

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

Docket No. FD 36927

**DENTON & NORTH TEXAS RAILROAD LLC – CONSTRUCTION AND OPERATION
EXEMPTION – LINE OF RAILROAD IN DENTON, TEX.**

Categorical Exclusion Adoption

Background

On May 7, 2026, Denton & North Texas Railroad LLC (DNT), a noncarrier subsidiary of Patriot Rail Company LLC (Patriot Rail),¹ filed a notice of exemption under 49 CFR § 1150.36 to construct and operate approximately 4,200 feet of track inside an existing Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City (CPKC) right-of-way near Krum, Tex., between CPKC milepost 109 and milepost 110 (DNT Line). The DNT Line would connect CPKC’s mainline to DNT-operated track within an approximately 120-acre planned industrial park, and DNT intends to operate the DNT Line as a common carrier. DNT states that the new DNT line would be double-tracked.

In its notice, DNT also requests that the Board waive its environmental rules for this proposed action. In the alternative, DNT suggests that the Board may adopt an applicable Federal Railroad Administration (FRA) categorical exclusion. As explained below, adoption of the FRA categorical exclusion is appropriate for this proposed action.

NEPA and Categorical Exclusions

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321–4370m-11, requires that the Board examine the potential environmental impacts of Board actions that fall within the statutory definition of “major federal action.” See 42 U.S.C. § 4336e(10); 49 CFR § 1105.5. Under NEPA and the Board’s environmental regulations, actions subject to NEPA are separated into three classes that prescribe the level of environmental review required. See 42 U.S.C. § 4336(b); 49 CFR § 1105.6. The Board must prepare an Environmental Impact Statement (EIS) for proposed actions that have a reasonably foreseeable significant effect on the quality of the human environment. See 42 U.S.C. § 4336(b)(1). The Board must prepare a more limited Environmental Assessment (EA) with respect to proposed actions that do not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown.

¹ Patriot Rail controls Class III carriers in 21 states, and the notice of exemption indicates that it will seek authority to continue in control of DNT upon its becoming a Class III rail carrier. See 49 § CFR 1180.2(d)(2).

As for the third class of actions, NEPA provides that a federal agency may establish “categorical exclusions” and list them in their agency NEPA implementing procedures. NEPA section 111(1) 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). If a proposed action falls within a categorical exclusion, it is excluded from the requirement to prepare an EA or EIS unless extraordinary circumstances exist that indicate the action is likely to have a reasonably foreseeable significant adverse effect. See 42 U.S.C. § 4336(a)(2).

Section 109 of NEPA allows a federal agency to adopt another agency’s categorical exclusion for a category of proposed actions. 42 U.S.C. § 4336c. To do so, the adopting agency must (1) “identify the relevant categorical exclusion listed in another agency’s NEPA procedures that covers a category of proposed actions or related actions;” (2) “consult with the agency establishing the categorical exclusion to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate;” (3) “identify to the public the categorical exclusion that the agency plans to use for its proposed actions;” and (4) “document the adoption of the categorical exclusion.” 42 U.S.C. § 4336c(1)-(4).

Under the Board’s current NEPA implementing regulations, proposals for “[c]onstruction of connecting track within existing rail rights-of-way, or on land owned by the connecting railroads” “normally” requires the preparation of an EA. 49 CFR § 1105.6(b)(1). The Board’s regulations set forth the requirements for filing a notice of exemption for the construction and operation of connecting track. 49 CFR § 1150.36. Consistent with the Board’s NEPA regulations, this connecting track provision notes that the Board will “generally” be required to prepare an EA or EIS for these actions. 49 CFR § 1150.36(c). These provisions establish a process for OEA’s preparation of an EA or EIS for proposals to construct connecting track. 49 CFR § 1150.36(c)(3)-(10). However, as explained below, a categorical exclusion established by FRA will be adopted and applied to this proposed action. Therefore, the § 1150.36(c)(3)-(10) process is not applicable.

Identification of the Categorical Exclusion

The Board’s Office of Environmental Analysis (OEA) has identified the following FRA categorical exclusion for adoption:

“Minor rail line additions, including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards or right-of-way, provided such additions are not inconsistent with existing zoning, do not involve acquisition of a significant amount of right-of-way, and do not significantly alter the traffic density characteristics of the existing rail lines or rail facilities.” 23 CFR § 771.116(c)(12).

OEA has determined that this categorical exclusion “covers” DNT’s proposal for construction of connecting track for this proposed action.² According to DNT, the DNT Line would be constructed entirely within an existing CPKC right-of-way. Therefore, it would not involve the acquisition of new right-of-way. In addition, the construction would be consistent with existing zoning and would not significantly alter the traffic density characteristics of the existing rail lines or rail facilities.

Consultation with FRA

On April 24, 2026, the Director of OEA consulted with FRA on the appropriateness of the Board’s adoption of the categorical exclusion. The consultation included a review of FRA’s experience developing and applying the categorical exclusion, as well as a description of the proposed action. OEA expects that the environmental effects of the proposed action will be similar to the effects of FRA actions related to the construction of connecting track for which FRA applied this categorical exclusion. In FRA’s experience, these effects have not been significant. Therefore, adoption of the categorical exclusion is appropriate.

Extraordinary Circumstances

Extraordinary (or unusual) circumstances may exist that indicate a normally excluded agency action is likely to have a reasonably foreseeable significant effect. With respect to its categorical exclusion, FRA has identified four potential “unusual circumstances” that may indicate that application of its categorical exclusion would not be proper: (1) significant environmental impacts; (2) substantial controversy on environmental grounds; (3) significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or (4) inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action. 23 CFR 771.116(b).

Based on the information provided by DNT in its notice, none of these circumstances exist here. The construction would be minor and would not result in significant impacts. The construction would be adjacent to an industrial park and would be unlikely to generate controversy on environmental grounds, and nothing has been filed with the Board suggesting such controversy. Section 4(f) of the Department of Transportation Act does not apply to Board actions. There are no historic properties in the vicinity of the proposal, and, as explained below, the proposal is exempt from review under the National Historic Preservation Act (NHPA).

Finally, based on the pre-filing consultation that DNT conducted as required under 49 CFR § 1150.36(c)(1), as well as the information provided in its notice, there is no indication that the proposal would be inconsistent with any state or local requirements. The Texas Commission on Environmental Quality (TCEQ) commented that Denton County is designated as

² In fact, the Board has proposed to establish a new categorical exclusion for the construction of connecting track, based on the FRA categorical exclusion, which would be listed in the Board’s NEPA implementing regulations at 49 CFR 1105.7(a)(8). Permitting Reform—Env’t. Rev. Process, EP 779 (STB served Mar. 25, 2026), slip op. at 32, 63-64.

nonattainment for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS) with a classification of severe and designated as nonattainment for the 2015 eight-hour ozone NAAQS with a classification of serious. TCEQ explained that a Clean Air Act conformity determination may be required if ozone precursor emissions resulting from the proposed action would meet or exceed *de minimis* thresholds. (Env't Comment EI 34242.) DNT has provided an analysis demonstrating that the construction-related emissions from the proposed action would be below the *de minimis* thresholds. (Env't Comment EI 34244.)

Emissions related to projected increases in rail operations on rail lines are not subject to general conformity requirements because the Board does not exercise continuing program responsibility over and cannot practically control rail operations on rail lines. Moreover, DNT's projected operations on the DNT Line—no more than one train per day—would not exceed the Board's regulatory threshold for an air quality analysis under NEPA. See 49 CFR § 1105.7(e)(5)(ii)(A).

Notice and Documentation of Adoption

This decision identifies to the public the adoption of FRA's categorical exclusion listed at 23 CFR § 771.116(c)(12) and documents the application of this categorical exclusion to this proposed action.

National Historic Preservation Act

Under Section 106 of the NHPA, the Board is required to consider potential effects on historic properties that would result from Board undertakings and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment regarding such undertakings, unless ACHP has issued an applicable Program Comment (PC). ACHP may issue a PC on a category of undertakings in lieu of conducting reviews for each undertaking within that category. 36 CFR § 800.14(e). An undertaking that meets the terms of a PC is exempt from further review under Section 106. DNT's proposed project falls within the exempted activities listed in ACHP's PC to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way. See 83 Fed. Reg. 42920 (Aug. 24, 2018).

In this PC, ACHP established an activities-based approach and included an Exempted Activities List identifying actions involving maintenance, repair, and upgrades to rail properties within existing rail right-of-way, where the changes are likely to be minimal or not adverse and are necessary to continue meeting the transportation needs of the nation.

DNT's proposed project falls under II.A.1. of the Exempted Activities list of the PC, which covers track and trackbed maintenance, repair, replacement, and upgrades within the existing footprint. See id. at 42927. The PC also states that proposed activities must not include alterations to the trackbed that would result in a substantial visual change in the relationship between the trackbed and the surrounding landscape or built environment. Id. The proposed project would not result in substantial visual changes to the current ROW in relation to the surrounding landscape and built environment; the terrain is flat, and DNT has not indicated any planned changes in grade or profile. Finally, the PC includes a "General Rule" that lists

requirements for the application of the PC. *Id.* at 42926-42927. Here, the relevant provisions of the General Rule will also apply to DNT's application of the PC.

Conclusion

For the reasons discussed above, FRA's categorical exclusion listed at 23 CFR § 771.116(c)(12) will apply to this proposed action, concluding the NEPA process. In addition, DNT's proposal meets the terms of ACHP's PC to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way, 83 Fed. Reg. 42920. Therefore, the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.