

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. EP 779

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PERMITTING REFORM – ENVIRONMENTAL REVIEW PROCESS

**COMMENTS FROM
THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION**

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I. INTRODUCTION

The American Short Line and Regional Railroad Association (“ASLRRA”) submits these comments in response to the Surface Transportation Board’s (“STB”) proposal to clarify, update, and streamline its existing environmental regulations implementing the National Environmental Policy Act (“NEPA”) and to add delegations of authority related to environmental review.¹ The notice explains that the Board is taking this action to conform its regulations to current practices and changes in the law and to support government-wide consistency in the NEPA process to the extent practicable and in accordance with Board authorities. Among those changes are the Council on Environmental Quality’s (“CEQ”) rescission of its NEPA implementing regulations, the 2023 and 2025 amendments to NEPA, changes to other relevant statutes, executive orders, and case law relating to the implementation of NEPA, including recent U.S. Supreme Court precedent. Additionally, the Board provides that these revisions will also ensure the development and continuance of a sound rail transportation system and reduce regulatory barriers to entry into and exit from the rail industry. ASLRRA appreciates and supports the Board’s efforts to reduce regulatory burden.

¹ 91 Fed. Reg. 14,490 (Mar. 25, 2026).

Interest of the ASLRRRA in this Proceeding

The ASLRRRA is a national trade association representing the interests of about 600 short line and regional railroad members in legislative and regulatory matters. Short lines operate approximately 50,000 miles of track in the United States, or about 30% of the national freight network, touching in origin or destination one out of every five cars moving on the national railroad system, serving customers who otherwise would be cut off from the national railroad network. Both in legislative matters before Congress and in regulatory and legal proceedings before the Board, other federal agencies, and the courts, ASLRRRA advocates for enlightened public policies which promote a strong regional and short line rail component for the national transportation infrastructure.

II. BRIEF DISCUSSION OF THE PROPOSED CHANGES

The proposed regulations would implement significant structural modifications to the Board's environmental review framework. Among the most consequential changes is the reallocation of certain authorities from the Board to the Director of the Office of Environmental Analysis ("OEA") to promote more efficient and streamlined decision-making. The regulations would also update and expand the list of actions that do not require environmental review under NEPA, propose new categorical exclusions for actions that do not normally have a significant effect on the quality of the human environment, and incorporate statutory deadlines and page limits enacted through recent amendments to NEPA. In addition, the proposed rules would establish formal procedures governing the preparation of Environmental Assessments ("EAs") and Environmental Impact Statements ("EISs") by applicants and would create defined processes for conducting environmental reviews in emergency circumstances.

Consistent with these structural changes, the proposed regulations would delegate substantial authority to the Director of OEA. Under the new framework, the OEA Director would be responsible for determining the appropriate level of NEPA review required for individual proceedings and for rejecting applicant-prepared environmental documents that fail to comply with applicable requirements. The Director would also be authorized to impose, modify, or remove environmental mitigation conditions, to issue Findings of No Significant Impact in abandonment exemption proceedings, to serve as the agency official for consultations conducted pursuant to section 106 of the National Historic Preservation Act, and to execute binding agreements related to the protection of historic properties.

The Board further proposes expanding the scope of categorical exclusions available under its environmental regulations. These expansions would include certain abandonments and discontinuances that do not result in traffic diversions exceeding established environmental thresholds and that do not involve pre-consummation salvage activities, as well as the construction of connecting track within existing railroad rights-of-way. The proposed categorical exclusions would also encompass reciprocal switching agreements and proceedings related to the use of Amtrak facilities under 49 U.S.C. § 24308. Taken together, these changes would operate within the three-tiered environmental review framework consisting of categorical exclusions, EAs, and EISs. The Board also generally proposes to eliminate the preparation of draft EAs and draft EISs, and allow for a stand-alone EA or EIS.

Finally, the proposed regulations would clarify and standardize the substantive resource areas that must be addressed in environmental reports, EAs, and EISs. These reviews would be required to analyze transportation system impacts, including potential rail-to-truck diversions; maintain consistency with applicable land-use plans and local planning documents; and monitor

effects on energy efficiency and energy consumption. They would also require evaluation of air quality impacts, with specific thresholds applicable to attainment and nonattainment areas, as well as noise and vibration impacts analyzed in accordance with Federal Transit Administration guidance. In addition, the environmental reviews would address safety considerations, including the transportation of hazardous materials; impacts on biological resources in coordination with relevant federal agencies; effects on water quality and wetlands; and impacts on cultural and historic resources.

III. SHORT LINE RAILROAD PERSPECTIVE

ASLRRA is generally supportive of this effort by the Board to clarify, update, and streamline its existing environmental regulations implementing NEPA, and to add delegations of authority related to environmental review. A reduction in time and resources needed to complete regulatory compliance work for projects would in turn generate savings that small business railroads could use to invest in their track and structures. ASLRRA suggests only a couple small items that the Board should address in a final rule in this proceeding.

Existing STB rules exempt “ministerial” acts from environmental review. *See* 49 C.F.R. § 1105.5(c). In the proposed changes to § 1105.5, the Board expands on the specific list of actions exempt from environmental review, but it also adds that orders “purely procedural” in nature will also be exempt at § 1105.5(b)(7). However, in the preamble, the STB states that actions that are “ministerial,” are not subject to NEPA.² ASLRRA would appreciate the Board to address whether the term “purely procedural” in the proposed changes to the rule should be interpreted as “ministerial” is in the current rule or as a different standard.

² *See, e.g., id.* at 14,493 and 14,499.

The Board proposes to streamline its environmental review processes, including by expanding the scope of categorical exclusions and generally eliminating draft EAs and draft EISs. This would theoretically result in fewer resources being expended by the Board, as many actions would either be exempt from environmental review altogether or undergo less process if the proposed regulations are finalized. With the rationale that filing fees are intended in part to cover the extensive work expended by the agency for environmental reviews, ASLRRA encourages the Board to address whether it can pass on some of these savings to rail carriers by reducing the filing fees for projects that will be categorically exempt from environmental review or that will otherwise benefit from the more streamlined EA and EIS processes.

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ASLRRA appreciates the opportunity to share the short line railroad perspective on permitting reform and applauds the Board's efforts to streamline the environmental review process. Short line railroads strongly support reforms that advance regulatory efficiency while preserving reasonable environmental protections. Such improvements are critical to ensuring that needed infrastructure investments can move forward in a timely and cost-effective manner for small rail carriers and the communities they serve.

Respectfully submitted,



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