PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10763 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Prior sections 10747 to 10751, 10761 to 10767, and 10781 to 10786 were omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 10747, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation services or facilities furnished by shippers. See section 10745 of this title.

Section 10748, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393, related to transportation of livestock by rail carrier.

Section 10749, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1393; Pub. L. 96–296, § 10(c), July 1, 1980, 94 Stat. 800; Pub. L. 97–468, title VI, § 615(b)(3), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98–216, § 2(13), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99–521, § 7(j)(1), (2), Oct. 22, 1986, 100 Stat. 2995; Pub. L. 103–272, § 4(j)(24), July 5, 1994, 108 Stat. 1369, related to exchange of services and limitation on use of common carriers by household goods freight forwarders.

Section 10750, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394, related to demurrage charges. See section 10746 of this title.

Section 10751, added Pub. L. 96–296, § 33(a), July 1, 1980, 94 Stat. 824; amended Pub. L. 96–448, title II, § 215(a), Oct. 14, 1980, 94 Stat. 1915; Pub. L. 103–272, § 4(j)(25), July 5, 1994, 108 Stat. 1369, related to business entertainment expenses. See section 14901 of this title.

Section 10761, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394; Pub. L. 96–296, § 33(c), July 1, 1980, 94 Stat. 825; Pub. L. 103–311, title II, § 206(b), Aug. 26, 1994, 108 Stat. 1684, related to prohibition of transportation without tariff. See section 13702 of this title.

Section 10762, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1394; Pub. L. 96–296, § 5(c), July 1, 1980, 94 Stat. 796; Pub. L. 96–448, title II, § 216, Oct. 14, 1980, 94 Stat. 1915; Pub. L. 97–261, § 12(b), Sept. 20, 1982, 96 Stat. 1113; Pub. L. 99–521, § 7(k), Oct. 22, 1986, 100 Stat. 2995; Pub. L. 103–180, § 5, Dec. 3, 1993, 107 Stat. 2050; Pub. L. 103–311, title II, § 206(c)–(e), Aug. 26, 1994, 108 Stat. 1684, 1685, related to general tariff requirements. See sections 13702 and 13710 of this title.

Section 10763, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1396, related to designation of certain routes by shippers or Interstate Commerce Commission. See section 10747 of this title.

Section 10764, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1397, related to arrangements between carriers and required copies of arrangements to be filed with Commission.

Section 10765, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1397, related to water transportation under arrangements with certain other carriers.

Section 10766, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398; Pub. L. 96–296, § 10(d), July 1, 1980, 94 Stat. 801; Pub. L. 99–521, § 7(*l*), Oct. 22, 1986, 100 Stat. 2995, related to freight forwarder traffic agreements.

Section 10767, added Pub. L. 103–180, § 7(a), Dec. 3, 1993, 107 Stat. 2051, related to billing and collecting practices. See section 13708 of this title.

Section 10781, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1398, related to investigations and reports by Commission on value of carrier property.

Section 10782, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1399, related to requirements for establishing value.

Section 10783, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400, related to cooperation and assistance of carriers.

Section 10784, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1400; Pub. L. 96–258, § 1(8), June 3, 1980, 94 Stat. 426, related to revision of property valuations.

Section 10785, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401, related to finality of valuations, notices, protests, and review.

Section 10786, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1401, related to applicability of sections 10781 to 10786 of this title.

CHAPTER 109—LICENSING

Sec.
10901. Authorizing construction and operation of railroad lines.
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AMENDMENTS

2008—Pub. L. 110–432, div. A, title VI, §§ 603(b), 604(b), 605(b), Oct. 16, 2008, 122 Stat. 4903, 4905, added items 10908 to 10910.

§ 10901. Authorizing construction and operation of railroad lines

(a) A person may—

(1) construct an extension to any of its railroad lines;

(2) construct an additional railroad line;

(3) provide transportation over, or by means of, an extended or additional railroad line; or

(4) in the case of a person other than a rail carrier, acquire a railroad line or acquire or operate an extended or additional railroad line,

only if the Board issues a certificate authorizing such activity under subsection (c).

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice, including notice to the Governor of any affected State, of the beginning of such proceeding.

(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

(d)(1) When a certificate has been issued by the Board under this section authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by refusing to permit the carrier to cross its property if—

(A) the construction does not unreasonably interfere with the operation of the crossed line;

(B) the operation does not materially interfere with the operation of the crossed line; and

(C) the owner of the crossing line compensates the owner of the crossed line.

(2) If the parties are unable to agree on the terms of operation or the amount of payment

for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Board for determination. The Board shall make a determination under this paragraph within 120 days after the dispute is submitted for determination.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 822.)

PRIOR PROVISIONS

A prior section 10901, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1402; Pub. L. 96–448, title II, § 221, Oct. 14, 1980, 94 Stat. 1928, related to authorizing construction and operation of railroad lines, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104–88, see section 2 of Pub. L. 104–88, set out as a note under section 701 of this title.

§ 10902. Short line purchases by Class II and Class III rail carriers

(a) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Board under this part may acquire or operate an extended or additional rail line under this section only if the Board issues a certificate authorizing such activity under subsection (c).

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice of the beginning of such proceeding.

(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

(d) The Board shall require any Class II rail carrier which receives a certificate under subsection (c) of this section to provide a fair and equitable arrangement for the protection of the interests of employees who may be affected thereby. The arrangement shall consist exclusively of one year of severance pay, which shall not exceed the amount of earnings from railroad employment of the employee during the 12-month period immediately preceding the date on which the application for such certificate is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of the employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction to which the certificate applies. The parties may agree to terms other than as provided in this subsection. The Board shall not require such an arrangement from a Class III rail carrier which receives a certificate under subsection (c) of this section.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 823.)

PRIOR PROVISIONS

A prior section 10902, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1403, related to authorizing action by rail carriers to provide adequate, efficient, and safe facilities.

§ 10903. Filing and procedure for application to abandon or discontinue

(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part who intends to—

(A) abandon any part of its railroad lines; or

(B) discontinue the operation of all rail transportation over any part of its railroad lines,

must file an application relating thereto with the Board. An abandonment or discontinuance may be carried out only as authorized under this chapter.

(2) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part files an application, the application shall include—

(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

(B) a statement indicating that each interested person is entitled to make recommendations to the Board on the future of the rail line; and

(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10904 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the annual subsidy and minimum purchase price, calculated in accordance with section 10904 of this title, and (iii) the name and business address of the person who is authorized to discuss the subsidy or sale terms for the rail carrier.

(3) The rail carrier shall—

(A) send by certified mail notice of the application to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Board) of the railroad line during the 12 months preceding the filing of the application; and

(E) attach to the application filed with the Board an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the application is filed.

(b)(1) Except as provided in subsection (d), abandonment and discontinuance may occur as provided in section 10904.

(2) The Board shall require as a condition of any abandonment or discontinuance under this section provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under sections 11326(a) and 24706(c)[1] of this title.

[1] See References in Text note below.