REGULATION OF LOCAL AND REGIONAL RAILROADS: A NATIONAL SURVEY OF PERSPECTIVES AND PRACTICE

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INTRODUCTION

Local and regional railroads are a growing sector of the transportation industries, both regionally and nation-wide. Shortline carriers serve a valuable role in originating and terminating agricultural and natural resource commodities, commodities critical to the economies of the regions and to the economic health of the railroads themselves.

Shortline carriers are much different than Class I railroads in operating scope, economics of operation, and financial resources. Yet, in many areas the same regulations essentially apply to both types of railroads. This regulatory scheme was originally designed for large carriers, and thus reflects their economic and operating characteristics. In essence, there has been an attempt, overt or covert, to retrofit a set of existing regulations to the shortline sector of the railroad industry. These regulations are both interstate and intrastate in nature and consist of two broad categories: (1) economic and (2) safety. Economic regulations are aimed primarily at rates, surcharges, routes, and abandonments. Many shortlines operate under track and equipment leasing arrangements (from Class I carriers), and do not publish rates. Whereas all Class I railroads operate in several states, many shortline carriers operate within the boundaries of a single state, county, or even industrial park or firm. Given the differences between shortline and Class I carriers it is conceivable that regulations derived from history may not be fitting the railroad system of the present and the future. And, the evaluation of structure, purpose and effectiveness of regulations may differ significantly from the perspective of the regulator versus the regulated.

The overall purpose of this report is to evaluate the perspectives and practice of economic and safety regulation of local and regional shortline railroads. Specific objectives are to:

1) Review the dynamics of the shortline railroad spinoff movement in the United States and the Mountain Plains Consortium region.

2) Review the existing federal and state regulations related to shortline versus Class I carriers.

3) Detail the existing number, structure, and regulation of shortline railroads in the Mountain Plains consortium region.

4) Determine the extent and effect of regulation from the perspectives of the regulated shortline railroads versus the state regulatory agencies.

5) Evaluate the conflicts in regulatory perspectives and their impacts on shortline railroads.

THE SHORTLINE SPINOFF MOVEMENT

American railroads, as our first major industrial corporations, were responsible not only for the development of most of our industry, they shaped the urban geography of this country as well. In addition, a body of law developed around railroading which was the model for most administrative and public law in the United States. The Interstate Commerce Commission, our first administrative agency, was totally concerned with regulation of railroads (which, at the time of its inception, had a monopoly on public transportation) until 1935.

This body of law applicable to railroading reflected the concerns of passengers, shippers, and state regulators faced with a late 19th century transportation monopoly. Once the river steamer lost economic vitality, the railroad was unchallenged until the development of the electric interurban railway in the early 20th century. By that time, of course, the automobile and airplane were waiting in the wings to divest the railroad of its monopoly position.

Mergers and consolidations brought our great railway systems into the recognizable configurations of today. The merger movement is still proceeding apace. A

series of ill-considered rail mergers in the 1960s led to the disastrous bankruptcies of the 1970s. No true transcontinental railroad (except for Amtrak) exists today, but the industry is dominated by four major systems in the west and three in the east. In addition, there has been a move by the major carriers to spin off feeder and branch lines into regional or shortline railroads.

In the beginning, all railroads were shortlines. Our first U.S. railroad, the Baltimore & Ohio, had great ambitions to reach the Ohio valley, but first started as a strictly Maryland intrastate carrier, running from Baltimore to Ellicott Mills, a distance of just under 13 miles. Our second common carrier, the Strasburg Rail Road, built 4.5 miles in Pennsylvania and never exceeded that length. While the B&0 built into the thousands of miles, the Strasburg and carriers like it stayed independent, untouched and unwanted by the major carriers. The merger movement of the 1960s dealt mainly with consolidating the major players; the smaller railroads were pretty much left alone.

The 1970s saw a massive change in the face of railroading, due in part to the bankruptcies of the large east-west carriers. Many non-operating landlord companies found themselves back in the railroad business, as trustees in bankruptcy rejected 99-year leases. That is how the Providence & Worcester Railroad in New England suddenly found itself operating a shortline, when Penn Central, burdened with the New Haven structure, chose to not take the New Haven's leases into its business.

The bankruptcy of the same Penn Central was responsible for the birth of Amtrak and, later, Conrail, and also spawned a host of shortlines. Conrail's predecessors had operated about 25,000 miles of track; of these less than 15,000 are operated by Conrail today. Much of the remainder is now operated by shortlines, as are the viable portions of the defunct Rock Island and Milwaukee railroads in the west. The Regional Rail

Reorganization Act of 1973 (3-R Act), provided that the Secretary of Transportation would designate what lines of the predecessor carriers would go into the Conrail system. What was left would be offered to local communities, to be run by a designated operator. In many cases these were the foundation for the creation of a new generation of shortline railroads throughout the east and midwest. Many of these designated operators are still in business, and new shortlines are still being formed today. Following Conrail's lead, several other major railroads have divested themselves of low-density feeder lines. Illinois Central and Burlington Northern have been foremost in shortline spinoffs, but other major western lines are now following this policy. Divestiture was made easier by the Staggers Act abandonment and certificate procedures; it is common for an abandonment proceeding by a Class I railroad to be heard concurrently with an application for a certificate of public convenience and necessity to acquire the line and to create a new railroad.

The typical shortline has less expensive terminal operations and is free of many restrictive union agreements. (It is not true that all these smaller railroads have no union contract, but in many cases the contracts are more lenient or the number of unions with which the carrier must deal is smaller. For example, the Montana Rail Link has but two unions: the Brotherhood of Locomotive Engineers, representing the two-man crews which serve as engineer and conductor on the line's freight trains, and a union representing all the shopcraft employees.) Shortlines have local management and are able to work well with area shippers for traffic that the larger railroads tended to ignore. The Class I railroads often maintain good relationships with shortlines that feed that particular carrier. Burlington Northern has such relationships with the Montana Rail Link and the Red River Valley & Western. A few shortlines, like the pioneer Strasburg,

make their bread and butter from recreational passenger trains and freight is a sideline, but the typical shortline railroad, if one can be found, exists to haul a few commodities to a connection with a friendly Class I carrier.

Like their Class I counterparts, shortline railroads are subject to state and federal regulation. However, ICC regulation of the rails developed in response to perceived abuses of market power by monopoly railroads—particularly on the major trunk lines. A system which was designed to impose order on the Class I railroads may not be a good fit with the smaller lines—particularly when the shortline railroads have a small headquarters staff, with only one or two individuals to handle the paperwork.

Unlike the airlines and (to a large extent) the motor carriers, railroads have not been deregulated. Rather, a liberalized regulatory regime has been exercised over the railroads since the passage of the Staggers Rail Act of 1980—but though the control is less, the government regulator is still there. Railroads, after all, were organized for the service of the public and a public interest rationale still is imposed on railroads to a greater extent than the other modes. Railroads may not be the monopoly carrier of freight and passengers that they were before the Wright Brothers and Henry Ford, but they are still charged with the responsibility of serving the public safely. A whole body of administrative law still applies to rail operations, whether large scale or shortline. After all, with the exception of the East Broad Top, Durango & Silverton, White Pass & Yukon, Cumbres & Toltec and Lahaina, Kaanapaali & Pacific (the latter two operated by shortline specialist Kyle Railways), these shortlines may not be as long, but they are all 56.5 inches wide and are part of an interconnected system of rail transportation.

SHORTLINE RAILROADS AND THE LAW

Railroads are regulated by the Interstate Commerce Commission, which still retains some jurisdiction over rates, as well as construction and abandonment authority. As will be shown later in this report, states have varying jurisdiction over the intrastate operations of rail lines. Labor relations on railroads, large or small, are under the jurisdiction of the National Mediation Board. The Railroad Retirement System covers the benefits and pension rights of railroaders throughout the nation and the Federal Employers' Liability Act deals with industrial accidents on the rails. In addition, the Department of Transportation has extensive jurisdiction over rail safety, including track inspection and the licensing of engineers. DOT shares some of its safety responsibility with the states, but in other areas the federal government has pre-empted railroad regulation. Finally, bankruptcy courts have jurisdiction over the reorganization and liquidation of debtor railroads' estates, but even here public interest considerations dovetail with the requirements of the law that the estate be preserved for creditors. Yet, specific regulatory elements dealing with entry, exit, labor, etc., need specific evaluation.

Regulation of Entry

Although any American citizen can start his or her own airline, construction of a railroad is a more serious matter. Section 10901 of the Interstate Commerce Act provides that no railroad may extend its lines, construct new lines or acquire an existing rail line without a certificate of public convenience and necessity from the ICC. The ICC gives consideration to the interest of shippers, creation of new markets and rate advantages in construing this law. As there is no definition of "public convenience and necessity" in the Act, courts tend to defer to the Commission's interpretation of the words. A new line will not be approved unless it shows promise of becoming self-sustaining in the relatively new

future. Since passage of the Staggers Act, there is not much consideration given to the effect on other railroads of a new line invading its territory. A mere spur line or industrial track (serving one or two shippers) does not require ICC approval, although, as will be seen, some states control the construction and abandonment of these spurs.

Few new railroads are currently being built. The last major extension in the United States was Wyoming's Powder River Basin line, built by the Burlington Northern and Chicago & North Western in 1980 and operated jointly by those two carriers. But section 10901 is used frequently by the ICC in licensing shortlines. No shortline may operate without a certificate of public convenience and necessity from the ICC. The ICC must also approve trackage rights over the rights of another. As suggested earlier, a shortline's application for operating authority will be heard concurrently with the Class I railroad's petition to abandon the line.

Regulation of Exit

The ICC has had plenary jurisdiction over rail abandonments since the 1926 case of Colorado vs. United States. In that proceeding, the Supreme Court of the United States held that the regulatory power of the Commission extended to the abandonment of a narrow-gauge branch located entirely within the state of Colorado. States, then, have no say in abandonments although they often protest abandonment plans before the ICC and many states have jurisdiction over the abandonment of industrial spurs.

The Staggers Act had a salubrious effect on railroad plans to downsize their systems, inasmuch as it eliminated many impediments to rail abandonment. The ICC is now under strict time constraints for processing abandonments. If no one contests the abandonment petition, it must be allowed. Usually, it is the railroad seeking to drop the line who brings the petition, but third parties (such as a highway department which needs

the right-of-way) may bring such a proceeding. Abandonment can merely be permitted, not required, by the public convenience and necessity. If the Commission concludes that the public interest permits the abandonment, it has 90 days to issue a certificate, which then permits abandonment within 120 days after the application is filed.

Within 10 days after the abandonment decision is published in the Federal Register, any person may offer to pay the carrier a subsidy for the continuance of rail service, or offer to buy the line. The ICC must postpone issuing the abandonment certificate if a financially responsible person offers assistance in meeting operating losses, or offers to buy the line. If the parties fail to agree on the amount of compensation, they may submit the question to the ICC for determination.

A carrier, such as a shortline, which has purchased a rail line from an abandoning carrier, may not discontinue service on the line for two years after the sale, nor sell it to another carrier (except the original railroad) for five years after the sale. If the shortline goes bankrupt, the federal bankruptcy courts, rather than the ICC, have ultimate authority over disposition of an insolvent railroad's assets—including closure of lines.

If a shortline has not entered the picture and the ICC has authorized abandonment, the Commission is required to find whether the right-of-way is useful for public purposes, including highways, power lines, mass transit or recreational facilities. If the Commission so finds, disposition of the roadbed is held up for another 180 days while an attempt is made to find buyers who will take possession of the linear property in one piece. The National Trails System Act provides for rail-banking (holding a right-of-way for future railroad use while allowing interim use as a recreational trail.) The longest rail-to-trail conversion in this country to date is Washington's 145-mile John Wayne

Pioneer Trail, formerly the mainline of the Chicago, Milwaukee, St. Paul & Pacific Railroad.

Most states have some involvement in shortline railroading. In may cases, state governments have picked up branch lines that a Class I railroad has dropped. Few states operate railroads directly (the Alaska Railroad and New York's Long Island Rail Road are notable exceptions), but many states have acquired railroads and then leased them to shortlines or contracted with the shortline railroad for their operation. The most extensive such state takeover was in South Dakota, where the abandonment of the Milwaukee Road propelled the state into the railroad business. The one-time transcontinental mainline was leased to the Burlington Northern while other state-owned lines in South Dakota have been leased to shortline railroads.

Labor-Management Relations

American railroads and airlines are the only industry covered by the Railway Labor Act, our oldest (1926) national labor law. The Railway Labor Act applies to Class I and shortline railroads alike. Not covered are industrial lines, street railways and rapid transit systems. If privately owned, these employees may be covered by the National Labor Relations Act. Otherwise, the RLA applies to all railroaders, even those who are state employees working for a state-owned railroad.

The Railway Labor Act focuses on the duty of a railroad to bargain collectively with the representative of its employees. Although the law does not compel either side to reach a compromise or make a concession, both sides are required to meet and confer about wages, hours, and terms and conditions of employment. The decision as to whether or not a railroad is "union" or "nonunion" is entirely up to the employees. So, although many shortline railroads operate on a nonunion basis, they could be unionized at any time

that the employees vote to have a union represent them. The words "shortline" and "nonunion" are not synonymous.

If a major dispute arises between the union and the railroad, the RLA provides a process by which the party wanting change will post a "Section 6 notice". This notice invokes the collective bargaining procedures of the Act, and gives the other party at least 30 days notice of any intended change in working conditions. This is the only recognized way for changing work rules and triggering the bargaining process. There is no time limit for the parties' negotiations. Either party may notify the National Mediation Board (an independent agency in Washington that administers the Act and policies labor relations on the railroads and airlines) that they are unable to solve the dispute. In that case, the NMB will either mediate the dispute or recommend arbitration. If that fails, the NMB must notify the parties in writing, and neither party may change the work rules until 30 days after the NMB has concluded its efforts. At that point, the bargaining attempts can end and the parties are free to use self-help, like a strike or a lockout. However, the statute provides for an emergency board to be selected by the President of the United States, if the country or a section thereof faces deprivation of essential rail transportation. It does not seem likely that this section 10 of the Act would be used in a labor dispute involving a shortline.

Minor disputes (or interpretations of existing contracts) are settled by the National Railroad Adjustment Board. The NRAB meets in Chicago. It has 34 members, one half of whom are chosen by the unions and the other 17 by railroads. There are four divisions: the First division has jurisdiction over operating employees, the Second over shop employees, the Third over nonoperating employees and the Fourth over marine and supervisory employees. The NRAB's role is to "adjust" grievances, that is, to interpret

contracts upon the filing of a grievance by a nationwide union. Because the two sides are often deadlocked, a neutral referee, chosen by the board members, is usually responsible for the decision. Once the NRAB makes a decision, it is final; courts will enjoin a strike aimed at enforcing an award. The distinction between "minor" and "major" disputes is crucial. A minor dispute will go to the NRAB and be conclusively settled; a major dispute will be subject to the provisions of Section 6, where self-help is possible.

When mediation and bargaining over a major dispute has failed, the union is free to strike (or the carrier to lock out its employees). A strike does not sever the relationship of employer and employee. However, the contractual relationship between them is suspended during the strike. The carrier is free to permanently replace the strikers. Returning strikers, however, are placed on a preferential hiring list. There is no ban on secondary boycotts in the Railway Labor Act, and strikers are free to picket other employers, and may engage in sympathy strikes in support of job actions on other carriers.

The National Mediation Board is responsible for overseeing the selection of a bargaining representative. The Railway Labor Act requires that the bargaining representative be a "craft" or "class of employees." The NMB determines the craft and those eligible to vote. Every craft is entitled to its own representation election and each union is considered the exclusive representative of its craft. Both strikers and their replacements are eligible to vote. Only carrier-wide craft units are appropriate, and over 50 percent of a craft must vote in order for the election to be valid. There are no formal decertification procedures in the RLA. Outside of preserving order and protecting property, states have no role to play in the labor-management relations of even the shortest intrastate railroad. That field has been pre-empted by the federal government.

Thus, "right-to-work" or compulsory open shop laws enacted by many states are not applicable to railroads.

In its provisions for craft representation, Congress had Class I railroads in mind. The modern shortline often operates with employees who cross craft lines in their jobs: they can be an engineer one day, a conductor the next, and the third day be a freight salesman or gandy dancer. It is felt by some that the rigid requirement of craft representation seems less than appropriate for the flexible requirements of today's regional railroads. As mentioned above, the Montana Rail Link operates with two union contracts, one for operating and the other for nonoperating employees; but, elections had to be held in each craft in order to attain this result.

Labor Protection

Since 1985, the ICC has refused to impose labor protection on acquisition cases other than mergers or consolidations. The Staggers Rail Act gave the Commission the authority to exempt a rail transaction from the requirements of the Act when ICC regulation is not necessary to carry out the policies of Congress. Under Ex Parte 392, the ICC provided an abbreviated procedure for non-carriers to acquire railroads. Labor protection provisions were not imposed in these cases.

After Ex Parte 392, the number of shortline sales accelerated. Railroads, sometimes fearing labor protection mandated by the ICC (severance benefits for up to six years for displaced employees), turned to shortline sales. Other railroads leased lines to subsidiary or affiliated shortlines which already had favorable union contracts. Guilford Transportation leased its entire system to the shortline Springfield Terminal Railway, a unionized carrier, but one with a much less expensive compensation package than Guilford's Class I units. Other lines were spun off to nonunion carriers.

In the case of Pittsburgh & Lake Erie RR vs. Railway Labor Executives' Association, 109 S. Ct. 2584 (1989), the Supreme Court of the United States, through Mr. Justice White, spoke of the interaction of the Interstate Commerce Act, the Railway Labor Act, and the Norris-LaGuardia Act. The Court found that the RLA did not authorize an injunction against the sale of P&LE's lines to a non-carrier, even though the company had not bargained with its employees over the sale. The sale itself did not change any labor agreement; the original contract between P&LE and its unions did not contemplate any change in ownership. Thus, the P&LE was under no obligation to serve Section 6 notices upon the unions. Nor was the railroad required to preserve the status quo. The decision to close a business and sell it to a shortline is so much a management decision that only an express statement of Congressional intent would require them to bargain with unions over the issue. The Court noted the necessity of avoiding conflicts between the Railway Labor Act and the Interstate Commerce Act and found that the ICC has plenary jurisdiction over rail transactions. Thus, a railroad can sell to a shortline without having to provide labor protection for its employees, or to bargain over the sale.

Regulation of Services

The ICC has authority to regulate car service and to require railroads to provide transportation. States have a limited degree of regulation of adequate services to stations within the state and to assure that intrastate transportation is conducted in a timely and safe manner. The ICC allows states to regulate service to the extent that it does not adversely affect interstate traffic. Commuter trains are generally regulated by state authorities, both as far as rates and services are concerned. The Colorado Public Utilities Commission, for example, has regulatory authority over passenger operations on the Durango & Silverton Narrow Gauge Railroad as well as the Rio Grande Ski Train.

The ICC can use directed service orders as a way of responding to emergencies which have snarled rail traffic. Directed service orders are adjudications in which the ICC commands one railroad to operate over the lines of another. Recently, these orders have been used in the case of mainline railroads that became insolvent and stopped operating (as well as the recent floods in the Midwest). When the Rock Island shut down, the Kansas City Terminal (a shortline owned by the other Class I's serving Kansas City) was ordered to provide service over the Rock's lines until the property could be liquidated in an orderly manner. When the bankrupt Delaware & Hudson ceased operations, the ICC ordered directed service operations by the New York, Susquehanna & Western (a shortline owned by Delaware Otsego Corporation) until the Canadian Pacific could take possession of the line. (When the period of directed service ran out and it appeared the D&H might be liquidated, a series of designated operators was given directed service orders to operate short segments of the line).

Sections 11123-11125 of the Interstate Commerce Act provide for ICC control on a temporary basis of a carrier that is about to be abandoned, liquidated, or has a cash flow problem. The railroad performing directed service ordinarily does not make any changes in the operation of the inactive line. It hires the same workers under their existing collective bargaining agreements. Directed service orders are stopgap temporary emergency measures and are not meant to be a permanent diversion of trackage from the insolvent carrier to the shortline operators.

Rate Regulation

This is one area where state and federal government still have concurrent jurisdiction. The ICC has jurisdiction over rates filed by railroads in interstate commerce, while the states have jurisdiction over purely intrastate movements and this holds, if the

state still maintains regulation over rail rates, and if its standards have been accepted by the ICC.

The Staggers Act greatly enhanced railroad ratemaking freedom. The ICC is not allowed to suspend or disallow a rate unless the railroad has "market dominance." For most shortlines, market dominance is not a problem. In addition, the ICC has deregulated a number of commodities and services, including everything that moves in trailers or containers on rail cars, or in box cars. Bulk commodities are usually the areas in which the ICC takes interest, including grain, chemicals, and coal. On some of the large regional railroads (such as the Montana Rail Link), the railroad's rates may be subject to ICC scrutiny. However, in most cases, if there is a friendly connection with a Class I, the mainline railroad will publish a rate with the ICC which includes the shortline haul and then reimburse the shortline railroad for its terminating and originating services.

State rates must be just and reasonable, and cannot burden interstate commerce. For a state to regulate rates, the state's standards must be certified by the ICC, under the provisions of the Staggers Act. If the ICC determines that the state's standards are in line with those of the Commission, it certifies the state's authority. If the ICC finds that the state commission's standards do not conform to those of the ICC, the state is without authority to act in rail matters. Even a certified state cannot change its standards during the five years of certification, and has no jurisdiction over general rate increases, inflation-based rate increases, or fuel adjustment surcharges. If the state is without authority, the ICC takes full jurisdiction, even over intrastate jurisdiction. And if a state does not act within 120 days, the ICC has exclusive authority over the intrastate matter.

In short, even though the ICC retains jurisdiction over railroad rates, this jurisdiction has been limited, either through self-deregulation by the ICC or by the explicit provisions of the Staggers Act. This is one area where the states have some control (notably in the area of intrastate traffic) but their regulation must be in line with ICC standards. Intrastate movements of coal for utility purposes are probably the most important commodity regulated by states.

Many states have chosen not to regulate railroad rates at all, while others have applied for ICC certification. If a shortline railroad acts as a common carrier of intrastate passengers, the local public service commission, if it retains ratemaking authority, can approve or disapprove fares set by that carrier.

SAFETY REGULATION

Safety regulation of railroads is vested in the Federal Railroad Administration, an arm of the U.S. Department of Transportation. In addition, states maintain some authority over rail safety, but only when it does not conflict with the federal program.

Workers injured in railroad accidents have only one forum, the Federal courts. The Federal Employers Liability Act provides that the exclusive venue for personal injury suits by railroaders is the U.S. district court. State workers' compensation statutes do not apply to railroaders. (Nor do state unemployment benefits—the Railroad Retirement Act applies to pension and jobless benefits of railroad employees, to the exclusion of state plans). All railroads, large and small, are subject to these laws.

The FRA has engaged in extensive regulation of the working conditions of employees. This includes track inspection and grade crossing regulation, although the states are given roles to play in their own inspection programs, and some states (Utah, for example) have their own track inspectors as well.

The FRA for the last two years has been engaged in the certification of engineers. Actually, a few states had earlier regulated this field, but it has now been preempted by the FRA. The Rail Safety Improvement Act of 1988 (passed in the wake of the disastrous Amtrak-Conrail incident at Chase, Maryland in 1988) required the FRA to develop a rule establishing minimum qualifications for engineers. Since 1991, railroad engineers have been a regulated profession. Although the FRA sets the standards, the actual administering of tests and certification is done by the employing railroads.

The FRA has also been active in requiring drug testing of railroad employees. This program is similar to drug testing required by the FAA for pilots, and is mandatory with employees involved in accidents. Because railroading is an occupation charged with a public interest, quite extensive drug testing is required and the program has passed Constitutional evaluation. These safety programs are required of both Class I and shortline railroads alike.

THE SHORTLINE MOVEMENT IN THE MOUNTAIN PLAINS REGION

The goal of this study was to examine the impact of state regulation on the operating ability of shortline railroads. To establish the extent of shortline activity in the Mountain Plains region (North Dakota, South Dakota, Montana, Wyoming, Utah, and Colorado), regulatory authorities in all states in the region were interviewed by the authors. The following discussion reflects our understanding of the extent of shortline activity, the degree of regulatory activity and, in some instances, the interest of the state in the shortline railroad industry.

Wyoming

The Department of Transportation, still located in its highway department building, is far away from the center of town with its railroad activity. This is a highway-oriented state, and planning remains with the Highway Patrol area of the Department of Transportation.

Two planners have rail responsibilities in Wyoming. They are within the Highway Department planning office, and their primary function appears to be the State Rail Plan. There is no ratemaking regulation in Wyoming; such things are considered to be ICC matters. As the smallest state in population, Wyoming has been involved in very little regulation. What authority the PSC had over ratemaking has, in fact, been abandoned, although vestigial functions of rail regulation do remain.

Such regulation in Wyoming is limited to fire guards and safety in grade crossings. Fire guards involve plowing away from the tracks. Station service has also been deregulated, but in order to close a station, there must be a state hearing. The Department is also involved in the clearances of underpasses. Funding for the crossing program is set up through Wyoming's DOT with a fund of $160,000 for improvement of grade crossings.

On April 1, 1991, all rail service regulation was transferred to the Department of Transportation. Motor carriers and railroads are now with the Regulatory Section of the Department.

Shortline railroading in Wyoming consists of the Wyoming-Colorado Railroad which operates between Laramie and Walden, Colorado, as well as from Wolcott Jct. to Saratoga, Wyoming. The Laramie-Fox Park line carries both freight and passengers as WYCO operates excursion service to the Snowy Range. The railroad hauls some coal out

of Walden, but this, of course, is dwarfed by the huge amounts of coal taken out of the state by Burlington Northern and Union Pacific. WYCO was originally branchlines of the Union Pacific. This is the only shortline railroad in Wyoming, and it handled 30,000 passengers last year.

The only state reporting requirements for shortlines are that each railroad has to submit an annual report to the State of Wyoming. Even this report is federally mandated...this report is made to the FRA and the ICC, but they have to furnish a copy to each state through which they operate and also, the Federal government supplies NTSB reports to the state. When there is an abandonment petition before the ICC, there is a hearing and the Wyoming Department of Transportation adopts a position, historically usually in opposition to the railroad's action.

The economic story behind Wyoming railroading is coal. Wyoming, the nation's largest coal producer, is also the country's largest shipper of coal, and contains the United States' newest mainline...the Gillette-Douglas Powder River line, built in 1980-82. It is operated by Burlington Northern jointly with Chicago & North Western and its operating subsidiary, Western RR Properties. C&NW turns its traffic over to the UP in Nebraska and then picks it up in Fremont or Council Bluffs for the run into Chicago.

There are no state railroad inspectors in Wyoming, and the FRA does whatever rail inspection takes place in the state. The Wyoming railroads are prosperous, largely because of the huge movements of coal. There is a new railroad being built in the Tongue River basin, (north of the Powder River) near Sheridan, Wyoming, but actually construction will start from Decker, across the line in Montana.

Wyoming appears to be a state with minimal regulation, which wants to avoid the expense of rail regulation, and one which seems to have no need of economic regulation.

Shortline operation is confined to the unique tourist-and-tonnage situation of the Wyoming-Colorado (another railroad, the unfortunately named Bad River Railway, operating on part of the old Riverton mainline of the North Western, has since gone defunct). The Class I railroads are hauling tons of coal, generating solid revenue streams, and sitting astride the UP mainline and the BN coal lines, the state is benefitting from a healthy rail network. Shortline operation and railroad spinoffs are not presently a major part of the Wyoming system.

Colorado

Randy Grauberger is Statewide Programs Manager for the rail office of Colorado's Department of Transportation (located in SE Denver in an old highway departmental office). A different situation from that of Wyoming was evident because Colorado has a significant amount of activity going on in the field of shortline railroading.

Of some interest is the role of "recreational railroading" (the preferred term for tourist railroads). Colorado has a long heritage of picturesque narrow-gauge mountain railroading, which was continued in operation by the Denver & Rio Grande Western up through the 1960s. Currently, the states of Colorado and New Mexico jointly own a 64-mile stretch of narrow gauge railroad, which the state Rail Authorities sponsor as the Cumbres & Toltec Scenic Railroad. Kyle Railways is the operator of this line. The state owns the right of way and several operative steam locomotives; Kyle Railways handles the day-by-day operations. Service is for passengers only and is a benefit to an otherwise isolated and depressed portion of the state. In the four corners area, a similar, though privately-funded, operation exists with the 45-mile Durango & Silverton Narrow Gauge Railroad. D&S, who suffered a debilitating roundhouse fire in 1990, is still operating between its namesake termini and apparently is returning a profit to its operator.

On July 1, 1991, the state Highway Department became a Department of Transportation, with rail planning vested in the Department. Colorado has a Transportation Commission of 11 gubernatorial appointees who set policy for this agency. Later in August of 1992, there was scheduled a joint meeting of the Transportation Commission with its counterpart in New Mexico, over an attempt to institute north-south passenger service between El Paso-Albuquerque and Denver, connecting with Amtrak and Mexican National passenger service. Amtrak is not in an expansion mode right now, although this could fill a big gap on the carrier's western map, and neither Colorado nor New Mexico were interested in the "put up or shut up" provision of state-supported passenger trains found in Section 403(b) of the Rail Passenger Service Act. No action was forthcoming at that time.

Some tentative plans existed in Colorado to reopen part of the defunct Cadillac & Lake City (using part of the Rock Island line) for passenger and freight traffic, as the Denver & Great Western. Also, plans exist for building some sort of passenger carrier over the old Midland Continental roadbed from Colorado Springs to Cripple Creek.

As far as shortlines are concerned, there are the above mentioned narrow gauge lines (D&S and C&TS), the Wyoming-Colorado (mentioned in the earlier Wyoming discussion), the Colorado & Wyoming (an entirely different railroad, which is not connected to Wyoming—it operates for coal traffic in and out of Trinidad) and the Great Western (a sugar-beet hauling line out of Loveland). In addition, the Kyle Railroad (operated by Kyle Railways—the same firm who runs the tourist trains on the Cumbres & Toltec) runs over the old Rock Island mainline in eastern Colorado, between Phillipsburg and Limon. The Kyle Railroad is actually owned by the Mid-State Port Authority, which contracts with the Kyle organization to run the trains.

After an absence of a few years, the state of Colorado is getting back into the rail planning business. A rail program is starting with the state matching 20 percent of rail improvement projects, using light density lines. Right now most of this state money is going to help fix up Kyle's decrepit ex-Rock Island track. The Rock Island line had severely deteriorated by the time the state received title. Colorado's principal rail effort is the rehabilitation of this onetime mainline, working in conjunction with the East Central Council of Governments. The State Rail Plan, updated in 1992, projects a Front Range Passenger Study, but the only active rail assistance project at this time is the Kyle Railroad, which moves mostly grain by interchanging with the Union Pacific.

Kyle is (with the exception of the narrow gauge lines) the only Class I spinoff in the state. However, the Union Pacific has been downgrading its lines, including the Julesburg-Brush onetime route of the City of Denver streamliner. There are some ISTEA funds available for planning for enhancement of light-density lines.

There is coal in Colorado, although not as much as is found in Wyoming, and mountain railroading makes the haul more expensive. The Southern Pacific hauls a good deal of intrastate coal from mines at Craig, at the end of the one-time Moffat Road (the Denver & Salt Lake). Clean Air amendments are expected to provide more impetus for this western low-sulphur coal and its transportation to Midwest and Eastern markets.

Colorado's DOT interacts with the State Public Service Commission for regulation and they support each others' program. Colorado's DOT mandate is to develop railroads for both freight and passenger service, and to provide program management for whatever federal programs become available.

The legislation establishing the Department of Transportation requires the development, through rule making, of 15 regions for transportation planning. The state

has to put together a 20-year multi-modal transportation plan. Since the DOT was established about the same time that ISTEA was developed, its organization follows the functions described in ISTEA: a transit/rail unit has responsibility for meeting the needs of the elderly and handicapped, rural buses, and other social service areas.

The new Denver & Great Western project was expected to apply for a FRA grant for rehabilitating the line. The FRA has no guarantee that any state will get these funds, but they appear more receptive to more small projects. It appears the real financially weak among the shortlines have already disappeared, as have the rail-enthusiast promoters who were indulging in some sort of hobby railroading. The new shortlines may be more intelligently and managerially operated than some of the earlier operations.

Colorado does have a resurgent rail program and a planning staff which encountered a fundamentally, healthy, state rail industry, combined with Colorado's tourist potential and heritage of passenger railroading. Although the Kyle Railroad is the only spinoff line currently operating, it is expected that with the rationalization of the Southern Pacific (ex-Rio Grande) and Union Pacific lines within the state, more shortlines were expected to arrive and seek state assistance.

The Colorado Public Utilities Commission still has some regulatory authority over railroading, its standards having been approved by the ICC under the provisions of the Staggers Act. The Colorado Public Utilities Commission has jurisdiction over railroads throughout the state, including the narrow-gauge Cumbres & Toltec Scenic RR and the Durango & Silverton Narrow Gauge RR. This authority has been subject to certification by the ICC; Colorado has to meet ICC standards in order to be qualified. Such certification is done every five years; Colorado has recently been recertified.

Colorado shortlines must file a two-page report concerning their operations with the state. Such regulation that remains with the PUC concerns intrastate traffic. Most safety and service concerns have been preempted by the ICC and the Federal Railroad Administration. Some local safety and service is within the jurisdiction of the PUC.

Ansco Investment Corporation is a subsidiary of Anschutz enterprises and runs the popular Rio Grande Ski Train, between Denver and Winter Park. When Ansco took over the Ski Train from the D&RGW, they had to receive a certificate of public convenience and necessity from the Colorado PUC. Recently, the Ski Train increased its passenger fares; these, too, had to be approved by the PUC.

The Colorado Department of Transportation has planning functions, but otherwise has no legal or regulatory authority over railroads; that remains with the Colorado PUC. (North Dakota has a similar division of functions). Some states have done more; Oregon has PUC agents who accompany railroad management to inspect grade-crossings and the like.

Colorado has not experienced the spate of railroad spinoffs that other states have encountered. Many of these states hosted shortlines which were started by well-intentioned railbuffs with enthusiasm but not much experience or capital. Such shortlines were underfunded. One of the rationales for retaining rail regulation in Colorado was that the railroads were at this time changing. The legislature hoped that the PUC could oversee the transfer of operations, and hope that the new lines would be financially sound. In some states, many shortline railroads cut down their safety budgets. Keeping the regulatory laws on the books has been beneficial to the state of Colorado.

Safety regulation is carried out under a broadly-worded Colorado statute; the only limit is Federal preemption of the area. The Colorado PUC has issued safety rules; with

cabooses being phased out, safety regulation has had to adapt to these change. The phase-out of cabooses was done by agreement between the railways and their unions; there was no legal or regulatory issue here.

Kyle Railroad is the biggest of the shortlines under PUC regulation. It follows the old Rock Island line from Limon east to the Kansas border. It is owned by the Mid-States Port Authority, established by the state of Kansas. Kyle contracts with Mid-States for operation of the line.

Kyle also operates the Cumbres & Toltec, with a contract with the states of Colorado and New Mexico that divides up how much of the costs will be met by the railroad and the states. The Cumbres & Toltec Scenic RR is a joint operation by the rail authorities of Colorado and New Mexico. The states earmark a certain amount of money for car replacement and equipment purchase. With regard to safety, the narrow gauge line falls under PUC jurisdiction, which requires that track be maintained to FRA standards.

The Great Western Railway originally was the rail shipping operation of the Great Western Sugar Company, but the rail line has been sold off as the GW Sugar Company no longer functions. The Railway maintains a line between Loveland and Longmont. The railroad continues to function and is marginally profitable. The PUC has been monitoring this line.

Colorado & Wyoming Railroad was originally a captive railroad of the Colorado Fuel & Iron Co. The CF&I has sold off its mine west of Trinidad and the Trinidad Railway, a non-carrier, has filed to acquire the line.

The similarly-name Wyoming & Colorado RR runs between Laramie and Walden, Colorado. This railroad is owned by Derbano Brothers, a Salt Lake City-based scrap

dealer. Derbano, a non-carrier, bought the line from the Union Pacific, using the exemption from regulation granted by the ICC for such cases. There have been threats to pull up the line; both Wyoming and Colorado have opposed this. The Walden area has an extensive deposit of coal that has the highest BTU and the lowest sulphur of the commercial fields. Most of this coal can be strip-mined. Since there is no other way of moving the coal, both states share the fear that the coal will be economically lost if the rails are pulled up. Currently, the WYCO is operating some freight and the line gets some revenue from excursion passenger service over the route.

Recently, a new corporation, the KCT Railway, was established for the purpose of picking up Santa Fe branches, such as Swink-LaJunta and the Arkansas Valley lines of the AT&SF. The principals are identified with A&K materials, another scrap dealer. KCT bought the line under exempt authority, and within a year they filed for abandonment.

There is now an attempt by another new non-carrier corporation, the KC Railway, to acquire track under the ICC's feeder line procedures. The line involved is the old City of Denver branch of the UP, from Julesburg through Sterling to Denver. Already the UP has downgraded it to "dark" (i.e. unsignaled) territory. Under the ICC's feeder line program, an acquiring company had to guarantee that they will operate the line for at least three years. After that, they are free to dispose of it as they want.

For most lines (part of a general system of rail transportation), abandonment jurisdiction lies within the ICC. For industrial or spur lines, authority is with the state agency, subject to ICC standards. If a railroad files to abandon a warehouse spur, the Colorado PUC will generally intervene. If there is no apparent shipper or user, the agency just lets the abandonment go through.

Rates are not a big consideration at the Colorado PUC; maybe four hours per week are spent on rate cases. The Commission's staff is 95 people. Of these, five are administrative law judges. The staff and workload have remained the same and there has been no industry push to eliminate regulation in Colorado. There is a sunset law in Colorado which requires agencies to justify their existence and be reauthorized by the legislature every five years, but most sunset review is perfunctory.

The Public Utilities Commission is a cash-funded agency, paid for by the industry. All expenditures are generated by fees. However, the amounts spent by the Commission are counted in total state spending for Amendment I purposes. This was a 1992 ballot initiative which limited spending not only by the state, but by all political subdivisions in Colorado. The Commission monitors station closing, but there are currently only four open freight stations left in the state: Sterling, Denver, Pueblo, and Grand Junction.

One effect of the 1992 election was that Colorado passed Amendment 8, which directed that all the proceeds from the state lottery must go to parks (the original intention of the Lotto legislation). As a result, more money is available for state acquisition of rail rights-of-way for hiking/biking trails under the National Trails Act.

Abandoned or about-to-be abandoned lines in the state include the ex-Rock Island line between Limon and Colorado Springs. It had been owned by Western Properties, Inc., and operated by Cadillac & Lake City (for freight service) and Big Sandy Recreation (for a dinner-train passenger excursion service). The Eastern Colorado Council of Governments lent $1 million to upgrade the line; the operators defaulted and the ECCG got its money back. An entrepreneur named Phil Bouchez bought the railroad, had health problems, defaulted, and the line went to Lincoln Branch, Inc., which has now filed to abandon the line. The line is gone now, although the Colorado Department of Parks and

Recreation managed to get a conditional abandonment to preserve the railroad right of way for possible trail conversion.

The Wood Creek branch of the Rio Grande is now up for sale. Two groups are looking at the Glenwood-Wood Creek line for recreational use or possible rail banking. This is a joint effort by the affected counties and cities. The branch from South Fork to Creede is up for sale too. No east-west lines in Colorado are currently in jeopardy.

As mentioned above, passenger service is still a question of interest in Colorado. The Union Pacific is participating in a study to provide train service from Denver Union Station to the new Denver International Airport. A test train was run by the UP, in December 1992, over as much of this route as is currently accessible. And, as previously stated, Texas, New Mexico, and Colorado are participating in an Amtrak El Paso-Denver study of possible service with ISTEA funding. ISTEA mandates exploration of alternative analyses before highway construction begins. However, the planning process is in the hands of the Colorado DOT and the PUC has little input into the procedure.

Utah

The Utah Department of Transportation is far from the center of town, in a new highway department complex in suburban Salt Lake City. Utah has two long-standing short-haul railroads: the Utah Railway, which mostly hauls coal and shares much of its trackage with the Southern Pacific (formerly Rio Grande), and the Salt Lake, Garfield & Western, long ago an interurban electric line to the pavilion at Saltair, now a struggling shortline freight carrier. Recreational railroading existed with the "Heber Creeper," a steam-powered tourist railroad (now defunct) over trackage owned by the State Parks Commission.

In 1975, the Utah Public Service Commission's rail functions were transferred to the Department of Transportation. The PSC indicated that there were no further rail responsibilities at that office. The functions of track inspection are done by state inspectors in Utah, licensed by the FRA, who work with FRA's national inspection program, which identifies the number of hours by which each railroad would be inspected. The routes used by Amtrak in the state require more inspection time than the freight-only lines.

There has been relatively little loss of trackage in Utah. The short Carbon County railroad died for lack of traffic. There are some industrial railroads (Kennecott Copper having one of the biggest) which do not allow their trains off private property and thus are free from the inspection system.

In Utah, both the UP and the SP are considering spinning off branches, but at this time there are no large-scale shortline activities in this state. The railroads are in good shape financially, and there is a good working relationship between the railroads and the state DOT.

The Utah railway system is predominately a coal-hauling system, with some steel traffic, industrial waste, and a little agricultural products. Utah is another state with prosperous coal railroads, with the advantage of being located astride SP and UP transcontinental rail lines, with a predominantly healthy rail system and a relaxed state attitude toward regulation. Only the provision of Utah state rail inspectors sets it apart from its neighboring transportation departments.

South Dakota

South Dakota railroading may be characterized as "from bankruptcy through state-owned to privatization." One of the most interesting tales of state involvement in

shortline railroading goes back to the bankruptcy of the Chicago, Milwaukee, St. Paul & Pacific in the 1970s. The Milwaukee once possessed the shortest mainline between Chicago and Puget Sound and was the only transcontinental railroad passing through South Dakota. In contrast to its neighbor to the North, which lies astride several mainlines, South Dakota was stuck with a vestige from the Indian treaties which kept railroads from crossing the Big Sioux Reservation.

The Milwaukee's demise propelled the state of South Dakota hurriedly into the railroad business. The former route of the Olympian Hiawatha was a lifeline for agricultural products and coal from North Dakota mines to South Dakota generating plants. First, the state acquired the property, then found the Burlington Northern to be a willing operator of the Milwaukee mainline. Then, the railroad acquired the line outright and it is now being operated by onetime competitor BN as part of its system.

Other than the Burlington Northern, South Dakota's rail map is characterized by shortlines and one regional railroad—the Dakota, Minnesota & Eastern. The Division of Railroads was created by law that grew out of the Milwaukee Road experience. The state rail authority was the financing method for acquiring all of South Dakota's railroads, and a State Rail Board has jurisdiction over all the state-owned lines. The Railroad authority is no longer active, but the Railroad Board is seven individuals who administer the railroad properties. The S.D. Department of Transportation is organized functionally rather than modally. There are individuals operating elsewhere in the state DOT, but the lead agency for railroads is the statutorily-created Division of Railroads.

Initially, South Dakota bought 1,316 miles, mostly Milwaukee trackage. The state still owns over 800 miles—the mainline was conveyed to Burlington Northern for $1 in the summer of 1991. Apparently, BN is making an adequate return on the line. Most of

the traffic is coal from Gascoyne, ND to Millbank, SD, but antipollution requirements will compel the utility to buy low-sulphur Powder River basin coal (see Wyoming, above), which will be shipped over BN's ex-Milwaukee main line out of Terry, Montana. South Dakota bought rail lines outside its state boundaries in order to preserve rail connections with the outside world.

The State Core System is now 368 miles of track which is owned by South Dakota and operated by Burlington Northern. The state's role is viewed as economic development. The state buys the decrepit lines, cleans them up, and spins them off to the private sector. There will be an additional purchase—Ortonville-Appleton will be acquired for BN operation from the Soo Line (this is the last remnant of the old Milwaukee west of Ortonville, Minnesota). Dakota and Iowa and Dakota Southern are other shortlines operating in the state, along with the regional Dakota, Minnesota and Eastern, operating the old Chicago & North Western mainline.

South Dakota's core system is composed of agricultural lines that were considered essential, serving the primarily agricultural areas of southeastern South Dakota. Otherwise there were local option lines, which communities could operate or find an operator to run. There is a regional railroad authority out of Oneida, and the Sisseton-Milbank RR is an independent shortline.

The DM&E was a spinoff of the North Western, with former C&NW officials operating the system, which runs as far east as Winona, MN with over 800 miles of mainline traffic. Much of this traffic is agricultural, but they move bentonite clay and one-third of the traffic is cement from the South Dakota state-owned cement plant.

PUC authority over railroads was transferred to the state DOT around 1980. The PUC has no further rail responsibilities.

When ISTEA was passed on December 1, 1991, planning began in earnest for rail projects with federal funding within the state...especially rail crossing projects which would install signals on busy lines. The state rail plan involves preserving lines that they have in a maintenance mode. There are no state rail inspectors in South Dakota; they rely on the FRA to inspect the mainline tracks of BN and DM&E. Traffic on these mainlines has increased substantially in the post-Milwaukee years. Unit train terminals have doubled. The DM&E is running well, but is heavily leveraged. Probably the last spinoff in the state will be the C&NW north-south line through the Black Hills, which is being considered for purchase both by DM&E and the Montana Rail Link.

South Dakota is the state that, with the exception of New York and Alaska, has been the most heavily involved in the railroad business. Its plan for acquiring unwanted railroad lines and improving them for the private sector appears to be working. However, the state is without transcontinental lines and its main east-west route connecting the major points in the state is in the hands of the debt-ridden Dakota, Minnesota, and Eastern. South Dakota shows how a state with limited resources can still use state ownership and shortline railroading to replace departing mainline carriers, to serve the shippers of the state, and to provide an outlet for the state's resource products.

North Dakota

North Dakota, for a small agricultural state, has the good fortune to stand astride three mainlines—the former Great Northern route through Minot, the Northern Pacific through Bismarck, and the Soo Line, which now is developing as a transcontinental mainline of parent CP Rail. This is important for the shippers of the state, as few areas are as dependent upon rail as North Dakota. The Northern Pacific line is home to mile-long freight trains that rumble through the Badlands at streetcar intervals; the Great

Northern (with the Surrey cutoff) is the home to intermodal transcontinental trains of the BN, and the secondary line through Grand Forks is the home to Amtrak's Empire Builder.

North Dakota has two major shortlines, the Red River Valley & Western (a spinoff of the Burlington Northern) and the Dakota, Missouri Valley & Western (a spinoff of the Soo Line). Further spinoffs are on hold while the Class I railroads take stock of the situation, but currently shortlines are 20 percent of the mileage within North Dakota.

The PSC still has a regulatory role in North Dakota railroading, and its standards are certified by the ICC under the Staggers Act. Anyone intending to transfer ownership of a North Dakota railroad must notify the Commission and provide information detailing who is the owner and what are the plans for the business. They can request confidentiality; the PSC can go the Bank of North Dakota and get their input as to whether this a good transaction and if the shortline can make it financially. Once a shortline is up and running, it makes the same filings of intrastate traffic as a Class I railroad. Usually the Soo or the Burlington Northern files tariffs and makes car loading arrangements with the shortlines.

The PSC is basically a supporter of shortlines once they are up and running. Contracts must be filed although the ICC has abolished the filed-rate doctrine for anything except for agricultural commodities. They still have to file contract summaries.

The big challenge to ND shortlines today appears to be maintenance of trackage and upgrading services. ND shortlines function like shippers; they own no cars and they rely on the bigger railroads, meanwhile trying to attract customers. There is some intrastate movement of coal into the power plant; most outbound commodities from North Dakota are agricultural. The RRV&W has developed some sand and gravel traffic (from New Rockford) that the BN had lost. The DMV&W moves only grain.

There are virtually no complaints about shortline service. Officials noted that when the shortlines were first established there were some tongue-in-cheek complaints that the train crews came back too fast.

An interesting change in North Dakota railroading comes from the integration of the Soo Line with the CP Rail system. Right now grain is still a separate operation on the Soo; most of the subterminals are on the Soo Line.

When Mark Andrews was in the Senate, he pushed through an amendment that limited abandonment in North Dakota to 350 miles. That limit has now passed by the board, and there are no branchlines left in Southwestern ND, which is now served by the Burlington's ex-Milwaukee mainline.

The role of the North Dakota DOT is grade crossing protection (for which there is ISTEA money available), grade separation, signals, a rehabilitation program for the BN, SOO and RRV&W, and the preparation of a state Rail Plan. The Upper Great Plains Transportation Institute helps with economic analysis of DOT requests.

There seem to be few conflicts in the area of state regulation, with the possible exception of remaining rate regulation with the PSC. North Dakota doesn't have its own track inspectors (the FRA performs that function in ND) and has a good working relationship between the railroads and state government.

There is the possibility that BN will persuade Amtrak (when route contracts expire in 1995) to reroute the Empire Builder to the Surrey Cutoff and try to spinoff the former mainline from Fargo to Minot through Grand Forks and Devils Lake to a shortline operator. Right now, the Grand Forks route is one of the few secondary lines used by Amtrak, which, outside the Northeast corridor, sticks to fast freight corridors used by mainline railroads.

The Amtrak dispute aside, relationships between North Dakota and its railroads are peaceful and positive. Shortline and regional railroading seems to have worked here to a degree unknown elsewhere. Business in the state has gotten better and so have shortline operations. Shortlines seem to have saved a lot of lines that otherwise would have been gone, and service has improved as well. In North Dakota there is a unique interaction between a still-active PSC and a state Department of Transportation working to improve shortline service with an eye to the future, as railroading mainlines become realigned and Amtrak service is subject to change.

Montana

Montana has only one state track inspector under their sponsorship. All of the equipment, operating or hazardous material, inspection is done by the FRA and their inspectors. The state track inspector is employed by the Commission, but inspects to the standards of the FRA.

Intrastate rates are set by Montana and intrastate rates still follow the ICC mandates. Very little intrastate rate structure exists in the state of Montana and, therefore, no regulatory action has been seen in the last five to ten years.

Sales or mergers of shortline railroads are still under the auspices of the ICC. However, removal of a spur which is not a branch line is under the state regulation. Branch lines are controlled by the ICC. The state of Montana has had several applications for spur abandonment in recent years, but no filings of protest have been associated with those spurs.

There are five shortline and regional railroads in the state of Montana. The first of these is the well-known Montana Rail Link. In truth, it is a regional railroad as judged by Montana Public Commission considerations and conventional usage. It is an

acknowledged success in the state, one where employees are happy and the unions seem to work well with management. It is a private railroad, one that was successful in going from a number of unions down to one major union under its present position.

Montana Rail Link leases the main line and has purchased the branch lines in its area. The lease of the main line was occasioned by the fact that Burlington Northern had bonds on the main line and were not able to eliminate them. The purchase of the railroad appears to be deferred until the mid-twenty-first century.

A second railroad is a private line called the Montana Western. This railroad has operated since 1985-86. It has slightly over 60 miles in operation, running from Butte to Garrison. It moves some lumber and hazardous materials, but is basically an interchange railroad connecting the Union Pacific and Burlington Northern where they come into Butte, and connecting specifically to the Montana Rail Link trackage at Garrison.

A third rail line is one called Rarus. It was formerly known as the Butte, Anaconda, and Pacific Railroad. It is a private line that runs from Butte to Anaconda and has traditionally moved ore for smelting. At one time it had an extensive fleet of heavy electric locomotives, but is now a diesel-powered shortline. It is currently moving hazardous materials and/or will be moving increased amounts of hazardous materials in the future.

The fourth rail line is one that can be considered a locally-owned railroad. It is the Central Montana Railroad, six years old, and operates in the area of Lewistown, Montana. It is essentially a grain collection railroad, moving product into Lewistown on old Burlington Northern branch lines. It is owned by shippers, elevators, and ranchers in the area.

The fifth rail line is the Dakota, Missouri Valley and Western Railroad which is in the extreme northeast section of Montana. It only has about 20 miles of line in the state of Montana, with most of the line being in North Dakota as previously discussed. It is heavily a grain-collection railroad.

The state of Montana seems to be engaged primarily in track inspection, with some interest in abandonment mergers and acquisitions. It does have some interaction with what is called "Operation Lifesaver," a railroad crossing safety program. This program is not a federally-mandated program, but appears to be run by a private/nonprofit organization of which railroads are major contributors.

The Department of Transportation in Montana is concerned mainly with the State Rail Plan and some projects dealing with the railroads. The Department of Transportation's rail activities used to be in the Department of Commerce.

Some safety considerations are handled by the DOT. Speed on the track is set by the regional railroad in its business decisions. The mission of the inspector is to set the standard for speed, meaning what type of track improvements are necessary to achieve the speed that is stipulated by the regional railroad. They have had no complaints from the Montana Rail Link or other smaller regional railroads as far as economic or safety regulations. They feel they had heard some discussions from the Montana Rail Link concerning federal assessment and stipulation of standards, but did not feel any case warranted intervention.

The Montana rail inspection program became part of the Department of Transportation on July 1, 1991. In 1981, it had moved from the Department of Highways, along with a rail section from the Department of Agriculture, into a newly created Department of Commerce.

One of the two main activities of the Department of Transportation is dealing with the Highway Grade Crossing Safety Program by serving as a pass-through of funding from the FRA. This program had connection with the Lifesaver program mentioned earlier. The Highway Grade Crossing Safety Program appears to work in an educational process, working with high schools and service organizations to improve awareness of the problem at grade crossings.

The second main element, of a frankly fairly diminished rail program operated by DOT, was the State Rail Plan. They are currently in the review stage of a series of draft chapters for the new State Rail Plan. The earlier version had been available in 1985.

It appears the effort in the freight, and especially rail planning, has been severely diminished. Prior to the reorganization, there were five people dealing with these issues, now only one is left. As a result, the State Rail Plan is running behind the estimated due date.

There is currently discussion in the state legislature that may cause the rail planning effort to go into Intermodal Planning. There is some activity undergoing in the LRSA program; however, only $36,000 in planning monies is available. However, the legislature is presently proposing a half-a-cent tax on gas for rail rehabilitation. This might necessitate a constitutional change, similar to what occurred in the state of Washington.

The other monies available to the DOT are the loan repayment accounts, where currently $600,000 exists. These monies are not enough to initiate any substantial project. Right now the shortline railroads have not wanted to mess with federal regulations to get a half a million dollars.

The DOT did a survey, as part of the State Rail Plan process, of the shortlines. The shortlines did express some interest in participation in the rehabilitation program. The only specific one that asked for assistance was Central Montana Rail, requesting assistance in one or two projects. However, $1 million had already been invested in rehabilitation on their line and Montana DOT was reluctant to follow that with any more at this time. Additional interests had been identified in grade crossing and associated funding from several of the railroads. Montana Western had asked for help in potential preparation for double-stack movements of rail cars, needing some help in the physical reconfiguration of their line. Similarly, the Dakota, Missouri Valley and Western Railroad has requested some rehabilitation dollars, but since they are operating on a lease from the Soo Line (Canadian Pacific), they appeared to be concerned about working with the U.S. government.

PERSPECTIVES ABOUT REGULATION

An important objective of this research effort was to determine the extent of, and effect from, state regulation of shortline railroads, from the perspective of both the railroads themselves and the state regulator of these railroads. Information was desired on the impact of regulatory constraints on the production of the railroad firms as well as how well the performance objectives of regulatory agencies were being achieved.

Survey Procedure

To accomplish these broad objectives two national mail surveys of shortline railroads and state regulatory agencies were undertaken. Questionnaires structured to elicit the desired information were sent to a list, obtained from the American Shortline

Railroad Association, containing most of the known firms operating shortline railroads in the United States, as well as the expected regulatory agencies in each state.

The questionnaires were designed to generate specific information on facts and perspectives (see Appendix I). Specific questions were as similar as possible in these two questionnaires to provide the ability to compare and contrast perspectives on state regulation.

The questionnaires contained both objective and subjective queries. The initial question for regulators sought to determine the specific agency responsible for state regulation and whether that state was certified by the ICC. The shortline railroads were asked to identify which agencies, in their opinion, were the important regulators of shortline railroads in the state. It is interesting to note that on this issue little or no difference between regulator and railroad responses was noted; the railroad managers knew very well who they had to answer to or work within the regulatory framework.

In both questionnaires the first section dealt with the extent of economic regulation, problems with those regulations, and desired changes in regulatory control. Specific questions dealt with intrastate rates, sizing of the firm, and labor issues, emphasizing components in each issue that previous litigation or academic review had suggested confusion in interpretation of the regulatory standards might exist.

The second objective section was designed to evaluate the safety regulation of shortline railroads. The agencies responsible for safety regulation were identified by the respondents (again, little difference in response occurred between the regulators and shortlines). Questions dealt with construction, operation, alcohol and drug abuse, etc. The question categories again asked about extent of regulation, problems or rulings, and desired changes.

Other areas of regulation were also investigated, under the same question categories as above. Specific areas included financial, reporting, planning and rail passenger concerns.

The last section of the questionnaires was basically subjective in nature. Areas of inquiry were quite directed and yet broad in coverage. Extent of increases or decreases in regulatory control, potential areas of a regulation "impeding their business," desired regulation changes and interaction among ICC, state, and railroads generated significant reactions from the respondents. An item of strong interest was the question of whether the federal regulations that were "retrofitted" for shortline railroads were appropriately designed.

Completed responses were received from 91 shortline railroads, after two mailings of the questionnaire (subsequently nine more partially completed responses were received but were not included in this initial analysis.) The initial mailing list included 480 shortlines, so around a 20% response rate was achieved after the two mailings.

Completed questionnaires were received from 47 of the 50 states, after the initial mailing and follow up phone calls to each of the non-responding states. The other three state agencies promised responses, as time permitted, but no responses have been received at this time. Non-responses were from several of the smaller sized states in northeastern United States.

Perspectives of State Regulatory Agencies

States indicated they had a strong responsibility towards shortline railroads. Sixty-four percent of the states had obtained certification to regulate under section 214 of the Staggers Rail Act of 1980, and they still had and were using that authority. Within the certification 82% included shortline railroads in that regulatory responsibility.

Economic regulation by states reveals a bit of a split personality in extent of regulation. As indicated in Table 1, there is a great deal of variation in the extent that intrastate rates are regulated by states, but generally about half of the states regulate some of the specific rate changes while half of them do not. Only rate bureaus, damage adjustments, and fuel adjustment surcharges were regulated by less than half of the states but even here over 40% of the states did regulate issues. While many of the states do regulate these intrastate rates very few of the states have been active in regulatory rulings over the past five years. The most interest was shown in fuel adjustment surcharges and this was only in 11% of the states.

The state respondents were generally very pleased with the existing extent of regulation although 8-9% wanted to eliminate regulations in each of these regulatory areas. General rate increases, as an issue, also had 13% of the states who wanted an increase in regulation.

Traditional areas of economic regulation of railroads include those that the authors refer to as sizing of the firm. In most areas, with some notable exceptions, about two-thirds of the states do not participate in economically regulating the sizing of the railroad firm (Table 1). About one-third of the states do concern themselves with entry in the form of control of new formation, line purchase, or new line construction. Mergers, trackage rights, and directed service orders were regulated by about 25% of the states, contrasted to abandonment (63%) and operating authority (43%).

Even if the state does have regulatory control over the various aspects of sizing of the firm, little activity or rulings have occurred over the past five years (Table 2). Only in abandonment cases were over half (56%) of the states active. Even here, as in every

Table 1. Intrastate Rate Regulating, State Responses, by Percentage

Regulatory Item	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
General Rate Increase	50	50	4	96	79	13	0	8
Inflation Rate Increase	51	49	4	96	87	4	0	9
Fuel Adjustment Surcharge	44	56	11	89	87	4	0	9
Rate Bureau	41	59	7	93	91	0	0	9
Damage Complaints	44	56	0	100	91	0	0	9
Contract Rates	49	51	7	93	91	0	0	9

related issue, fewer states were actively involved in cases than had regulatory responsibility in the area.

The states seemed to be very satisfied with the existing status of regulatory control, 71-90% wanting no change in regulatory responsibility. If a change was desired, usually by about 25%, it was that more control should be given to the regulatory agencies. All of the responding states seemed to feel economic regulatory control in sizing of the firm was needed since not one state desired less or complete elimination of regulatory control.

As indicated in an earlier section of this report, much of the labor regulations are operative at the federal government level. Survey results agreed with this situation since 81, 97, and 96% of the states did not deal with labor protection, craft lines, or wage rates (Table 3). Only 4% (two states) had any recent cases in the area and these dealt with

Table 2. Sizing of the Railroad Firm, State Responses, by Percentage

Regulatory Item	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Entry								
- New formation	32	68	30	70	82	18	0	0
- Line purchase	44	56	16	84	83	17	0	0
- New line instructions	29	71	19	81	73	27	0	0
Mergers	24	76	8	92	76	24	0	0
Abandonments	63	37	56	44	73	27	0	0
Operating Authority	43	57	30	70	71	29	0	0
Trackage Rights	24	76	12	88	81	19	0	0
Detours or Directed Service Orders	25	75	0	100	90	10	0	0

labor protection in shortline formation. States almost unanimously felt that the existing level of regulation dealing with labor issues was appropriate.

The level of regulatory responsibility and activity level was significantly different in the area of maintaining service, whether it be a station location or positioning of stationmaster. Sixty-three percent and 49% of the states felt they had regulatory control over the station and stationmaster, respectively (Table 4). And, 54% and 42% of the states had dealt with this issue on station and stationmaster, by case or ruling, in recent years. The states again seemed to be very comfortable with the existing degree of control with almost 90% wanting no changes and about 10% feeling an increase would be desirable. No state wanted less or eliminated control in maintaining service.

Table 3. Labor Issues, State Responses, by Percentage

Regulatory Issues	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Labor Protection	19	81	4	96	96	4	0	0
Craft Lines	3	97	0	100	96	4	0	0
Wage Rates	4	96	0	100	100	0	0	0

Table 4. Maintaining Service Response, by Percentage

Regulatory Issues	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Station	63	37	54	46	89	11	0	0
Stationmaster	49	52	42	58	88	12	0	0

An earlier literature search had revealed substantial research interest and regulatory activity in the area of regulation of safety issues. The individual types of safety controls received considerable detailed attention in the mail questionnaire (Appendix 1) and the results are summarized in Table 5. Areas of low incidence (less than 50%) of regulatory control by states were crew training (9%), fire guards (30%), operations inspections (44%), signal and train control inspections (41%), and alcohol and drug abuse-impaired engineers (38%). Yet, with the exception of crew training it should be pointed out that almost one-third of all states regulated all areas of safety. Grade crossings, grade separation, and track inspections received by far most of the states'

Table 5. Safety Issues, State Responses, by Percentage

	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
Pay Raises	Yes	No	Yes	No	Same	More	Less	Eliminate
Construction	56	44	39	61	93	7	0	0
Crew Training	9	91	4	96	96	4	0	0
Fire Guards	30	70	25	75	92	4	0	4
Grade Crossing	94	6	74	26	89	11	0	0
Grade Separation	82	18	57	43	92	8	0	0
Underpass Clearance	68	32	54	46	96	4	0	0
Track Inspections	79	21	58	42	83	17	0	0
Equipment Inspection	61	39	42	58	86	14	0	0
Operation Inspection	44	56	28	72	79	21	0	0
Signal & Train Control Inspection	41	59	20	80	81	19	0	0
Hazardous Materials Inspections	59	41	40	60	74	26	0	0
Alcohol & Drug Abuse	38	62	25	75	82	18	0	0

attention. Construction, underpass clearance, equipment, and hazardous materials inspections also were controlled by well over half of the states.

The common areas of regulatory control were also the common areas of regulatory activity over the past years, but often only about 50-60% of the states with control had any recent activity. The most common issue, by far, dealt with grade crossing with only grade separation, underpass clearance, and track inspections being active cases in over 50% of the states. Again, what is noticeable is that with the exception of crew training at least 25% and often around 50% of the states were actively pursuing regulatory cases.

States were very pleased with the existing level of regulatory control, 74-96%; any change desired in control was in favor of more regulation by an average of 12% of the states. Only fire guard regulation was considered a possibility for elimination of control.

Other regulatory issues have arisen from time to time and were included in the analysis. Construction, not safety but authorization of construction, was regulated by 48% of the states (Table 6). Securities and insurance fell 20% of the time under regulatory control by the states. Reporting was the most common area still under state control, with planning and passenger service regulated by well over half of the states.

The occurrence of regulatory ruling was again far more seldom than the degree of control. Reporting, planning, and passenger service had recent cases in about a third of the states; other areas had seen significantly less activity.

Regulating authorities were almost unanimous in desiring the existing level or more regulation. Only in the reporting area did two states suggest less regulatory control was desired.

A series of subjective questions was asked in an attempt to determine beliefs and desires by the regulatory agencies. Fifty-eight percent of the states felt that no changes had occurred in state regulatory control over shortline railroads in the last ten years. Interestingly, 13% had seen regulatory control decrease while 21% had increased the extent of state control, most commonly in safety and hazardous material inspection. In a dramatic response, 91% of the state respondents felt none of the state regulations were causing difficulties for shortline railroad management.

The business arrangements between Class I and shortline railroads are seldom public information. Eighty-five percent of the states do not feel such relationships created problems in effectively regulating the shortline railroad. Similarly, but less often, two-

Table 6. Selected Issues, State Responses, by Percentage

Regulatory Issue	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Construction	48	52	20	80	94	6	0	0
Securities	20	80	5	95	94	6	0	0
Insurance	20	80	10	90	85	15	0	0
Reporting	81	19	36	64	75	20	5	0
Planning	68	32	32	68	94	6	0	0
Passenger Service	55	45	32	68	80	20	0	0

thirds of the state regulatory agencies felt the federal regulations that had been "retrofitted" for shortline railroads were appropriately designed. Most of the concerns expressed dealt with rate regulation or planning information requirements.

Since all regulators should strive to work well together in dealing with shortline railroads, information was requested about the relationship of the state regulating agency to the Interstate Commerce Commission and the Federal Railway Administration of USDOT. Only 17% expressed a lack of a good working relationship with the ICC and FRA. Areas of common concern dealt with lack of communication for the ICC and lack of regulatory support from the FRA in pursuing safety complaints.

Perspectives of Shortline Railroads

The data base used in this study is comprised of the responses received from 91 shortline railroads. How well these responses were reflective of the larger total population of shortline railroads in the United States and what bias might exist was

examined in two ways. First, general economic and firm characteristics of the respondents were compared with the total population as detailed in the Profiles of U.S. Railroads - 1992 edition, published by the Association of American Railroads, specifically the data base associated with non-Class I railroads. The types of railroad in our survey almost exactly duplicates that in the AAR profile, with 56% being local, 37% being switching and terminal, and 7% being regional railroads (Appendix II-A). Locals are railroads of less than 350 miles, and/or revenues less than $40 million and primarily engaged in providing line-haul service. Regional railroads are those above the local railroad in length and/or revenue. The survey data base has slightly more privately owned carriers, 70% to 62%, than the profile and slightly less Class I RR ownership than the profile. Similarly, the survey respondents were slightly smaller in revenue generation than the profile. However, the two sets of railroad firms were very similar in miles of road and length of haul. In sum, the survey data base may have a slight bias towards private owners and smaller revenues.

The second approach in examining for bias and representativeness of the survey data was to evaluate for differences between the respondents to the first and second mailings. Those responding to the second mailing can reasonably be considered part of the non-response after the first mailing; hence similarities between the two response groups suggests the survey data does represent the total industry.

Responses do indicate that the survey may be slightly biased and under-represent local railroads since the second mailing had more local railroad response (Appendix Table II-B). Similarly, there may be a slight bias towards over-representing the privately owned railroad and under-representing the shipper and state/local government ownership. The initial respondents were also smaller sized firms, as indicated by miles of road and length

of haul, than the total population. Such knowledge of potential bias should be considered in drawing inferences about the study findings.

Selected characteristics of the shortline railroads are summarized in Appendix Table II-C. The average miles of road was 81 miles with a range of 0 to 600 miles. The average length of haul was only 27 miles with a range of 0 to 235 miles. Employee numbers also varied, with an average of 30 employees and 75 of the 91 railroads having 30 or less. Carloads per year was distributed quite evenly from 0 to over 170,000 with average of 9,573 carloads.

These railroads were shortlines dealing dominantly with bulk commodities. Farm and food products were the primary haul for 33% of the shortlines (Appendix Table II-D). Chemicals and unknown were the secondary traffic for about a third of the railroads, followed by farm products, pulp/paper products, and lumber. The same similar product types were most common as the third most important commodity for any railroad's movement.

The shortline railroads felt very strongly that intrastate rate regulation was not part of their state railroad relationship (Table 7). Between 81 and 97% felt they were not regulated by the states in this issue area; only fuel adjustment charges received over 15% positive comments of regulatory control. The railroads had even less activity or problems in this regulatory area, with over 90% of the railroads having no problem over the past five years in any issue. Interestingly, and slightly confusing, many of the railroads wanted less or elimination of control, suggesting some railroads that did not believe they were regulated still wanted less regulation. About 50% of the shortlines wanted the same amount of regulation, usually corresponding with their statement that they did not feel regulated on intrastate rates.

Table 7. Intrastate Rate Regulation, Shortline Railroad Responses, by Percentage

Regulatory Issue	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
General Rate Increase	15	85	6	94	45	3	16	36
Inflation Rate Increase	11	89	9	91	46	5	11	38
Fuel Adjustment Surcharge	19	81	9	91	46	4	11	39
Rate Bureau	7	93	6	94	52	2	8	38
Damage Complaints	3	97	8	92	53	4	10	33
Contract Ratio	10	90	3	97	53	2	10	35

Table 8. Sizing of the Railroad Firm, Shortline Railroad Response, by Percentage

Regulatory Issue	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Entry	49	51	2	98	67	2	12	19
- New formation	51	49	3	97	60	0	17	23
- Line purchase	48	52	3	97	60	0	17	23
- New line instructions	43	57	0	100	60	0	19	21
Mergers	55	45	6	94	65	2	14	19
Abandonments	50	50	2	98	62	0	19	19
Operating Authority	27	73	5	95	60	4	17	19
Trackage Rights	18	82	0	100	67	0	9	24
Detours or Directed Service Orders								

Railroads were split about evenly in their understanding of whether they were regulated in the area of "sizing of the firm" (Table 8). Entry was controlled by the states

for about 50% of the railroads, similar coverage was evident for mergers, abandonments and operating authorities. Little control by states was indicated in the area of trackage rights and directed service orders since only 27 and 18%, respectively, were regulated. It is also evident that shortline railroads have had almost no recent problems in the area of sizing of the firm since 95-100% of the firms responded negatively. Almost a consistent 60-65% of the firms liked the existing level of regulation in their states. Any changes were towards eliminating or lessening the degree of regulatory control on elements of sizing of the firm.

Railroads did not feel there was much regulation by states in the labor area (Table 9). Only labor protection was controlled by as many as 15% in shortline railroad locations. Three-fourths of the railroads wanted the same amount of regulation (none) and the rest wanted to eliminate or lessen the remaining regulations.

The maintenance of service by shortline railroads was a more common regulatory action, as reported by the railroads (Table 10). Thirty and 14% of the railroads were under state regulatory control for stations and stationmasters. In the past five years, however, few of the railroads, 9 and 4%, reported any problems in this area. It is also evident that those railroads that were regulated wanted to lessen or eliminate that control.

Unlike the previous elements of economic regulation, safety regulation by states exists for most of the shortline railroads, although it does vary from element to element (Table 11). Crew training, fire guard, and alcohol and drug abuse regulatory control was only experienced by about one-fourth of the railroads. Those regulations dealing with grade crossings, grade separation, underpass clearance, and track inspections were controlled for about three-fourths of the railroads, with grade crossings being controlled

Table 9. Labor Issues, State Responses, by Percentage

Regulatory Issues	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Labor Protection	15	85	2	98	74	2	9	15
Craft Lines	7	93	4	96	74	2	9	15
Wage Rates	9	91	2	98	76	0	7	17

Table 10. Maintaining Service Response, by Percentage

Regulatory Issues	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Station	30	70	9	91	68	0	15	17
Stationmaster	14	86	4	96	70	0	13	17

or 89%. The other regulatory elements were imposed by about 50% of the states where the railroads resided.

Noticeable was the low incidence of any problems in these areas by the shortline railroads. Only grade crossings had presented problems and this was only for 23%. About 10% of the railroads previously had some problem with one or more regulation over that time period. Even as the railroads had not experienced many problems in the areas where they were regulated, they were adamant that regulations should be lessened or eliminated. Consistently, about half of the railroads wanted to maintain the same level of

Table 11. Safety Issues, State Responses, by Percentage

Pay Raises	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Construction	49	51	3	97	54	2	18	26
Crew Training	24	76	9	91	52	4	15	29
Fire Guards	25	75	3	97	57	2	9	32
Grade Crossing	89	11	17	83	45	6	25	24
Grade Separation	73	27	8	92	49	4	20	27
Underpass Clearance	75	25	2	98	54	4	10	32
Track Inspections	75	25	23	77	39	3	22	36
Equipment Inspection	52	48	16	84	43	2	19	36
Operation Inspection	45	55	14	86	51	2	16	31
Signal & Train Control Inspection	43	57	8	92	54	4	20	22
Hazardous Materials Inspections	53	47	9	91	52	7	20	21
Alcohol & Drug Abuse	29	71	3	97	57	5	14	24

regulation, but when a change was desired it was to eliminate, particularly for track inspections and equipment inspections (55%).

The experience of the shortlines varied in some of the other issues (Table 12). Only 13% of the railroads felt reporting was under state regulation, probably reflecting the requirements at the Federal level. On the rest of the issues, generally about 50% felt they were controlled by the state and 50% did not. Little problems were noted in the past five years and consistently (except for reporting) over half of the railroads wanted to

maintain the same level of regulatory control. Almost all of the railroads desiring a change wanted to lessen or eliminate these regulations.

The subjective questions elicited some strong responses from these managers of shortline railroads. Seventy-two percent felt their state had increased its regulatory control over the past ten years, 20% felt it had remained the same and 8% felt it had decreased. Most of the increased regulations were identified as grade crossing and hazardous material inspections.

Almost 60% of the railroads felt regulators in their state had a partnership, rather than confrontational, approach to the firm. Similarly, 98% felt state regulations were not causing problems with their business relationships with any Class I carriers.

But, not all is well in regulatory control from the viewpoint of these carriers. Seventy-three percent felt that the federal regulations that were retrofitted for shortline railroads were not appropriately designed. Unreasonable track and grade crossing safety requirements, relative to the financial ability of the railroads, were consistent and common concerns. Further, 82% of the shortline railroads felt the regulations of the ICC and FRA were too stringent and interfering. The ICC was accused of poor lines of communication while the FRA was evidently guilty of many sins, especially lack of flexibility and understanding, poor timing of repetitive inspections, and too much variability in regulatory definitions.

In an attempt to preliminarily determine the relationships between firm characteristics and extent, problems and desire for regulation change, cross tabulalous and data inspection was undertaken in the areas of year of establishment, miles of road, carloads, revenue, average haul, number of employees, type of owner and type of railroad. These data sets, cross tabulations, and analysis are available from the authors.

Table 12. Selected Issues, State Responses, by Percentage

Regulatory Issue	State Regulation		Cases or Rulings Over Past 5 Years		Desired Changes in Regulation Control			
	Yes	No	Yes	No	Same	More	Less	Eliminate
Construction	43	57	9	91	56	2	13	29
Securities	50	50	2	98	63	2	7	28
Insurance	40	60	2	98	63	5	11	21
Reporting	13	87	0	100	46	4	20	30
Planning	58	42	10	90	57	10	10	23
Passenger Service	58	42	5	95	56	7	7	30

Year Established

More of the firms established prior to 1980 felt intrastate rates were regulated; conversely more of the younger firms felt sizing of the firm was under regulation. Age of firm had no impact on labor issue or maintaining service. The newer firms were more commonly under safety regulations than the previously established firms. Age did not affect the other issues except for insurance where the younger firms felt more regulatory control.

A startling difference is evident in the amount of problems experienced. Newer firms had three times the problems of the pre-1980 firms, and this was consistent across all economic and safety regulatory issues developed in the study. The newer firms were more interested in lessening or eliminating regulatory control while the older firms seemed more accepting of the same level of regulation. Another interesting difference was that 8-10% of the older firms were in favor of increased safety and other regulation,

compared to 2% of the newer firms. Little difference, by age, was found in the subjective questions of increased or retrofitted regulations, etc., discussed earlier.

Miles of Road

There was a consistent positive correlation between miles of road and feelings that regulation had increased over time. Yet, as the size of the firm increased, the perception of incidence of regulation decreased steadily. In contrast there was no perceived difference in problems with regulation or desire for changes as miles of road varied. Similarly, the miles of road did not have an identifiable relationship with the firm's perceptions of regulatory approach to the firm, retrofitting, ICC and FRA, and problems with Class I railroads.

Carloads

Another indicator of firm size or activity is the traffic level as revealed by carloads per year. As carloads increased the amount of regulation perceived by the railroads generally decreased, except for safety regulations where it was consistent at all levels of traffic. The occurrence of problems with the different regulations was also not related to carloads although the perception of regulations increasing over the past ten years was positively related to traffic volume. Carloads did not seem related to other issues of regulatory control.

Revenue

The distinct finding in this analysis was that only the railroads with smaller revenues (less than 5 million) had experienced any problems over the past five years. Also, increased revenue was associated with operating in states that had less regulatory

control. No relationship between safety regulation and revenue was evident, nor with any of the other issues.

Average Haul

Generally, the longer the average haul, the less problems with regulatory controls have been experienced over the past five years. The same finding holds for the degree of regulatory control—it decreases as the average length of haul increases. No relationship between length of haul and desire for changes in regulation were found. None of the other subjective questions elicited responses with any correlation to distance of average haul.

Employee Numbers

The number of employees was inversely related to the extent of regulation on sizing of the firm; as employee numbers increased, regulatory control on the elements of sizing of the firm decreased. This same relationship held in labor issues and maintaining service regulations. Most of the problems experienced over the past five years were by the firms with a smaller number of employees. Another distinct finding was that the large employee numbered firms were very satisfied with the existing level of regulatory control and had no desires to change it. The firm with fewer employees was more interested in lessening or eliminating such regulations, especially for grade crossings and track inspections.

Type of Owner

The only type of owner experiencing any problems with regulatory control over the past five years was the private owner; the shipper, Class I and state/local government owners had not experienced any problems. Private and state/local government owners

were both very interested in lessening or eliminating much of the state regulatory control. Interestingly the private owners felt less strongly (69%) than the Class I's (100%), shipper (82%), and state/local government (84%) owners that regulations had increased in the past ten years. The shipper owner had the strongest sense that the existing level of regulatory control should be maintained; in fact in the safety area around 17% of these railroads wanted more regulations.

Type of Railroad

The regional railroads (8 firms) consistently felt they were less regulated, had less problems, and were happy with the existing level of regulation then either the local (50 firms) or switching and terminal (33 firms). Seventeen percent of regionals felt regulations had decreased over the past ten years contrasted to 5% for the other railroad types.

Contrasting Perceptions

The findings discussed above offer the opportunity to directly compare and contrast the perceptions of the "regulator" versus the "regulated" in the shortline railroad industry. It is apparent that both similarities and dissimilarities exist.

About 40-50% of the regulatory agencies regulated intrastate rates contrasted to only about 10% of the railroads feeling these rates were regulated. Eight percent of the states and railroads had experienced some cases or problems in this area. Ninety percent of the regulators wanted to maintain the existing level of control while only 45% of the railroads felt the same. Whereas 10% of the regulators would like to eliminate this general area of regulation, 50% of the railroads favored this action.

When regulations on sizing of the firm are considered some similarities in perceptions are apparent. Thirty and 40 percent of the states and railroads, respectively, felt sizing of firm actions were regulated; both felt abandonments were commonly regulated. However, the states had far more, about 25%, occurrences of cases than the railroads had problems (2%). Both groups were generally favorable to maintaining the existing controls but diverged greatly when considering changes; states wanted to increase regulation (25%) while railroads sought decreased regulation (35%).

The area of labor also showed significant agreement between these two groups. Both (90%) felt that labor issues were not under state regulation, only 2% of either previously had any problems and both strongly wanted the existing level of regulation. Twenty-five percent of railroads compared to 2% of regulators, were in favor of decreased regulation if a change were to occur.

Maintaining service has some different perceptions. Over 50% of the states, but only 22% of the railroads, felt these areas were under state control. Furthermore, 50% of the states had been involved in cases and rulings in the past five years, contrasted to only 6% of the railroads experiencing problems. Both were pleased (states 89%, railroads 69%) with the existing level of regulation although 31% of railroads wanted less and 11% of states wanted more control.

Safety regulation, in contrast to the above economic regulation, shows some common understanding between the two groups. Grade crossings, grade separations, and track inspections were identified by both as commonly regulated. Crew training was agreed to be usually not under state control. Contrast is evident when examining the incidences of cases or problems in the safety area. State agencies felt, about 70% overall, that they had been active in these areas, contrasted to about 16% of the railroads who

identified problems. States were more willing to maintain the existing level of control (85%) than railroads (50%), 46% of whom were desirous of decreased or eliminated regulations.

The control over reporting and planning was also a subject of disagreement; 81 and 58% of the states felt they regulated reporting and planning but only 13 and 58% of the railroads agreed. About a third of the states had experienced cases in this area but only about 5% of the railroads identified problems. Eighty and 20% of the states wanted the same or more regulation, respectively, contrasted to 50 and 25% of the railroads who sought the same or decreased level of regulation.

The same complicating perspectives are evident when examining some of the subjective perceptions. Fifty-eight percent of the states felt there had been no change in regulations over the past 10 years while only 20% of the railroads agreed. Conversely, 72% of the railroads felt regulations had increased, compared to 21% of the state respondents.

Both groups feel state regulations are not causing great difficulties for shortline railroad management but the railroads are less certain, 60% to 91%. In a final disagreement, only 27% of the railroads felt the federal regulations that had been "retrofitted" for shortline railroads were effectively designed, while 67% of the regulatory states felt the design was effective.

Final Thoughts

This report has detailed the historical development of the shortline railroad, identified the status quo of the regulatory law framework at the Federal and state levels, and examined the perceptions of state agencies and managers of shortline railroads towards these regulatory standards. A clear message of confusion is received.

Some of the results on attitudes towards regulations are to be expected. Such differences in perception are embodied in the inherent conflict between the goals of effective regulation and the business goals of firms. Firms, when offered regulatory change, often went for a decrease in regulatory control while state regulators opted for an increase in control, not too surprising. What was surprising was a great deal of satisfaction in the existing level of control, more by the states but still a substantial amount by the railroads.

It is evident that the structure, interpretation, and enforcement of regulations varies significantly from state to state. As a result a great deal of confusion on the part of both regulator and railroad can exist within and between states. Efficient firm operation and productive regulatory efforts may elude efforts in such a situation.

There is clearly a misunderstanding, probably based on the conflicting goals mentioned earlier, of whether regulations had increased or decreased over the past ten years and whether the retrofitting of federal regulations was a success. Similarly, there is a startling (and frightening) misunderstanding as to what areas are under state regulation and which are not.

Developing a profile of a shortline railroad that is generally satisfied with the existing regulatory framework would be a work of art. But our work shows such a railroad who encounters less problems and accepts existing regulations would be a firm that is older, larger, (employees and carloads) with longer haul, higher revenue, local and privately owned. Such a profile outlines a regulatory success story.

Finally, the misconceptions or conflicts do outline a need for a form of technology transfer where the technology being transferred is regulatory information, definitions, and implementation. Resources are needed in regulatory agencies, based on this study, for

educational efforts, not necessarily regulatory enforcement. Such educational transfer can occur productively in both directions between regulator and railroad.

APPENDIX I

Questionnaires Administered to:

A. State Regulators of Shortline Railroads

B. Shortline Railroads

A. National Survey of State Regulators of "Shortline Railroads"

Washington State University

A. Name of Respondent: _____

Title: _____

Mailing Address: _____

Telephone Number: ( ) _____

B. If another agency in your state has responsibility for regulation of shortline railroads please identify a name and address below and return this questionnaire. If you have partial responsibility, please fill out the appropriate responses and identify the name and address of the other appropriate agency.

_____

_____

_____

I. General Responsibility towards Shortline Railroads:

1. Did your state obtain certification to regulate under section 214 of Staggers Act?___
2. Does it still have that authority?_____
   a. If yes, what agency in your state has that authority?_____
3. Does that regulation currently include shortline railroads?_____

II. Economic Regulation of Shortline Railroads (check appropriate circle):

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
1. Intrastate Rates									
a) General Rate Increase	O	O	O	O	O	O	O	O	_____
b) Inflation Rate Increase	O	O	O	O	O	O	O	O	_____

A. National Survey of State Regulators of "Shortline Railroads"

Washington State University

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
c) Fuel Adjustment Surcharge	O	O	O	O	O	O	O	O	
d) Rate Bureau	O	O	O	O	O	O	O	O	
e) Damage	O	O	O	O	O	O	O	O	
f) Contract Rates Summaries	O	O	O	O	O	O	O	O	
2. Sizing of Firm									
a) Entry - New Formation	O	O	O	O	O	O	O	O	
- New Line Construction	O	O	O	O	O	O	O	O	
- Line Purchase	O	O	O	O	O	O	O	O	
b) Mergers	O	O	O	O	O	O	O	O	
c) Abandonments	O	O	O	O	O	O	O	O	
d) Operating Authority	O	O	O	O	O	O	O	O	
e) Trackage Rights	O	O	O	O	O	O	O	O	
f) Detours or Directed Service Orders	O	O	O	O	O	O	O	O	
3. Labor Issues									
a) General Labor Protection	O	O	O	O	O	O	O	O	
b) Craft Lines	O	O	O	O	O	O	O	O	
c) Wage Rates	O	O	O	O	O	O	O	O	
4. Maintaining Service									
a) Station	O	O	O	O	O	O	O	O	
b) Stationmaster	O	O	O	O	O	O	O	O	

A. National Survey of State Regulators of "Shortline Railroads"

Washington State University

III. Safety Regulation of Shortline Railroads (check appropriate circle):

1. Agency Responsible is _____

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
1. Safety Areas of Responsibility									
a) Construction	O	O	O	O	O	O	O	O	_____
b) Crew Training	O	O	O	O	O	O	O	O	_____
c) Fire Guards	O	O	O	O	O	O	O	O	_____
d) Grade Crossing	O	O	O	O	O	O	O	O	_____
e) Grade Separation	O	O	O	O	O	O	O	O	_____
f) Underpass Clearance	O	O	O	O	O	O	O	O	_____
g) Track Inspections	O	O	O	O	O	O	O	O	_____
h) Equipment Inspection	O	O	O	O	O	O	O	O	_____
i) Operating Practice Inspections	O	O	O	O	O	O	O	O	_____
j) Signal and Train-Control Inspections	O	O	O	O	O	O	O	O	_____
k) Hazardous Materials Inspections	O	O	O	O	O	O	O	O	_____
l) Alcohol and Drug Abuse (Impaired Engineers	O	O	O	O	O	O	O	O	_____

IV. Other Areas of Regulation of Shortline Railroads:

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
1. Construction	O	O	O	O	O	O	O	O	_____
2. Securities Issues	O	O	O	O	O	O	O	O	_____

A. National Survey of State Regulators of "Shortline Railroads"

Washington State University

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
3. Insurance	O	O	O	O	O	O	O	O	
4. Reporting	O	O	O	O	O	O	O	O	
5. Rail Planning/ Projects	O	O	O	O	O	O	O	O	
6. Passenger Service	O	O	O	O	O	O	O	O	

V. Subjective Assessment:

1) Has your state increased or decreased its regulatory control over shortline railroads in the last ten years? _____ If so, in what general fashion?_____

2) In your opinion, what regulations would shortline railroad management consider as "impeding their business"? _____

3) Do you believe any state regulations are causing difficulties for shortline railroad management? _____ If so, which areas and why? _____

4) What shortline railroad regulations would you like to see changed and why? _____

5) Do any business relationships between shortline railroads and Class I carriers create problems in effectively regulating the shortline railroad? _____
If so, how? _____

6. Do you feel generally that the federal regulations that were "retrofitted" for shortline railroads are appropriately designed? _____ Why or why not? _____

7. Do you feel you, as state regulator, have a good working relationship with the ICC and FRA? _____ Why or why not? _____

********** The End **********

Thank you, a copy of the results will be sent to the respondent named above. If you desire it be sent to another person as well, indicate below:

_____
_____
_____

Kenneth L. Casavant
Transportation Economist
Washington State University
Pullman, WA 99164-6210 (509) 335-1608

CONFIDENTIAL

B. National Survey of State Regulation of Shortline Railroads

Washington State University

Name of Respondent: _____

Title: _____

Name of Carrier: _____

Mailing Address: _____

Telephone Number: ( ) _____

I. In your opinion, what agencies are the important regulators of shortline railroads in your state? _____

_____

_____

II. Economic Regulation of <u>Shortline Railroads</u> (check appropriate circle):

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
1. Intrastate Rates									
a) General Rate Increase	O	O	O	O	O	O	O	O	_____
b) Inflation Rate Increase	O	O	O	O	O	O	O	O	_____
c) Fuel Adjustment Surcharge	O	O	O	O	O	O	O	O	_____
d) Rate Bureau	O	O	O	O	O	O	O	O	_____
e) Damage	O	O	O	O	O	O	O	O	_____
f) Contract Rates Summaries	O	O	O	O	O	O	O	O	_____

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B. National Survey of State Regulation of Shortline Railroads

Washington State University

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
2. Sizing of Firm									
a) Entry - New Formation	O	O	O	O	O	O	O	O	_____
- New Line Construction	O	O	O	O	O	O	O	O	_____
- Line Purchase	O	O	O	O	O	O	O	O	_____
b) Mergers	O	O	O	O	O	O	O	O	_____
c) Abandonments	O	O	O	O	O	O	O	O	_____
d) Operating Authority	O	O	O	O	O	O	O	O	_____
e) Trackage Rights	O	O	O	O	O	O	O	O	_____
f) Detours or Directed Service Orders	O	O	O	O	O	O	O	O	_____
3. Labor Issues									
a) General Labor Protection	O	O	O	O	O	O	O	O	_____
b) Craft Lines	O	O	O	O	O	O	O	O	_____
c) Wage Rates	O	O	O	O	O	O	O	O	_____
4. Maintaining Service									
a) Station	O	O	O	O	O	O	O	O	_____
b) Stationmaster	O	O	O	O	O	O	O	O	_____

CONFIDENTIAL

B. National Survey of State Regulation of Shortline Railroads

Washington State University

III. Safety Regulation of Shortline Railroads (check appropriate circle):

1. Agency Responsible is _____

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
1. Safety Areas of Responsibility									
a) Construction	O	O	O	O	O	O	O	O	_____
b) Crew Training	O	O	O	O	O	O	O	O	_____
c) Fire Guards	O	O	O	O	O	O	O	O	_____
d) Grade Crossing	O	O	O	O	O	O	O	O	_____
e) Grade Separation	O	O	O	O	O	O	O	O	_____
f) Underpass Clearance	O	O	O	O	O	O	O	O	_____
g) Track Inspections	O	O	O	O	O	O	O	O	_____
h) Equipment Inspection	O	O	O	O	O	O	O	O	_____
i) Operating Practice Inspections	O	O	O	O	O	O	O	O	_____
j) Signal and Train-Control Inspections	O	O	O	O	O	O	O	O	_____
k) Hazardous Materials Inspections	O	O	O	O	O	O	O	O	_____
l) Alcohol and Drug Abuse (Impaired Engineers	O	O	O	O	O	O	O	O	_____

IV. Other Areas of Regulation of Shortline Railroads:

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
1. Construction	O	O	O	O	O	O	O	O	_____
2. Securities Issues	O	O	O	O	O	O	O	O	_____

CONFIDENTIAL

B. National Survey of State Regulation of Shortline Railroads

Washington State University

Regulatory Item	State has jurisdiction over shortline		State has had cases or rulings in this area over past 5 Years		State would like changes in control				Please give any relevant example
	Yes	No	Yes	No	Same	More	Less	Eliminate	
3. Insurance	O	O	O	O	O	O	O	O	
4. Reporting	O	O	O	O	O	O	O	O	
5. Rail Planning/ Projects	O	O	O	O	O	O	O	O	
6. Passenger Service	O	O	O	O	O	O	O	O	

V. Subjective Assessment:

1) Has regulations been increased or decreased in the last ten years? _____

If so, in what general fashion?_____

_____

_____

2) What regulations have "impeded" your business development or management? _____

_____

_____

3) In your opinion, do regulators in your state have a "confrontational" or "partnership" approach to your firm? _____ Give an example: _____

_____

_____

4) What regulations would you like to see changed and why? _____

_____

_____

5) Have state relationships caused problems with your business relationships with any Class I carriers? _____ If so, how? _____

_____

_____

6. Do you feel generally that the federal regulations that were "retrofitted" for shortline railroads are appropriately designed? _____ Why or why not? _____

_____

_____

7. Do you feel the regulations of the ICC and FRA are too stringent and interfering? _____ Why?_____

_____

_____

********** The End **********

Thank you, a copy of the public results (no confidential material) will be sent to the respondent named above. If you desire it be sent to another person as well, indicate below:

_____

_____

_____

Kenneth L. Casavant
Transportation Economist
Washington State University
Pullman, WA 99164-6210 (509) 335-1608

APPENDIX II

Survey and Sample Characteristics

APPENDIX II: SURVEY AND SAMPLE CHARACTERISTICS

Table II-A. Comparison of Survey Respondents to AAR Profile Data

		Survey	Total Pop.
Type of Railroad			
Local	51	56.0	57.0
Switching and Terminal	34	37.4	36.7
Regional	6	6.6	6.3
Type of Owner			
Private	64	70.3	62.0
Shipper	13	14.3	16.8
State and Local Government	7	7.7	6.5
Other (joint)	2	2.2	2.5
Car Lessor	1	1.1	0.6
CL. I RR	3	3.3	9.6
Local RR	1	1.1	1.7
Reg RR	0	0.0	0.4
Revenue Range			
0 < 5 M	79	86.8	79.7
20 < 40 M	4	4.4	2.9
Unknown	2	2.2	2.7
10 < 20 M	2	2.2	4.4
5 < 10 M	3	3.3	7.1
40 < 250 M	1	1.1	3.3
Miles of Road			
0-10	20	22.0	24.0
10-30	22	24.2	26.5
30-100	25	27.5	29.6
100-200	15	16.5	10.1
200>	9	9.9	9.5
Length of Haul			
0-10	42	46.2	50.4
10-30	23	25.3	22.9
30-90	21	23.1	19.5
90>	5	5.5	7.1

Table II-B. Comparison of Survey Respondents of First and Second Mailing

	1st Mail %	2nd Mail %
Type of Railroad		
Local	51.9	62.2
Switching and Terminal	38.9	35.1
Regional	9.3	2.7
Type of Owner		
Private	74.1	64.9
Shipper	11.1	18.9
State and Local Government	5.6	10.8
Other (joint)	3.8	0.0
Car Lessor	1.9	0.0
CL. I RR	1.9	0.0
Local RR	1.9	0.0
Reg RR	0.0	0.0
Revenue Range		
0 < 5 M	87.0	86.5
20 < 40 M	5.6	2.7
Unknown	1.9	2.7
10 < 20 M	3.7	0.0
5 < 10 M	1.9	0.0
40 < 250 M	0.0	2.7
Miles of Road		
0-10	24.1	18.9
10-30	24.1	24.3
30-100	20.4	37.8
100-200	20.4	10.8
200>	11.1	8.1
Length of Haul		
0-10	51.9	37.8
10-30	16.7	37.8
30-90	24.1	21.6
90>	7.4	2.7

Table II-C. Responding Railroads Selected Characteristics

Miles of Road	
0-10	20
10-30	20
30-100	27
100-200	15
200>	9
Average	81
Range	1-600
Ave. Length of Haul	
0-10	39
10-30	21
30-90	18
90>	4
Average	27
Range	0-235
Employees	
0-10	43
10-30	32
30-90	8
90>	8
Average	
Range	0-311
Carloads	
0-1000	28
1001-3000	18
3001-10000	23
10000>	22
Average	9573
Range	0-171,915

	Primary Commodity		Secondary Commodity		Tertiary Commodity	
	#	%	#	%	#	%
Farm Products	17	18.7	9	9.9	5	5.5
Food/Kindred Products	13	14.3	5	5.5	6	6.6
Lumber/Wood	10	11.0	7	7.7	7	7.7
Coal	8	8.8	3	3.3	1	1.1
Clay/Glass Stone	7	7.7	3	3.3	3	3.3
Pulp/Paper Products	7	7.7	8	8.8	4	4.4
Chemicals	6	6.6	15	16.5	6	6.6
Unknown	4	4.4	15	16.5	36	39.6
Primary Metal	4	4.4	3	3.3	5	5.5
Waste/Scrap	4	4.4	4	4.4	2	2.2
Nonmetallic Minerals	3	3.3	6	6.6	5	5.5
Transportation Equipment	2	2.2	2	-	2	2.2
Petroleum/Coal	2	2.2	5	5.5	1	1.1
Electric Machinery	1	1.1	-	-	1	1.1
Misc. Mixed Shipment	2	2.2	1	1.1	-	-
Metallic Ores	1	1.1	1	1.1	1	1.1
Hazardous Materials	-	-	1	1.1	4	4.4
Ordinance	-	-	-	-	1	1.1
Rubber/Misc. Plastics	-	-	2	2.2	-	-