America's Freight Railroads Under Balanced Regulation

ASSOCIATION OF AMERICAN RAILROADS MARCH 2017

Summary

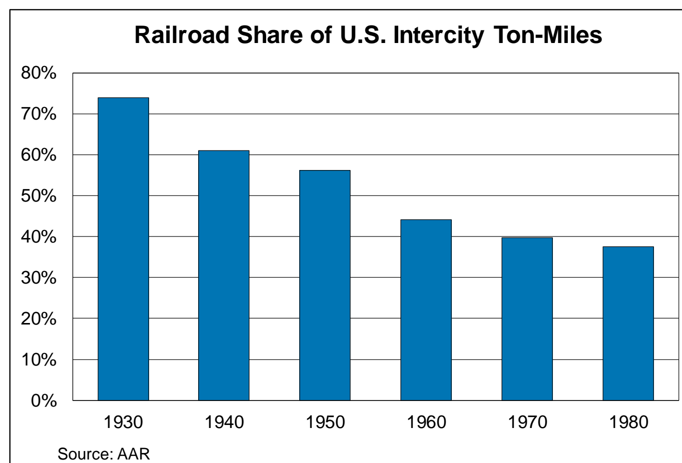
By the 1970s, decades of increasingly stringent government regulation had brought the U.S. freight railroad industry to the brink of ruin. Today, though, America's freight railroads are the **envy of the world**, providing an enormous **competitive advantage for U.S. businesses**, **huge savings for consumers**, and **strong support for our nation's economy**.

What brought about this change? Congress passed the Staggers Rail Act in 1980, which instituted a system of **balanced regulation** in the rail industry. Staggers ushered in a new era in which railroads could largely decide for themselves — rather than have Washington decide for them — what routes to use, what services to offer, and what rates to charge. Since the Staggers Act was passed, average rail rates have fallen **45 percent**, train accident rates are down **78 percent**, rail traffic volume has **doubled**, and railroads have poured more than **$635 billion** — their own funds, not taxpayer funds — back into their systems. Balanced, reasonable regulation works for rail customers, railroads, and America at large.

The 1970s: Railroads at the Brink of Ruin

By the 1970s, archaic regulations, together with intense competition from other modes of transportation, had driven the rail industry to the brink of ruin.

- During the 1970s, most major railroads in the Northeast (including the giant Penn Central) and several major Midwestern railroads went bankrupt. More than **21 percent** of the nation's rail mileage was accounted for by **bankrupt railroads**.
- Between 1970 and 1979, the rail industry's return on investment never exceeded 2.9 percent and averaged 2.0 percent — **well below what a child could earn on a savings account**. Railroads' average rate of return had been falling for decades: it was 4.1 percent in the 1940s, 3.7 percent in the 1950s, and 2.8 percent in the 1960s.
- By 1978, the railroad share of intercity freight had fallen to 35 percent, down from 75 percent in the 1920s.



- Railroads lacked the funds to properly maintain their tracks. By 1976, more than 47,000 miles of track had to be operated at reduced speeds because of unsafe conditions. Deferred maintenance — maintenance that needed to be done but railroads could not afford — was in the billions of dollars. The term "**standing derailment**" — when stationary railcars simply fell off poorly maintained track — **was often heard**.
- The status quo was untenable, so Congress essentially had two options: nationalization, at a continuing cost of untold billions of dollars, or a move toward more **reasonable, balanced regulation** to replace the excessive regulation of the past. Congress wisely chose balanced regulation and passed the Staggers Rail Act of 1980.
- By passing Staggers, Congress recognized that America's freight railroads — the vast majority of which are private companies that operate on infrastructure that they own, build, maintain, and pay for themselves — faced intense competition for most of their traffic, but excessive regulation prevented them from competing effectively. To survive, railroads needed **a common-sense regulatory system** that allowed them to act like most other businesses in terms of managing their assets and pricing their services.

What Did the Staggers Act Do?

The Staggers Act eliminated many of the most damaging regulations that hindered efficient, cost-effective freight rail service. Among other things, Staggers:

- Allowed railroads to price competing routes and services differently. Railroads could now price according to market demand and operate over their most efficient routes.
- Allowed railroads and shippers to enter into confidential contracts. Such contracts were virtually unknown prior to Staggers because of regulatory restrictions.
- Streamlined procedures for the sale of rail lines to new short line railroads.
- Explicitly recognized railroads' need to earn adequate revenues.
- Expanded regulators' authority to exempt categories of rail traffic from regulation if regulation was not needed to protect shippers from an abuse of rail market power. For example, freight that could easily be carried by railroads' trucking competitors could be exempted from regulation.

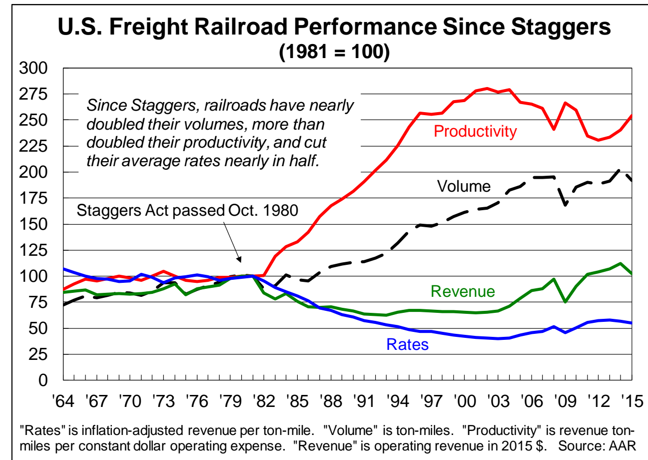
Under Staggers, **regulators retained authority to protect shippers and consumers against unreasonable railroad conduct and unreasonable railroad pricing**. Regulators still have this authority today. This ensures that freight rail is fair and competitive, and that railroads are held accountable for their actions.

Since Staggers, America's Railroads Have Been Reborn

By permitting a more customer-focused, market-based approach to railroading, the Staggers Act has greatly benefited railroads, their customers, and our economy at large, just as Congress intended when it passed the legislation.

- Since Staggers, railroads have increased their productivity far more quickly than most other industries. Overall rail industry **productivity** was flat for many years prior to Staggers, but is **up 154 percent** since then.

- These productivity gains have been largely passed through to rail customers in the form of lower rates. Average inflation-adjusted rail rates (measured by revenue per ton-mile) are **down 45 percent since 1980**. This means the average rail shipper can move close to **twice as much freight for about the same price it paid 35 years ago** — saving rail customers, and ultimately U.S. consumers, hundreds of billions of dollars.

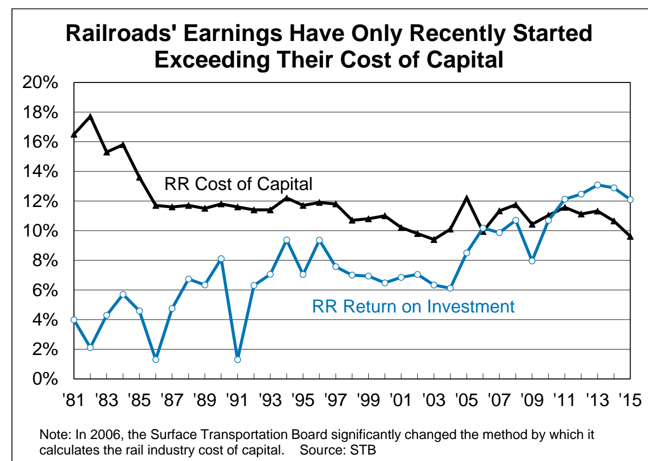


- After decades of decline, the rail intercity market share (measured in ton-miles) began to grow in an expanding freight transportation marketplace.

- Freight railroads have poured more than **$635 billion of their own funds** back into their operations to create a national freight rail network that is **second to none in the world**.

- **Railroads are much safer**. The train accident rate in 2016 was the lowest ever; in 2016, it was down 80 percent from 1980 and down 44 percent from 2000; the employee injury rate in 2016 was down 84 percent from 1980 and down 47 percent from 2000; and the grade crossing collision rate in 2016 was down 80 percent from 1980 and down 39 percent from 2000. **By all these measures, recent years have been the safest in history**. The train derailment rate, the train collision rate, and the rate of accidents caused by defective track were all the lowest ever in 2016.

- **Railroads are healthier financially**. Railroads' average return on investment, which had been falling for decades, rose to 4.4 percent in the 1980s, 7.0 percent in the 1990s, and 9.6 percent from 2000 to 2015. In recent years, some rail critics have been decrying "record" railroad profits, but rail earnings in recent years have generally been only about average among all industries.



- There used to be a huge gap between the rail industry's cost of capital and its return on investment. There's hope this gap will be closed, on a long-term basis, in the future. Improved earnings allow railroads to more readily make the massive investments needed to keep their infrastructure and equipment in top condition, improve service, and add the new rail capacity America will need in the years ahead.

- **Short line and regional railroads**, most of which are new since Staggers, operate approximately 45,000 miles in 49 states, **preserving rail service and rail jobs** that otherwise would have been lost if not for the Staggers Act.

America's Freight Railroads Under Balanced Regulation