

2. On April 26, 2012, EPA and the National Railroad Passenger Corporation (doing business as Amtrak and hereafter referred to as “Amtrak” or “Respondent”) (EPA and Amtrak are hereinafter collectively referred to as “the Parties”) agreed to and entered an Administrative Order for Compliance on Consent (Docket No. SDWA-03-2012-0112-DS) (“original AOC”) governing Amtrak’s compliance with the maximum contaminant level for microbiological contaminants in 40 C.F.R. § 141.63, the monitoring requirements in 40 C.F.R. § 141.21, and the public notification requirements in 40 C.F.R. Part 141 Subpart Q. Amtrak has submitted all the Plans required by the original AOC and EPA has approved the Plans. As required by the original AOC, Amtrak submitted a Preventative Maintenance Plan, Communication and Emergency Notification Plans, and a Coliform Sampling Plan, which included a Water-Carrying Car Roster.¹ EPA approved these plans on February 22, 2013. In addition, Amtrak completed the first round of sampling of each car on the Roster and submitted the results to EPA. Amtrak has submitted to EPA all the reports required by the original AOC.
3. Based upon these submissions and the data in the submissions, on August 3, 2015, EPA and Amtrak agreed to replace the original AOC with an Amended Administrative Order for Compliance on Consent (Docket No. SDWA-03-2015-0060-DS) (“Second AOC”). The Second AOC superseded the original AOC.

¹ The PMP is dated January 28, 2013 and has a standard maintenance procedure (SMP) number of 47605. The Communication and Emergency Notification Plans and the Coliform Sampling Plan are dated February 1, 2013.

Amtrak submitted the revised Sampling Plan required by the Second AOC, and EPA approved the Plan on November 10, 2015.² Amtrak has also submitted the annual Water-Carrying Car Rosters required by the Second AOC and the quarterly reports required by the Second AOC. The Second AOC expired January 31, 2021.

4. Subsequent to the effective date of the Second AOC, the Revised Total Coliform Rule (40 C.F.R. § 141.851 *et. seq.*), including the monitoring requirements of 40 C.F.R. § 141.856(b) (“RTCR”), became applicable to all Public Water Systems. Amtrak has continued to implement the terms and conditions of the Second AOC, including its monitoring requirements, from the Second AOC’s effective date and past its expiration on January 31, 2021. However, the monitoring requirements of the Second AOC do not comport with the RTCR.
5. Since January 31, 2021, Amtrak has failed to meet the RTCR’s monitoring requirements (40 C.F.R. § 141.851 *et. seq.*) including 40 C.F.R. § 141.856(b).
6. EPA issues this third Administrative Order on Consent (herein after referred to as the “2022 AOC”) under the authority of Sections 1414(g) and 1445 of the SDWA, 42 U.S.C. §§ 300g-3(g) and 300j-4. Amtrak consents to the issuance of this 2022 AOC and agrees to perform all actions required by its terms and conditions.

² The revised Sampling Plan is dated October 26, 2015.

7. By consenting to this 2022 AOC, Amtrak does not admit to allegations of non-compliance with the SDWA, and this AOC shall not be interpreted as including such admissions.
8. For the purposes of this 2022 AOC, Amtrak does not contest EPA's jurisdiction and authority to issue and enforce any part of this 2022 AOC.

DEFINITIONS

9. For the purpose of this 2022 AOC, the following definitions apply in addition to the definitions in 40 C.F.R. § 141.2:
 - 9.1. "FDA" is the Food and Drug Administration.
 - 9.2. "Finished water" means water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as treatment is necessary to maintain water quality in the distribution system (*e.g.*, supplemental disinfection, addition of corrosion control chemicals).
 - 9.3. "FRA" is the Federal Railroad Administration.
 - 9.4. "Human consumption" means drinking, bathing, showering, hand washing, teeth brushing, food preparation, dishwashing, and maintaining oral hygiene.
 - 9.5. "Inactive" means any passenger car that is not in revenue service for over 30 consecutive days.
 - 9.6. "Onboard water system" means a railroad car that qualifies as a public water system under the SDWA and the National Primary Drinking Water Regulations

(40 C.F.R. Part 141). The components of the onboard water system include the water service panel, the filler neck of the rail car finished water storage tank, and all finished water tanks, piping, treatment equipment, and plumbing fixtures within rail cars that supply water for human consumption to passengers and crew.

- 9.7. “Operate” means to maintain the components of the onboard water systems that supply water for human consumption to passengers and crew.
- 9.8. “Preventive Maintenance Plan” (“PMP”) is a collection of Amtrak Standard Maintenance Procedures, and other documents, that define the mechanical operations and maintenance plan meeting FRA requirements as they are defined in the Code of Federal Regulations, 49 C.F.R. § 238.301 *et. seq.*, for each car type Amtrak owns and/or operates. The PMP includes requirements for the Sampling Plan (as defined below) for onboard water systems.
- 9.9. “Sampling Plan” means a plan to protect Amtrak passengers and each onboard water system from microbiological contaminants. For purposes of this 2022 AOC, the Sampling Plan, as further described in Paragraph 19., is the revised 2024 Sampling Plan, as applicable.
- 9.10. “Self-inspection” means an onsite review by Amtrak of the onboard water system, including water service panel, the filler neck of the rail car finished water storage tank, and all finished water tanks, piping, treatment equipment, and plumbing fixtures within rail cars that supply water for human consumption to passengers and crew.

- 9.11. “Service status” refers to whether a particular car is in revenue service by Amtrak during the period in question.
- 9.12. “Water-Carrying Car Roster” means the subset of the Amtrak Master Roster that lists all rail cars either owned, or operated and maintained, by Amtrak that serve water for human consumption to at least twenty-five (25) individuals at least sixty (60) days per year. The Water-Carrying Car Roster serves as the inventory of rail cars subject to this 2022 AOC. The Water-Carrying Car Roster is further described in Subparagraph 19.4.
- 9.13. “Watering point” means the water supply, methods, and facilities for delivering finished water from the water supply to the rail cars. These facilities may include water trucks, carts, cabinets, and hoses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. According to 49 U.S.C. § 24301(a) of the Rail Passenger Service Act (49 U.S.C. § 24101 *et. seq.*), Amtrak is a railroad carrier that is operated and managed as a for-profit corporation and “is not a department, agency, or instrumentality of the United States Government.” Amtrak, existing under the laws of the District of Columbia, owns a national railroad system for passenger travel, and also operates and maintains additional passenger rail cars for other railroad systems.
11. Amtrak is a “person” as defined by Section 1401(12) of the SDWA, 42 U.S.C. § 300f (12), and 40 C.F.R. § 141.2.

12. Amtrak owns, and/or operates and maintains passenger rail cars that supply water to its passengers.
13. Amtrak owns and/or operates and maintains passenger rail cars that regularly supply water for human consumption to an average of at least twenty-five (25) individuals daily for at least sixty (60) days out of the year.
14. Amtrak therefore owns and/or operates and maintains passenger rail cars that meet the definition of “public water system” as defined by Section 1401(4) of the SDWA, 42 U.S.C. § 300f (4), and 40 C.F.R. § 141.2.
15. Amtrak is not exempt from coverage by the National Primary Drinking Water Regulations, since Amtrak conveys its passengers in interstate commerce in accordance with Section 1411(4) of the SDWA, 42 U.S.C. § 300g(4), and 40 C.F.R. § 141.3 (d) as a type of interstate carrier conveyance (“ICC”). Because Amtrak is an ICC, EPA is solely responsible for ensuring Amtrak complies with the SDWA, 40 C.F.R. §§ 142.3(b)(1).
16. Because of the circumstances of their operations, Amtrak passenger rail cars that meet the conditions in Paragraph 14. are a subset of public water systems known as “transient non-community water systems” (“TWS”) as defined by 40 C.F.R. § 141.2.
17. Any passenger rail car that is a TWS is subject to, among other applicable requirements, the maximum contaminant level for microbiological contaminants in 40 C.F.R. § 141.63(c), the requirements of the Revised Total Coliform Rule in

40 C.F.R. 141.851 *et. seq.*, and the public notification requirements in 40 C.F.R. Part 141 Subpart Q.

18. Based upon Amtrak's operation and maintenance practices for disinfection and flushing of the water tanks and distribution systems, as well as Amtrak's procedures for boarding water, and because Amtrak's rail cars are consecutive water systems as defined by 40 C.F.R. § 141.2, pursuant to 40 C.F.R. § 141.29 EPA is not requiring Amtrak passenger rail cars to meet the maximum contaminant levels for nitrates in 40 C.F.R. § 141.62, and the associated monitoring requirements in 40 C.F.R. § 141.23.

ORDER ON CONSENT

The purpose of this 2022 AOC is to require compliance with applicable requirements of the National Primary Drinking Water Regulations, including the Revised Total Coliform Rule, 40 C.F.R. 141.851 *et. seq.* Therefore, EPA ORDERS and Amtrak consents to conduct the following activities:

19. Coliform Sampling Plan – Amtrak shall continue to carry out the coliform Sampling Plan that EPA approved on November 10, 2015 (“2015 Sampling Plan”), to protect its passenger rail cars’ onboard water systems from microbiological contaminants. The 2015 Sampling Plan shall remain in effect until December 31, 2023, to allow Amtrak to finish the current three-year sampling cycle required by the Second AOC. No later than September 1, 2023,

Amtrak shall submit to EPA for review and approval a revised 2024 Sampling Plan that reflects the changes in sampling procedures and other requirements for compliance required by this 2022 AOC.

19.1. 2024 Sampling Plan Requirements – For each passenger rail car type (*e.g.*, sleeper, coach) listed in Appendix A of this AOC, the 2024 Sampling Plan shall identify the routine sample sites that are representative of the water throughout the distribution system. Under the 2024 Sampling Plan, all passenger rail car types shall be sampled for total coliform and be disinfected and flushed in accordance with the table of routine disinfection and flushing and routine sample frequencies in Appendix B of this AOC. If multiple storage tanks exist on a rail car, Amtrak shall then conduct routine sampling, and disinfect and flush each storage tank’s distribution system in accordance with Appendix B. The 2024 Sampling Plan shall include an Appendix specifying the frequency of disinfection and flushing and sampling for each passenger car type included on the Water-Carrying Car Roster.

19.1.1. Amtrak and EPA agree that Amtrak may modify the frequency of disinfection and flushing and the frequency of sampling from time to time and for individual passenger rail car types or rail cars in specific areas, as described in Paragraph 19.1., so long as such modifications comport with the frequencies outlined in Appendix B. Prior to the implementation of any modifications to the frequency of disinfection and flushing and frequency of

sampling in the revised 2024 Sampling Plan, Amtrak shall notify EPA of any such modifications. Notifications shall be sent to the person identified by EPA in Paragraph 28. Amtrak shall submit any other proposed modifications to the revised 2024 Sampling Plan to EPA for review and approval prior to implementation.

19.1.2. Amtrak may begin implementation of the 2024 Sampling Plan for certain individual rail cars prior to December 31, 2023 and shall notify EPA prior to early implementation.

19.1.3. The 2024 Sampling Plan shall be fully effective no later than January 1, 2024.

19.1.4. For each new passenger car type meeting the definition of a public water system in Paragraph 14. that becomes operational after approval of the revised 2024 Sampling Plan, and for any passenger rail car types that are removed from service, Amtrak shall submit a revised Appendix to the Sampling Plan to reflect changes to the passenger rail car types and report to EPA that it has updated the Sampling Plan within the first calendar quarter of initial operation.

19.1.5. For each passenger rail car type, the 2024 Sampling Plan shall continue to include the elements set forth in Subparagraphs 19.2. through 19.4. For each of Amtrak's fleets (*e.g.*, Amfleet 1, Superliner 1, Acela), the

Sampling Plan will, as necessary, account for differences in water service among equipment with different car codes.

19.2. Analytical Methodology - Amtrak shall follow the sampling and analysis requirements set forth in the 2015 Sampling Plan until notified in writing by EPA of the approval of the 2024 Sampling Plan and pending the full implementation of the 2024 Plan, which may be no later than January 1, 2024.

19.2.1. The standard sample volume required for total coliform analysis, regardless of the method used, is 100 milliliters (mL).

19.2.2. Amtrak is required to determine only the presence or absence of total coliforms and/or *E. coli*.

19.2.3. Amtrak shall conduct analyses for total coliform and *E. coli* in accordance with the analytical methods approved in 40 C.F.R. § 141.852. Amtrak shall specify in an Appendix to its Sampling Plan the State or EPA certified laboratories that will perform the sampling analysis. Amtrak shall submit any changes to the certified laboratories to EPA in the form of an updated Appendix to the Sampling Plan.

19.2.4. The time from sample collection to initiation of analysis shall not exceed 30 hours, as required by 40 C.F.R. § 141.852(a)(3). Amtrak is encouraged but not required to hold samples below 10° C during transit.

19.2.5. The invalidation of a total coliform sample result can be made only by EPA or the certified laboratory in accordance with 40 C.F.R. § 141.853(c).

19.2.6. Certified Laboratories - To determine compliance with this 2022 AOC, samples shall be considered only if they have been analyzed by a laboratory certified by a State or EPA or accredited through the National Environmental Laboratory Accreditation Program (NELAP) for SDWA compliance analyses. “State” refers to a State or Tribe that has received primary enforcement authority for the Public Water System Supervision Program under Section 1413 of the SDWA.

19.3. Routine, Follow-up, and Repeat Monitoring – Upon full implementation of the 2024 Sampling Plan, Amtrak shall collect routine samples for each onboard water system on each rail car on the Water-Carrying Car Roster no less frequently than once every year from a sample site location as specified in the Sampling Plan. If multiple storage tanks exist on a rail car, then Amtrak shall conduct routine sampling, and disinfect and flush each storage tank’s distribution system in accordance with Appendix B.

19.3.1. Amtrak shall collect 100 mL total coliform routine samples as specified in the Sampling Plan. One sample shall be taken from each routine sample site from each car; each sample shall be analyzed for total coliform.

19.3.2. Amtrak shall perform routine disinfection and flushing in compliance with the approved version of the PMP, and in accordance with Appendix B of this AOC.

- 19.3.3. For a rail car that is Inactive at the time that rail car should be sampled, the rail car shall be sampled prior to being returned to service.
- 19.3.4. Total Coliform samples collected by, or in conformance with procedures approved by, the FDA (e.g., new rail cars, rail cars returning to service from overhaul with water system modifications) shall count as collected samples for purposes of this 2022 AOC.
- 19.3.5. If a rail car is sampled more than once prior to the full implementation of the 2024 Sampling Plan, Amtrak may use the latest date to calculate the next sampling event to meet the requirements of this 2022 AOC.
- 19.3.6. After January 1, 2024, Amtrak shall ensure that all rail cars on the Water-Carrying Car Roster have been sampled at least once per year, with the exception of rail cars that are Inactive.
- 19.3.7. Routine coliform samples must not be collected within 72 hours after completing a routine disinfection and flushing.
- 19.3.8. Amtrak personnel or contractors collecting the samples must follow the Sampling Plan. At a minimum, the Sampling Plan shall include the following:
- 19.3.8.1. Coliform sample collection procedures;
 - 19.3.8.2. The frequency and number of routine and follow-up samples to be taken;

- 19.3.8.3. The timing of routine and follow-up sample collection in relation to when disinfection and flushing occurs; and
- 19.3.8.4. The procedures for communicating sample results so that required follow-up actions, including, but not limited to, follow-up sampling and notification of passengers and crew, are taken within 24 hours of being notified by the laboratory of the total coliform-positive sample result promptly.
- 19.3.9. Positive Coliform Sample Results - If any routine or follow-up sample is total coliform-positive, Amtrak shall:
- 19.3.9.1. Analyze that total coliform-positive culture medium to determine if *E. coli* is present;
- 19.3.9.2. If *E. coli* is present, Amtrak shall restrict public access, disinfect and flush, and take follow-up samples as described in Subparagraph 19.3.11. of this AOC; or
- 19.3.9.3. If *E. coli* is not present, Amtrak shall perform at least one of the following actions and continue through with that action until a complete set of follow-up or repeat samples is total coliform-negative:
- 19.3.9.3.1. Disinfect and flush no later than 72 hours after the laboratory notifies Amtrak of the total coliform-positive and *E. coli*-negative result and, after the disinfection and flushing is completed, take follow-up samples, as described in Subparagraph

19.3.12., prior to providing water for human consumption. A complete set of follow-up sample results must be total coliform-negative before Amtrak returns to the routine monitoring frequency in Subparagraph 19.3.; or

19.3.9.3.2. Restrict public access to the water system as expeditiously as possible, and no later than 72 hours after the laboratory notifies Amtrak of the total coliform-positive and *E. coli*-negative result. The onboard water system should be physically disconnected or shut-off, or the flow of water otherwise prevented through the tap(s) whenever possible. If the onboard water system cannot be physically disconnected or shut-off, or the flow of water otherwise prevented through the tap(s), public access must be restricted by utilizing door locks and signage to block public access. Any such rail car may remain in service so long as the public access to the water system in that rail car remains restricted, in accordance with this 2022 AOC and the procedures in the PMP. All public access restrictions must remain in-place until the onboard water system has been disinfected and flushed, and follow-up samples have been collected as described in Subparagraph 19.3.9.3.1. Amtrak must conduct disinfection and flushing, and follow-up sampling according to Subparagraph 19.3.9.3.1. Follow-up sample results

must be total coliform-negative before Amtrak returns to the routine monitoring frequency in Subparagraph 19.3.; or

19.3.9.3.3. Collect three 100 mL repeat samples no later than 24 hours after the laboratory notifies Amtrak of the total coliform-positive and *E. coli*-negative result. Repeat samples shall be collected and analyzed from three taps within the rail car as follows: The tap which resulted in the total coliform-positive samples, one other lavatory tap, and one other galley tap. If fewer than three taps exist, then a total of three 100 mL samples shall be collected and analyzed from the available taps within the rail car. If all repeat samples are total coliform-negative, then Amtrak shall return to the routine monitoring frequency in Subparagraph 19.3. If any repeat sample is *E. coli*-positive, Amtrak shall perform all the actions in Subparagraph 19.3.11. of this AOC. If any repeat sample is total coliform-positive and *E. coli*-negative, then Amtrak shall perform the actions specified in Subparagraphs 19.3.9.3.1. or 19.3.9.3.2. of this AOC, and continue through with that action until the follow-up samples are total coliform-negative.

19.3.10. Negative Routine Coliform Sample Results - For cars with routine sample results that are total coliform-negative, Amtrak shall maintain the

routine monitoring frequency in Subparagraph 19.3. Amtrak shall report the results as part of the quarterly reports required by Paragraph 26.

19.3.11. Positive *E. coli* Sample Results - If any sample is *E. coli* -positive, Amtrak shall:

19.3.11.1. Restrict public access to the water system as expeditiously as possible. If the sample was collected from a car that is in service, restrict access no later than 24 hours after the laboratory notifies Amtrak of the positive results. The onboard water system should be physically disconnected or shut-off, or the flow of water otherwise prevented through the tap(s) whenever possible. If the onboard water system cannot be physically disconnected or shut-off, or the flow of water otherwise prevented through the tap(s), public access must be restricted by utilizing door locks and signage to block public access, and, as described in Paragraph 19.3.11.4., Amtrak shall disinfect and flush the system no later than 72 hours after the laboratory notifies Amtrak of the *E. coli* -positive result. Any such rail car may remain in service so long as the public access to the water system in that rail car remains restricted, in accordance with this 2022 AOC and the procedures in the PMP.

- 19.3.11.2. Provide public notification in accordance with the Communication and Emergency Notification Plan, as described in Paragraphs 23. and 24. of this 2022 AOC;
- 19.3.11.3. Maintain all restrictions, including applicable public notification requirements, until the onboard water system is disinfected and flushed and all follow-up samples, as described in Subparagraph 19.3.12., are total coliform-negative; and
- 19.3.11.4. Disinfect and flush in accordance with Amtrak's Preventative Maintenance Plan and take follow-up samples as described in Subparagraph 19.3.12. If the onboard water system cannot be physically disconnected or shut-off, or the flow of water otherwise prevented through the tap(s), then Amtrak shall disinfect and flush the system no later than 72 hours after the laboratory notifies Amtrak of the *E. coli* - positive result.
- 19.3.12. Post-Disinfection Flushing and Follow-up Sampling - Follow-up samples shall be collected prior to providing water to the public for human consumption from the water system. For follow-up sampling, Amtrak shall take a complete set of total coliform samples consisting of one 100 mL sample from the same routine sample collection location as identified in the approved Sampling Plan. If any follow-up sample is total coliform positive, Amtrak shall follow the procedures in Subparagraph 19.3.9. and

Subparagraph 19.3.11.1. (Restrict Public Access). If all follow-up samples are negative, Amtrak shall return to routine monitoring frequency under Subparagraph 19.3.

19.4. Water-Carrying Car Roster - Amtrak shall submit, annually, an inventory of each active rail car and an updated designation of the rail car types, in accordance with historical inventory designations, which will serve as the Water-Carrying Car Roster. The rail cars in the inventory shall be limited to those rail cars that are TWS and which Amtrak owns and/or operates and maintains. Updates to the Roster shall identify rail cars that are active and designate any rail cars that have changed status to Inactive any time during the reporting period. Modifications to the Water-Carrying Car Roster do not require EPA approval.

20. As a requirement of this 2022 AOC, Amtrak shall comply with the revised 2024 Sampling Plan, as modified, in lieu of any previous version of the revised 2024 Sampling Plan. For each new rail car type meeting the definition of a public water system in Paragraph 14. that becomes operational after approval of the revised 2024 Sampling Plan, Amtrak shall revise the Sampling Plan to include the new passenger rail car type and report to EPA that it has updated the Sampling Plan within the first calendar quarter of initial operation.

21. Preventive Maintenance Plan (PMP) – Amtrak shall continue to implement the PMP that EPA approved on February 22, 2013 (“2013 PMP”). No later than September 1, 2023, Amtrak shall submit to EPA for review and

approval an updated PMP (“2024 PMP”). The 2024 PMP shall include schedules for disinfection and flushing and routine monitoring based on manufacturers’ recommendations or best practices for reliability, and that conform with the requirements of the 2024 Sampling Plan and Appendix B of this AOC. On January 1, 2024, the 2024 PMP shall supersede the 2013 PMP; however, in conjunction with any earlier implementation of the 2024 Sampling Plan, Amtrak may choose to partially implement the relevant portions of the 2024 PMP. Amtrak shall notify EPA of any early implementation of the 2024 PMP. As part of its PMP, Amtrak shall continue to include the following procedures and to meet the following minimum requirements:

- 21.1. Procedures for disinfection and flushing, including frequency of disinfection and flushing, the disinfecting agent, disinfectant concentration to be used, disinfectant contact time, and flushing volume to disinfect;
- 21.2. The revised 2024 Sampling Plan, created in accordance with the terms of this 2022 AOC;
- 21.3. Training requirements for all personnel involved in the onboard water system operation and maintenance including boarding procedures, sample collection procedures, disinfection and flushing procedures, and public health and safety reasons for the requirements;
- 21.4. Procedures for self-inspection of the rail cars that must occur no less frequently than once every five years and include inspection of water storage

tanks, distribution system, supplemental treatment fixtures if applicable, valves, hoses and backflow prevention devices; and

21.5. Procedures and Requirements for Boarding Water - Amtrak shall board water within the United States in accordance with FDA regulations (21 C.F.R. Part 1240 and 1250). Amtrak shall include in an appendix to the PMP a description of how the water will be transferred from the watering point to the rail car in a manner that ensures it will not become contaminated during transfer and a list identifying watering points that includes the name of the supplying water system.

21.5.1. The procedures for boarding water shall include a description of the emergency measures that Amtrak shall take if it learns at any time that water was boarded from a watering point not in accordance with FDA regulations, does not meet NPDWRs applicable to transient non-community water systems (40 C.F.R. §§ 141.62 and 141.63, as applied to transient non-community water systems), or is otherwise not safe for human consumption.

21.5.2. For water boarded from outside the United States, Amtrak shall also meet the requirements of this Paragraph.

22. The PMP approved by EPA on February 22, 2013, is incorporated by reference into this 2022 AOC and, thus, enforceable under this 2022 AOC. Upon approval by EPA of the updated PMP required by Paragraph 21. of this 2022 AOC, Amtrak shall comply with the 2024 PMP, as modified, in lieu of any previous version of the PMP. Prior to the implementation of any modifications to

the PMP, Amtrak shall submit the modifications to the PMP to EPA for review and approval. Upon approval by EPA of any modifications to the PMP, the modifications are thereby incorporated by reference into this 2022 AOC and Amtrak shall comply with the PMP, as modified, in lieu of any previous version of the PMP.

23. Communication with water suppliers – On February 22, 2013, EPA approved Amtrak’s Communication Plan that describes how Amtrak will communicate with water suppliers with respect to emergency notifications of water quality problems and track receipt of routine notifications such as Consumer Confidence Reports. Amtrak included in the Communication Plan a procedure for communication to ensure that water is safe for human consumption from watering points outside of the United States. No later than September 1, 2023, Amtrak shall submit to EPA for review and approval an updated Communication Plan (“2024 Communication Plan”) that complies with 40 C.F.R. Part 141, Subpart Q. Amtrak shall continue to include the components specified in Subpart Q in its 2024 Communication Plan.

23.1. Amtrak shall continue to implement the Communication Plan that EPA approved on February 22, 2013. The Plan is incorporated by reference into and, thus, enforceable under this 2022 AOC. Amtrak shall follow the 2013 Communication Plan until notified in writing by EPA of the approval of the 2024 Communication Plan and pending the full implementation of the 2024

Communication Plan, which may be no later than January 1, 2024. Amtrak may begin implementation of the 2024 Communication Plan for certain individual rail cars prior to January 1, 2024 and shall notify EPA prior to early implementation. Prior to implementation of any modifications to the Communication Plan, Amtrak shall submit the modifications to EPA for review and approval. Upon approval by EPA, the modifications to the Communication Plan are thereby incorporated by reference into this 2022 AOC and Amtrak shall comply with the updated Communication Plan, as modified, in lieu of any previous version of the Plan.

23.2. The Communication Plan shall include a list of emergency notification contacts at each supplying water system identified in Paragraph 21.5.

24. Notification – On February 22, 2013, EPA approved Amtrak’s Emergency Notification Plan for providing notice to its passengers and crews in response to situations that may be a public health risk. No later than September 1, 2023, Amtrak shall submit to EPA for review and approval an updated Emergency Notification Plan (“2024 Emergency Notification Plan”) that satisfies the public notification requirements of 40 C.F.R. Part 141 Subpart Q.

24.1. Amtrak shall continue to carry out the Emergency Notification Plan that EPA approved on February 22, 2013. The Emergency Notification Plan is incorporated by reference into and, thus, enforceable under this 2022 AOC. Amtrak shall follow the 2013 Emergency Notification Plan until notified in

writing by EPA of the approval of the 2024 Emergency Notification Plan and pending the full implementation of the 2024 Emergency Notification Plan, which may be no later than January 1, 2024. Amtrak may begin implementation of the 2024 Emergency Notification Plan for certain individual rail cars prior to January 1, 2024 and shall notify EPA prior to early implementation. Prior to implementation of any modifications to the Emergency Notification Plan, Amtrak shall submit the modifications to the Emergency Notification Plan to EPA for review and approval. Upon approval by EPA, any modifications to the Emergency Notification Plan are thereby incorporated by reference into this 2022 AOC and Amtrak shall comply with the Emergency Notification Plan, as modified, in lieu of any previous version of the Emergency Notification Plan.

25. When this 2022 AOC requires Amtrak to restrict public access to water, Amtrak shall use the Emergency Notification Plan for implementing restrictions for water service.
26. Amtrak shall submit quarterly electronic reports within thirty (30) days after the end of each quarter ending December 31, March 31, June 30, and September 30 to EPA. Electronic reports shall be Excel compatible and may be sent via the existing data systems Amtrak currently uses to submit reports to EPA. The reports shall be submitted to EPA at the email address listed in Paragraph 28. The reports shall be in the format currently used for all reporting (An example is

attached to this 2022 AOC as Appendix C.), unless both Parties mutually agree to modify the format.

- 26.1. The reports shall include a tabulation of results of sampling conducted during each quarter with the following information:
 - 26.1.1. Rail car number;
 - 26.1.2. Rail car fleet;
 - 26.1.3. Rail car type;
 - 26.1.4. Date the sample was collected and the type of sample (*i.e.*, routine, follow-up, or special purpose samples);
 - 26.1.5. Laboratory that analyzed the samples;
 - 26.1.6. Coliform result (positive/negative) and/or *E. coli* (positive or negative);
 - 26.1.7. Date public access to the water system was restricted, how access was restricted, and date the restrictions were lifted, if the result is total coliform or *E. coli* positive;
 - 26.1.8. Date rail car is drained, flushed and disinfected, if the result is total coliform positive; and
 - 26.1.9. Date of crew and passenger notification and duration of notification, if result is *E. coli* positive.
- 26.2. As part of its quarterly report, Amtrak shall report any rail cars not in compliance with the then applicable Sampling Plan and/or the then applicable

PMP, including any noncompliance with the provisions of Paragraphs 19. and 21., respectively.

26.3. As part of its quarterly report, Amtrak shall provide copies of any notices provided in accordance with the Emergency Notification Plan, including rail car number, purpose of notification, population to whom notification was provided, and duration of notification.

26.4. In the report for the quarter ending December 31st, Amtrak shall submit:

26.4.1. An update to the Water-Carrying Car Roster, including any changes to the inventory, the service or revenue status of rail cars, and the dates of the inventory changes;

26.4.2. The rail car disinfection and flushing report for the calendar year; and

26.4.3. A certification that the PMP, Emergency Notification Plan, and Communication Plan are up to date.

26.5. In order to satisfy the sampling requirements of this 2022 AOC, Amtrak may submit samples it collects from January 1, 2021 to the effective date of this 2022 AOC provided such samples meet the requirements of this 2022 AOC.

27. Written reports submitted to EPA shall be signed by a responsible corporate officer or a duly authorized representative. The signatory shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system

designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

28. Amtrak shall submit any documentation, plans, reports and analyses via email to:

Ms. Sara Calcinore
SDWA & Wetlands Section (3ED31)
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region III
(215) 814-2043
calcinore.sara@epa.gov

29. Submission of reports shall not excuse Amtrak's obligation to comply with this 2022 AOC.
30. Recordkeeping - Amtrak shall maintain any existing records as required by the Original AOC and the Second AOC, and in compliance with Amtrak's document retention policies. Amtrak shall maintain any new records consistent with the following requirements, and make the records available for review by EPA upon request, including during compliance audits:
- 30.1. Amtrak shall keep all records of bacteriological sampling and analyses for at least five (5) years, including the following information:

- 30.1.1. The date, time, and place of sampling, and the name of the person who collected the sample;
 - 30.1.2. Identification of the sample as a routine, follow-up, or repeat sample;
 - 30.1.3. Date of the analysis;
 - 30.1.4. Laboratory and person responsible for performing the analysis;
 - 30.1.5. The analytical technique/method used; and
 - 30.1.6. The results of the analysis identified by routine or follow-up samples.
- 30.2. Amtrak shall keep records of any disinfection and flushing for at least five (5) years, including the following information:
- 30.2.1. The date and time of the disinfection and flushing; and
 - 30.2.2. The type of disinfection and flushing (*i.e.*, routine or corrective action).
- 30.3. Amtrak shall keep records of all self-inspections for at least ten (10) years, including the following information:
- 30.3.1. The completion date of the self-inspection; and
 - 30.3.2. Any written reports, summaries, or communications related to the self-inspection.
- 30.4. Amtrak shall update the PMP, Sampling Plan, and Communication Plan that EPA has approved in accordance with this 2022 AOC as needed, and submit any updates to EPA for approval.

30.5. Amtrak shall maintain the Emergency Notification Plan that EPA has approved in accordance with this 2022 AOC and keep copies of public notices to passengers and crew issued as required by this 2022 AOC for at least five (5) years after issuance.

31. Audits and inspections - EPA or its representatives may conduct audits or inspections of Amtrak, as authorized by Section 1445 of the SDWA, 42 U.S.C. § 300j-4. In addition, Amtrak or its representatives shall perform a visual self-inspection of all water system components for each onboard water system no less frequently than once every 5 years. Pursuant to this 2022 AOC, EPA may require that Amtrak perform self-inspections or audits of rail cars, plans or processes to identify potential sources of contamination. Amtrak shall address all deficiencies identified during compliance audits and routine self-inspections within 90 days of identification of the deficiency or, where such deficiency is identified while the rail car is Inactive, before the rail car is put back into service. This includes any deficiency in the water system's design, construction, operation, maintenance, or administration, as well as any failure or malfunction of any system component that has the potential to cause an unacceptable risk to health or that could affect the reliable delivery of safe drinking water. Amtrak shall modify its Sampling Plan and PMP if review of any deficiency indicates that such modification is necessary to maintain public health.

32. Failure to Perform Required Routine Disinfection and Flushing - If Amtrak fails to perform routine disinfection and flushing for any rail car with an onboard water system at the frequency defined in the PMP, it shall provide, as required by Paragraph 26., written notification to EPA of this failure. The notice shall include a schedule for additional monitoring on a case-specific basis for that car.
33. Amtrak may be found to be in violation of this 2022 Amended AOC when it fails to comply with any provision of this 2022 Amended AOC. EPA may, in its unreviewable discretion, prior to making any finding of violation, notify Amtrak in writing of its proposed finding, and may allow Amtrak a reasonable amount of time (as determined by EPA based upon the nature and extent of the alleged violation) to respond to EPA.

GENERAL PROVISIONS

34. This 2022 AOC does not waive, suspend, or modify the requirements of the SDWA and its implementing regulations found in 40 C.F.R. Part 141, which remain in full force and effect.
35. Violation of any term of this 2022 AOC may subject Amtrak to a civil penalty of up to \$62,689 per day of violation under Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A), pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection

Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

36. Compliance with the terms and conditions of this 2022 AOC shall not in any way be construed to relieve Amtrak of obligations to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a determination of any issue related to any federal, state, or local permit. Compliance with this 2022 AOC shall not be a defense to any action commenced for any violation of federal laws and regulations administered by EPA that are not the subject of this AOC, and it is the responsibility of Amtrak to comply with such laws and regulations.
37. Amtrak agrees to waive any and all claims for relief and otherwise available rights or remedies to administrative review it may have with respect to this 2022 AOC, including any right of review of this 2022 AOC under the Administrative Procedure Act, 5 U.S.C. §§ 701-708, and the SDWA, 42 U.S.C. § 300f *et. seq.* This waiver does not apply to any dispute concerning whether Amtrak has complied with the 2022 AOC.
38. At any time before a compliance date set out in this 2022 AOC, Amtrak may request in writing that EPA allow additional time to meet deadlines in this 2022 AOC, should unexpected delays arise. In its request Amtrak shall provide EPA with a reasonable explanation of the delay, the measures it has taken to minimize the delay, how long the delay will last, and shall demonstrate, to the

satisfaction of EPA, that Amtrak was unable to anticipate or otherwise mitigate such a delay. Amtrak shall submit any request to EPA as soon as reasonably possible after it becomes aware of the need for additional time. The granting of additional time and the length of additional time granted, shall be in EPA's sole and unreviewable discretion. Provided Amtrak can demonstrate that the delay was unanticipated and reasonably unavoidable, EPA will reasonably allow such requests for additional time for Amtrak to meet compliance deadlines in this 2022 AOC. If EPA denies Amtrak's request, Amtrak may ask for up to thirty (30) days to discuss the request with EPA and to provide additional information.

39. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the tasks set forth in this 2022 AOC is deemed restitution, remediation, or required to come into compliance with the law.
40. If EPA and Amtrak have a dispute about Amtrak's compliance with the 2022 AOC, they will consult with each other to attempt to resolve the dispute.

EFFECTIVE DATE

41. The effective date of this 2022 AOC is the date on which it is filed with the Regional Hearing Clerk after signature by the Region III, Enforcement and Compliance Assurance Division Director.

TERMINATION

42. This 2022 AOC shall terminate on January 1, 2029. Sixty (60) days after the termination date EPA shall confirm the 2022 AOC's termination in writing.

43. If there is an outstanding and unresolved violation of this 2022 AOC as of January 1, 2029, then the 2022 AOC will not terminate until EPA determines that Amtrak is no longer in violation of the terms of this 2022 AOC.

SO ORDERED:

[signed and dated electronically]

Karen Melvin
Director, Enforcement and Compliance Assurance Division
U.S. EPA, Region III

AGREED TO: FOR THE RESPONDENT:

Date: _____

Beth A. M. Termini
AVP Environmental, Health and Safety

Date: _____

George J. Hull
VP, Chief Mechanical Officer

APPENDIX A

Rail Car Fleets with the Rail Car Type Codes

CCODE (Rail Car Code)

1. Heritage
2. Amfleet I
3. Amfleet II
4. Superliner I
5. Superliner II
6. Horizon
7. Viewliner I
8. Cab Car
9. Cal Trans
10. Talgo
11. Surfliner
12. Acela – Legacy Fleet
13. Acela New Fleet
14. Viewliner II
15. Venture (State Owned)

CTYPE (Rail Car Type)

1. Coach
2. Sleeper
3. Deluxe Sleeper
4. Dormitory
5. Diner
6. Lounge
7. Other

APPENDIX B

Routine Disinfection and Flushing and Routine Sample Frequencies

Amtrak shall perform routine monitoring for total coliform at a frequency corresponding to the frequency of routine disinfection and flushing as specified in Table 1. Amtrak must choose a frequency of routine disinfection and flushing from Table 1.

Table 1. Routine Disinfection and Flushing and Routine Sample Frequencies

Minimum Frequency of Routine Disinfection and Flushing per Passenger Car	Minimum Frequency of Routine Samples per Passenger Car
At least four (4) times per year = At least once within every three-month period (quarterly)	At least one (1) time per year = At least once within every twelve-month period (annually)
At least three (3) times per year = At least once within every four-month period	At least two (2) times per year = At least once within every six-month period (semi-annually)
At least two (2) times per year = At least once within every six-month period (semi-annually)	At least four (4) times per year = At least once within every three-month period (quarterly)
At least one (1) time per year = At least once within every twelve-month period (annually) or less	At least twelve (12) times per year = At least once every month (monthly)

APPENDIX C

Reporting Format

Amtrak quarterly report column headers:

CAR

DATE

PM LOCATION

LAB

TOTAL COLIFORM

E. COLI

CCODE

CTYPE

FAIL CORRECTIVE ACTION

DATE DRAIN & FLUSH

DATE RE-SAMPLE

RE-SAMPLE RESULT

DATE PUBLIC ACCESS RESTRICTED

HOW PUBLIC ACCESS WAS RESTRICTED

DATE PUBLIC ACCESS RESTRICTIONS LIFTED

Copies served via email to:

Phil Yeany
Senior Assistant Regional Counsel
U.S. EPA, Region III
Yeany.Philip@epa.gov

Sara Calcinore
Life Scientist
U.S. EPA, Region III
Calcinore.Sara@epa.gov

[signed and dated electronically]

Phil Yeany
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region III