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Permitting Reform-Environmental Review Process

Surface Transportation Board

Docket No. EP 779

ENTERED

Office of Chief Counsel

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Public Record

Amtrak's Comments

April 23, 2026

The National Railroad Passenger Corporation (Amtrak) submits the following comments on the Notice of Proposed Rulemaking (NPRM) in the above-captioned docket in which the Board has proposed various amendments in its regulations implementing the National Environmental Policy Act (NEPA).

Amtrak supports the Board's proposed categorical exclusion for "proceedings related to [Amtrak's] use of rail carrier facilities and services under 49 U.S.C. 24308" unless the Board action sought "results in changes in operations that exceed the Board's environmental thresholds." (NPRM, p. 8)

The proposed categorical exclusion is in accord with NEPA and will "provide clarity as to NEPA's requirements and promote consistency as to NEPA's implementation."¹ The proposal is also consistent with the Board's specific and limited authority over Amtrak and its operations, as well as with the outcomes of previous Board proceedings involving Amtrak.

49 U.S.C. 24308 includes two provisions that authorize the Board to grant Amtrak access to rail lines and other facilities of rail carriers or regional transportation authorities and resolve disputes over the terms of Amtrak's access. Paragraph (a) gives the Board general authority to order and set terms for Amtrak's access (General Authority Provision). Under paragraph (e), the Board can order that Amtrak be given access for operation of additional trains (Additional Trains Provision).

The Board and its predecessor, the Interstate Commerce Commission (ICC), have rendered decisions in over 20 cases brought under the General Authority Provision since it was enacted 55 years ago as part of the Rail Passenger Service Act of 1970 that created Amtrak. In none of those cases has the ICC or Board found that the action proposed or undertaken was likely to have significant environmental effects or warranted environmental review.

The Board reached the same conclusion in the only case brought under the Additional Trains Provision, which was added to the Board's jurisdiction in 2008. In STB Finance Docket No. 36496, Application of the National Passenger Railroad Corporation Under 49 USC 24308(a)—CSX Transportation Inc. and Norfolk Southern Ry., decision served Aug. 6, 2021, the Board noted that "this type of proceeding is not identified in the Board's environmental rules as one that normally requires an environmental review." Slip op. at 9. Rather, the Board found that a proceeding under the Additional Trains Provision was analogous to a request for operating authority that was subject to a categorical exclusion unless the Board's environmental thresholds were exceeded. Slip op. at 10.

¹ NPRM at 3, quoting Council on Environmental Quality, Memorandum for Heads of Federal Departments and Agencies: Implementation of the National Environmental Policy Act (Sept. 29, 2025).



49 U.S.C. 24308 also contains four other provisions regarding Amtrak's use of rail carriers' facilities and services: paragraph (b) regarding Amtrak operations during emergencies; paragraph (c) that allows rail carriers to seek limitations on Amtrak's right to preference over freight trains; paragraph (d) pertaining to accelerated speeds; and paragraph (f), which authorizes the Board to investigate substandard performance of Amtrak trains. As with paragraphs (a) and (e), the Board, the ICC, and the U.S. Department of Transportation, which had jurisdiction over proceedings under paragraphs (c) and (d) until jurisdiction was transferred to the Board in 2008, have never found that an action under any of these provisions was likely to have significant environmental effects or warranted environmental review.

NEPA defines "categorical exclusion" as "a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment." (42 U.S.C. 4336e(1)) Board precedent, over half a century of experience with proceedings under the provisions codified at 49 U.S.C. 24308 and the Board's longstanding categorical exclusion for similar proceedings demonstrate that the proposed categorical exclusion for proceedings under 49 U.S.C. 24308 is clearly warranted under that definition. Amtrak urges the Board to include that categorical exclusion in its final rule.

Amtrak appreciates the Board's consideration of its views here and stands ready to assist the Board as needed in this proceeding. Please contact Amtrak at regulatoryaffairs@Amtrak.com for further information or assistance.

Thanks,

Marc R Fuller

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