The Staggers Act: Balanced Regulation That Works

ASSOCIATION OF AMERICAN RAILROADS | **JUNE 2009**

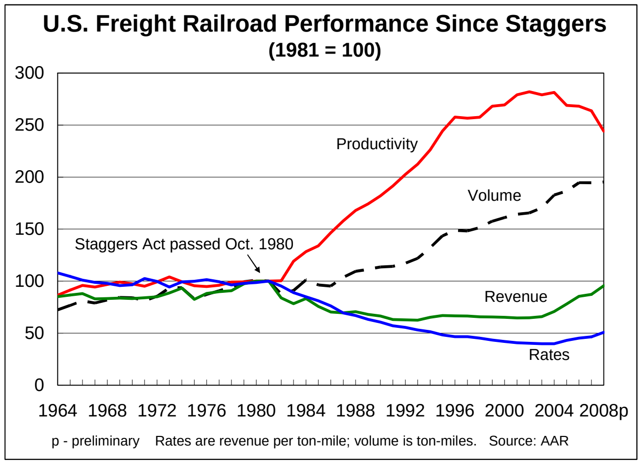
WHAT SHOULD BE DONE?	**Keep the Staggers Act intact** by rejecting legislation that gives Washington bureaucrats the power to decide what routes railroads can use, what services they can offer, and what prices they can charge.
WHY?	Prior to 1980, Americans could not obtain efficient, reliable freight rail service because railroads were being strangled by excessive regulation. Then, in 1980, Congress passed the Staggers Rail Act. The Staggers Act created a **balanced** regulatory system that still exists today: **shippers are protected** against anti-competitive railroad conduct, while railroads can largely **decide for themselves** how to manage their operations. Thanks to Staggers, America's freight railroads are now the most productive and affordable in the world. Returning to an era of excessive regulation would destroy the existing balance and jeopardize the sustainability of this essential industry. By redistributing up to several billion dollars per year from railroads to certain favored shippers, it would severely limit railroads' ability to invest and innovate — and their ability to provide the safe, affordable, and environmentally-responsible service America needs.

The Staggers Rail Act of 1980: An American Success Story

- By the 1970s, decades of over-regulation had brought America's freight railroads to the brink of ruin. More than 20 percent of rail mileage was owned by bankrupt railroads, safety was deteriorating, and rail tracks and equipment were literally falling apart because railroads couldn't afford the repairs. Railroads were simply prevented from providing the efficient, cost-effective rail service that America needed.
- Recognizing the need for change, Congress passed the Staggers Rail Act of 1980, which established a more responsible regulatory environment for the rail industry.
- The facts show that the **balanced regulation of Staggers works**. Since it was passed:
  - ✓ Average inflation-adjusted rail rates (as measured by revenue per ton-mile) are down 49 percent. That means the average shipper can move **twice as much freight for the same price** as it paid more than 25 years ago. Lower rail shipping costs have saved American consumers hundreds of billions of dollars.
  - ✓ Freight railroads re-invested some **$440 billion** back into their operations from 1980-2008, creating a national network that is **second to none worldwide**.
  - ✓ Railroads are **far safer** today. The train accident rate is down 73 percent since 1980; the rail employee injury rate is down 82 percent.

- In the words of the World Bank's top expert on railroads, "Because of a market-based approach involving minimal government intervention, today's U.S. freight railroads add up to a network that, comparing the total cost to shippers and taxpayers, gives the world's most cost effective rail freight service."
- Under Staggers, regulators retained authority to **protect shippers** against unreasonable railroad conduct. **Regulators still have this authority today**. This ensures that freight rail is fair and competitive, and that railroads are **held accountable** for their actions.

Why Keep Staggers?



- Some rail shippers support legislation that would reverse the Staggers Act and re-impose excessive and counterproductive regulation on railroads.
- Trucks, airlines, and barges operate over highways, airways, and waterways that the government provides. By contrast, America's freight railroads pay **nearly all** of the costs of their tracks, bridges, and tunnels themselves. To keep their existing networks in top condition and to build the new rail capacity that America will need in the years ahead, railroads must be able to earn enough to pay for it.
- New heavy-handed regulation would send railroads down the wrong track — **away** from financial sustainability. It would force railroads to lower their rates to certain favored shippers to below-market levels at the expense of other shippers, rail employees, and the public at large. **Several billion dollars** in rail revenue could be lost each year.
- Going back to a stifling regulatory environment would artificially cut rail earnings and **cripple railroads' ability to re-invest in their networks**. It would mean a return to the dark days of railroading: deteriorating tracks and equipment, inability to build new capacity, poor service, and compromised public safety. Freight that otherwise would move by rail would move on the highways instead — meaning more highway gridlock, more greenhouse gas emissions, and, ultimately, **higher costs for the general public.**
- Conversely, keeping Staggers intact will ensure that the tremendous successes of balanced railroad regulation will continue into the future.

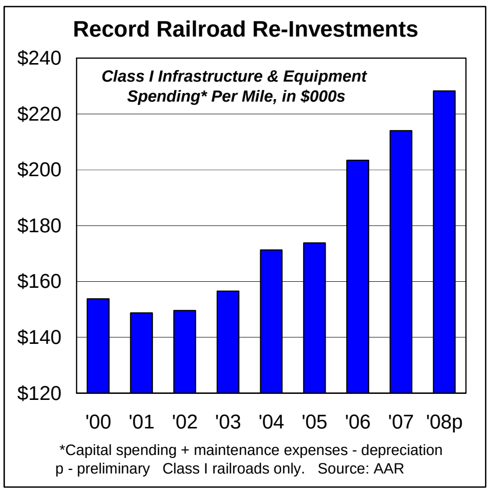
Railroads Operate in a Highly-Competitive Environment

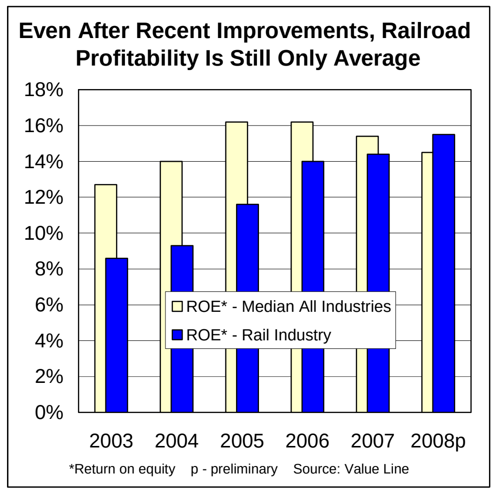
- Those who want to over-regulate railroads say that if a shipper is served by a single railroad, that railroad has unconstrained market power. Economics 101 shows otherwise. In the long run, two railroads can serve the same shipper only when there is sufficient demand to sustain two railroads. Otherwise, one railroad eventually fails. That's why most shippers have always been served by just one railroad. Claiming that every shipper should be served by two railroads just because some shippers are is like saying that every city should have two major league baseball teams just because Chicago and New York do.

- The fact is, whether it's competition between two or more railroads, competition from trucks and barges, or the influence of other competitive forces, freight railroads operate in a highly-competitive environment. Moreover, regulatory safeguards **protect shippers** from anti-competitive rail behavior.

- Supporters of over-regulation say that what they want is consistent with the intent of the Staggers Act. But Staggers was about getting the government **out** of the business of running railroads. Supporters of more regulation are really proposing to put Washington **back in control** of railroads — and that's the **opposite** of what Staggers was all about.

- In recent years, rail industry profitability has improved — and railroads have responded by **re-investing record amounts** back into their tracks and equipment, helping to ensure that America has a rail system that **works**. Even after recent improvements, though, rail industry profitability is still only average compared to other industries. This being so, can railroads really be said to wield an unfair advantage? The answer is clear.





Staggers: Backed by the Facts

- In September 2007, the Surface Transportation Board (the federal agency that oversees rail rates and service) sponsored an independent study to examine the competitive state of the America's freight rail industry. The study, released in November 2008, concluded that restoring the excessive regulation of the past would harm both railroads **and** shippers. Among the study's findings:

  ✓ "There is little room to provide significant rate relief to certain groups of shippers without requiring increases in rates for other shippers or threatening railroad financial viability."

  ✓ "Although the railroad industry's earnings have increased in recent years, earnings do not appear to be excessive...."

  ✓ "The overall assessment is that the [rail] industry has not used its pricing power to achieve excess profits."

  ✓ "The increase in railroad rates experienced in recent years is the result of declining productivity growth and increased costs rather than the increased exercise of market power."