

ISSUE TYPE	Legislative/Regulatory (Federal)
AGENCY	Congress/STB
STATUS	Tracking
DIVISION IMPACT	Rail
INTERESTED PARTIES	AAR, ASLRRA, NITL, CURE
KEY DATES	July 25, 2012 — STB Initiates Proceeding to Consider Competitive Switching March 21, 2013 — Railroad Antitrust Legislation Introduced
MOST RECENT ACTION	Feb. 4, 2014 — STB will Consider NITL’s Competitive Switching Proposal on March 25-26, 2014

Statement of the Issue

In 1980, the Federal government substantially deregulated U.S. freight railroads by passing the Staggers Rail Act, which allowed railroads to choose what routes to use, what services to offer, and what rates to charge. Since then, railroads have consistently opposed re-regulation legislation, arguing it would lower their revenues, and subsequently, funds available for investment. The shipping community is divided on the issue of re-regulation.

Policy Position – Adopted by the Board (11/14/2010)

IANA should continue to monitor rail re-regulation activities, and in conjunction and coordination with the AAR, oppose any legislation that substantially changes the current laws under which the freight railroads operate.

Summary

Prior to the Staggers Rail Act, government forced railroads to provide services the market did not support, resulting in bankruptcy for nearly 25% of U.S. freight railroads. Further, significant safety concerns arose from the industry’s inability to invest in its infrastructure and equipment. Since deregulation, freight railroads report that average rail rates have fallen 45%, rail accident rates are down 76%, and rail volume has nearly doubled.

Even with the Staggers Rail Act, rail remains a partially regulated industry. The Surface Transportation Board (STB) retains authority over a variety of non-rate areas and can set maximum rates for a large portion of rail traffic; it also can take action if a railroad is found to have engaged in anticompetitive behavior. In 2011 the STB held a public hearing to explore the current state of competition in the railroad industry and discuss possible policy initiatives to promote increased rail-to-rail competition. IANA provided written [comments](#), and IANA Chairman Steve Rubin [testified](#) on behalf of the Association.

While some shippers have called for re-regulation, asserting that freight railroads are overcharging for their services, other shippers have expressed that re-regulation may needlessly and unfairly set rates and mandate service for only one segment of freight rail users at the expense of other customers.

There have been many attempts by Congress to re-regulate freight railroads, and the STB has examined shipping group proposals aimed at alleviating “captive shipper” concerns. Most recently, Senators Amy Klobuchar (D-MN) and David Vitter (R-LA) introduced the Railroad Antitrust Enforcement Act in March, 2013.

Currently under review by the STB, a proposal developed by the National Industrial Transportation League (NITL) would allow for shippers located in a terminal devoid of transportation alternatives to switch from one rail service provider to another if an interchange is located within 30 miles of the terminal. This proposal, NITL asserts, would allay concerns that freight railroads are overcharging for their services, especially where shippers are limited to service from only one long-haul railroad to transport their freight. The freight rail industry warns re-regulation would be a potentially catastrophic public policy that could erase 30 years of positive growth. STB will hold a public hearing March 25-26, 2014 to review NITL’s proposal.

Class I Railroad Re-Regulation

On a related note, STB held a public hearing on Feb. 24, 2011 to review certain categorical exemptions from regulation under Title 49 U.S.C. 10502. In addition to commodity exemptions and boxcar exemptions, exemptions regarding TOFC/COFC are also a topic of discussion at the hearing. IANA President and CEO, Joni Casey, testified on behalf of the Association. To view IANA's comments, please click on the following link: [IANA STB Comments](#).

Potential Impact to Intermodal Freight Transportation

If rail re-regulation is passed (which most analysts and industry "insiders" find unlikely), the impact to intermodal would most likely be a decline in rail infrastructure. It could also have an adverse impact on intermodal transportation's competitiveness in the marketplace.