

TESTIMONY

OF

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BEFORE THE

SURFACE TRANSPORTATION BOARD

WEDNESDAY, FEBRUARY 11, 2009

10:00 AM

395 E STREET, SW

WASHINGTON, DC 20423

Chairman Nottingham, Vice Chairman Mulvey, and Member Buttrey, thank you for calling this hearing today. I am delighted to be here on behalf of Amtrak to offer our comments on the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and the Surface Transportation Board's important role in the implementation of the bill. We very much look forward to working with you, the DOT, the states, and all of the key stakeholders who will benefit from this legislation.

(Slide 1) - Background

Passage of PRIIA was a milestone for intercity passenger rail and the millions of passengers that we serve across the country. Amtrak operates a 21,100 mile network, and serves 527 stations in 46 states. We carried 28.7 million passengers in FY 2008, an all-time record. Amtrak divides our services into three basic categories – long-distance trains, which can travel up to 2,700 miles, short distance trains having routes shorter than 700 miles, and our Northeast Corridor service, which is run mostly on Amtrak-owned lines and is a very fast and very frequent short-distance service. Just over sixty-eight percent of our short distance trains arrived on time in FY 2008, but performance within that category varies widely by service. Some services average in the eighty-percent range, but in one case, OTP averages 18.6%. Our long distance trains posted an FY 2008 on time arrival average of 54.2%.

(Slide 2) – The Amtrak network

This is our system – you’ll note the division between short and long-distance routes. The long-distance routes are generally limited to a train a day in each direction, and the number of long-distance train miles we operate has changed very little since 1971. The short-distance routes can be very dense – 157 of our 310 daily trains run on some part of the NEC between Boston and Washington, while many of our other routes in California and Illinois, for example, have multiple daily departures on the same route.

(Slide 3) – The Passenger Rail Investment and Improvement Act

PRIIA sets national policy for intercity passenger rail service, replacing the last such authorization, which expired in 2002. Frankly, it has been a long time in coming. For too long, passenger rail has taken a back seat to the other modes of transportation when it comes to funding and policy issues. PRIIA finally puts intercity passenger rail on course for a bigger and brighter future. The creation of a federal capital matching program for state investment is one of the major tenets of the legislation. Significant funding is set aside for Amtrak’s capital and operating needs. Amtrak has been working for years to return its infrastructure to a state of good repair, and the funds authorized in the bill will greatly assist in that effort.

But the new law does more than simply address funding needs. It addresses a number of policy and service quality issues at the heart of Amtrak and state intercity passenger rail service. We at Amtrak have established an internal Reauthorization Task Force (RTF) with representation from

all the major departments of the company that have a role in meeting the requirements and deadlines in the bill. The RTF meets regularly and has already met several times with staff from the Federal Railroad Administration and also members of the staff here at the STB. We take this very seriously, and we will meet the deadlines and the mandates of this Act.

(Slide 4) – Title II - Amtrak reform and operational improvements

Now, I will touch on some of the specific provisions of the bill where the STB has a role and some of our thoughts on how we will work with you along the way. I will devote the bulk of my time to discussing the requirements set out in Title II.

(Slide 5) – Title III – Intercity passenger rail policy

I will also touch briefly on Title III, principally to highlight two provisions that are authorized by the legislation. These are involved with the issues I will discuss when we come to Section 213; certain of the findings the STB is empowered to make by Section 213 can be used to justify an application for capital funding under the terms laid out for grant programs in Sections 301 and 302.

(Slide 6) – Section 207 – Metrics and standards

Section 207 requires that Amtrak and the Federal Railroad Administration, in consultation with the STB and others, work together to establish uniform metrics and standards. Specifically, the legislation requires improvement of existing or development of new “metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services.” The law gives us 180 days to complete the metrics and standards. The President signed the bill on October 16, so we must come to an agreement on metrics and standards by mid-April. If we do not do so, the STB may be petitioned to assist the parties in resolving their disputes.

These metrics and standards are very important. They will be used as one measure to evaluate passenger train performance in Section 213, and they will also be used to evaluate our performance under other sections of the Act. For this reason, Amtrak takes these very seriously and will work with the STB and the FRA to develop them.

(Slide 7) – Section 213 – Passenger train performance

As I mentioned earlier, the on-time performance of our trains is highly variable. We want to make it very clear that the on-time performance of our trains is the lynchpin of our success. The U.S Department of Transportation Inspector General’s March 28, 2008 report, “Effects of Amtrak’s Poor On-Time Performance,” found that poor on-time performance costs Amtrak over \$100 million per year in lost revenues and increased costs. Reliable on-time service is critical on

short haul and long distance trains. For years, we have struggled with our OTP numbers off the Northeast Corridor, which we own. I have included a graph, which you'll see on this slide, of our long-distance train OTP from FY 2006 through December, 2008. Generally speaking, the trend is upwards – but it's still far short of 80%.

(Slide 8) – Section 213 – Passenger train performance

The performance you have just seen is well short of the level we want to attain, and well short of the level the PRIIA mandates. Section 213 establishes that the STB may initiate an investigation if the on-time performance of any intercity passenger train averages less than 80% for any 2 consecutive calendar quarters, or if the service quality of intercity passenger train operations for which the minimum standards are established under section 207 fails to meet those standards for 2 consecutive calendar quarters. The Surface Transportation Board is also required to initiate an investigation upon the filing of a complaint by Amtrak, an intercity passenger rail operator, a host freight railroad over which Amtrak operates, or an entity for which Amtrak operates intercity passenger rail service.

The purpose of the investigation is to determine whether and to what extent delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier. The Board is also authorized to investigate whether delays or failures to achieve minimum standards are attributable to a rail carrier's failure to provide preference, a statutory right that affords Amtrak preference over freight transportation in using a rail line, junction, or

crossing. Among other things the Board can award damages under Section 213 if it finds that Amtrak's preference right has been violated.

I have included a graph of the top three causes of delays to long distance trains in FY 2008. As you can see, the top causes of delay are freight train interference and slow orders. The question of freight train interference gets into the vital issue of preference.

(Slide 9) – Legal sources of preference

The whole question of the preference to be accorded passenger trains is vitally important to Amtrak. Our metrics show that customer satisfaction tracks closely to the on-time performance of our trains. The Inspector General of the Department of Transportation, in its September 8, 2008 report "Root Causes of Amtrak Train Delays," found that actions by the host railroads, including dispatching practices, violate Amtrak's statutory rights to preference. We have been working hard with the host railroads on this situation, but when collaboration is not enough it is necessary that Amtrak have tools available to it to enforce its rights.

We pledge to you today that we will continue to work with our host partners to meet or exceed the standards set in the bill. But, if we do not hit those levels, we anticipate that we will file a complaint to begin the process of the Board's investigation of on-time performance. We can and we must hit those numbers and provide our passengers the kind of reliability and on-time performance that they expect.

(Slide 10) – Section 209 – State-supported routes

The original Rail Passenger Service Act of 1971 allowed states to contract with Amtrak for passenger train service. Since 1997, Amtrak has been allowed to set the terms of its service, and between 1997 and 2002, each business unit set its own pricing policy. This led to significant variations, and our company is transitioning toward a consistent state contribution basis.

Amtrak trains currently receive operating support from fourteen states. On my slide, you'll notice the map that shows our "system corridors" in red, and "state supported corridors" in green. The latter trains receive varying levels of support from states; the former trains receive no state support. Many of them are designated as "system trains," and as part of the national system are run regardless of the level of state support.

We regard this provision as an important one, and we will implement it. We also regard the state partners as critically important, both to the maintenance of existing service and the development of new service. Amtrak is going to work closely with them and with the DOT to ensure that we get to a mechanism that provides, as the law mandates, "equal treatment in the provision of like services."

(Slide 11) – Section 212 – NEC Infrastructure

As I mentioned earlier, just about half of our daily trains use some portion of the Northeast Corridor. It is a very busy railroad, and Amtrak is not the only user. Eight commuter agencies and four freight companies also use the NEC main stem – a total of some 2,500 trains a day. Much of the infrastructure is aging, and to the question of basic reliability we increasingly face a question of capacity. Amtrak has established an infrastructure advisory group to address this issue, and we are currently working with our partners to develop a long term plan for maintaining and improving the NEC. We regard the implementation of a process that will improve the allocation of capital costs as a key step, and we will work closely with the DOT on the development of this formula.

(Slide 12) – Section 214 – Alternate Passenger Rail Service Pilot Program

The next two slides deal principally with alternate programs that are designed to allow other providers to enter the intercity passenger rail business, should they wish to do so. Section 214 empowers the FRA to collaborate with the STB to enforce a contract and continue service if a provider attempts to halt it.

(Slide 13) – Section 217 – Access to Amtrak equipment and services

Section 217 deals more directly with Amtrak, and requires us to negotiate agreements with other providers who need our assets or services to undertake a service. As with the other portions of

the law, this is reflective of the Congress's intent for national intercity rail policy, and we will cooperate with any requests we receive.

(Slide 14) – Sections 301 and 302

Finally, we come to the two provisions from Title III, Sections 301 and 302. They authorize capital investment programs. Section 301 authorizes a capital matching program administered by the FRA for the use of states, groups of states, and public agencies. Section 302 authorizes a capital matching fund for projects that are designed to facilitate ridership growth or mitigate congestion. An STB finding, under the process authorized by Section 213, can be one of a number of sufficient conditions that can allow the Secretary to authorize the funding of a project. These are important provisions, and I would hope that the STB keeps them in mind when and if it is called on to adjudicate cases under Section 213.

In closing, let me reiterate to you and the Board that our goal will be to work through each of these areas with care and consideration for all stakeholders involved. We'll do our very best to solve the challenges we face in a cooperative and collaborative way. Along the way, we will be sure to keep you and your staff fully apprised and briefed so that you know what is going on at all times with regard to these new requirements and where they intersect with your new jurisdictional roles. We hope to be a resource to you and your staff and we will make ourselves and our system accessible to you at all times so that you have all the information you need to make decisions on Amtrak issues.

Thank you.

The Passenger Rail Investment and Improvement Act

Testimony to the Surface Transportation Board

William Crosbie

February 11, 2009

Background

- Amtrak is the national intercity passenger rail provider
 - Created in 1971 to relieve freights of common carrier obligation to provide passenger service
 - Operates a 21,100 mile system, serving 527 stations
 - Carried 28.7 million passengers in 2008
- Services fall into three categories:
 - Northeast Corridor (largely, but not entirely, Amtrak-owned infrastructure)
 - Long distance trains (Up to 2,728 miles)
 - Short distance trains (Generally under 500 miles)
- 71% of our train-miles are run on railroads other than Amtrak:
 - BNSF Railway (6.69 million train-miles)
 - Union Pacific Railroad (6.09 million train-miles)
 - CSX Transportation (5.85 million train-miles)
 - Norfolk Southern Railway (2.36 million train-miles)
 - Canadian National Railway (1.45 million train-miles)
 - Metro-North Commuter Railroad (1.34 million train-miles)

Amtrak pays host companies for incremental cost and incentives – over 100 million dollars in FY 2008



The Amtrak network



Passenger Rail Investment and Improvement Act, PL 110-432

- Sets national intercity passenger rail policy through 2013
- Creates capital matching program to fund infrastructure improvements
- Authorizes capital and operating funding for Amtrak

Title II – Amtrak Reform and Operational Improvements

- Section 207 – Metrics and Standards
- Section 209 – State-Supported Routes
- Section 212 – NEC Infrastructure & Operations Improvements
- Section 213 – Passenger Train Performance
- Section 214 – Alternate passenger Rail Service Pilot Program
- Section 217 – Access to Amtrak equipment and services

Title III – Intercity Passenger Rail Policy

- Section 301 – Intercity Passenger Rail Service Corridor Capital Service
- Section 302 – Congestion grants

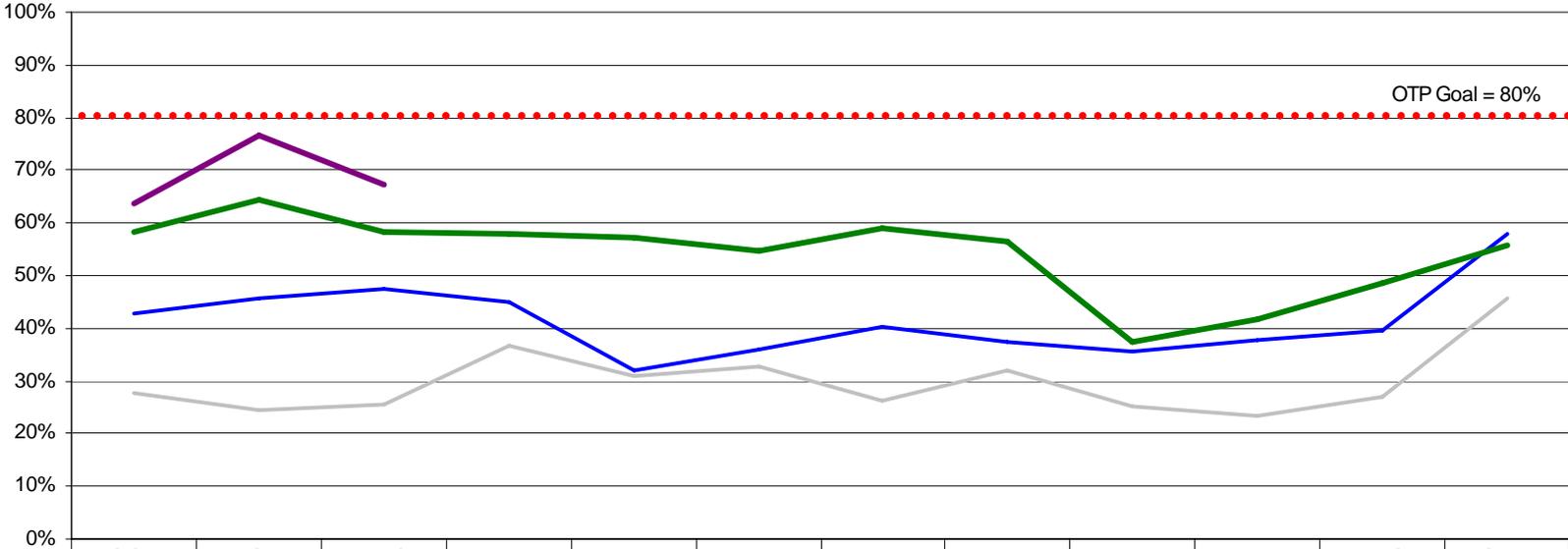
Section 207 – Metrics and standards

- Sec. 207: “The Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations.”
 - If development incomplete by the deadline, any involved party may petition the STB to appoint an arbitrator to assist in dispute resolution
 - FRA and Amtrak will consult with the STB, rail carriers over whose lines Amtrak operates, States, Amtrak employees, nonprofit employee organizations representing Amtrak employees, and groups representing Amtrak passengers, as appropriate
- This is a critical aspect of the bill for Amtrak

Deadline is April, 2009 – so we are working hard to complete this

Section 213 – Passenger train performance

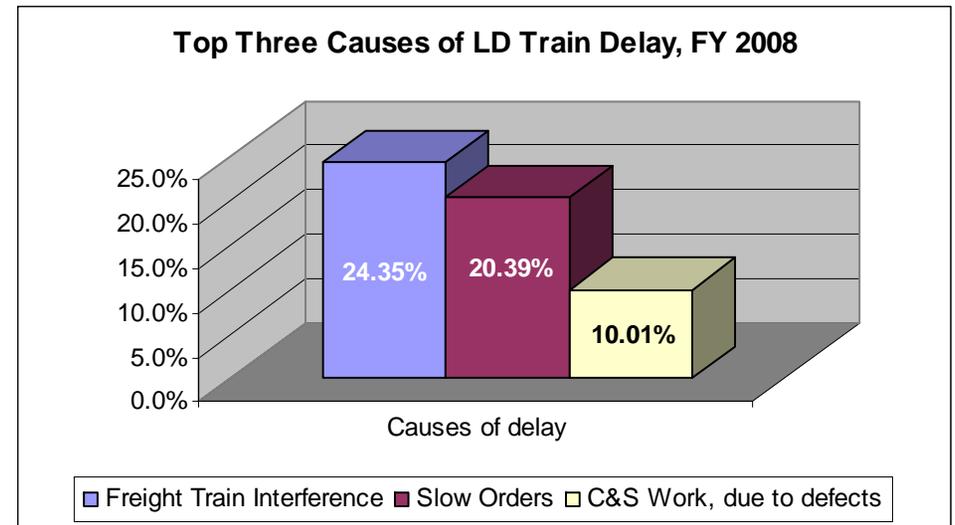
**Long Distance Service
Endpoint On Time Performance
FY09 (thru December 2008) vs FY06 thru FY08**



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
— FY06	27.8%	24.6%	25.5%	36.7%	31.1%	32.7%	26.4%	31.9%	25.3%	23.3%	26.9%	45.6%
— FY07	42.9%	45.8%	47.5%	45.0%	32.1%	36.0%	40.2%	37.5%	35.5%	37.7%	39.7%	57.8%
— FY08	58.5%	64.4%	58.2%	58.1%	57.1%	54.6%	58.9%	56.4%	37.4%	41.9%	48.7%	55.7%
— FY09	63.6%	76.7%	67.2%									

Section 213 – Passenger train performance

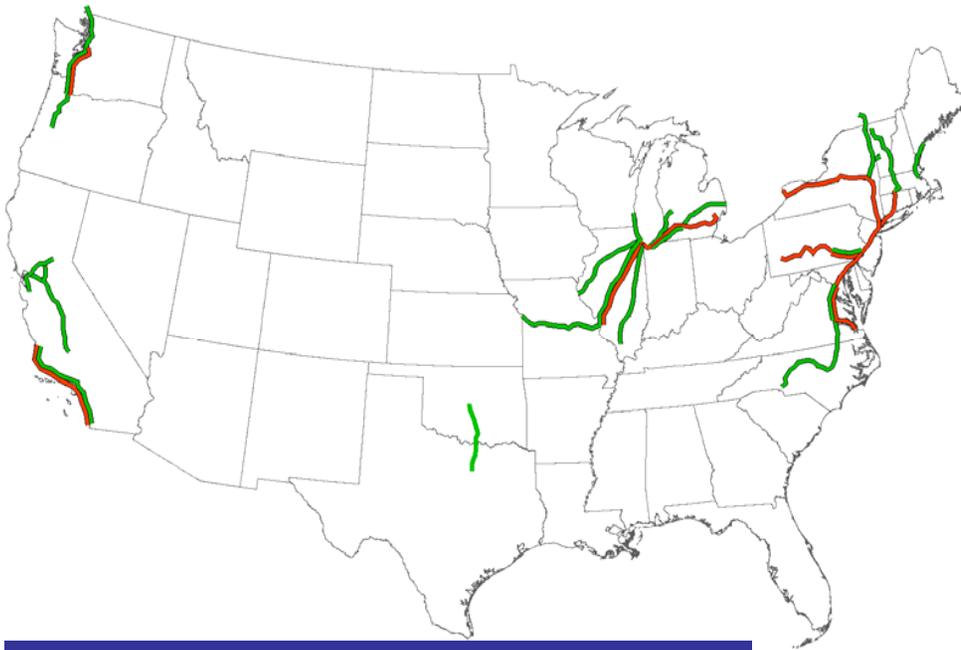
- STB may initiate an investigation on its own “[i]f the on-time performance of any intercity passenger train averages less than 80% for two consecutive calendar quarters, or if service quality falls beneath the minimum standards set in Sec 207 for 2 consecutive quarters”
- STB “shall initiate an investigation” on a complaint from Amtrak, another intercity passenger rail operator, a host railroad, or an entity for which Amtrak operates intercity passenger rail service
- Investigation will determine “whether and to what extent” delays or failures are due to “causes that could reasonably be addressed” by the rail carrier owning the line
- If the Board finds that delays or failures are attributable “to a rail carrier’s failure to provide preference to Amtrak over freight transportation,” it may award damages or other relief



Legal sources of preference

- Mandated by 49 USC §24308(c)
 - “Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief.”
- This statute establishes an absolute rule that dispatchers for host railroads must ensure that freight traffic does not obstruct or delay the use by Amtrak trains of rail lines, junctions, or crossings
- Two exceptions: (1) emergency; or (2) application to STB where preference “materially will lessen the quality of freight transportation to shippers.”
 - To date, no applications for an exception have been made

Section 209 – State-supported routes



- State support of trains a component of the original Rail Passenger Service Act (1971)
 - Has grown up over the years – some variations in practice
 - A uniform methodology in everyone’s best interest
- Requires development of “a single nationwide standardized methodology for standardizing and allocating the operating and capital costs among the states and Amtrak”
 - For specified routes and services
 - Amtrak Board of Directors, in consultation with DoT and governors
 - Must be done within 2 years
- If Amtrak and the other parties do not voluntarily adopt and implement the methodology:
 - STB shall determine the appropriate methodology
 - STB will also require “full implementation” of this methodology within 1 year of the Board’s determination

Green lines are state-supported routes, red lines are system corridor routes

Amtrak State Partners	
•North Carolina	•Missouri
•Vermont	•Oklahoma
•New York	•Texas
•Maine	•Illinois
•Pennsylvania	•California
•Michigan	•Washington
•Wisconsin	•Oregon

Section 212 – Northeast Corridor infrastructure

- Establishes Northeast Corridor Infrastructure and Operations Advisory Commission “to promote mutual cooperation and planning pertaining to rail operations and related activities on the Northeast Corridor”
 - Secretary of Transportation establishes the commission and the Committee
 - Amtrak, DOT, FRA, States, and non-voting reps of the freights on Commission
 - Amtrak, FRA, Freights, commuter agencies, rail passengers, rail labor on the Committee
- Establishes a rail safety committee, with representation from states, rail users, labor, and passengers to recommend safety and security improvements
- Within 2 years of enactment, Commission is to “develop a standardized formula for allocating costs, revenues, and compensation for NEC commuter rail transportation.”
 - Each service assigned only costs incurred for its benefit and a proportionate share of costs occurred for the common benefit – no cross-subsidization
- If the parties fail to implement the agreement in time, the Commission shall petition the STB to determine the appropriate compensation
- STB shall enforce its determination on the involved parties

- Amtrak-sponsored infrastructure master planning process includes representatives of northeastern states, the FRA, and other NEC users
- Ongoing plan development aligns closely with process outlined in this section
- State of good repair plan will be complete in April, 2009
- Final report is planned for September, 2009

Section 214 – Alternate passenger rail service pilot program

- Allows infrastructure owners to petition for consideration as “passenger rail service providers” over lines they own in lieu of Amtrak
- If a provider who has been awarded a route ceases to operate the service or fails to fulfill contractual obligations
 - FRA, “in collaboration with the STB”
 - “shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service.”

Section 217 – Access to Amtrak equipment and services

- If a state chooses an intercity provider other than Amtrak, it may make an agreement with Amtrak to use facilities and equipment, or Amtrak services, to allow the state to use the other provider effectively
- If Amtrak and the state cannot agree on terms, and the STB finds that access to facilities, equipment, or services is necessary (and that Amtrak's other operations won't be impaired), the STB shall, within 120 days:
 - Issue an order that facilities and equipment be made available, and services provided
 - Determine reasonable compensation, liability and other terms
 - As appropriate, compensation shall be determined in accordance with the methodology discussed in Sec 209.

Amtrak's goal is to work collaboratively with providers to implement the will of Congress

Sections 301 and 302

Section 301 Capital Assistance

- Notes that the identification of a capital project by the STB as “necessary to improve the on-time performance and reliability of intercity passenger rail” is one of a range of potential criteria that would support the allocation of funds
- Basis for the STB identification is a finding under the process outlined in Section 213

Section 302 Congestion grants

- DOT may make grants to states, or to Amtrak in cooperation with states, for financing the capital costs of facilities, infrastructure, and equipment for priority corridor projects that are needed to reduce congestion or facilitate ridership growth
- Projects identified by the STB as part of an investigation of the type outlined in Section 213 are eligible

For both types of grant, an STB finding can be a basis for a decision to allocate capital