



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0066]

State Rail Plan Guidance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Availability of Final State Rail Plan Guidance.

SUMMARY: FRA is publishing this notice to announce the availability of final State Rail Plan Guidance. The purpose of FRA's final State Rail Plan Guidance is to describe the processes for the development, submission, and acceptance of State rail plans. State rail plans are documents that are required under Section 303 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Section 303 of PRIIA provides for enhanced State involvement in rail policy, planning, and development efforts, including requiring States to develop FRA-accepted State rail plans in order to be eligible for the capital grants authorized in the Act and available under the High-Speed Intercity Passenger Rail program. This guidance provides an explanation of the process to be followed in developing State rail plans, FRA's process for reviewing and accepting State rail plans, a standardized format, and a list of the minimum content requirements for State rail plans. The State Rail Plan Guidance is available on FRA's Web site at <http://www.fra.dot.gov/Page/P0511>.

DATES: The final State Rail Plan Guidance is effective as of the publication of this notice on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

APPLICABILITY: Any State rail plan whose development is begun after publication of this notice must adhere to the standardized format and minimum content requirements defined within the guidance in order to be accepted by the FRA.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Kyle Gradinger, Transportation Industry Analyst, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Ave. SE., W38-202, Washington, DC 20590; telephone: (202) 493-6191.

SUPPLEMENTARY INFORMATION: Final State Rail Plan Guidance was prepared through a notice and comment process involving publication of draft guidance announced in the August 28, 2012 issue of the Federal Register, soliciting public review and comment over the following 90 day period. FRA received 121 individual comments from 55 respondents. Comments were received from a diverse group comprised of eight (8) State departments of transportation, one (1) metropolitan planning organization (MPO), eleven (11) trade organizations, five (5) national stakeholder organizations, one (1) private individual, and one (1) public transportation service provider.

Broad support was offered by commenters for preparing State rail plans as part of a comprehensive, coordinated planning framework within and among States, and for addressing passenger and freight needs in an integrated, coordinated way. Almost unanimous support was offered for integrating, to the extent possible, preparation of State rail plans with the

statewide/nonmetropolitan and metropolitan transportation planning programs required under the Federal-aid Highway and Federal Transit titles - 23 U.S.C. and Chapter 53 of 49 U.S.C., respectively. Similarly, it is within that expanded transportation planning context of States and metropolitan planning organizations (MPOs) that commenters proposed engagement of an expansive range of stakeholder interests in State rail plan development - spanning industry, government, labor, local communities, and the private sector.

However, concerns were expressed by commenters for several procedural aspects of State rail plan preparation, including data collection and the depth of impact assessment required for the rail infrastructure, facilities, and service improvements contained in State rail plans. Other issues raised by commenters included the importance of involving private rail interests in meaningful ways in State rail plan development, while respecting the proprietary nature of their operational and financial records. These comments are grouped and summarized below by topic with FRA responses.

Coordination with Statewide/Nonmetropolitan and Metropolitan Transportation Planning

Several comments were received supporting full coordination of State rail plan development with the statewide/nonmetropolitan and metropolitan transportation planning programs required under 23 U.S.C. and Chapter 53 of 49 U.S.C. Commenters recommended a range of specific planning work activities and planning products that represent the best opportunities for coordination with State rail plan development. Following are the details of comments provided and FRA responses regarding coordination between State rail plan development and the transportation planning processes carried out by States and MPOs.

Several commenters proposed that States prepare State rail plans as part of metropolitan and statewide/nonmetropolitan transportation planning processes in order to eliminate duplication of effort. Particular concern was expressed for not establishing a separate planning process for State rail plans – apart from those existing planning processes. It was proposed that States be able to incorporate visions, plans, and priorities that consider rail as one of many transportation modes, in a single statewide transportation plan, with the State rail plan incorporated within the overall plan or as an addendum. A commenter also requested clarification of the term “compatible,” as it was used in the draft guidance to describe the relationship between the State rail plan and planning processes. Response: FRA has revised the draft guidance to emphasize the importance of preparing State rail plans within the policy and procedural contexts of the multimodal transportation planning processes conducted by states and MPOs and to integrate the documents as much as possible. In revising the guidance, FRA was careful not to convey the MAP-21 financial constraint requirements associated with highway and transit listings to the rail proposals listed in the State rail plan. Also, to improve clarity, the term “compatible” was replaced with language calling for state rail plans to be generally consistent with other planning documents and policies.

A commenter recommended that the guidance stipulate that State rail plans should be prepared in coordination with the new freight planning activities carried out by States in accordance with MAP-21. The commenter proposed that the guidance direct States to describe how their State's long-term vision for rail integrates with the State Freight Plan, as well as the National Freight Policy, the National Freight Strategic Plan, and the National Export Initiative. Another commenter recommended that State rail plans include in depth discussion of the

changing freight market. Response: FRA agrees that State rail plans should be prepared with full understanding of the current and emerging freight, as well as passenger, markets and has revised the guidance accordingly. Language also has been added to the guidance recommending that States coordinate preparation of State freight plans and State rail plans.

A commenter proposed closer coordination between FRA and FHWA and State highway offices, suggesting that States be required to consider the cross-effects of investment in rail and highway improvements, including consideration of rail when planning future highway investments. Another commenter recommends that the guidance specifically require State rail plans to identify the potential impacts of individual projects, as well as the combined impact of all projects in the State rail plan. Specifically, they recommended that local transit modes be added to the list of "highway, aviation and maritime modes" included in the draft guidance. Response: FRA added "local transit" to the list of modes for which potential impacts of State rail plan implementation should be analyzed and added emphasis about the need to assess potential project impacts on an individual, as well as combined, basis.

A commenter recommended revising the guidance to promote consistency between the performance measures used in preparing State rail plans and those used in the statewide/nonmetropolitan and metropolitan transportation planning process, including use of easy-to-read tables. Response: FRA agrees that using consistent performance measures is preferable and has revised the guidance to include reference to using performance measures in coordination with those used in broader transportation planning processes, including promoting consistency with transit asset management plans required under MAP-21.

A commenter recommended changing the 5-year state rail plan update cycle included in the draft guidance to a 4-year cycle, for consistency with the document update cycles prescribed in MAP-21 for planning documents. Another commenter proposed annual updates. Response: The 5-year update provision is set forth in PRIIA and cannot be changed. However, FRA agrees that the update cycles of State rail plans should be aligned, to the extent possible, with other planning documents. Accordingly, the guidance has been revised to encourage States to update State rail plans on a consistent cycle with other planning documents, at least every 5 years.

A commenter suggested that the guidance be revised to allow States the flexibility to align the planning horizons of State rail plans with those used in their other planning and programming documents. Response: FRA has revised the guidance to allow States to use longer horizon time periods for the Rail Service and Investment Program as long as it identifies specific projects for the 4-year short-term and 20-year vision components.

A commenter recommended adding a requirement that statewide/nonmetropolitan and metropolitan transportation planning processes consider the rail transportation needs of military and federal facilities where appropriate and where regional transportation has an impact on "military readiness." Response: FRA has revised the guidance to require States to identify Strategic Rail Corridor Network (STRACNET) facilities in the State rail plans. In addition, revisions also were made to encourage States to include the rail transportation needs of military and federal facilities in their statewide/nonmetropolitan planning processes, as well as in development of State rail plans, as appropriate.

A commenter recommended that the FRA Regional Manager be included as a non-voting member on MPO policy boards. Response: While FRA staff can provide technical assistance to States during State rail plan development and MPOs have broad latitude to include non-voting members from Federal and non-Federal agencies, recommending such action is beyond the scope of PRIIA and this guidance.

A commenter questioned the focus directed to "megaregions," in that the concept does not apply to rural States as they seek to accommodate their product shipment needs, as well as serving as through-movement "bridge states" for transporting goods to market. Response: FRA has revised the guidance to reference rail service needs within and between mega-regions, as well as to passenger service and freight movement needs in all other appropriate sections of the country.

Public and Stakeholder Involvement

Several comments were received that recommended linking public involvement processes during State rail plan development with the statewide/nonmetropolitan and metropolitan transportation planning programs required under 23 U.S.C. and Chapter 53 of 49 U.S.C. Following are the detailed comments provided and FRA responses regarding coordination of public and stakeholder involvement between State rail plan development and the transportation planning processes carried out by States and MPOs.

Commenters recommended that the guidance explicitly require that draft State rail plans be presented for public comment for at least 30 days prior to being submitted to the FRA for acceptance, as well as identify milestones and minimum standards for stakeholder and public involvement that emphasize collaborative partnerships. Response: The guidance has

been revised to encourage States to conduct stakeholder involvement in full coordination with, or incorporated within, the public involvement activities conducted by States and MPOs in their respective transportation planning processes. Federal requirements for transportation planning (23 CFR 450) call for those public involvement processes to be developed by State and local officials, not the Federal government, and to be prepared in collaboration with the public and stakeholders. The agreed upon public involvement processes must then be documented and periodically evaluated for effectiveness.

Several commenters called for greater clarity of the role of freight rail, noting the unique position, perspectives, and interests of privately owned freight rail lines – as owners, operators, investors, and private sector partners in rail development. Comments particularly focused on the need for States to respect the proprietary nature of inventory and operations data held by private freight rail operators and to protect the confidentiality of such data if obtained for use in State rail plan development. Concern was expressed for including privately funded rail improvements in the State rail plan, as privately funded improvements typically are not included in the plans of States and MPOs. Response: FRA recognizes limitations to imposing requirements on and requesting data from private operators and the guidance has been revised to stress the importance of obtaining private freight rail perspectives in State rail plan development while respecting their private business status and the proprietary nature of their market and operating data. Language requesting States to include privately funded rail facility improvements in State and MPO plans, TIPs, and STIPs was retained for information and coordination purposes.

Several commenters noted how rail unions both influence, and are influenced by, the contents of State rail plans, and recommended that those organizations be explicitly mentioned among the stakeholder interests. Response: FRA has added "Rail Labor Organizations" to the list of stakeholder interests for which an opportunity to contribute to and comment on the development of the State rail plan should be provided.

A commenter recommended including MPOs among the list of stakeholders with whom State rail plan development should be coordinated. Response: FRA has added focus on engaging MPOs in the development of State rail plans in the revised guidance.

Content and Format of State Rail Plans

Several comments were received recommending a relaxation of the level of detail required of the proposed improvements in the 20-year State rail plan, as well as potential sources of funding and analysis of impacts. Other topics were proposed for more detailed discussion, including the role and planning implication of public-private partnerships, integrated planning for passenger and freight rail, and reference to Service Development Plans (SDPs) in the State rail plan documents.

A commenter suggested requiring less detailed information on commuter rail activities because the State rail plan qualifies States to receive grants for high-speed rail only. Response: Operational information about all relevant services, including intercity and commuter rail, is needed for coordinated planning. Such information should be readily available from the public operators of commuter rail. Accordingly, the guidance was not changed.

A commenter expressed concern for requiring inclusion of a detailed list of rail capital projects in the State rail plan due to the cost and administrative burden, as well as the separate MAP-21 requirements for highway and transit project listings in the STIP. Several other commenters questioned the need to identify the distribution of benefits from rail service implementation to regions. Response: PRIIA requires State rail plans to include a list of proposed rail improvements, as well as an analysis of the distribution of benefits to regions. Accordingly, FRA has not modified those provisions in the guidance. However, inclusion of rail improvements in the TIPs/STIPs prepared by MPOs and States, while encouraged by the guidance, is not required. The guidance has been revised to clarify that inclusion of rail improvements in TIPs/STIPs is for information and coordination purposes only.

Several commenters expressed concern for the level and detail of analysis of rail's impact on the range of factors published in the guidance, including congestion mitigation, safety, economic development, air quality, land use, and energy use. A commenter proposed that the impact analyses for the 20-year plan be conducted on a corridor-basis, rather than at the project level. Another commenter expressed concern that specific financing strategies and the level of detail requested for data associated with the passenger and freight rail proposals are too detailed for projects in the early stages of planning over a 20-year period. Response: FRA agrees that the descriptive detail of individual rail proposals and discussion of their potential impacts should be most detailed for the immediate 4-year phase of the Rail Service Investment Program, with a more aggregate, general description of impacts and financial information that is "reasonably expected" for the outer years of the full 20-year plan. The

guidance was revised accordingly, with distinction between the information that is expected of the 4-year phase vs. the outer years of the 20-year plan.

A commenter proposed expanding the discussion of public private partnerships (PPP) to include a fuller description of the concept, benefits, and supportive planning techniques associated with PPPs. Response: Text regarding the value of PPPs in rail development and operation has been added.

A commenter noted that planning for passenger and freight rail needs to take place in a coordinated, non-competitive fashion. It was recommended that narrative be added to the guidance to describe the shared rail synergies and win-win solutions that are possible with passenger and freight coordination. Response: FRA supports coordinated and integrated rail planning and operation across passenger and freight markets and has revised the guidance in several sections accordingly.

A commenter suggested that States be required to include discussion of SDPs in State rail plans. Response: While an SDP is a vital plan for passenger rail corridor investment, the time horizon of each SDP may not always fit within every State's long-range rail improvement framework. States may optionally choose to include discussion of SDPs where they exist.

Procedures for Preparing and Submitting State Rail Plans

Several comments were received regarding the administrative preparation of State rail plans, as well as review and acceptance by FRA. Some commenters proposed increasing the frequency of State rail plan updates and lengthening the planning horizon. Other commenters requested clarification of when and how FRA would review the draft documents.

A commenter sought clarification of the eligibility of States to receive funding under Section 301, 302, and 501 of PRIIA if their State rail plans were under development at the time of publication of final State Rail Plan Guidance. Another commenter requested clarification of FRA's timetable for reviewing and accepting State rail plans if a Notice of Funding Availability (NOFA) should happen to be issued for capital grants under Sections 301, 302, and 501 prior to "acceptance" of the plan by FRA. Response: The guidance has been revised to clarify that State rail plans that were in preparation prior to issuance of this final guidance, and that substantially meet the requirements of PRIIA, will be deemed by FRA to meet program and project eligibility requirements for grants authorized under Sections 301, 302, and 501 of PRIIA. The guidance has been revised to add that a State rail plan for which contractor assistance had reached the "notice-to-proceed" stage will be considered "underway." Also, FRA will exercise due diligence in reviewing as-yet-unapproved State rail plans in a timely manner when any future funding NOFAs may be issued.

A commenter questioned the need for States to establish two separate authorities and asked if a single authority could serve both purposes. Response: PRIIA calls for States to designate the two authorities noted above; however the guidance was revised to indicate that the same State entity can serve both purposes.

A commenter suggested that the guidance outline a clear process and timeline for FRA review and acceptance of draft and final State rail plans, as well as a process for submitting amended State rail plans. Response: The published draft guidance described a formal process for State rail plan submittal to FRA and notification of receipt by FRA, upon which FRA has committed to a 90-day review and acceptance schedule. Language has been added clarifying

that updates of State rail plans may be submitted at any time the State deems necessary, for which FRA would follow the process described for all plan submissions – regardless of their frequency or what triggered the update.

A commenter noted potentially conflicting statements in the guidance regarding submission of State rail plans in draft form to FRA vs. transmittal of the final draft. Response: The guidance was clarified to describe how States are encouraged to submit preliminary drafts of their State rail plans to FRA for review and comment prior to formal submission of the final draft plan.

Data Requirements for State Rail Plans

Most commenters expressed concern for the amount of data collection and analysis required in State rail plans – particularly for rail concepts that were more than 20 years in the future. Commenters expressed concern for the availability of data, particularly for privately owned/operated services. Special attention was proposed for collecting information around stations and intermodal transfer points.

A commenter noted that data was not available for all of the metrics contained in Section 207 of PRIIA and that States should be responsible only for accessing information that is actually available. Two other commenters proposed that FRA assemble the required data inventories and provide them to the States as a cost-saving measure and to ensure consistency. Response: FRA has revised the guidance to indicate that only available data should be required for inclusion in State rail plans. The suggestion that FRA compile the necessary data resources will be taken under advisement and considered, subject to resource availability at the Federal level.

A commenter noted that the effort entailed in compiling demographic data for all station areas could be excessive. Four other commenters expressed concern that assembling detailed information on station facility improvements and area land use plans would be excessive and possibly duplicative of local plans, necessitating the provision of more detailed guidance on the methodologies and data inputs. Response: The guidance has been revised to remove the request for detailed demographic data and instead promotes close integration of State rail plan development within the statewide/nonmetropolitan transportation planning process, which could provide ready access to land use data for entire study areas, corridors, and station-specific information. FRA also agrees with the concern about collecting information on improvements to non-major station facilities and has revised the presentation of that information at a summary or program level. However, station information for major passenger and freight intermodal connections and facilities is an explicit provision in PRIIA, and remains a part of the guidance. Lastly, the guidance was revised to call for “a summary level of discussion” on land use impacts.

A commenter expressed concern for reporting station-to-station intrastate ridership for any but the top ten city pairs, proposing that States simply report boardings and alightings. Response: A comprehensive profile of current usage is a critical component to preparation of a credible State rail plan, and limiting ridership flows to the top city pairs will not provide useful information on growth trends in small and mid-sized markets. Therefore, no change has been made.

Several commenters proposed not collecting information on the owner/operator status of rail lines, citing the difficulty, expense, and inconsistency with PRIIA. Response:

Owner/operator status of rail lines as a key element of the inventory of the existing rail services and facilities within the State, which is an explicit requirement of PRIIA. The guidance has been revised to identify the availability of the data in GIS format from the National Transportation Atlas Database (NTAD), which is maintained online by the U.S. Department of Transportation. In addition, information on publicly funded commuter rail operations should be available through the MPO if in an urbanized area or State if in a non-urbanized area.

A commenter regarded "railway assets currently out of service or rail banked" as abandoned and expressed concern for the burden of assembling an inventory of those lines.

Response: Rail-banked and out of service rail lines have not been formally abandoned and therefore remain important rail facilities to be inventoried.

A commenter recommended adding a section on passenger station needs and plans.

Response: FRA agrees that station planning, including consideration of usage, station area development and interfaces with other modes, is important and the topic has been added to the guidance.

A commenter suggested that evaluation of passenger rail projects for impact on livability, land use, and walkability would be too detailed for a statewide level document describing projects at the systems planning stage of development. Response: FRA has revised the guidance to call for analysis of land use impacts only for those projects that have reached the environmental analysis phase, with a summary discussion of land use impacts required elsewhere.

A commenter requested that FRA provide benefit-cost formulas for use by States.

Response: Currently, FRA does not have specific guidance on benefit-cost analyses but may be

able to provide technical assistance upon request. However, the DOT Office of Inspector General recently released a report highlighting best practices in conducting rail benefits assessments, available at: <http://www.oig.dot.gov/sites/dot/files/OIG-HSR-Best-Practice-Public-Benefits-Report.pdf>. Additionally, benefit-cost guidance used for the TIGER grant program can be used to structure a rail analysis:

http://www.dot.gov/sites/dot.dev/files/docs/TIGER%202013%20NOFA_BCA%20Guidance_0.pdf

A commenter requested more information on the list of performance measures proposed in Appendix 1 for possible inclusion in Section 2.1. Response: The guidance was not revised because the measures were listed as optional information items offered for consideration, subject to their availability.

A commenter suggested that ridership information may not be available from more than 5 years prior and proposed modifying the request to apply to only the previous five years. Another commenter noted that passenger train miles (adjusted for cancellations/terminations) is typically available only from Amtrak. Another commenter proposed that passenger mile data be provided on a route basis. Response: FRA has revised the guidance to request data only for only the past 5 years, with States encouraged to use data from earlier years if they have it. The guidance also was revised to advise that “general estimates” of passenger mile data are acceptable for state-supported services, with route-level data acceptable for long-distance trains.

A commenter expressed concern for the lack of intercity rail mode share data, as required by the draft guidance for State rail plans. Response: FRA has revised the guidance to

require inclusion of mode share data only if it is available, or able to be calculated, through the use of existing information.

A commenter suggested that commuter rail mode share be calculated as commuter rail trips per total public transit trips. Response: FRA has retained the definition given in the draft guidance in order to provide a consistent measurement standard for all State rail plans.

Individual States may optionally choose additional measures and alternative definitions of mode share if they wish.

Availability of Final Guidance

Notice is hereby given that FRA has released final State Rail Plan Guidance, which is available at: <http://www.fra.dot.gov/Page/P0511>. The purpose of FRA's final State Rail Plan Guidance is to describe the processes for the development, submission, and acceptance of State rail plans. State rail plans are documents that are required under Section 303 of the Passenger Rail Investment and Improvement Act of 2008.

Paul Nissenbaum

Associate Administrator for Railroad Policy and Development

[FR Doc. 2013-22679 Filed 09/17/2013 at 8:45 am; Publication Date: 09/18/2013]