PRIOR PROVISIONS

A prior section 11122, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1421; Pub. L. 96–448, title II, § 224(a), Oct. 14, 1980, 94 Stat. 1929, related to use of and compensation for freight cars, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11123. Situations requiring immediate action to serve the public

(a) When the Board determines that shortage of equipment, congestion of traffic, unauthorized cessation of operations, failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, or other failure of traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on shippers, or on rail service in a region of the United States, or that a rail carrier providing transportation subject to the jurisdiction of the Board under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Board may, to promote commerce and service to the public, for a period not to exceed 30 days—

(1) direct the handling, routing, and movement of the traffic of a rail carrier and its distribution over its own or other railroad lines;

(2) require joint or common use of railroad facilities;

(3) prescribe temporary through routes;

(4) give directions for—

(A) preference or priority in transportation;

(B) embargoes; or

(C) movement of traffic under permits; or

(5) in the case of a failure of existing freight or commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, direct the continuation of the operations and dispatching, maintenance, and other necessary infrastructure functions related to the operations.

(b)(1) Except with respect to proceedings under paragraph (2) of this subsection, the Board may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

(2) Rail carriers may establish between themselves the terms of compensation for operations, and use of facilities and equipment, required under this section. When rail carriers do not agree on the terms of compensation under this section, the Board may establish the terms for them. The Board may act under subsection (a) before conducting a proceeding under this paragraph.

(3)(A) Except as provided in subparagraph (B), when a rail carrier is directed under this section to operate the lines of another rail carrier due to that carrier's cessation of operations, compensation for the directed operations shall derive only from revenues generated by the directed operations.

(B) In the case of a failure of existing freight or commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation, the Board shall provide funding to fully reimburse the directed service provider for its costs associated with the activities directed under subsection (a), including the payment of increased insurance premiums. The Board shall order complete indemnification against any and all claims associated with the provision of service to which the directed rail carrier may be exposed.

(c)(1) The Board may extend any action taken under subsection (a) of this section beyond 30 days if the Board finds that a transportation emergency described in subsection (a) continues to exist. Action by the Board under subsection (a) of this section may not remain in effect for more than 240 days beyond the initial 30-day period.

(2) The Board may not take action under this section that would—

(A) cause a rail carrier to operate in violation of this part; or

(B) impair substantially the ability of a rail carrier to serve its own customers adequately, or to fulfill its common carrier obligations.

(3) A rail carrier directed by the Board to take action under this section is not responsible, as a result of that action, for debts of any other rail carrier.

(4) In the case of a failure of existing freight or commuter rail passenger transportation operations caused by cessation of service by the National Railroad Passenger Corporation, the Board may not direct a rail carrier to undertake activities under subsection (a) to continue such operations unless—

(A) the Board first affirmatively finds that the rail carrier is operationally capable of conducting the directed service in a safe and efficient manner; and

(B) the funding for such directed service required by subparagraph (B) of subsection (b)(3) is provided in advance in appropriations Acts.

(d) In carrying out this section, the Board shall require, to the maximum extent practicable, the use of employees who would normally have performed work in connection with the traffic subject to the action of the Board.

(e) For purposes of this section, the National Railroad Passenger Corporation and any entity providing commuter rail passenger transportation shall be considered rail carriers subject to the Board's jurisdiction.

(f) For purposes of this section, the term ''commuter rail passenger transportation'' has the meaning given that term in section 24102(4).[1]

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 833; amended Pub. L. 108–199, div. F, title I, § 150(1), Jan. 23, 2004, 118 Stat. 302.)

REFERENCES IN TEXT

Section 24102 of this title, referred to in subsec. (f), was subsequently amended, and section 24102(4) no longer defines ''commuter rail passenger transportation''. However, such term is defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 11123, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422; Pub. L. 96–448, title II, § 226, Oct. 14, 1980, 94

[1] See References in Text note below.

Stat. 1930, related to situations requiring immediate action, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–199, § 150(1)(A)(i), inserted ''failure of existing commuter rail passenger transportation operations caused by a cessation of service by the National Railroad Passenger Corporation,'' after ''cessation of operations,'' in introductory provisions.

Subsec. (a)(5). Pub. L. 108–199, § 150(1)(A)(ii)–(iv), added par. (5).

Subsec. (b)(3). Pub. L. 108–199, § 150(1)(B), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), when'' for ''When'', and added subpar. (B).

Subsec. (c)(4). Pub. L. 108–199, § 150(1)(C), added par. (4).

Subsecs. (e), (f). Pub. L. 108–199, § 150(1)(D), added subsecs. (e) and (f).

§ 11124. War emergencies; embargoes imposed by carriers

(a)(1) When the President, during time of war or threatened war, notifies the Board that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Board shall direct that preference or priority be given to that traffic.

(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail carriers providing transportation subject to the jurisdiction of the Board under this part shall adopt every means within their control to facilitate and expedite the military traffic.

(b) An embargo imposed by any such rail carrier does not apply to shipments consigned to agents of the United States Government for its use. The rail carrier shall deliver those shipments as promptly as possible.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11128 of this title prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Prior sections 11124 to 11128 were omitted in the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

Section 11124, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1422, related to rerouting traffic on failure of rail carrier to serve the public.

Section 11125, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1423; Pub. L. 98–216, § 2(15), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103–272, § 5(m)(28), July 5, 1994, 108 Stat. 1378, related to directed rail transportation.

Section 11126, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424; Pub. L. 103–272, § 5(m)(29), July 5, 1994, 108 Stat. 1378, related to distribution of coal cars.

Section 11127, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1424; Pub. L. 99–521, § 9(b)(1), (2), Oct. 22, 1986, 100 Stat. 2997, related to service of household goods freight forwarders.

Section 11128, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425, related to war emergencies and embargoes imposed by carriers. See section 11124 of this title.

SUBCHAPTER III—REPORTS AND RECORDS

§ 11141. Definitions

In this subchapter—

(1) the terms ''rail carrier'' and ''lessor'' include a receiver or trustee of a rail carrier and lessor, respectively;

(2) the term ''lessor'' means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Board under this part; and

(3) the term ''association'' means an organization maintained by or in the interest of a group of rail carriers providing transportation or service subject to the jurisdiction of the Board under this part that performs a service, or engages in activities, related to transportation under this part.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

A prior section 11141, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425; Pub. L. 99–521, § 9(c), Oct. 22, 1986, 100 Stat. 2997, defined terms for purposes of former sections 11141 to 11145 of this title, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a). See sections 11141, 14121, and 15721 of this title.

§ 11142. Uniform accounting system

The Board may prescribe a uniform accounting system for classes of rail carriers providing transportation subject to the jurisdiction of the Board under this part. To the maximum extent practicable, the Board shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

A prior section 11142, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1425; Pub. L. 96–448, title III, § 301, Oct. 14, 1980, 94 Stat. 1934, related to uniform accounting system, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).

§ 11143. Depreciation charges

The Board shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Board may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Board;

(2) charge another rate of depreciation; or

(3) include other depreciation charges in operating expenses.

(Added Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 834.)

PRIOR PROVISIONS

A prior section 11143, Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1426, related to depreciation charges, prior to the general amendment of this subtitle by Pub. L. 104–88, § 102(a).