



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

Ms. Patricia Quinn
Chair, States for Passenger Rail
75 West Commercial Street, Suite 104
Portland, ME 04101

Dear Ms. Quinn:

As you are aware, the Federal Railroad Administration (FRA) staff provided preliminary draft policy guidance to sponsors of Intercity Passenger Rail (IPR) services in February of 2016 to clarify existing policies on IPR sponsors' roles and responsibilities for the safe operation of passenger rail service. FRA staff encouraged comments on the draft guidance; six IPR sponsors and the States for Passenger Rail Coalition (SPRC) provided comments in letters to FRA Administrator Sarah Feinberg.

In response to those comments, FRA has substantially revised the draft guidance. In its place and attached to this letter is a document titled: *Guidance on Safety Oversight and Enforcement Principles for State-Sponsored Intercity Passenger Rail Operations*. This Guidance outlines the principles for FRA's safety oversight of Intercity Passenger Rail operations. FRA staff briefed States on the broad principles in this Guidance on June 16, 2016 at a meeting of the States-Amtrak Intercity Passenger Rail Committee. At that meeting, we agreed to follow up with written Guidance.

FRA is proud of the work we do together to further the availability, safety, and reliability of the passenger rail services you support. Our focus is to promote the safe operation of intercity passenger rail service. We seek to continue to work with you in this important endeavor. We are the points of contact for this issue; please do not hesitate to contact us if you have any questions.

Sincerely,

Michael W. Lestingi
Director of Policy and Planning,
Office of Railroad Policy and Development

Patrick T. Warren
Deputy Associate Administrator,
Office of Railroad Safety

Guidance on Safety Oversight and Enforcement Principles for State-Sponsored¹ Intercity Passenger Rail Operations

I. Baseline Principles

- A. FRA has jurisdiction over intercity passenger rail (IPR) operations in all areas of railroad safety.
- B. In general, State-sponsored IPR operations have been conducted under the umbrella of Amtrak's National Intercity Passenger Rail System (National System) with Amtrak providing regulatory safety-related services and the State service sponsor's role primarily focused on service planning, marketing and funding of the IPR route.

II. FRA Oversight and Enforcement Principles

- A. To ensure adequate safety oversight, FRA seeks to have a single entity or organization as a point of contact for IPR operations to address regulatory safety, compliance, and enforcement matters (FRA Regulatory Matters) for these operations.
- B. FRA will continue to recognize IPR operations to be integrated in Amtrak's National System, and will continue to consider Amtrak to be the contact for most FRA Regulatory Matters, if:
 - i. Amtrak is responsible for operating the trains; and
 - ii. Amtrak is responsible for the train equipment's regular inspection and maintenance.
- C. Even though FRA may recognize an IPR operation to be an integrated route in Amtrak's National System:
 - i. The State service sponsor must participate as necessary in the development and implementation of regulatory programs for the operation's safety (see below for System Safety Program (SSP) example);
 - ii. The State service sponsor continues to have responsibilities for complying with individual Federal rail safety requirements that may apply independently to the State service sponsor regardless of the nature of the operation (passenger or freight), such as those applicable to track owners under FRA's Track Safety Standards if the State service sponsor owns the track. See 49 CFR part 213; and
 - iii. FRA may continue to deal directly with any contract provider of safety-related service for an IPR operation as necessary for FRA Regulatory Matters.
- D. A State service sponsor may change the contractors that deliver IPR services. Those decisions may have safety implications requiring the IPR service sponsor to be the primary contact for FRA Regulatory Matters. See II.E. below.
- E. A State service sponsor that changes its service contractors must work with FRA to establish a plan that assures regulatory safety-related requirements are being met. These IPR operations are not considered to be integrated in Amtrak's National System for purposes of FRA Regulatory Matters.

¹ For purposes of this document, "State" means any State agency or authority, including: a State department of transportation or analogous governmental agency or authority; a regional or local governmental agency or authority whether or not directly funded or overseen by a State (including, e.g., a joint powers authority where counties or localities jointly sponsor a passenger rail service, yet the State itself is not directly involved); or a public benefit corporation chartered by a State, regional, or local government.

- i. FRA expects the sponsors of IPR routes that are not considered integrated into Amtrak's National System, and/or sponsors considering service changes that would place their routes in this category to contact FRA.
- ii. FRA will work closely with the State service sponsor to identify its role.
- iii. Independent IPR operations will be assigned separate and distinct reporting codes for purposes of FRA inspection and enforcement activities.

Example of Applying Guidance to SSP Final Rule

FRA expects Amtrak to develop a National System Safety Program (SSP) that will encompass its entire National System, addressing as elements of the National SSP the particular aspects of each IPR operation (including State-sponsored integrated routes) necessary for safety. FRA will consider Amtrak to be the primary point of contact on SSP issues for IPR routes integrated into its National System.

- **If the State-sponsored IPR route is integrated into Amtrak's National System:**

- The State service sponsor will be responsible for ensuring that its contracts with other non-Amtrak providers of safety-related services clarify that contractors are required to provide information and participate as necessary in Amtrak's development of its National SSP.
- The State service sponsor will be responsible for ensuring that its safety-related services contractors fulfill their responsibilities for SSP activities, including implementation of appropriate mitigations identified under the SSP.
- If the State service sponsor is also a track owner, or has other independent responsibilities for the operation's safety, then the State service sponsor is also responsible for participating as necessary in developing and implementing Amtrak's National SSP, or developing its own SSP.
- A State service sponsor may elect to develop its own SSP for its State-sponsored operation. In this case, FRA would consider the IPR route to be an independent operation (see discussion below).

- **If the IPR route is not integrated into Amtrak's National System:**

- FRA will work closely on a case-by-case basis with State service sponsors of non-integrated routes as there may be several approaches that the State service sponsor could pursue to meet the regulatory requirements. FRA expects State service sponsors of operations that are not considered integrated IPR routes to contact FRA so appropriate options can be discussed and approved.
- In these instances, the State service sponsor will have a greater responsibility for developing and implementing its own SSP either directly on its own, through oversight of its contract providers of safety-related services, or both.
- If the State service sponsor is also a track owner, or has other independent responsibilities for the operation's safety, then the State service sponsor is also responsible for directly participating in, developing, and implementing, as necessary, an appropriate route-specific SSP.