

## **SURFACE TRANSPORTATION BOARD PROPOSES RULE AND POLICY STATEMENT ON PASSENGER RAIL ISSUES**

The Surface Transportation Board today issued two decisions proposing definitions and policy guidance regarding passenger train on-time performance and preference issues. The Board seeks public comment on both proposals.

First, the Board issued a [Notice of Proposed Rulemaking](#) defining “on-time performance” for purposes of cases brought before the Board under Section 213 of the Passenger Rail Investment and Improvement Act of 2008 [“PRIIA,” codified at 49 U.S.C. § 24308(f)]. Under § 24308(f), if the on-time performance of any intercity passenger train averages less than 80% for any two consecutive calendar quarters, the Board may initiate an investigation, or Amtrak and other eligible complainants may file a complaint with the Board requesting that the Board initiate an investigation.

The proposed definition would consider a train to be “on time” if it arrives at its final terminus no more than five minutes after its scheduled arrival time for each 100 miles the train operated, or 30 minutes after its scheduled arrival time, whichever is less.

Simultaneously, the Board issued a [proposed policy statement](#) addressing issues that may arise and the evidence to be presented in complaint proceedings under § 24308(f). The proposed policy statement interprets the statutory preference accorded to Amtrak trains over freight trains (49 U.S.C. § 24308(c)) and the phrase “attributable to a... failure to provide preference” (49 U.S.C. § 24308(f)(2)), and provides guidance regarding the evidence that may be most useful in § 24308(f) proceedings.

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