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passenger

trains on

freight railroads

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**Blending Regional, Intercity and Freight Rail
with Municipal Transit**



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Introduction

- Examples across US of mixed fixed guideway passenger and freight traffic:
 - Washington, DC/MD/VA Metro area – MARC, VRE and Amtrak trains operating in corridors shared with WMATA (no shared use tracks, however)
 - San Jose, CA – SCVTA operations in CalTrain corridors also used by UPRR
 - Chicago – Metra and Amtrak operations intermingled with extensive freight
 - New Jersey Transit – mixed light rail and freight



Topics for today

- Multi-faceted regulatory status: FRA + FTA = ??
 - STB?
- Recent developments: FRA as Funder → Service Outcome Agreements
- Local Governments: Don't we get to regulate who and what moves through our town?

Multi-faceted Regulatory Status

- Traditionally, FRA has had primary regulatory oversight for safety of rail transportation
- FRA jurisdiction: “... all entities that can be construed as railroads by virtue of their providing non-highway ground transportation over rails or electromagnetic guideways...” (49 CFR Pt. 209 Appendix A, at page 36)
 - In Shared Use Policy Statement, issued in 2000, FRA asserted jurisdiction over light rail transit that shares right-of-way (and in some instances, shares track) with conventional rail systems

Multi-faceted Regulatory Status

- Previously:
 - FTA had no safety jurisdiction
 - Federal law left regulation of transit systems (other than “shared use” systems) to States
- New regime: MAP-21 (“Moving Ahead for Progress in the 21st Century Act”) conferred new safety authority on FTA
- New 49 U.S.C. 5329:
 - Mandates creation of “national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.”
 - Safety plan to include the definition of “state of good repair” that the statute also requires DOT to develop [see 49 U.S.C. 5326(b)]
 - Also requires public transportation safety certification program

Multi-faceted Regulatory Status

- State Safety Oversight – 49 U.S.C. 5329(e)
 - State agency to oversee “rail fixed guideway public transportation safety”
 - Will “adopt and enforce Federal and relevant State laws on rail fixed guideway public transportation safety:
 - Must be independent of any agency that runs fixed guideway system
- Regulations coming your way soon
 - FTA reviewing FRA Shared Use Policy Statement (issued in 2000) to ensure no overlap or inconsistent obligations



FRA's Role as Funding Agency

- New role, new concepts required
- For High Speed Rail Agreements with freight railroads:
 - Service Outcome Agreements
- Unfamiliar Role for FRA: Service quality/on-time performance police
- Unfamiliar Role for Freight: Guarantors of reliable, on-time passenger service



FRA's Role as Funding Agency

- State/local role:
 - Recipient of funds
 - Coordinating service with existing local or state services
 - Defining service parameters
 - Then enforcing them using service outcome agreement terms
- The Big Question: How to make these factors work together?

Local Governments' Concern for Public Safety

- Not just safety of freight moving through a town/state
 - Examples:
 - DC government concern about HazMats
 - City of Alexandria concern about ethanol transload
 - NJ concerns about dumping of hazardous construction debris

Local Governments' Concern for Public Safety

- Another angle: HazMats or terrorist activity on mixed use corridors
- Can States/Locals regulate?
 - No. Period.
 - Federal preemption of state/local law
 - U.S. Constitution's Supremacy Clause



QUESTIONS?

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