

Union Calendar No. 163

104TH CONGRESS
1ST SESSION

H. R. 2539

[Report No. 104-311]

A BILL

To abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

NOVEMBER 6, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1995

Mr. SHUSTER (for himself, Mr. PETRI, Mr. RAHALL, and Ms. MOLINARI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

NOVEMBER 6, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 26, 1995]

A BILL

To abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “ICC Termination Act
3 of 1995”.

4 **TITLE I—ABOLITION OF INTER-**
5 **STATE COMMERCE COMMIS-**
6 **SION**

7 **SEC. 101. ABOLITION.**

8 The Interstate Commerce Commission is abolished.

9 **SEC. 102. RAIL PROVISIONS.**

10 (a) AMENDMENT.—Subtitle IV of title 49, United
11 States Code, is amended to read as follows:

12 **“SUBTITLE IV—INTERSTATE TRANSPORTATION****“PART A—RAIL**

<i>“CHAPTER</i>	<i>Sec.</i>
<i>“101. GENERAL PROVISIONS</i>	<i>10101</i>
<i>“103. JURISDICTION</i>	<i>10301</i>
<i>“105. RATES</i>	<i>10501</i>
<i>“107. LICENSING</i>	<i>10701</i>
<i>“109. OPERATIONS</i>	<i>10901</i>
<i>“111. FINANCE</i>	<i>11101</i>
<i>“113. FEDERAL-STATE RELATIONS</i>	<i>11301</i>
<i>“115. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REM- EDIES.</i>	<i>11501</i>
<i>“117. CIVIL AND CRIMINAL PENALTIES</i>	<i>11701</i>

**“PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND
FREIGHT FORWARDERS**

<i>“CHAPTER</i>	<i>Sec.</i>
<i>“131. GENERAL PROVISIONS</i>	<i>13101</i>
<i>“133. ADMINISTRATIVE PROVISIONS</i>	<i>13301</i>
<i>“135. JURISDICTION</i>	<i>13501</i>
<i>“137. RATES AND THROUGH ROUTES</i>	<i>13701</i>
<i>“139. REGISTRATION</i>	<i>13901</i>
<i>“141. OPERATIONS OF CARRIERS</i>	<i>14101</i>
<i>“143. FINANCE</i>	<i>14301</i>
<i>“145. FEDERAL-STATE RELATIONS</i>	<i>14501</i>
<i>“147. ENFORCEMENT; INVESTIGATIONS; RIGHTS; REM- EDIES.</i>	<i>14701</i>
<i>“149. CIVIL AND CRIMINAL PENALTIES</i>	<i>14901</i>

1

2 **"CHAPTER 101—GENERAL PROVISIONS***"Sec.**"10101. Rail transportation policy.**"10102. Definitions.**"10103. Remedies are exclusive.*3 **"§ 10101. Rail transportation policy**4 *"In regulating the railroad industry, it is the policy*
5 *of the United States Government—*6 *"(1) to allow, to the maximum extent possible,*
7 *competition and the demand for services to establish*
8 *reasonable rates for transportation by rail;*9 *"(2) to minimize the need for Federal regulatory*
10 *control over the rail transportation system and to re-*
11 *quire fair and expeditious regulatory decisions when*
12 *regulation is required;*13 *"(3) to promote a safe and efficient rail trans-*
14 *portation system by allowing rail carriers to earn*
15 *adequate revenues, as determined by the Panel;*16 *"(4) to ensure the development and continuation*
17 *of a sound rail transportation system with effective*
18 *competition among rail carriers and with other*
19 *modes, to meet the needs of the public and the na-*
20 *tional defense;*21 *"(5) to foster sound economic conditions in*
22 *transportation and to ensure effective competition*

1 *and coordination between rail carriers and other*
2 *modes;*

3 *“(6) to maintain reasonable rates where there is*
4 *an absence of effective competition and where rail*
5 *rates provide revenues which exceed the amount nec-*
6 *essary to maintain the rail system and to attract cap-*
7 *ital;*

8 *“(7) to reduce regulatory barriers to entry into*
9 *and exit from the industry;*

10 *“(8) to operate transportation facilities and*
11 *equipment without detriment to the public health and*
12 *safety;*

13 *“(9) to encourage honest and efficient manage-*
14 *ment of railroads;*

15 *“(10) to require rail carriers, to the maximum*
16 *extent practicable, to rely on individual rate in-*
17 *creases, and to limit the use of increases of general*
18 *applicability;*

19 *“(11) to encourage fair wages and safe and suit-*
20 *able working conditions in the railroad industry;*

21 *“(12) to avoid undue concentrations of market*
22 *power and to prohibit unlawful discrimination;*

23 *“(13) to ensure the availability of accurate cost*
24 *information in regulatory proceedings, while mini-*
25 *mizing the burden on rail carriers of developing and*

1 *maintaining the capability of providing such infor-*
2 *mation; and*

3 *“(14) to encourage and promote energy conserva-*
4 *tion.*

5 **“§ 10102. Definitions**

6 *“In this part—*

7 *“(1) ‘car service’ includes (A) the use, control,*
8 *supply, movement, distribution, exchange, inter-*
9 *change, and return of locomotives, cars, other vehicles,*
10 *and special types of equipment used in the transpor-*
11 *tation of property by a rail carrier, and (B) the sup-*
12 *ply of trains by a rail carrier;*

13 *“(2) ‘control’, when referring to a relationship*
14 *between persons, includes actual control, legal control,*
15 *and the power to exercise control, through or by (A)*
16 *common directors, officers, stockholders, a voting*
17 *trust, or a holding or investment company, or (B)*
18 *any other means;*

19 *“(3) ‘Panel’ means the Transportation Adjudica-*
20 *tion Panel;*

21 *“(4) ‘person’, in addition to its meaning under*
22 *section 1 of title 1, includes a trustee, receiver, as-*
23 *signee, or personal representative of a person;*

24 *“(5) ‘rail carrier’ means a person providing*
25 *railroad transportation for compensation, but does*

1 *not include street, suburban, or interurban electric*
2 *railways not operated as part of the general system*
3 *of rail transportation;*

4 “(6) ‘railroad’ includes—

5 “(A) a bridge, car float, lighter, ferry, and
6 *intermodal equipment used by or in connection*
7 *with a railroad;*

8 “(B) the road used by a rail carrier and
9 *owned by it or operated under an agreement;*
10 *and*

11 “(C) a switch, spur, track, terminal, termi-
12 *nal facility, and a freight depot, yard, and*
13 *ground, used or necessary for transportation;*

14 “(7) ‘rate’ means a rate, fare, or charge for
15 *transportation;*

16 “(8) ‘State’ means a State of the United States
17 *and the District of Columbia;*

18 “(9) ‘transportation’ includes—

19 “(A) a locomotive, car, vehicle, yard, prop-
20 *erty, facility, instrumentality, or equipment of*
21 *any kind related to the movement of passengers*
22 *or property, or both, by rail, regardless of owner-*
23 *ship or an agreement concerning use; and*

24 “(B) services related to that movement, in-
25 *cluding receipt, delivery, elevation, transfer in*

1 transit, refrigeration, icing, ventilation, storage,
 2 handling, and interchange of passengers and
 3 property; and

4 “(10) ‘United States’ means the States of the
 5 United States and the District of Columbia.

6 **“§10103. Remedies are exclusive**

7 “Except as otherwise provided in this part, the rem-
 8 edies provided under this part are exclusive and preempt
 9 the remedies provided under Federal or State law.

10 **“CHAPTER 103—JURISDICTION**

“Sec.

“10301. General jurisdiction.

“10302. Authority to exempt rail carrier transportation.

11 **“§ 10301. General jurisdiction**

12 “(a)(1) Subject to this chapter and other law, the
 13 Panel has jurisdiction over transportation by rail carrier
 14 that is—

15 “(A) only by railroad; or

16 “(B) by railroad and water, when the transpor-
 17 tation is under common control, management, or ar-
 18 rangement for a continuous carriage or shipment.

19 “(2) Jurisdiction under paragraph (1) applies only to
 20 transportation in the United States between a place in—

21 “(A) a State and a place in the same or another
 22 State;

23 “(B) a State and a place in a territory or pos-
 24 session of the United States;

1 “(C) a territory or possession of the United
2 States and a place in another such territory or pos-
3 session;

4 “(D) a territory or possession of the United
5 States and another place in the same territory or pos-
6 session;

7 “(E) the United States and another place in the
8 United States through a foreign country; or

9 “(F) the United States and a place in a foreign
10 country.

11 “(b) The jurisdiction of the Panel over—

12 “(1) transportation by rail carriers, and the
13 remedies provided in this part with respect to rates,
14 classifications, rules (including car service, inter-
15 change, and other operating rules), practices, routes,
16 services, and facilities of such carriers; and

17 “(2) the construction, acquisition, operation,
18 abandonment, or discontinuance of spur, industrial,
19 team, switching, or side tracks, or facilities, even if
20 the tracks are located, or intended to be located, en-
21 tirely in one State,

22 *is exclusive.*

23 “(c)(1) In this subsection—

24 “(A) the term ‘local governmental authority’—

1 “(i) has the same meaning given that term
2 by section 5302(a) of this title; and

3 “(ii) includes a person or entity that con-
4 tracts with the local governmental authority to
5 provide transportation services; and

6 “(B) the term ‘mass transportation’ means
7 transportation services described in section 5302(a) of
8 this title that are provided by rail.

9 “(2) Except as provided in paragraph (3), the Panel
10 does not have jurisdiction under this part over mass trans-
11 portation provided by a local governmental authority.

12 “(3)(A) Notwithstanding paragraph (2) of this sub-
13 section, a local governmental authority, described in para-
14 graph (2), is subject to applicable laws of the United States
15 related to—

16 “(i) safety;

17 “(ii) the representation of employees for collective
18 bargaining; and

19 “(iii) employment retirement, annuity, and un-
20 employment systems or other provisions related to
21 dealings between employees and employers.

22 “(B) The Panel has jurisdiction under sections 10902
23 and 10903 of this title over mass transportation provided
24 by a local governmental authority.

1 **“§ 10302. Authority to exempt rail carrier transpor-**
2 **tation**

3 *“(a) In a matter related to a rail carrier providing*
4 *transportation subject to the jurisdiction of the Panel under*
5 *this part, the Panel, to the maximum extent consistent with*
6 *this part, shall exempt a person, class of persons, or a trans-*
7 *action or service whenever the Panel finds that the applica-*
8 *tion of a provision of this part—*

9 *“(1) is not necessary to carry out the transpor-*
10 *tation policy of section 10101 of this title; and*

11 *“(2) either—*

12 *“(A) the transaction or service is of limited*
13 *scope; or*

14 *“(B) the application of the provision is not*
15 *needed to protect shippers from the abuse of mar-*
16 *ket power.*

17 *“(b) The Panel may, where appropriate, begin a pro-*
18 *ceeding under this section on its own initiative or on appli-*
19 *cation by the Secretary of Transportation or an interested*
20 *party. The Panel shall, within 90 days after receipt of any*
21 *such application, determine whether to begin an appro-*
22 *priate proceeding. If the Panel decides not to begin a pro-*
23 *ceeding, the reasons for the decision shall be published in*
24 *the Federal Register. Any proceeding begun as a result of*
25 *an application under this subsection shall be completed*
26 *within one year after it is begun.*

1 “(c) The Panel may specify the period of time during
2 which an exemption granted under this section is effective.

3 “(d) The Panel may revoke an exemption, to the extent
4 it specifies, when it finds that application of a provision
5 of this part to the person, class, or transportation is nec-
6 essary to carry out the transportation policy of section
7 10101 of this title. The Panel shall, within 90 days after
8 receipt of a request for revocation under this subsection, de-
9 termine whether to begin an appropriate proceeding. If the
10 Panel decides not to begin a proceeding, the reasons for the
11 decision shall be published in the Federal Register. Any pro-
12 ceeding begun as a result of a request under this subsection
13 shall be completed within one year after it is begun.

14 “(e) No exemption order issued pursuant to this section
15 shall operate to relieve any rail carrier from an obligation
16 to provide contractual terms for liability and claims which
17 are consistent with the provisions of section 11506 of this
18 title. Nothing in this subsection or section 11506 of this title
19 shall prevent rail carriers from offering alternative terms
20 nor give the Panel the authority to require any specific level
21 of rates or services based upon the provisions of section
22 11506 of this title.

23 “(f) The Panel may exercise its authority under this
24 section to exempt transportation that is provided by a rail
25 carrier.

1 “(g) The Panel may not exercise its authority under
 2 this section to relieve a rail carrier of its obligation to pro-
 3 tect the interests of employees as required by this part.

4 **“CHAPTER 105—RATES**

 “SUBCHAPTER I—GENERAL AUTHORITY

“Sec.

“10501. Standards for rates, classifications, through routes, rules, and practices.

“10502. Authority for rail carriers to establish rates, classifications, rules, and practices.

“10503. Authority for rail carriers to establish through routes.

“10504. Authority and criteria: rates, classifications, rules, and practices prescribed by Panel.

“10505. Authority: through routes, joint classifications, rates, and divisions prescribed by Panel.

“10506. Rate agreements: exemption from antitrust laws.

“10507. Determination of market dominance in rail rate proceedings.

“10508. Inflation-based rate increases.

“10509. Contracts.

 “SUBCHAPTER II—SPECIAL CIRCUMSTANCES

“10521. Government traffic.

“10522. Emergency rates.

“10523. Car utilization.

 “SUBCHAPTER III—LIMITATIONS

“10541. Prohibitions against discrimination by rail carriers.

“10542. Facilities for interchange of traffic.

“10543. Continuous carriage of freight.

“10544. Transportation services or facilities furnished by shipper.

“10545. Demurrage charges.

“10546. Designation of certain routes by shippers.

5 “SUBCHAPTER I—GENERAL AUTHORITY

6 **“§ 10501. Standards for rates, classifications, through**
 7 **routes, rules, and practices**

8 “(a) A through route established by a rail carrier must
 9 be reasonable. Divisions of joint rates by rail carriers must
 10 be made without unreasonable discrimination against a
 11 participating carrier and must be reasonable.

1 “(b) A rail carrier providing transportation subject to
2 the jurisdiction of the Panel under this part may not dis-
3 criminate in its rates against a connecting line of another
4 rail carrier providing transportation subject to the jurisdic-
5 tion of the Panel under this part or unreasonably discrimi-
6 nate against that line in the distribution of traffic that is
7 not routed specifically by the shipper.

8 “(c) Except as provided in subsection (d) of this sec-
9 tion and unless a rate is prohibited by a provision of this
10 part, a rail carrier providing transportation subject to the
11 jurisdiction of the Panel under this part may establish any
12 rate for transportation or other service provided by the rail
13 carrier.

14 “(d)(1) If the Panel determines, under section 10507
15 of this title, that a rail carrier has market dominance over
16 the transportation to which a particular rate applies, the
17 rate established by such carrier for such transportation
18 must be reasonable.

19 “(2) In determining whether a rate established by a
20 rail carrier is reasonable for purposes of this section, the
21 Panel shall recognize the policy of this part that rail car-
22 riers shall earn adequate revenues, as established by the
23 Panel under section 10504(a)(2) of this title.

24 “(3) The Panel shall, within one year after the date
25 of the enactment of this paragraph, complete the pending

1 *Interstate Commerce Commission non-coal rate guidelines*
2 *proceeding to establish simplified and expedited procedures*
3 *for the determination of rate reasonableness cases in which*
4 *a presentation of constrained market pricing evidence is*
5 *impractical.*

6 **“§ 10502. Authority for rail carriers to establish rates,**
7 **classifications, rules, and practices**

8 *“A rail carrier providing transportation or service*
9 *subject to the jurisdiction of the Panel under this part shall*
10 *establish reasonable—*

11 *“(1) rates, including divisions of joint rates, and*
12 *classifications for transportation and service it may*
13 *provide under this part; and*

14 *“(2) rules and practices on matters related to*
15 *that transportation or service.*

16 **“§ 10503. Authority for rail carriers to establish**
17 **through routes**

18 *“Rail carriers providing transportation subject to the*
19 *jurisdiction of the Panel under this part shall establish*
20 *through routes with each other, shall establish rates and*
21 *classifications applicable to those routes, and shall establish*
22 *rules for their operation and provide—*

23 *“(1) reasonable facilities for operating the*
24 *through route; and*

1 “(2) reasonable compensation to persons entitled
2 to compensation for services related to the through
3 route.

4 **“§ 10504. Authority and criteria: rates, classifications,**
5 **rules, and practices prescribed by Panel**

6 “(a)(1) When the Panel, after a full hearing, decides
7 that a rate charged or collected by a rail carrier for trans-
8 portation subject to the jurisdiction of the Panel under this
9 part, or that a classification, rule, or practice of that car-
10 rier does or will violate this part, the Panel may prescribe
11 the maximum rate, classification, rule, or practice to be fol-
12 lowed. The Panel may order the carrier to stop the viola-
13 tion. When a rate, classification, rule, or practice is pre-
14 scribed under this subsection, the affected carrier may not
15 publish, charge, or collect a different rate and shall adopt
16 the classification and observe the rule or practice prescribed
17 by the Panel.

18 “(2) The Panel shall maintain and revise as necessary
19 standards and procedures for establishing revenue levels for
20 rail carriers providing transportation subject to its juris-
21 diction under this part that are adequate, under honest, eco-
22 nomical, and efficient management, to cover total operating
23 expenses, including depreciation and obsolescence, plus a
24 reasonable and economic profit or return (or both) on cap-
25 ital employed in the business. The Panel shall make an ade-

1 *quate and continuing effort to assist those carriers in at-*
2 *taining revenue levels prescribed under this paragraph.*

3 *Revenue levels established under this paragraph should—*

4 “(A) *provide a flow of net income plus deprecia-*
5 *tion adequate to support prudent capital outlays, as-*
6 *sure the repayment of a reasonable level of debt, per-*
7 *mit the raising of needed equity capital, and cover the*
8 *effects of inflation; and*

9 “(B) *attract and retain capital in amounts ade-*
10 *quate to provide a sound transportation system in the*
11 *United States.*

12 “(3) *On the basis of the standards and procedures de-*
13 *scribed in paragraph (2), the Panel shall annually deter-*
14 *mine which rail carriers are earning adequate revenues.*

15 “(b) *The Panel may begin a proceeding under this sec-*
16 *tion on its own initiative or on complaint. A complaint*
17 *under subsection (a) of this section must be made under*
18 *section 11501 of this title, but the proceeding may also be*
19 *in extension of a complaint pending before the Panel.*

20 **“§ 10505. Authority: through routes, joint classifica-**
21 **tions, rates, and divisions prescribed by**
22 **Panel**

23 “(a)(1) *The Panel may, and shall when it considers*
24 *it desirable in the public interest, prescribe through routes,*
25 *joint classifications, joint rates, the division of joint rates,*

1 *and the conditions under which those routes must be oper-*
2 *ated, for a rail carrier providing transportation subject to*
3 *the jurisdiction of the Panel under this part.*

4 “(2) *The Panel may require a rail carrier to include*
5 *in a through route substantially less than the entire length*
6 *of its railroad and any intermediate railroad operated with*
7 *it under common management or control if that intermedi-*
8 *ate railroad lies between the terminals of the through route*
9 *only when—*

10 “(A) *required under sections 10541, 10542, or*
11 *11101 of this title;*

12 “(B) *inclusion of those lines would make the*
13 *through route unreasonably long when compared with*
14 *a practicable alternative through route that could be*
15 *established; or*

16 “(C) *the Panel decides that the proposed through*
17 *route is needed to provide adequate, and more effi-*
18 *cient or economic, transportation.*

19 *The Panel shall give reasonable preference, subject to this*
20 *subsection, to the rail carrier originating the traffic when*
21 *prescribing through routes.*

22 “(b) *The Panel shall prescribe the division of joint*
23 *rates to be received by a rail carrier providing transpor-*
24 *tation subject to its jurisdiction under this part when it*
25 *decides that a division of joint rates established by the par-*

1 *ticipating carriers under section 10503 of this title, or*
2 *under a decision of the Panel under subsection (a) of this*
3 *section, does or will violate section 10501 of this title.*

4 “(c) *If a division of a joint rate prescribed under a*
5 *decision of the Panel is later found to violate section 10501*
6 *of this title, the Panel may decide what division would have*
7 *been reasonable and order adjustment to be made retro-*
8 *active to the date the complaint was filed, the date the order*
9 *for an investigation was made, or a later date that the*
10 *Panel decides is justified. The Panel may make a decision*
11 *under this subsection effective as part of its original deci-*
12 *sion.*

13 **“§ 10506. Rate agreements: exemption from antitrust**
14 **laws**

15 “(a)(1) *In this subsection—*

16 “(A) *the term ‘affiliate’ means a person control-*
17 *ling, controlled by, or under common control or own-*
18 *ership with another person and ‘ownership’ refers to*
19 *equity holdings in a business entity of at least 5 per-*
20 *cent;*

21 “(B) *the term ‘single-line rate’ refers to a rate or*
22 *allowance proposed by a single rail carrier that is ap-*
23 *plicable only over its line and for which the transpor-*
24 *tation (exclusive of terminal services by switching,*

1 *drayage or other terminal carriers or agencies) can be*
2 *provided by that carrier; and*

3 *“(C) the term ‘practicably participates in the*
4 *movement’ shall have such meaning as the Panel shall*
5 *by regulation prescribe.*

6 *“(2)(A) A rail carrier providing transportation subject*
7 *to the jurisdiction of the Panel under this part that is a*
8 *party to an agreement of at least 2 rail carriers that relates*
9 *to rates (including charges between rail carriers and com-*
10 *ensation paid or received for the use of facilities and*
11 *equipment), classifications, divisions, or rules related to*
12 *them, or procedures for joint consideration, initiation, pub-*
13 *lication, or establishment of them, shall apply to the Panel*
14 *for approval of that agreement under this subsection. The*
15 *Panel shall approve the agreement only when it finds that*
16 *the making and carrying out of the agreement will further*
17 *the transportation policy of section 10101 of this title and*
18 *may require compliance with conditions necessary to make*
19 *the agreement further that policy as a condition of its ap-*
20 *proval. If the Panel approves the agreement, it may be made*
21 *and carried out under its terms and under the conditions*
22 *required by the Panel, and the Sherman Act (15 U.S.C.*
23 *1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Fed-*
24 *eral Trade Commission Act (15 U.S.C. 41, et seq.), sections*
25 *73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9),*

1 *and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a)*
2 *do not apply to parties and other persons with respect to*
3 *making or carrying out the agreement. However, the Panel*
4 *may not approve or continue approval of an agreement*
5 *when the conditions required by it are not met or if it does*
6 *not receive a verified statement under subparagraph (B) of*
7 *this paragraph.*

8 “(B) *The Panel may approve an agreement under sub-*
9 *paragraph (A) of this paragraph only when the rail car-*
10 *riers applying for approval file a verified statement with*
11 *the Panel. Each statement must specify for each rail carrier*
12 *that is a party to the agreement—*

13 “(i) *the name of the carrier;*

14 “(ii) *the mailing address and telephone number*
15 *of its headquarter’s office; and*

16 “(iii) *the names of each of its affiliates and the*
17 *names, addresses, and affiliates of each of its officers*
18 *and directors and of each person, together with an af-*
19 *filiate, owning or controlling any debt, equity, or se-*
20 *curity interest in it having a value of at least*
21 *\$1,000,000.*

22 “(3)(A) *An organization established or continued*
23 *under an agreement approved under this subsection shall*
24 *make a final disposition of a rule or rate docketed with*

1 *it by the 120th day after the proposal is docketed. Such*
2 *an organization may not—*

3 “(i) *permit a rail carrier to discuss, to partici-*
4 *pate in agreements related to, or to vote on single-line*
5 *rates proposed by another rail carrier, except that for*
6 *purposes of general rate increases and broad changes*
7 *in rates, classifications, rules, and practices only, if*
8 *the Panel finds at any time that the implementation*
9 *of this clause is not feasible, it may delay or suspend*
10 *such implementation in whole or in part;*

11 “(ii) *permit a rail carrier to discuss, to partici-*
12 *pate in agreements related to, or to vote on rates re-*
13 *lated to a particular interline movement unless that*
14 *rail carrier practicably participates in the movement;*
15 *or*

16 “(iii) *if there are interline movements over two*
17 *or more routes between the same end points, permit*
18 *a carrier to discuss, to participate in agreements re-*
19 *lated to, or to vote on rates except with a carrier*
20 *which forms part of a particular single route. If the*
21 *Panel finds at any time that the implementation of*
22 *this clause is not feasible, it may delay or suspend*
23 *such implementation in whole or in part.*

24 “(B)(i) *In any proceeding in which a party alleges*
25 *that a rail carrier voted or agreed on a rate or allowance*

1 *in violation of this subsection, that party has the burden*
2 *of showing that the vote or agreement occurred. A showing*
3 *of parallel behavior does not satisfy that burden by itself.*

4 “(ii) *In any proceeding in which it is alleged that a*
5 *carrier was a party to an agreement, conspiracy, or com-*
6 *bination in violation of a Federal law cited in subsection*
7 *(a)(2)(A) of this section or of any similar State law, proof*
8 *of an agreement, conspiracy, or combination may not be*
9 *inferred from evidence that two or more rail carriers acted*
10 *together with respect to an interline rate or related matter*
11 *and that a party to such action took similar action with*
12 *respect to a rate or related matter on another route or traf-*
13 *fic. In any proceeding in which such a violation is alleged,*
14 *evidence of a discussion or agreement between or among*
15 *such rail carrier and one or more other rail carriers, or*
16 *of any rate or other action resulting from such discussion*
17 *or agreement, shall not be admissible if the discussion or*
18 *agreement—*

19 “(I) *was in accordance with an agreement ap-*
20 *proved under paragraph (2) of this subsection; or*

21 “(II) *concerned an interline movement of the rail*
22 *carrier, and the discussion or agreement would not,*
23 *considered by itself, violate the laws referred to in the*
24 *first sentence of this clause.*

1 *In any proceeding before a jury, the court shall determine*
2 *whether the requirements of subclause (I) or (II) are satis-*
3 *fied before allowing the introduction of any such evidence.*

4 “(C) *An organization described in subparagraph (A)*
5 *of this paragraph shall provide that transcripts or sound*
6 *recordings be made of all meetings, that records of votes be*
7 *made, and that such transcripts or recordings and voting*
8 *records be submitted to the Panel and made available to*
9 *other Federal agencies in connection with their statutory*
10 *responsibilities over rate bureaus, except that such material*
11 *shall be kept confidential and shall not be subject to disclo-*
12 *sure under section 552 of title 5, United States Code.*

13 “(4) *Notwithstanding any other provision of this sub-*
14 *section, one or more rail carriers may enter into an agree-*
15 *ment, without obtaining prior Panel approval, that pro-*
16 *vides solely for compilation, publication, and other dis-*
17 *tribution of rates in effect or to become effective. The Sher-*
18 *man Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C.*
19 *12 et seq.), the Federal Trade Commission Act (15 U.S.C.*
20 *41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15*
21 *U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C.*
22 *13, 13a, 13b, 21a) shall not apply to parties and other per-*
23 *sons with respect to making or carrying out such agreement.*
24 *However, the Panel may, upon application or on its own*
25 *initiative, investigate whether the parties to such an agree-*

1 *ment have exceeded its scope, and upon a finding that they*
2 *have, the Panel may issue such orders as are necessary, in-*
3 *cluding an order dissolving the agreement, to ensure that*
4 *actions taken pursuant to the agreement are limited as pro-*
5 *vided in this paragraph.*

6 “(5)(A) *Whenever two or more shippers enter into an*
7 *agreement to discuss among themselves that relates to the*
8 *amount of compensation such shippers propose to be paid*
9 *by rail carriers providing transportation subject to the ju-*
10 *risdiction of the Panel under this part, for use by such rail*
11 *carriers of rolling stock owned or leased by such shippers,*
12 *the shippers shall apply to the Panel for approval of that*
13 *agreement under this paragraph. The Panel shall approve*
14 *the agreement only when it finds that the making and car-*
15 *rying out of the agreement will further the transportation*
16 *policy set forth in section 10101 of this title and may re-*
17 *quire compliance with conditions necessary to make the*
18 *agreement further that policy as a condition of approval.*
19 *If the Panel approves the agreement, it may be made and*
20 *carried out under its terms and under the terms required*
21 *by the Panel, and the antitrust laws set forth in paragraph*
22 *(2) of this subsection do not apply to parties and other per-*
23 *sons with respect to making or carrying out the agreement.*
24 *The Panel shall approve or disapprove an agreement under*

1 *this paragraph within one year after the date application*
2 *for approval of such agreement is made.*

3 “(B) *If the Panel approves an agreement described in*
4 *subparagraph (A) of this paragraph and the shippers enter-*
5 *ing into such agreement and the rail carriers proposing to*
6 *use rolling stock owned or leased by such shippers, under*
7 *payment by such carriers or under a published allowance,*
8 *are unable to agree upon the amount of compensation to*
9 *be paid for the use of such rolling stock, any party directly*
10 *involved in the negotiations may require that the matter*
11 *be settled by submitting the issues in dispute to the Panel.*
12 *The Panel shall render a binding decision, based upon a*
13 *standard of reasonableness and after taking into consider-*
14 *ation any past precedents on the subject matter of the nego-*
15 *tiations, no later than 90 days after the date of the submis-*
16 *sion of the dispute to the Panel.*

17 “(C) *Nothing in this paragraph shall be construed to*
18 *change the law in effect prior to the effective date of the*
19 *Staggers Rail Act of 1980 with respect to the obligation of*
20 *rail carriers to utilize rolling stock owned or leased by ship-*
21 *pers.*

22 “(b) *The Panel may require an organization estab-*
23 *lished or continued under an agreement approved under*
24 *this section to maintain records and submit reports. The*
25 *Panel may inspect a record maintained under this section.*

1 “(c) The Panel may review an agreement approved
2 under subsection (a) of this section and shall change the
3 conditions of approval or terminate it when necessary to
4 comply with the public interest and subsection (a). The
5 Panel shall postpone the effective date of a change of an
6 agreement under this subsection for whatever period it de-
7 termines to be reasonably necessary to avoid unreasonable
8 hardship.

9 “(d) The Panel may begin a proceeding under this sec-
10 tion on its own initiative or on application. Action of the
11 Panel under this section—

12 “(1) approving an agreement;

13 “(2) denying, ending, or changing approval;

14 “(3) prescribing the conditions on which ap-
15 proval is granted; or

16 “(4) changing those conditions,

17 has effect only as related to application of the antitrust laws
18 referred to in subsection (a) of this section.

19 “(e) The Panel shall review each agreement approved
20 under subsection (a) of this section periodically, but at least
21 once every 3 years—

22 “(1) to determine whether the agreement or an
23 organization established or continued under one of
24 those agreements still complies with the requirements
25 of that subsection and the public interest; and

1 “(2) to evaluate the success and effect of that
2 agreement or organization on the consuming public
3 and the national rail freight transportation system.

4 If the Panel finds that an agreement or organization does
5 not conform to the requirements of that subsection, it shall
6 end or suspend its approval.

7 “(f)(1) The Federal Trade Commission, in consulta-
8 tion with the Antitrust Division of the Department of Jus-
9 tice, shall prepare periodically an assessment of, and shall
10 report to the Panel on—

11 “(A) possible anticompetitive features of—

12 “(i) agreements approved or submitted for
13 approval under subsection (a) of this section;
14 and

15 “(ii) an organization operating under those
16 agreements; and

17 “(B) possible ways to alleviate or end an anti-
18 competitive feature, effect, or aspect in a manner that
19 will further the goals of this part and of the transpor-
20 tation policy of section 10101 of this title.

21 “(2) Reports received by the Panel under this sub-
22 section shall be published and made available to the public
23 under section 552(a) of title 5.

1 **“§ 10507. Determination of market dominance in rail**
2 **rate proceedings**

3 *“(a) In this section, ‘market dominance’ means an ab-*
4 *sence of effective competition from other rail carriers or*
5 *modes of transportation for the transportation to which a*
6 *rate applies.*

7 *“(b) When a rate for transportation by a rail carrier*
8 *providing transportation subject to the jurisdiction of the*
9 *Panel under this part is challenged as being unreasonably*
10 *high, the Panel shall determine, within 90 days after the*
11 *start of a proceeding, whether the rail carrier proposing the*
12 *rate has market dominance over the transportation to which*
13 *the rate applies. The Panel may make that determination*
14 *on its own initiative or on complaint. A finding by the*
15 *Panel that the rail carrier does not have market dominance*
16 *is determinative in a proceeding under this part related*
17 *to that rate or transportation unless changed or set aside*
18 *by the Panel or set aside by a court of competent jurisdic-*
19 *tion.*

20 *“(c) When the Panel finds in any proceeding that a*
21 *rail carrier proposing or defending a rate for transpor-*
22 *tation has market dominance over the transportation to*
23 *which the rate applies, it may then determine that rate to*
24 *be unreasonable if it exceeds a reasonable maximum for that*
25 *transportation. However, a finding of market dominance*

1 *does not establish a presumption that the proposed rate ex-*
2 *ceeds a reasonable maximum.*

3 “(d)(1)(A) *In making a determination under this sec-*
4 *tion, the Panel shall find that the rail carrier establishing*
5 *the challenged rate does not have market dominance over*
6 *the transportation to which the rate applies if such rail car-*
7 *rier proves that the rate charged results in a revenue-vari-*
8 *able cost percentage for such transportation that is less than*
9 *180 percent.*

10 “(B) *For purposes of this section, variable costs for a*
11 *Class I rail carrier shall be determined only by using such*
12 *carrier’s unadjusted costs, calculated using the Panel’s Rail*
13 *Form A cost finding methodology (or an alternative meth-*
14 *odology adopted by the Panel in lieu thereof) and indexed*
15 *quarterly to account for current wage and price levels in*
16 *the region in which the carrier operates, with adjustments*
17 *specified by the Panel. A rail carrier may meet its burden*
18 *of proof under this subsection by establishing its variable*
19 *costs in accordance with this paragraph, but a shipper may*
20 *rebut that showing by evidence of such type, and in accord-*
21 *ance with such burden of proof, as the Panel shall prescribe.*

22 “(2) *A finding by the Panel that a rate charged by*
23 *a rail carrier results in a revenue-variable cost percentage*
24 *for the transportation to which the rate applies that is equal*

1 *to or greater than 180 percent does not establish a presump-*
2 *tion that—*

3 “(A) *such rail carrier has or does not have mar-*
4 *ket dominance over such transportation; or*

5 “(B) *the proposed rate exceeds or does not exceed*
6 *a reasonable maximum.*

7 **“§ 10508. Inflation-based rate increases**

8 “(a) *The Panel may, on a quarterly basis and consist-*
9 *ent with the rail transportation policy set forth in section*
10 *10101 of this title, prescribe a percentage rate index for rail*
11 *carriers in order to compensate for inflationary cost in-*
12 *creases. Such percentage rate index may be applicable on*
13 *an industry-wide, territory-wide, or carrier-by-carrier*
14 *basis.*

15 “(b) *For purposes of this section, a percentage rate*
16 *index may permit rate increases within a specified range*
17 *to allow carriers to recover a total revenue increase specified*
18 *by the Panel as necessary to compensate for inflationary*
19 *cost increases.*

20 “(c) *The Panel shall, as often as practicable, but in*
21 *no event less often than quarterly, publish a rail cost adjust-*
22 *ment factor which shall be a fraction, the numerator of*
23 *which is the latest published Index of Railroad Costs (which*
24 *index shall be compiled or verified by the Panel, with ap-*
25 *propriate adjustments to reflect the changing composition*

1 *of railroad costs, including the quality and mix of material*
2 *and labor) and the denominator of which is the same index*
3 *for the fourth quarter of every fifth year.*

4 **“§ 10509. Contracts**

5 “(a) *One or more rail carriers providing transpor-*
6 *tation subject to the jurisdiction of the Panel under this*
7 *part may enter into a contract with one or more purchasers*
8 *of rail services to provide specified services under specified*
9 *rates and conditions.*

10 “(b) *A party to a contract entered into under this sec-*
11 *tion shall have no duty in connection with services provided*
12 *under such contract other than those duties specified by the*
13 *terms of the contract.*

14 “(c)(1) *A contract that is authorized by this section,*
15 *and transportation under such contract, shall not be subject*
16 *to this part, and may not be subsequently challenged before*
17 *the Panel or in any court on the grounds that such contract*
18 *violates a provision of this part.*

19 “(2) *The exclusive remedy for any alleged breach of*
20 *a contract entered into under this section shall be an action*
21 *in an appropriate State court or United States district*
22 *court, unless the parties otherwise agree.*

23 “(d) *Documents, papers, and records (and any copies*
24 *thereof) relating to a contract described in subsection (a)*

1 *shall not be subject to the mandatory disclosure require-*
2 *ments of section 552 of title 5.*

3 *“(e) Any lawful contract between a rail carrier and*
4 *one or more purchasers of rail service that was in effect*
5 *on the effective date of the Staggers Rail Act of 1980 shall*
6 *be considered a contract authorized by this section.*

7 *“SUBCHAPTER II—SPECIAL CIRCUMSTANCES*

8 ***“§ 10521. Government traffic***

9 *“A rail carrier providing transportation or service for*
10 *the United States Government may transport property for*
11 *the United States Government without charge or at a rate*
12 *reduced from the applicable commercial rate. Section 3709*
13 *of the Revised Statutes (41 U.S.C. 5) does not apply when*
14 *transportation for the United States Government can be ob-*
15 *tained from a rail carrier lawfully operating in the area*
16 *where the transportation would be provided.*

17 ***“§ 10522. Emergency rates***

18 *“(a) The Panel may authorize a rail carrier providing*
19 *transportation or service subject to its jurisdiction under*
20 *this part to give reduced rates for service and transpor-*
21 *tation of property to or from an area in the United States*
22 *to provide relief during emergencies. When the Panel takes*
23 *action under this subsection, it must—*

24 *“(1) define the area of the United States in*
25 *which the reduced rates will apply;*

1 part may not subject a person, place, port, or type of traffic
2 to unreasonable discrimination.

3 “(2) For purposes of this section, a rail carrier engages
4 in unreasonable discrimination when it charges or receives
5 from a person a different compensation for a service ren-
6 dered, or to be rendered, in transportation the rail carrier
7 may perform under this part than it charges or receives
8 from another person for performing a like and contempora-
9 neous service in the transportation of a like kind of traffic
10 under substantially similar circumstances.

11 “(b) This section shall not apply to—

12 “(1) contracts described in section 10509 of this
13 title;

14 “(2) rail rates applicable to different routes; or

15 “(3) discrimination against the traffic of another
16 carrier providing transportation by any mode.

17 “(c) Differences between rates, classifications, rules,
18 and practices of rail carriers do not constitute a violation
19 of this section if such differences result from different serv-
20 ices provided by rail carriers.

21 **“§ 10542. Facilities for interchange of traffic**

22 “A rail carrier providing transportation subject to the
23 jurisdiction of the Panel under this part shall provide rea-
24 sonable, proper, and equal facilities that are within its
25 power to provide for the interchange of traffic between, and

1 *for the receiving, forwarding, and delivering of passengers*
2 *and property to and from, its respective line and a connect-*
3 *ing line of another rail carrier.*

4 **“§ 10543. Continuous carriage of freight**

5 *“A rail carrier providing transportation or service*
6 *subject to the jurisdiction of the Panel under this part may*
7 *not enter a combination or arrangement to prevent the car-*
8 *riage of freight from being continuous from the place of*
9 *shipment to the place of destination whether by change of*
10 *time schedule, carriage in different cars, or by other means.*
11 *The carriage of freight by those rail carriers is considered*
12 *to be a continuous carriage from the place of shipment to*
13 *the place of destination when a break of bulk, stoppage, or*
14 *interruption is not made in good faith for a necessary pur-*
15 *pose, and with the intent of avoiding or unnecessarily inter-*
16 *rupting the continuous carriage or of evading this part.*

17 **“§ 10544. Transportation services or facilities fur-**
18 **nished by shipper**

19 *“A rail carrier providing transportation or service*
20 *subject to the jurisdiction of the Panel under this part may*
21 *publish a charge or allowance for transportation or service*
22 *for property when the owner of the property, directly or*
23 *indirectly, furnishes a service related to or an instrumental-*
24 *ity used in the transportation or service. The Panel may*
25 *prescribe the maximum reasonable charge or allowance a*

1 rail carrier subject to its jurisdiction may pay for a service
2 or instrumentality furnished under this section. The Panel
3 may begin a proceeding under this section on its own ini-
4 tiative or on application.

5 **“§ 10545. Demurrage charges**

6 “A rail carrier providing transportation subject to the
7 jurisdiction of the Panel under this part shall compute de-
8 murrage charges, and establish rules related to those
9 charges, in a way that fulfills the national needs related
10 to—

11 “(1) freight car use and distribution; and

12 “(2) maintenance of an adequate supply of
13 freight cars to be available for transportation of prop-
14 erty.

15 **“§ 10546. Designation of certain routes by shippers**

16 “(a)(1) When a person delivers property to a rail car-
17 rier for transportation subject to the jurisdiction of the
18 Panel under this part, the person may direct the rail car-
19 rier to transport the property over an established through
20 route. When competing rail lines constitute a part of the
21 route, the person shipping the property may designate the
22 lines over which the property will be transported. The des-
23 ignation must be in writing. A rail carrier may be directed
24 to transport property over a particular through route
25 when—

1 “(A) there are at least 2 through routes over
2 which the property could be transported;

3 “(B) a through rate has been established for
4 transportation over each of those through routes; and

5 “(C) the rail carrier is a party to those routes
6 and rates.

7 “(2) A rail carrier directed to route property trans-
8 ported under paragraph (1) of this subsection must issue
9 a through bill of lading containing the routing instructions
10 and transport the property according to the instructions.
11 When the property is delivered to a connecting rail carrier,
12 that rail carrier must also receive and transport it accord-
13 ing to the routing instructions and deliver it to the next
14 succeeding rail carrier or consignee according to the in-
15 structions.

16 “(b) The Panel may prescribe exceptions to the author-
17 ity of a person to direct the movement of traffic under sub-
18 section (a) of this section.

19 **“CHAPTER 107—LICENSING**

“Sec.

“10701. Authorizing construction and operation of railroad lines.

“10702. Finance and construction transactions by Class II and Class III rail car-
riers and noncarriers.

“10703. Filing and procedure for notice of intent to abandon or discontinue.

“10704. Offers to purchase to avoid abandonment and discontinuance.

“10705. Offering abandoned rail properties for sale for public purposes.

“10706. Exception.

1 **“§ 10701. Authorizing construction and operation of**
2 **railroad lines**

3 “(a) A rail carrier providing transportation subject to
4 the jurisdiction of the Panel under this part may—

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

7 “(2) construct an additional railroad line;

8 “(3) acquire or operate an extended or addi-
9 tional railroad line; or

10 “(4) provide transportation over, or by means of,
11 an extended or additional railroad line;

12 only if the Panel issues a certificate authorizing such activ-
13 ity under subsection (c).

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

18 “(c) The Panel shall issue a certificate authorizing ac-
19 tivities for which such authority is requested in an applica-
20 tion filed under subsection (b) unless the Panel finds that
21 such activities are inconsistent with the public convenience
22 and necessity. Such certificate may approve the application
23 as filed, or with modifications, and may require compliance
24 with conditions the Panel finds necessary in the public in-
25 terest.

1 “(d)(1) When a certificate has been issued by the Panel
2 under this section or section 10702 authorizing the con-
3 struction or extension of a railroad line, no other rail car-
4 rier may block any construction or extension authorized by
5 such certificate by refusing to permit the carrier to cross
6 its property if—

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

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

11 “(C) the owner of the crossing line compensates
12 the owner of the crossed line.

13 “(2) If the parties are unable to agree on the terms
14 of operation or the amount of payment for purposes of
15 paragraph (1) of this subsection, either party may submit
16 the matters in dispute to the Panel for determination. The
17 Panel shall make a determination under this paragraph
18 within 90 days after the dispute is submitted for determina-
19 tion.

20 “(e) The Panel may require any rail carrier proposing
21 both to construct and operate a new railroad line pursuant
22 to this section to provide a fair and equitable arrangement
23 for the protection of the interests of railroad employees who
24 may be affected thereby no less protective of and beneficial

1 *to the interests of such employees than those established pur-*
2 *suant to section 11126 of this title.*

3 *“(f) Subsections (a), (b), (c), and (e) of this section*
4 *shall only apply to Class I rail carriers.*

5 **“§ 10702. Finance and construction transactions by**
6 **Class II and Class III rail carriers and**
7 **noncarriers**

8 *“(a)(1) A Class II or Class III (as defined by the*
9 *Panel) rail carrier providing transportation subject to the*
10 *jurisdiction of the Panel under this part, or a noncarrier,*
11 *may—*

12 *“(A) construct an extension of any of its rail-*
13 *road lines;*

14 *“(B) construct an additional railroad line; or*

15 *“(C) acquire or operate a railroad line,*

16 *only if the Panel issues a certificate authorizing such activ-*
17 *ity under subsection (c).*

18 *“(2) A certificate issued by the Panel under subsection*
19 *(c) shall also be required for—*

20 *“(A) a Class II or Class III rail carrier provid-*
21 *ing transportation subject to the jurisdiction of the*
22 *Panel under this part, or a noncarrier to provide*
23 *transportation over, or by means of, a railroad line*
24 *by trackage rights, lease, or joint ownership or joint*

1 *use of the railroad line (and terminals incidental*
2 *thereto);*

3 *“(B) a consolidation or merger of the properties*
4 *or franchises of at least 2 Class II or Class III rail*
5 *carriers into one corporation for the ownership, man-*
6 *agement, and operation of the previously separately*
7 *owned properties;*

8 *“(C) the acquisition of control of a Class II or*
9 *Class III rail carrier by one or more Class II or Class*
10 *III rail carriers;*

11 *“(D) the acquisition of control of at least 2 Class*
12 *II or Class III rail carriers by a person that is not*
13 *a rail carrier; and*

14 *“(E) the acquisition of control of a Class II or*
15 *Class III rail carrier by a person that is not a rail*
16 *carrier but that controls at least one Class II or Class*
17 *III rail carrier.*

18 *“(b) A proceeding to grant authority under subsection*
19 *(a) begins when an application is filed. On receiving the*
20 *application, the Panel shall give reasonable public notice*
21 *of the beginning of such proceeding.*

22 *“(c) The Panel shall issue a certificate authorizing ac-*
23 *tivities for which such authority is requested in an applica-*
24 *tion filed under subsection (b) unless the Panel finds that*

1 *such activities are inconsistent with the public convenience*
2 *and necessity because—*

3 “(1) *as a result of the transaction, there is likely*
4 *to be substantial lessening of competition, creation of*
5 *a monopoly, or restraint of trade in freight surface*
6 *transportation in any region of the United States;*
7 *and*

8 “(2) *the anticompetitive effects of the transaction*
9 *outweigh the public interest in meeting significant*
10 *transportation needs.*

11 *Such certificate may approve the application as filed, or*
12 *with modifications, and may require compliance with con-*
13 *ditions the Panel finds necessary in the public interest.*

14 “(d) *When a person is involved in a transaction for*
15 *which approval is sought under this section, the Panel shall*
16 *require such person to protect the interest of affected em-*
17 *ployees to an extent equal to the protection required under*
18 *sections 2 through 5 of the Worker Adjustment and Retraining*
19 *Notification Act (29 U.S.C. 2101–2104).*

20 “(e) *The authority of the Panel over transactions de-*
21 *scribed in subsection (a)(2) is exclusive. A rail carrier or*
22 *corporation participating in or resulting from such a trans-*
23 *action may carry out the transaction, own and operate*
24 *property, and exercise control or franchises acquired*
25 *through the transaction without the approval of a State au-*

1 *thority. A rail carrier, corporation, or person participating*
2 *in that transaction is exempt from the antitrust laws and*
3 *from all other law, including State and municipal law, as*
4 *necessary to let that rail carrier, corporation, or person*
5 *carry out the transaction, hold, maintain, and operate*
6 *property and exercise control or franchises acquired through*
7 *the transaction.*

8 ***“§ 10703. Filing and procedure for notice of intent to***
9 ***abandon or discontinue***

10 *“(a)(1) A rail carrier providing transportation subject*
11 *to the jurisdiction of the Panel under this part who intends*
12 *to—*

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

14 *“(B) discontinue the operation of all rail trans-*
15 *portation over any part of its railroad lines,*

16 *must file a notice of intent relating thereto with the Panel.*

17 *An abandonment or discontinuance may be carried out*
18 *only as authorized under this chapter.*

19 *“(2) When a rail carrier providing transportation sub-*
20 *ject to the jurisdiction of the Panel under this part files*
21 *a notice of intent, the notice shall include—*

22 *“(A) an accurate and understandable summary*
23 *of the rail carrier’s reasons for the proposed abandon-*
24 *ment or discontinuance;*

1 “(B) a statement indicating that each interested
2 person is entitled to make recommendations to the
3 Panel on the future of the rail line; and

4 “(C)(i) a statement that the line is available for
5 sale in accordance with section 10704 of this title, (ii)
6 a statement that the rail carrier will promptly pro-
7 vide to each interested party an estimate of the mini-
8 mum purchase price, calculated in accordance with
9 section 10704 of this title and (iii) the name and
10 business address of the person who is authorized to
11 discuss sale terms for the rail carrier.

12 “(3) The rail carrier shall—

13 “(A) send by certified mail a copy of the notice
14 of intent to the chief executive officer of each State
15 that would be directly affected by the proposed aban-
16 donment or discontinuance;

17 “(B) post a copy of the notice in each terminal
18 and station on each portion of a railroad line pro-
19 posed to be abandoned or over which all transpor-
20 tation is to be discontinued;

21 “(C) publish a copy of the notice for 3 consecu-
22 tive weeks in a newspaper of general circulation in
23 each county in which each such portion is located;

24 “(D) mail a copy of the notice, to the extent
25 practicable, to all shippers that have made significant

1 *use (as designated by the Panel) of the railroad line*
2 *during the 12 months preceding the filing of the no-*
3 *tice of intent; and*

4 *“(E) attach to the notice filed with the Panel an*
5 *affidavit certifying the manner in which subpara-*
6 *graphs (A) through (D) of this paragraph have been*
7 *satisfied, and certifying that subparagraphs (A)*
8 *through (D) have been satisfied within the most recent*
9 *30 days prior to the date the notice of intent is filed.*

10 *“(b)(1) Except as provided in paragraph (2) or sub-*
11 *section (d), abandonment and discontinuance may occur as*
12 *provided in section 10704.*

13 *“(2) If, after considering the scope of an abandonment*
14 *or discontinuance proposed in a notice of intent filed under*
15 *this section, the Panel considers it necessary, to improve*
16 *the viability of the lines included within the proposed aban-*
17 *donment or discontinuance for possible sale or transfer and*
18 *continued operation, and to enhance competitive alter-*
19 *natives in the event of such sale or transfer, the Panel may*
20 *require the filing of a new notice of intent which enlarges*
21 *the scope of the proposed abandonment or discontinuance*
22 *or provides for appropriate trackage rights.*

23 *“(3) The Panel shall require as a condition of any*
24 *abandonment or discontinuance under this section provi-*
25 *sions to protect the interests of employees. The provisions*

1 *shall be at least as beneficial to those interests as the provi-*
2 *sions established under sections 11126 and 24706(c) of this*
3 *title.*

4 “(c)(1) *In this subsection, the term ‘potentially subject*
5 *to abandonment’ has the meaning given the term in regula-*
6 *tions of the Panel. The regulations may include standards*
7 *that vary by region of the United States and by railroad*
8 *or group of railroads.*

9 “(2) *Each rail carrier shall maintain a complete dia-*
10 *gram of the transportation system operated, directly or in-*
11 *directly, by the rail carrier. The rail carrier shall submit*
12 *to the Panel and publish amendments to its diagram that*
13 *are necessary to maintain the accuracy of the diagram. The*
14 *diagram shall—*

15 “(A) *include a detailed description of each of its*
16 *railroad lines potentially subject to abandonment;*
17 *and*

18 “(B) *identify each railroad line for which the*
19 *rail carrier plans to file a notice of intent to abandon*
20 *or discontinue under subsection (a) of this section.*

21 “(d) *The Panel may disapprove a proposed abandon-*
22 *ment or discontinuance if the Panel finds it inconsistent*
23 *with the public convenience and necessity.*

1 **“§ 10704. Offers to purchase to avoid abandonment**
2 **and discontinuance**

3 *“(a) Any rail carrier which has filed a notice of intent*
4 *to abandon or discontinue shall provide promptly to a*
5 *party considering an offer to purchase and shall provide*
6 *concurrently to the Panel—*

7 *“(1) a statement of the minimum purchase price*
8 *required;*

9 *“(2) its most recent reports on the physical con-*
10 *dition of that part of the railroad line involved in the*
11 *proposed abandonment or discontinuance;*

12 *“(3) traffic, revenue, and other data necessary to*
13 *determine the commercial potential of the railroad*
14 *line; and*

15 *“(4) any other information that the Panel con-*
16 *siders necessary to allow a potential offeror to cal-*
17 *culate an adequate purchase offer.*

18 *“(b) Within 6 months after a notice of intent is filed*
19 *under section 10703, any person may offer to purchase the*
20 *railroad line that is the subject of such notice of intent.*
21 *Such offer shall be filed concurrently with the Panel. If the*
22 *offer to purchase is less than the minimum purchase price*
23 *stated pursuant to subsection (a)(1), the offer shall explain*
24 *the basis of the disparity, and the manner in which the*
25 *offer is calculated.*

1 “(c)(1) Unless the Panel, within 15 days after the expi-
2 ration of the 6-month period described in subsection (b),
3 finds that one or more financially responsible persons (in-
4 cluding a governmental authority) have offered to purchase
5 that part of the railroad line to be abandoned or over which
6 all rail transportation is to be discontinued, abandonment
7 or discontinuance may be carried out in accordance with
8 section 10703.

9 “(2) If the Panel finds that such an offer or offers to
10 purchase have been made within such period, abandonment
11 or discontinuance shall be postponed until—

12 “(A) the carrier and a financially responsible
13 person have reached agreement on a transaction for
14 sale of the line; or

15 “(B) the conditions and amount of compensation
16 are established under subsection (e).

17 “(d) Except as provided in subsection (e)(3), if the rail
18 carrier and a financially responsible person (including a
19 governmental authority) fail to agree on the amount or
20 terms of the purchase, either party may, within 30 days
21 after the offer is made, request that the Panel establish the
22 conditions and amount of compensation.

23 “(e)(1) Whenever the Panel is requested to establish the
24 conditions and amount of compensation under this sec-
25 tion—

1 “(A) the Panel shall render its decision within
2 30 days;

3 “(B) the Panel shall determine the price and
4 other terms of sale, except that in no case shall the
5 Panel set a price which is below the fair market value
6 of the line (including, unless otherwise mutually
7 agreed, all facilities on the line or portion necessary
8 to provide effective transportation services).

9 “(2) The decision of the Panel shall be binding on both
10 parties, except that the person who has offered to purchase
11 the line may withdraw his offer within 10 days of the Pan-
12 el’s decision. In such a case, the abandonment or dis-
13 continuance may be carried out immediately, unless other
14 offers are being considered pursuant to paragraph (3) of
15 this subsection.

16 “(3) If a rail carrier receives more than one offer to
17 purchase, it shall select the offeror with whom it wishes to
18 transact business, and complete the sale agreement, or re-
19 quest that the Panel establish the conditions and amount
20 of compensation before the 40th day after the expiration of
21 the 6-month period described in subsection (b). If no agree-
22 ment on sale is reached within such 40-day period and the
23 Panel has not been requested to establish the conditions and
24 amount of compensation, any other offeror whose offer was
25 made within the 6-month period described in subsection (b)

1 *abandonment or discontinuance are appropriate for use for*
 2 *public purposes, including highways, other forms of mass*
 3 *transportation, conservation, energy production or trans-*
 4 *mission, or recreation. If the Panel finds that the rail prop-*
 5 *erties proposed to be abandoned are appropriate for public*
 6 *purposes and not required for continued rail operations, the*
 7 *properties may be sold, leased, exchanged, or otherwise dis-*
 8 *posed of only under conditions provided in the order of the*
 9 *Panel. The conditions may include a prohibition on any*
 10 *such disposal for a period of not more than 180 days after*
 11 *the effective date of the order, unless the properties have first*
 12 *been offered, on reasonable terms, for sale for public pur-*
 13 *poses.*

14 **“§ 10706. Exception**

15 *“Notwithstanding section 10701 and subchapter II of*
 16 *chapter 111 of this title, and without the approval of the*
 17 *Panel, a rail carrier providing transportation subject to the*
 18 *jurisdiction of the Panel under this part may enter into*
 19 *arrangements for the joint ownership or joint use of spur,*
 20 *industrial, team, switching, or side tracks.*

21 **“CHAPTER 109—OPERATIONS**

“SUBCHAPTER I—GENERAL REQUIREMENTS

“Sec.

“10901. Providing transportation, service, and rates.

“10902. Use of terminal facilities.

“10903. Switch connections and tracks.

“SUBCHAPTER II—CAR SERVICE

“10921. Criteria.

“10922. Compensation and practice.

“10923. Rerouting traffic on failure of rail carrier to serve the public.

“10924. War emergencies; embargoes imposed by carriers.

“SUBCHAPTER III—REPORTS AND RECORDS

“10941. Definitions.

“10942. Uniform accounting system.

“10943. Depreciation charges.

“10944. Records: form; inspection; preservation.

“10945. Reports by rail carriers, lessors, and associations.

“SUBCHAPTER IV—RAILROAD COST ACCOUNTING

“10961. Implementation of cost accounting principles.

“10962. Rail carrier cost accounting system.

“10963. Cost availability.

“10964. Accounting and cost reporting.

1 *“SUBCHAPTER I—GENERAL REQUIREMENTS*

2 ***“§ 10901. Providing transportation, service, and rates***

3 *“(a) A rail carrier providing transportation or service*
 4 *subject to the jurisdiction of the Panel under this part shall*
 5 *provide the transportation or service on reasonable request.*

6 *A rail carrier shall not be found to have violated this section*
 7 *because it fulfills its reasonable commitments under con-*
 8 *tracts authorized under section 10509 of this title before re-*
 9 *sponding to reasonable requests for service.*

10 *“(b) A rail carrier shall also provide to any person,*
 11 *on request, rates and other service terms. The response by*
 12 *a rail carrier to a request for rates and other service terms*
 13 *shall be—*

14 *“(1) in writing and forwarded to the requesting*
 15 *person promptly after receipt of the request; or*

16 *“(2) promptly made available in electronic form.*

1 “(c) A rail carrier may not increase any common car-
2 rier rates or change any common carrier service terms un-
3 less written notice is provided in accordance with subsection
4 (d) to—

5 “(1) any person who has requested such rates or
6 terms under subsection (b); and

7 “(2) any person who has made arrangements
8 with the carrier for a shipment that would be subject
9 to such increased rates or changed terms.

10 “(d) The Panel shall, by regulation, establish rules to
11 implement this section, including appropriate periods of
12 notice.

13 **“§ 10902. Use of terminal facilities**

14 “(a) The Panel may require terminal facilities, includ-
15 ing main-line tracks for a reasonable distance outside of
16 a terminal, owned by a rail carrier providing transpor-
17 tation subject to the jurisdiction of the Panel under this
18 part, to be used by another rail carrier if the Panel finds
19 that use to be practicable and in the public interest without
20 substantially impairing the ability of the rail carrier own-
21 ing the facilities or entitled to use the facilities to handle
22 its own business. The rail carriers are responsible for estab-
23 lishing the conditions and compensation for use of the fa-
24 cilities. However, if the rail carriers cannot agree, the Panel
25 may establish conditions and compensation for use of the

1 *facilities under the principle controlling compensation in*
2 *condemnation proceedings. The compensation shall be paid*
3 *or adequately secured before a rail carrier may begin to*
4 *use the facilities of another rail carrier under this section.*

5 “(b) *A rail carrier whose terminal facilities are re-*
6 *quired to be used by another rail carrier under this section*
7 *is entitled to recover damages from the other rail carrier*
8 *for injuries sustained as the result of compliance with the*
9 *requirement or for compensation for the use, or both as ap-*
10 *propriate, in a civil action, if it is not satisfied with the*
11 *conditions for use of the facilities or if the amount of the*
12 *compensation is not paid promptly.*

13 “(c)(1) *The Panel may require rail carriers to enter*
14 *into reciprocal switching agreements, where it finds such*
15 *agreements to be practicable and in the public interest, or*
16 *where such agreements are necessary to provide competitive*
17 *rail service. The rail carriers entering into such an agree-*
18 *ment shall establish the conditions and compensation appli-*
19 *cable to such agreement, but, if the rail carriers cannot*
20 *agree upon such conditions and compensation within a rea-*
21 *sonable period of time, the Panel may establish such condi-*
22 *tions and compensation.*

23 “(2) *The Panel may require reciprocal switching*
24 *agreements entered into by rail carriers pursuant to this*

1 subsection to contain provisions for the protection of the in-
2 terests of employees affected thereby.

3 “(d) The Panel shall complete any proceeding under
4 subsection (a) or (b) within 180 days after the filing of the
5 request for relief.

6 **“§ 10903. Switch connections and tracks**

7 “(a) On application of the owner of a lateral branch
8 line of railroad, or of a shipper tendering interstate traffic
9 for transportation, a rail carrier providing transportation
10 subject to the jurisdiction of the Panel under this part shall
11 construct, maintain, and operate, on reasonable conditions,
12 a switch connection to connect that branch line or private
13 side track with its railroad and shall furnish cars to move
14 that traffic to the best of its ability without discrimination
15 in favor of or against the shipper when the connection—

16 “(1) is reasonably practicable;

17 “(2) can be made safely; and

18 “(3) will furnish sufficient business to justify its
19 construction and maintenance.

20 “(b) If a rail carrier fails to install and operate a
21 switch connection after application is made under sub-
22 section (a) of this section, the owner of the lateral branch
23 line of railroad or the shipper may file a complaint with
24 the Panel under section 11501 of this title. The Panel shall
25 investigate the complaint and decide the safety, practicabil-

1 *ity, justification, and compensation to be paid for the con-*
2 *nection. The Panel may direct the rail carrier to comply*
3 *with subsection (a) of this section only after a full hearing.*

4 *“SUBCHAPTER II—CAR SERVICE*

5 ***“§ 10921. Criteria***

6 *“(a)(1) A rail carrier providing transportation subject*
7 *to the jurisdiction of the Panel under this part shall furnish*
8 *safe and adequate car service and establish, observe, and*
9 *enforce reasonable rules and practices on car service. The*
10 *Panel may require a rail carrier to provide facilities and*
11 *equipment that are reasonably necessary to furnish safe and*
12 *adequate car service if the Panel decides that the rail car-*
13 *rier has materially failed to furnish that service. The Panel*
14 *may begin a proceeding under this paragraph when an in-*
15 *terested person files an application with it. The Panel may*
16 *act only after a hearing on the record and an affirmative*
17 *finding, based on the evidence presented, that—*

18 *“(A) providing the facilities or equipment will*
19 *not materially and adversely affect the ability of the*
20 *rail carrier to provide safe and adequate transpor-*
21 *tation;*

22 *“(B) the amount spent for the facilities or equip-*
23 *ment, including a return equal to the rail carrier’s*
24 *current cost of capital, will be recovered; and*

1 “(C) providing the facilities or equipment will
2 not impair the ability of the rail carrier to attract
3 adequate capital.

4 “(2) The Panel may require a rail carrier to file its
5 car service rules with the Panel.

6 “(b) The Panel may designate and appoint agents and
7 agencies to make and carry out its directions related to car
8 service and matters under sections 10923 and 10924(a)(1)
9 of this title.

10 **“§ 10922. Compensation and practice**

11 “(a) The regulations of the Panel on car service shall
12 encourage the purchase, acquisition, and efficient use of
13 freight cars. The regulations may include—

14 “(1) the compensation to be paid for the use of
15 a locomotive, freight car, or other vehicle;

16 “(2) the other terms of any arrangement for the
17 use by a rail carrier of a locomotive, freight car, or
18 other vehicle not owned by the rail carrier using the
19 locomotive, freight car, or other vehicle, whether or
20 not owned by another carrier, shipper, or third per-
21 son; and

22 “(3) sanctions for nonobservance.

23 “(b) The rate of compensation to be paid for each type
24 of freight car shall be determined by the expense of owning
25 and maintaining that type of freight car, including a fair

1 *return on its cost giving consideration to current costs of*
2 *capital, repairs, materials, parts, and labor. In determin-*
3 *ing the rate of compensation, the Panel shall consider the*
4 *transportation use of each type of freight car, the national*
5 *level of ownership of each type of freight car, and other fac-*
6 *tors that affect the adequacy of the national freight car sup-*
7 *ply.*

8 ***“§ 10923. Rerouting traffic on failure of rail carrier to***
9 ***serve the public***

10 *“(a) When the Panel considers that a rail carrier pro-*
11 *viding transportation subject to the jurisdiction of the Panel*
12 *under this part cannot transport the traffic offered to it*
13 *in a manner that properly serves the public, the Panel may*
14 *direct the handling, routing, and movement of the traffic*
15 *of that rail carrier and its distribution over other railroad*
16 *lines to promote commerce and service to the public. Subject*
17 *to subsection (b)(2) of this section, the rail carriers may*
18 *establish the terms of compensation between themselves.*

19 *“(b)(1) Except as provided in paragraph (2) of this*
20 *subsection, the Panel may act under this section on its own*
21 *initiative or on application without regard to subchapter*
22 *II of chapter 5 of title 5.*

23 *“(2) When the rail carriers do not agree on the terms*
24 *of compensation under this section, the Panel may establish*
25 *the terms for them in a later proceeding.*

1 “SUBCHAPTER III—REPORTS AND RECORDS

2 “**§ 10941. Definitions**3 *“In this subchapter—*4 *“(1) the terms ‘rail carrier’ and ‘lessor’ include*
5 *a receiver or trustee of a rail carrier and lessor, re-*
6 *spectively;*7 *“(2) the term ‘lessor’ means a person owning a*
8 *railroad that is leased to and operated by a carrier*
9 *providing transportation subject to the jurisdiction of*
10 *the Panel under this part; and*11 *“(3) the term ‘association’ means an organiza-*
12 *tion maintained by or in the interest of a group of*
13 *rail carriers providing transportation or service sub-*
14 *ject to the jurisdiction of the Panel under this part*
15 *that performs a service, or engages in activities, relat-*
16 *ed to transportation under this part.*17 “**§ 10942. Uniform accounting system**18 *“The Panel may prescribe a uniform accounting sys-*
19 *tem for classes of rail carriers providing transportation*
20 *subject to the jurisdiction of the Panel under this part. To*
21 *the maximum extent practicable, the Panel shall conform*
22 *such system to generally accepted accounting principles,*
23 *and shall administer this subchapter in accordance with*
24 *such principles.*

1 **“§ 10943. Depreciation charges**

2 *“The Panel shall, for a class of rail carriers providing*
3 *transportation subject to its jurisdiction under this part,*
4 *prescribe, and change when necessary, those classes of prop-*
5 *erty for which depreciation charges may be included under*
6 *operating expenses and a rate of depreciation that may be*
7 *charged to a class of property. The Panel may classify those*
8 *rail carriers for purposes of this section. A rail carrier for*
9 *whom depreciation charges and rates of depreciation are*
10 *in effect under this section for any class of property may*
11 *not—*

12 *“(1) charge to operating expenses a depreciation*
13 *charge on a class of property other than that pre-*
14 *scribed by the Panel;*

15 *“(2) charge another rate of depreciation; or*

16 *“(3) include other depreciation charges in oper-*
17 *ating expenses.*

18 **“§ 10944. Records: form; inspection; preservation**

19 *“(a) The Panel may prescribe the form of records re-*
20 *quired to be prepared or compiled under this subchapter—*

21 *“(1) by rail carriers and lessors, including*
22 *records related to movement of traffic and receipts*
23 *and expenditures of money; and*

24 *“(2) by persons furnishing cars to or for a rail*
25 *carrier providing transportation subject to the juris-*

1 *dition of the Panel under this part to the extent re-*
2 *lated to those cars or that service.*

3 *“(b) The Panel, or an employee designated by the*
4 *Panel, may on demand and display of proper credentials—*

5 *“(1) inspect and examine the lands, buildings,*
6 *and equipment of a rail carrier or lessor; and*

7 *“(2) inspect and copy any record of—*

8 *“(A) a rail carrier, lessor, or association;*
9 *and*

10 *“(B) a person controlling, controlled by, or*
11 *under common control with a rail carrier if the*
12 *Panel considers inspection relevant to that per-*
13 *son’s relation to, or transaction with, that rail*
14 *carrier.*

15 *“(c) The Panel may prescribe the time period during*
16 *which operating, accounting, and financial records must be*
17 *preserved by rail carriers, lessors, and persons furnishing*
18 *cars.*

19 ***“§ 10945. Reports by rail carriers, lessors, and asso-***
20 ***ciations***

21 *“(a) The Panel may require rail carriers, lessors, and*
22 *associations, or classes of them as the Panel may prescribe,*
23 *to file annual, periodic, and special reports with the Panel*
24 *containing answers to questions asked by it.*

1 **“§ 10962. Rail carrier cost accounting system**

2 “(a) Each rail carrier shall have and maintain a cost
3 accounting system that is in compliance with the rules pro-
4 mulgated by the Panel under section 10961 of this title. A
5 rail carrier may, after notifying the Panel, make modifica-
6 tions in such system unless, within 60 days after the date
7 of notification, the Panel finds such modifications to be in-
8 consistent with the rules promulgated by the Panel under
9 section 10961 of this title.

10 “(b) For purposes of determining whether the cost ac-
11 counting system of a rail carrier is in compliance with the
12 rules promulgated by the Panel, the Panel shall have the
13 right to examine and make copies of any documents, papers,
14 or records of such rail carrier relating to compliance with
15 such rules. Such documents, papers, and records (and any
16 copies thereof) shall not be subject to the mandatory disclo-
17 sure requirements of section 552 of title 5.

18 **“§ 10963. Cost availability**

19 “As required by the rules of the Panel governing dis-
20 covery in Panel proceedings, rail carriers shall make rel-
21 evant cost data available to shippers, States, ports, commu-
22 nities, and other interested parties that are a party to a
23 Panel proceeding in which such data are required.

24 **“§ 10964. Accounting and cost reporting**

25 “(a) To obtain expense and revenue information for
26 regulatory purposes, the Panel may promulgate reasonable

1 *rules for rail carriers providing transportation subject to*
 2 *the jurisdiction of the Panel under this part, prescribing*
 3 *expense and revenue accounting and reporting requirements*
 4 *consistent with generally accepted accounting principles*
 5 *uniformly applied to such carriers. Such requirements shall*
 6 *be cost effective and compatible with and not duplicative*
 7 *of the managerial and responsibility accounting require-*
 8 *ments of those carriers. To the extent such rules are required*
 9 *solely to provide expense and revenue information necessary*
 10 *for determining railroad costs in regulatory proceedings*
 11 *under this part, such rules shall be promulgated in accord-*
 12 *ance with the cost accounting principles established by the*
 13 *Railroad Accounting Principles Board.*

14 “(b) Any reports required by the rules established by
 15 the Panel under this section shall include only information
 16 considered necessary for disclosure under the cost account-
 17 ing principles established by the Board or under generally
 18 accepted accounting principles or the requirements of the
 19 Securities and Exchange Commission.

20 **“CHAPTER 111—FINANCE**

 “SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

“Sec.

“11101. Equipment trusts: recordation; evidence of indebtedness.

 “SUBCHAPTER II—COMBINATIONS

“11121. Scope of authority.

“11122. Limitation on pooling and division of transportation or earnings.

“11123. Consolidation, merger, and acquisition of control.

“11124. Consolidation, merger, and acquisition of control: conditions of approval.

“11125. Consolidation, merger, and acquisition of control: procedure.

1 *related to filing, deposit, registration, or recordation of*
2 *those documents.*

3 “(b) *The Panel shall maintain a system for recording*
4 *each document filed under subsection (a) of this section and*
5 *mark each of them with a consecutive number and the date*
6 *and hour of their recordation. The Panel shall maintain*
7 *and keep open for public inspection an index of documents*
8 *filed under that subsection. That index shall include the*
9 *name and address of the principal debtors, trustees, guaran-*
10 *tors, and other parties to those documents and may include*
11 *other facts that will assist in determining the rights of the*
12 *parties to those transactions.*

13 “(c) *The Panel shall to the greatest extent practicable*
14 *perform its functions under this section through contracts*
15 *with private sector entities.*

16 “(d) *The Panel shall assess user fees for services per-*
17 *formed by the Panel or a contractor thereof under this sec-*
18 *tion. Such fees may be used by the Panel to offset its costs,*
19 *to the extent provided in advance in appropriations Acts.*

20 “(e) *A mortgage, lease, equipment trust agreement,*
21 *conditional sales agreement, or other instrument evidencing*
22 *the mortgage, lease, conditional sale, or bailment of or secu-*
23 *rity interest in railroad cars, locomotives, or other rolling*
24 *stock, or accessories used on such railroad cars, locomotives,*

1 *or other rolling stock (including superstructures and racks),*
2 *or any assignment thereof, which—*

3 *“(1) is duly constituted under the laws of a*
4 *country other than the United States; and*

5 *“(2) relates to property that bears the reporting*
6 *marks and identification numbers of any person dom-*
7 *iciled in or corporation organized under the laws of*
8 *such country,*

9 *shall be recognized with the same effect as having been filed*
10 *under this section.*

11 *“(f) Interests with respect to which documents are filed*
12 *or recognized under this section are deemed perfected in all*
13 *jurisdictions, and shall be governed by applicable State or*
14 *foreign law in all matters not specifically governed by this*
15 *section.*

16 *“SUBCHAPTER II—COMBINATIONS*

17 ***“§ 11121. Scope of authority***

18 *“(a) The authority of the Panel under this subchapter*
19 *is exclusive. A rail carrier or corporation participating in*
20 *or resulting from a transaction approved by or exempted*
21 *by the Panel under this subchapter may carry out the trans-*
22 *action, own and operate property, and exercise control or*
23 *franchises acquired through the transaction without the ap-*
24 *proval of a State authority. A rail carrier, corporation, or*
25 *person participating in that approved or exempted trans-*

1 *action is exempt from the antitrust laws and from all other*
2 *law, including State and municipal law, as necessary to*
3 *let that rail carrier, corporation, or person carry out the*
4 *transaction, hold, maintain, and operate property, and ex-*
5 *ercise control or franchises acquired through the trans-*
6 *action.*

7 “(b) *The requirement to obtain the approval or author-*
8 *ization of the Panel under this subchapter shall only apply*
9 *to transactions involving at least one Class I rail carrier,*
10 *and shall not apply to transactions described in section*
11 *10702.*

12 **“§ 11122. Limitation on pooling and division of trans-**
13 **portation or earnings**

14 “(a) *A rail carrier providing transportation subject to*
15 *the jurisdiction of the Panel under this part may not agree*
16 *or combine with another of those rail carriers to pool or*
17 *divide traffic or services or any part of their earnings with-*
18 *out the approval of the Panel under this section or section*
19 *10923 of this title. The Panel may approve and authorize*
20 *the agreement or combination if the rail carriers involved*
21 *assent to the pooling or division and the Panel finds that*
22 *a pooling or division of traffic, services, or earnings—*

23 “(1) *will be in the interest of better service to the*
24 *public or of economy of operation; and*

25 “(2) *will not unreasonably restrain competition.*

1 “(6) Acquisition by a rail carrier of trackage
2 rights over, or joint ownership in or joint use of, a
3 railroad line (and terminals incidental to it) owned
4 or operated by another rail carrier.

5 “(b) A person may carry out a transaction referred
6 to in subsection (a) of this section or participate in achiev-
7 ing the control or management, including the power to exer-
8 cise control or management, in a common interest of more
9 than one of those rail carriers, regardless of how that result
10 is reached, only with the approval and authorization of the
11 Panel under this subchapter. In addition to other trans-
12 actions, each of the following transactions are considered
13 achievements of control or management:

14 “(1) A transaction by a rail carrier that has the
15 effect of putting that rail carrier and person affiliated
16 with it, taken together, in control of another rail car-
17 rier.

18 “(2) A transaction by a person affiliated with a
19 rail carrier that has the effect of putting that rail
20 carrier and persons affiliated with it, taken together,
21 in control of another rail carrier.

22 “(3) A transaction by at least 2 persons acting
23 together (one of whom is a rail carrier or is affiliated
24 with a rail carrier) that has the effect of putting those
25 persons and rail carriers and persons affiliated with

1 *any of them, or with any of those affiliated rail car-*
2 *riers, taken together, in control of another rail car-*
3 *rier.*

4 “(c) A person is affiliated with a rail carrier under
5 this subchapter if, because of the relationship between that
6 person and a rail carrier, it is reasonable to believe that
7 the affairs of another rail carrier, control of which may be
8 acquired by that person, will be managed in the interest
9 of the other rail carrier.

10 **“§11124. Consolidation, merger, and acquisition of**
11 **control: conditions of approval**

12 “(a) The Panel may begin a proceeding to approve and
13 authorize a transaction referred to in section 11123 of this
14 title on application of the person seeking that authority.
15 When an application is filed with the Panel, the Panel shall
16 notify the chief executive officer of each State in which
17 property of the rail carriers involved in the proposed trans-
18 action is located and shall notify those rail carriers. The
19 Panel shall hold a public hearing unless the Panel deter-
20 mines that a public hearing is not necessary in the public
21 interest.

22 “(b) In a proceeding under this section which involves
23 the merger or control of at least two Class I railroads, as
24 defined by the Panel, the Panel shall consider at least—

1 “(1) the effect of the proposed transaction on the
2 adequacy of transportation to the public;

3 “(2) the effect on the public interest of including,
4 or failing to include, other rail carriers in the area
5 involved in the proposed transaction;

6 “(3) the total fixed charges that result from the
7 proposed transaction;

8 “(4) the interest of rail carrier employees affected
9 by the proposed transaction; and

10 “(5) whether the proposed transaction would
11 have an adverse effect on competition among rail car-
12 riers in the affected region or in the national rail sys-
13 tem.

14 “(c) The Panel shall approve and authorize a trans-
15 action under this section when it finds the transaction is
16 consistent with the public interest. The Panel may impose
17 conditions governing the transaction, including the divesti-
18 ture of parallel tracks or requiring the granting of trackage
19 rights. Any trackage rights conditions imposed to alleviate
20 anticompetitive effects of the transaction shall provide for
21 compensation levels to ensure that such effects are allevi-
22 ated. When the transaction contemplates a guaranty or as-
23 sumption of payment of dividends or of fixed charges or
24 will result in an increase of total fixed charges, the Panel
25 may approve and authorize the transaction only if it finds

1 *that the guaranty, assumption, or increase is consistent*
2 *with the public interest. The Panel may require inclusion*
3 *of other rail carriers located in the area involved in the*
4 *transaction if they apply for inclusion and the Panel finds*
5 *their inclusion to be consistent with the public interest.*

6 “(d) *In a proceeding under this section which does not*
7 *involve the merger or control of at least two Class I rail-*
8 *roads, as defined by the Panel, the Panel shall approve such*
9 *an application unless it finds that—*

10 “(1) *as a result of the transaction, there is likely*
11 *to be substantial lessening of competition, creation of*
12 *a monopoly, or restraint of trade in freight surface*
13 *transportation in any region of the United States;*
14 *and*

15 “(2) *the anticompetitive effects of the transaction*
16 *outweigh the public interest in meeting significant*
17 *transportation needs.*

18 *In making such findings, the Panel shall, with respect to*
19 *any application that is part of a plan or proposal developed*
20 *under section 333(a)–(d) of this title, accord substantial*
21 *weight to any recommendations of the Secretary of Trans-*
22 *portation.*

23 “(e)(1) *To the extent provided in this subsection, a pro-*
24 *ceeding under this subchapter relating to a transaction in-*
25 *volving at least one Class I rail carrier shall not be consid-*

1 *ered an adjudication required by statute to be determined*
2 *on the record after opportunity for an agency hearing, for*
3 *the purposes of subchapter II of chapter 5 of title 5, United*
4 *States Code.*

5 “(2) *Ex parte communications, as defined in section*
6 *551(14) of title 5, United States Code, shall be permitted*
7 *in proceedings described in paragraph (1) of this subsection,*
8 *subject to the requirements of paragraph (3) of this sub-*
9 *section.*

10 “(3)(A) *Any member or employee of the Panel who*
11 *makes or receives a written ex parte communication con-*
12 *cerning the merits of a proceeding described in paragraph*
13 *(1) shall promptly place the communication in the public*
14 *docket of the proceeding.*

15 “(B) *Any member or employee of the Panel who makes*
16 *or receives an oral ex parte communication concerning the*
17 *merits of a proceeding described in paragraph (1) shall*
18 *promptly place a written summary of the oral communica-*
19 *tion in the public docket of the proceeding.*

20 “(4) *Nothing in this subsection shall be construed to*
21 *require the Panel or any of its members or employees to*
22 *engage in any ex parte communication with any person.*
23 *Nothing in this subsection or any other law shall be con-*
24 *strued to limit the authority of the members or employees*
25 *of the Panel, in their discretion, to note in the docket or*

1 *otherwise publicly the occurrence and substance of an ex*
2 *parte communication.*

3 **“§ 11125. Consolidation, merger, and acquisition of**
4 **control: procedure**

5 *“(a) The Panel shall publish notice of the application*
6 *under section 11124 in the Federal Register by the end of*
7 *the 30th day after the application is filed with the Panel.*
8 *However, if the application is incomplete, the Panel shall*
9 *reject it by the end of that period. The order of rejection*
10 *is a final action of the Panel. The published notice shall*
11 *indicate whether the application involves—*

12 *“(1) the merger or control of at least two Class*
13 *I railroads, as defined by the Panel, to be decided*
14 *within the time limits specified in subsection (b) of*
15 *this section;*

16 *“(2) transactions of regional or national trans-*
17 *portation significance, to be decided within the time*
18 *limits specified in subsection (c) of this section; or*

19 *“(3) any other transaction covered by this sec-*
20 *tion, to be decided within the time limits specified in*
21 *subsection (d) of this section.*

22 *“(b) If the application involves the merger or control*
23 *of two or more Class I railroads, as defined by the Panel,*
24 *the following conditions apply:*

1 “(1) Written comments about an application
2 may be filed with the Panel within 45 days after no-
3 tice of the application is published under subsection
4 (a) of this section. Copies of such comments shall be
5 served on the Attorney General, who may decide to
6 intervene as a party to the proceeding. That decision
7 must be made by the 15th day after the date of receipt
8 of the written comments, and if the decision is to in-
9 tervene, preliminary comments about the application
10 must be sent to the Panel by the end of the 15th day
11 after the date of receipt of the written comments.

12 “(2) The Panel shall require that applications
13 inconsistent with an application, notice of which was
14 published under subsection (a) of this section, and ap-
15 plications for inclusion in the transaction, be filed
16 with it by the 90th day after publication of notice
17 under that subsection.

18 “(3) The Panel must conclude evidentiary pro-
19 ceedings by the end of the 6th month after the date
20 of publication of notice under subsection (a) of this
21 section. The Panel must issue a final decision by the
22 90th day after the date on which it concludes the evi-
23 dentiary proceedings.

24 “(c) If the application involves a transaction other
25 than the merger or control of at least two Class I railroads,

1 *as defined by the Panel, which the Panel has determined*
2 *to be of regional or national transportation significance,*
3 *the following conditions apply:*

4 “(1) *Written comments about an application, in-*
5 *cluding comments of the Attorney General, may be*
6 *filed with the Panel within 30 days after notice of the*
7 *application is published under subsection (a) of this*
8 *section.*

9 “(2) *The Panel shall require that applications*
10 *inconsistent with an application, notice of which was*
11 *published under subsection (a) of this section, and ap-*
12 *plications for inclusion in the transaction, be filed*
13 *with it by the 60th day after publication of notice*
14 *under that subsection.*

15 “(3) *The Panel must conclude any evidentiary*
16 *proceedings by the 125th day after the date of publi-*
17 *cation of notice under subsection (a) of this section.*
18 *The Panel must issue a final decision by the 40th day*
19 *after the date on which it concludes the evidentiary*
20 *proceedings.*

21 “(d) *For all applications under this section other than*
22 *those specified in subsections (b) and (c) of this section, the*
23 *following conditions apply:*

24 “(1) *Written comments about an application, in-*
25 *cluding comments of the Attorney General, may be*

1 *filed with the Panel within 30 days after notice of the*
2 *application is published under subsection (a) of this*
3 *section.*

4 “(2) *The Panel must conclude any evidentiary*
5 *proceedings by the 105th day after the date of publi-*
6 *cation of notice under subsection (a) of this section.*
7 *The Panel must issue a final decision by the 40th day*
8 *after the date on which it concludes the evidentiary*
9 *proceedings.*

10 **“§ 11126. Employee protective arrangements in trans-**
11 **actions involving rail carriers**

12 *“When approval is sought for a transaction under sec-*
13 *tions 11124 and 11125 of this title, the Panel shall require*
14 *the rail carrier to provide a fair arrangement at least as*
15 *protective of the interests of employees who are affected by*
16 *the transaction as the terms imposed under section 5(2)(f)*
17 *of the Interstate Commerce Act before February 5, 1976,*
18 *and the terms established under section 24706(c) of this*
19 *title. Notwithstanding this part, the arrangement may be*
20 *made by the rail carrier and the authorized representative*
21 *of its employees. The arrangement and the order approving*
22 *the transaction must require that the employees of the af-*
23 *ected rail carrier will not be in a worse position related*
24 *to their employment as a result of the transaction during*
25 *the 4 years following the effective date of the final action*

1 *of the Panel (or if an employee was employed for a lesser*
 2 *period of time by the rail carrier before the action became*
 3 *effective, for that lesser period).*

4 **“§ 11127. Supplemental orders**

5 *“When cause exists, the Panel may make appropriate*
 6 *orders supplemental to an order made in a proceeding*
 7 *under sections 11122 through 11126 of this title.*

8 **“CHAPTER 113—FEDERAL-STATE**
 9 **RELATIONS**

“Sec.

“11301. Tax discrimination against rail transportation property.

“11302. Withholding State and local income tax by rail carriers.

10 **“§ 11301. Tax discrimination against rail transpor-**
 11 **tation property**

12 *“(a) In this section—*

13 *“(1) the term ‘assessment’ means valuation for a*
 14 *property tax levied by a taxing district;*

15 *“(2) the term ‘assessment jurisdiction’ means a*
 16 *geographical area in a State used in determining the*
 17 *assessed value of property for ad valorem taxation;*

18 *“(3) the term ‘rail transportation property’*
 19 *means property, as defined by the Panel, owned or*
 20 *used by a rail carrier providing transportation sub-*
 21 *ject to the jurisdiction of the Panel under this part;*
 22 *and*

23 *“(4) the term ‘commercial and industrial prop-*
 24 *erty’ means property, other than transportation prop-*

1 *erty and land used primarily for agricultural pur-*
2 *poses or timber growing, devoted to a commercial or*
3 *industrial use and subject to a property tax levy.*

4 *“(b) The following acts unreasonably burden and dis-*
5 *criminate against interstate commerce, and a State, sub-*
6 *division of a State, or authority acting for a State or sub-*
7 *division of a State may not do any of them:*

8 *“(1) Assess rail transportation property at a*
9 *value that has a higher ratio to the true market value*
10 *of the rail transportation property than the ratio that*
11 *the assessed value of other commercial and industrial*
12 *property in the same assessment jurisdiction has to*
13 *the true market value of the other commercial and in-*
14 *dustrial property.*

15 *“(2) Levy or collect a tax on an assessment that*
16 *may not be made under paragraph (1) of this sub-*
17 *section.*

18 *“(3) Levy or collect an ad valorem property tax*
19 *on rail transportation property at a tax rate that ex-*
20 *ceeds the tax rate applicable to commercial and in-*
21 *dustrial property in the same assessment jurisdiction.*

22 *“(4) Impose another tax that discriminates*
23 *against a rail carrier providing transportation sub-*
24 *ject to the jurisdiction of the Panel under this part.*

1 “(c) Notwithstanding section 1341 of title 28 and with-
2 out regard to the amount in controversy or citizenship of
3 the parties, a district court of the United States has juris-
4 diction, concurrent with other jurisdiction of courts of the
5 United States and the States, to prevent a violation of sub-
6 section (b) of this section. Relief may be granted under this
7 subsection only if the ratio of assessed value to true market
8 value of rail transportation property exceeds by at least 5
9 percent the ratio of assessed value to true market value of
10 other commercial and industrial property in the same as-
11 sessment jurisdiction. The burden of proof in determining
12 assessed value and true market value is governed by State
13 law. If the ratio of the assessed value of other commercial
14 and industrial property in the assessment jurisdiction to
15 the true market value of all other commercial and indus-
16 trial property cannot be determined to the satisfaction of
17 the district court through the random-sampling method
18 known as a sales assessment ratio study (to be carried out
19 under statistical principles applicable to such a study), the
20 court shall find, as a violation of this section—

21 “(1) an assessment of the rail transportation
22 property at a value that has a higher ratio to the true
23 market value of the rail transportation property than
24 the assessed value of all other property subject to a
25 property tax levy in the assessment jurisdiction has

1 to the true market value of all other commercial and
2 industrial property; and

3 “(2) the collection of an ad valorem property tax
4 on the rail transportation property at a tax rate that
5 exceeds the tax ratio rate applicable to taxable prop-
6 erty in the taxing district.

7 **“§ 11302. Withholding State and local income tax by**
8 **rail carriers**

9 “(a) No part of the compensation paid by a rail car-
10 rier providing transportation subject to the jurisdiction of
11 the Panel under this part to an employee who performs reg-
12 ularly assigned duties as such an employee on a railroad
13 in more than one State shall be subject to the income tax
14 laws of any State or subdivision of that State, other than
15 the State or subdivision thereof of the employee’s residence.

16 “(b) A rail carrier withholding pay from an employee
17 under subsection (a) of this section shall file income tax
18 information returns and other reports only with the State
19 and subdivision of residence of the employee.

20 **“CHAPTER 115—ENFORCEMENT:**
21 **INVESTIGATIONS, RIGHTS, AND REMEDIES**

“Sec.

“11501. General authority.

“11502. Enforcement by the Panel.

“11503. Enforcement by the Attorney General.

“11504. Rights and remedies of persons injured by rail carriers.

“11505. Limitation on actions by and against rail carriers.

“11506. Liability of rail carriers under receipts and bills of lading.

1 **“§ 11501. General authority**

2 “(a) The Panel may begin an investigation under this
3 part on its own initiative or on complaint. If the Panel
4 finds that a rail carrier is violating this part, the Panel
5 shall take appropriate action to compel compliance with
6 this part.

7 “(b) A person, including a governmental authority,
8 may file with the Panel a complaint about a violation of
9 this part by a rail carrier providing transportation or serv-
10 ice subject to the jurisdiction of the Panel under this part.
11 The complaint must state the facts that are the subject of
12 the violation. The Panel may dismiss a complaint it deter-
13 mines does not state reasonable grounds for investigation
14 and action. However, the Panel may not dismiss a com-
15 plaint made against a rail carrier providing transportation
16 subject to the jurisdiction of the Panel under this part be-
17 cause of the absence of direct damage to the complainant.

18 “(c) A formal investigative proceeding begun by the
19 Panel under subsection (a) of this section is dismissed auto-
20 matically unless it is concluded by the Panel with adminis-
21 trative finality by the end of the third year after the date
22 on which it was begun.

23 **“§ 11502. Enforcement by the Panel**

24 “The Panel may bring a civil action—

25 “(1) to enjoin a rail carrier from violating sec-
26 tions 10701 through 10706 of this title, or a regula-

1 *tion prescribed or order or certificate issued under*
2 *any of those sections;*

3 *“(2) to enforce subchapter II of chapter 111 of*
4 *this title and to compel compliance with the order of*
5 *the Panel under that subchapter; and*

6 *“(3) to enforce an order of the Panel, except a*
7 *civil action to enforce an order for the payment of*
8 *money, when it is violated by a rail carrier providing*
9 *transportation subject to the jurisdiction of the Panel*
10 *under this part.*

11 **“§ 11503. Enforcement by the Attorney General**

12 *“The Attorney General may, and on request of the*
13 *Panel shall, bring court proceedings to enforce this part,*
14 *or a regulation or order of the Panel or certificate or permit*
15 *issued under this part, and to prosecute a person violating*
16 *this part or a regulation or order of the Panel or certificate*
17 *or permit issued under this part.*

18 **“§ 11504. Rights and remedies of persons injured by**
19 ***rail carriers***

20 *“(a) A person injured because a rail carrier providing*
21 *transportation or service subject to the jurisdiction of the*
22 *Panel under this part does not obey an order of the Panel,*
23 *except an order for the payment of money, may bring a*
24 *civil action to enforce that order under this subsection.*

1 “(b) A rail carrier providing transportation subject to
2 the jurisdiction of the Panel under this part is liable for
3 damages sustained by a person as a result of an act or omis-
4 sion of that carrier in violation of this part.

5 “(c)(1) A person may file a complaint with the Panel
6 under section 11501(b) of this title or bring a civil action
7 under subsection (b) of this section to enforce liability
8 against a rail carrier providing transportation subject to
9 the jurisdiction of the Panel under this part.

10 “(2) When the Panel makes an award under subsection
11 (b) of this section, the Panel shall order the rail carrier
12 to pay the amount awarded by a specific date. The Panel
13 may order a rail carrier providing transportation subject
14 to the jurisdiction of the Panel under this part to pay dam-
15 ages only when the proceeding is on complaint. The person
16 for whose benefit an order of the Panel requiring the pay-
17 ment of money is made may bring a civil action to enforce
18 that order under this paragraph if the rail carrier does not
19 pay the amount awarded by the date payment was ordered
20 to be made.

21 “(d)(1) When a person begins a civil action under sub-
22 section (b) of this section to enforce an order of the Panel
23 requiring the payment of damages by a rail carrier provid-
24 ing transportation subject to the jurisdiction of the Panel
25 under this part, the text of the order of the Panel must be

1 *included in the complaint. In addition to the district courts*
2 *of the United States, a State court of general jurisdiction*
3 *having jurisdiction of the parties has jurisdiction to enforce*
4 *an order under this paragraph. The findings and order of*
5 *the Panel are competent evidence of the facts stated in them.*
6 *Trial in a civil action brought in a district court of the*
7 *United States under this paragraph is in the judicial dis-*
8 *trict—*

9 “(A) *in which the plaintiff resides;*

10 “(B) *in which the principal operating office of*
11 *the rail carrier is located; or*

12 “(C) *through which the railroad line of that car-*
13 *rier runs.*

14 *In a civil action under this paragraph, the plaintiff is lia-*
15 *ble for only those costs that accrue on an appeal taken by*
16 *the plaintiff.*

17 “(2) *All parties in whose favor the award was made*
18 *may be joined as plaintiffs in a civil action brought in a*
19 *district court of the United States under this subsection and*
20 *all the rail carriers that are parties to the order awarding*
21 *damages may be joined as defendants. Trial in the action*
22 *is in the judicial district in which any one of the plaintiffs*
23 *could bring the action against any one of the defendants.*
24 *Process may be served on a defendant at its principal oper-*
25 *ating office when that defendant is not in the district in*

1 *section to recover charges related to the same transportation*
2 *or service, or collects (without beginning a civil action*
3 *under that subsection) the charge for that transportation*
4 *or service if that action is begun or collection is made with-*
5 *in the appropriate period.*

6 “(d) A person must begin a civil action to enforce an
7 order of the Panel against a rail carrier for the payment
8 of money within one year after the date the order required
9 the money to be paid.

10 “(e) This section applies to transportation for the
11 United States Government. The time limitations under this
12 section are extended, as related to transportation for or on
13 behalf of the United States Government, for 3 years from
14 the date of—

15 “(1) payment of the rate for the transportation
16 or service involved;

17 “(2) subsequent refund for overpayment of that
18 rate; or

19 “(3) deduction made under section 3726 of title
20 31, whichever is later.

21 “(f) A claim related to a shipment of property accrues
22 under this section on delivery or tender of delivery by the
23 rail carrier.

1 **“§ 11506. Liability of rail carriers under receipts and**
2 **bills of lading**

3 “(a) A rail carrier providing transportation or service
4 subject to the jurisdiction of the Panel under this part shall
5 issue a receipt or bill of lading for property it receives for
6 transportation under this part. That rail carrier and any
7 other rail carrier that delivers the property and is provid-
8 ing transportation or service subject to the jurisdiction of
9 the Panel under this part are liable to the person entitled
10 to recover under the receipt or bill of lading. The liability
11 imposed under this subsection is for the actual loss or injury
12 to the property caused by—

13 “(1) the receiving rail carrier;

14 “(2) the delivering rail carrier; or

15 “(3) another rail carrier over whose line or route
16 the property is transported in the United States or
17 from a place in the United States to a place in an
18 adjacent foreign country when transported under a
19 through bill of lading.

20 Failure to issue a receipt or bill of lading does not affect
21 the liability of a rail carrier. A delivering rail carrier is
22 deemed to be the rail carrier performing the line-haul trans-
23 portation nearest the destination but does not include a rail
24 carrier providing only a switching service at the destina-
25 tion.

1 “(b) The rail carrier issuing the receipt or bill of lad-
2 ing under subsection (a) of this section or delivering the
3 property for which the receipt or bill of lading was issued
4 is entitled to recover from the rail carrier over whose line
5 or route the loss or injury occurred the amount required
6 to be paid to the owners of the property, as evidenced by
7 a receipt, judgment, or transcript, and the amount of its
8 expenses reasonably incurred in defending a civil action
9 brought by that person.

10 “(c)(1) A rail carrier may not limit or be exempt from
11 liability imposed under subsection (a) of this section except
12 as provided in this subsection. A limitation of liability or
13 of the amount of recovery or representation or agreement
14 in a receipt, bill of lading, contract, or rule in violation
15 of this section is void.

16 “(2) A rail carrier of passengers may limit its liability
17 under its passenger rate for loss or injury of baggage carried
18 on trains carrying passengers.

19 “(3) A rail carrier providing transportation or service
20 subject to the jurisdiction of the Panel under this part may
21 establish rates for transportation of property under
22 which—

23 “(A) the liability of the rail carrier for such
24 property is limited to a value established by written

1 *declaration of the shipper or by a written agreement*
2 *between the shipper and the carrier; or*

3 *“(B) specified amounts are deducted, pursuant*
4 *to a written agreement between the shipper and the*
5 *carrier, from any claim against the carrier with re-*
6 *spect to the transportation of such property.*

7 *“(d)(1) A civil action under this section may be*
8 *brought in a district court of the United States or in a*
9 *State court.*

10 *“(2)(A) A civil action under this section may only be*
11 *brought—*

12 *“(i) against the originating rail carrier, in the*
13 *judicial district in which the point of origin is lo-*
14 *cated;*

15 *“(ii) against the delivering rail carrier, in the*
16 *judicial district in which the principal place of busi-*
17 *ness of the person bringing the action is located if the*
18 *delivering carrier operates a railroad or a route*
19 *through such judicial district, or in the judicial dis-*
20 *trict in which the point of destination is located; and*

21 *“(iii) against the carrier alleged to have caused*
22 *the loss or damage, in the judicial district in which*
23 *such loss or damage is alleged to have occurred.*

24 *“(B) In this section, ‘judicial district’ means (i) in*
25 *the case of a United States district court, a judicial district*

1 *of the United States, and (ii) in the case of a State court,*
2 *the applicable geographic area over which such court exer-*
3 *cises jurisdiction.*

4 “(e) A rail carrier may not provide by rule, contract,
5 or otherwise, a period of less than 9 months for filing a
6 claim against it under this section and a period of less than
7 2 years for bringing a civil action against it under this
8 section. The period for bringing a civil action is computed
9 from the date the carrier gives a person written notice that
10 the carrier has disallowed any part of the claim specified
11 in the notice. For the purposes of this subsection—

12 “(1) an offer of compromise shall not constitute
13 a disallowance of any part of the claim unless the
14 carrier, in writing, informs the claimant that such
15 part of the claim is disallowed and provides reasons
16 for such disallowance; and

17 “(2) communications received from a carrier’s
18 insurer shall not constitute a disallowance of any
19 part of the claim unless the insurer, in writing, in-
20 forms the claimant that such part of the claim is dis-
21 allowed, provides reasons for such disallowance, and
22 informs the claimant that the insurer is acting on be-
23 half of the carrier.

1 **“CHAPTER 117—CIVIL AND CRIMINAL**
2 **PENALTIES**

“Sec.

“11701. *General civil penalties.*

“11702. *Interference with railroad car supply.*

“11703. *Record keeping and reporting violations.*

“11704. *Unlawful disclosure of information.*

“11705. *Disobedience to subpoenas.*

“11706. *General criminal penalty when specific penalty not provided.*

“11707. *Punishment of corporation for violations committed by certain individuals.*

3 **“§ 11701. General civil penalties**

4 “(a) *Except as otherwise provided in this section, a*
5 *rail carrier providing transportation subject to the jurisdic-*
6 *tion of the Panel under this part, an officer or agent of*
7 *that rail carrier, or a receiver, trustee, lessee, or agent of*
8 *one of them, knowingly violating an order of the Panel*
9 *under this part is liable to the United States Government*
10 *for a civil penalty of \$5,000 for each violation. Liability*
11 *under this subsection is incurred for each distinct violation.*
12 *A separate violation occurs for each day the violation con-*
13 *tinues.*

14 “(b) *A rail carrier providing transportation subject to*
15 *the jurisdiction of the Panel under this part, or a receiver*
16 *or trustee of that rail carrier, violating a regulation or*
17 *order of the Panel under section 10924 (a)(2) or (b) of this*
18 *title is liable to the United States Government for a civil*
19 *penalty of \$500 for each violation and for \$25 for each day*
20 *the violation continues.*

1 “(c) A person knowingly authorizing, consenting to, or
2 permitting a violation of sections 10701 through 10706 of
3 this title or of a requirement or a regulation under any
4 of those sections, is liable to the United States Government
5 for a civil penalty of not more than \$5,000.

6 “(d) A rail carrier, receiver, or operating trustee vio-
7 lating an order or direction of the Panel under section
8 10923 or 10924(a)(1) of this title is liable to the United
9 States Government for a civil penalty of at least \$100 but
10 not more than \$500 for each violation and for \$50 for each
11 day the violation continues.

12 “(e)(1) A person required under subchapter III of
13 chapter 109 of this title to make, prepare, preserve, or sub-
14 mit to the Panel a record concerning transportation subject
15 to the jurisdiction of the Panel under this part that does
16 not make, prepare, preserve, or submit that record as re-
17 quired under that subchapter, is liable to the United States
18 Government for a civil penalty of \$500 for each violation.

19 “(2) A rail carrier providing transportation subject to
20 the jurisdiction of the Panel under this part, and a lessor,
21 receiver, or trustee of that rail carrier, violating section
22 10944(b)(1) of this title, is liable to the United States Gov-
23 ernment for a civil penalty of \$100 for each violation.

24 “(3) A rail carrier providing transportation subject to
25 the jurisdiction of the Panel under this part, a lessor, re-

1 ceiver, or trustee of that rail carrier, a person furnishing
2 cars, and an officer, agent, or employee of one of them, re-
3 quired to make a report to the Panel or answer a question
4 that does not make the report or does not specifically, com-
5 pletely, and truthfully answer the question, is liable to the
6 United States Government for a civil penalty of \$100 for
7 each violation.

8 “(4) A separate violation occurs for each day a viola-
9 tion under this subsection continues.

10 “(f) Trial in a civil action under subsections (a)
11 through (e) of this section is in the judicial district in which
12 the rail carrier has its principal operating office or in a
13 district through which the railroad of the rail carrier runs.

14 **“§ 11702. Interference with railroad car supply**

15 “(a) A person that offers or gives anything of value
16 to another person acting for or employed by a rail carrier
17 providing transportation subject to the jurisdiction of the
18 Panel under this part intending to influence an action of
19 that other person related to supply, distribution, or move-
20 ment of cars or vehicles used in the transportation of prop-
21 erty, or because of the action of that other person shall be
22 fined not more than \$1,000, imprisoned for not more than
23 2 years, or both.

24 “(b) A person acting for or employed by a rail carrier
25 providing transportation subject to the jurisdiction of the

1 Panel under this part that solicits, accepts, or receives any-
2 thing of value—

3 “(1) intending to be influenced by it in an ac-
4 tion of that person related to supply, distribution, or
5 movement of cars, vehicles, or vessels used in the
6 transportation of property; or

7 “(2) because of the action of that person,
8 shall be fined not more than \$1,000, imprisoned for not
9 more than 2 years, or both.

10 **“§ 11703. Record keeping and reporting violations**

11 “A person required to make a report to the Panel, or
12 make, prepare, or preserve a record, under subchapter III
13 of chapter 109 of this title about transportation subject to
14 the jurisdiction of the Panel under this part that knowingly
15 and willfully—

16 “(1) makes a false entry in the report or record;

17 “(2) destroys, mutilates, changes, or by another
18 means falsifies the record;

19 “(3) does not enter business related facts and
20 transactions in the record;

21 “(4) makes, prepares, or preserves the record in
22 violation of a regulation or order of the Panel; or

23 “(5) files a false report or record with the Panel,
24 shall be fined not more than \$5,000, imprisoned for not
25 more than 2 years, or both.

1 **“§ 11704. Unlawful disclosure of information**

2 “(a) A—

3 “(1) rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part, or an
5 officer, agent, or employee of that rail carrier, or an-
6 other person authorized to receive information from
7 that rail carrier, that knowingly discloses to another
8 person, except the shipper or consignee; or

9 “(2) a person who solicits or knowingly receives,
10 information described in subsection (b) without the consent
11 of the shipper or consignee shall be fined not more than
12 \$1,000.

13 “(b) The information referred to in subsection (a) is
14 information about the nature, kind, quantity, destination,
15 consignee, or routing of property tendered or delivered to
16 that rail carrier for transportation provided under this
17 part, or information about the contents of a contract au-
18 thorized under section 10509 of this title, that may be used
19 to the detriment of the shipper or consignee or may disclose
20 improperly, to a competitor, the business transactions of the
21 shipper or consignee.

22 “(c) This part does not prevent a rail carrier or broker
23 providing transportation subject to the jurisdiction of the
24 Panel under this part from giving information—

25 “(1) in response to legal process issued under au-
26 thority of a court of the United States or a State;

1 “(2) to an officer, employee, or agent of the
2 United States Government, a State, or a territory or
3 possession of the United States; or

4 “(3) to another rail carrier or its agent to adjust
5 mutual traffic accounts in the ordinary course of
6 business.

7 “(d) An employee of the Panel delegated to make an
8 inspection or examination under section 10944 of this title
9 who knowingly discloses information acquired during that
10 inspection or examination, except as directed by the Panel,
11 a court, or a judge of that court, shall be fined not more
12 than \$500, imprisoned for not more than 6 months, or both.

13 “(e) A person that knowingly discloses confidential
14 data made available to such person under section 10963 of
15 this title by a rail carrier providing transportation subject
16 to the jurisdiction of the Panel under this part shall be fined
17 not more than \$50,000.

18 **“§ 11705. Disobedience to subpoenas**

19 “A person not obeying a subpoena or requirement of
20 the Panel to appear and testify or produce records shall
21 be fined at least \$100 but not more than \$5,000, imprisoned
22 for not more than one year, or both.

1 **“§ 11706. General criminal penalty when specific pen-**
2 **alty not provided**

3 *“When another criminal penalty is not provided under*
4 *this chapter, a rail carrier providing transportation subject*
5 *to the jurisdiction of the Panel under this part, and when*
6 *that rail carrier is a corporation, a director or officer of*
7 *the corporation, or a receiver, trustee, lessee, or person act-*
8 *ing for or employed by the corporation that, alone or with*
9 *another person, willfully violates this part or an order pre-*
10 *scribed under this part, shall be fined not more than \$5,000.*
11 *However, if the violation is for discrimination in rates*
12 *charged for transportation, the person may be imprisoned*
13 *for not more than 2 years in addition to being fined under*
14 *this section. A separate violation occurs each day a viola-*
15 *tion of section 11122 of this title continues.*

16 **“§ 11707. Punishment of corporation for violations**
17 **committed by certain individuals**

18 *“An act or omission that would be a violation of this*
19 *part if committed by a director, officer, receiver, trustee,*
20 *lessee, agent, or employee of a rail carrier providing trans-*
21 *portation or service subject to the jurisdiction of the Panel*
22 *under this part that is a corporation is also a violation*
23 *of this part by that corporation. The penalties of this chap-*
24 *ter apply to that violation. When acting in the scope of their*
25 *employment, the actions and omissions of individuals act-*
26 *ing for or employed by that rail carrier are considered to*

1 *be the actions and omissions of that rail carrier as well*
 2 *as that individual.”.*

3 (b) *CONFORMING AMENDMENT.*—*The item relating to*
 4 *subtitle IV in the table of subtitles of title 49, United States*
 5 *Code, is amended by striking “Commerce” and inserting*
 6 *in lieu thereof “Transportation”.*

7 **SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT**
 8 **FORWARDER PROVISIONS.**

9 *Subtitle IV of title 49, United States Code, is further*
 10 *amended by adding at the end the following:*

11 *“PART B—MOTOR CARRIERS, WATER CARRIERS,*

12 *BROKERS, AND FREIGHT FORWARDERS*

13 **“CHAPTER 131—GENERAL PROVISIONS**

“Sec.

“13101. Transportation policy.

“13102. Definitions.

“13103. Remedies as cumulative.

14 **“§ 13101. Transportation policy**

15 *“(a) IN GENERAL.—To ensure the development, coordi-*
 16 *nation, and preservation of a transportation system that*
 17 *meets the transportation needs of the United States, includ-*
 18 *ing the United States Postal Service and national defense,*
 19 *it is the policy of the United States Government to oversee*
 20 *the modes of transportation and—*

21 *“(1) in overseeing those modes—*

22 *“(A) to recognize and preserve the inherent*
 23 *advantage of each mode of transportation;*

1 “(B) to promote safe, adequate, economical,
2 and efficient transportation;

3 “(C) to encourage sound economic condi-
4 tions in transportation, including sound eco-
5 nomic conditions among carriers;

6 “(D) to encourage the establishment and
7 maintenance of reasonable rates for transpor-
8 tation, without unreasonable discrimination or
9 unfair or destructive competitive practices;

10 “(E) to cooperate with each State and the
11 officials of each State on transportation matters;
12 and

13 “(F) to encourage fair wages and working
14 conditions in the transportation industry;

15 “(2) in overseeing transportation by motor car-
16 rier, to promote competitive and efficient transpor-
17 tation services in order to—

18 “(A) encourage fair competition, and rea-
19 sonable rates for transportation by motor car-
20 riers of property;

21 “(B) promote efficiency in the motor carrier
22 transportation system and to require fair and
23 expeditious decisions when required;

24 “(C) meet the needs of shippers, receivers,
25 passengers, and consumers;

1 “(D) allow a variety of quality and price
2 options to meet changing market demands and
3 the diverse requirements of the shipping and
4 traveling public;

5 “(E) allow the most productive use of equip-
6 ment and energy resources;

7 “(F) enable efficient and well-managed car-
8 riers to earn adequate profits, attract capital,
9 and maintain fair wages and working condi-
10 tions;

11 “(G) provide and maintain service to small
12 communities and small shippers and intrastate
13 bus services;

14 “(H) provide and maintain commuter bus
15 operations;

16 “(I) improve and maintain a sound, safe,
17 and competitive privately owned motor carrier
18 system;

19 “(J) promote greater participation by mi-
20 norities in the motor carrier system; and

21 “(K) promote intermodal transportation;
22 and

23 “(3) in overseeing transportation by motor car-
24 rier of passengers—

1 “(A) to cooperate with the States on trans-
2 portation matters for the purpose of encouraging
3 the States to exercise intrastate regulatory juris-
4 diction in accordance with the objectives of this
5 part;

6 “(B) to provide Federal procedures which
7 ensure that intrastate regulation is exercised in
8 accordance with this part; and

9 “(C) to ensure that Federal reform initia-
10 tives enacted by section 31138 and the Bus Reg-
11 ulatory Reform Act of 1982 are not nullified by
12 State regulatory actions.

13 “(b) ADMINISTRATION TO CARRY OUT POLICY.—This
14 part shall be administered and enforced to carry out the
15 policy of this section.

16 **“§ 13102. Definitions**

17 *“In this part, the following definitions shall apply:*

18 “(1) BROKER.—The term ‘broker’ means a per-
19 son, other than a motor carrier or an employee or
20 agent of a motor carrier, that as a principal or agent
21 sells, offers for sale, negotiates for, or holds itself out
22 by solicitation, advertisement, or otherwise as selling,
23 providing, or arranging for, transportation by motor
24 carrier for compensation.

1 “(2) *CARRIER*.—The term ‘carrier’ means a
2 motor carrier, a water carrier, and a freight for-
3 warder, and, for purposes of sections 13902, 13905,
4 and 13906, the term includes foreign motor carriers
5 and foreign motor private carriers.

6 “(3) *CONTRACT CARRIAGE*.—The term ‘contract
7 carriage’ means—

8 “(A) for transportation provided before the
9 effective date of this section, service provided
10 pursuant to a permit issued under section
11 10923, as in effect on the day before the effective
12 date of this section; and

13 “(B) for transportation provided on or after
14 such date, service provided under an agreement
15 entered into under section 14101(b).

16 “(4) *CONTROL*.—The term ‘control’, when refer-
17 ring to a relationship between persons, includes ac-
18 tual control, legal control, and the power to exercise
19 control, through or by—

20 “(A) common directors, officers, stockhold-
21 ers, a voting trust, or a holding or investment
22 company, or

23 “(B) any other means.

24 “(5) *FOREIGN MOTOR CARRIER*.—The term ‘for-
25 eign motor carrier’ means a person (including a

1 *motor carrier of property but excluding a motor pri-*
2 *vate carrier)—*

3 *“(A)(i) that is domiciled in a contiguous*
4 *foreign country; or*

5 *“(ii) that is owned or controlled by persons*
6 *of a contiguous foreign country; and*

7 *“(B) in the case of a person that is not a*
8 *motor carrier of property, that provides inter-*
9 *state transportation of property by motor vehicle*
10 *under an agreement or contract entered into*
11 *with a motor carrier of property (other than a*
12 *motor private carrier or a motor carrier of prop-*
13 *erty described in subparagraph (A)).*

14 *“(6) FOREIGN MOTOR PRIVATE CARRIER.—The*
15 *term ‘foreign motor private carrier’ means a person*
16 *(including a motor private carrier but excluding a*
17 *motor carrier of property)—*

18 *“(A)(i) that is domiciled in a contiguous*
19 *foreign country; or*

20 *“(ii) that is owned or controlled by persons*
21 *of a contiguous foreign country; and*

22 *“(B) in the case of a person that is not a*
23 *motor private carrier, that provides interstate*
24 *transportation of property by motor vehicle*
25 *under an agreement or contract entered into*

1 with a person (other than a motor carrier of
2 property or a motor private carrier described in
3 subparagraph (A)).

4 “(7) *FREIGHT FORWARDER*.—The term ‘freight
5 forwarder’ means a person holding itself out to the
6 general public (other than as a pipeline, rail, motor,
7 or water carrier) to provide transportation of prop-
8 erty for compensation and in the ordinary course of
9 its business—

10 “(A) assembles and consolidates, or provides
11 for assembling and consolidating, shipments and
12 performs or provides for break-bulk and distribu-
13 tion operations of the shipments;

14 “(B) assumes responsibility for the trans-
15 portation from the place of receipt to the place
16 of destination; and

17 “(C) uses for any part of the transportation
18 a carrier subject to jurisdiction under this part.

19 The term does not include a person using transpor-
20 tation of an air carrier subject to part A of subtitle
21 VII.

22 “(8) *HIGHWAY*.—The term ‘highway’ means a
23 road, highway, street, and way in a State.

24 “(9) *HOUSEHOLD GOODS*.—The term ‘household
25 goods’, as used in connection with transportation,

1 *means personal effects and property used or to be*
2 *used in a dwelling, when a part of the equipment or*
3 *supply of such dwelling, and similar property if the*
4 *transportation of such effects or property is—*

5 *“(A) arranged and paid for by the house-*
6 *holder, including transportation of property*
7 *from a factory or store when the property is pur-*
8 *chased by the householder with intent to use in*
9 *his or her dwelling, or*

10 *“(B) arranged and paid for by another*
11 *party.*

12 *“(10) HOUSEHOLD GOODS FREIGHT FOR-*
13 *WARDER.—The term ‘household goods freight for-*
14 *warder’ means a freight forwarder of one or more of*
15 *the following items: household goods, unaccompanied*
16 *baggage, or used automobiles.*

17 *“(11) MOTOR CARRIER.—The term ‘motor car-*
18 *rier’ means a person providing motor vehicle trans-*
19 *portation for compensation.*

20 *“(12) MOTOR PRIVATE CARRIER.—The term*
21 *‘motor private carrier’ means a person, other than a*
22 *motor carrier, transporting property by motor vehicle*
23 *when—*

24 *“(A) the transportation is as provided in*
25 *section 13501 of this title;*

1 “(B) the person is the owner, lessee, or bail-
2 ee of the property being transported; and

3 “(C) the property is being transported for
4 sale, lease, rent, or bailment or to further a com-
5 mercial enterprise.

6 “(13) *MOTOR VEHICLE*.—The term ‘motor vehi-
7 cle’ means a vehicle, machine, tractor, trailer, or
8 semitrailer propelled or drawn by mechanical power
9 and used on a highway in transportation, or a com-
10 bination determined by the Secretary, but does not
11 include a vehicle, locomotive, or car operated only on
12 a rail, or a trolley bus operated by electric power
13 from a fixed overhead wire, and providing local pas-
14 senger transportation similar to street-railway serv-
15 ice.

16 “(14) *NONCONTIGUOUS DOMESTIC TRADE*.—The
17 term ‘noncontiguous domestic trade’ means transpor-
18 tation subject to jurisdiction under chapter 135 in-
19 volving traffic originating in or destined to Alaska,
20 Hawaii, or a territory or possession of the United
21 States.

22 “(15) *PANEL*.—The term ‘Panel’ means the
23 Transportation Adjudication Panel.

24 “(16) *PERSON*.—The term ‘person’, in addition
25 to its meaning under section 1 of title 1, includes a

1 trustee, receiver, assignee, or personal representative
2 of a person.

3 “(17) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of Transportation.

5 “(18) STATE.—The term ‘State’ means the 50
6 States of the United States and the District of Colum-
7 bia.

8 “(19) TRANSPORTATION.—The term ‘transportation’ includes—
9

10 “(A) a motor vehicle, vessel, warehouse,
11 wharf, pier, dock, yard, property, facility, in-
12 strumentality, or equipment of any kind related
13 to the movement of passengers or property, or
14 both, regardless of ownership or an agreement
15 concerning use; and

16 “(B) services related to that movement, in-
17 cluding receipt, delivery, elevation, transfer in
18 transit, refrigeration, icing, ventilation, storage,
19 handling, and interchange of passengers and
20 property.

21 “(20) UNITED STATES.—The term ‘United
22 States’ means the States of the United States and the
23 District of Columbia.

24 “(21) VESSEL.—The term ‘vessel’ means a
25 watercraft or other artificial contrivance that is used,

1 *is capable of being used, or is intended to be used, as*
 2 *a means of transportation by water.*

3 “(22) *WATER CARRIER.*—*The term ‘water car-*
 4 *rier’ means a person providing water transportation*
 5 *for compensation.*

6 **“§ 13103. Remedies as cumulative**

7 “*Except as otherwise provided in this part, the rem-*
 8 *edies provided under this part are in addition to remedies*
 9 *existing under another law or common law.*

10 **“CHAPTER 133—ADMINISTRATIVE PROVISIONS**

 “*Sec.*

 “13301. *Powers.*

 “13302. *Intervention.*

 “13303. *Service of notice in proceedings.*

 “13304. *Service of process in court proceedings.*

11 **“§ 13301. Powers**

12 “(a) *GENERAL POWERS OF SECRETARY.*—*Except as*
 13 *otherwise specified, the Secretary shall carry out this part.*
 14 *Enumeration of a power of the Secretary in this part does*
 15 *not exclude another power the Secretary may have in carry-*
 16 *ing out this part. The Secretary may prescribe regulations*
 17 *in carrying out this part.*

18 “(b) *OBTAINING INFORMATION.*—*The Secretary may*
 19 *obtain from carriers providing, and brokers for, transpor-*
 20 *tation and service subject to this part, and from persons*
 21 *controlling, controlled by, or under common control with*
 22 *those carriers or brokers to the extent that the business of*
 23 *that person is related to the management of the business*

1 *of that carrier or broker, information the Secretary decides*
2 *is necessary to carry out this part.*

3 *“(c) SUBPOENA POWER.—*

4 *“(1) BY SECRETARY.—The Secretary may sub-*
5 *poena witnesses and records related to a proceeding*
6 *under this part from any place in the United States,*
7 *to the designated place of the proceeding. If a witness*
8 *disobeys a subpoena, the Secretary, or a party to a*
9 *proceeding under this part, may petition a court of*
10 *the United States to enforce that subpoena.*

11 *“(2) ENFORCEMENT.—The district courts of the*
12 *United States have jurisdiction to enforce a subpoena*
13 *issued under this section. Trial is in the district in*
14 *which the proceeding is conducted. The court may*
15 *punish a refusal to obey a subpoena as a contempt of*
16 *court.*

17 *“(d) TESTIMONY OF WITNESSES.—*

18 *“(1) PROCEDURE FOR TAKING TESTIMONY.—In a*
19 *proceeding under this part, the Secretary may take*
20 *the testimony of a witness by deposition and may*
21 *order the witness to produce records. A party to a*
22 *proceeding pending under this part may take the tes-*
23 *timony of a witness by deposition and may require*
24 *the witness to produce records at any time after a*
25 *proceeding is at issue on petition and answer.*

1 “(2) *SUBPOENA.*—If a witness fails to be deposed
2 or to produce records under paragraph (1) of this
3 subsection, the Secretary may subpoena the witness to
4 take a deposition, produce the records, or both.

5 “(3) *DEPOSITIONS.*—A deposition may be taken
6 before a judge of a court of the United States, a
7 United States magistrate judge, a clerk of a district
8 court, or a chancellor, justice, or judge of a supreme
9 or superior court, mayor or chief magistrate of a city,
10 judge of a county court, or court of common pleas of
11 any State, or a notary public who is not counsel or
12 attorney of a party or interested in the proceeding.

13 “(4) *NOTICE OF DEPOSITION.*—Before taking a
14 deposition, reasonable notice must be given in writing
15 by the party or the attorney of that party proposing
16 to take a deposition to the opposing party or the at-
17 torney of record of that party, whoever is nearest. The
18 notice shall state the name of the witness and the time
19 and place of taking the deposition.

20 “(5) *TRANSCRIPT.*—The testimony of a person
21 deposed under this subsection shall be taken under
22 oath. The person taking the deposition shall prepare,
23 or cause to be prepared, a transcript of the testimony
24 taken. The transcript shall be subscribed by the depo-
25 nent.

1 “(6) *FOREIGN COUNTRY.*—*The testimony of a*
2 *witness who is in a foreign country may be taken by*
3 *deposition before an officer or person designated by*
4 *the Secretary or agreed on by the parties by written*
5 *stipulation filed with the Secretary. A deposition*
6 *shall be filed with the Secretary promptly.*

7 “(e) *WITNESS FEES.*—*Each witness summoned before*
8 *the Secretary or whose deposition is taken under this section*
9 *and the individual taking the deposition are entitled to the*
10 *same fees and mileage paid for those services in the courts*
11 *of the United States.*

12 “(f) *POWERS OF PANEL.*—*For those provisions of this*
13 *part that are specified to be carried out by the Panel, the*
14 *Panel shall have the same powers as the Secretary has*
15 *under this section.*

16 **“§ 13302. Intervention**

17 “*Under regulations of the Secretary, reasonable notice*
18 *of, and an opportunity to intervene and participate in, a*
19 *proceeding under this part related to transportation subject*
20 *to jurisdiction under subchapter I of chapter 135 shall be*
21 *given to interested persons.*

22 **“§ 13303. Service of notice in proceedings**

23 “(a) *AGENTS FOR SERVICE OF PROCESS.*—*A carrier,*
24 *a broker, or a freight forwarder providing transportation*
25 *or service subject to jurisdiction under chapter 135 shall*

1 *designate, in writing, an agent by name and post office ad-*
2 *dress on whom service of notices in a proceeding before, and*
3 *of actions of, the Secretary may be made.*

4 “(b) *FILING WITH STATE.*—A motor carrier providing
5 *transportation under this part shall also file the designa-*
6 *tion with the authority of each State in which it operates*
7 *having jurisdiction to regulate transportation by motor ve-*
8 *hicle in intrastate commerce on the highways of that State.*
9 *The designation may be changed at any time in the same*
10 *manner as originally made.*

11 “(c) *NOTICE.*—A notice to a motor carrier, freight for-
12 *warder, or broker shall be served personally or by mail on*
13 *the motor carrier, freight forwarder, or broker or on its des-*
14 *ignated agent. Service by mail on the designated agent shall*
15 *be made at the address filed for the agent. When notice is*
16 *given by mail, the date of mailing is considered to be the*
17 *time when the notice is served. If a motor carrier, freight*
18 *forwarder, or broker does not have a designated agent, serv-*
19 *ice may be made by posting a copy of the notice at the*
20 *headquarters of the Department of Transportation.*

21 **“§ 13304. Service of process in court proceedings**

22 “(a) *DESIGNATION OF AGENT.*—A motor carrier or
23 *broker providing transportation subject to jurisdiction*
24 *under chapter 135 of this title, including a motor carrier*
25 *or broker operating within the United States while provid-*

1 *ing transportation between places in a foreign country or*
 2 *between a place in one foreign country and a place in an-*
 3 *other foreign country, shall designate an agent in each State*
 4 *in which it operates by name and post office address on*
 5 *whom process issued by a court with subject matter jurisdic-*
 6 *tion may be served in an action brought against that car-*
 7 *rier or broker. The designation shall be in writing and filed*
 8 *with the Department of Transportation. If a designation*
 9 *under this subsection is not made, service may be made on*
 10 *any agent of the carrier or broker within that State.*

11 “(b) *CHANGE.—A designation under this section may*
 12 *be changed at any time in the same manner as originally*
 13 *made.*

14 **“CHAPTER 135—JURISDICTION**

 “SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

“Sec.

“13501. *General jurisdiction.*

“13502. *Exempt transportation between Alaska and other States.*

“13503. *Exempt motor vehicle transportation in terminal areas.*

“13504. *Exempt motor carrier transportation entirely in one State.*

“13505. *Transportation furthering a primary business.*

“13506. *Miscellaneous motor carrier transportation exemptions.*

“13507. *Mixed loads of regulated and unregulated property.*

“13508. *Limited authority over cooperative associations.*

 “SUBCHAPTER II—WATER CARRIER TRANSPORTATION

“13521. *General jurisdiction.*

 “SUBCHAPTER III—FREIGHT FORWARDER SERVICE

“13531. *General jurisdiction.*

 “SUBCHAPTER IV—AUTHORITY TO EXEMPT

“13541. *Authority to exempt transportation or services.*

1 **“§ 13502. Exempt transportation between Alaska and**
2 **other States**

3 *“To the extent that transportation by a motor carrier*
4 *between a place in Alaska and a place in another State*
5 *under section 13501 is provided in a foreign country—*

6 *“(1) neither the Secretary nor the Panel has ju-*
7 *risdiction to impose a requirement over conduct of the*
8 *motor carrier in the foreign country conflicting with*
9 *a requirement of that country; but*

10 *“(2) the motor carrier, as a condition of provid-*
11 *ing transportation in the United States, shall comply,*
12 *with respect to all transportation provided between*
13 *Alaska and the other State, with the requirements of*
14 *this part related to rates and practices applicable to*
15 *the transportation.*

16 **“§ 13503. Exempt motor vehicle transportation in ter-**
17 **minal areas**

18 *“(a) TRANSPORTATION BY CARRIERS.—*

19 *“(1) IN GENERAL.—Neither the Secretary nor the*
20 *Panel has jurisdiction under this subchapter over*
21 *transportation by motor vehicle provided in a termi-*
22 *nal area when the transportation—*

23 *“(A) is a transfer, collection, or delivery;*

24 *“(B) is provided by—*

25 *“(i) a rail carrier subject to jurisdic-*
26 *tion under chapter 105;*

1 “(ii) a water carrier subject to juris-
2 diction under subchapter II of this chapter;
3 or

4 “(iii) a freight forwarder subject to ju-
5 risdiction under subchapter III of this
6 chapter; and

7 “(C) is incidental to transportation or serv-
8 ice provided by the carrier or freight forwarder
9 that is subject to jurisdiction under chapter 105
10 of this title or under subchapter II or III of this
11 chapter.

12 “(2) *APPLICABILITY OF OTHER PROVISIONS.*—
13 Transportation exempt from jurisdiction under para-
14 graph (1) of this subsection is subject to jurisdiction
15 under chapter 105 when provided by such a rail car-
16 rier, under subchapter II of this chapter when pro-
17 vided by such a water carrier, and under subchapter
18 III of this chapter when provided by such a freight
19 forwarder.

20 “(b) *TRANSPORTATION BY AGENT.*—

21 “(1) *IN GENERAL.*—Except to the extent provided
22 by paragraph (2) of this subsection, neither the Sec-
23 retary nor the Panel has jurisdiction under this sub-
24 chapter over transportation by motor vehicle provided
25 in a terminal area when the transportation—

1 “(A) is a transfer, collection, or delivery;
2 and

3 “(B) is provided by a person as an agent
4 or under other arrangement for—

5 “(i) a rail carrier subject to jurisdic-
6 tion under chapter 105 of this title;

7 “(ii) a motor carrier subject to juris-
8 diction under this subchapter;

9 “(iii) a water carrier subject to juris-
10 diction under subchapter II of this chapter;
11 or

12 “(iv) a freight forwarder subject to ju-
13 risdiction under subchapter III of this
14 chapter.

15 “(2) TREATMENT OF TRANSPORTATION BY PRIN-
16 CIPAL.—Transportation exempt from jurisdiction
17 under paragraph (1) of this subsection is considered
18 transportation provided by the carrier or service pro-
19 vided by the freight forwarder for whom the transpor-
20 tation was provided and is subject to jurisdiction
21 under chapter 105 of this title when provided for such
22 a rail carrier, under this subchapter when provided
23 for such a motor carrier, under subchapter II of this
24 chapter when provided for such a water carrier, and

1 under subchapter III of this chapter when provided
2 for such a freight forwarder.

3 **“§ 13504. Exempt motor carrier transportation en-**
4 **tirely in one State**

5 “Neither the Secretary nor the Panel has jurisdiction
6 under this subchapter over transportation, except transpor-
7 tation of household goods, by a motor carrier operating sole-
8 ly within the State of Hawaii. The State of Hawaii may
9 regulate transportation exempt from jurisdiction under this
10 section and, to the extent provided by a motor carrier oper-
11 ating solely within the State of Hawaii, transportation ex-
12 empt under section 13503 of this title.

13 **“§ 13505. Transportation furthering a primary busi-**
14 **ness**

15 “(a) *IN GENERAL.*—Neither the Secretary nor the
16 Panel has jurisdiction under this part over the transpor-
17 tation of property by motor vehicle when—

18 “(1) the property is transported by a person en-
19 gaged in a business other than transportation; and

20 “(2) the transportation is within the scope of,
21 and furthers a primary business (other than trans-
22 portation) of the person.

23 “(b) *CORPORATE FAMILIES.*—

24 “(1) *IN GENERAL.*—Neither the Secretary nor the
25 Panel has jurisdiction under this part over transpor-

1 *tation of property by motor vehicle for compensation*
2 *provided by a person who is a member of a corporate*
3 *family for other members of such corporate family.*

4 “(2) *DEFINITION.—In this section, ‘corporate*
5 *family’ means a group of corporations consisting of*
6 *a parent corporation and all subsidiaries in which*
7 *the parent corporation owns directly or indirectly a*
8 *100 percent interest.*

9 **“§ 13506. Miscellaneous motor carrier transportation**
10 **exemptions**

11 “(a) *IN GENERAL.—Neither the Secretary nor the*
12 *Panel has jurisdiction under this part over—*

13 “(1) *a motor vehicle transporting only school*
14 *children and teachers to or from school;*

15 “(2) *a motor vehicle providing taxicab service*
16 *and having a capacity of not more than 6 passengers*
17 *and not operated on a regular route or between speci-*
18 *fied places;*

19 “(3) *a motor vehicle owned or operated by or for*
20 *a hotel and only transporting hotel patrons between*
21 *the hotel and the local station of a common carrier;*

22 “(4) *a motor vehicle controlled and operated by*
23 *a farmer and transporting—*

24 “(A) *the farmer’s agricultural or horti-*
25 *cultural commodities and products; or*

1 “(B) supplies to the farm of the farmer;

2 “(5) a motor vehicle controlled and operated by
3 a cooperative association (as defined by section 15(a)
4 of the Agricultural Marketing Act (12 U.S.C.
5 1141j(a)) or by a federation of cooperative associa-
6 tions if the federation has no greater power or pur-
7 poses than a cooperative association, except that if the
8 cooperative association or federation provides trans-
9 portation for compensation between a place in a State
10 and a place in another State, or between a place in
11 a State and another place in the same State through
12 another State—

13 “(A) for a nonmember that is not a farmer,
14 cooperative association, federation, or the United
15 States Government, the transportation (except
16 for transportation otherwise exempt under this
17 subchapter)—

18 “(i) shall be limited to transportation
19 incidental to the primary transportation
20 operation of the cooperative association or
21 federation and necessary for its effective
22 performance; and

23 “(ii) may not exceed in each fiscal
24 year 25 percent of the total transportation
25 of the cooperative association or federation

1 *between those places, measured by tonnage;*
2 *and*

3 “(B) *the transportation for all nonmembers*
4 *may not exceed in each fiscal year, measured by*
5 *tonnage, the total transportation between those*
6 *places for the cooperative association or federa-*
7 *tion and its members during that fiscal year;*

8 “(6) *transportation by motor vehicle of—*

9 “(A) *ordinary livestock;*

10 “(B) *agricultural or horticultural commod-*
11 *ities (other than manufactured products thereof);*

12 “(C) *commodities listed as exempt in the*
13 *Commodity List incorporated in ruling num-*
14 *bered 107, March 19, 1958, Bureau of Motor*
15 *Carriers, Interstate Commerce Commission, other*
16 *than frozen fruits, frozen berries, frozen vegeta-*
17 *bles, cocoa beans, coffee beans, tea, bananas, or*
18 *hemp, or wool imported from a foreign country,*
19 *wool tops and noils, or wool waste (carded, spun,*
20 *woven, or knitted);*

21 “(D) *cooked or uncooked fish, whether*
22 *breaded or not, or frozen or fresh shellfish, or by-*
23 *products thereof not intended for human con-*
24 *sumption, other than fish or shellfish that have*
25 *been treated for preserving, such as canned,*

1 *smoked, pickled, spiced, corned, or kippered*
2 *products; and*

3 “(E) *livestock and poultry feed and agricul-*
4 *tural seeds and plants, if such products (exclud-*
5 *ing products otherwise exempt under this para-*
6 *graph) are transported to a site of agricultural*
7 *production or to a business enterprise engaged in*
8 *the sale to agricultural producers of goods used*
9 *in agricultural production;*

10 “(7) *a motor vehicle used only to distribute*
11 *newspapers;*

12 “(8)(A) *transportation of passengers by motor*
13 *vehicle incidental to transportation by aircraft;*

14 “(B) *transportation of property (including bag-*
15 *gage) by motor vehicle as part of a continuous move-*
16 *ment which, prior or subsequent to such part of the*
17 *continuous movement, has been or will be transported*
18 *by an air carrier or (to the extent so agreed by the*
19 *United States and approved by the Secretary) by a*
20 *foreign air carrier; or*

21 “(C) *transportation of property by motor vehicle*
22 *in lieu of transportation by aircraft because of ad-*
23 *verse weather conditions or mechanical failure of the*
24 *aircraft or other causes due to circumstances beyond*
25 *the control of the carrier or shipper;*

1 “(9) the operation of a motor vehicle in a na-
2 tional park or national monument;

3 “(10) a motor vehicle carrying not more than 15
4 individuals in a single, daily roundtrip to commute
5 to and from work;

6 “(11) transportation of used pallets and used
7 empty shipping containers (including intermodal
8 cargo containers), and other used shipping devices
9 (other than containers or devices used in the trans-
10 portation of motor vehicles or parts of motor vehicles);

11 “(12) transportation of natural, crushed, vesicu-
12 lar rock to be used for decorative purposes;

13 “(13) transportation of wood chips;

14 “(14) brokers for motor carriers of passengers,
15 except as provided in section 13904(d)); or

16 “(15) transportation of broken, crushed, or pow-
17 dered glass.

18 “(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Ex-
19 cept to the extent the Secretary or Panel, as applicable,
20 finds it necessary to exercise jurisdiction to carry out the
21 transportation policy of section 13101, neither the Sec-
22 retary nor the Panel has jurisdiction under this part over—

23 “(1) transportation provided entirely in a mu-
24 nicipality, in contiguous municipalities, or in a zone

1 *that is adjacent to, and commercially a part of, the*
2 *municipality or municipalities, except—*

3 *“(A) when the transportation is under com-*
4 *mon control, management, or arrangement for a*
5 *continuous carriage or shipment to or from a*
6 *place outside the municipality, municipalities,*
7 *or zone; or*

8 *“(B) that in transporting passengers over a*
9 *route between a place in a State and a place in*
10 *another State, or between a place in a State and*
11 *another place in the same State through another*
12 *State, the transportation is exempt from juris-*
13 *isdiction under this part only if the motor carrier*
14 *operating the motor vehicle also is lawfully pro-*
15 *viding intrastate transportation of passengers*
16 *over the entire route under the laws of each State*
17 *through which the route runs;*

18 *“(2) transportation by motor vehicle provided*
19 *casually, occasionally, or reciprocally but not as a*
20 *regular occupation or business, except when a broker*
21 *or other person sells or offers for sale passenger trans-*
22 *portation provided by a person authorized to trans-*
23 *port passengers by motor vehicle under an applica-*
24 *tion pending, or registration issued, under this part;*
25 *or*

1 *the Secretary or the Panel, may on demand and display*
2 *of proper credentials—*

3 “(1) *inspect and examine the lands, buildings,*
4 *and equipment of such association or federation; and*
5 “(2) *inspect and copy any record of such asso-*
6 *ciation or federation.*

7 “(b) *REPORTS.—Notwithstanding section 13506(a)(5),*
8 *the Secretary or the Panel may require a cooperative asso-*
9 *ciation or federation of cooperative associations described*
10 *in subsection (a) of this section to file reports with the Sec-*
11 *retary or the Panel containing answers to questions about*
12 *transportation provided by such association or federation.*

13 “(c) *ENFORCEMENT.—The Secretary or the Panel may*
14 *bring a civil action to enforce subsections (a) and (b) of*
15 *this section or a regulation or order of the Secretary or the*
16 *Panel issued under this section, when violated by a coopera-*
17 *tive association or federation of cooperative associations de-*
18 *scribed in subsection (a).*

19 “(d) *REPORTING PENALTIES.—*

20 “(1) *IN GENERAL.—A person required to make a*
21 *report to the Secretary or the Panel, answer a ques-*
22 *tion, or maintain a record under this section, or an*
23 *officer, agent, or employee of that person, that—*

24 “(A) *does not make the report;*

1 “(B) does not specifically, completely, and
2 truthfully answer the question; or

3 “(C) does not maintain the record in the
4 form and manner prescribed under this section;
5 is liable to the United States Government for a civil
6 penalty of not more than \$500 for each violation and
7 for not more than \$250 for each additional day the
8 violation continues.

9 “(2) VENUE.—Trial in a civil action under
10 paragraph (1) shall be in the judicial district in
11 which—

12 “(A) the cooperative association or federa-
13 tion of cooperative associations has its principal
14 office;

15 “(B) the violation occurred; or

16 “(C) the offender is found.

17 Process in the action may be served in the judicial
18 district of which the offender is an inhabitant or in
19 which the offender may be found.

20 “(e) EVASION PENALTIES.—A person, or an officer,
21 employee, or agent of that person, that by any means know-
22 ingly and willfully tries to evade compliance with the provi-
23 sions of this section shall be fined at least \$200 but not
24 more than \$500 for the first violation and at least \$250
25 but not more than \$2,000 for a subsequent violation.

1 “(f) *RECORDKEEPING PENALTIES.*—A person required
2 to make a report, answer a question, or maintain a record
3 under this section, or an officer, agent, or employee of that
4 person, that—

5 “(1) willfully does not make that report;

6 “(2) willfully does not specifically, completely,
7 and truthfully answer that question in 30 days from
8 the date that the question is required to be answered;

9 “(3) willfully does not maintain that record in
10 the form and manner prescribed;

11 “(4) knowingly and willfully falsifies, destroys,
12 mutilates, or changes that report or record;

13 “(5) knowingly and willfully files a false report
14 or record under this section;

15 “(6) knowingly and willfully makes a false or
16 incomplete entry in that record about a business-re-
17 lated fact or transaction; or

18 “(7) knowingly and willfully maintains a record
19 in violation of a regulation or order issued under this
20 section;

21 shall be fined not more than \$5,000.

1 *freight forwarder undertakes to provide, or is authorized or*
2 *required under this part to provide, to the extent transpor-*
3 *tation is provided in the United States and is between—*

4 “(1) *a place in a State and a place in another*
5 *State, even if part of the transportation is outside the*
6 *United States;*

7 “(2) *a place in a State and another place in the*
8 *same State through a place outside the State; or*

9 “(3) *a place in the United States and a place*
10 *outside the United States.*

11 “(b) *EXEMPTION OF CERTAIN AIR CARRIER SERV-*
12 *ICE.—Neither the Secretary nor the Panel has jurisdiction*
13 *under subsection (a) of this section over service undertaken*
14 *by a freight forwarder using transportation of an air car-*
15 *rier subject to part A of subtitle VII of this title.*

16 “*SUBCHAPTER IV—AUTHORITY TO EXEMPT*
17 **“§ 13541. Authority to exempt transportation or serv-**
18 **ices**

19 “(a) *IN GENERAL.—In any matter subject to jurisdic-*
20 *tion under this part, the Secretary or the Panel, as applica-*
21 *ble, shall exempt a person, class of persons, or a transaction*
22 *or service from the application of a provision of this part,*
23 *or use this exemption authority to modify the application*
24 *of a provision of this part as it applies to such person, class,*

1 *transaction, or service, when the Secretary or Panel finds*
2 *that the application of that provision in whole or in part—*

3 “(1) *is not necessary to carry out the transpor-*
4 *tation policy of section 13101;*

5 “(2) *is not needed to protect shippers from the*
6 *abuse of market power or that the transaction or serv-*
7 *ice is of limited scope; and*

8 “(3) *is in the public interest.*

9 “(b) *INITIATION OF PROCEEDING.—The Secretary or*
10 *Panel, as applicable, may, where appropriate, begin a pro-*
11 *ceeding under this section on the Secretary’s or Panel’s own*
12 *initiative or on application by an interested party.*

13 “(c) *PERIOD OF EXEMPTION.—The Secretary or Panel,*
14 *as applicable, may specify the period of time during which*
15 *an exemption granted under this section is effective.*

16 “(d) *REVOCAION.—The Secretary or Panel, as appli-*
17 *cable, may revoke an exemption, to the extent specified, on*
18 *finding that application of a provision of this part to the*
19 *person, class, or transportation is necessary to carry out*
20 *the transportation policy of section 13101.*

21 “(e) *LIMITATIONS.—The exemption authority under*
22 *this section may not be used to relieve a person from the*
23 *application of, and compliance with, any law, rule, regula-*
24 *tion, standard, or order pertaining to cargo loss and dam-*

1 *age, insurance, safety fitness, or activities approved under*
 2 *section 13703 or not terminated under section 13907(d)(2).*

3 **“CHAPTER 137—RATES AND THROUGH ROUTES**

“Sec.

“13701. *Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation.*

“13702. *Tariff requirement for certain transportation.*

“13703. *Certain collective activities; exemption from antitrust laws.*

“13704. *Household goods rates—estimates; guarantees of service.*

“13705. *Requirements for through routes among motor carriers of passengers.*

“13706. *Liability for payment of rates.*

“13707. *Billing and collecting practices.*

“13708. *Procedures for resolving claims involving unfiled, negotiated transportation rates.*

“13709. *Additional motor carrier undercharge provisions.*

“13710. *Alternative procedure for resolving undercharge disputes.*

“13711. *Government traffic.*

“13712. *Food and grocery transportation.*

4 **“§ 13701. Requirements for reasonable rates, classi-**
 5 **fications, through routes, rules, and prac-**
 6 **tices for certain transportation**

7 “(a) REASONABLENESS.—

8 “(1) CERTAIN HOUSEHOLD GOODS TRANSPOR-
 9 TATION; JOINT RATES INVOLVING WATER TRANSPOR-
 10 TATION.—A rate, classification, rule, or practice re-
 11 lated to transportation or service provided by a car-
 12 rier subject to jurisdiction under chapter 135 for
 13 transportation or service involving—

14 “(A) a movement of household goods de-
 15 scribed in section 13102(9)(A), or

16 “(B) a rate for a movement by or with a
 17 water carrier in noncontiguous domestic trade,
 18 must be reasonable.

1 “(2) *THROUGH ROUTES AND DIVISIONS OF JOINT*
2 *RATES.—Through routes and divisions of joint rates*
3 *for such transportation or service must be reasonable.*

4 “(b) *PRESCRIPTION BY PANEL FOR VIOLATIONS.—*
5 *When the Panel finds it necessary to stop or prevent a viola-*
6 *tion of subsection (a), the Panel shall prescribe the rate,*
7 *classification, rule, practice, through route, or division of*
8 *joint rates to be applied for such transportation or service.*

9 “(c) *ZONE OF REASONABLENESS.—*

10 “(1) *IN GENERAL.—For purposes of this section,*
11 *a rate or division of a carrier for service in non-*
12 *contiguous domestic trade is reasonable if the aggre-*
13 *gate of increases and decreases in any such rate or di-*
14 *vision is not more than 10 percent above, or more*
15 *than 10 percent below, the rate or division in effect*
16 *1 year before the effective date of the proposed rate or*
17 *division.*

18 “(2) *ADJUSTMENTS TO THE ZONE.—The percent-*
19 *age specified in paragraph (1) shall be increased or*
20 *decreased, as the case may be, by the percentage*
21 *change in the Producers Price Index, as published by*
22 *the Department of Labor, that has occurred during*
23 *the most recent 1-year period before the date the rate*
24 *or division in question first took effect.*

1 **“§ 13702. Tariff requirement for certain transpor-**
2 **tation**

3 “(a) *IN GENERAL.*—A carrier subject to jurisdiction
4 under chapter 135 may provide transportation or service
5 that is—

6 “(1) *in noncontiguous domestic trade, except*
7 *with regard to bulk cargo, forest products, recycled*
8 *metal scrap, waste paper, and paper waste; or*

9 “(2) *for movement of household goods described*
10 *in section 13102(9)(A);*

11 *only if the rate for such transportation or service is con-*
12 *tained in a tariff that is in effect under this section. The*
13 *carrier may not charge or receive a different compensation*
14 *for the transportation or service than the rate specified in*
15 *the tariff, whether by returning a part of that rate to a*
16 *person, giving a person a privilege, allowing the use of a*
17 *facility that affects the value of that transportation or serv-*
18 *ice, or another device. A rate contained in a tariff shall*
19 *be stated in money of the United States.*

20 “(b) *TARIFF REQUIREMENTS FOR NONCONTIGUOUS*
21 *DOMESTIC TRADE.*—

22 “(1) *FILING.*—A carrier providing transpor-
23 *tation or service described in subsection (a)(1) shall*
24 *publish and file with the Panel tariffs containing the*
25 *rates established for such transportation or service.*

26 *The carriers shall keep such tariffs available for pub-*

1 *lic inspection. The Panel shall prescribe the form and*
2 *manner of publishing, filing, and keeping tariffs*
3 *available for public inspection under this subsection.*

4 “(2) *CONTENTS.—The Panel may prescribe any*
5 *specific information and charges to be identified in a*
6 *tariff, but at a minimum tariffs must identify plain-*
7 *ly—*

8 “(A) *the carriers that are parties to it;*

9 “(B) *the places between which property will*
10 *be transported;*

11 “(C) *terminal charges if a carrier provides*
12 *transportation or service subject to jurisdiction*
13 *under subchapter III of chapter 135;*

14 “(D) *privileges given and facilities allowed;*
15 *and*

16 “(E) *any rules that change, affect, or deter-*
17 *mine any part of the published rate.*

18 “(3) *INLAND DIVISIONS.—A carrier providing*
19 *transportation or service described in subsection*
20 *(a)(1) under a joint rate for a through movement*
21 *shall not be required to state separately or otherwise*
22 *reveal in tariff filings the inland divisions of that*
23 *through rate.*

1 “(4) *TIME-VOLUME RATES.*—Rates in tariffs
2 filed under this subsection may vary with the volume
3 of cargo offered over a specified period of time.

4 “(5) *CHANGES.*—The Panel may permit carriers
5 to change rates, classifications, rules, and practices
6 without filing complete tariffs under this subsection
7 that cover matter that is not being changed when the
8 Panel finds that action to be consistent with the pub-
9 lic interest. Those carriers may either—

10 “(A) publish new tariffs that incorporate
11 changes, or

12 “(B) plainly indicate the proposed changes
13 in the tariffs then in effect and kept open for
14 public inspection.

15 “(c) *TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS*
16 *CARRIERS.*—

17 “(1) *IN GENERAL.*—A carrier providing trans-
18 portation described in subsection (a)(2) shall main-
19 tain rates and related rules and practices in a tariff.
20 The tariff must be submitted to the Panel for inspec-
21 tion and be made available for inspection by shippers
22 upon reasonable request.

23 “(2) *NOTICE OF AVAILABILITY.*—A carrier that
24 maintains a tariff under this subsection may not en-
25 force the provisions of the tariff unless the carrier has

1 *given notice that the tariff is available for inspection*
2 *in its bill of lading or by other actual notice to indi-*
3 *viduals whose shipments are subject to the tariff.*

4 “(3) *REQUIREMENTS.*—*A carrier that maintains*
5 *a tariff under this subsection is bound by the tariff*
6 *except as otherwise provided in this part. A tariff*
7 *that does not comply with this subsection may not be*
8 *enforced against any individual shipper.*

9 “(4) *INCORPORATION BY REFERENCE.*—*A carrier*
10 *may incorporate by reference the rates, terms, and*
11 *other conditions in a tariff in agreements covering the*
12 *transportation of households described in section*
13 *13102(9)(B).*

14 “(5) *COMPLAINTS.*—*A complaint that a rate or*
15 *related rule or practice maintained in a tariff under*
16 *this subsection violates section 13701(a) may be sub-*
17 *mitted to the Panel for resolution.*

18 “(d) *INVALIDATION.*—*The Panel may invalidate a tar-*
19 *iff prepared by a carrier or carriers under this section if*
20 *that tariff violates this section or a regulation of the Panel*
21 *carrying out this section.*

22 **“§ 13703. Certain collective activities; exemption from**
23 ***antitrust laws***

24 “(a) *AGREEMENTS.*—

1 “(1) *AUTHORITY TO ENTER.*—A motor carrier
2 *providing transportation or service subject to jurisdic-*
3 *tion under chapter 135 may enter into an agreement*
4 *with one or more such carriers to establish—*

5 “(A) *through routes and joint rates;*

6 “(B) *rates for the transportation of house-*
7 *hold goods described in section 13102(9)(A);*

8 “(C) *classifications;*

9 “(D) *mileage guides;*

10 “(E) *rules;*

11 “(F) *divisions;*

12 “(G) *rate adjustments of general applica-*
13 *tion based on industry average carrier costs (so*
14 *long as there is no discussion of individual mar-*
15 *kets or particular single-line rates); or*

16 “(H) *procedures for joint consideration, ini-*
17 *tiation, or establishment of matters described in*
18 *subparagraphs (A) through (G).*

19 “(2) *SUBMISSION OF AGREEMENT TO PANEL; AP-*
20 *PROVAL.*—An agreement entered into under subsection
21 *(a) may be submitted by any carrier or carriers that*
22 *are parties to such agreement to the Panel for ap-*
23 *proval and may be approved by the Panel only if it*
24 *finds that such agreement is in the public interest.*

1 “(3) *CONDITIONS.*—*The Panel may require com-*
2 *pliance with reasonable conditions consistent with*
3 *this part to assure that the agreement furthers the*
4 *transportation policy set forth in section 13101.*

5 “(4) *INVESTIGATIONS.*—*The Panel may suspend*
6 *and investigate the reasonableness of any classifica-*
7 *tion or rate adjustment of general application made*
8 *pursuant to an agreement under this section.*

9 “(5) *EFFECT OF APPROVAL.*—*If the Panel ap-*
10 *proves the agreement or renews approval of the agree-*
11 *ment, it may be made and carried out under its*
12 *terms and under the conditions required by the Panel,*
13 *and the antitrust laws, as defined in the first section*
14 *of the Clayton Act (15 U.S.C. 12), do not apply to*
15 *parties and other persons with respect to making or*
16 *carrying out the agreement.*

17 “(b) *RECORDS.*—*The Panel may require an organiza-*
18 *tion established or continued under an agreement approved*
19 *under this section to maintain records and submit reports.*
20 *The Panel, or its delegate, may inspect a record maintained*
21 *under this section, or monitor any organization’s compli-*
22 *ance with this section.*

23 “(c) *REVIEW.*—*The Panel may review an agreement*
24 *approved under this section, on its own initiative or on re-*
25 *quest, and shall change the conditions of approval or termi-*

1 *nate it when necessary to protect the public interest. Action*
2 *of the Panel under this section—*

3 *“(1) approving an agreement,*

4 *“(2) denying, ending, or changing approval,*

5 *“(3) prescribing the conditions on which ap-*
6 *proval is granted, or*

7 *“(4) changing those conditions,*

8 *has effect only as related to application of the antitrust laws*
9 *referred to in subsection (a).*

10 *“(d) EXPIRATION OF APPROVALS; RENEWALS.—Sub-*
11 *ject to subsection (c), approval of an agreement under sub-*
12 *section (a) shall expire 3 years after the date of approval*
13 *unless renewed under this subsection. The approval may be*
14 *renewed upon request of the parties to the agreement if such*
15 *parties resubmit the agreement to the Panel, the agreement*
16 *is unchanged, and the Panel approves such renewal. The*
17 *Panel shall approve the renewal unless it finds that the re-*
18 *newal is not in the public interest.*

19 *“(e) EXISTING AGREEMENTS.—Agreements approved*
20 *under former section 10706(b) and in effect on the day be-*
21 *fore the effective date of this section shall be treated for pur-*
22 *poses of this section as approved by the Panel under this*
23 *section beginning on such effective date.*

24 *“(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—*

1 “(1) *UNDERCHARGE CLAIMS.*—Nothing in this
2 section shall serve as a basis for any undercharge
3 claim.

4 “(2) *OBLIGATION OF SHIPPER.*—Nothing in this
5 title, the ICC Termination Act of 1995, or any
6 amendments or repeals made by such Act shall be
7 construed as creating any obligation for a shipper
8 based solely on a classification that was on file with
9 the Interstate Commerce Commission or elsewhere on
10 the day before the effective date of this section.

11 “(g) *MILEAGE RATE LIMITATION.*—No carrier subject
12 to jurisdiction under subchapter I or III of chapter 135
13 may enforce collection of its mileage rates unless such car-
14 rier—

15 “(1) uses an independent publication of mileage
16 (other than a publication referred to in paragraph
17 (2)) which can be examined by any interested person
18 upon reasonable request; or

19 “(2) is a participant in a publication of mile-
20 ages formulated under an agreement approved under
21 this section.

22 “(h) *SINGLE LINE RATE DEFINED.*—In this section,
23 the term ‘single line rate’ means a rate, charge, or allowance
24 proposed by a single motor carrier that is applicable only

1 *over its line and for which the transportation can be pro-*
2 *vided by that carrier.*

3 **“§ 13704. Household goods rates—estimates; guaran-**
4 **tees of service**

5 “(a) *IN GENERAL.*—

6 “(1) *AUTHORITY.*—*Subject to the provisions of*
7 *paragraph (2) of this subsection, a motor carrier pro-*
8 *viding transportation of household goods subject to ju-*
9 *risdiction under subchapter I of chapter 135 may es-*
10 *tablish a rate for the transportation of household*
11 *goods which is based on the carrier’s written, binding*
12 *estimate of charges for providing such transportation.*

13 “(2) *NONPREFERENTIAL; NONPREDATORY.*—*Any*
14 *rate established under this subsection must be avail-*
15 *able on a nonpreferential basis to shippers and must*
16 *not result in charges to shippers which are predatory.*

17 “(b) *RATES FOR GUARANTEED SERVICE.*—

18 “(1) *AUTHORITY.*—*Subject to the provisions of*
19 *paragraph (2) of this subsection, a motor carrier pro-*
20 *viding transportation of household goods subject to ju-*
21 *risdiction under subchapter I of chapter 135 may es-*
22 *tablish rates for the transportation of household goods*
23 *which guarantee that the carrier will pick up and de-*
24 *liver such household goods at the times specified in*
25 *the contract for such services and provide a penalty*

1 *or per diem payment in the event the carrier fails to*
2 *pick up or deliver such household goods at the speci-*
3 *fied time. The charges, if any, for such guarantee and*
4 *penalty provision may vary to reflect one or more op-*
5 *tions available to meet a particular shipper's needs.*

6 *“(2) AUTHORITY OF SECRETARY TO REQUIRE*
7 *NONGUARANTEED SERVICE RATES.—Before a carrier*
8 *may establish a rate for any service under paragraph*
9 *(1) of this subsection, the Secretary may require such*
10 *carrier to have in effect and keep in effect, during*
11 *any period such rate is in effect under paragraph (1),*
12 *a rate for such service which does not guarantee the*
13 *pick up and delivery of household goods at the times*
14 *specified in the contract for such services and which*
15 *does not provide a penalty or per diem payment in*
16 *the event the carrier fails to pick up or deliver house-*
17 *hold goods at the specified time.*

18 **“§ 13705. Requirements for through routes among**
19 **motor carriers of passengers**

20 *“(a) ESTABLISHMENT; REASONABLENESS.—A motor*
21 *carrier providing transportation of passengers subject to ju-*
22 *risdiction under subchapter I of chapter 135 shall establish*
23 *through routes with other carriers of the same type and*
24 *shall establish individual and joint rates applicable to*
25 *them. Such through route must be reasonable.*

1 “(b) *PRESCRIBED BY PANEL.*—When the Panel finds
2 it necessary to enforce the requirements of this section, the
3 Panel may prescribe through routes and the conditions
4 under which those routes must be operated for motor car-
5 riers providing transportation of passengers subject to juris-
6 diction under subchapter I of chapter 135.

7 “**§ 13706. Liability for payment of rates**

8 “(a) *LIABILITY OF CONSIGNEE.*—Liability for pay-
9 ment of rates for transportation for a shipment of property
10 by a shipper or consignor to a consignee other than the ship-
11 per or consignor, is determined under this section when the
12 transportation is provided by motor carrier under this
13 part. When the shipper or consignor instructs the carrier
14 transporting the property to deliver it to a consignee that
15 is an agent only, not having beneficial title to the property,
16 the consignee is liable for rates billed at the time of delivery
17 for which the consignee is otherwise liable, but not for addi-
18 tional rates that may be found to be due after delivery if
19 the consignee gives written notice to the delivering carrier
20 before delivery of the property—

21 “(1) of the agency and absence of beneficial title;
22 and

23 “(2) of the name and address of the beneficial
24 owner of the property if it is reconsigned or diverted

1 to a place other than the place specified in the origi-
2 nal bill of lading.

3 “(b) *LIABILITY OF BENEFICIAL OWNER.*—When the
4 consignee is liable only for rates billed at the time of deliv-
5 ery under subsection (a), the shipper or consignor, or, if
6 the property is reconsigned or diverted, the beneficial owner
7 is liable for those additional rates regardless of the bill of
8 the lading or contract under which the property was trans-
9 ported. The beneficial owner is liable for all rates when the
10 property is reconsigned or diverted by an agent but is re-
11 fused or abandoned at its ultimate destination if the agent
12 gave the carrier in the reconsignment or diversion order a
13 notice of agency and the name and address of the beneficial
14 owner. A consignee giving the carrier erroneous information
15 about the identity of the beneficial owner of the property
16 is liable for the additional rates.

17 “**§ 13707. Billing and collecting practices**

18 “(a) *TIMING.*—A motor carrier subject to jurisdiction
19 under subchapter I of chapter 135 shall disclose, when a
20 document is presented or electronically transmitted for pay-
21 ment to the person responsible directly to the motor carrier
22 for payment or agent of such responsible person, the actual
23 rates, charges, or allowances for any transportation service.

24 “(b) *FALSE OR MISLEADING INFORMATION.*—No per-
25 son may cause a motor carrier to present false or mislead-

1 *ing information on a document about the actual rate,*
2 *charge, or allowance to any party to the transaction.*

3 “(c) *ALLOWANCES FOR SERVICES.*—When the actual
4 *rate, charge, or allowance is dependent upon the perform-*
5 *ance of a service by a party to the transportation arrange-*
6 *ment, such as tendering a volume of freight over a stated*
7 *period of time, the motor carrier shall indicate in any docu-*
8 *ment presented for payment to the person responsible di-*
9 *rectly to the motor carrier that a reduction, allowance, or*
10 *other adjustment may apply.*

11 **“§ 13708. Procedures for resolving claims involving**
12 ***unfiled, negotiated transportation rates***

13 “(a) *TRANSPORTATION PROVIDED BEFORE EFFECTIVE*
14 *DATE.*—

15 “(1) *IN GENERAL.*—When a claim is made by a
16 *motor carrier of property (other than a household*
17 *goods carrier) providing transportation subject to ju-*
18 *risdiction under subchapter II of chapter 105, as in*
19 *effect on the day before the effective date of this sec-*
20 *tion, by a freight forwarder (other than a household*
21 *goods freight forwarder), or by a party representing*
22 *such a carrier or freight forwarder regarding the col-*
23 *lection of rates or charges for such transportation in*
24 *addition to those originally billed and collected by the*
25 *carrier or freight forwarder for such transportation,*

1 *the person against whom the claim is made may elect*
2 *to satisfy the claim under the provisions of subsection*
3 *(b), (c), or (d), upon showing that—*

4 *“(A) the carrier or freight forwarder is no*
5 *longer transporting property or is transporting*
6 *property for the purpose of avoiding the applica-*
7 *tion of this section; and*

8 *“(B) with respect to the claim—*

9 *“(i) the person was offered a transpor-*
10 *tation rate by the carrier or freight for-*
11 *warder other than that legally on file with*
12 *the Interstate Commerce Commission for the*
13 *transportation service;*

14 *“(ii) the person tendered freight to the*
15 *carrier or freight forwarder in reasonable*
16 *reliance upon the offered transportation*
17 *rate;*

18 *“(iii) the carrier or freight forwarder*
19 *did not properly or timely file with the*
20 *Interstate Commerce Commission a tariff*
21 *providing for such transportation rate or*
22 *failed to enter into an agreement for con-*
23 *tract carriage;*

1 “(iv) such transportation rate was
2 billed and collected by the carrier or freight
3 forwarder; and

4 “(v) the carrier or freight forwarder
5 demands additional payment of a higher
6 rate filed in a tariff.

7 “(2) FORUM FOR RESOLUTION OF SHOWINGS.—
8 If there is a dispute as to the showing under para-
9 graph (1)(A), such dispute shall be resolved by the
10 court in which the claim is brought. If there is a dis-
11 pute as to the showing under paragraph (1)(B), such
12 dispute shall be resolved by the Panel. Pending the
13 resolution of any such dispute, the person shall not
14 have to pay any additional compensation to the car-
15 rier or freight forwarder.

16 “(3) EFFECT OF SATISFACTION OF CLAIMS
17 UNDER DISPUTE RESOLUTION PROCEDURE.—Satisfac-
18 tion of a claim under subsection (b), (c), or (d) shall
19 be binding on the parties, and the parties shall not
20 be subject to chapter 119, as in effect on the day be-
21 fore the effective date of this section.

22 “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000
23 POUNDS OR LESS.—A person from whom the additional le-
24 gally applicable and effective tariff rate or charges are
25 sought may elect to satisfy the claim, if the shipments each

1 weighed 10,000 pounds or less, by payment of 20 percent
2 of the difference between the carrier's applicable and effec-
3 tive tariff rate and the rate originally billed and paid. In
4 the event that a dispute arises as to the rate that was legally
5 applicable to the shipment, such dispute shall be resolved
6 by the Panel.

7 “(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE
8 THAN 10,000 POUNDS.—A person from whom the addi-
9 tional legally applicable and effective tariff rate or charges
10 are sought may elect to satisfy the claim, if the shipments
11 each weighed more than 10,000 pounds, by payment of 15
12 percent of the difference between the carrier's applicable and
13 effective tariff rate and the rate originally billed and paid.
14 In the event that a dispute arises as to the rate that was
15 legally applicable to the shipment, such dispute shall be re-
16 solved by the Panel.

17 “(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—
18 Notwithstanding subsections (b) and (c), a person from
19 whom the additional legally applicable and effective tariff
20 rate or charges are sought may elect to satisfy the claim
21 by payment of 5 percent of the difference between the car-
22 rier's applicable and effective tariff rate and the rate origi-
23 nally billed and paid if such person is a public warehouse-
24 man. In the event that a dispute arises as to the rate that

1 *was legally applicable to the shipment, such dispute shall*
2 *be resolved by the Panel.*

3 “(e) *EFFECTS OF ELECTION.*—*When a person from*
4 *whom additional legally applicable freight rates or charges*
5 *are sought does not elect to use the provisions of subsections*
6 *(b), (c) or (d), the person may pursue all rights and rem-*
7 *edies existing under this title on the day before the effective*
8 *date of this section.*

9 “(f) *STAY OF ADDITIONAL COMPENSATION.*—*When a*
10 *person proceeds under this section to challenge the reason-*
11 *ableness of the legally applicable freight rate or charges*
12 *being claimed by a carrier or freight forwarder in addition*
13 *to those already billed and collected, the person shall not*
14 *have to pay any additional compensation to the carrier or*
15 *freight forwarder until the Panel has made a determination*
16 *as to the reasonableness of the challenged rate as applied*
17 *to the freight of the person against whom the claim is made.*

18 “(g) *NOTIFICATION OF ELECTION.*—

19 “(1) *GENERAL RULE.*—*A person must notify the*
20 *carrier or freight forwarder as to its election to pro-*
21 *ceed under subsection (b), (c), or (d). Except as pro-*
22 *vided in paragraphs (2), (3), and (4), such election*
23 *may be made at any time.*

24 “(2) *DEMANDS FOR PAYMENT INITIALLY MADE*
25 *AFTER DECEMBER 3, 1993.*—*If the carrier or freight*

1 forwarder or party representing such carrier or
2 freight forwarder initially demands the payment of
3 additional freight charges after December 3, 1993,
4 and notifies the person from whom additional freight
5 charges are sought of the provisions of subsections (a)
6 through (f) at the time of the making of such initial
7 demand, the election must be made not later than the
8 later of—

9 “(A) the 60th day following the filing of an
10 answer to a suit for the collection of such addi-
11 tional legally applicable freight rate or charges,
12 or

13 “(B) March 5, 1994.

14 “(3) *PENDING SUITS FOR COLLECTION MADE BE-*
15 *FORE DECEMBER 4, 1993.—If the carrier or freight for-*
16 *warder or party representing such carrier or freight*
17 *forwarder has filed, before December 4, 1993, a suit*
18 *for the collection of additional freight charges and no-*
19 *tifies the person from whom additional freight charges*
20 *are sought of the provisions of subsections (a) through*
21 *(f), the election must be made not later than the 90th*
22 *day following the date on which such notification is*
23 *received.*

24 “(4) *DEMANDS FOR PAYMENT MADE BEFORE DE-*
25 *CEMBER 4, 1993.—If the carrier or freight forwarder*

1 *or party representing such carrier or freight for-*
2 *warder has demanded the payment of additional*
3 *freight charges, and has not filed a suit for the collec-*
4 *tion of such additional freight charges, before Decem-*
5 *ber 4, 1993, and notifies the person from whom addi-*
6 *tional freight charges are sought of the provisions of*
7 *subsections (a) through (f), the election must be made*
8 *not later than the later of—*

9 *“(A) the 60th day following the filing of an*
10 *answer to a suit for the collection of such addi-*
11 *tional legally applicable freight rate or charges,*
12 *or*

13 *“(B) March 5, 1994.*

14 *“(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS,*
15 *CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATE-*
16 *RIALS.—*

17 *“(1) IN GENERAL.—Notwithstanding subsections*
18 *(b), (c), and (d), a person from whom the additional*
19 *legally applicable and effective tariff rate or charges*
20 *are sought shall not be liable for the difference be-*
21 *tween the carrier’s applicable and effective tariff rate*
22 *and the rate originally billed and paid—*

23 *“(A) if such person qualifies as a small-*
24 *business concern under the Small Business Act*
25 *(15 U.S.C. 631 et seq.),*

1 “(B) if such person is an organization
2 which is described in section 501(c)(3) of the In-
3 ternal Revenue Code of 1986 and exempt from
4 tax under section 501(a) of such Code, or

5 “(C) if the cargo involved in the claim is re-
6 cyclable materials.

7 “(2) *RECYCLABLE MATERIALS DEFINED.*—In this
8 subsection, the term ‘recyclable materials’ means
9 waste products for recycling or reuse in the further-
10 ance of recognized pollution control programs.

11 **“§ 13709. Additional motor carrier undercharge provi-
12 sions**

13 “(a) *MISCELLANEOUS PROVISIONS.*—

14 “(1) *INFORMATION RELATING TO BASIS OF*
15 *RATE.*—A motor carrier of property (other than a
16 motor carrier providing transportation in noncontig-
17 uous domestic trade) shall provide to the shipper, on
18 request of the shipper, a written or electronic copy of
19 the rate, classification, rules, and practices, upon
20 which any rate agreed to between the shipper and
21 carrier may have been based.

22 “(2) *REASONABLENESS OF RATES; COLLECTING*
23 *ADDITIONAL CHARGES.*—With respect to transpor-
24 tation provided before the effective date of this section,
25 when the applicability or reasonableness of the rates

1 *and related provisions billed by a motor carrier is*
2 *challenged by the person paying the freight charges,*
3 *the Panel shall determine whether such rates and pro-*
4 *visions are reasonable or applicable based on the*
5 *record before it. In those cases where a motor carrier*
6 *(other than a motor carrier providing transportation*
7 *of household goods or in noncontiguous domestic*
8 *trade) seeks to collect charges in addition to those*
9 *billed and collected which are contested by the payor,*
10 *the carrier may request that the Panel determine*
11 *whether any additional charges over those billed and*
12 *collected must be paid. A carrier must issue any bill*
13 *for charges in addition to those originally billed with-*
14 *in 180 days of the receipt of the original bill in order*
15 *to have the right to collect such charges.*

16 “(3) *CHARGES BEFORE EFFECTIVE DATE.*—*With*
17 *respect to transportation provided before the effective*
18 *date of this section, if a shipper seeks to contest the*
19 *charges originally billed or additional charges subse-*
20 *quently billed, the shipper may request that the Panel*
21 *determine whether the charges billed must be paid. A*
22 *shipper must contest the original bill or subsequent*
23 *bill within 180 days of receipt of the bill in order to*
24 *have the right to contest such charges.*

1 *hold goods carrier) providing transportation that was sub-*
2 *ject to jurisdiction under subchapter II of chapter 105 before*
3 *the effective date of this section, a freight forwarder (other*
4 *than a household goods freight forwarder), or a party rep-*
5 *resenting such a carrier or freight forwarder to attempt to*
6 *charge or to charge for a transportation service the dif-*
7 *ference between the applicable rate that was lawfully in ef-*
8 *fect pursuant to a tariff that was filed in accordance with*
9 *chapter 107 of this title by the carrier or freight forwarder*
10 *applicable to such transportation service and the negotiated*
11 *rate for such transportation service if the carrier or freight*
12 *forwarder is no longer transporting property between places*
13 *described in section 13501(1) of this title or is transporting*
14 *property between places described in section 13501(1) of*
15 *this title for the purpose of avoiding application of this sec-*
16 *tion.*

17 “(b) JURISDICTION OF PANEL.—

18 “(1) DETERMINATION.—The Panel shall have ju-

19 *risdiction to make a determination of whether or not*

20 *attempting to charge or the charging of a rate by a*

21 *motor carrier or freight forwarder or party represent-*

22 *ing a motor carrier or freight forwarder is an unrea-*

23 *sonable practice under subsection (a). If the Panel de-*

24 *termines that attempting to charge or the charging of*

25 *the rate is an unreasonable practice under subsection*

1 (a), the carrier, freight forwarder, or party may not
2 collect the difference described in subsection (a) be-
3 tween the applicable rate and the negotiated rate for
4 the transportation service.

5 “(2) *FACTORS TO CONSIDER.*—In making a de-
6 termination under paragraph (1), the Panel shall
7 consider—

8 “(A) whether the person was offered a trans-
9 portation rate by the carrier or freight forwarder
10 or party other than that legally on file with the
11 Interstate Commerce Commission at the time of
12 the movement for the transportation service;

13 “(B) whether the person tendered freight to
14 the carrier or freight forwarder in reasonable re-
15 liance upon the offered transportation rate;

16 “(C) whether the carrier or freight for-
17 warder did not properly or timely file with the
18 Interstate Commerce Commission a tariff provid-
19 ing for such transportation rate or failed to enter
20 into an agreement for contract carriage;

21 “(D) whether the transportation rate was
22 billed and collected by the carrier or freight for-
23 warder; and

1 “(E) whether the carrier or freight for-
2 warder or party demands additional payment of
3 a higher rate filed in a tariff.

4 “(c) *STAY OF ADDITIONAL COMPENSATION.*—When a
5 person proceeds under this section to challenge the reason-
6 ableness of the practice of a motor carrier, freight forwarder,
7 or party described in subsection (a) to attempt to charge
8 or to charge the difference described in subsection (a) be-
9 tween the applicable rate and the negotiated rate for the
10 transportation service in addition to those charges already
11 billed and collected for the transportation service, the person
12 shall not have to pay any additional compensation to the
13 carrier, freight forwarder, or party until the Panel has
14 made a determination as to the reasonableness of the prac-
15 tice as applied to the freight of the person against whom
16 the claim is made.

17 “(d) *TREATMENT.*—Subsection (a) is an exception to
18 the requirements of section 13702 and, for transportation
19 provided before the effective date of this section, to the re-
20 quirements of sections 10761(a) and 10762, relating to a
21 filed tariff rate and other general tariff requirements, as
22 in effect on the day before such effective date.

23 “(e) *NONAPPLICABILITY OF NEGOTIATED RATE DIS-*
24 *PUTE RESOLUTION PROCEDURE.*—If a person elects to seek
25 enforcement of subsection (a) with respect to a rate for a

1 *transportation or service, section 13708 shall not apply to*
2 *such rate.*

3 “(f) *DEFINITIONS.*—*In this section, the term “nego-*
4 *tiated rate” means a rate, charge, classification, or rule*
5 *agreed upon by a motor carrier or freight forwarder and*
6 *a shipper through negotiations pursuant to which no tariff*
7 *was lawfully and timely filed and for which there is written*
8 *evidence of such agreement.*

9 **“§ 13711. Government traffic**

10 *“A carrier providing transportation or service for the*
11 *United States Government may transport property or indi-*
12 *viduals for the United States Government without charge*
13 *or at a rate reduced from the applicable commercial rate.*
14 *Section 3709 of the Revised Statutes (41 U.S.C. 5) does not*
15 *apply when transportation for the United States Govern-*
16 *ment can be obtained from a carrier lawfully operating in*
17 *the area where the transportation would be provided.*

18 **“§ 13712. Food and grocery transportation**

19 “(a) *CERTAIN COMPENSATION PROHIBITED.*—*Not-*
20 *withstanding any other provision of law, it shall not be un-*
21 *lawful for a seller of food and grocery products using a uni-*
22 *form zone delivered pricing system to compensate a cus-*
23 *tomers who picks up purchased food and grocery products*
24 *at the shipping point of the seller if such compensation is*
25 *available to all customers of the seller on a nondiscrim-*

1 *inatory basis and does not exceed the actual cost to the seller*
 2 *of delivery to such customer.*

3 “(b) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
 4 *gress that any savings accruing to a customer by reason*
 5 *of compensation permitted by subsection (a) of this section*
 6 *should be passed on to the ultimate consumer.*

7 **“CHAPTER 139—REGISTRATION**

“Sec.

“13901. *Requirement for registration.*

“13902. *Registration of motor carriers.*

“13903. *Registration of freight forwarders.*

“13904. *Registration of motor carrier brokers.*

“13905. *Effective periods of registration.*

“13906. *Security of motor carriers, brokers, and freight forwarders.*

“13907. *Household goods agents.*

“13908. *Registration and other reforms.*

8 **“§ 13901. Requirement for registration**

9 “A *person may provide transportation or service sub-*
 10 *ject to jurisdiction under subchapter I or III of chapter 135*
 11 *or be a broker for transportation subject to jurisdiction*
 12 *under subchapter I of that chapter, only if the person is*
 13 *registered under this chapter to provide the transportation*
 14 *or service.*

15 **“§ 13902. Registration of motor carriers**

16 “(a) *MOTOR CARRIER GENERALLY.*—

17 “(1) *IN GENERAL.*—*Except as provided in this*
 18 *section, the Secretary shall register a person to pro-*
 19 *vide transportation subject to jurisdiction under sub-*
 20 *chapter I of chapter 135 of this title as a motor car-*

1 *rier if the Secretary finds that the person is willing*
2 *and able to comply with—*

3 *“(A) this part and the applicable regula-*
4 *tions of the Secretary and the Panel;*

5 *“(B) any safety regulations imposed by the*
6 *Secretary and the safety fitness requirements es-*
7 *tablished by the Secretary under section 31144;*
8 *and*

9 *“(C) the minimum financial responsibility*
10 *requirements established by the Secretary pursu-*
11 *ant to sections 13906 and 31138.*

12 *“(2) CONSIDERATION OF EVIDENCE; FINDINGS.—*
13 *The Secretary shall consider and, to the extent appli-*
14 *cable, make findings on, any evidence demonstrating*
15 *that the registrant is unable to comply with the re-*
16 *quirements of subparagraph (A), (B), or (C) of para-*
17 *graph (1).*

18 *“(3) WITHHOLDING.—If the Secretary deter-*
19 *mines that any registrant under this section does not*
20 *meet the requirements of paragraph (1), the Secretary*
21 *shall withhold registration.*

22 *“(4) LIMITATION ON COMPLAINTS.—The Sec-*
23 *retary may hear a complaint from any person con-*
24 *cerning a registration under this subsection only on*
25 *the ground that the registrant fails or will fail to*

1 *comply with this part, the applicable regulations of*
2 *the Secretary and the Panel, the safety regulations of*
3 *the Secretary, or the safety fitness or minimum finan-*
4 *cial responsibility requirements of paragraph (1) of*
5 *this subsection.*

6 *“(b) MOTOR CARRIERS OF PASSENGERS.—*

7 *“(1) REGISTRATION OF PRIVATE RECIPIENTS OF*
8 *GOVERNMENTAL ASSISTANCE.—The Secretary shall*
9 *register under subsection (a)(1) a private recipient of*
10 *governmental assistance to provide special or charter*
11 *transportation subject to jurisdiction under sub-*
12 *chapter I of chapter 135 as a motor carrier of pas-*
13 *sengers if the Secretary finds that the recipient meets*
14 *the requirements of subsection (a)(1), unless the Sec-*
15 *retary finds, on the basis of evidence presented by any*
16 *person objecting to the registration, that the transpor-*
17 *tation to be provided pursuant to the registration is*
18 *not in the public interest.*

19 *“(2) REGISTRATION OF PUBLIC RECIPIENTS OF*
20 *GOVERNMENTAL ASSISTANCE.—*

21 *“(A) CHARTER TRANSPORTATION.—The*
22 *Secretary shall register under subsection (a)(1) a*
23 *public recipient of governmental assistance to*
24 *provide special or charter transportation subject*
25 *to jurisdiction under subchapter I of chapter 135*

1 *as a motor carrier of passengers if the Secretary*
2 *finds that—*

3 “(i) *the recipient meets the require-*
4 *ments of subsection (a)(1); and*

5 “(ii)(I) *no motor carrier of passengers*
6 *(other than a motor carrier of passengers*
7 *which is a public recipient of governmental*
8 *assistance) is providing, or is willing to*
9 *provide, the transportation; or*

10 “(II) *the transportation is to be pro-*
11 *vided entirely in the area in which the pub-*
12 *lic recipient provides regularly scheduled*
13 *mass transportation services.*

14 “(B) *REGULAR-ROUTE TRANSPORTATION.—*
15 *The Secretary shall register under subsection*
16 *(a)(1) a public recipient of governmental assist-*
17 *ance to provide regular-route transportation sub-*
18 *ject to jurisdiction under subchapter I of chapter*
19 *135 as a motor carrier of passengers if the Sec-*
20 *retary finds that the recipient meets the require-*
21 *ments of subsection (a)(1), unless the Secretary*
22 *finds, on the basis of evidence presented by any*
23 *person objecting to the registration, that the*
24 *transportation to be provided pursuant to the*
25 *registration is not in the public interest.*

1 “(C) *TREATMENT OF CERTAIN PUBLIC RE-*
2 *CIPIENTS.—Any public recipient of governmental*
3 *assistance which is providing or seeking to pro-*
4 *vide transportation of passengers subject to juris-*
5 *isdiction under subchapter I of chapter 135 shall,*
6 *for purposes of this part, be treated as a person*
7 *which is providing or seeking to provide trans-*
8 *portation of passengers subject to such jurisdic-*
9 *tion.*

10 “(3) *INTRASTATE TRANSPORTATION.—A motor*
11 *carrier of passengers that is registered by the Sec-*
12 *retary under subsection (a) is authorized to provide*
13 *regular-route transportation entirely in one State as*
14 *a motor carrier of passengers if such intrastate trans-*
15 *portation is to be provided on a route over which the*
16 *carrier provides interstate transportation of pas-*
17 *sengers.*

18 “(4) *PREEMPTION REGARDING CERTAIN EXPRESS*
19 *SERVICE.—No State or political subdivision thereof*
20 *and no interstate agency or other political agency of*
21 *2 or more States shall enact or enforce any law, rule,*
22 *regulation, standard or other provision having the*
23 *force and effect of law relating to the provision of*
24 *pickup and delivery of express packages, newspapers,*
25 *or mail in a commercial zone if the shipment has had*

1 *or will have a prior or subsequent movement by bus*
2 *in intrastate commerce and, if a city within the com-*
3 *mercial zone, is served by a motor carrier of pas-*
4 *sengers providing regular-route transportation of pas-*
5 *sengers subject to jurisdiction under subchapter I of*
6 *chapter 135.*

7 *“(5) TREATMENT.—Except as provided in sec-*
8 *tion 14501(a), any intrastate transportation author-*
9 *ized by this subsection shall be treated as transpor-*
10 *tation subject to jurisdiction under subchapter I of*
11 *chapter 135 until the 30th day following the date on*
12 *which the motor carrier of passengers first begins pro-*
13 *viding transportation entirely in one State under this*
14 *paragraph and the carrier takes such action as is nec-*
15 *essary to establish under the laws of such State rates,*
16 *rules, and practices applicable to such transportation.*

17 *“(6) SPECIAL OPERATIONS.—This subsection*
18 *shall not apply to any regular-route transportation of*
19 *passengers provided entirely in one State which is in*
20 *the nature of a special operation.*

21 *“(7) SUSPENSION OR REVOCATION.—Intrastate*
22 *transportation authorized under this subsection may*
23 *be suspended or revoked by the Secretary under sec-*
24 *tion 13905 of this title at any time.*

1 “(8) *DEFINITIONS.*—*In this subsection, the fol-*
2 *lowing definitions apply:*

3 “(A) *PUBLIC RECIPIENT OF GOVERNMENTAL*
4 *ASSISTANCE.*—*The term ‘public recipient of gov-*
5 *ernmental assistance’ means—*

6 “(i) *any State,*

7 “(ii) *any municipality or other politi-*
8 *cal subdivision of a State,*

9 “(iii) *any public agency or instrumen-*
10 *tality of one or more States and munici-*
11 *palities and political subdivisions of a*
12 *State,*

13 “(iv) *any Indian tribe,*

14 “(v) *any corporation, board, or other*
15 *person owned or controlled by any entity*
16 *described in clause (i), (ii), (iii), or (iv),*
17 *and*

18 *which before, on, or after the effective date of this*
19 *subsection received governmental assistance for*
20 *the purchase or operation of any bus.*

21 “(B) *PRIVATE RECIPIENT OF GOVERNMENT*
22 *ASSISTANCE.*—*The term ‘private recipient of gov-*
23 *ernment assistance’ means any person (other*
24 *than a person described in subparagraph (A))*
25 *who before, on, or after the effective date of this*

1 *paragraph received governmental financial as-*
2 *istance in the form of a subsidy for the pur-*
3 *chase, lease, or operation of any bus.*

4 “(c) *RESTRICTIONS ON MOTOR CARRIERS DOMICILED*
5 *IN OR OWNED OR CONTROLLED BY NATIONALS OF A CON-*
6 *TIGUOUS FOREIGN COUNTRY.—*

7 “(1) *PREVENTION OF DISCRIMINATORY PRAC-*
8 *TICES.—If the President, or the delegate thereof, deter-*
9 *mines that an act, policy, or practice of a foreign*
10 *country contiguous to the United States, or any polit-*
11 *ical subdivision or any instrumentality of any such*
12 *country is unreasonable or discriminatory and bur-*
13 *dens or restricts United States transportation compa-*
14 *nies providing, or seeking to provide, motor carrier*
15 *transportation to, from, or within such foreign coun-*
16 *try, the President or such delegate may—*

17 “(A) *seek elimination of such practices*
18 *through consultations; or*

19 “(B) *notwithstanding any other provision*
20 *of law, suspend, modify, amend, condition, or re-*
21 *strict operations, including geographical restric-*
22 *tion of operations, in the United States by motor*
23 *carriers of property or passengers domiciled in*
24 *such foreign country or owned or controlled by*
25 *persons of such foreign country.*

1 “(2) *EQUALIZATION OF TREATMENT.*—Any ac-
2 tion taken under paragraph (1)(A) to eliminate an
3 act, policy, or practice shall be so devised so as to
4 equal to the extent possible the burdens or restrictions
5 imposed by such foreign country on United States
6 transportation companies.

7 “(3) *REMOVAL OR MODIFICATION.*—The Presi-
8 dent, or the delegate thereof, may remove or modify
9 in whole or in part any action taken under para-
10 graph (1)(A) if the President or such delegate deter-
11 mines that such removal or modification is consistent
12 with the obligations of the United States under a
13 trade agreement or with United States transportation
14 policy.

15 “(4) *PROTECTION OF EXISTING OPERATIONS.*—
16 Unless and until the President, or the delegate thereof,
17 makes a determination under paragraph (1) or (3),
18 nothing in this subsection shall affect—

19 “(A) operations of motor carriers of prop-
20 erty or passengers domiciled in any contiguous
21 foreign country or owned or controlled by per-
22 sons of any contiguous foreign country permitted
23 in the commercial zones along the United States-
24 Mexico border as such zones were defined on the
25 day before the effective date of this section; or

1 “(B) any existing restrictions on operations
2 of motor carriers of property or passengers domi-
3 ciled in any contiguous foreign country or owned
4 or controlled by persons of any contiguous for-
5 eign country or any modifications thereof pursu-
6 ant to section 6 of the Bus Regulatory Reform
7 Act of 1982.

8 “(5) PUBLICATION; COMMENT.—Unless the Presi-
9 dent, or the delegate thereof, determines that expedi-
10 tious action is required, the President shall publish in
11 the Federal Register any determination under para-
12 graph (1) or (3), together with a description of the
13 facts on which such a determination is based and any
14 proposed action to be taken pursuant to paragraph
15 (1)(B) or (3) and provide an opportunity for public
16 comment.

17 “(6) DELEGATION TO SECRETARY.—The Presi-
18 dent may delegate any or all authority under this
19 subsection to the Secretary, who shall consult with
20 other agencies as appropriate. In accordance with the
21 directions of the President, the Secretary may issue
22 regulations to enforce this subsection.

23 “(7) CIVIL ACTIONS.—Either the Secretary or the
24 Attorney General may bring a civil action in an ap-
25 propriate district court of the United States to enforce

1 *this subsection or a regulation prescribed or order is-*
2 *ssued under this subsection. The court may award ap-*
3 *propriate relief, including injunctive relief.*

4 *“(8) LIMITATION ON STATUTORY CONSTRUC-*
5 *TION.—This subsection shall not be construed as af-*
6 *fecting the requirement for all foreign motor carriers*
7 *operating in the United States to comply with all ap-*
8 *plicable laws and regulations pertaining to fitness,*
9 *safety of operations, financial responsibility, and*
10 *taxes imposed by section 4481 of the Internal Revenue*
11 *Code of 1986.*

12 **“§ 13903. Registration of freight forwarders**

13 *“(a) IN GENERAL.—The Secretary shall register a per-*
14 *son to provide service subject to jurisdiction under sub-*
15 *chapter III of chapter 135 as a freight forwarder if the Sec-*
16 *retary finds that the person is willing and able to provide*
17 *the service and to comply with this part and applicable*
18 *regulations of the Secretary and the Panel.*

19 *“(b) REGISTRATION AS CARRIER REQUIRED.—The*
20 *freight forwarder may provide transportation as the carrier*
21 *itself only if the freight forwarder also has registered to pro-*
22 *vide transportation as a carrier under this chapter.*

23 **“§ 13904. Registration of motor carrier brokers**

24 *“(a) IN GENERAL.—The Secretary shall register, sub-*
25 *ject to section 13906(b), a person to be a broker for trans-*

1 *portation of property subject to jurisdiction under sub-*
2 *chapter I of chapter 135, if the Secretary finds that the per-*
3 *son is willing and able to be a broker for transportation*
4 *and to comply with this part and applicable regulations*
5 *of the Secretary.*

6 “(b) *LIMITATION.*—

7 “(1) *REGISTRATION AS CARRIER REQUIRED.*—

8 *The broker may provide transportation itself only if*
9 *the broker also has registered to provide transpor-*
10 *tation as a carrier under this chapter.*

11 “(2) *EXCEPTION.*—*This subsection does not*

12 *apply to a motor carrier registered under this chapter*
13 *or to an employee or agent of the motor carrier to the*
14 *extent the transportation is to be provided entirely by*
15 *the motor carrier, with other registered motor car-*
16 *riers, or with rail or water carriers.*

17 “(c) *REGULATIONS TO PROTECT SHIPPERS.*—*Regula-*

18 *tions of the Secretary applicable to brokers registered under*
19 *this section shall provide for the protection of shippers by*
20 *motor vehicle.*

21 “(d) *BOND AND INSURANCE.*—*The Secretary may im-*

22 *pose on brokers for motor carriers of passengers such re-*
23 *quirements for bonds or insurance or both as the Secretary*
24 *determines are needed to protect passengers and carriers*
25 *dealing with such brokers.*

1 **“§ 13905. Effective periods of registration**

2 “(a) *IN GENERAL.*—Each registration issued under
3 section 13902, 13903, or 13904 shall be effective from the
4 date specified by the Secretary and shall remain in effect,
5 except as otherwise provided in this part.

6 “(b) *SUSPENSION, AMENDMENTS, AND REVOCATIONS.*—On application of the registrant, the Secretary
7 may amend or revoke a registration. On complaint or on
8 the Secretary’s own initiative and after notice and an op-
9 portunity for a proceeding, the Secretary may suspend,
10 amend, or revoke any part of the registration of a motor
11 carrier, broker, or freight forwarder for willful failure to
12 comply with this part, an applicable regulation or order
13 of the Secretary or of the Panel, or a condition of its reg-
14 istration.

15 “(c) *PROCEDURE.*—Except on application of the reg-
16 istrant, the Secretary may revoke a registration of a motor
17 carrier, freight forwarder, or broker, only after—

18 “(1) the Secretary has issued an order to the reg-
19 istrant under section 14701 requiring compliance
20 with this part, a regulation of the Secretary, or a
21 condition of the registration of the registrant; and

22 “(2) the registrant willfully does not comply
23 with the order for a period of 30 days.

24 “(d) *EXPEDITED PROCEDURE.*—
25

1 “(1) *PROTECTION OF SAFETY.*—Without regard
2 to subchapter II of chapter 5 of title 5, the Secretary
3 may suspend the registration of a motor carrier, a
4 freight forwarder, or a broker for failure to comply
5 with safety requirements of the Secretary or the safety
6 fitness requirements pursuant to section 13904(c),
7 13906, or 31144, of this title, or an order or regula-
8 tion of the Secretary prescribed under those sections.

9 “(2) *IMMINENT HAZARD TO PUBLIC HEALTH.*—
10 Without regard to subchapter II of chapter 5 of title
11 5, the Secretary may suspend a registration of a
12 motor carrier of passengers if the Secretary finds that
13 such carrier has been conducting unsafe operations
14 which are an imminent hazard to public health or
15 property.

16 “(3) *NOTICE; PERIOD OF SUSPENSION.*—The Sec-
17 retary may suspend under this subsection the reg-
18 istration only after giving notice of the suspension to
19 the registrant. The suspension remains in effect until
20 the registrant complies with those applicable sections
21 or, in the case of a suspension under paragraph (2),
22 until the Secretary revokes such suspension.

23 **“§ 13906. Security of motor carriers, brokers, and**
24 **freight forwarders**

25 “(a) *MOTOR CARRIER REQUIREMENTS.*—

1 “(1) *LIABILITY INSURANCE REQUIREMENT.*—The
2 Secretary may register a motor carrier under section
3 13902 only if the registrant files with the Secretary
4 a bond, insurance policy, or other type of security ap-
5 proved by the Secretary, in an amount not less than
6 such amount as the Secretary prescribes pursuant to,
7 or as is required by, sections 31138 and 31139, and
8 the laws of the State or States in which the registrant
9 is operating, to the extent applicable. The security
10 must be sufficient to pay, not more than the amount
11 of the security, for each final judgment against the
12 registrant for bodily injury to, or death of, an indi-
13 vidual resulting from the negligent operation, mainte-
14 nance, or use of motor vehicles, or for loss or damage
15 to property (except property referred to in paragraph
16 (3) of this subsection), or both. A registration remains
17 in effect only as long as the registrant continues to
18 satisfy the security requirements of this paragraph.

19 “(2) *AGENCY REQUIREMENT.*—A motor carrier
20 shall comply with the requirements of sections 13303
21 and 13304. To protect the public, the Secretary may
22 require any such motor carrier to file the type of secu-
23 rity that a motor carrier is required to file under
24 paragraph (1) of this subsection. This paragraph only
25 applies to a foreign motor private carrier and foreign

1 *motor carrier operating in the United States to the*
2 *extent that such carrier is providing transportation*
3 *between places in a foreign country or between a*
4 *place in one foreign country and a place in another*
5 *foreign country.*

6 “(3) *TRANSPORTATION INSURANCE.*—*The Sec-*
7 *retary may require a registered motor carrier to file*
8 *with the Secretary a type of security sufficient to pay*
9 *a shipper or consignee for damage to property of the*
10 *shipper or consignee placed in the possession of the*
11 *motor carrier as the result of transportation provided*
12 *under this part. A carrier required by law to pay a*
13 *shipper or consignee for loss, damage, or default for*
14 *which a connecting motor carrier is responsible is*
15 *subrogated, to the extent of the amount paid, to the*
16 *rights of the shipper or consignee under any such se-*
17 *curity.*

18 “(b) *BROKER REQUIREMENTS.*—*The Secretary may*
19 *register a person as a broker under section 13904 only if*
20 *the person files with the Secretary a bond, insurance policy,*
21 *or other type of security approved by the Secretary to en-*
22 *sure that the transportation for which a broker arranges*
23 *is provided. The registration remains in effect only as long*
24 *as the broker continues to satisfy the security requirements*
25 *of this subsection.*

1 “(c) *FREIGHT FORWARDER REQUIREMENTS.*—

2 “(1) *LIABILITY INSURANCE.*—*The Secretary may*
3 *register a person as a freight forwarder under section*
4 *13903 of this title only if the person files with the*
5 *Secretary a bond, insurance policy, or other type of*
6 *security approved by the Secretary. The security must*
7 *be sufficient to pay, not more than the amount of the*
8 *security, for each final judgment against the freight*
9 *forwarder for bodily injury to, or death of, an indi-*
10 *vidual, or loss of, or damage to, property (other than*
11 *property referred to in paragraph (2) of this sub-*
12 *section), resulting from the negligent operation, main-*
13 *tenance, or use of motor vehicles by or under the di-*
14 *rection and control of the freight forwarder when pro-*
15 *viding transfer, collection, or delivery service under*
16 *this part.*

17 “(2) *FREIGHT FORWARDER INSURANCE.*—*The*
18 *Secretary may require a registered freight forwarder*
19 *to file with the Secretary a bond, insurance policy, or*
20 *other type of security approved by the Secretary suffi-*
21 *cient to pay, not more than the amount of the secu-*
22 *rity, for loss of, or damage to, property for which the*
23 *freight forwarder provides service.*

24 “(3) *EFFECTIVE PERIOD.*—*The freight for-*
25 *warder’s registration remains in effect only as long as*

1 *the freight forwarder continues to satisfy the security*
2 *requirements of this subsection.*

3 “(d) *TYPE OF INSURANCE.*—*The Secretary may deter-*
4 *mine the type and amount of security filed under this sec-*
5 *tion. A motor carrier may submit proof of qualifications*
6 *as a self-insurer to satisfy the security requirements of this*
7 *section. The Secretary shall adopt regulations governing the*
8 *standards for approval as a self-insurer. Motor carriers*
9 *which have been granted authority to self-insure as of the*
10 *effective date of this section shall retain that authority un-*
11 *less, for good cause shown and after notice and an oppor-*
12 *tunity for a hearing, the Secretary finds that the authority*
13 *must be revoked.*

14 “(e) *NOTICE OF CANCELLATION OF INSURANCE.*—*The*
15 *Secretary shall issue regulations requiring the submission*
16 *to the Secretary of notices of insurance cancellation suffi-*
17 *ciently in advance of actual cancellation so as to enable*
18 *the Secretary to promptly revoke the registration of any*
19 *carrier or broker after the effective date of the cancellation.*

20 “(f) *FORM OF ENDORSEMENT.*—*The Secretary shall*
21 *also prescribe the appropriate form of endorsement to be*
22 *appended to policies of insurance and surety bonds which*
23 *will subject the insurance policy or surety bond to the full*
24 *security limits of the coverage required under this section.*

1 **“§ 13907. Household goods agents**

2 “(a) *CARRIERS RESPONSIBLE FOR AGENTS.*—Each
3 *motor carrier providing transportation of household goods*
4 *shall be responsible for all acts or omissions of any of its*
5 *agents which relate to the performance of household goods*
6 *transportation services (including accessorial or terminal*
7 *services) and which are within the actual or apparent au-*
8 *thority of the agent from the carrier or which are ratified*
9 *by the carrier.*

10 “(b) *STANDARD FOR SELECTING AGENTS.*—Each
11 *motor carrier providing transportation of household goods*
12 *shall use due diligence and reasonable care in selecting and*
13 *maintaining agents who are sufficiently knowledgeable, fit,*
14 *willing, and able to provide adequate household goods trans-*
15 *portation services (including accessorial and terminal serv-*
16 *ices) and to fulfill the obligations imposed upon them by*
17 *this part and by such carrier.*

18 “(c) *ENFORCEMENT.*—

19 “(1) *COMPLAINT.*—Whenever the Secretary has
20 *reason to believe from a complaint or investigation*
21 *that an agent providing household goods transpor-*
22 *tation services (including accessorial and terminal*
23 *services) under the authority of a motor carrier pro-*
24 *viding transportation of household goods has violated*
25 *section 14901(e) or 14912 or is consistently not fit,*
26 *willing, and able to provide adequate household goods*

1 *transportation services (including accessorial and ter-*
2 *terminal services), the Secretary may issue to such agent*
3 *a complaint stating the charges and containing notice*
4 *of the time and place of a hearing which shall be held*
5 *no later than 60 days after service of the complaint*
6 *to such agent.*

7 “(2) *RIGHT TO DEFEND.*—*The agent shall have*
8 *the right to appear at such hearing and rebut the*
9 *charges contained in the complaint.*

10 “(3) *ORDER.*—*If the agent does not appear at*
11 *the hearing or if the Secretary finds that the agent*
12 *has violated section 14901(e) or 14912 or is consist-*
13 *ently not fit, willing, and able to provide adequate*
14 *household goods transportation services (including ac-*
15 *cessorial and terminal services), the Secretary may*
16 *issue an order to compel compliance with the require-*
17 *ment that the agent be fit, willing, and able. There-*
18 *after, the Secretary may issue an order to limit, con-*
19 *dition, or prohibit such agent from any involvement*
20 *in the transportation or provision of services inciden-*
21 *tal to the transportation of household goods if, after*
22 *notice and an opportunity for a hearing, the Sec-*
23 *retary finds that such agent, within a reasonable time*
24 *after the date of issuance of a compliance order under*
25 *this section, but in no event less than 30 days after*

1 *such date of issuance, has willfully failed to comply*
2 *with such order.*

3 “(4) *HEARING.*—Upon filing of a petition with
4 *the Secretary by an agent who is the subject of an*
5 *order issued pursuant to the second sentence of para-*
6 *graph (3) of this subsection and after notice, a hear-*
7 *ing shall be held with an opportunity to be heard. At*
8 *such hearing, a determination shall be made whether*
9 *the order issued pursuant to paragraph (3) of this*
10 *subsection should be rescinded.*

11 “(5) *COURT REVIEW.*—Any agent adversely af-
12 *fected or aggrieved by an order of the Secretary issued*
13 *under this subsection may seek relief in the appro-*
14 *priate United States court of appeals as provided by*
15 *and in the manner prescribed in chapter 158 of title*
16 *28, United States Code.*

17 “(d) *LIMITATION ON APPLICABILITY OF ANTITRUST*
18 *LAWS.*—

19 “(1) *IN GENERAL.*—The antitrust laws, as de-
20 *finied in the first section of the Clayton Act (15 U.S.C.*
21 *12), do not apply to discussions or agreements be-*
22 *tween a motor carrier providing transportation of*
23 *household goods and its agents (whether or not an*
24 *agent is also a carrier) related solely to—*

1 “(A) rates for the transportation of house-
2 hold goods under the authority of the principal
3 carrier;

4 “(B) accessorial, terminal, storage, or other
5 charges for services incidental to the transpor-
6 tation of household goods transported under the
7 authority of the principal carrier;

8 “(C) allowances relating to transportation
9 of household goods under the authority of the
10 principal carrier; and

11 “(D) ownership of a motor carrier provid-
12 ing transportation of household goods by an
13 agent or membership on the board of directors of
14 any such motor carrier by an agent.

15 “(2) PANEL REVIEW.—The Panel, upon its own
16 initiative or request, shall review any activities un-
17 dertaken under paragraph (1) and shall modify or
18 terminate the activity if necessary to protect the pub-
19 lic interest.

20 “(e) DEFINITIONS.—In this section, the following defi-
21 nitions apply:

22 “(1) HOUSEHOLD GOODS.—The term ‘household
23 goods’ has the meaning such term had under section
24 10102(11) of this title, as in effect on the day before
25 the effective date of this section.

1 “(2) *TRANSPORTATION.*—The term ‘transportation’ means transportation that would be subject to
2 the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title,
3 as in effect on the day before such effective date, if
4 such subchapter were still in effect.
5

6 **“§ 13908. Registration and other reforms**

7 “(a) *REGULATIONS REPLACING CERTAIN PRO-*
8 *GRAMS.*—The Secretary, in cooperation with the States,
9 and after notice and opportunity for public comment, shall
10 issue regulations to replace the current Department of
11 Transportation identification number system, the single
12 State registration system under section 14504, the registra-
13 tion system contained in this chapter, and the financial re-
14 sponsibility information system under section 13906 with
15 a single, on-line, Federal system. The new system shall serve
16 as a clearinghouse and depository of information on and
17 identification of all foreign and domestic motor carriers,
18 brokers, and freight forwarders, and others required to reg-
19 ister with the Department as well as information on safety
20 fitness and compliance with required levels of financial re-
21 sponsibility.
22

23 “(b) *FACTORS TO BE CONSIDERED.*—In conducting
24 the rulemaking under subsection (a), the Secretary shall,
25 at a minimum, consider the following factors:

1 “(1) *Funding for State enforcement of motor car-*
2 *rier safety regulations.*

3 “(2) *Whether the existing single State registra-*
4 *tion system is duplicative and burdensome.*

5 “(3) *The justification and need for collecting the*
6 *statutory fee for such system under section*
7 *14504(c)(2)(B)(iv).*

8 “(4) *The public safety.*

9 “(5) *The efficient delivery of transportation serv-*
10 *ices.*

11 “(6) *How, and under what conditions, to extend*
12 *the registration system to motor private carriers and*
13 *to carriers exempt under sections 13502, 13503, and*
14 *13506.*

15 “(c) *FEE SYSTEM.—The Secretary may establish,*
16 *under section 9701 of title 31, a fee system for registration*
17 *and filing evidence of financial responsibility under the*
18 *new system under subsection (a). Fees collected under the*
19 *fee system shall cover the costs of operating and upgrading*
20 *the registration system, including all personnel costs associ-*
21 *ated with the system. Fees collected under this subsection*
22 *may be credited to the Department of Transportation ap-*
23 *propriations account for purposes for which such fees are*
24 *collected, and shall be available for expenditure until ex-*
25 *pended.*

1 “(d) *STATE REGISTRATION PROGRAMS.*—If the Sec-
 2 retary determines that no State should require insurance
 3 filings or collect fees for such filings under section 14504,
 4 the Secretary may prevent any State or political subdivi-
 5 sion thereof, or any political authority of 2 or more States,
 6 from imposing any insurance filing requirements or fees
 7 that are for the same purposes as filings or fees the Sec-
 8 retary requires under the new system under subsection (a).

9 “(e) *DEADLINE FOR CONCLUSION; MODIFICATIONS.*—
 10 Not later than 24 months after the effective date of this sec-
 11 tion, the Secretary—

12 “(1) shall conclude the rulemaking under this
 13 section;

14 “(2) may implement such changes under this sec-
 15 tion as the Secretary considers appropriate and in
 16 the public interest; and

17 “(3) shall transmit to Congress a report on any
 18 findings of the rulemaking and the changes being im-
 19 plemented under this section, together with such rec-
 20 ommendations for legislative language necessary to
 21 conform this part to such changes.

22 **“CHAPTER 141—OPERATIONS OF**
 23 **CARRIERS**

 “SUBCHAPTER I—GENERAL REQUIREMENTS

“Sec.

“14101. Providing transportation and service.

“14102. Leased motor vehicles.

“14103. Loading and unloading motor vehicles.

“14104. Household goods carrier operations.

“SUBCHAPTER II—REPORTS AND RECORDS

“14121. Definitions.

“14122. Records: form; inspection; preservation.

“14123. Financial reporting.

1 *“SUBCHAPTER I—GENERAL REQUIREMENTS*

2 ***“§ 14101. Providing transportation and service***

3 *“(a) ON REASONABLE REQUEST.—A carrier providing*
 4 *transportation or service subject to jurisdiction under chap-*
 5 *ter 135 shall provide the transportation or service on rea-*
 6 *sonable request. In addition, a motor carrier shall provide*
 7 *safe and adequate service, equipment, and facilities.*

8 *“(b) CONTRACTS WITH SHIPPERS.—*

9 *“(1) IN GENERAL.—A carrier providing trans-*
 10 *portation or service subject to jurisdiction under*
 11 *chapter 135 may enter into a contract with a shipper,*
 12 *other than for the movement of household goods de-*
 13 *scribed in section 13102(9)(A), to provide specified*
 14 *services under specified rates and conditions. If the*
 15 *shipper, in writing, expressly waives all rights and*
 16 *remedies under this part for the transportation cov-*
 17 *ered by the contract, the transportation provided*
 18 *under the contract shall not be subject to this part*
 19 *and may not be subsequently challenged on the*
 20 *ground that it violates a provision of this part.*

21 *“(2) REMEDY FOR BREACH OF CONTRACT.—The*
 22 *exclusive remedy for any alleged breach of a contract*

1 *entered into under this subsection shall be an action*
2 *in an appropriate State court or United States dis-*
3 *trict court, unless the parties otherwise agree.*

4 **“§ 14102. Leased motor vehicles**

5 *“(a) GENERAL AUTHORITY OF SECRETARY.—The Sec-*
6 *retary may require a motor carrier providing transpor-*
7 *tation subject to jurisdiction under subchapter I of chapter*
8 *135 that uses motor vehicles not owned by it to transport*
9 *property under an arrangement with another party to—*

10 *“(1) make the arrangement in writing signed by*
11 *the parties specifying its duration and the compensa-*
12 *tion to be paid by the motor carrier;*

13 *“(2) carry a copy of the arrangement in each*
14 *motor vehicle to which it applies during the period*
15 *the arrangement is in effect;*

16 *“(3) inspect the motor vehicles and obtain liabil-*
17 *ity and cargo insurance on them; and*

18 *“(4) have control of and be responsible for oper-*
19 *ating those motor vehicles in compliance with require-*
20 *ments prescribed by the Secretary on safety of oper-*
21 *ations and equipment, and with other applicable law*
22 *as if the motor vehicles were owned by the motor car-*
23 *rier.*

24 *“(b) RESPONSIBLE PARTY FOR LOADING AND UNLOAD-*
25 *ING.—The Secretary shall require, by regulation, that any*

1 *arrangement, between a motor carrier of property providing*
2 *transportation subject to jurisdiction under subchapter I of*
3 *chapter 135 and any other person, under which such other*
4 *person is to provide any portion of such transportation by*
5 *a motor vehicle not owned by the carrier shall specify, in*
6 *writing, who is responsible for loading and unloading the*
7 *property onto and from the motor vehicle.*

8 **“§ 14103. Loading and unloading motor vehicles**

9 “(a) *SHIPPER RESPONSIBLE FOR ASSISTING.*—When-
10 *ever a shipper or receiver of property requires that any per-*
11 *son who owns or operates a motor vehicle transporting*
12 *property in interstate commerce (whether or not such trans-*
13 *portation is subject to jurisdiction under subchapter I of*
14 *chapter 135) be assisted in the loading or unloading of such*
15 *vehicle, the shipper or receiver shall be responsible for pro-*
16 *viding such assistance or shall compensate the owner or op-*
17 *erator for all costs associated with securing and compensat-*
18 *ing the person or persons providing such assistance.*

19 “(b) *COERCION PROHIBITED.*—It shall be unlawful to
20 *coerce or attempt to coerce any person providing transpor-*
21 *tation of property by motor vehicle for compensation in*
22 *interstate commerce (whether or not such transportation is*
23 *subject to jurisdiction under subchapter I of chapter 135)*
24 *to load or unload any part of such property onto or from*
25 *such vehicle or to employ or pay one or more persons to*

1 *load or unload any part of such property onto or from such*
2 *vehicle; except that this subsection shall not be construed*
3 *as making unlawful any activity which is not unlawful*
4 *under the National Labor Relations Act or the Act of March*
5 *23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly*
6 *known as the Norris-LaGuardia Act.*

7 **“§ 14104. Household goods carrier operations**

8 “(a) GENERAL REGULATORY AUTHORITY.—

9 “(1) PAPERWORK MINIMIZATION.—The Secretary
10 *may issue regulations, including regulations protect-*
11 *ing individual shippers, in order to carry out this*
12 *part with respect to the transportation of household*
13 *goods by motor carriers subject to jurisdiction under*
14 *subchapter I of chapter 135. The regulations and pa-*
15 *perwork required of motor carriers providing trans-*
16 *portation of household goods shall be minimized to the*
17 *maximum extent feasible consistent with the protec-*
18 *tion of individual shippers.*

19 “(2) PERFORMANCE STANDARDS.—

20 “(A) IN GENERAL.—Regulations of the Sec-
21 *retary protecting individual shippers shall in-*
22 *clude, where appropriate, reasonable performance*
23 *standards for the transportation of household*
24 *goods subject to jurisdiction under subchapter I*
25 *of chapter 135.*

1 “(B) *FACTORS TO CONSIDER.*—*In establish-*
2 *ing performance standards under this para-*
3 *graph, the Secretary shall take into account at*
4 *least the following—*

5 “(i) *the level of performance that can*
6 *be achieved by a well-managed motor car-*
7 *rier transporting household goods;*

8 “(ii) *the degree of harm to individual*
9 *shippers which could result from a violation*
10 *of the regulation;*

11 “(iii) *the need to set the level of per-*
12 *formance at a level sufficient to deter abuses*
13 *which result in harm to consumers and vio-*
14 *lations of regulations;*

15 “(iv) *service requirements of the car-*
16 *riers;*

17 “(v) *the cost of compliance in relation*
18 *to the consumer benefits to be achieved from*
19 *such compliance; and*

20 “(vi) *the need to set the level of per-*
21 *formance at a level designed to encourage*
22 *carriers to offer service responsive to ship-*
23 *per needs.*

24 “(3) *LIMITATIONS ON STATUTORY CONSTRUC-*
25 *TION.*—*Nothing in this section shall be construed to*

1 *limit the Secretary's authority to require reports from*
2 *motor carriers providing transportation of household*
3 *goods or to require such carriers to provide specified*
4 *information to consumers concerning their past per-*
5 *formance.*

6 “(b) *ESTIMATES.*—

7 “(1) *AUTHORITY TO PROVIDE WITHOUT COM-*
8 *PENSATION.*—*Every motor carrier providing trans-*
9 *portation of household goods subject to jurisdiction*
10 *under subchapter I of chapter 135, upon request of a*
11 *prospective shipper, may provide the shipper with an*
12 *estimate of charges for transportation of household*
13 *goods and for the proposed services. The Secretary*
14 *shall not prohibit any such carrier from charging a*
15 *prospective shipper for providing a written, binding*
16 *estimate for the transportation and proposed services.*

17 “(2) *APPLICABILITY OF ANTITRUST LAWS.*—*Any*
18 *charge for an estimate of charges provided by a motor*
19 *carrier to a shipper for transportation of household*
20 *goods subject to jurisdiction under subchapter I of*
21 *chapter 135 shall be subject to the antitrust laws, as*
22 *defined in the first section of the Clayton Act (15*
23 *U.S.C. 12).*

24 “(c) *FLEXIBILITY IN WEIGHING SHIPMENTS.*—*The*
25 *Secretary shall issue regulations that provide motor carriers*

1 *providing transportation of household goods subject to juris-*
2 *isdiction under subchapter I of chapter 135 with the maxi-*
3 *mum possible flexibility in weighing shipments, consistent*
4 *with assurance to the shipper of accurate weighing prac-*
5 *tices. The Secretary shall not prohibit such carriers from*
6 *backweighing shipments or from basing their charges on the*
7 *reweigh weights if the shipper observes both the tare and*
8 *gross weighings (or, prior to such weighings, waives in*
9 *writing the opportunity to observe such weighings) and such*
10 *weighings are performed on the same scale.*

11 *“SUBCHAPTER II—REPORTS AND RECORDS*

12 **“§ 14121. Definitions**

13 *“In this subchapter, the following definitions apply:*

14 *“(1) CARRIER AND BROKER.—The terms ‘carrier’*
15 *and ‘broker’ include a receiver or trustee of a carrier*
16 *and broker, respectively.*

17 *“(2) ASSOCIATION.—The term ‘association’*
18 *means an organization maintained by or in the inter-*
19 *est of a group of carriers or brokers providing trans-*
20 *portation or service subject to jurisdiction under*
21 *chapter 135 that performs a service, or engages in ac-*
22 *tivities, related to transportation under this part.*

23 **“§ 14122. Records: form; inspection; preservation**

24 *“(a) FORM OF RECORDS.—The Secretary or the Panel,*
25 *as applicable, may prescribe the form of records required*

1 *to be prepared or compiled under this subchapter by car-*
2 *riers and brokers, including records related to movement of*
3 *traffic and receipts and expenditures of money.*

4 “(b) *RIGHT OF INSPECTION.*—*The Secretary or Panel,*
5 *or an employee designated by the Secretary or Panel, may*
6 *on demand and display of proper credentials—*

7 “(1) *inspect and examine the lands, buildings,*
8 *and equipment of a carrier or broker; and*

9 “(2) *inspect and copy any record of—*

10 “(A) *a carrier, broker, or association; and*

11 “(B) *a person controlling, controlled by, or*
12 *under common control with a carrier if the Sec-*
13 *retary or Panel, as applicable, considers inspec-*
14 *tion relevant to that person’s relation to, or*
15 *transaction with, that carrier.*

16 “(c) *PERIOD FOR PRESERVATION OF RECORDS.*—*The*
17 *Secretary or Panel, as applicable, may prescribe the time*
18 *period during which operating, accounting, and financial*
19 *records must be preserved by carriers.*

20 **“§ 14123. Financial reporting**

21 “(a) *IN GENERAL.*—*The Secretary shall require Class*
22 *I motor carriers, and may require Class II motor carriers,*
23 *to file with the Secretary annual financial and safety re-*
24 *ports, the form and substance of which shall be prescribed*

1 *by the Secretary; except that, at a minimum, such reports*
2 *shall include balance sheets and income statements.*

3 “(b) *MATTERS TO BE COVERED.*—*In determining the*
4 *matters to be covered by any reports to be filed under sub-*
5 *section (a), the Secretary shall consider—*

6 “(1) *safety needs;*

7 “(2) *the need to preserve confidential business*
8 *information and trade secrets and prevent competitive*
9 *harm;*

10 “(3) *private sector, academic, and public use of*
11 *information in the reports; and*

12 “(4) *the public interest.*

13 “(c) *EXEMPTION FROM PUBLIC RELEASE.*—

14 “(1) *IN GENERAL.*—*The Secretary shall allow,*
15 *upon request, a filer of a report under subsection (a)*
16 *that is not a publicly held corporation or that is not*
17 *subject to financial reporting requirements of the Se-*
18 *curities and Exchange Commission, an exemption*
19 *from the public release of such report.*

20 “(2) *PROCEDURE.*—*After a request under para-*
21 *graph (1) and notice and opportunity for comment*
22 *but no event later than 90 days after the date of such*
23 *request, the Secretary shall approve such request if the*
24 *Secretary finds that the exemption requested is nec-*
25 *essary to avoid competitive harm and to avoid the*

1 *disclosure of information that qualifies as a trade se-*
2 *cret or privileged or confidential information under*
3 *section 552(b)(4) of title 5.*

4 “(3) *USE OF DATA FOR INTERNAL DOT PUR-*
5 *POSES.—If an exemption is granted under this sub-*
6 *section, nothing shall prevent the Secretary from*
7 *using data from reports filed under this subsection for*
8 *internal purposes of the Department of Transpor-*
9 *tation or including such data in aggregate industry*
10 *statistics released for publication if such inclusion*
11 *would not render the filer’s data readily identifiable.*

12 “(4) *PERIOD OF EXEMPTIONS.—Exemptions*
13 *granted under this subsection shall be for 3-year peri-*
14 *ods.*

15 “(5) *PENDING REQUESTS.—The Secretary shall*
16 *not release publicly the report of a carrier making a*
17 *request under paragraph (1) while such request is*
18 *pending.*

19 “(d) *STREAMLINING AND SIMPLIFICATION.—The Sec-*
20 *retary shall streamline and simplify, to the maximum ex-*
21 *tent practicable, any reporting requirements the Secretary*
22 *imposes under this section.*

23 **“CHAPTER 143—FINANCE**

“Sec.

“14301. *Security interests in certain motor vehicles.*

“14302. *Pooling and division of transportation or earnings.*

1 **“§ 14301. Security interests in certain motor vehicles**

2 “(a) *DEFINITIONS.*—In this section, the following defi-
3 nitions apply:

4 “(1) *MOTOR VEHICLE.*—The term ‘motor vehicle’
5 means a truck of rated capacity (gross vehicle weight)
6 of at least 10,000 pounds, a highway tractor of rated
7 capacity (gross combination weight) of at least 10,000
8 pounds, a property-carrying trailer or semitrailer
9 with at least one load-carrying axle of at least 10,000
10 pounds, or a motor bus with a seating capacity of at
11 least 10 individuals.

12 “(2) *LIEN CREDITOR.*—The term ‘lien creditor’
13 means a creditor having a lien on a motor vehicle
14 and includes an assignee for benefit of creditors from
15 the date of assignment, a trustee in a case under title
16 11 from the date of filing of the petition in that case,
17 and a receiver in equity from the date of appointment
18 of the receiver.

19 “(3) *SECURITY INTEREST.*—The term ‘security
20 interest’ means an interest (including an interest es-
21 tablished by a conditional sales contract, mortgage,
22 equipment trust, or other lien or title retention con-
23 tract, or lease) in a motor vehicle when the interest
24 secures payment or performance of an obligation.

25 “(4) *PERFECTION.*—The term ‘perfection’, as re-
26 lated to a security interest, means taking action (in-

1 cluding public filing, recording, notation on a certifi-
2 cate of title, and possession of collateral by the secured
3 party), or the existence of facts, required under law
4 to make a security interest enforceable against general
5 creditors and subsequent lien creditors of a debtor, but
6 does not include compliance with requirements related
7 only to the establishment of a valid security interest
8 between the debtor and the secured party.

9 “(b) *REQUIREMENTS FOR PERFECTION OF SECURITY*
10 *INTEREST.*—A security interest in a motor vehicle owned
11 by, or in the possession and use of, a carrier registered
12 under section 13902 of this title and owing payment or per-
13 formance of an obligation secured by that security interest
14 is perfected in all jurisdictions against all general, and sub-
15 sequent lien, creditors of, and all persons taking a motor
16 vehicle by sale (or taking or retaining a security interest
17 in a motor vehicle) from, that carrier when—

18 “(1) a certificate of title is issued for a motor ve-
19 hicle under a law of a jurisdiction that requires or
20 permits indication, on a certificate or title, of a secu-
21 rity interest in the motor vehicle if the security inter-
22 est is indicated on the certificate;

23 “(2) a certificate of title has not been issued and
24 the law of the State where the principal place of busi-
25 ness of that carrier is located requires or permits pub-

1 *lic filing or recording of, or in relation to, that secu-*
2 *urity interest if there has been such a public filing or*
3 *recording; and*

4 *“(3) a certificate of title has not been issued and*
5 *the security interest cannot be perfected under para-*
6 *graph (2) of this subsection, if the security interest*
7 *has been perfected under the law (including the con-*
8 *flict of laws rules) of the State where the principal*
9 *place of business of that carrier is located.*

10 **“§14302. Pooling and division of transportation or**
11 **earnings**

12 *“(a) APPROVAL REQUIRED.—A carrier providing*
13 *transportation subject to jurisdiction under subchapter I of*
14 *chapter 135 of this title may not agree or combine with*
15 *another such carrier to pool or divide traffic or services or*
16 *any part of their earnings without the approval of the*
17 *Panel under this section.*

18 *“(b) STANDARDS FOR APPROVAL.—The Panel may ap-*
19 *prove and authorize an agreement or combination between*
20 *or among motor carriers of passengers, or between a motor*
21 *carrier of passengers and a rail carrier of passengers if the*
22 *carriers involved assent to the pooling or division and the*
23 *Panel finds that a pooling or division of traffic, services,*
24 *or earnings—*

1 “(1) will be in the interest of better service to the
2 public or of economy of operation; and

3 “(2) will not unreasonably restrain competition.

4 “(c) PROCEDURE.—

5 “(1) APPLICATION.—Any motor carrier of prop-
6 erty may apply to the Panel for approval of an agree-
7 ment or combination with another such carrier to
8 pool or divide traffic or any services or any part of
9 their earnings by filing such agreement or combina-
10 tion with the Panel not less than 50 days before its
11 effective date.

12 “(2) DETERMINATION OF IMPORTANCE AND RE-
13 STRAINT ON COMPETITION.—Prior to the effective date
14 of the agreement or combination, the Panel shall de-
15 termine whether the agreement or combination is of
16 major transportation importance and whether there is
17 substantial likelihood that the agreement or combina-
18 tion will unduly restrain competition. If the Panel
19 determines that neither of these 2 factors exists, it
20 shall, prior to such effective date and without a hear-
21 ing, approve and authorize the agreement or combina-
22 tion, under such rules and regulations as the Panel
23 may issue, and for such consideration between such
24 carriers and upon such terms and conditions as shall
25 be found by the Panel to be just and reasonable.

1 “(3) *HEARING.*—If the Panel determines either
2 that the agreement or combination is of major trans-
3 portation importance or that there is substantial like-
4 lihood that the agreement or combination will unduly
5 restrain competition, the Panel shall hold a hearing
6 concerning whether the agreement or combination will
7 be in the interest of better service to the public or of
8 economy in operation and whether it will unduly re-
9 strain competition and shall suspend operation of
10 such agreement or combination pending such hearing
11 and final decision thereon. After such hearing, the
12 Panel shall indicate to what extent it finds that the
13 agreement or combination will be in the interest of
14 better service to the public or of economy in operation
15 and will not unduly restrain competition and if as-
16 sented to by all the carriers involved, shall to that ex-
17 tent, approve and authorize the agreement or com-
18 bination, under such rules and regulations as the
19 Panel may issue, and for such consideration between
20 such carriers and upon such terms and conditions as
21 shall be found by the Panel to be just and reasonable.

22 “(4) *SPECIAL RULES FOR HOUSEHOLD GOODS*
23 *CARRIERS.*—In the case of an application for Panel
24 approval of an agreement or combination between a
25 motor carrier providing transportation of household

1 *goods and its agents to pool or divide traffic or serv-*
2 *ices or any part of their earnings, such agreement or*
3 *combination shall be presumed to be in the interest of*
4 *better service to the public and of economy in oper-*
5 *ation and not to restrain competition unduly if the*
6 *practices proposed to be carried out under such agree-*
7 *ment or combination are the same as or similar to*
8 *practices carried out under agreements and combina-*
9 *tions between motor carriers providing transportation*
10 *of household goods to pool or divide traffic or service*
11 *of any part of their earnings approved by the Inter-*
12 *state Commerce Commission before the effective date*
13 *of this section.*

14 *“(5) STREAMLINING AND SIMPLIFYING.—The*
15 *Panel shall streamline, simplify, and expedite, to the*
16 *maximum extent practicable, the process (including*
17 *any paperwork) for submission and approval of ap-*
18 *plications under this section for agreements and com-*
19 *binations between motor carriers providing transpor-*
20 *tation of household goods and their agents.*

21 *“(d) CONDITIONS.—The Panel may impose conditions*
22 *governing the pooling or division and may approve and*
23 *authorize payment of a reasonable consideration between*
24 *the carriers.*

1 *subchapter I of chapter 135 of this title on an interstate*
2 *route or relating to the implementation of any change in*
3 *the rates for such transportation or for any charter trans-*
4 *portation except to the extent that notice, not in excess of*
5 *30 days, of changes in schedules may be required. This sub-*
6 *section shall not apply to intrastate commuter bus oper-*
7 *ations.*

8 “(b) *FREIGHT FORWARDERS AND BROKERS.*—

9 “(1) *GENERAL RULE.*—Subject to paragraph (2)
10 *of this subsection, no State or political subdivision*
11 *thereof and no intrastate agency or other political*
12 *agency of two or more States shall enact or enforce*
13 *any law, rule, regulation, standard, or other provi-*
14 *sion having the force and effect of law relating to*
15 *intrastate rates, intrastate routes, or intrastate serv-*
16 *ices of any freight forwarder or broker.*

17 “(2) *CONTINUATION OF HAWAII’S AUTHORITY.*—
18 *Nothing in this subsection and the amendments made*
19 *by the Surface Freight Forwarder Deregulation Act of*
20 *1986 shall be construed to affect the authority of the*
21 *State of Hawaii to continue to regulate a motor car-*
22 *rier operating within the State of Hawaii.*

23 “(c) *MOTOR CARRIERS OF PROPERTY.*—

24 “(1) *GENERAL RULE.*—Except as provided in
25 *paragraphs (2) and (3), a State, political subdivision*

1 of a State, or political authority of 2 or more States
2 may not enact or enforce a law, regulation, or other
3 provision having the force and effect of law related
4 to a price, route, or service of any motor carrier
5 (other than a carrier affiliated with a direct air car-
6 rier covered by section 41713(b)(4)) or any motor pri-
7 vate carrier, broker, or freight forwarder with respect
8 to the transportation of property.

9 “(2) MATTERS NOT COVERED.—Paragraph (1)—

10 “(A) shall not restrict the safety regulatory
11 authority of a State with respect to motor vehi-
12 cles, the authority of a State to impose highway
13 route controls or limitations based on the size or
14 weight of the motor vehicle or the hazardous na-
15 ture of the cargo, or the authority of a State to
16 regulate motor carriers with regard to minimum
17 amounts of financial responsibility relating to
18 insurance requirements and self-insurance au-
19 thorization;

20 “(B) does not apply to the transportation of
21 household goods; and

22 “(C) does not apply to the authority of a
23 State or a political subdivision of a State to
24 enact or enforce a law, regulation, or other pro-
25 vision relating to the price of for-hire motor ve-

1 *hicle transportation by a tow truck, if such*
2 *transportation is performed—*

3 “(i) *at the request of a law enforcement*
4 *officer; or*

5 “(ii) *without the prior consent or au-*
6 *thorization of the owner or operator of the*
7 *motor vehicle.*

8 “(3) *STATE STANDARD TRANSPORTATION PRAC-*
9 *TICES.—*

10 “(A) *CONTINUATION.—Paragraph (1) shall*
11 *not affect any authority of a State, political sub-*
12 *division of a State, or political authority of 2 or*
13 *more States to enact or enforce a law, regulation,*
14 *or other provision, with respect to the intrastate*
15 *transportation of property by motor carriers, re-*
16 *lated to—*

17 “(i) *uniform cargo liability rules,*

18 “(ii) *uniform bills of lading or receipts*
19 *for property being transported,*

20 “(iii) *uniform cargo credit rules, or*

21 “(iv) *antitrust immunity for joint line*
22 *rates or routes, classifications, and mileage*
23 *guides,*

24 *if such law, regulation, or provision meets the re-*
25 *quirements of subparagraph (B).*

1 “(B) *REQUIREMENTS.*—A law, regulation,
2 or provision of a State, political subdivision, or
3 political authority meets the requirements of this
4 subparagraph if—

5 “(i) the law, regulation, or provision
6 covers the same subject matter as, and com-
7 pliance with such law, regulation, or provi-
8 sion is no more burdensome than compli-
9 ance with, a provision of this part or a reg-
10 ulation issued by the Secretary or the Panel
11 under this part; and

12 “(ii) the law, regulation, or provision
13 only applies to a carrier upon request of
14 such carrier.

15 “(C) *ELECTION.*—Notwithstanding any
16 other provision of law, a carrier affiliated with
17 a direct air carrier through common controlling
18 ownership may elect to be subject to a law, regu-
19 lation, or provision of a State, political subdivi-
20 sion, or political authority under this para-
21 graph.

22 “(4) This subsection shall not apply with respect
23 to the State of Hawaii until August 22, 1997.

1 **“§ 14502. Tax discrimination against motor carrier**
2 **transportation property**

3 “(a) *DEFINITIONS.*—In this section, the following defi-
4 nitions apply:

5 “(1) *ASSESSMENT.*—The term ‘assessment’
6 means valuation for a property tax levied by a taxing
7 district.

8 “(2) *ASSESSMENT JURISDICTION.*—The term ‘as-
9 sessment jurisdiction’ means a geographical area in a
10 State used in determining the assessed value of prop-
11 erty for ad valorem taxation.

12 “(3) *MOTOR CARRIER TRANSPORTATION PROP-*
13 *ERTY.*—The term ‘motor carrier transportation prop-
14 erty’ means property, as defined by the Secretary,
15 owned or used by a motor carrier providing transpor-
16 tation in interstate commerce whether or not such
17 transportation is subject to jurisdiction under sub-
18 chapter I of chapter 135.

19 “(4) *COMMERCIAL AND INDUSTRIAL PROP-*
20 *ERTY.*—The term ‘commercial and industrial prop-
21 erty’ means property, other than transportation prop-
22 erty and land used primarily for agricultural pur-
23 poses or timber growing, devoted to a commercial or
24 industrial use, and subject to a property tax levy.

25 “(b) *ACTS BURDENING INTERSTATE COMMERCE.*—The
26 following acts unreasonably burden and discriminate

1 *against interstate commerce and a State, subdivision of a*
2 *State, or authority acting for a State or subdivision of a*
3 *State may not do any of them:*

4 “(1) *EXCESSIVE VALUATION OF PROPERTY.*—As-
5 *sess motor carrier transportation property at a value*
6 *that has a higher ratio to the true market value of the*
7 *motor carrier transportation property than the ratio*
8 *that the assessed value of other commercial and indus-*
9 *trial property in the same assessment jurisdiction has*
10 *to the true market value of the other commercial and*
11 *industrial property.*

12 “(2) *TAX ON ASSESSMENT.*—Levy or collect a tax
13 *on an assessment that may not be made under para-*
14 *graph (1).*

15 “(3) *AD VALOREM TAX.*—Levy or collect an ad
16 *valorem property tax on motor carrier transportation*
17 *property at a tax rate that exceeds the tax rate appli-*
18 *cable to commercial and industrial property in the*
19 *same assessment jurisdiction.*

20 “(c) *JURISDICTION.*—

21 “(1) *IN GENERAL.*—Notwithstanding section
22 *1341 of title 28 and without regard to the amount in*
23 *controversy or citizenship of the parties, a district*
24 *court of the United States has jurisdiction, concurrent*
25 *with other jurisdiction of courts of the United States*

1 *and the States, to prevent a violation of subsection*
2 *(b) of this section.*

3 “(2) *LIMITATION IN RELIEF.*—*Relief may be*
4 *granted under this subsection only if the ratio of as-*
5 *essed value to true market value of motor carrier*
6 *transportation property exceeds by at least 5 percent,*
7 *the ratio of assessed value to true market value of*
8 *other commercial and industrial property in the same*
9 *assessment jurisdiction.*

10 “(3) *BURDEN OF PROOF.*—*The burden of proof*
11 *in determining assessed value and true market value*
12 *is governed by State law.*

13 “(4) *VIOLATION.*—*If the ratio of the assessed*
14 *value of other commercial and industrial property in*
15 *the assessment jurisdiction to the true market value of*
16 *all other commercial and industrial property cannot*
17 *be determined to the satisfaction of the district court*
18 *through the random-sampling method known as a*
19 *sales assessment ratio study (to be carried out under*
20 *statistical principles applicable to such a study), the*
21 *court shall find, as a violation of this section—*

22 “(A) *an assessment of the motor carrier*
23 *transportation property at a value that has a*
24 *higher ratio to the true market value of the*
25 *motor carrier transportation property than the*

1 *assessment value of all other property subject to*
2 *a property tax levy in the assessment jurisdic-*
3 *tion has to the true market value of all such*
4 *other property; and*

5 *“(B) the collection of ad valorem property*
6 *tax on the motor carrier transportation property*
7 *at a tax rate that exceeds the tax ratio rate ap-*
8 *plicable to taxable property in the taxing dis-*
9 *trict.*

10 **“§ 14503. Withholding State and local income tax by**
11 ***certain carriers***

12 “(a) *SINGLE STATE TAX WITHHOLDING.*—

13 “(1) *IN GENERAL.*—*No part of the compensation*
14 *paid by a motor carrier providing transportation*
15 *subject to jurisdiction under subchapter I of chapter*
16 *135 or by a motor private carrier to an employee who*
17 *performs regularly assigned duties in 2 or more*
18 *States as such an employee with respect to a motor*
19 *vehicle shall be subject to the income tax laws of any*
20 *State or subdivision of that State, other than the*
21 *State or subdivision thereof of the employee’s resi-*
22 *dence.*

23 “(2) *EMPLOYEE DEFINED.*—*In this subsection,*
24 *the term ‘employee’ has the meaning given such term*
25 *in section 31132.*

1 “(b) *SPECIAL RULES.*—

2 “(1) *CALCULATION OF EARNINGS.*—*In this sub-*
3 *section, an employee is deemed to have earned more*
4 *than 50 percent of pay in a State or subdivision of*
5 *that State in which the time worked by the employee*
6 *in the State or subdivision is more than 50 percent*
7 *of the total time worked by the employee while em-*
8 *ployed during the calendar year.*

9 “(2) *WATER CARRIERS.*—*A water carrier provid-*
10 *ing transportation subject to jurisdiction under sub-*
11 *chapter II of chapter 135 shall file income tax infor-*
12 *mation returns and other reports only with—*

13 “(A) *the State and subdivision of residence*
14 *of the employee (as shown on the employment*
15 *records of the carrier); and*

16 “(B) *the State and subdivision in which the*
17 *employee earned more than 50 percent of the pay*
18 *received by the employee from the carrier during*
19 *the preceding calendar year.*

20 “(3) *APPLICABILITY TO SAILORS.*—*This sub-*
21 *section applies to pay of a master, officer, or sailor*
22 *who is a member of the crew on a vessel engaged in*
23 *foreign, coastwise, intercoastal, or noncontiguous*
24 *trade or in the fisheries of the United States.*

1 “(c) *FILING OF INFORMATION.*—A motor and motor
2 private carrier withholding pay from an employee under
3 subsection (a) of this section shall file income tax informa-
4 tion returns and other reports only with the State and sub-
5 division of residence of the employee.

6 “**§ 14504. Registration of motor carriers by a State**

7 “(a) *DEFINITIONS.*—In this section, the terms ‘stand-
8 ards’ and ‘amendments to standards’ mean the specification
9 of forms and procedures required by regulations of the Sec-
10 retary to prove the lawfulness of transportation by motor
11 carrier referred to in section 13501.

12 “(b) *GENERAL RULE.*—The requirement of a State
13 that a motor carrier, providing transportation subject to
14 jurisdiction under subchapter I of chapter 135 and provid-
15 ing transportation in that State, must register with the
16 State is not an unreasonable burden on transportation re-
17 ferred to in section 13501 when the State registration is
18 completed under standards of the Secretary under sub-
19 section (c). When a State registration requirement imposes
20 obligations in excess of the standards of the Secretary, the
21 part in excess is an unreasonable burden.

22 “(c) *SINGLE STATE REGISTRATION SYSTEM.*—

23 “(1) *IN GENERAL.*—The Secretary shall main-
24 tain standards for implementing a system under
25 which—

1 “(A) a motor carrier is required to register
2 annually with only one State by providing evi-
3 dence of its Federal registration under chapter
4 139;

5 “(B) the State of registration shall fully
6 comply with standards prescribed under this sec-
7 tion; and

8 “(C) such single State registration shall be
9 deemed to satisfy the registration requirements of
10 all other States.

11 “(2) SPECIFIC REQUIREMENTS.—

12 “(A) EVIDENCE OF FEDERAL REGISTRA-
13 TION; PROOF OF INSURANCE; PAYMENT OF
14 FEES.—Under the standards of the Secretary im-
15 plementing the single State registration system
16 described in paragraph (1) of this subsection,
17 only a State acting in its capacity as registra-
18 tion State under such single State system may
19 require a motor carrier registered by the Sec-
20 retary under this part—

21 “(i) to file and maintain evidence of
22 such Federal registration;

23 “(ii) to file satisfactory proof of re-
24 quired insurance or qualification as a self-
25 insurer;

1 “(iii) to pay directly to such State fee
2 amounts in accordance with the fee system
3 established under subparagraph (B)(iv) of
4 this paragraph, subject to allocation of fee
5 revenues among all States in which the car-
6 rier operates and which participate in the
7 single State registration system; and

8 “(iv) to file the name of a local agent
9 for service of process.

10 “(B) RECEIPTS; FEE SYSTEM.—The stand-
11 ards of the Secretary—

12 “(i) shall require that the registration
13 State issue a receipt, in a form prescribed
14 under the standards, reflecting that the car-
15 rier has filed proof of insurance as provided
16 under subparagraph (A)(ii) of this para-
17 graph and has paid fee amounts in accord-
18 ance with the fee system established under
19 clause (iv) of this subparagraph;

20 “(ii) shall require that copies of the re-
21 ceipt issued under clause (i) of this sub-
22 paragraph be kept in each of the carrier’s
23 commercial motor vehicles;

24 “(iii) shall not require decals, stamps,
25 cab cards, or any other means of registering

1 or identifying specific vehicles operated by
2 the carrier;

3 “(iv) shall establish a fee system for the
4 filing of proof of insurance as provided
5 under subparagraph (A)(ii) of this para-
6 graph that—

7 “(I) will be based on the number
8 of commercial motor vehicles the car-
9 rier operates in a State and on the
10 number of States in which the carrier
11 operates;

12 “(II) will minimize the costs of
13 complying with the registration sys-
14 tem; and

15 “(III) will result in a fee for each
16 participating State that is equal to the
17 fee, not to exceed \$10 per vehicle, that
18 such State collected or charged as of
19 November 15, 1991; and

20 “(v) shall not authorize the charging or
21 collection of any fee for filing and main-
22 taining a certificate or permit under sub-
23 paragraph (A)(i) of this paragraph.

24 “(C) *PROHIBITED FEES.*—The charging or
25 collection of any fee under this section that is not

1 *in accordance with the fee system established*
2 *under subparagraph (B)(iv) of this paragraph*
3 *shall be deemed to be a burden on interstate com-*
4 *merce.*

5 “(D) *LIMITATION ON PARTICIPATION BY*
6 *STATES.—Only a State which, as of January 1,*
7 *1991, charged or collected a fee for a vehicle*
8 *identification stamp or number under part 1023*
9 *of title 49, Code of Federal Regulations, shall be*
10 *eligible to participate as a registration State*
11 *under this subsection or to receive any fee reve-*
12 *nue under this subsection.*

13 **“§ 14505. State tax**

14 *“A State or political subdivision thereof may not col-*
15 *lect or levy a tax, fee, head charge, or other charge on—*

16 *“(1) a passenger traveling in interstate com-*
17 *merce by motor carrier;*

18 *“(2) the transportation of a passenger traveling*
19 *in interstate commerce by motor carrier;*

20 *“(3) the sale of passenger transportation in*
21 *interstate commerce by motor carrier; or*

22 *“(4) the gross receipts derived from such trans-*
23 *portation.*

1 **“CHAPTER 147—ENFORCEMENT;**
2 **INVESTIGATIONS; RIGHTS; REMEDIES**

“Sec.

“14701. General authority.

“14702. Enforcement by the regulatory authority.

“14703. Enforcement by the Attorney General.

“14704. Rights and remedies of persons injured by carriers or brokers.

“14705. Limitation on actions by and against carriers.

“14706. Liability of carriers under receipts and bills of lading.

“14707. Private enforcement of registration requirement.

“14708. Dispute settlement program for household goods carriers.

“14709. Tariff reconciliation rules for motor carriers of property.

3 **“§ 14701. General authority**

4 “(a) *INVESTIGATIONS.*—The Secretary or the Panel, as
5 applicable, may begin an investigation under this part on
6 the Secretary’s or the Panel’s own initiative or on com-
7 plaint. If the Secretary or Panel, as applicable, finds that
8 a carrier or broker is violating this part, the Secretary or
9 Panel, as applicable, shall take appropriate action to com-
10 pel compliance with this part. If the Secretary finds that
11 a foreign motor carrier or foreign motor private carrier is
12 violating chapter 139, the Secretary shall take appropriate
13 action to compel compliance with that chapter. The Sec-
14 retary or Panel, as applicable, may take action under this
15 subsection only after giving the carrier or broker notice of
16 the investigation and an opportunity for a proceeding.

17 “(b) *COMPLAINTS.*—A person, including a govern-
18 mental authority, may file with the Secretary or Panel, as
19 applicable, a complaint about a violation of this part by
20 a carrier providing, or broker for, transportation or service

1 *subject to jurisdiction under this part or a foreign motor*
2 *carrier or foreign motor private carrier providing transpor-*
3 *tation registered under section 13902 of this title. The com-*
4 *plaint must state the facts that are the subject of the viola-*
5 *tion. The Secretary or Panel, as applicable, may dismiss*
6 *a complaint that it determines does not state reasonable*
7 *grounds for investigation and action.*

8 “(c) *DEADLINE.*—*A formal investigative proceeding*
9 *begun by the Secretary or Panel under subsection (a) of*
10 *this section is dismissed automatically unless it is con-*
11 *cluded with administrative finality by the end of the 3d*
12 *year after the date on which it was begun.*

13 **“§ 14702. Enforcement by the regulatory authority**

14 “(a) *IN GENERAL.*—*The Secretary or the Panel, as ap-*
15 *plicable, may bring a civil action—*

16 “(1) *to enforce section 14103 of this title; or*

17 “(2) *to enforce this part, or a regulation or order*
18 *of the Secretary or Panel, as applicable, when vio-*
19 *lated by a carrier or broker providing transportation*
20 *or service subject to jurisdiction under subchapter I or*
21 *III of chapter 135 of this title or by a foreign motor*
22 *carrier or foreign motor private carrier providing*
23 *transportation registered under section 13902 of this*
24 *title.*

1 “(b) *VENUE.*—*In a civil action under subsection (a) (2)*
2 *of this section—*

3 “(1) *trial is in the judicial district in which the*
4 *carrier, foreign motor carrier, foreign motor private*
5 *carrier, or broker operates;*

6 “(2) *process may be served without regard to the*
7 *territorial limits of the district or of the State in*
8 *which the action is instituted; and*

9 “(3) *a person participating with a carrier or*
10 *broker in a violation may be joined in the civil action*
11 *without regard to the residence of the person.*

12 “(c) *STANDING.*—*The Panel, through its own attor-*
13 *neys, may bring or participate in any civil action involv-*
14 *ing motor carrier undercharges.*

15 **“§ 14703. Enforcement by the Attorney General**

16 *“The Attorney General may, and on request of either*
17 *the Secretary of Transportation or Intermodal Surface*
18 *Transportation Panel shall, bring court proceedings—*

19 “(1) *to enforce this part or a regulation or order*
20 *of the Secretary or Panel or terms of registration*
21 *under this part; and*

22 “(2) *to prosecute a person violating this part or*
23 *a regulation or order of the Secretary or Panel or*
24 *term of registration under this part.*

1 **“§ 14704. Rights and remedies of persons injured by**
2 **carriers or brokers**

3 “(a) *ENFORCEMENT OF ORDER.*—A person injured be-
4 cause a carrier or broker providing transportation or serv-
5 ice subject to jurisdiction under chapter 135 does not obey
6 an order of the Secretary or the Panel, as applicable, under
7 this part, except an order for the payment of money, may
8 bring a civil action to enforce that order under this sub-
9 section.

10 “(b) *LIABILITY AND DAMAGES.*—

11 “(1) *LIABILITY FOR EXCEEDING TARIFF RATE.*—
12 A carrier providing transportation or service subject
13 to jurisdiction under chapter 135 is liable to a person
14 for amounts charged that exceed the applicable rate
15 for transportation or service contained in a tariff in
16 effect under section 13702 of this title.

17 “(2) *DAMAGES FOR VIOLATIONS.*—A carrier or
18 broker providing transportation or service subject to
19 jurisdiction under chapter 135 is liable for damages
20 sustained by a person as a result of an act or omis-
21 sion of that carrier or broker in violation of this part.

22 “(c) *ELECTION.*—

23 “(1) *COMPLAINT TO DOT OR PANEL; CIVIL AC-*
24 *TION.*—A person may file a complaint with the Panel
25 or the Secretary, as applicable, under section
26 14701(b) of this title or bring a civil action under

1 *subsection (b)(1) or (2) of this section to enforce li-*
2 *ability against a carrier or broker providing trans-*
3 *portation or service subject to jurisdiction under*
4 *chapter 135. A person may bring a civil action for*
5 *injunctive relief for violations of sections 14102 and*
6 *14103.*

7 *“(2) ORDER OF DOT OR PANEL.—*

8 *“(A) IN GENERAL.—When the Panel or Sec-*
9 *retary, as applicable, makes an award under*
10 *subsection (b) of this section, the Panel or Sec-*
11 *retary, as applicable, shall order the carrier to*
12 *pay the amount awarded by a specific date. The*
13 *Panel or Secretary, as applicable, may order a*
14 *carrier or broker providing transportation or*
15 *service subject to jurisdiction under chapter 135*
16 *to pay damages only when the proceeding is on*
17 *complaint.*

18 *“(B) ENFORCEMENT BY CIVIL ACTION.—The*
19 *person for whose benefit an order of the Panel or*
20 *Secretary requiring the payment of money is*
21 *made may bring a civil action to enforce that*
22 *order under this paragraph if the carrier or*
23 *broker does not pay the amount awarded by the*
24 *date payment was ordered to be made.*

25 *“(d) PROCEDURE.—*

1 “(1) *IN GENERAL.*—When a person begins a civil
2 action under subsection (b) of this section to enforce
3 an order of the Panel or Secretary requiring the pay-
4 ment of damages by a carrier or broker providing
5 transportation or service subject to jurisdiction under
6 chapter 135 of this title, the text of the order of the
7 Panel or Secretary must be included in the com-
8 plaint. In addition to the district courts of the United
9 States, a State court of general jurisdiction having
10 jurisdiction of the parties has jurisdiction to enforce
11 an order under this paragraph. The findings and
12 order of the Panel or Secretary are competent evi-
13 dence of the facts stated in them. Trial in a civil ac-
14 tion brought in a district court of the United States
15 under this paragraph is in the judicial district in
16 which the plaintiff resides or in which the principal
17 operating office of the carrier or broker is located. In
18 a civil action under this paragraph, the plaintiff is
19 liable for only those costs that accrue on an appeal
20 taken by the plaintiff.

21 “(2) *PARTIES.*—All parties in whose favor the
22 award was made may be joined as plaintiffs in a
23 civil action brought in a district court of the United
24 States under this subsection and all the carriers that
25 are parties to the order awarding damages may be

1 *election to file a complaint with the Panel or Secretary,*
2 *as applicable, is made under section 14704(c)(1), the com-*
3 *plaint must be filed within 3 years after the claim accrues.*

4 “(c) *DAMAGES.*—A person must file a complaint with
5 *the Panel or Secretary, as applicable, to recover damages*
6 *under section 14704(b)(2) of this title within 2 years after*
7 *the claim accrues.*

8 “(d) *EXTENSIONS.*—The limitation periods under sub-
9 *section (b) of this section are extended for 6 months from*
10 *the time written notice is given to the claimant by the car-*
11 *rier of disallowance of any part of the claim specified in*
12 *the notice if a written claim is given to the carrier within*
13 *those limitation periods. The limitation periods under sub-*
14 *section (b) of this section and the 2-year period under sub-*
15 *section (c) of this section are extended for 90 days from*
16 *the time the carrier begins a civil action under subsection*
17 *(a) of this section to recover charges related to the same*
18 *transportation or service, or collects (without beginning a*
19 *civil action under that subsection) the charge for that trans-*
20 *portation or service if that action is begun or collection is*
21 *made within the appropriate period.*

22 “(e) *PAYMENT.*—A person must begin a civil action
23 *to enforce an order of the Panel or Secretary against a car-*
24 *rier for the payment of money within 1 year after the date*
25 *the order required the money to be paid.*

1 “(f) *GOVERNMENT TRANSPORTATION.*—*This section*
2 *applies to transportation for the United States Government.*
3 *The time limitations under this section are extended, as re-*
4 *lated to transportation for or on behalf of the United States*
5 *Government, for 3 years from the later of the date of—*

6 “(1) *payment of the rate for the transportation*
7 *or service involved;*

8 “(2) *subsequent refund for overpayment of that*
9 *rate; or*

10 “(3) *deduction made under section 3726 of title*
11 *31.*

12 “(g) *ACCRUAL DATE.*—*A claim related to a shipment*
13 *of property accrues under this section on delivery or tender*
14 *of delivery by the carrier.*

15 **“§ 14706. Liability of carriers under receipts and bills**
16 **of lading**

17 “(a) *GENERAL LIABILITY.*—

18 “(1) *MOTOR CARRIERS AND FREIGHT FOR-*
19 *WARDERS.*—*A carrier providing transportation or*
20 *service subject to jurisdiction under subchapter I or*
21 *III of chapter 135 shall issue a receipt or bill of lad-*
22 *ing for property it receives for transportation under*
23 *this part. That carrier and any other carrier that de-*
24 *livers the property and is providing transportation or*
25 *service subject to jurisdiction under subchapter I or*

1 *III of chapter 135 or chapter 105 are liable to the*
2 *person entitled to recover under the receipt or bill of*
3 *lading. The liability imposed under this paragraph is*
4 *for the actual loss or injury to the property caused by*
5 *(A) the receiving carrier, (B) the delivering carrier,*
6 *or (C) another carrier over whose line or route the*
7 *property is transported in the United States or from*
8 *a place in the United States to a place in an adjacent*
9 *foreign country when transported under a through*
10 *bill of lading and, except in the case of a freight for-*
11 *warder, applies to property reconsigned or diverted*
12 *under a tariff filed under section 13702 of this title.*
13 *Failure to issue a receipt or bill of lading does not*
14 *affect the liability of a carrier. A delivering carrier*
15 *is deemed to be the carrier performing the line-haul*
16 *transportation nearest the destination but does not*
17 *include a carrier providing only a switching service*
18 *at the destination.*

19 “(2) *FREIGHT FORWARDER.*—*A freight for-*
20 *warder is both the receiving and delivering carrier.*
21 *When a freight forwarder provides service and uses a*
22 *motor carrier providing transportation subject to ju-*
23 *risdiction under subchapter I of chapter 135 to re-*
24 *ceive property from a consignor, the motor carrier*
25 *may execute the bill of lading or shipping receipt for*

1 *the freight forwarder with its consent. With the con-*
2 *sent of the freight forwarder, a motor carrier may de-*
3 *liver property for a freight forwarder on the freight*
4 *forwarder's bill of lading, freight bill, or shipping re-*
5 *ceipt to the consignee named in it, and receipt for the*
6 *property may be made on the freight forwarder's de-*
7 *livery receipt.*

8 *“(b) APPORTIONMENT.—The carrier issuing the receipt*
9 *or bill of lading under subsection (a) of this section or deliv-*
10 *ering the property for which the receipt or bill of lading*
11 *was issued is entitled to recover from the carrier over whose*
12 *line or route the loss or injury occurred the amount required*
13 *to be paid to the owners of the property, as evidenced by*
14 *a receipt, judgment, or transcript, and the amount of its*
15 *expenses reasonably incurred in defending a civil action*
16 *brought by that person.*

17 *“(c) SPECIAL RULES.—*

18 *“(1) LIMITATION OF LIABILITY BY CONTRACT.—*
19 *A carrier may limit or be exempt from liability im-*
20 *posed under subsection (a) of this section by a mutual*
21 *written agreement, that is referred to in the receipt,*
22 *bill of lading, or contract for the transportation in-*
23 *volved entered into with the shipper, to limit liability*
24 *to a specified amount.*

1 “(2) *WATER CARRIERS.*—If loss or injury to
2 property occurs while it is in the custody of a water
3 carrier, the liability of that carrier is determined by
4 its bill of lading and the law applicable to water
5 transportation. The liability of the initial or deliver-
6 ing carrier is the same as the liability of the water
7 carrier.

8 “(d) *CIVIL ACTIONS.*—

9 “(1) *AGAINST DELIVERING CARRIER.*—A civil ac-
10 tion under this section may be brought against a de-
11 livering carrier (other than a rail carrier) in a dis-
12 trict court of the United States or in a State court.
13 Trial, if the action is brought in a district court of
14 the United States is in a judicial district, and if in
15 a State court, is in a State through which the defend-
16 ant carrier operates.

17 “(2) *AGAINST CARRIER RESPONSIBLE FOR*
18 *LOSS.*—A civil action under this section may be
19 brought against the carrier alleged to have caused the
20 loss or damage, in the judicial district in which such
21 loss or damage is alleged to have occurred.

22 “(3) *JURISDICTION OF COURTS.*—A civil action
23 under this section may be brought in a United States
24 district court or in a State court.

1 “(4) *JUDICIAL DISTRICT DEFINED.*—*In this sec-*
2 *tion, ‘judicial district’ means—*

3 “(A) *in the case of a United States district*
4 *court, a judicial district of the United States;*
5 *and*

6 “(B) *in the case of a State court, the appli-*
7 *cable geographic area over which such court exer-*
8 *cises jurisdiction.*

9 “(e) *MINIMUM PERIOD FOR FILING CLAIMS.*—

10 “(1) *IN GENERAL.*—*A carrier may not provide*
11 *by rule, contract, or otherwise, a period of less than*
12 *9 months for filing a claim against it under this sec-*
13 *tion and a period of less than 2 years for bringing*
14 *a civil action against it under this section. The pe-*
15 *riod for bringing a civil action is computed from the*
16 *date the carrier gives a person written notice that the*
17 *carrier has disallowed any part of the claim specified*
18 *in the notice.*

19 “(2) *SPECIAL RULES.*—*For the purposes of this*
20 *subsection—*

21 “(A) *an offer of compromise shall not con-*
22 *stitute a disallowance of any part of the claim*
23 *unless the carrier, in writing, informs the claim-*
24 *ant that such part of the claim is disallowed and*
25 *provides reasons for such disallowance; and*

1 “(B) *communications received from a car-*
2 *rier’s insurer shall not constitute a disallowance*
3 *of any part of the claim unless the insurer, in*
4 *writing, informs the claimant that such part of*
5 *the claim is disallowed, provides reason for such*
6 *disallowance, and informs the claimant that the*
7 *insurer is acting on behalf of the carrier.*

8 “(f) *LIMITING LIABILITY OF HOUSEHOLD GOODS CAR-*
9 *RIERS TO DECLARED VALUE.—A carrier or group of car-*
10 *riers subject to jurisdiction under subchapter I or III of*
11 *chapter 135 may petition the Panel to modify, eliminate,*
12 *or establish rates for the transportation of household goods*
13 *under which the liability of the carrier for that property*
14 *is limited to a value established by written declaration of*
15 *the shipper or by a written agreement.*

16 “(g) *MODIFICATIONS AND REFORMS.—*

17 “(1) *STUDY.—The Secretary shall conduct a*
18 *study to determine whether any modifications or re-*
19 *forms should be made to the loss and damage provi-*
20 *sions of this section.*

21 “(2) *FACTORS TO CONSIDER.—In conducting the*
22 *study, the Secretary, at a minimum, shall consider—*

23 “(A) *the efficient delivery of transportation*
24 *services;*

1 *district court in which the action is pending that the Sec-*
2 *retary intends to consider the matter that is the subject of*
3 *the complaint in a proceeding before the Secretary. When*
4 *that notice is filed, the court shall stay further action pend-*
5 *ing disposition of the proceeding before the Secretary.*

6 “(c) *ATTORNEY’S FEES.*—*In a civil action under sub-*
7 *section (a), the court may determine the amount of and*
8 *award a reasonable attorney’s fee to the prevailing party.*
9 *That fee is in addition to costs allowable under the Federal*
10 *Rules of Civil Procedure.*

11 **“§ 14708. Dispute settlement program for household**
12 **goods carriers**

13 “(a) *OFFERING SHIPPERS ARBITRATION.*—*As a condi-*
14 *tion of registration under section 13902 or 13903, a carrier*
15 *providing transportation of household goods subject to juris-*
16 *isdiction under subchapter I or III of chapter 135 must agree*
17 *to offer in accordance with this section to shippers of house-*
18 *hold goods arbitration as a means of settling disputes be-*
19 *tween such carriers and shippers of household goods con-*
20 *cerning damage or loss to the household goods transported.*

21 “(b) *ARBITRATION REQUIREMENTS.*—

22 “(1) *PREVENTION OF SPECIAL ADVANTAGE.*—*The*
23 *arbitration that is offered must be designed to prevent*
24 *a carrier from having any special advantage in any*
25 *case in which the claimant resides or does business at*

1 *a place distant from the carrier's principal or other*
2 *place of business.*

3 “(2) *NOTICE OF ARBITRATION PROCEDURE.*—*The*
4 *carrier must provide the shipper an adequate notice*
5 *of the availability of neutral arbitration, including a*
6 *concise easy-to-read, accurate summary of the arbi-*
7 *tration procedure, any applicable fees, and disclosure*
8 *of the legal effects of election to utilize arbitration.*
9 *Such notice must be given to persons for whom house-*
10 *hold goods are to be transported by the carrier before*
11 *such goods are tendered to the carrier for transpor-*
12 *tation.*

13 “(3) *PROVISION OF FORMS.*—*Upon request of a*
14 *shipper, the carrier must promptly provide such*
15 *forms and other information as are necessary for ini-*
16 *tiating an action to resolve a dispute under arbitra-*
17 *tion.*

18 “(4) *INDEPENDENCE OF ARBITRATOR.*—*Each*
19 *person authorized to arbitrate or otherwise settle dis-*
20 *putes must be independent of the parties to the dis-*
21 *pute and must be capable, as determined under such*
22 *regulations as the Secretary may issue, to resolve such*
23 *disputes fairly and expeditiously. The carrier must*
24 *ensure that each person chosen to settle the disputes*
25 *is authorized and able to obtain from the shipper or*

1 carrier any material and relevant information to the
2 extent necessary to carry out a fair and expeditious
3 decision making process.

4 “(5) *LIMITATION ON FEES.*—No fee of more than
5 \$25 may be charged a shipper for instituting an arbi-
6 tration proceeding under this subsection. In any case
7 in which a shipper is charged a fee under this para-
8 graph for instituting an arbitration proceeding and
9 such dispute is settled in favor of the shipper, the per-
10 son settling the dispute must refund such fee to the
11 shipper unless the person settling the dispute deter-
12 mines that such refund is inappropriate.

13 “(6) *REQUESTS.*—The carrier must not require
14 the shipper to agree to utilize arbitration prior to the
15 time that a dispute arises. If the dispute involves a
16 claim for \$1,000 or less and the shipper requests arbi-
17 tration, such arbitration shall be binding on the par-
18 ties. If the dispute involves a claim for more than
19 \$1,000 and the shipper requests arbitration, such ar-
20 bitration shall be binding on the parties only if the
21 carrier agrees to arbitration.

22 “(7) *ORAL PRESENTATION OF EVIDENCE.*—The
23 arbitrator may provide for an oral presentation of a
24 dispute concerning transportation of household goods
25 by a party to the dispute (or a party’s representa-

1 *tive), but such oral presentation may be made only if*
2 *all parties to the dispute expressly agree to such pres-*
3 *entation and the date, time, and location of such*
4 *presentation.*

5 *“(8) DEADLINE FOR DECISION.—The arbitrator*
6 *must, as expeditiously as possible but at least within*
7 *60 days of receipt of written notification of the dis-*
8 *pute, render a decision based on the information*
9 *gathered; except that, in any case in which a party*
10 *to the dispute fails to provide in a timely manner*
11 *any information concerning such dispute which the*
12 *person settling the dispute may reasonably require to*
13 *resolve the dispute, the arbitrator may extend such*
14 *60-day period for a reasonable period of time. A deci-*
15 *sion resolving a dispute may include any remedies*
16 *appropriate under the circumstances, including re-*
17 *pair, replacement, refund, reimbursement for ex-*
18 *penses, and compensation for damages.*

19 *“(c) LIMITATION ON USE OF MATERIALS.—Materials*
20 *and information obtained in the course of a decision mak-*
21 *ing process to settle a dispute by arbitration under this sec-*
22 *tion may not be used to bring an action under section*
23 *14905.*

24 *“(d) ATTORNEY’S FEES TO SHIPPERS.—In any court*
25 *action to resolve a dispute between a shipper of household*

1 *goods and a motor carrier providing transportation or serv-*
2 *ice subject to jurisdiction under subchapter I or III of chap-*
3 *ter 135 concerning the transportation of household goods by*
4 *such carrier, the shipper shall be awarded reasonable attor-*
5 *ney's fees if—*

6 “(1) the shipper submits a claim to the carrier
7 within 120 days after the date the shipment is deliv-
8 ered or the date the delivery is scheduled, whichever
9 is later;

10 “(2) the shipper prevails in such court action;
11 and

12 “(3)(A) a decision resolving the dispute was not
13 rendered through arbitration under this section with-
14 in the period provided under subsection (b)(8) of this
15 section or an extension of such period under such sub-
16 section; or

17 “(B) the court proceeding is to enforce a decision
18 rendered through arbitration under this section and is
19 instituted after the period for performance under such
20 decision has elapsed.

21 “(e) *ATTORNEY'S FEES TO CARRIERS.*—In any court
22 action to resolve a dispute between a shipper of household
23 goods and a carrier providing transportation, or service
24 subject to jurisdiction under subchapter I or III of chapter
25 135 concerning the transportation of household goods by

1 *incorrect tariff provisions or billing errors arising from the*
 2 *inadvertent failure to properly and timely file and main-*
 3 *tain agreed upon rates, rules, or classifications in compli-*
 4 *ance with sections 10761 and 10762 of this title as in effect*
 5 *on the day before the effective date of this section. Resolution*
 6 *of such claims among the parties shall not subject any party*
 7 *to the penalties for departing from a filed tariff.*

8 **“CHAPTER 149—CIVIL AND CRIMINAL PENALTIES**

Sec.

“14901. General civil penalties.

“14902. Civil penalty for accepting rebates from carrier.

“14903. Tariff violations.

“14904. Additional rate violations.

“14905. Penalties for violations of rules relating to loading and unloading motor vehicles.

“14906. Evasion of regulation of carriers and brokers.

“14907. Record keeping and reporting violations.

“14908. Unlawful disclosure of information.

“14909. Disobedience to subpoenas.

“14910. General criminal penalty when specific penalty not provided.

“14911. Punishment of corporation for violations committed by certain individuals.

“14912. Weight-bumping in household goods transportation.

“14913. Conclusiveness of rates in certain prosecutions.

9 **“§ 14901. General civil penalties**

10 “(a) *REPORTING AND RECORDKEEPING.*—A person re-
 11 *quired to make a report to the Secretary or the Panel, an-*
 12 *swer a question, or make, prepare, or preserve a record*
 13 *under this part concerning transportation subject to juris-*
 14 *isdiction under subchapter I or III of chapter 135 or trans-*
 15 *portation by a foreign carrier registered under section*
 16 *13902, or an officer, agent, or employee of that person*
 17 *that—*

18 “(1) *does not make the report;*

1 “(2) does not specifically, completely, and truth-
2 fully answer the question;

3 “(3) does not make, prepare, or preserve the
4 record in the form and manner prescribed;

5 “(4) does not comply with section 13901; or

6 “(5) does not comply with section 13902(c);
7 is liable to the United States Government for a civil penalty
8 of not less than \$500 for each violation and for each addi-
9 tional day the violation continues; except that, in the case
10 of a person who is not registered under this part to provide
11 transportation of passengers, or an officer, agent, or em-
12 ployee of such person, that does not comply with section
13 13901 with respect to providing transportation of pas-
14 sengers, the amount of the civil penalty shall not be less
15 than \$2,000 for each violation and for each additional day
16 the violation continues.

17 “(b) TRANSPORTATION OF HAZARDOUS WASTES.—A
18 person subject to jurisdiction under subchapter I of chapter
19 135, or an officer, agent, or employee of that person, and
20 who is required to comply with section 13901 of this title
21 but does not so comply with respect to the transportation
22 of hazardous wastes as defined by the Environmental Pro-
23 tection Agency pursuant to section 3001 of the Solid Waste
24 Disposal Act (but not including any waste the regulation
25 of which under the Solid Waste Disposal Act has been sus-

1 *pending by Congress) shall be liable to the United States for*
2 *a civil penalty not to exceed \$20,000 for each violation.*

3 “(c) *FACTORS TO CONSIDER IN DETERMINING*
4 *AMOUNT.—In determining and negotiating the amount of*
5 *a civil penalty under subsection (a) or (d) concerning trans-*
6 *portation of household goods, the degree of culpability, any*
7 *history of prior such conduct, the degree of harm to shipper*
8 *or shippers, ability to pay, the effect on ability to do busi-*
9 *ness, whether the shipper has been adequately compensated*
10 *before institution of the proceeding, and such other matters*
11 *as fairness may require shall be taken into account.*

12 “(d) *PROTECTION OF HOUSEHOLD GOODS SHIP-*
13 *PERS.—If a carrier providing transportation of household*
14 *goods subject to jurisdiction under subchapter I or III of*
15 *chapter 135 or a receiver or trustee of such carrier fails*
16 *or refuses to comply with any regulation issued by the Sec-*
17 *retary or the Panel relating to protection of individual*
18 *shippers, such carrier, receiver, or trustee is liable to the*
19 *United States for a civil penalty of not less than \$1,000*
20 *for each violation and for each additional day during which*
21 *the violation continues.*

22 “(e) *VIOLATION RELATING TO TRANSPORTATION OF*
23 *HOUSEHOLD GOODS.—Any person that knowingly engages*
24 *in or knowingly authorizes an agent or other person—*

1 “(1) to falsify documents used in the transpor-
2 tation of household goods subject to jurisdiction under
3 subchapter I or III of chapter 135 which evidence the
4 weight of a shipment; or

5 “(2) to charge for accessorial services which are
6 not performed or for which the carrier is not entitled
7 to be compensated in any case in which such services
8 are not reasonably necessary in the safe and adequate
9 movement of the shipment;

10 is liable to the United States for a civil penalty of not less
11 than \$2,000 for each violation and of not less than \$5,000
12 for each subsequent violation. Any State may bring a civil
13 action in the United States district courts to compel a per-
14 son to pay a civil penalty assessed under this subsection.

15 “(f) *VENUE*.—Trial in a civil action under subsections
16 (a) through (e) of this section is in the judicial district in
17 which—

18 “(1) the carrier or broker has its principal office;

19 “(2) the carrier or broker was authorized to pro-
20 vide transportation or service under this part when
21 the violation occurred;

22 “(3) the violation occurred; or

23 “(4) the offender is found.

1 *Process in the action may be served in the judicial district*
2 *of which the offender is an inhabitant or in which the of-*
3 *fender may be found.*

4 **“§ 14902. Civil penalty for accepting rebates from car-**
5 **rier**

6 “A person—

7 “(1) *delivering property to a carrier providing*
8 *transportation or service subject to jurisdiction under*
9 *chapter 135 for transportation under this part or for*
10 *whom that carrier will transport the property as con-*
11 *signor or consignee for that person from a State or*
12 *territory or possession of the United States to another*
13 *State or possession, territory, or to a foreign country;*
14 *and*

15 “(2) *knowingly accepting or receiving by any*
16 *means a rebate or offset against the rate for transpor-*
17 *tation for, or service of, that property contained in a*
18 *tariff required under section 13702;*

19 *is liable to the United States Government for a civil penalty*
20 *in an amount equal to 3 times the amount of money that*
21 *person accepted or received as a rebate or offset and 3 times*
22 *the value of other consideration accepted or received as a*
23 *rebate or offset. In a civil action under this section, all*
24 *money or other consideration received by the person during*
25 *a period of 6 years before an action is brought under this*

1 *section may be included in determining the amount of the*
2 *penalty, and if that total amount is included, the penalty*
3 *shall be 3 times that total amount.*

4 **“§ 14903. Tariff violations**

5 “(a) *CRIMINAL PENALTY FOR UNDERCHARGING.*—A
6 *person that knowingly offers, grants, gives, solicits, accepts,*
7 *or receives by any means transportation or service provided*
8 *for property by a carrier subject to jurisdiction under chap-*
9 *ter 135 at less than the rate in effect under section 13702*
10 *shall be fined at least \$1,000 but not more than \$20,000,*
11 *imprisoned for not more than 2 years, or both.*

12 “(b) *GENERAL CRIMINAL PENALTY.*—A carrier pro-
13 *viding transportation or service subject to jurisdiction*
14 *under chapter 135 or an officer, director, receiver, trustee,*
15 *lessee, agent, or employee of a corporation that is subject*
16 *to jurisdiction under that chapter, that willfully does not*
17 *observe its tariffs as required under section 13702, shall be*
18 *fined at least \$1,000 but not more than \$20,000, imprisoned*
19 *for not more than 2 years, or both.*

20 “(c) *ACTIONS OF AGENTS AND EMPLOYEES.*—When
21 *acting in the scope of their employment, the actions and*
22 *omissions of persons acting for or employed by a carrier*
23 *or shipper that is subject to subsection (a) or (b) of this*
24 *section are considered to be the actions and omissions of*
25 *that carrier or shipper as well as that person.*

1 “(d) *VENUE*.—Trial in a criminal action under this
2 section is in the judicial district in which any part of the
3 violation is committed or through which the transportation
4 is conducted.

5 “§ 14904. **Additional rate violations**

6 “(a) *REBATES BY AGENTS*.—A person, or an officer,
7 employee, or agent of that person, that—

8 “(1) knowingly offers, grants, gives, solicits, ac-
9 cepts, or receives a rebate for concession, in violation
10 of a provision of this part related to motor carrier
11 transportation subject to jurisdiction under sub-
12 chapter I of chapter 135; or

13 (2) by any means knowingly and willfully as-
14 sists or permits another person to get transportation
15 that is subject to jurisdiction under that subchapter
16 at less than the rate in effect for that transportation
17 under section 13702,

18 shall be fined at least \$200 for the first violation and at
19 least \$250 for a subsequent violation.

20 “(b) *UNDERCHARGING*.—

21 “(1) *FREIGHT FORWARDER*.—A freight for-
22 warder providing service subject to jurisdiction under
23 subchapter III of chapter 135, or an officer, agent, or
24 employee of that freight forwarder, that knowingly
25 and willfully assists a person in getting, or willingly

1 **“§ 14906. Evasion of regulation of carriers and bro-**
2 **kers**

3 *“A person, or an officer, employee, or agent of that*
4 *person that by any means knowingly and willfully tries to*
5 *evade regulation provided under this part for carriers or*
6 *brokers shall be fined at least \$200 for the first violation*
7 *and at least \$250 for a subsequent violation.*

8 **“§ 14907. Record keeping and reporting violations**

9 *“A person required to make a report to the Secretary*
10 *or the Panel, as applicable, answer a question, or make,*
11 *prepare, or preserve a record under this part about trans-*
12 *portation subject to jurisdiction under subchapter I or III*
13 *of chapter 135, or an officer, agent, or employee of that per-*
14 *son, that—*

15 *“(1) willfully does not make that report;*

16 *“(2) willfully does not specifically, completely,*
17 *and truthfully answer that question in 30 days from*
18 *the date the Secretary or Panel, as applicable, re-*
19 *quires the question to be answered;*

20 *“(3) willfully does not make, prepare, or preserve*
21 *that record in the form and manner prescribed;*

22 *“(4) knowingly and willfully falsifies, destroys,*
23 *mutilates, or changes that report or record;*

24 *“(5) knowingly and willfully files a false report*
25 *or record;*

1 “(6) knowingly and willfully makes a false or
2 incomplete entry in that record about a business re-
3 lated fact or transaction; or

4 “(7) knowingly and willfully makes, prepares, or
5 preserves a record in violation of an applicable regu-
6 lation or order of the Secretary or Panel;

7 shall be fined not more than \$5,000.

8 **“§ 14908. Unlawful disclosure of information**

9 “(a) DISCLOSURE OF SHIPMENT AND ROUTING INFOR-
10 MATION.—

11 “(1) VIOLATIONS.—A carrier or broker providing
12 transportation subject to jurisdiction under sub-
13 chapter I, II, or III of chapter 135 or an officer, re-
14 ceiver, trustee, lessee, or employee of that carrier or
15 broker, or another person authorized by that carrier
16 or broker to receive information from that carrier or
17 broker may not knowingly disclose to another person,
18 except the shipper or consignee, and another person
19 may not solicit, or knowingly receive, information
20 about the nature, kind, quantity, destination, con-
21 signee, or routing of property tendered or delivered to
22 that carrier or broker for transportation provided
23 under this part without the consent of the shipper or
24 consignee if that information may be used to the det-
25 riment of the shipper or consignee or may disclose

1 *improperly to a competitor the business transactions*
2 *of the shipper or consignee.*

3 “(2) *FINE; VENUE.*—*A person violating para-*
4 *graph (1) of this subsection shall be fined not less*
5 *than \$2,000. Trial in a criminal action under this*
6 *paragraph is in the judicial district in which any*
7 *part of the violation is committed.*

8 “(b) *LIMITATION ON STATUTORY CONSTRUCTION.*—
9 *This part does not prevent a carrier or broker providing*
10 *transportation subject to jurisdiction under chapter 135*
11 *from giving information—*

12 “(1) *in response to legal process issued under au-*
13 *thority of a court of the United States or a State;*

14 “(2) *to an officer, employee, or agent of the*
15 *United States Government, a State, or a territory or*
16 *possession of the United States; or*

17 “(3) *to another carrier or its agent to adjust mu-*
18 *tual traffic accounts in the ordinary course of busi-*
19 *ness.*

20 **“§ 14909. Disobedience to subpoenas**

21 “*A person not obeying a subpoena or requirement of*
22 *the Secretary or the Panel to appear and testify or produce*
23 *records shall be fined not less than \$5,000, imprisoned for*
24 *not more than 1 year, or both.*

1 **“§ 14910. General criminal penalty when specific pen-**
2 **alty not provided**

3 *“When another criminal penalty is not provided under*
4 *this chapter, a person that knowingly and willfully violates*
5 *a provision of this part or a regulation or order prescribed*
6 *under this part, or a condition of a registration under this*
7 *part related to transportation that is subject to jurisdiction*
8 *under subchapter I or III of chapter 135 or a condition*
9 *of a registration under section 13902, shall be fined at least*
10 *\$500 for the first violation and at least \$500 for a subse-*
11 *quent violation. A separate violation occurs each day the*
12 *violation continues.*

13 **“§ 14911. Punishment of corporation for violations**
14 **committed by certain individuals**

15 *“An act or omission that would be a violation of this*
16 *part if committed by a director, officer, receiver, trustee,*
17 *lessee, agent, or employee of a carrier providing transpor-*
18 *tation or service subject to jurisdiction under chapter 135*
19 *that is a corporation is also a violation of this part by that*
20 *corporation. The penalties of this chapter apply to that vio-*
21 *lation. When acting in the scope of their employment, the*
22 *actions and omissions of individuals acting for or employed*
23 *by that carrier are considered to be the actions and omis-*
24 *sions of that carrier as well as that individual.*

1 **“§ 14912. Weight-bumping in household goods trans-**
2 **portation**

3 “(a) *WEIGHT-BUMPING DEFINED.*—For the purposes
4 of this section, ‘weight-bumping’ means the knowing and
5 willful making or securing of a fraudulent weight on a ship-
6 ment of household goods which is subject to jurisdiction
7 under subchapter I or III of chapter 135.

8 “(b) *PENALTY.*—Any individual who has been found
9 to have committed weight-bumping shall, for each offense,
10 be fined at least \$1,000 but not more than \$10,000, impris-
11 oned for not more than 2 years, or both.

12 **“§ 14913. Conclusiveness of rates in certain prosecu-**
13 **tions**

14 “When a carrier publishes or files a particular rate
15 under section 13702 or participates in such a rate, the pub-
16 lished or filed rate is conclusive proof against that carrier,
17 its officers, and agents that it is the legal rate for that trans-
18 portation or service in a proceeding begun under section
19 14902 or 14903. A departure, or offer to depart, from that
20 published or filed rate is a violation of those sections.”.

21 **SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.**

22 (a) *MULTIPLE INSURERS.*—Section 31138(c) of title
23 49, United States Code, is amended by adding at the end
24 thereof the following new paragraph:

25 “(3) A motor carrier may obtain the required amount
26 of financial responsibility from more than one source pro-

1 *vided the cumulative amount is equal to the minimum re-*
2 *quirements of this section.”.*

3 *(b) MINIMUM FINANCIAL RESPONSIBILITY REQUIRE-*
4 *MENTS WITH RESPECT TO CERTAIN MASS TRANSPOR-*
5 *TATION SERVICE.—Section 31138(e) is amended—*

6 *(1) by striking “or” at the end of paragraph (2);*

7 *(2) by striking the period at the end of para-*
8 *graph (3) and inserting “; or”; and*

9 *(3) by adding at the end the following:*

10 *“(4) providing mass transportation service with-*
11 *in a transit service area in other than urbanized*
12 *areas under an agreement with a State or local gov-*
13 *ernment funded, in whole or in part, with a grant*
14 *under section 5310 or 5311, including transportation*
15 *designed and carried out to meet the special needs of*
16 *elderly individuals and individuals with disabilities;*
17 *provided that, in any case in which the transit serv-*
18 *ice area is located in more than 1 State, the mini-*
19 *imum level of financial responsibility for such motor*
20 *vehicle will be at least the highest level required for*
21 *any of such States.”.*

22 *(c) TRANSPORTERS OF PROPERTY.—Section 31139(e)*
23 *of such title is amended by adding at the end thereof the*
24 *following:*

1 “(3) A motor carrier may obtain the required amount
2 of financial responsibility from more than one source pro-
3 vided the cumulative amount is equal to the minimum re-
4 quirements of this section.”

5 (d) *COMMERCIAL MOTOR VEHICLE DEFINED.*—Sec-
6 tion 31132(1) of such title is amended—

7 (1) by redesignating subparagraph (C) as sub-
8 paragraph (D); and

9 (2) by striking subparagraph (B) and inserting
10 the following:

11 “(B) is designed or used to transport pas-
12 sengers for compensation, but excluding vehicles
13 providing taxicab service and having a capacity
14 of not more than 6 passengers and not operated
15 on a regular route or between specified places;

16 “(C) is designed or used to transport more
17 than 15 passengers, including the driver, and is
18 not used to transport passengers for compensa-
19 tion; or”.

20 (e) *SELF-INSURANCE RULES.*—The Secretary of
21 Transportation shall continue to enforce the rules and regu-
22 lations of the Interstate Commerce Commission, as in effect
23 on July 1, 1995, governing the qualifications for approval
24 of a motor carrier as a self-insurer, until such time as the

1 *Secretary finds it in the public interest to revise such rules.*

2 *The revised rules must provide for—*

3 *(1) continued ability of motor carriers to qualify*
4 *as self-insurers; and*

5 *(2) the continued qualification of all carriers*
6 *then so qualified under the terms and conditions set*
7 *by the Interstate Commerce Commission or Secretary*
8 *at the time of qualification.*

9 *(f) AUTOMOBILE TRANSPORTERS DEFINED.—The Sec-*
10 *retary of Transportation shall issue a regulation amending*
11 *the definition of automobile transporters under part 658 of*
12 *title 23, Code of Federal Regulations, to mean any vehicle*
13 *combination designed and used specifically for the trans-*
14 *port of assembled (capable of being driven) highway vehi-*
15 *cles, race car transporters, or specialty trailers designed for*
16 *the racing industry with a 10-foot 1-inch spread axle set-*
17 *ting.*

18 **TITLE II—TRANSPORTATION**

19 **ADJUDICATION PANEL**

20 **SEC. 201. TITLE 49 AMENDMENT.**

21 *(a) AMENDMENT.—Subtitle I of title 49, United States*
22 *Code, is amended by adding at the end the following new*
23 *chapter:*

1 **“CHAPTER 7—TRANSPORTATION**
 2 **ADJUDICATION PANEL**

 “SUBCHAPTER I—ESTABLISHMENT

Sec.

“701. Establishment of Panel.

“702. Functions.

“703. Administrative provisions.

“704. Annual report.

“705. Authorization of appropriations.

“706. Reporting official action.

 “SUBCHAPTER II—ADMINISTRATIVE

“721. Powers.

“722. Panel action.

“723. Service of notice in Panel proceedings.

“724. Service of process in court proceedings.

“725. National organization of State commissions.

“726. Administrative support.

“727. Definitions.

3 “SUBCHAPTER I—ESTABLISHMENT

4 **“§ 701. Establishment of Panel**

5 “(a) *ESTABLISHMENT.*—There is hereby established
 6 within the Department of Transportation the Transpor-
 7 tation Adjudication Panel.

8 “(b) *MEMBERSHIP.*—(1) The Panel shall consist of 3
 9 members, to be appointed by the President, by and with
 10 the advice and consent of the Senate. Not more than 2 mem-
 11 bers may be appointed from the same political party.

12 “(2) At any given time, at least 2 members of the Panel
 13 shall be individuals with professional standing and dem-
 14 onstrated knowledge in the fields of transportation or trans-
 15 portation regulation, and at least one member shall be an
 16 individual with professional or business experience in the
 17 private sector.

1 “(3) *The term of each member of the Panel shall be*
2 *5 years and shall begin when the term of the predecessor*
3 *of that member ends. An individual appointed to fill a va-*
4 *cancy occurring before the expiration of the term for which*
5 *the predecessor of that individual was appointed, shall be*
6 *appointed for the remainder of that term. When the term*
7 *of office of a member ends, the member may continue to*
8 *serve until a successor is appointed and qualified, but for*
9 *a period not to exceed one year. The President may remove*
10 *a member for inefficiency, neglect of duty, or malfeasance*
11 *in office.*

12 “(4) *On the effective date of this section, the members*
13 *of the Interstate Commerce Commission then serving*
14 *unexpired terms shall become members of the Panel, to serve*
15 *for a period of time equal to the remainder of the term for*
16 *which they were originally appointed to the Interstate Com-*
17 *merce Commission.*

18 “(5) *No individual may serve as a member of the*
19 *Panel for more than 2 terms. In the case of an individual*
20 *who becomes a member of the Panel pursuant to paragraph*
21 *(4), or an individual appointed to fill a vacancy occurring*
22 *before the expiration of the term for which the predecessor*
23 *of that individual was appointed, such individual may not*
24 *be appointed for more than one additional term.*

1 “(6) A member of the Panel may not have a pecuniary
2 interest in, hold an official relation to, or own stock in or
3 bonds of, a carrier providing transportation by any mode
4 and may not engage in another business, vocation, or em-
5 ployment.

6 “(7) A vacancy in the membership of the Panel does
7 not impair the right of the remaining members to exercise
8 all of the powers of the Panel. The Panel may designate
9 a member to act as Director during any period in which
10 there is no Director designated by the President.

11 “(c) DIRECTOR.—(1) There shall be at the head of the
12 Panel a Director, who shall be designated by the President
13 from among the members of the Panel. The Director shall
14 receive compensation at the rate prescribed for level III of
15 the Executive Schedule under section 5314 of title 5.

16 “(2) Subject to the general policies, decisions, findings,
17 and determinations of the Panel the Director shall be re-
18 sponsible for administering the Panel. The Director may
19 delegate the powers granted under this paragraph to an offi-
20 cer, employee, or office of the Panel. The Director shall—

21 “(A) appoint and supervise, other than regular
22 and full time employees in the immediate offices of
23 another member, the officers and employees of the
24 Panel, including attorneys to provide legal aid and

1 *service to the Panel and its members, and to represent*
2 *the Panel in any case in court;*

3 “(B) *appoint the heads of offices with the ap-*
4 *proval of the Panel;*

5 “(C) *distribute Panel responsibilities among offi-*
6 *cers and employees and offices of the Panel;*

7 “(D) *prepare requests for appropriations for the*
8 *Panel and submit those requests to the President and*
9 *Congress with the prior approval of the Panel; and*

10 “(E) *supervise the expenditure of funds allocated*
11 *by the Panel for major programs and purposes.*

12 **“§ 702. Functions**

13 *“Except as otherwise provided in the ICC Termination*
14 *Act of 1995, or the amendments made thereby, the Panel*
15 *shall perform all functions that, immediately before the ef-*
16 *fective date of such Act, were functions of the Interstate*
17 *Commerce Commission or were performed by any officer or*
18 *employee of the Interstate Commerce Commission in the ca-*
19 *capacity as such officer or employee.*

20 **“§ 703. Administrative provisions**

21 “(a) *EXECUTIVE REORGANIZATION.*—*Chapter 9 of title*
22 *5, United States Code, shall apply to the Panel in the same*
23 *manner as it does to an independent regulatory agency.*

1 “(b) *OPEN MEETINGS.*—For purposes of section 552b
2 of title 5, United States Code, the Panel shall be deemed
3 to be an agency.

4 “(c) *INDEPENDENCE.*—In the performance of their
5 functions, the members, employees, and other personnel of
6 the Panel shall not be responsible to or subject to the super-
7 vision or direction of any officer, employee, or agent of any
8 other part of the Department of Transportation.

9 “(d) *REPRESENTATION BY ATTORNEYS.*—Attorneys
10 designated by the Director of the Panel may appear for,
11 and represent the Panel in, any civil action brought in con-
12 nection with any function carried out by the Panel pursu-
13 ant to this chapter or subtitle IV or as otherwise authorized
14 by law.

15 “(e) *ADMISSION TO PRACTICE.*—Subject to section 500
16 of title 5, the Panel may regulate the admission of individ-
17 uals to practice before it and may impose a reasonable ad-
18 mission fee.

19 “(f) *BUDGET REQUESTS.*—In each annual request for
20 appropriations by the President, the Secretary of Transpor-
21 tation shall identify the portion thereof intended for the
22 support of the Panel and include a statement by the
23 Panel—

1 “(1) showing the amount requested by the Panel
2 in its budgetary presentation to the Secretary and the
3 Office of Management and Budget; and

4 “(2) an assessment of the budgetary needs of the
5 Panel.

6 “(g) *DIRECT TRANSMITTAL TO CONGRESS.*—The Panel
7 shall transmit to Congress copies of budget estimates, re-
8 quests, and information (including personnel needs), legis-
9 lative recommendations, prepared testimony for congres-
10 sional hearings, and comments on legislation at the same
11 time they are sent to the Secretary of Transportation. An
12 officer of an agency may not impose conditions on or im-
13 pair communications by the Panel with Congress, or a com-
14 mittee or member of Congress, about the information.

15 **“§ 704. Annual report**

16 “The Panel shall annually transmit to the Congress
17 a report on its activities.

18 **“§ 705. Authorization of appropriations**

19 “There are authorized to be appropriated to the Sec-
20 retary of Transportation for the activities of the Panel—

21 “(1) \$8,421,000 for fiscal year 1996;

22 “(2) \$12,000,000 for fiscal year 1997; and

23 “(3) \$12,000,000 for fiscal year 1998.

1 **“§ 706. Reporting official action**

2 “(a) *The Panel shall make a written report of each*
3 *proceeding conducted on complaint or on its own initiative*
4 *and furnish a copy to each party to that proceeding. The*
5 *report shall include the findings, conclusions, and the order*
6 *of the Panel and, if damages are awarded, the findings of*
7 *fact supporting the award. The Panel may have its reports*
8 *published for public use. A published report of the Panel*
9 *is competent evidence of its contents.*

10 “(b)(1) *When action of the Panel in a matter related*
11 *to a rail carrier is taken by the Panel, an individual mem-*
12 *ber of the Panel, or another individual or group of individ-*
13 *uals designated to take official action for the Panel, the*
14 *written statement of that action (including a report, order,*
15 *decision and order, vote, notice, letter, policy statements,*
16 *or regulation) shall indicate—*

17 “(A) *the official designation of the individual or*
18 *group taking the action;*

19 “(B) *the name of each individual taking, or par-*
20 *ticipating in taking, the action; and*

21 “(C) *the vote or position of each participating*
22 *individual.*

23 “(2) *If an individual member of a group taking an*
24 *official action referred to in paragraph (1) of this subsection*
25 *does not participate in it, the written statement of the ac-*
26 *tion shall indicate that the member did not participate. An*

1 *individual participating in taking an official action is en-*
2 *titled to express the views of that individual as part of the*
3 *written statement of the action. In addition to any publica-*
4 *tion of the written statement, it shall be made available to*
5 *the public under section 552(a) of title 5.*

6 “SUBCHAPTER II—ADMINISTRATIVE

7 “§ 721. **Powers**

8 “(a) *The Panel shall carry out this chapter and sub-*
9 *title IV. Enumeration of a power of the Panel in this chap-*
10 *ter or subtitle IV does not exclude another power the Panel*
11 *may have in carrying out this chapter or subtitle IV. The*
12 *Panel may prescribe regulations in carrying out this chap-*
13 *ter and subtitle IV.*

14 “(b) *The Panel may—*

15 “(1) *inquire into and report on the management*
16 *of the business of carriers providing, and brokers for,*
17 *transportation and services subject to subtitle IV;*

18 “(2) *inquire into and report on the management*
19 *of the business of a person controlling, controlled by,*
20 *or under common control with those carriers or bro-*
21 *kers to the extent that the business of that person is*
22 *related to the management of the business of that car-*
23 *rier or broker;*

1 “(3) obtain from those carriers, brokers, and per-
2 sons information the Panel decides is necessary to
3 carry out subtitle IV; and

4 “(4) when necessary to prevent irreparable harm,
5 issue an appropriate order without regard to sub-
6 chapter II of chapter 5 of title 5.

7 “(c)(1) The Panel may subpoena witnesses and records
8 related to a proceeding of the Panel from any place in the
9 United States, to the designated place of the proceeding. If
10 a witness disobeys a subpoena, the Panel, or a party to a
11 proceeding before the Panel, may petition a court of the
12 United States to enforce that subpoena.

13 “(2) The district courts of the United States have juris-
14 diction to enforce a subpoena issued under this section.
15 Trial is in the district in which the proceeding is conducted.
16 The court may punish a refusal to obey a subpoena as a
17 contempt of court.

18 “(d)(1) In a proceeding, the Panel may take the testi-
19 mony of a witness by deposition and may order the witness
20 to produce records. A party to a proceeding pending before
21 the Panel may take the testimony of a witness by deposition
22 and may require the witness to produce records at any time
23 after a proceeding is at issue on petition and answer.

24 “(2) If a witness fails to be deposed or to produce
25 records under paragraph (1) of this subsection, the Panel

1 *may subpoena the witness to take a deposition, produce the*
2 *records, or both.*

3 “(3) *A deposition may be taken before a judge of a*
4 *court of the United States, a United States magistrate*
5 *judge, a clerk of a district court, or a chancellor, justice,*
6 *or judge of a supreme or superior court, mayor or chief*
7 *magistrate of a city, judge of a county court, or court of*
8 *common pleas of any State, or a notary public who is not*
9 *counsel or attorney of a party or interested in the proceed-*
10 *ing.*

11 “(4) *Before taking a deposition, reasonable notice must*
12 *be given in writing by the party or the attorney of that*
13 *party proposing to take a deposition to the opposing party*
14 *or the attorney of record of that party, whoever is nearest.*
15 *The notice shall state the name of the witness and the time*
16 *and place of taking the deposition.*

17 “(5) *The testimony of a person deposed under this sub-*
18 *section shall be taken under oath. The person taking the*
19 *deposition shall prepare, or cause to be prepared, a tran-*
20 *script of the testimony taken. The transcript shall be sub-*
21 *scribed by the deponent.*

22 “(6) *The testimony of a witness who is in a foreign*
23 *country may be taken by deposition before an officer or per-*
24 *son designated by the Panel or agreed on by the parties*

1 *by written stipulation filed with the Panel. A deposition*
2 *shall be filed with the Panel promptly.*

3 “(e) *Each witness summoned before the Panel or whose*
4 *deposition is taken under this section and the individual*
5 *taking the deposition are entitled to the same fees and mile-*
6 *age paid for those services in the courts of the United States.*

7 **“§ 722. Panel action**

8 “(a) *Unless otherwise provided in subtitle IV, the*
9 *Panel may determine, within a reasonable time, when its*
10 *actions, other than an action ordering the payment of*
11 *money, take effect.*

12 “(b) *An action of the Panel remains in effect under*
13 *its own terms or until superseded. The Panel may change,*
14 *suspend, or set aside any such action on notice. Notice may*
15 *be given in a manner determined by the Panel. A court*
16 *of competent jurisdiction may suspend or set aside any such*
17 *action.*

18 “(c) *The Panel may, at any time on its own initiative*
19 *because of material error, new evidence, or substantially*
20 *changed circumstances—*

21 “(1) *reopen a proceeding;*

22 “(2) *grant rehearing, reargument, or reconsider-*
23 *ation of an action of the Panel; or*

24 “(3) *change an action of the Panel.*

1 *An interested party may petition to reopen and reconsider*
2 *an action of the Panel under this subsection under regula-*
3 *tions of the Panel.*

4 “(d) *Notwithstanding subtitle IV, an action of the*
5 *Panel under this section is final on the date on which it*
6 *is served, and a civil action to enforce, enjoin, suspend, or*
7 *set aside the action may be filed after that date.*

8 **“§ 723. Service of notice in Panel proceedings**

9 “(a) *A carrier providing transportation subject to the*
10 *jurisdiction of the Panel under subtitle IV shall designate*
11 *an agent in the District of Columbia, on whom service of*
12 *notices in a proceeding before, and of actions of, the Panel*
13 *may be made.*

14 “(b) *A designation under subsection (a) of this section*
15 *shall be in writing and filed with the Panel.*

16 “(c) *Except as otherwise provided, notices of the Panel*
17 *shall be served on its designated agent at the office or usual*
18 *place of residence in the District of Columbia of that agent.*
19 *A notice of action of the Panel shall be served immediately*
20 *on the agent or in another manner provided by law. If that*
21 *carrier does not have a designated agent, service may be*
22 *made by posting the notice in the office of the Panel.*

23 “(d) *In a proceeding involving the lawfulness of classi-*
24 *fications, rates, or practices of a rail carrier that has not*
25 *designated an agent under this section, service of notice of*

1 *the Panel on an attorney in fact for the carrier constitutes*
2 *service of notice on the carrier.*

3 **“§ 724. Service of process in court proceedings**

4 “(a) A carrier providing transportation subject to the
5 jurisdiction of the Panel under subtitle IV shall designate
6 an agent in the District of Columbia on whom service of
7 process in an action before a district court may be made.
8 Except as otherwise provided, process in an action before
9 a district court shall be served on the designated agent of
10 that carrier at the office or usual place of residence in the
11 District of Columbia of that agent. If the carrier does not
12 have a designated agent, service may be made by posting
13 the notice in the office of the Panel.

14 “(b) A designation under this section may be changed
15 at any time in the same manner as originally made.

16 **“§ 725. National organization of State commissions**

17 “The Administrator of General Services shall assign
18 space and facilities for the use of the national organization
19 of the State commissions and their representatives. The
20 space and facilities shall be available for the use of the State
21 commissions and their representatives cooperating with the
22 Panel or with another department, agency, or instrumental-
23 ity of the United States Government. The rental for such
24 space shall be paid by the national organization’s Federal
25 agency members other than the Panel.

1 **“§ 726. Administrative support**

2 *“The Secretary of Transportation shall provide appro-*
3 *priate administrative support for the Panel.*

4 **“§ 727. Definitions**

5 *“All terms used in this chapter that are defined in sub-*
6 *title IV shall have the meaning given those terms in that*
7 *subtitle.”.*

8 (b) *TABLE OF CHAPTERS AMENDMENT.—The table of*
9 *chapters of subtitle I of title 49, United States Code, is*
10 *amended by adding at the end the following new item:*

“7. TRANSPORTATION ADJUDICATION PANEL 701”.

11 **SEC. 202. REORGANIZATION.**

12 *The Director of the Transportation Adjudication Panel*
13 *(in this Act referred to as the “Panel”) may allocate or re-*
14 *allocate any function of the Panel, consistent with this title*
15 *and subchapter I of chapter 7, as amended by section 201*
16 *of this title, among the members or employees of the Panel,*
17 *and may establish, consolidate, alter, or discontinue in the*
18 *Panel any organizational entities that were entities of the*
19 *Interstate Commerce Commission, as the Director considers*
20 *necessary or appropriate.*

21 **SEC. 203. TRANSFER OF ASSETS.**

22 *Except as otherwise provided in this Act and the*
23 *amendments made by this Act, so much of the personnel,*
24 *property, records, and unexpended balances of appropria-*
25 *tions, allocations, and other funds employed, used, held,*

1 *available, or to be made available in connection with a*
2 *function transferred to the Panel by this Act shall be avail-*
3 *able to the Panel at such time or times as the President*
4 *directs for use in connection with the functions transferred.*

5 **SEC. 204. SAVING PROVISIONS.**

6 (a) *LEGAL DOCUMENTS.*—*All orders, determinations,*
7 *rules, regulations, permits, grants, loans, contracts, agree-*
8 *ments, certificates, licenses, and privileges—*

9 (1) *that have been issued, made, granted, or al-*
10 *lowed to become effective by the President, the Inter-*
11 *state Commerce Commission, any officer or employee*
12 *of the Interstate Commerce Commission, or any other*
13 *Government official, or by a court of competent juris-*
14 *isdiction, in the performance of any function that is*
15 *transferred by this Act or the amendments made by*
16 *this Act; and*

17 (2) *that are in effect on the effective date of such*
18 *transfer (or become effective after such date pursuant*
19 *to their terms as in effect on such effective date),*
20 *shall continue in effect according to their terms until modi-*
21 *fied, terminated, superseded, set aside, or revoked in accord-*
22 *ance with law by the President, the Panel, any other au-*
23 *thorized official, a court of competent jurisdiction, or oper-*
24 *ation of law.*

1 (b) *PROCEEDINGS.*—(1) *Except as provided in para-*
2 *graph (2), the Panel shall assume responsibility for the con-*
3 *tinuation of all proceedings pending before the Interstate*
4 *Commerce Commission, and shall complete such proceed-*
5 *ings in accordance with law and regulations as in effect*
6 *before the date of the enactment of this Act.*

7 (2) *In the case of a proceeding under a provision of*
8 *law repealed, and not reenacted, by this Act, such proceed-*
9 *ing shall be terminated.*

10 (c) *SUITS.*—(1) *This Act shall not affect suits com-*
11 *menced before the date of the enactment of this Act, except*
12 *that the Panel shall assume the position of the Interstate*
13 *Commerce Commission, and, except as provided in para-*
14 *graph (2), in all such suits, proceeding shall be had, appeals*
15 *taken, and judgments rendered in the same manner and*
16 *with the same effect as if this Act had not been enacted.*

17 (2) *If the court in a suit described in paragraph (1)*
18 *remands a case to the Panel, subsequent proceedings related*
19 *to such case shall proceed in accordance with applicable law*
20 *and regulations as in effect at the time of such subsequent*
21 *proceedings.*

22 (d) *EXERCISE OF AUTHORITIES.*—*Except as otherwise*
23 *provided by law, an officer or employee of the Panel may,*
24 *for purposes of performing a function transferred by this*
25 *Act or the amendments made by this Act, exercise all au-*

1 *thorities under any other provision of law that were avail-*
2 *able with respect to the performance of that function to the*
3 *official responsible for the performance of the function im-*
4 *mediately before the effective date of the transfer of the func-*
5 *tion under this Act or the amendments made by this Act.*

6 **SEC. 205. REFERENCES.**

7 *Any reference to the Interstate Commerce Commission*
8 *in any other Federal law, Executive order, rule, regulation,*
9 *or delegation of authority, or any document of or pertain-*
10 *ing to the Interstate Commerce Commission or an officer*
11 *or employee of the Interstate Commerce Commission, is*
12 *deemed to refer to the Panel or a member or employee of*
13 *the Panel, as appropriate.*

14 **TITLE III—CONFORMING**
15 **AMENDMENTS**

16 **Subtitle A—Amendments to United**
17 **States Code**

18 **SEC. 301. TITLE 5 AMENDMENTS.**

19 *(a) COMPENSATION FOR POSITIONS AT LEVEL III.—*
20 *Section 5314 of title 5, United States Code, is amended by*
21 *striking “Chairman, Interstate Commerce Commission.”*
22 *and inserting in lieu thereof “Director, Transportation Ad-*
23 *judication Panel.”.*

24 *(b) COMPENSATION FOR POSITIONS AT LEVEL IV.—*
25 *Section 5315 of title 5, United States Code, is amended by*

1 *striking “Members, Interstate Commerce Commission.” and*
2 *inserting in lieu thereof “Members, Transportation Adju-*
3 *dication Panel.”.*

4 **SEC. 302. TITLE 11 AMENDMENTS.**

5 *Subchapter IV of chapter 11 of title 11, United States*
6 *Code, is amended—*

7 *(1) by amending section 1162 to read as follows:*

8 **“§ 1162. Definition**

9 *“In this subchapter, ‘Panel’ means the ‘Transportation*
10 *Adjudication Panel.’; and*

11 *(2) by striking “Commission” each place it ap-*
12 *pears and inserting in lieu thereof “Panel”.*

13 **SEC. 303. TITLE 18 AMENDMENT.**

14 *Section 6001(1) of title 18, United States Code, is*
15 *amended by striking “Interstate Commerce Commission”*
16 *and inserting in lieu thereof “Transportation Adjudication*
17 *Panel”.*

18 **SEC. 304. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.**

19 *(a) SECTION 3231.—Section 3231 of the Internal Reve-*
20 *nue Code of 1986 is amended—*

21 *(1) by striking “Interstate Commerce Commis-*
22 *sion” in subsection (a) and inserting in lieu thereof*
23 *“Transportation Adjudication Panel”; and*

1 (2) by striking “an express carrier, sleeping car
2 carrier, or” in subsection (g) and inserting in lieu
3 thereof “a”.

4 (b) SECTION 7701.—Section 7701 of the Internal Reve-
5 nue Code of 1986 is amended—

6 (1) in paragraph (33)(B), by striking “Federal
7 Power Commission” and inserting in lieu thereof
8 “Federal Energy Regulatory Commission”;

9 (2) in paragraph (33)(C)(i), by striking “Inter-
10 state Commerce Commission” and inserting in lieu
11 thereof “Transportation Adjudication Panel”;

12 (3) in paragraph (33)(C)(ii), by striking “Inter-
13 state Commerce Commission” and inserting in lieu
14 thereof “Federal Energy Regulatory Commission”;

15 (4) in paragraph (33)(F), by striking “Interstate
16 Commerce Commission under subchapter III of chap-
17 ter 105” and inserting in lieu thereof “Transpor-
18 tation Adjudication Panel under subchapter II of
19 chapter 135”;

20 (5) in paragraph (33)(G), by striking “sub-
21 chapter I of chapter 105” and inserting in lieu there-
22 of “part A of subtitle IV”; and

23 (6) in paragraph (33)(H), by striking “sub-
24 chapter I of chapter 105” and inserting in lieu there-
25 of “part A of subtitle IV”.

1 **SEC. 305. TITLE 28 AMENDMENTS.**

2 (a) *CHAPTER 157 AMENDMENTS.*—(1) Chapter 157 of
3 title 28, United States Code, is amended—

4 (A) by striking “**INTERSTATE COM-**
5 **MERCE COMMISSION**” in the chapter heading
6 and inserting in lieu thereof “**TRANSPOR-**
7 **TATION ADJUDICATION PANEL**”;

8 (B) by striking “**Commission’s**” in the sec-
9 tion heading of section 2321 and inserting in lieu
10 thereof “**Panel’s**”;

11 (C) by striking “Interstate Commerce Commis-
12 sion” each place it appears and inserting in lieu
13 thereof “Transportation Adjudication Panel”; and

14 (D) by striking “Commission” each place it ap-
15 pears and inserting in lieu thereof “Panel”.

16 (2)(A) The item relating to chapter 157 in the table
17 of chapters of title 28, United States Code, is amended by
18 striking “Interstate Commerce Commission” and inserting
19 in lieu thereof “Transportation Adjudication Panel”.

20 (B) The item relating to section 2321 in the table of
21 sections of chapter 157 of title 28, United States Code, is
22 amended by striking “Commission’s” and inserting in lieu
23 thereof “Panel’s”.

24 (b) *CHAPTER 158 AMENDMENTS.*—Chapter 158 of title
25 28, United States Code, is amended—

1 (1) by striking “the Interstate Commerce Com-
2 mission,” in section 2341(3)(A);

3 (2) by striking “and” at the end of section
4 2341(3)(C);

5 (3) by striking the period at the end of section
6 2341(3)(D) and inserting in lieu thereof “; and”;

7 (4) by inserting at the end of section 2341(3) the
8 following new subparagraph:

9 “(E) the Panel, when the order was entered
10 by the Transportation Adjudication Panel.”; and

11 (5) in section 2342, by—

12 (A) inserting “or pursuant to part B of
13 subtitle IV of title 49, United States Code” before
14 the semicolon at the end of paragraph (3)(A);
15 and

16 (B) striking paragraph (5) and inserting
17 the following:

18 “(5) all rules, regulations, or final orders of the
19 Transportation Adjudication Panel made reviewable
20 by section 2321 of this title; and”.

21 **SEC. 306. TITLE 39 AMENDMENTS.**

22 Title 39, United States Code, is amended—

23 (1) in section 5005(b)(3), by striking “Interstate
24 Commerce Commission” and inserting in lieu thereof

25 “Transportation Adjudication Panel”; and

1 (2) in chapter 52—

2 (A) by amending paragraph (1) of section
3 5201 to read as follows:

4 “(1) ‘Panel’ means the Transportation Adjudica-
5 tion Panel;”;

6 (B) by striking subsection (f) of section
7 5203, and redesignating subsection (g) of such
8 section as subsection (f);

9 (C) in subsection (f) of section 5203, as so
10 redesignated by subparagraph (B) of this para-
11 graph, by striking “Commission” and inserting
12 in lieu thereof “Panel”;

13 (D) by striking “**Interstate Commerce**
14 **Commission**” in the section heading of section
15 5207 and inserting in lieu thereof “**Transpor-**
16 **tation Adjudication Panel**”;

17 (E) by striking “Commission’s” in sections
18 5208(a) and 5215(a) and inserting in lieu there-
19 of “Panel’s”;

20 (F) by striking “Commission” each place it
21 appears and inserting in lieu thereof “Panel”;
22 and

23 (G) in the item relating to section 5207 in
24 the table of sections, by striking “Interstate Com-

1 *merce Commission” and inserting in lieu thereof*
2 *“Transportation Adjudication Panel”.*

3 **SEC. 307. TITLE 49 AMENDMENTS.**

4 *Title 49, United States Code, is amended—*

5 (1) *in section 22106(e)(1) by striking “an appli-*
6 *cation for abandonment of” and inserting in lieu*
7 *thereof “a notice of intent to abandon”; and*

8 (2) *by repealing subsection (d) of section 24705.*

9 ***Subtitle B—Other Amendments***

10 **SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938**

11 **AMENDMENT.**

12 *Section 201 of the Agricultural Adjustment Act of 1938*
13 *(7 U.S.C. 1291) is amended—*

14 (1) *by striking “Interstate Commerce Commis-*
15 *sion” each place it appears and inserting in lieu*
16 *thereof “Transportation Adjudication Panel”;*

17 (2) *by striking “Commission” each place it ap-*
18 *pears and inserting in lieu thereof “Panel”; and*

19 (3) *by striking “Commission’s” in subsection (b)*
20 *and inserting in lieu thereof “Panel’s”.*

21 **SEC. 312. ANIMAL WELFARE ACT AMENDMENT.**

22 *Section 15(a) of the Animal Welfare Act (7 U.S.C.*
23 *2145(a)) is amended by striking “Interstate Commerce*
24 *Commission” and inserting in lieu thereof “Transportation*
25 *Adjudication Panel”.*

1 **SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971**

2 **AMENDMENTS.**

3 *Section 401 of the Federal Election Campaign Act of*
4 *1971 is amended—*

5 (1) *by striking “Interstate Commerce Commis-*
6 *sion shall each promulgate, within ninety days after*
7 *the date of enactment of this Act” and inserting in*
8 *lieu thereof “Transportation Adjudication Panel shall*
9 *each maintain”; and*

10 (2) *by inserting “or Board” after “or such Com-*
11 *mission”.*

12 **SEC. 314. FAIR CREDIT REPORTING ACT AMENDMENT.**

13 *Section 621(b)(4) of the Fair Credit Reporting Act (15*
14 *U.S.C. 1681s(b)(4)) is amended by striking “Interstate*
15 *Commerce Commission with respect to any common carrier*
16 *subject to those Acts” and inserting in lieu thereof “Sec-*
17 *retary of Transportation, with respect to all carriers subject*
18 *to the jurisdiction of the Transportation Adjudication*
19 *Panel”.*

20 **SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

21 *Section 704(a)(4) of the Equal Credit Opportunity Act*
22 *(15 U.S.C. 1691c(a)(4)) is amended by striking “Interstate*
23 *Commerce Commission with respect to any common carrier*
24 *subject to those Acts” and inserting in lieu thereof “Sec-*
25 *retary of Transportation, with respect to all carriers subject*

1 *to the jurisdiction of the Transportation Adjudication*
2 *Panel”.*

3 **SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMEND-**
4 **MENT.**

5 *Section 814(b)(4) of the Fair Debt Collection Practices*
6 *Act (15 U.S.C. 1692l(b)(4)) is amended by striking “Inter-*
7 *state Commerce Commission with respect to any common*
8 *carrier subject to those Acts” and inserting in lieu thereof*
9 *“Secretary of Transportation, with respect to all carriers*
10 *subject to the jurisdiction of the Transportation Adjudica-*
11 *tion Panel”.*

12 **SEC. 317. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.**

13 *The National Trails System Act is amended—*

14 *(1) in section 8(d)—*

15 *(A) by striking “Chairman of the Interstate*
16 *Commerce Commission” and inserting in lieu*
17 *thereof “Director of the Transportation Adju-*
18 *dications Panel”; and*

19 *(B) by striking “Commission” and insert-*
20 *ing in lieu thereof “Panel”; and*

21 *(2) in section 9(b), by striking “Interstate Com-*
22 *merce Commission” and inserting in lieu thereof*
23 *“Transportation Adjudication Panel”.*

24 **SEC. 318. CLAYTON ACT AMENDMENTS.**

25 *The Clayton Act is amended—*

1 (1) in section 7 (15 U.S.C. 18)—

2 (A) by striking “Interstate Commerce Com-
3 mission” and inserting in lieu thereof “Trans-
4 portation Adjudication Panel”; and

5 (B) by inserting “, Board,” after “vesting
6 such power in such Commission”;

7 (2) in section 11(a) (15 U.S.C. 21(a)), by strik-
8 ing “Interstate Commerce Commission where applica-
9 ble to common carriers subject to the Interstate Com-
10 merce Act, as amended” and inserting in lieu thereof
11 “Transportation Adjudication Panel where applicable
12 to common carriers subject to subtitle IV of title 49,
13 United States Code”; and

14 (3) in section 16 (15 U.S.C. 22), by striking “in
15 equity for injunctive relief” and all that follows
16 through “Interstate Commerce Commission” and in-
17 sserting in lieu thereof “for injunctive relief against
18 any common carrier subject to the jurisdiction of the
19 Transportation Adjudication Panel under subtitle IV
20 of title 49, United States Code”.

21 **SEC. 319. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.**

22 Section 8G(a)(2) of the Inspector General Act of 1978
23 (5 U.S.C. App.) is amended by striking “the Interstate
24 Commerce Commission,”.

1 **SEC. 320. ENERGY POLICY ACT OF 1992 AMENDMENTS.**

2 *Subsections (a) and (d) of section 1340 of the Energy*
3 *Policy Act of 1992 (42 U.S.C. 13369(a) and (d)) are*
4 *amended by striking “Interstate Commerce Commission”*
5 *and inserting in lieu thereof “Transportation Adjudication*
6 *Panel”.*

7 **SEC. 321. MERCHANT MARINE ACT, 1920, AMENDMENTS**

8 *The Merchant Marine Act, 1920, is amended—*

9 *(1) in section 8 (46 U.S.C. App. 867)—*

10 *(A) by striking “Interstate Commerce Com-*
11 *mission” both places it appears and inserting in*
12 *lieu thereof “Transportation Adjudication*
13 *Panel”; and*

14 *(B) by striking “commission” and inserting*
15 *in lieu thereof “board”; and*

16 *(2) in section 28 (46 U.S.C. App. 884)—*

17 *(A) by striking “Interstate Commerce Com-*
18 *mission” and inserting in lieu thereof “Trans-*
19 *portation Adjudication Panel”; and*

20 *(B) by striking “commission” each place it*
21 *appears and inserting in lieu thereof “Panel”.*

22 **SEC. 322. RAILWAY LABOR ACT AMENDMENTS.**

23 *Section 1 of the Railway Labor Act (45 U.S.C. 151)*
24 *is amended—*

25 *(1) by striking “express company, sleeping-car*
26 *company, carrier by railroad, subject to the Interstate*

1 *Commerce Act*” in the first paragraph and inserting
2 *in lieu thereof “railroad subject to the jurisdiction of*
3 *the Transportation Adjudication Panel”;*

4 (2) *by striking “Interstate Commerce Commis-*
5 *sion” each place it appears in the first and fifth*
6 *paragraphs and inserting in lieu thereof “Transpor-*
7 *tation Adjudication Panel”;* and

8 (3) *by striking “Commission” each place it ap-*
9 *pears in the fifth paragraph and inserting in lieu*
10 *thereof “Panel”.*

11 **SEC. 323. RAILROAD RETIREMENT ACT OF 1974 AMEND-**
12 **MENTS.**

13 *Section 1 of the Railroad Retirement Act of 1974 (45*
14 *U.S.C. 231) is amended—*

15 (1) *by amending subsection (a)(1)(i) to read as*
16 *follows:*

17 “(i) *any carrier by railroad subject to the juris-*
18 *isdiction of the Transportation Adjudication Panel*
19 *under part A of subtitle IV of title 49, United States*
20 *Code;”;*

21 (2) *by striking “Interstate Commerce Commis-*
22 *sion is hereby authorized and directed upon request of*
23 *the Board” in subsection (a)(2)(ii) and inserting in*
24 *lieu thereof “Transportation Adjudication Panel is*

1 *hereby authorized and directed upon request of the*
2 *Railroad Retirement Board”;* and

3 (3) by inserting “the Transportation Adjudica-
4 tion Panel,” after “the Interstate Commerce Commis-
5 sion,” in subsection (o).

6 **SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT**
7 **AMENDMENTS.**

8 *The Railroad Unemployment Insurance Act is amend-*
9 *ed—*

10 (1) by striking “Interstate Commerce Commis-
11 sion is hereby authorized and directed upon request of
12 the Board” in section 1(a) (45 U.S.C. 351(a)) and in-
13 serting in lieu thereof “Transportation Adjudication
14 Panel is hereby authorized and directed upon request
15 of the Railroad Retirement Board”;

16 (2) by amending paragraph (b) of such section
17 1 to read as follows:

18 “(b) The term ‘carrier’ means a railroad subject to the
19 jurisdiction of the Transportation Adjudication Panel
20 under part A of subtitle IV of title 49, United States Code.”;

21 and

22 (3) by striking “Interstate Commerce Commis-
23 sion, adjusted, as determined by the Board” in section
24 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in lieu

1 **SEC. 327. REGIONAL RAIL REORGANIZATION ACT OF 1973**2 **AMENDMENTS.**

3 *The Regional Rail Reorganization Act of 1973 is*
4 *amended—*

5 *(1) in section 304(d)(3) (45 U.S.C. 744(d)(3))—*

6 *(A) by striking “this title,” and all that fol-*
7 *lows through “(A) shall take” and inserting in*
8 *lieu thereof “this title, the Commission shall*
9 *take”; and*

10 *(B) by striking “this subsection; and” and*
11 *all that follows through “205(d)(6) of this Act”*
12 *and inserting in lieu thereof “this subsection”;*
13 *and*

14 *(2) in section 707 (45 U.S.C. 797f)—*

15 *(A) by inserting “(a)” at the beginning of*
16 *the text; and*

17 *(B) by adding at the end the following new*
18 *subsections:*

19 *“(b) Notwithstanding any other provision of this Act*
20 *or any agreement or arrangement in effect as of the date*
21 *of the enactment of this subsection, the Corporation may*
22 *not sell or transfer ownership or management, in whole or*
23 *in part, of any facility acquired by the Corporation under*
24 *this Act that is used for the repair, rehabilitation, or main-*
25 *tenance of cars or locomotives, without first obtaining the*
26 *express consent of the authorized representatives of the em-*

1 *ployees at such facility covered by collective bargaining*
2 *agreements. Any transaction undertaken in violation of this*
3 *subsection or subsection (c) shall be considered in violation*
4 *of section 6 of the Railway Labor Act, and shall be action-*
5 *able as such.*

6 *“(c) Notwithstanding any other provision of this Act*
7 *or any agreement or arrangement in effect as of the date*
8 *of the enactment of this subsection, any transfer by the Cor-*
9 *poration of ownership, in whole or in part, other than for*
10 *scrappage, of a car or locomotive that was repaired, reha-*
11 *bilitated, or maintained, before the date of the enactment*
12 *of this subsection, at a facility acquired by the Corporation*
13 *under this Act, without first obtaining the express consent*
14 *of the authorized representatives of the employees at the*
15 *Corporation’s principal maintenance facility covered by*
16 *collective bargaining agreements, is prohibited.”.*

17 **SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT**
18 **AMENDMENT.**

19 *Section 18 of the Milwaukee Railroad Restructuring*
20 *Act (45 U.S.C. 916) is repealed.*

21 **SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EM-**
22 **PLOYEE ASSISTANCE ACT AMENDMENTS.**

23 *The Rock Island Railroad Transition and Employee*
24 *Assistance Act is amended—*

1 (1) *in section 104(a) (45 U.S.C. 1003(a)) by*
2 *striking “section 11125 of title 49, United States*
3 *Code, or”;* and

4 (2) *by repealing section 120 (45 U.S.C. 1015).*

5 **SEC. 330. RAILROAD REVITALIZATION AND REGULATORY**
6 **REFORM ACT OF 1976 AMENDMENTS.**

7 *The Railroad Revitalization and Regulatory Reform*
8 *Act of 1976 is amended—*

9 (1) *in section 505(a)(3) (45 U.S.C. 825(a)(3))—*

10 (A) *by striking “A financially responsible*
11 *person (as defined in section 10910(a)(1) of title*
12 *49, United States Code)” and inserting in lieu*
13 *thereof “(A) A financially responsible person”;*
14 and

15 (B) *by inserting at the end the following*
16 *new subparagraph:*

17 “(B) *For purposes of this paragraph, the term ‘finan-*
18 *cially responsible person’ means a person who (i) is capable*
19 *of paying the constitutional minimum value of the railroad*
20 *line proposed to be acquired, and (ii) is able to assure that*
21 *adequate transportation will be provided over such line for*
22 *a period of not less than 3 years. Such term includes a*
23 *governmental authority but does not include a class I or*
24 *class II rail carrier.”;*

1 (2) in section 509(b) (45 U.S.C. 829(b)) by strik-
2 ing paragraph (2); and

3 (3) in section 510 (45 U.S.C. 830) by striking
4 “the provisions of section 20a of the Interstate Com-
5 merce Act (49 U.S.C. 20a), nor”.

6 **SEC. 331. SERVICE CONTRACT ACT OF 1965 AMENDMENT.**

7 Section 7(3) of the Service Contract Act of 1965 (41
8 U.S.C. 356(3)) is amended by striking “where published
9 tariff rates are in effect”.

10 **SEC. 332. FISCAL YEAR 1982 CONTINUING RESOLUTION**
11 **AMENDMENT.**

12 Section 115 of the Joint Resolution entitled “Joint
13 Resolution making further continuing appropriations for
14 the fiscal year 1982, and for other purposes” (Public Law
15 97–92; 95 Stat. 1196) is repealed.

16 **SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORK-**
17 **ER PROTECTION ACT.**

18 Section 401(b) of the Migrant and Seasonal Agricul-
19 tural Worker Protection Act (29 U.S.C. 1841(b)) is amend-
20 ed by—

21 (1) striking “part II of the Interstate Commerce
22 Act (49 U.S.C. 301 et seq.), or any successor provi-
23 sion of” in paragraph (2)(C) and inserting “part B
24 of”; and

1 (2) striking “part II of the Interstate Commerce
2 Act (49 U.S.C. 301 et seq.), and any successor provi-
3 sion of” in paragraph (3) and inserting “part B of”.

4 **SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHOR-**
5 **IZATION ACT OF 1994.**

6 Section 601(d) of the Federal Aviation Administration
7 Authorization Act of 1994 (Public Law 103–305) is amend-
8 ed by striking all after “subsection (c)” and inserting “shall
9 not take effect as long as section 11501(g)(2) of title 49,
10 United States Code, applies to that State.”.

11 **SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHOR-**
12 **ITY.**

13 (a) *REPEAL OF INTERCOASTAL SHIPPING ACT,*
14 1933.—*The Act of March 3, 1933 (Chapter 199; 46 App.*
15 *U.S.C. 843 et seq.), commonly referred to as the Intercoastal*
16 *Shipping Act, 1933, is repealed effective September 30,*
17 *1996.*

18 (b) *REPEAL OF PROVISIONS OF SHIPPING ACT,*
19 1916.—*The following provisions of the Shipping Act, 1916,*
20 *are repealed effective September 30, 1996:*

21 (1) *Section 3 (46 U.S.C. App. 804).*

22 (2) *Section 14 (46 U.S.C. App. 812).*

23 (3) *Section 15 (46 U.S.C. App. 814).*

24 (4) *Section 16 (46 U.S.C. App. 815).*

25 (5) *Section 17 (46 U.S.C. App. 816).*

1 (6) *Section 18 (46 U.S.C. App. 817).*

2 (7) *Section 19 (46 U.S.C. App. 818).*

3 (8) *Section 20 (46 U.S.C. App. 819).*

4 (9) *Section 21 (46 U.S.C. App. 820).*

5 (10) *Section 22 (46 U.S.C. App. 821).*

6 (11) *Section 23 (46 U.S.C. App. 822).*

7 (12) *Section 24 (46 U.S.C. App. 823).*

8 (13) *Section 25 (46 U.S.C. App. 824).*

9 (14) *Section 27 (46 U.S.C. App. 826).*

10 (15) *Section 29 (46 U.S.C. App. 828).*

11 (16) *Section 30 (46 U.S.C. App. 829).*

12 (17) *Section 31 (46 U.S.C. App. 830).*

13 (18) *Section 32 (46 U.S.C. App. 831).*

14 (19) *Section 33 (46 U.S.C. App. 832).*

15 (20) *Section 35 (46 U.S.C. App. 833a).*

16 (21) *Section 43 (46 U.S.C. App. 841a).*

17 (22) *Section 45 (46 U.S.C. App. 841c).*

18 **SEC. 336. DEPARTMENT OF TRANSPORTATION AND RELAT-**

19 **ED AGENCIES APPROPRIATION ACT, 1982**

20 **AMENDMENT.**

21 *Section 402 of the Department of Transportation and*

22 *Related Agencies Appropriation Act, 1982 (Public Law 97-*

23 *102; 95 Stat. 1465) is repealed.*

HR 2539 RH—2

HR 2539 RH—3

HR 2539 RH—4
HR 2539 RH—5
HR 2539 RH—6
HR 2539 RH—7
HR 2539 RH—8
HR 2539 RH—9
HR 2539 RH—10
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HR 2539 RH—12
HR 2539 RH—13
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