SURFACE TRANSPORTATION BOARD

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STB ISSUES POLICY STATEMENT ON FEDERAL PREEMPTION

The Surface Transportation Board today issued a policy statement concerning its broad and exclusive jurisdiction over certain rail transportation issues, and the corresponding preemption of conflicting laws, established by Congress in the ICC Termination Act of 1995 (ICCTA). Over the more than 30 years since ICCTA was enacted, the statute has been applied to ensure the smooth flow of interstate commerce and address unlawful patchwork regulation in numerous, wide-ranging, and often costly cases, creating a voluminous body of case law. By presenting the law and addressing common questions in a one-stop, practical resource, the Board expects this policy statement to increase certainty and clarity, facilitate the efficient resolution of disputes, lower litigation and regulatory costs, and promote collaboration among railroads, shippers, communities, and government agencies.

The policy statement responds to a September 2025 request from a coalition of six railroad and shipper organizations seeking guidance on federal preemption under ICCTA. For the first time, key Board and court precedents are synthesized into one consolidated resource, making it easier for stakeholders and the public to understand and evaluate common questions and issues regarding the Board's jurisdiction and preemption. Because it is expected to reduce costs, the action is considered a deregulatory action under Executive Order 14192, Unleashing Prosperity Through Deregulation. By lowering these costs, this action will further strengthen the nation's supply chain.

The policy statement addresses:

- **The scope of the Board's jurisdiction and federal preemption**, including discussion of STB jurisdiction, key statutory terms, railroad track classifications, and the respective roles of the Board and the courts in resolving preemption disputes.

- **How ICCTA preemption works**, including the distinction between categorical and as-applied preemption and the Board's approach to issues such as property takings and regulations affecting rail customers.

- **Commonly arising state and local preemption issues**, including rail property abandonments, takings of rail property, utilities and pipelines within railroad rights-of-way, blocked crossings, locomotive idling, environmental permitting, zoning and land-use restrictions, nuisance claims, rail infrastructure regulation, breach of contract claims,

and attempts to regulate rail traffic routing.

- **How ICCTA interacts with other federal laws**, including the Board's approach to harmonizing statutes such as the Federal Railroad Safety Act, the Clean Air Act, and the Clean Water Act.

The Board has also established a dedicated preemption webpage featuring an accessible, user-friendly layout that allows stakeholders to easily navigate the policy statement and quickly find information on specific preemption topics. The resource page and the Policy Statement on Jurisdiction and Preemption Under the ICC Termination Act, Docket No. EP 791, are available here.

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