

Congress of the United States
Washington, DC 20515

November 30, 2016

The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

The Honorable Sarah Feinberg
Administrator
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Foxx and Administrator Feinberg,

We write regarding the Federal Railroad Administration's (FRA) System Safety Program (SSP) rule. As you know, this rule was recently finalized and requires commuter and intercity passenger railroads to proactively identify and mitigate various safety hazards.

The safe operation of passenger railroads remains critical to ensuring public confidence in our nation's passenger rail system, and we appreciate the Department's and FRA's renewed focus on safety in recent years. However, in the case of the SSP rule, it has come to our attention that the North Carolina Department of Transportation (NCDOT) and several other parties have submitted to FRA petitions for reconsideration as well as petitions for judicial review that raise a number of concerns on procedural, statutory, and policy grounds.

It is my understanding that NCDOT believes implementation of the SSP rule and subsequent guidance as currently written would essentially redefine state sponsors of intercity passenger rail as railroads despite the fact that NCDOT does not itself operate any railroads. In the case of North Carolina's *Piedmont* service, which runs from Raleigh to Charlotte, Amtrak operates the trains and a third party service provider under contract by NCDOT maintains state-owned rail equipment. Meanwhile, the *Carolinian* service from Charlotte to New York is operated by Amtrak with Amtrak-owned equipment. Both routes receive significant financial support from NCDOT.

Concerns have been raised by NCDOT and others that requiring non-operating sponsors of intercity passenger rail to develop and implement an SSP could upend existing operating agreements between sponsors, Amtrak, and third party contractors; infringe upon state contract and employment laws; increase liability costs; and shift limited resources away from maintaining or expanding passenger rail service as sponsors ill-equipped to perform the safety-related functions of railroad operators attempt to comply with the SSP rule.

Ultimately, FRA should ensure that the new SSP rule does not unnecessarily burden states or public entities that have taken an active role in promoting and facilitating the expansion of intercity passenger rail. Failure to do so could serve as a disincentive for other states when considering whether to establish or expand passenger rail service. With this in mind, we urge you to give careful consideration to NCDOT's petition for reconsideration while continuing to work with stakeholders to address their concerns moving forward.

Thank you for your attention to this matter.

Sincerely,



DAVID E. PRICE
Member of Congress



G. K. BUTTERFIELD
Member of Congress