



TRB Report Says U.S. Freight Rail Regulations Outdated Recommends Modernization Efforts

On June 10, 2015 the National Research Council’s Transportation Research Board (TRB)/National Academy of Sciences released a report confirming what freight rail shippers have long asserted: 35 years after passage of the Staggers Rail Act and 20 years after passage of the ICC Termination Act, economic regulation of the nation’s freight railroads must be modernized to take into account the changes in both railroads and shippers.

The report <http://www.trb.org/Main/Blurbs/172736.aspx>, “Modernizing Freight Rail Regulation” mirror many policy positions of the Freight Rail Customer Alliance (FRCA):

- ✓ The replacement of Surface Transportation Board (STB) rate reasonableness hearings with arbitration procedures that compel faster resolutions of disputes involving rates deemed eligible for challenge because they substantially exceed their competitive rate benchmarks;
- ✓ Ending annual determinations of railroad revenue adequacy;
- ✓ Reviewing and introducing means to improve the accuracy, utility, timeliness, and availability of the Carload Waybill Sample;
- ✓ Allow reciprocal switching as a remedy for unreasonable rates; and
- ✓ Transfer merger review authority to the antitrust agencies and apply customary antitrust principles rather than a public interest standard.

FRCA RECOMMENDATIONS	TRANSPORTATION RESEARCH BOARD RECOMMENDATIONS
STB be given authority to require the use of binding arbitration as a quicker and less expensive approach in appropriate cases.	Replace STB rate reasonableness hearings with arbitration procedures that compel faster resolutions of disputes involving rates deemed eligible for challenge because they substantially exceed their competitive rate benchmarks.
STB be required to publish publicly available quarterly reports, estimating the percentages of all Class I carriers’ non-exempt rates that are above 180% Revenue-to-Variable Cost (RVC) Ratios.	U.S. Congress should prepare to repeal the 180 percent revenue-to-variable-cost formula by directing USDOT to develop, test, and refine competitive rate benchmarking methods that can replace URCS in screening rates for eligibility to be challenged. End the economically unsound regulatory requirement of estimating the



	<p>variable cost of railroad movements to allow STB to dispense with all cost allocation schemes such as URCS.</p> <p>Move closer to common law notions of rate fairness by introducing a rate screening process that allows shippers to seek relief if they are paying tariff rates that are unusually high in comparison with rates paid for similar shipments in markets having more competition options.</p> <p>Require USDOT to make a concerted effort to develop a competitive rate benchmarking system to replace URCS and the revenue-to-variable-cost formula, and make the necessary resources for this task available.</p>
<p>Publish the STB Public Use Waybill Sample in a Timely Manner.</p>	<p>U.S. Congress should give STB the direction and resources to undertake a strategic review of all of its data programs to simplify or discontinue the reporting of little used data as a general matter and to support the recommended changes in its regulatory practices and approaches. In particular, STB should be directed to review and introduce means to improve the accuracy, utility, timeliness, and availability of the Carload Waybill Sample.</p>
<p>Require Class I railroads to provide competitive switching service to shippers, without requiring evidence of anti-competitive conduct by a rail carrier from which access is sought.</p>	<p>Allow reciprocal switching as a remedy for unreasonable rates.</p>
<p>Transfer rail merger jurisdiction from the STB to Department of Justice.</p>	<p>Transfer merger review authority to the antitrust agencies and apply customary antitrust principles rather than a public interest standard.</p>