

**OPENING STATEMENT**  
**CHARLES D. NOTTINGHAM, CHAIRMAN**  
**PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008**  
**February 11, 2009**

Good morning and welcome to the Surface Transportation Board's first hearing of 2009. Today's hearing will focus on the Board's enhanced role in passenger rail service, as mandated by the Passenger Rail Investment and Improvement Act of 2008. The Board is determined to successfully implement our new responsibilities and to play a constructive role in the process of delivering improved passenger rail service across our nation. In order for us to meet these goals, we need to fully understand our new legislative mandate and to carefully consider the views of stakeholders – many of whom have vast experience in the passenger rail policy arena and were closely involved in the process that produced the legislative provisions we will discuss today. I appreciate the witnesses who have joined us today to offer their views and suggestions.

The new legislation gives the Board the power to investigate, in certain circumstances, failures by Amtrak to meet on-time performance standards. Those standards will be established by Amtrak and the Federal Railroad Administration, in consultation with the Board and others. Under the statute, if the new standards have not been met for 2 consecutive calendar quarters, the Board may start an investigation on its own, and must start one upon a complaint filed 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.

If, as a result of the investigation, the Board determines that delays or failure to achieve the standards is due to the host rail carrier's failure to provide preference to Amtrak trains over freight trains, the STB may award damages against the host rail carrier, and order other relief. Those damages would be paid directly to Amtrak to be used for capital or operating expenses on the affected route.

The legislation contains other responsibilities for the Board, such as non-binding mediation to facilitate resolution of disputes if a commuter operator seeks access to a freight rail carrier's tracks and services. And, down the road, the STB could be called upon to develop cost allocation methodologies to determine reasonable compensation, liability, and terms of use if a state uses the facilities of Amtrak, or has services provided by Amtrak.

The legislation authorized the Board to hire 15 new staff members to implement these new responsibilities. The Board, however, has not yet received an appropriation to pay for these new positions, and our current budget is not sufficient to fund the new hiring while simultaneously meeting our other obligations. Despite the strain that the

new workload will impose on our staff, we are determined to fulfill our new responsibilities in an energetic and focused manner. I have already assigned existing staff with relevant experience and skills to a newly formed passenger rail team. Many of these staffers are, in essence, working two jobs. The long-term success of our passenger rail work will, however, depend on our ability to work with Amtrak and Congress to secure the necessary funding of the additional staff authorized in the new statute.

While I anticipate that much of the discussion today will touch on procedural, legal and regulatory issues, I want to assure all of the stakeholders who care deeply about the health of our nation's passenger rail system that this issue is not simply an academic or professional one to me. I grew up in a commuter rail village in northern New Jersey, and most of my father's career was spent commuting to and from jobs in New York City and Wilmington, Delaware via commuter rail and Amtrak. More recently, I lived for 12 years within two blocks of the Amtrak and Virginia Rail Express station in downtown Fredericksburg, Virginia. During most of those years, I commuted to Washington, DC by Amtrak and by the VRE. While passenger rail service along the Fredericksburg to DC corridor has improved in recent years, I have many vivid memories of riding on trains that stopped to give preference to freight trains. Clearly, the statutory requirement dating back to the 1970's that requires freight railroads to give priority to passenger trains has not always been given the attention that will now be required under the new statute that we will explore today.

I look forward to hearing the witnesses' thoughts about how to implement this legislation as effectively as possible. I am particularly glad to see that we have with us representatives from Amtrak and the FRA, and I am eager to hear your perspective, as well as the testimony of all of the witnesses here today.

Finally, just a few procedural notes regarding the testimony itself. As usual, we will hear from all the speakers on a Panel prior to questions from the Commissioners. Speakers, please note that the timing lights are in front of me on the dais. You will see a yellow light when you have one minute remaining, and a red light when your time has expired. Therefore, I will be keeping an eye on the clock and ask that you please keep to the time you have been allotted. I assure you that we have read all of your submissions, and there is no need to read them here. After hearing from an entire panel, we will rotate with questions from each Board Member until we have exhausted the questions. Additionally, just a reminder to please turn off your cell phones.

Let me now turn to Vice Chairman Mulvey for any opening remarks.