Transportation Update

January 2026

STB Proposes Repeal of Part 1144, Eliminating Hurdles to Competitive Rail Access

The Surface Transportation Board (STB) has issued a Notice of Proposed Rulemaking (NPRM) proposing to repeal 49 C.F.R. Part 1144 (Intramodal Rail Competition). Part 1144 has constrained certain competitive access remedies – namely reciprocal switching, through routes, and through rate prescriptions – by requiring shippers to prove "anticompetitive conduct." Repealing Part 1144 would restore the STB's full statutory discretion to evaluate these remedies case by case under 49 U.S.C. §§ 10705 and 11102(c). Comments are due March 10; reply comments are due April 24.

Competitive Rail Access and Part 1144

Under 49 U.S.C. §§ 10705 and 11102(c), the STB may order certain competitive access remedies to provide shippers with access to freight rail competition, including:

- Through routes and rates: A "through route" is a route for a shipment handled by two or more railroads. A "through rate" applies to the entire origin-to-destination movement and can be either a single "joint rate" or a combination of separate "proportional rates."
- Reciprocal switching: This remedy allows a shipper served by a single railroad at origin or destination to have its freight switched to a competing railroad in the terminal area for a fee that the incumbent railroad charges the competing railroad, creating a long-haul alternative to the incumbent.

Without these remedies, a "captive shipper" – a customer with access to only one railroad – must accept that railroad's routing and pricing. The incumbent railroad can transport the captive shipper's traffic over its own network, refuse to interchange traffic with a competing carrier that may offer better service, and charge for the entire movement, limited only by its statutory duty to set reasonable rates.

Part 1144 establishes a regulatory threshold for competitive access remedies that the governing statutes do not contain: proof of anticompetitive conduct by the incumbent carrier. Congress did not mandate this requirement; instead, it reflects an agency policy choice during a time of industry instability and resulted from a consensus among shipper and carrier groups that has since dissolved.

Proposed Repeal of Part 1144

The NPRM would repeal Part 1144, removing the anticompetitive conduct threshold and related "standing" and evidentiary limits that narrowed the STB's statutory discretion. The STB would then consider petitions case by case under 49 U.S.C. §§ 10705 and 11102(c), enabling a more flexible, fact-specific inquiry.

Impact on Shippers: Why the STB's Proposed Repeal of Part 1144 Matters

For decades, shippers have argued that Part 1144's anticompetitive conduct requirement creates an insurmountable barrier to obtaining competitive access remedies. The STB's NPRM directly addresses this concern by proposing to eliminate this regulatory burden, opening a path for shippers to seek reciprocal switching or through routes under the plain statutory standards.

This shift could create new opportunities to preserve routing options, mitigate bottlenecks, and address service shortfalls without meeting an elevated evidentiary threshold. The STB anticipates that greater access to case-by-case adjudication could spur both STB-ordered relief and privately negotiated solutions, ultimately improving service and rates for shippers.

How to Participate and Key Deadlines

The STB invites written comments and reply comments on the proposed repeal. Comments are due by March 10 and reply comments are due by April 24.

Shipper comments are critical to building a strong record supporting the NPRM and countering expected opposition from Class I railroads. Shippers should consider filing comments that cover key points, such as:

- Advocating for the repeal of the anticompetitive conduct requirement
- Addressing whether the STB should fully repeal Part 1144 for both reciprocal switching and through routes
- Identifying the benefits of a case-by-case adjudication approach

Key Takeaways for Rail Shippers

The NPRM signals a significant shift toward flexible, case-by-case remedies for competitive access – one that could materially improve shippers' ability to obtain reciprocal switching or through routes. Shipper comments will be essential to shaping the final rule and ensuring these remedies are available to the full extent of the STB's statutory authority.

FOR MORE INFORMATION

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