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STB PROVIDES NEEDED GUIDANCE ON JURISDICTION AND PREEMPTION OVER RAIL TRANSPORTATION UNDER ICC TERMINATION ACT

Policy statement asserts clear and practical guidance to the railroad industry and local, state and federal lawmakers

WASHINGTON, November 9, 2026 —Today, the Surface Transportation Board (STB)'s much-anticipated policy statement on the scope of its jurisdiction over transportation-by-rail carriers was published in the Federal Register. The policy statement clarifies the agency's preemption of conflicting state and federal laws under the Interstate Commerce Commission Termination Act of 1995 (ICCTA).

"ASLRRA and the nation's 600+ small business short line freight railroads applaud the STB's commonsense, practical guidance on preemption and the scope of its jurisdiction over rail transportation. We expect that this policy statement will serve as a concise, actionable reference for interested parties and the public. Explanations from the STB about its jurisdiction and the application of preemption under the ICCTA, and how the Board has analyzed frequently occurring questions, will reduce confusion and uncertainty and promote collaboration to achieve the national uniformity that Congress intended," said ASLRRA President Chuck Baker.

The policy clarification was issued partially in response to a September 2025 coalition letter from six railroad and shipper organizations, including ASLRRA, requesting that the Board issue clear and definitive guidance on the scope and application of ICCTA preemption. The letter

stressed that the national uniformity Congress intended risks being eroded when local authorities misunderstand or misapply ICCTA in various scenarios. Without clear guidance from the Board on how and when ICCTA preempts state, local and even other federal laws, litigation is often required, projects are delayed, and uncertainty is injected into operational and growth planning. Project delays and costly litigation negatively impact the fluidity and responsiveness of the nation's interconnected freight rail system. The coalition letter and the STB's initial response are available on the STB's website in the September 2025 records.

The policy statement soundly addresses the concerns raised by the coalition. It covers the historically recognized need for preemption, provides an overview of ICCTA, provides a framework of how State and local laws should be analyzed against ICCTA, and provides a harmonization analysis for other federal laws. Additionally, it summarizes precedent of ICCTA decisions involving common preemption disputes, including the abandonment of railroad property, takings of railroad property, utilities and pipelines in railroad rights-of-way, blocked crossings, road and pedestrian crossings, locomotive idling, environmental permitting and zoning, noise, smoke, and nuisance claims, design and maintenance of rail infrastructure, contractual obligations, and regulation of railroad routing and commodities.

"ASLRRA also welcomes the STB's reminder that railroads should not use ICCTA's broad preemption powers as an excuse to be unresponsive to local public officials. The document calls on railroads to engage in good communication, information sharing and cooperation with the communities they serve and operate within. These values are central to the ethos of short line railroads," said Baker.

STB's full policy statement, published in the Federal Register, is available here.

About ASLRRA - The American Short Line and Regional Railroad Association (ASLRRA) is a non-profit trade association representing the interests of the nation's 603 short line and regional railroads and railroad supply company members in legislative and regulatory matters. Short lines operate 50,000 miles of track in 49 states, or approximately one third of the national railroad network, touching in origination or termination one out of every five cars moving on the national railroad system, serving customers who otherwise would be cut off from the national railroad network.