Smart, balanced regulations work.

America’s thriving freight rail network is proof that smart and balanced government regulation can work – both for the regulated industry and the public. The performance of U.S. freight railroads in the years prior to 1980 and following passage that year of the landmark Staggers Rail Act presents a stark “before and after” portrait showing just how important smart public policy is to our economy.

Prior to 1980, decades of stifling federal over-regulation had devastated freight railroads. A convoluted system of economic regulation made it impossible for railroads to earn enough revenue or attract sufficient capital to reinvest back into the rail network. More than 20 percent of U.S. rail miles were operated by railroads in bankruptcy. Rail rates were rising faster than inflation, and the rail market share for freight shriveled as more and more shippers turned to trucks.

The Staggers Act created a balanced regulatory system with a visionary, market-based framework that protects shippers against unreasonable railroad conduct and provides them with a venue for addressing rail service concerns while also allowing railroads to largely decide for themselves how to manage their assets and price their services. This allows railroads to grow revenues and earn enough to make massive, necessary investments into track, technology and equipment.

FAST FACTS: RAIL RENAISSANCE

- Improved profitability has allowed freight railroads to pour $710 billion of their own funds back into their systems since 1981 to create a network that is second to none.
- In 2017, Class I railroads supported over 1.1 million jobs and generated nearly $219.5 billion in economic input.
- Railroads haul about one third of U.S. exports, allowing American industries to compete abroad.
- Recent years have been among the safest in history for railroads.
- Railroads continue to improve efficiency, moving one ton of freight an average of 479 miles on a single gallon of diesel. Because railroads are four times more fuel efficient than trucks, on average, they emit 75% fewer greenhouse gases per ton-mile.
- Hundreds of short line and regional railroads formed since Staggers and are preserving rail service and rail jobs that otherwise would have been lost.

FREIGHT RAIL UNDER STAGGERS

- Productivity
- Volume
- Revenue
- Rates

Staggers Act passed Oct. 1980

0 25 50 75 100 125 150 175 200 225 250 275 300

'66 '70 '74 '78 '82 '86 '90 '94 '98 '02 '06 '10 '14 '18
STB under pressure.

The Surface Transportation Board (STB) is an independent federal agency charged with overseeing economic regulation of freight railroads. It plays a key role in adjudicating and mediating rate, service and access disputes. When creating the STB, Congress also gave the Board a duty to ensure railroads can earn enough revenue to maintain their networks and charged them with regulating only when there is no effective competition.

Since the passage of the Staggers Act, various rail shippers have tried to convince Congress or the STB to adopt new regulations that shift the balance. Even though Congress did not direct the Board to make major changes when it reauthorized the Board in 2015, the STB is considering a host of major regulations that would directly threaten freight railroads’ ability to invest.

The flurry of new proposals came after two new commissioners joined the Board in 2019. The STB has eight significant proceedings under way — including everything from mandatory arbitration in some cases to forcing railroads to share their private tracks with competitors at below-market rates to essentially capping the rates railroads can charge to move certain commodities.

The Association of American Railroads estimated that a proposal similar to one of the regulations being pushed by large chemical companies would put nearly $8 billion in revenues at risk. When taken as a whole, the regulations represent a dramatic upheaval of the balance that has led to a remarkable freight rail renaissance.

Railroads are transforming.

Freight railroads face intense competition from trucks, barges and other market forces. They must continue to respond to a changing economy to better serve their customers. That takes massive investments in infrastructure, equipment, operations and technology. Because they own and maintain their own infrastructure — unlike other transportation modes — railroads are incredibly capital-intensive. In fact, they spend about six times more than the average U.S. manufacturer.

In recent years, railroads have implemented new technologies to be even safer and to provide their customers with greater flexibility and transparency. They have changed their operating models to adapt more easily to changes in rail traffic and to be more efficient companies. Enacting the regulations being considered by STB would not only be a huge expansion of STB’s oversight, it would completely upset the balance of regulations that allows railroads to make the investments needed to continue to transform.

There are, however, common-sense changes to the regulatory system that would benefit railroads and shippers alike.

- Conduct cost-benefit analysis for any propose regulation, as the Office of Management and Budget has guided other agencies to do.
- Update the process by which shippers challenge rail rates to root it in sound economic principles and lessen the time and expenses faced by both railroads and shippers to adjudicate a case.
- Ensure a modern regulatory system that recognizes the capital-intensive nature of railroads and supports the continued transformation of railroads and the markets they serve.

Every ton of freight moved by rail strengthens the economy, creates jobs, mitigates pollution and saves taxpayers money. Today’s system of balanced regulations allows railroads to afford the massive investments needed to maintain and expand their network. As railroads transform to respond to a changing, competitive marketplace, policymakers should ensure railroads can earn enough to continue to make massive, necessary investments.