Public Transportation Act of 1979], all vehicles used by any public or private entity pursuant to contract authorized by P.L.1979, c.150 (C.27:25-1 et seq.), and all vehicles operated by the corporation directly, shall be subject to the jurisdiction of the department with respect to maintenance, specifications, and safety to the same extent that jurisdiction is conferred upon the department by Title 48 of the Revised Statutes.

Note that corporation refers to New Jersey Transit and department refers to the NJDOT.

N.J.S.A. 48:2-15. Authority over interstate commerce; interstate co-operation

Paragraph (b). The board shall have all the power, and shall exercise its authority to regulate the transportation by any carrier for hire of passengers and property by land, water or air, between any place in this State and any place in another State or between places in this State whether or not partly through another State, including regulation of the adequacy of service and the safety of operation and equipment, except power and authority which has been heretofore expressly



reserved to the United States by a valid enactment of the Congress of the United States, or which is hereafter so reserved by such an enactment of the Congress under powers delegated to the United States by the Constitution of the United States.

Executive Order #65, January 31, 1997

This EO was completed for the initial 49 CFR Part 659, and was not updated for the 2005/2006 update of Part 659. This EO continues to be used as the establishing authority for the SSO program.

New Jersey Administrative Code Title 16. Department of Transportation Chapter 53E. Fixed Guideway Systems State Safety and Security Oversight N.J.A.C. 16:53E

Effective Date: June 4, 2018

Currently Expires on June 4, 2025

Federal Standards Statement

The adopted new rules establish standards for fixed guideway systems that are consistent with 49 U.S.C. Section 5329(e) and 49 CFR Part 674. The standards imposed by the rules do not exceed those set forth in these Federal laws.



TITLE 16. DEPARTMENT OF TRANSPORTATION

CHAPTER 53E. FIXED GUIDEWAY STATE SAFETY OVERSIGHT

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:25-8c, 48:2-12 and 52:14D-6; 49 U.S.C. 5329(e); 49 CFR Part 674; October 5, 1978 Executive Reorganization Plan; and Executive Order No. 65 (1997)

SUBCHAPTER 1. PURPOSE AND SCOPE

16:53E-1.1 Purpose

This chapter establishes rules concerning the State's oversight of the safety of rail fixed guideway systems through the Department of Transportation (Department), designated as the State's oversight agency by Executive Order No. 65 (1997). This chapter carries out the mandate of 49 U.S.C. 5329(e) for State safety oversight of rail fixed guideway public transportation systems. The Office of Fixed Guideway Oversight in the New Jersey Department of Transportation is responsible for the administration of this chapter.

16:53E-1.2 Scope and applicability

- (a) Rail fixed guideway public transportation systems are any fixed guideway system that uses rail; is operated for public transportation; is within the jurisdiction of this State; and is not subject to the jurisdiction of the Federal Railroad Administration or any such system in engineering or construction. Rail fixed guideway public transportation systems include, but are not limited to, rapid rail, heavy rail, light rail, monorail, trolley, inclined plane, funicular, and automated guideway.
- (b) This chapter is applicable to rail fixed guideway public transportation systems that operate exclusively within the boundaries of this State or between this State and adjacent states; and entities that own or operate rail fixed guideway public transportation systems with Federal financial assistance authorized under Chapter 53 of Title 49 of the United States Code.
- (c) This chapter is applicable to every transit agency operating exclusively within the boundaries of this State or between this State and adjacent states. The Department may designate other fixed guideway systems to which this rule shall apply.
- (d) Except as provided in N.J.A.C. 16:53E-1.3, nothing in this chapter prevents the transit agency or the Department from using contractors or consultants (public, non-profit or private) to assist with their respective duties under this chapter or in the course of their respective business operations.

16:53E-1.3 Conflict of interest

- (a) A party or entity is prohibited from providing services to both the Department and the transit agency when a conflict of interest, as determined by the Department, exists.
- (b) A transit agency may not be a contractor for the Department under the State safety oversight program.



16:53E-1.4 Incorporation by reference

The Department incorporates herein by reference 49 CFR Part 674, State Safety Oversight.

SUBCHAPTER 2. STATE SAFETY OVERSIGHT PROGRAM STANDARD

16:53E-2.1 State Safety Oversight Program Standard

The Department, in its role as the oversight agency, develops safety oversight program rules that establish processes and procedures that govern the conduct of the oversight agency. The rules also provide guidance to the regulated transit agencies and other fixed guideway systems regarding the content of the plans and procedures they must have in place in order to be in compliance with the State program.

SUBCHAPTER 3. SAFETY PLAN

16:53E-3.1 Safety plan requirements

- (a) A transit agency shall not operate a fixed guideway system unless the Department has provided written approval of, and the transit agency has implemented, its safety plan for that system.
- (b) Every transit agency shall develop and implement a written safety plan that complies with the requirements of the New Jersey Department of Transportation Safety Oversight Program Standard (NJDOT SSOPS) for each fixed guideway system it operates. Copies of the NJDOT SSOPS may be obtained on the Department's website at: <http://www.state.nj.us/transportation>

or in person at:

New Jersey Department of Transportation
Office of Fixed Guideway Safety and Security Oversight PO Box 600
Trenton, New Jersey 08625-0600
phone: 609 530-2551
fax: 609 530-6397

or by e-mail at: njofgssso@dot.state.nj.us



**State of New Jersey
Executive Order #65**

Governor Christine Todd Whitman

WHEREAS, on December 18, 1991, the United States Congress enacted P.L. 102-240, entitled the "Intermodal Surface Transportation Efficiency Act of 1991" and added section 28 to the Federal Transit Act (codified at 49 U.S.C. 1994) which required the Federal Transit Administration to issue regulations creating a state oversight program for rail fixed guideway systems; and

WHEREAS, on December 27, 1995, the Federal Transit Administration promulgated a final rule codified at 49 CFR Part 659, and entitled, Rail Fixed Guideway Systems; State Safety Oversight; Final Rule; and

WHEREAS, these federal regulations require each state having an operational fixed guideway system that is not regulated by the Federal Railroad Administration (FRA) to designate a State Oversight Agency to be responsible for overseeing the rail fixed guideway system's safety practices; and

WHEREAS, the designated State safety oversight agency must develop fixed guideway system safety oversight standards, investigate accidents and hazardous conditions, and conduct periodic safety audits; and

WHEREAS, the State safety oversight agency must make annual reports and certify compliance to the Federal Transit Administration (FTA) of the State's progress in safety oversight, or the State risks loss of up to 5 percent of a fiscal year's apportionment of federal funding under FTA's formula program for urbanized areas;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The New Jersey Department of Transportation (NJDOT) is hereby designated as the agency to carry out the provisions of the FTA's State Safety Oversight of Fixed Guideway Systems in the State of New Jersey. It is empowered to protect and promote the public health, safety and welfare and is responsible for the oversight of Fixed Guideway Systems not regulated by the Federal Railroad Administration (FRA).
2. The NJDOT shall carry out its responsibilities as directed by and in compliance with 49 CFR Part 659, and shall promulgate Fixed Guideway Safety Standards for use by agencies in developing their safety programs.
3. The NJDOT is authorized to enter into such agreements and delegate its powers as necessary to effectuate the purposes of this Order.



**New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
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4. Each light, heavy, rail rapid transit system, monorail, inclined plane, funicular, trolley, street car, or automated guideway (people mover) that is not regulated by the FRA and is operating within the State of New Jersey, or between the State of New Jersey and adjoining states, shall comply with the NJDOT Standards for Fixed Guideway Safety Oversight as established by the NJDOT and shall comply with all NJDOT rules, directives, and requirements issued pursuant thereto.

5. This Order shall take effect immediately.

GIVEN, under my hand and seal
this 31st day of January in the Year
of Our Lord, One Thousand Nine
Hundred and Ninety Seven, and of
the Independence of the United States,
the Two Hundred and Twenty-First.

/s/ Christine Todd Whitman
Governor

Attest:

/s/ Michael P. Torpey
Chief Counsel to the Governor



REORGANIZATION PLANS

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REORGANIZATION PLAN FOR THE BOARD OF
PUBLIC UTILITIES AND THE DEPARTMENT
OF TRANSPORTATION

The functions, powers, and duties including, but not limited to, investigatory and punitive powers heretofore exercised and performed by the Board of Public Utilities pursuant to the provisions of Chapters 4, 12, and 15 inclusive of Title 48 of the Revised Statutes, as amended and supplemented, and the provisions of Chapters 2 and 3 of Title 48 of the Revised Statutes, as amended and supplemented as they apply to autobuses, charter and special bus operations, railroads, street railways, traction railways and subways (except that no function, power or duty set forth in P. L. 1968, c. 173, (C. 48:2-59 to 48:2-72) is hereby transferred) and R. S. 39:3-4.1, R. S. 39:3-19, R. S. 39:3-61(m), R. S. 39:3-64(b), R. S. 39:4-128(d), R. S. 39:8-1, R. S. 40:55-50, R. S. 40:62-1, R. S. 40:62-2(c), R. S. 40:121-1, R. S. 40:121-5, R. S. 40:121-12, R. S. 40:121-13, R. S. 40:183-55, R. S. 40:183-61 to 40:183-65, R. S. 40:183-69, R. S. 40:183-71 to 40:183-74 are hereby transferred to and shall be exercised and performed by the Department of Transportation effective January 1, 1979.

All appropriations, grants, and other monies available to and to become available to the Board of Public Utilities attributable to and derived from the functions, powers, and duties which have been transferred by this plan to the Department of Transportation are hereby transferred to the Department of Transportation and shall be available for the objects and purposes for which appropriated or otherwise made available subject to any terms, restrictions, limitations or other requirements imposed by the State or Federal law.

Such employees of the Board of Public Utilities engaged in the functions, powers, and duties which have been transferred by this reorganization plan are hereby transferred to the Department of Transportation.

With respect to the functions, powers and duties hereby transferred to the Department of Transportation, whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Board of Public Utilities, the same shall mean and refer to the Department of Transportation.



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This reorganization plan shall not affect the tariffs, orders, agreements, rules and regulations heretofore made or promulgated by the Board of Public Utilities relating to the functions, powers and duties which have been transferred to the Department of Transportation but such tariffs, orders, agreements, rules and regulations shall continue with full force and effect until amended or repealed pursuant to law and shall be administered by the department.

This reorganization plan shall not affect actions or proceedings, civil or criminal, brought by or against the Board of Public Utilities relating to the functions, powers, and duties which have been herein transferred by this plan, and which are pending on the effective date of this plan, but such actions or proceedings may be prosecuted and defended in the same manner and to the same effect by the Department of Transportation as if the foregoing provisions had not taken effect; nor shall this reorganization plan affect any order or recommendation made by, or other matters or proceedings before, the Board of Public Utilities relating to the functions, powers, and duties which have been herein transferred, and all such matters or proceedings pending before such Board of Public Utilities on the effective date of this reorganization plan shall be continued by the Department of Transportation, provided that any hearings commenced by the Board of Public Utilities, prior to the effective date of this reorganization plan shall continue before the hearing officer of that board under the applicable rules of the Board of Public Utilities. However, upon completion of the hearings and proceedings before the hearing officer and unless waived by the parties or certified to the Department of Transportation by its own action, the hearing officer shall make his report and recommendations to the Department, serving copy of said report and recommendations upon all parties, who have participated in the hearings as provided in the Rules of Practice. With respect to such hearings, whenever reference is made to the Board of Public Utilities it shall mean and refer to the Department of Transportation.

Unless specifically otherwise provided in this reorganization plan or by an operative law, whenever, pursuant to existing law, consents, approvals, reports, certifications, petitions, applications, or requests are required from or permitted to be made to the Board of Public Utilities relating to those functions, powers, and duties which are transferred by this reorganization plan, such consents, approvals, reports and certifications shall hereafter be required to be filed with, and such petitions, applications or requests shall



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hereafter be made to the Department of Transportation to which such transfer has been made under this reorganization plan.

The transfer directed by this reorganization plan with respect to the Board of Public Utilities shall be made pursuant to the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

If any provisions of this reorganization plan or the application thereof to any person, or circumstances, or the exercise of any power, or authority thereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the reorganization plan which can be given effect without the invalid provisions or applications or affect other exercises of power of authority under said provisions not contrary to law, and to this end, the provisions of this reorganization plan are declared to be severable.

This reorganization plan is intended to protect and promote the public health, safety and welfare, and shall be liberally construed to obtain the objectives and effect the purposes thereof.

All Acts and parts of Acts inconsistent with any of the provisions of this reorganization plan are superseded to the extent of such inconsistencies. Any provisions of this plan which conflict with Federal law are null and void.

In accordance with the provisions of the Executive Reorganization Act of 1969, P. L. 1969, c. 203 (C. 52:14C-2), I find and declare that this transfer and reorganization is necessary:

1. To promote the better execution of the laws and the more efficient management of the Executive Branch and of its agencies and functions;
2. To increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;
3. To group, coordinate and consolidate agencies and functions of the Executive Branch as nearly as practicable according to major purposes; and
4. To eliminate overlapping and duplication of effort.

All Acts and parts of Acts inconsistent with any of the provisions of this reorganization plan are superseded to the extent of such inconsistencies. All transfers directed by this reorganization plan shall be effected pursuant to the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

/s/ BRENDAN BYRNE,
Governor.

Filed October 5, 1978.



N.J. Stat. § 27:25-8

This section is current through New Jersey 217th First Annual Session, L.
2016, c. 69, and J.R. 7

*LexisNexis® New Jersey Annotated Statutes > Title 27. Highways > Subtitle
8. New Jersey Public Transportation Act; Resident Transportation Assistance
Act; South Jersey Transportation Authority; Traffic Control > Chapter 25.
New Jersey Public Transportation Act of 1979; Senior Citizen and Disabled
Resident Transportation Assistance Act*

**§ 27:25-8. Corporation not public utility, authority
relative to fares, services; notice, public hearing.**

- a. The corporation or any subsidiary thereof shall not be considered a public utility as defined in R.S.48:2-13, and except with regard to subsection c. of this section, subsection b. of R.S.48:3-38, section 2 of P.L.1989, c.291 (C.27:25-15.1), and R.S.48:12-152, the provisions of Title 48 of the Revised Statutes shall not apply to the corporation or any subsidiary thereof.
- b. The authority hereby given to the corporation pursuant to section 6 of P.L.1979, c.150 (C.27:25-6) with respect to fares and service, shall be exercised without regard or reference to the jurisdiction formerly vested in the Department of Transportation regarding rates and rate schedules under R.S.48:2-21; discontinuance, curtailment, or abandonment of service under R.S.48:2-24; and the issuance of a certificate of public convenience and necessity under R.S.48:4-3, and transferred to the New Jersey Motor Vehicle Commission by P.L.2003, c.13 (C.39:2A-1 et al.). The New Jersey Motor Vehicle Commission shall resume jurisdiction over service and fares upon the termination and discontinuance of a contractual relationship between the corporation and a private or public entity relating to the provision of public transportation services operated under the authority of certificates of public convenience and necessity previously issued by the New Jersey Motor Vehicle Commission or its predecessors; provided, however, that a private entity shall not be required to restore any service discontinued or any fare changed during the existence of a contractual relationship with the corporation, unless the New Jersey Motor Vehicle Commission shall determine, after notice and hearing, that the service or fare is required by public convenience and necessity.
- c. Notwithstanding any other provisions of P.L.1979, c.150 (C.27:25-1 et seq.), all vehicles used by any public or private entity pursuant to contract authorized by P.L.1979, c.150 (C.27:25-1 et seq.), and all vehicles operated by the corporation directly, shall be subject to the



N.J. Stat. § 27:25-8

jurisdiction of the department with respect to maintenance, specifications, and safety to the same extent that jurisdiction is conferred upon the department by Title 48 of the Revised Statutes.

- d. Before implementing any fare increase for any motorbus regular route or rail passenger services, or any curtailment or abandonment of those services, the corporation shall hold a public hearing in the area affected during evening hours, except that the corporation shall not be required to hold a public hearing for a change in service that does not: (1) increase fares; (2) eliminate a current motorbus regular route or any rail passenger service; or (3) change the time of a motorbus regular route or rail passenger service by more than two hours from the corporation's currently adopted schedule or timetable, so long as these services are provided at least three times daily, excluding holidays. Notice of the hearing shall be given by the corporation at least 15 days prior to the hearing to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected; the notice shall also be posted at least 15 days prior to the hearing in prominent places on the railroad cars and buses serving the routes to be affected.
- e. Notice of its intent to discontinue, curtail, or abandon any motorbus regular route service or rail passenger service shall be given by the corporation to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected at least 45 days prior to implementation of the change in service.

History

L. 1979, c. 150, § 8; amended 1989, c. 291, § 3; 1997, c. 309, § 2, eff. Jan. 8, 1998; 2009, c. 259, § 1, eff. Jan. 17, 2010; 2016, c. 52, § 1, eff. Sept. 14, 2016.

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N.J. Stat. § 48:2-15

This section is current through New Jersey 217th First Annual Session, L. 2016, c. 70, and J.R. 7; and also includes c. 77 and 79

LexisNexis® New Jersey Annotated Statutes > Title 48. Public Utilities > Chapter 2. Department of Public Utilities; Board of Commissioners > Article 2. Jurisdiction, Powers and Duties > A. Jurisdiction

§ 48:2-15. Authority over interstate commerce; interstate co-operation

- (a) The board or the members thereof, whenever authorized by an Act of Congress to exercise any power or authority over interstate commerce, shall have full power and authority to administer the provisions of such act within this State, and in cases authorized under such act, in co-operation with boards of other States and the Interstate Commerce Commission.
- (b) The board shall have all the power, and shall exercise its authority to regulate the transportation by any carrier for hire of passengers and property by land, water or air, between any place in this State and any place in another State or between places in this State whether or not partly through another State, including regulation of the adequacy of service and the safety of operation and equipment, except power and authority which has been heretofore expressly reserved to the United States by a valid enactment of the Congress of the United States, or which is hereafter so reserved by such an enactment of the Congress under powers delegated to the United States by the Constitution of the United States.
- (c) The board, in exercising the power and authority granted to it by this section, shall co-operate with any similar duly constituted agency of any adjoining State in respect to the transportation of passengers and property between any place in this State and any place in an adjoining State or between places in this State partly through an adjoining State, and the board shall enforce the decision of any such agency of any adjoining State in respect to any such transportation through or within this State unless it shall affirmatively find that the action or omission to act required by the decision of any such agency of any adjoining State (1) is not required for the public convenience and necessity and (2) is detrimental to the best interest of the people of this State.

History

Amended by L. 1957, c. 13, p. 31, 1, eff. April 3, 1957.



**New Jersey Department of Transportation
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N.J. Stat. § 48:2-15

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Safety Oversight of Port Authority Transit Corporation (PATCO) Letters between New Jersey, Pennsylvania, and FTA

December 13, 2000 – DRPA to NJDOT that DRPA made organizational changes and could no longer serve as the SSOA for PATCO

February 1, 2001 – NJDOT to PennDOT that NJDOT had taken over safety oversight of PATCO and suggested that NJDOT could provide safety oversight of PATCO for both states. The intent was for both state DOTs to send similar letters to the FTA explaining the safety oversight of PATCO.

April 30, 2001 – PennDOT to FTA that NJDOT will continue to be the single entity providing safety oversight of PATCO under Part 659.

May 4, 2001 – NJDOT to FTA that NJDOT will continue to be the single entity providing safety oversight of PATCO under Part 659.

May 9, 2001 – NJDOT to FTA Office of Safety and Security that notified FTA that both states had agreed to NJDOT providing safety oversight for PATCO.

August 17, 2001 – FTA Office of Safety and Security to NJDOT that provided approval of the safety oversight of PATCO being provided by NJDOT.

June 6, 2007 – NJDOT to PennDOT that updated the agreement to change the PennDOT designee. This letter explains at a high level what the agreement is for safety oversight of PATCO.

July 6, 2007 – NJDOT to the General Manager PATCO that requests signature on the letter from June 6, 2007.

Intergovernmental Memorandum of Agreement Regarding State Safety Oversight

Effective Date: 1/31/2018

This memorandum of agreement formalizes and supersedes the above chain of letters, and allows for the NJDOT SSO program to have full responsibility for state safety oversight of the Port Authority Transit Corporation (PATCO) in New Jersey and on the Pennsylvania side of the Delaware River in Philadelphia. The MOA describes the roles and responsibilities of the Pennsylvania Department of Transportation (PennDOT) and the NJDOT in overseeing the safety and security of the PATCO High Speed Line, a rail fixed guideway public transportation system owned by the Delaware River Port Authority (DRPA).



EFFECTIVE DATE: 1-31-18
(PennDOT will insert)

AGREEMENT NO.: MOANJDOT2018
NJDOT FEDERAL I.D. NO.: 21-6000928

**INTERGOVERNMENTAL MEMORANDUM OF AGREEMENT REGARDING
STATE SAFETY OVERSIGHT**

This Intergovernmental Memorandum of Agreement Regarding State Safety Oversight ("MOA") is made by and between the Commonwealth of Pennsylvania, acting through its Department of Transportation ("PennDOT"),

and

the State of New Jersey, acting through its Department of Transportation ("NJDOT").

BACKGROUND

PennDOT and NJDOT are subject to State Safety Oversight ("SSO") requirements relating to rail fixed guideway public transportation systems under 49 CFR Part 659 and 49 CFR Part 674. When a rail fixed guideway public transportation system operates in more than one state, the regulations require all states where that system operates to assure the application of uniform safety standards and procedures in compliance with federal transportation law to that rail fixed guideway public transportation system.

This MOA is intended to describe the roles and responsibilities of PennDOT and NJDOT in overseeing the safety and security of the PATCO High Speed Line ("Line"), a rail fixed guideway public transportation system owned by the Delaware River Port Authority ("DRPA") and operated by the Port Authority Transit Corporation ("PATCO") in New Jersey and Pennsylvania, in a way that avoids duplication of effort, work, and expense while assuring full compliance with SSO requirements.

The parties, intending to be legally bound, agree as follows:



1. **Term.**

(a) **Effective Date.** This MOA shall become effective on (i) January 1, 2018 or (ii) the date the Agreement is fully executed, whichever occurs last. The Agreement shall be fully executed when the authorized representatives of PennDOT and NJDOT and all approvals required by contracting procedures of the Commonwealth of Pennsylvania and the State of New Jersey are obtained. The date of full execution shall be the date of the last signature affixed. The MOA shall remain in effect until revoked by either party, as provided below in subsection (b). PennDOT will insert the effective date at the top of Page 1.

(b) **Revocation.** The party wishing to revoke the MOA shall submit written notice ninety (90) days in advance of the effective date of revocation. Upon revocation, each party shall be responsible for SSO requirements on that portion of the Line located within its state.

2. **Responsibilities.**

(a) **NJDOT's Responsibility.** As the designated State Safety Oversight agency for New Jersey, pursuant to 49 U.S.C. 5329(e), NJDOT is responsible for overseeing the safety and security of the Line, which comprises a total of 14.2 track miles and associated physical assets, facilities, land, and equipment owned or leased by DRPA and operated by PATCO or appurtenance used by PATCO and any future owner/operator. Of this total mileage, 1.5 miles span the Ben Franklin Bridge, 2.3 miles are located within the City of Philadelphia, and the rest is located within various municipalities in the State of New Jersey.

(b) **Sole Responsible Agency.** NJDOT shall be solely responsible for overseeing the safety and security of the Line including the associated physical assets, facilities, land, and equipment owned or leased by DRPA and operated by PATCO or appurtenance used by PATCO and any future owner/operator.



(c) **Funding and Financial Responsibility.** NJDOT shall receive all grant funding made available by the Federal Transit Administration (“FTA”) under 49 U.S.C. § 5329 specifically identified for safety and security oversight of the Line. PennDOT has no financial responsibility and no obligation to reimburse NJDOT for safety and security oversight activities concerning the Line. NJDOT has sole financial responsibility for these activities.

(d) **New Jersey Laws and Regulations.** The parties agree that the laws and regulations of the State of New Jersey, as they pertain to SSO oversight of the Line in accordance with the requirements and approvals of the FTA, shall apply to the entirety of the Line and PATCO. Any administrative actions or actions in a court of law shall be filed in New Jersey.

3. **Amendments.**

(a) **Amendment to MOA.** Either party may, from time to time, request amendments to this MOA. Amendments to this MOA shall be accomplished through a formal written document signed by the parties with the same formality as this MOA.

(b) **Updates to Federal Regulations.** Updates to federal regulations or FTA guidance may compel modifications to SSO program requirements under this MOA. In such cases, necessary changes resulting from these updates will become effective upon issuance of such regulations or guidance. If necessary, the parties shall amend the MOA in accordance with subsection (a) above to reflect the updates to the SSO program requirements.

4. **Sovereign Immunity.** This MOA does not waive, modify, or otherwise affect the sovereign immunity of either the Commonwealth of Pennsylvania or the State of New Jersey.



5. **Personal Liability.** No commissioner, officer, agent, or employee of PennDOT or NJDOT shall be charged personally by the other party with any liability, or held personally liable to that party, under any term or provision of this MOA, or because of its execution or attempted execution, or because of any breach, or attempted breach, thereof.

6. **No Third-Party Beneficiaries.** The terms and provisions of this MOA are intended solely for the benefit of each party to it and their respective successors and permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon persons or entities not a party to this MOA.

7. **Assignment.** This MOA may not be assigned, transferred, nor any interest in it delegated, without the prior written consent of PennDOT and NJDOT and, if necessary, the FTA.

8. **Successors and Assigns.** This MOA shall be binding upon and shall inure to the benefit of PennDOT and NJDOT, their successors and assigns.

9. **No Waiver:** Either party may elect not to enforce its rights and remedies under this MOA in the event of a breach by the other party of any term or condition of this MOA. In any event, the failure by either party to enforce its rights and remedies under this MOA shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this MOA.

10. **Severability.** The provisions of this MOA shall be severable. If any phrase, clause, sentence, or provision of this MOA is declared to be contrary to the Constitution of Pennsylvania, of New Jersey, or of the United States or of the laws of the Commonwealth of Pennsylvania or of the State of New Jersey and the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the



remainder of this MOA and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

11. **Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

12. **Right-to-Know Law and Open Public Records Act.** The parties acknowledge that this MOA is subject to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101--3104 and the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1, et seq.

13. **Titles Not Controlling.** Titles of sections are for reference only, and shall not be used to construe the language in this MOA.

14. **Notices.** All notices and reports arising out of, or from, the provisions of this MOA shall be in writing and given to the parties at the addresses provided below, either by regular mail, facsimile, e-mail, or delivery in person, at the following addresses:

If to PennDOT:

Title: Deputy Secretary for Multimodal Transportation
Address: PO Box 3643
400 North Street, 8th Floor
Harrisburg, PA 17105-3643
Phone: (717) 787-8197



E-mail: tfauver@pa.gov

With a copy to:

Title: Director of Office of Penn Ports and Passenger Rail
Address: PO Box 3151
400 North Street, 6th Floor
Harrisburg, PA 17105-3151
E-mail: ebonini@pa.gov

If to NJDOT:

Title: Director, Division of Multimodal Service
Address: New Jersey Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 08625
Phone: (609) 530-2080
Email: nicole.minutoli@dot.nj.gov

or to such other person or address as the parties may provide to each other in writing.

15. **Execution in Counterparts:** This MOA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. **Integration and Merger.** This MOA and, if applicable, any attachments and exhibits, when executed, approved, and delivered, shall constitute the final, complete, and exclusive MOA between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises, and agreements pertaining to the subject matter of this MOA made prior to or at the time this MOA is executed are superseded by this MOA unless specifically accepted by any other term or provision of this MOA. There are no conditions precedent to the performance of this MOA except as expressly set forth herein.



New Jersey Department of Transportation
 State Safety Oversight (SSO) Program Standard
 Appendix B

The parties have executed this Agreement to be effective as of the date of the last signature affixed below.

COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF TRANSPORTATION

STATE OF NEW JERSEY
 DEPARTMENT OF TRANSPORTATION

BY: [Signature] 1/12/18
 Deputy Secretary Date
 of Transportation

BY: [Signature] 1/3/18
 Michael Russo Date
 Assistant Commissioner
 NJ Dept. of Transportation

ATTESTED:

BY: [Signature] 1/3/18
 Anika James Date
 Secretary, NJ Dept. of Transportation

APPROVED AS TO LEGALITY AND FORM

BY: [Signature] 1/11/18
 For Chief Counsel Date

CHRISTOPHER S. PORRINO
 ATTORNEY GENERAL OF NEW JERSEY

BY: [Signature] 1/9/18
 Deputy General Counsel Date

BY: [Signature] 1/2/18
 David M. Kahler
 Deputy Attorney General

BY: [Signature] 1/3/18
 Deputy Attorney General Date

18-004



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O.Box 600
Trenton, New Jersey 08625-0600

JON S. CORZINE
Governor

KRIS KOLLURI, Esq.
Commissioner



June 6, 2007

David F. Barber, P.E.
Bureau of Public Transportation
Pennsylvania Department of Transportation
PO Box 3151
Harrisburg, PA 17120

Subject: Safety Oversight Matters
Port Authority Transit Corporation – Rapid Transit System
Memorandum of Record: Re-issue of Original Letter

Dear Dave,

The re-issue of the May 10, 2002 letter is to update the new Pennsylvania Department of Transportation (PennDot) designee. All other matters remain unchanged.

Thank you for the letter of November 8, 2001, related to safety oversight of the Port Authority Transit Corporation Rapid Transit System (PATCO-RTS) and follow-up meeting held in Philadelphia on Monday, January 28, 2002.

We are pleased to have your support for safety oversight activities of the PATCO-RTS. During our meeting, we were able to address key issues listed in your letter that will ease some of the New Jersey Department of Transportation (NJDOT) Safety Oversight Agency (SOA) tasks related to oversight of PATCO. The items discussed and follow-up actions are as follows:

1. Philadelphia, PA (underground rail station complex) serving SEPTA and PATCO-RTS.

Under the PennDot Rail Transit Safety Review Program (RTSRP), the NJDOT Safety Oversight Agency (SOA) will receive support by the RTSRP contractor in performing safety oversight activities in the Philadelphia area where rail station complexes are used by PATCO-RTS or both SEPTA and PATCO-RTS. During scheduled and non-scheduled inspections, the contractor may inspect, observe, and report matters relating to safety and security of passenger, employee, and valued assets and all unacceptable hazardous conditions in areas utilized by the public and PATCO-RTS employees.



**New Jersey Department of Transportation
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Appendix B**

2. Inspections of track, signals, structures, elevators, and escalators.

NJDOT- SOA will inspect track and signals.

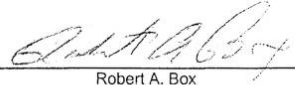
RTSRP contractor will observe and/or inspect structures, elevators, and escalators in areas defined in No. 1 above. All reports and findings are to be reported to the SOA.

3. The RTSRP contractor will notify the SOA of any Unacceptable Hazardous Conditions when performing inspections or observing safety and security issues within the area defined in No.1 above.

Should an accident/incident occur in the station complex, the RTSRP contractor may investigate, provide supporting information, and or assist the SOA in the performance of investigations for any occurrence that meets the NTSB or FTA thresholds.


In the event that certain unusual or unforeseen issues or matters present themselves in the performance of these support services, the observer or inspector should, as soon as practical, notify both David F. Barber, PennDOT, and Robert P. Sedlock, NJDOT. Upon notification, the parties will proceed in a timely fashion to find resolution of the matter.

The designated parties, by signature below, concur with the contents of this memorandum of record.

(NAME) 
Robert A. Box

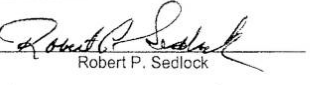
(TITLE) General Manager, PATCO - RTS

(DATE) June 6, 2007

(NAME) 

(TITLE) Manager, Fixed Guideway Safety and Security Oversight – PENNDOT

(DATE) June 6, 2007

(NAME) 
Robert P. Sedlock

(TITLE) Manager, Fixed Guideway Safety and Security Oversight – NJ DOT

(DATE) June 6, 2007

MemRecPATCOsoaPA-NJ-25-02.doc



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O. Box 600
Trenton, New Jersey 08625-0600

JON S. CORZINE
Governor

KRIS KOLLURI, Esq.
Commissioner

July 6, 2007

Robert A. Box
General Manager
PATCO - DRPA
PO Box 4262
Lindenwold, NJ 08021-0218

Re: Letter June, 6 2007: Safety Oversight Matters: PATCO-RTS Memorandum of
Record: Re-issue of original Letter

Dear Mr. Box:

I have been asked to forward the referenced and attached letter to you for your signature and return to Mr. Sedlock. Please note that it has already been signed by Mr. Sedlock and the PENNDOT representative. Should you have any questions, please don't hesitate to contact Mr. Sedlock at 609-530-2551.

Thank you for your assistance in this matter.

Sincerely,

Lance E. Weight, PP, AICP (Alt. NJDOT EMC)
Section Chief,
Office of Fixed Guideway Safety/Security Oversight

RECEIVED

JUL - 9 2007

OFFICE OF
GENERAL MANAGER



**New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
Appendix B**

December 13, 2000

Honorable James Weinstein
Commissioner - Transportation
New Jersey Department of Transportation
1035 Parkway Ave., Box CN-600
Trenton, NJ 08625

Re: Rail Fixed Guideway System, State Safety Oversight
Port Authority Transit Corporation (PATCO)

Dear Commissioner Weinstein:

This is a follow-up to our recent discussion regarding the Rail Fixed Guideway System, State Safety Oversight Program for the Port Authority Transit Corporation (PATCO). In our conversation, I advised you that the DRPA is in the process of implementing changes that will impact the DRPA's ability to serve as the Safety Oversight Agency for PATCO and suggested that perhaps this function could be performed by New Jersey DOT. You asked that I recap how the DRPA came to be designated as the Safety Oversight Agency for PATCO.

The United States Congress enacted P.L.102-240, entitled the "Intermodal Surface Transportation Efficiency Act of 1991" and added Section 28 to the Federal Transit Act (codified at 49 U.S.C. 1994), which required the Federal Transit Administration to issue regulations creating a State Oversight Program for Fixed Rail Guideway Systems. On December 27, 1995, the Federal Transit Administration promulgated a final rule codified at 49 C.F.R. Part 659 entitled, "Rail Fixed Guideway Systems: State Safety Oversight; Final Rule". These Federal Regulations require each State having an Operational Fixed Guideway System that is not regulated by the Federal Railroad Administration (FRA) to designate a State Oversight Agency to be responsible for overseeing the Rail Fixed Guideway Systems' safety practices. The designated State Safety Oversight Agency must develop Fixed Guideway System Safety Oversight Standards, investigate accidents and hazardous conditions, and conduct periodic safety audits.

Most systems that came under the new ruling operated within the boundaries of their respective States, and that State was required to designate a Safety Oversight Agency for those systems. It is my understanding that the State of New Jersey designated New Jersey DOT to be the State Oversight Agency for New Jersey Transit. There were a relatively small number of transit agencies that fell under the new ruling that operated in more than one State; and PATCO was one such agency.

When the State Safety Oversight regulations were enacted, I requested that my staff review the potential options for complying with the regulations and requested that staff recommend how PATCO could be brought into compliance with the regulations. Staff recommended that the most effective way to accomplish the Safety Oversight would be for DRPA to provide this function for PATCO much the same as

Hon. James Weinstein

-2-

December 13, 2000



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O.Box 600
Trenton, New Jersey 08625-0600

DONALD T. DiFRANCESCO
Acting Governor

JAMES WEINSTEIN
Commissioner

February 1, 2001

David Barber
Pennsylvania Department of Transportation
Bureau of Public Transportation
Forum Place, 8th Floor
555 Walnut Street, Harrisburg, PA 17101

Dear Mr. Barber

As we discussed on January 22, 2001, the Delaware River Port Authority (DRPA) implemented organizational and functional changes as part of its Enterprise Initiative. Although the DRPA may realize significant efficiencies through these changes, the DRPA can no longer perform Safety Oversight of the Port Authority Transit Corporation (PATCO), and maintain sufficient separation of the entities as required by the Federal Transit Administration's State Safety Oversight Program.

Further to our discussion, I advised you that, considering the best interest of both States (Pennsylvania and New Jersey), the New Jersey Department of Transportation – Safety Oversight Agency agreed with the DRPA to assume the functions of safety oversight over PATCO until both States concur in this matter. In this manner, we can avoid a situation whereby the FTA could consider both States non-compliant, with the absence of safety oversight over PATCO.

Additionally, subject to concurrence by the Commonwealth of Pennsylvania, it is our intent to continue the safety oversight of PATCO. Providing this matter is agreeable to all concerned, a formal response to the FTA will be required indicating that both States agree that New Jersey Department of Transportation is the designated oversight agency for the Port Authority Transit Corporation.

To expedite this matter, I have enclosed a draft of the proposed response (similar to our previous letters designating the DRPA as the oversight agency) to the FTA for your review.

Should you have any questions, or require additional information, please contact me at (609) 292-6893.

Sincerely,

Robert P. Sedlock
Manager, Fixed Guideway Safety Oversight

Enc.

Cc: Theodore H Matthews, Executive Director
Aeronautics and Freight Systems



New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
Appendix B

May 08 01 01:19p

Bureau of PublicTrans.

717-772-2985

p.2

April 30, 2001

Mr. Hiram J. Walker
Associate Administrator
Federal Transit Administration
Nassif Building
400 7th Street, S.W.
Washington, D.C. 20590

Re: Pennsylvania/New Jersey Joint Designation
For Safety Oversight of PATCO

Dear Mr. Walker:

The Commonwealth of Pennsylvania and the State of New Jersey herein jointly designate the New Jersey Department of Transportation (NJ DOT) as the oversight agency for the Port Authority Transit Corporation (PATCO) pursuant to Federal Transit Administration's (FTA) Safety Oversight Program requirements contained in 49 CFR Part 659. PATCO is a bi-state rail transit entity having operations in Pennsylvania and New Jersey. 49 CFR Section 659.21 (b) allows states to designate a single entity in cases where a transit system has multi-state operations.

On January 22, 2001, the Delaware River Port Authority (DRPA) informed the FTA and both States of changes impacting its ability to serve as the Safety Oversight Agency for PATCO. Acting in the interests of both States, the DRPA and NJ DOT, immediately, agreed on an orderly transfer of functions and Program Documents to NJ DOT, ensuring a continuous oversight of the PATCO operations until both States agree on the designated oversight agency. The Pennsylvania Department of Transportation was notified of this arrangement by NJ DOT on February 5, 2001 and concurred with its implementation.

Following these actions and considerations, both States agree that New Jersey continue its oversight of the PATCO system as the designated safety oversight agency. Pennsylvania and New Jersey safety oversight agencies will coordinate PATCO safety and security issues as appropriate.

I trust this letter satisfies FTA's requirements of 49 CFR Part 659. Should you have any questions, or require additional information, please contact David Barber, Manager of Pennsylvania's Oversight Program at (717) 787-1207.

Sincerely,

Bradley Mallory, Secretary
Pennsylvania Department of Transportation



New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
Appendix B

May 08 01 01:19p

Bureau of PublicTrans.

717-772-2985

p.3

620/DFB

cc: Richard Peltz
J. Dockendorf
✓ D. Barber
Donald T. DiFrancesco, Acting Governor, NJ
Theodore H. Matthews, NJDOT
Paul Drayton, Jr., Chief Executive Officer, DRPA
RF



**New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
Appendix B**



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O.Box 600
Trenton, New Jersey 08625-0600

DONALD T. DiFRANCESCO
Acting Governor

JAMES WEINSTEIN
Commissioner

May 4, 2001

Mr. Hiram J. Walker, Associate Administrator
Federal Transit Administration
Nassif Building
400 7th Street, S.W.
Washington, D.C. 20590

Re: Pennsylvania/New Jersey, Safety Oversight Program, Designation for PATCO

Dear Mr. Walker:

The Commonwealth of Pennsylvania and the State of New Jersey herein jointly designate the New Jersey Department of Transportation (NJ DOT) as the oversight agency for the Port Authority Transit Corporation (PATCO) pursuant to Federal Transit Administration's (FTA) Safety Oversight Program requirements contained in 49 CFR Part 659. PATCO is a bi-state rail transit entity having operations in Pennsylvania and New Jersey. 49 CFR Section 659.21 (b) allows states to designate a single entity in cases where a transit system has multi-state operations.

Recently (letter dated January 22, 2001), the Delaware River Port Authority (DRPA) informed the FTA and both States of changes impacting its ability to serve as the Safety Oversight Agency for PATCO. Acting in the interests of both States, the DRPA and NJ DOT, immediately, agreed on an orderly transfer of functions and Program Documents to NJ DOT, ensuring a continuous oversight of the PATCO operations until both States agree on the designated oversight agency.

Following these actions and considerations, both States agreed that New Jersey continue its oversight of the PATCO system as the designated safety oversight agency. Pennsylvania and New Jersey safety oversight agencies will coordinate PATCO safety and security issues as appropriate.

I trust this letter satisfies FTA's requirements. Should you have any questions, or require additional information, please contact Dave Barber of Pennsylvania DOT at (717-787-7540) and Robert Sedlock of New Jersey DOT at (609-292-6893) respectively.

Sincerely,

Theodore H. Matthews
Executive Director
Division of Aeronautics and Freight Systems

cc: Governor Tom Ridge
Acting Governor Donald T. DiFrancesco
Paul Drayton, Jr., Chief Executive Officer, DRPA



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O.Box 600
Trenton, New Jersey 08625-0600

DONALD T. DiFRANCESCO
Acting Governor

JAMES WEINSTEIN
Commissioner

Mr. Harry Saporta
Office of Safety and Security
Federal Transit Administration
400 7th Street, S.W.
Washington, D.C. 20590

May 9, 2001

Subject: State Safety Oversight of Rail Fixed Guideway Systems
Designated Safety Oversight Agency
Port Authority Transit Corporation (PATCO)

Recently, the Delaware River Port Authority (DRPA) informed the Federal Transit Administration (FTA) and the States, Pennsylvania and New Jersey, of changes impacting its ability to serve as the Safety Oversight Agency for PATCO.

New Jersey, acting on behalf of both States for the interim, assumed the oversight of PATCO. Following these actions, both States agreed that New Jersey continue its oversight of the PATCO system as the designated safety oversight agency.

I am including copies of the letters signed by both States, formally agreeing to the above actions and related correspondence for your information and file.

Best regards,

Robert P. Sedlock, Manager
Manager, Fixed Guideway Safety Oversight

Enclosures:



**New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
Appendix B**

c: Roy Field, FTA Staff
Jim Caton, Boyd, Caton & Grant
Transportation Group, Inc.
Letitia Thompson, FTA Region 2
Susan Schruth, FTA Region 3
Theodore H. Matthews, Executive Director
Aeronautics and Freight Systems

cc: Dev Soni, FTA Region 3

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New Jersey Department of Transportation
State Safety Oversight (SSO) Program Standard
Appendix B

Oct-10-02 15:07

From-FTA TPM

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U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

400 Seventh St., S.W.
Washington, D.C. 20590

August 17, 2001

Mr. Theodore H. Matthews
Executive Director
Division of Aeronautics and Freight Systems
New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625-0600

Re: Pennsylvania/New Jersey Joint State Safety Oversight Agency Designation,
Port Authority Transit Corporation (PATCO)

Dear Mr. Matthews:

I am writing in response to your letter, which documents the joint decision made by the States of Pennsylvania and New Jersey to designate the New Jersey Department of Transportation (NJ DOT) as the State Safety Oversight Agency for the Port Authority Transit Corporation (PATCO). FTA approves this designation and commends both agencies on your commitment to support the safe operations of PATCO and comply with 49 Part 659 requirements.

FTA requests that when finalized, NJ DOT submit its revised Program Standard, as well as PATCO's revised System Safety Program Plan and Security Plan, to FTA's Office of Safety and Security.

Thank you for your efforts to bring a timely resolution to this matter. FTA looks forward to its continued partnership with NJ DOT.

If you have any question regarding the requested submissions, please do not hesitate to call Mr. Roy Field of FTA's Office of Safety and Security at (202) 366-2896.

Sincerely,

Harry Sporta
Director, Office of Safety and Security

cc: Susan Schruth, FTA Region 3 Administrator

ROY FIELD