

(3) Has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).

*Rail Transit Agency* means an entity that operates a rail fixed guideway system.

*Rail Transit-Controlled Property* means property that is used by the rail transit agency and may be owned, leased, or maintained by the rail transit agency.

*Rail Transit Vehicle* means the rail transit agency's rolling stock, including but not limited to passenger and maintenance vehicles.

*Safety* means freedom from harm resulting from unintentional acts or circumstances.

*Security* means freedom from harm resulting from intentional acts or circumstances.

*State* means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

*System Safety Program Plan* means a document developed and adopted by the rail transit agency, describing its safety policies, objectives, responsibilities, and procedures.

*System Security Plan* means a document developed and adopted by the rail transit agency describing its security policies, objectives, responsibilities, and procedures.

### Subpart B—Role of the State

#### § 659.7 Withholding of funds for non-compliance.

(a) The Administrator of the FTA may withhold up to five percent of the amount required to be distributed to any state or affected urbanized area in such state under FTA's formula program for urbanized areas, if:

(1) The state in the previous fiscal year has not met the requirements of this part; and

(2) The Administrator determines that the state is not making adequate efforts to comply with this part.

(b) The Administrator may agree to restore withheld formula funds, if compliance is achieved within two years (See 49 U.S.C. 5330).

#### § 659.9 Designation of oversight agency.

(a) *General requirement.* Each state with an existing or anticipated rail fixed guideway system regulated by this part shall designate an oversight agency consistent with the provisions of this section. For a rail fixed guideway system that will operate in only one state, the state must designate an agency of the state, other than the rail transit agency, as the oversight agency to implement the requirements in this part. The state's designation or re-designation of its oversight agency and submission of required information as specified in this section, are subject to review by FTA.

(b) *Exception.* States which have designated oversight agencies for purposes of this part before May 31, 2005 are not required to re-designate to FTA.

(c) *Timing.* The state designation of the oversight agency shall:

(1) Coincide with the execution of any grant agreement for a New Starts project between FTA and a rail transit agency within the state's jurisdiction; or

(2) Occur before the application by a rail transit agency for funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).

(d) *Notification to FTA.* Within (60) days of designation of the oversight agency, the state must submit to FTA the following:

(1) The name of the oversight agency designated to implement requirements in this part;

(2) Documentation of the oversight agency's authority to provide state oversight;

(3) Contact information for the representative identified by the designated oversight agency with responsibility for oversight activities;

(4) A description of the organizational and financial relationship between the designated oversight agency and the rail transit agency; and

(5) A schedule for the designated agency's development of its State Safety Oversight Program, including the projected date of its initial submission, as required in § 659.39(a).