

Petition for Exemption FAQs

WHAT IS THE SURFACE TRANSPORTATION BOARD?

The Surface Transportation Board (STB or Board) is an independent federal agency that is charged with the economic regulation of various modes of surface transportation, primarily freight rail. The STB has jurisdiction over, among other things, the construction and operation of new rail lines.

WHAT IS A PETITION FOR EXEMPTION?

Proponents of new rail construction projects must apply to the STB for approval to construct and operate a new line of rail. When evaluating whether to approve a project, the Board evaluates the transportation merits of the proposal using specific statutory and regulatory criteria. However, applicants may request an exemption from this formal review of the transportation merits by filing a Petition for Exemption. To receive an exemption, the applicant must demonstrate (1) that a full transportation merits proceeding is not necessary to carry out the rail transportation policy set out in the ICC Termination Act (49 U.S.C. § 10101), and (2) that the project is *either* of limited scope, *or* that a proceeding is not needed to protect shippers from the abuse of market power.

WHY IS THE COALITION FILING THE PETITION FOR EXEMPTION NOW? ISN'T THE STB STILL CONDUCTING ITS ENVIRONMENTAL REVIEW OF THE PROJECT?

The STB uses a bifurcated process in the evaluation of a rail line construction case: the transportation merits evaluation and the environmental evaluation. The environmental review process under the National Environmental Policy Act (NEPA) is ongoing with STB acting as the lead agency. The Petition for Exemption officially begins the Board's evaluation of the transportation merits (or exemption) for this project. It is common practice for the transportation merits/exemption process to proceed simultaneously with the environmental review process.

THE COALITION IS ASKING FOR CONDITIONAL APPROVAL OF THE PETITION FOR EXEMPTION. WHAT DOES THAT MEAN?

The Coalition is asking the Board to grant its Petition for Exemption prior to completion of the NEPA environmental review process, which is separate from the transportation merits/exemption process. If the Board decides to grant this request, it would issue what is called "conditional approval." This would mean that the project is conditionally exempt, pending completion of the environmental review process. The Board cannot issue final approval of the project until the environmental process is complete.

IF THE BOARD GRANTS CONDITIONAL APPROVAL, CAN CONSTRUCTION OF THE RAIL LINE BEGIN?

No. Construction cannot begin until the Board considers the final environmental impact statement, including determining whether to require any specific mitigation measures, and issues a final decision.

THE PETITION FOR EXEMPTION STATES THAT IT INTENDS TO OBTAIN THE COMMON CARRIER OBLIGATION TO OPERATE THE RAIL LINE. DOES THE COALITION INTEND TO OPERATE THE UINTA BASIN RAILWAY?

The Coalition does not intend to operate the Uinta Basin Railway itself, but instead will plan to enter into a contract with an existing, experienced railroad to provide common carrier rail service. The Coalition is in the process of negotiating a public-private partnership agreement with Drexel Hamilton Infrastructure Partners, Rio Grande Pacific Corporation, and the Ute Tribe. It is currently anticipated that, subject to further agreement, Drexel Hamilton will be responsible for financing and commercialization of the Project, Rio Grande will be responsible for operations and maintenance of the Uinta Basin Railway, and the Ute Tribe will become an equity partner in the Project. The Coalition will remain responsible for project planning, completion of the environmental review and permitting processes, and obtaining authority to construct the Railway.

The Coalition intends to obtain the common carrier obligation to operate the rail line through the Petition for Exemption process. However, before operations begin on the rail line, it intends to transfer those operational rights to a third-party, experienced railroad using all applicable Board requirements and procedures.

NOW THAT THE PETITION IS FILED, WHAT HAPPENS NEXT?

The STB's regulations govern the Board's review of the Petition for Exemption. There is no specific timeframe by which the Board must issue a decision on the Petition. Separately, the environmental review process will continue on its current schedule.