

**AN ANALYSIS OF TITLE III OF
THE STAGGERS RAIL ACT AND
RELATED PROVISIONS**

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AN ANALYSIS OF TITLE III OF THE STAGGERS RAIL ACT AND RELATED PROVISIONS

The opening section of the Staggers Rail act, which deals with national transportation goals and policies, expresses the intent of Congress to "ensure the availability of accurate cost information in regulatory proceedings while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information." This statement is consistent with the substance and direction of the 4R Act regarding standards for technical information. The provisions of which resulted in the adoption of a revised uniform system of accounts, the development of a cost accounting and reporting system (which is still in rule making) and the development of a new uniform rail costing system (still in the wings).

Title III of the Staggers Act, entitled Railroad Cost Determinations, sets forth the reasoning of Congress concerning railroad cost accounting principles and uniform accounting systems. The major provisions of the title relate to establishment of a railroad accounting principles board, which shall be "within and responsible to the legislative branch of the Federal Government," and to the subsequent implementation of cost accounting principles.

Within two years after the effective date of the Staggers Act the Accounting Principles Board is directed to establish "principles governing the determination of economically accurate rail costs directly associated with particular movements of goods, including the variable costs or other such costs as the Board believes most accurately represent the economic costs of such movements". Once determined, these principles "shall govern the determination of railroad costs for specific regulatory proceedings".

FACTORS WHICH MUST BE CONSIDERED IN DEVELOPING COST ACCOUNTING PRINCIPLES

The Staggers Act enumerates a range of issues which must be considered by the Board in developing cost accounting principles. These include the consideration of: (1) the specific regulatory functions to which the costs will be applied, (2) the degree of accuracy which is required in each instance, (3) the capability of the carriers to provide that information and the cost of doing so, and (4) the need for confidentiality of carrier costs and how this might best be achieved.

COST REPORTING

In Title III Congress mandates that the principles established by the Board "shall require that the information be reported or disclosed only for the essential regulatory purposes as *defined by the Board*". While the act also provides that the Commission may proceed in prescribing accounting and reporting requirements which are "consistent with generally accepted accounting principles uniformly applied to the carriers", it further stipulates that such rules must be "in accordance with the cost accounting principles established by the Railroad Accounting Principles Board". So, at least in some respects, the responsibility for improving cost accounting, reporting and cost finding procedures with respect to specific regulatory purposes no longer rest solely with the Commission.

How this affects the status and the eventual shape of Docket No. 36367 remains to be seen. This proceeding had sought to adopt a Cost Center Accounting and Reporting System for Class I railroads developed for the Commission by Deloitte, Hoskins and Sells and Peat, Marwick and Mitchell. As this development came in response to Section 202 of

the 4R Act the Commission may well feel that this legislative directive stands unaffected (which indeed the Staggers Act allows for Commission activity in this regard) and thus adopt the system pursuant to the requirements of Title III with respect to "accepted accounting principles".

COST ACCESSIBILITY

The legislation provides that carriers shall make "relevant cost data" available to those participating in Commission proceedings as "required by the rules of the Interstate Commerce Commission governing discovery in Commission proceedings". However, there is still some question with respect to what can actually be obtained, what data are strictly confidential and in what manner the information may be used once it is accessed. There are in fact stipulations concerning "accounting principles violations" in the bill which allow that any person "knowingly disclosing confidential data made available by a rail carrier" shall be fined up to a limit of \$50,000.

Here it should also be noted that the Accounting Principles Board is directed to consider issues such as confidentiality, data requirements, and regulatory purposes in initially developing its principles. Therefore, because this aspect of the legislation is open to future interpretation of principles, the issue is largely unsettled with respect to considerations of cost accessibility and reporting requirements.

IMPLEMENTATION OF THE PRINCIPLES AND THE COMMISSIONS PURVIEWS.

In addition to providing considerable input to the development of accounting principles by the Board the ICC is directed to review the rules and principles with respect to "the achievement of regulatory purposes".

Thus the Commission will likely have a counter balancing influence with respect to the implementation the provisions of Title III.

Essentially a series of checks and balances will be created between the Commission and the Board. For example, the Act directs the ICC to review developed principles to insure "that the rules promulgated are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes". However, as mentioned earlier, in prescribing its own cost reporting and accounting procedures the ICC must do so in accordance with the intent of the cost accounting principles drafted by the Board.

EFFECTS OF LEGISLATIVE PROVISIONS OF TITLE III

On the whole the provisions of the Staggers Rail Act continue the legislative drive towards more accurate and relevant costs for use in regulatory proceedings. There are some unanswered questions, however, with respect to the forthcoming principles, particularly concerning the Board's interpretation of the considerations mandated by the legislation. Issues such as confidentiality of costs shippers need for specific data, and the range technical standards associated with different regulatory frameworks will directly impact the true accessibility of information as well as reporting and cost finding standards.

One indirect but inescapable conclusion which may be gathered from the bill is that the cost accounting and reporting provisions of the Act ensure that development will be imminent concerning reporting schedules and the implementation and refinement of improved costing methodologies. This is in effect an outgrowth of the legislative direction and an important element of change. The movement towards more precise and credible informational standards involves three separate but interrelated concepts: refinements in accounting principles and structures, the reporting of rail costs in relation to functional cost centers which describe natural expense types, and the continued development and utilization of cost finding formulas. In light of the legislation it is likely that rule making proceedings and/or the development of the technical means for fully implementing the provisions of the Act will be forthcoming immediately and will continue over the near-term.