- Oversight of rail financial practices such as interlocking directorates, issuance of securities, etc. Regulations covering financial practices of railroads should be the same as those applied to other industries.
- Rate caps on recyclables. It is not equitable to require special treatment for particular classes of shippers.
- Rail merger standards, line sales, transfers and trackage rights under the Interstate Commerce Act. As with transactions in other US industries, these rail-related consolidations and sales should be reviewed by the Department of Justice, under the Standards of the Clayton Act.

The following rail function would, unless otherwise noted, be *retained* and *transferred* to *DOT*:

- *Maximum rate regulation* as provided by the Staggers Act.
- Exemption authority has been extremely useful for removing rail traffic from regulation.
- *Line construction authority* for new lines crossing another railroad.
- *Competitive access* provisions for captive shippers.
- Labor protection provisions would be administered by the Department of Labor.
- *Line sales* of non-carriers (determination of carrier/noncarrier status).
- *Reasonable practices* in cases where rate regulation is retained.
- Abandonment regulations, feederline development program, and financial assistance to facilitate purchases or subsidy agreements for lines proposed for abandonment.
- *Dispute resolution* between passenger and freight railroads.
- *Rails-to-trails* program for abandoned rail lines.
- *Preemption* of state regulation of rail rates, routes, and services.
- *Recordation of liens* would be continued, but administered differently.

Motor Carriers

Trucking. The interstate trucking reforms of 1980 have provided billions of dollars in annual savings and enhanced U.S. competitiveness in world markets. Another significant barrier to further efficiencies in the trucking industry was removed beginning in January 1995, as a result of Public Law 103–305, which prohibits the states from imposing economic regulation on trucking.

Most of the remaining trucking regulations administered by the ICC are needless and burdensome requirements that have no place in today's competitive, cost-conscious environment. Although TIRRA

substantially reduced the requirements for entry into the business of hauling regulated commodities and removed the requirement that motor common carriers file their independently-set rates with the ICC, it stopped short of doing away with these requirements altogether.

Our reviews have found no useful function served by the remaining economic regulation of trucking by the ICC, and we recommend that it all be *eliminated*, except for those functions enumerated below. In particular, we recommend an end to all antitrust immunity, all filing of tariffs and rate regulation, all distinctions between common and contract carriers, and control over mergers and transfers.

We recommend that only the following regulations be *retained*:

- Motor carrier licensing. All interstate private and for-hire carriers would be subject to the same safety and insurance requirements, administered by DOT/FHWA.
- Mexican carriers. DOT, in conjunction with the states, would monitor Mexican carriers' safety and insurance compliance, as well as their access to U.S. markets, as NAFTA is phased in.
- Undercharge resolution.

 Adjudication of existing undercharge claims under the Negotiated Rates Act of 1993 (NRA) would be continued over a transition period until the issue ceases to exist. We also recommend that the NRA be amended to designate claims for undercharging as an "unreasonable practice," as long as any tariff filing is required.
- Household goods, household goods freight forwarders, and transporters of personally-owned automobiles. Existing ICC consumer protection authority would be transferred to the Federal Trade Commission (FTC). FTC would not become involved routinely in individual cases, but would be able to monitor the industry and take action if there should be a pattern of abuses, as it does in other industries.
- Owner-operator leasing rules. These rules would also be transferred to the FTC, but there would be no agency involvement in adjudicating individual claims between carriers and owner-operators. There would be general FTC oversight, and owner operators would be given a right of private action to enforce the rules and the opportunity to collect treble damages in case of violations
- Loss and damage claims. Convert the Carmack amendment into a Federal liability regime with a statutory liability limit, and eliminate ICC dispute settlement functions. Issues would be

resolved privately, as with any other contract dispute.

Intercity Buses. Although the charter and tour sector of the bus industry has grown, the financial condition of the regular route carriers is marginal, reflecting intense competition with the airlines, the private automobile, and Amtrak. Continued regulation by either the ICC or state regulatory bodies can hurt, but cannot help this industry. We recommend that all ICC economic regulation of the intercity bus industry be eliminated. DOT/FHWA would be responsible for monitoring bus safety and insurance (with state enforcement authority), and the existing procedure for ICC preemption of state bus regulation would be amended to provide outright preemption, such as that provided for motor carriers of property by P.L. 103-305.

Transportation Intermediaries

Freight forwarders and brokers are only two types of a wide panoply of transportation intermediaries, including ocean freight forwarders and non-vessel operating common carriers (NVOCCs). This is an important segment of the industry that creates value for both shippers and carriers. The rather minimal regulation of all types of transportation intermediaries should be harmonized. We recommend that all regulation of surface freight forwarders and brokers be eliminated and that they be treated the same as air freight forwarders, which are free of any regulation of their rates, routes, or services, subject only to cargo liability rules-to the extent they are considered carriers.

Pipelines

ICC has authority to regulate transportation by pipelines of commodities such as coal and fertilizer. However, there is significant intermodal competition for such traffic and there have been virtually no complaints concerning competitive problems. We recommend that ICC regulation of pipelines be eliminated and any competitive problems be handled under the antitrust laws.

Intermodal Transportation

The ICC has the authority to prohibit the acquisition of a water carrier or a motor carrier by a rail carrier. ICC may also prescribe joint rates and through routes on intermodal rail-water movements. The deregulation legislation of 1977–80 has resulted in an enormous increase in intermodal traffic. However, there are still some remaining hindrances that could impede intermodal acquisitions. There is no