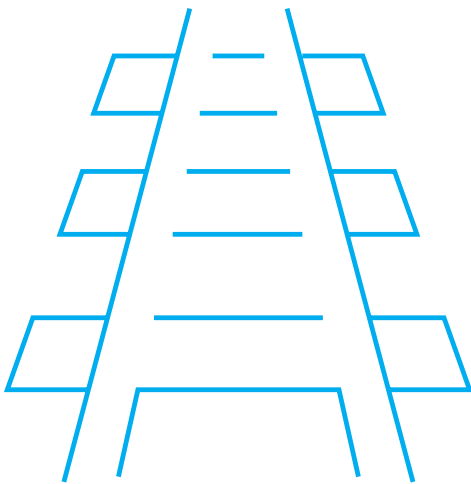


Freight Rail Reform Moving America's Economy

How free and open rail markets improve the efficacy of the rail system & benefits the American public

The American Fuel & Petrochemical Manufacturers (AFPM) is a trade association representing virtually all the U.S. refining and petrochemical manufacturing capacity. Our members produce the fuels that drive the U.S. economy and the chemical building blocks integral to millions of products that make modern life possible.

43% increase in real rail rate since 2004 due to consolidation in the rail industry



To produce essential goods, AFPM members rely on a safe, reliable and efficient rail system to move materials to and from refineries and petrochemical facilities. Federal policies have not kept pace with massive changes in the railroad industry and we need reforms that:

Increase Competitive Options

Adopt long-overdue policies that will promote greater access to competitive rail service wherever possible.

Reform Outdated Policies

Modernize the Surface Transportation Board to create an efficient and equitable process for resolving freight rail issues.

Foster a Strong Rail Network

Allow market forces and sensible federal policies to ensure everyone benefits from a healthy, affordable and dependable freight rail system.

Lacking rail competition hurts refiners & the economy

Rail industry consolidation has resulted in 78 percent of rail shippers being served by a single major railroad.¹ While railroads are enjoying record profits, rail customers and American consumers are paying more and getting less. There must be a method to recoup losses caused by railroad failures.

Shippers face escalating rates, service challenges a lack of competitive options and ineffective means to resolve commercial disputes with railroads

Consolidation within the rail industry has left just four railroads in control of 90 percent of U.S. rail traffic.² With limited competition, freight rail rates have increased by 43 percent since 2004 — compared to a 8 percent increase in costs to railroads.³ Government policies have not kept pace with these post-consolidation changes and have left many rail customers without access to competitive transportation options or an effective way to resolve problems with rates and service.

Change in railroad rates, cost & volumes

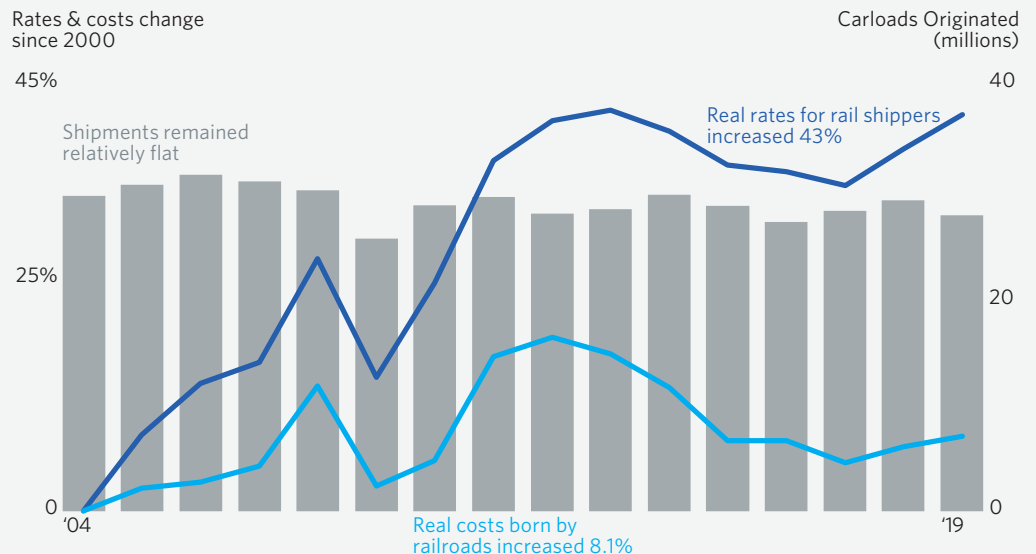
Rates and Costs Adjusted for Inflation

Refining Tier 1

Process Safety Event Rates

- Cars Originating (in Millions)
- Rail Rates (\$/Ton-Mile)
- Rail Expenses (\$/Ton Mile)

Source: <https://www.freightrailreform.com/wp-content/uploads/2021/07/Economic-Analysis-Consolidation-and-Increasing-Freight-Rail-Rates.pdf>



Competitive switching

The rail industry is attempting to frame the competitive switching as an effort to “re-regulate” the industry. In truth, this change would modernize outdated policies, align the industry with the intent of the Staggers Act, vastly improve market access and fairness in rail shipping, and should be adopted to get our nation’s freight rail system back to work for American manufacturers.

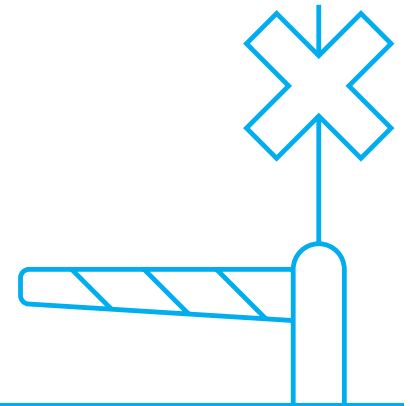
Congress expressly granted the STB’s authority to require reciprocal switching in the Staggers Rail Act of 1980. “The Board may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. (49 U.S.C. 11102(c)).”

The Board proposed new rules in 2016 to allow rail shippers to access reciprocal switching. “A reciprocal switching arrangement shall be established under 49 U.S.C. 11102(c) if the Board determines that such arrangement is either practicable and in the public interest, or necessary to provide competitive rail service (STB Docket No. EP 711-1).”

The President’s Executive Order on Promoting Competition in the American Economy calls on the Board to take up this long-pending rulemaking. “Consider commencing or continuing a rulemaking to strengthen regulations pertaining to reciprocal switching agreements pursuant to 49 U.S.C. 11102(c).”

The proposal would simply allow certain rail customers to request that their freight be moved to another major railroad only if another rail line is reasonably accessible. If the switch is shown to be unsafe or harmful to other customers, the railroad can block it. There is no “free lunch” for the shipper, as they would have to pay an appropriate “access” fee to cover the railroad’s costs.

The widespread implementation of Precision Scheduled Railroading (PSR) makes competitive switching even more necessary now than when it was first proposed. The widespread implementation of PSR by nearly all the Class I railroads makes this competitive access remedy even more compelling now than in early 2017. With railroads focusing on driving operating ratios to record lows in an effort to please investors, rail shippers are seeing the effects of reduced competition.



2 million+ carloads of our members’ feedstocks and products — crude oil, NGLs, refined products, plastics and synthetic resins — are delivered by rail in the United States annually.⁴



Troubling trends indicate a need for action Since 2004, **revenue from non-competitive rates increased 230%** while revenue from competitive rates only increased 24%. In 2019, half of all railroad revenue was generated from non-competitive rates. Rail industry consolidation has allowed railroads to increase rates dramatically more than inflation and trucking. **Rail rates have increased 2.4x more than truck rates and inflation.**

Rate review

Encouraging the development of a more efficient, practical method to review and determine the reasonableness of freight rail rates is a priority for AFPM members, who offer the following considerations for rate case reform:



Utilize Competitive Benchmarking

Competitive rate benchmarking is market-based, economically sound and cost-effective. It draws on ample real-world data to develop benchmarks for competitive rail rates. Once models are developed, rail rates can be quickly compared to competitive benchmarks.



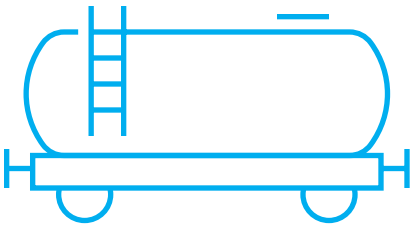
Expedite the Process

Challenging a rate before the STB is prohibitively expensive and complex, and it is especially burden — some to merchant refiners and other small businesses. The STB should expedite or even standardize the production of rail traffic data and allow for an alternative means to resolve rate disputes through a third-party arbitrator.



Adopt Alternative Methods for Rate Review of Smaller Cases

Final Offer Rate Review or FORR (EP 755) offers a fair, cost effective and expedited process that weighs both rail shipper and carrier interests. FORR gives both parties incentives to reach a reasonable outcome. The STB should adopt FORR and consider allowing longer duration and greater monetary values for relief.



86,000 tank cars

The number of flammable liquid tank cars our members own or lease have retrofitted or replaced with new cars to meet the highest federal standards.⁵

AFPM is eager to work with the STB on guidance and regulations to alleviate unnecessary obstacles to transporting critical feedstocks and products

Fuel and petrochemical manufacturers seek more competitive options in the U.S. rail system and support the development of improved issue resolution processes — not only to enable greater efficiency at our members' facilities, but also to better serve U.S. manufacturers and customers nationwide that depend on fuel and petrochemical feedstocks. Upgrades to rate review processes, collection of better data on the rail network and adoption of competitive switching could deliver widespread efficiencies and improvements that benefit U.S. industry and the larger economy.

Learn more at freightrailreform.com

1. Rail Customer Coalition, <https://www.freightrailreform.com/wp-content/uploads/2015/02/Why-Rail-Presentation-32415.pdf>
2. The American Prospect, "How America's Supply Chains Got Railroaded" <https://prospect.org/economy/how-americas-supply-chains-got-railroaded/>
3. Economic Analysis: Consolidation and Increasing Freight Rail Rates (freightrailreform.com)
4. Escalation Consultants Inc, <https://www.aar.org/facts-figures>
5. Railway Supply Institute Progress — Tank Car Resource Center, <https://tankcarresourcecenter.com/progress/>