

# The Need for Reasonable Railroad Regulation

ASSOCIATION OF AMERICAN RAILROADS

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## Summary

Prior to 1980, excessive regulation made it impossible for America's freight railroads to provide safe, efficient, and reliable service. Recognizing the harm this was inflicting on the economy, Congress passed the Staggers Rail Act of 1980. The Staggers Act created a **reasonable regulatory system** that still exists today: **shippers are protected against anti-competitive railroad conduct**, while **railroads can largely decide for themselves** (rather than have the government decide for them) **how to best meet their customers' needs**. Today, 30 years later, the Staggers Act has proven to be a tremendous success. America now has the **safest, most productive, and most affordable freight railroads in the world**, saving American firms and consumers billions of dollars each year. Returning to an era of excessive regulation would be a colossal mistake. It would prevent railroads from making the massive private investments required to meet our nation's growing freight transportation needs.

## The Staggers Rail Act of 1980: Reasonable Regulation That Works

By the 1970s, eight 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 tracks, locomotives, and freight cars were falling apart because railroads could not afford to repair them. Railroads were unable to provide the safe, efficient, cost-effective rail service that American businesses needed to grow.

Recognizing the tremendous harm this was inflicting on the economy, Congress passed the Staggers Rail Act of 1980. Under the Staggers Act, **regulators retained authority** — which they still have today — to **protect shippers** against anticompetitive railroad conduct or unreasonable railroad pricing. However, Staggers **eliminated many of the most damaging regulations** that hindered efficient, cost-effective freight rail service.

A reasonable approach to rail regulation works. Since Staggers was passed:

- Average inflation-adjusted rail rates are down **51 percent** (measured by revenue per ton-mile). That means the average rail shipper today can move **twice as much freight for the same price as it paid nearly 30 years ago**.
- Lower rail shipping costs and better, more reliable rail service have saved American firms (and, ultimately, all of us) **hundreds of billions of dollars** over the years and **greatly enhanced America's competitiveness in the global economy**.
- Rail traffic volume has nearly doubled, while productivity is up more than 160 percent.
- Freight railroads have reinvested some **\$480 billion** (in private funds, not government funds) back into their operations, creating a rail network **second to none** worldwide. It's no surprise that The Economist magazine recently noted that the American freight rail

system is “one of the unsung transport successes of the past 30 years” and is “universally recognized in the industry as the best in the world.”

- Railroads are much safer. Since Staggers, railroads have reduced their train accident rate by 77 percent and their employee injury rate by 82 percent. **2010 was the safest year ever for railroads**, breaking the record set in 2009.

### Why Keep Staggers?

All of the outcomes listed above — increased rail traffic, better service, safer operations, lower rates, more investment, more productive operations, and improved railroad financial health — were outcomes that **Congress intended the Staggers Act to generate and could not have been achieved without the Staggers Act reforms.** The act is clearly working.

Nevertheless, some rail shippers support legislation that would re-impose excessive and counterproductive regulation on railroads. That would be a colossal mistake.

Trucks, airlines, and barges operate over highways, airways, and waterways that the government pays for. By contrast, America’s freight **railroads pay nearly all of the costs of their tracks, bridges, and tunnels themselves.** To keep their networks in top condition and to build the new capacity that America will need in the years ahead, railroads must be able to earn enough to pay for it.

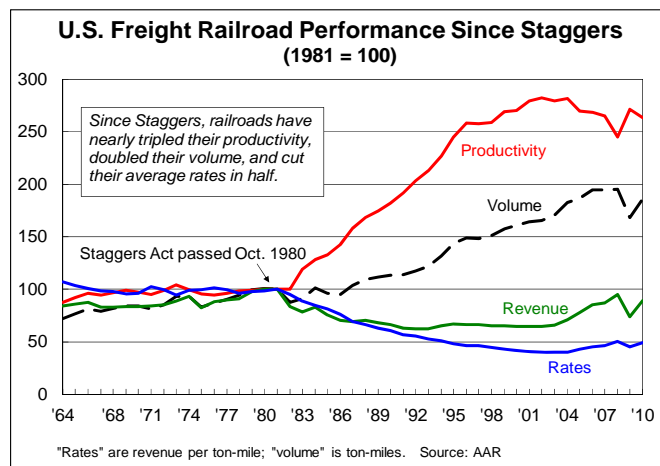
But new heavy-handed regulation **would send railroads down the wrong track — away from financial sustainability.** It would force railroads to lower their rates to certain favored shippers to below-market levels at the expense of other shippers, rail employees, and the public at large. Billions of dollars in rail revenue could be lost each year.

Nothing good could come of this. Artificially cutting rail earnings would severely **harm railroads’ ability to reinvest in their networks.** It would mean less new rail capacity and less reliable rail service. This would be a serious problem at any time, but it would be an especially serious problem today when railroads are being called upon more than ever to help achieve key policy goals such as reducing highway congestion and cutting fuel consumption and air pollution.

Moreover, at a time when the pressure to reduce government spending on just about everything — including transportation infrastructure — is enormous, **it makes no sense to enact public policies that would discourage private investments** in rail infrastructure that would boost our economy, enhance our competitiveness, and help our nation grow.

### 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. That’s wrong. 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

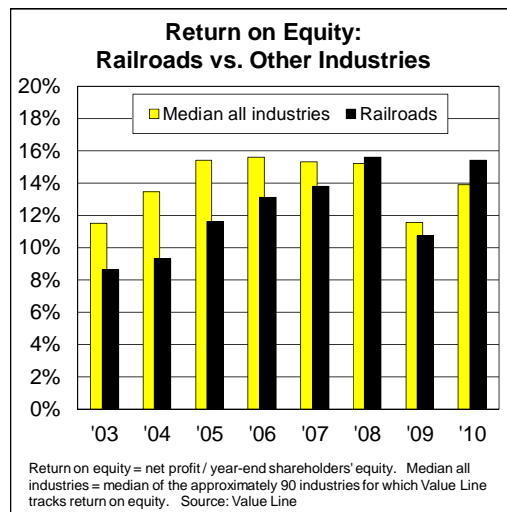
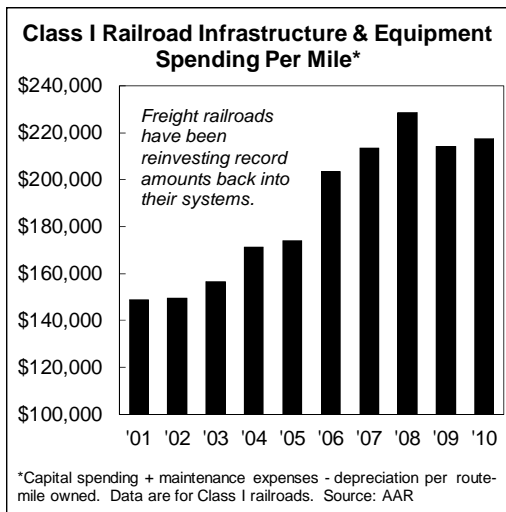


served by just one railroad. Claiming that every shipper should be served by two railroads just because some shippers are is like saying that every city should have two major league baseball teams just because Chicago and New York do.

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, the federal Surface Transportation Board (STB) protects shippers from unreasonable railroad pricing or anticompetitive railroad behavior.

Supporters of over-regulation also 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 — the **opposite of what Staggers was all about**.

In recent years, rail industry profitability has improved — and railroads have responded by **reinvesting record amounts** back into their systems (see chart below left), despite the recent recession, helping to ensure that America has railroads that work. Even after recent improvements, though, rail industry profitability is still only about average compared to other industries (see chart below right).



### Balanced Regulation: Backed by the Facts

In September 2007, the STB sponsored an independent study to examine competition in the freight rail industry. The study, released in November 2008 and updated in January 2010, concluded that excessive regulation is the wrong way to go. 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 [rail] industry has not used its pricing power to achieve excess profits.”
- The increase in rail rates experienced in recent years “is the result of declining productivity growth and increased costs rather than the increased exercise of market power.”