

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
24308(c)	45:562(e).	Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §402(e); added Nov. 3, 1973, Pub. L. 93-146, §10(2), 87 Stat. 552; Aug. 13, 1981, Pub. L. 97-35, §1188(c), 95 Stat. 699.
24308(d)	45:562(f).	Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §402(f); added Nov. 3, 1973, Pub. L. 93-146, §10(2), 87 Stat. 552.
24308(e)	45:562(g).	Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §402(g); added May 30, 1980, Pub. L. 96-254, §216, 94 Stat. 418; Apr. 7, 1986, Pub. L. 99-272, §4006(2), 100 Stat. 107.

In subsection (a)(1), the word “authority” is substituted for “agencies” for consistency in the revised title and with other titles of the United States Code. The words “tracks and other” are omitted as surplus. The words “of . . . by, the carrier or authority” are added for clarity. The words “and conditions” are omitted as surplus.

In subsection (a)(2)(A), before clause (i), the words “the purposes of” are omitted as surplus. In clause (ii), the words “just and” are omitted as surplus.

Subsection (a)(2)(B) is substituted for 45:562(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (a)(2)(C), the words “shall decide the dispute” are added, and the words “submits the dispute” are substituted for “application”, for clarity.

In subsection (a)(3), the words “Amtrak’s right to use the facilities or have the services provided is conditioned on payment of the compensation” are substituted for “and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order . . . shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission” to eliminate unnecessary words. The words “or under an order issued under subsection (b) of this section” are omitted as obsolete because 45:562(b) is executed. The words “amount of”, “fixed”, “duly and”, and “properly” are omitted as surplus.

In subsection (a)(4), the words “notwithstanding any other provision of law”, “hereafter”, and “becomes inadequate or otherwise” are omitted as surplus.

In subsections (b)–(d), the words “just and” are omitted as surplus.

In subsection (b), the words “as may be deemed by it to be necessary”, “tracks and other”, and “proceed to” are omitted as surplus. The words “personal injury” are substituted for “casualty” for consistency.

In subsections (c) and (d), the words “an opportunity for a” are added for clarity and consistency.

In subsection (c), the word “given” is omitted as surplus. The words “rail line” are substituted for “line of track” for consistency in the revised title and with other titles of the Code. The word “appropriate” is omitted as surplus. The words “the carrier” are substituted for “trains” for clarity and consistency. The words “and Amtrak” are added for clarity.

In subsection (d), the words “upon request of the Corporation” and “otherwise” are omitted as surplus. The words “which improvements would be required” are substituted for “and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required” to eliminate unnecessary words.

In subsection (e)(1), the words “satisfactory, voluntary” are omitted as surplus. The words “provide, or allow Amtrak to provide” are added, and the words “Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains” are substituted for “Upon receipt of an application from the Corporation”, for clarity.

In subsection (e)(2)(A), the words “involved” and “seeking to oppose the operation of an additional

train” are omitted as surplus. The words “when conducting a hearing” are added for clarity.

In subsection (e)(2)(B), the word “proper” is omitted as surplus. The words “60 miles” are substituted for “55 miles” for consistency with 45:501a(8), restated in section 24101(c)(6) of the revised title. Section 1172(3) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 91-35, 95 Stat. 688) raised the speed from 55 to 60 in 45:501a but did not make a corresponding change in 45:562(g).

In subsection (e)(3), the words “Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection” are substituted for 45:562(g) (last sentence words before last comma) to eliminate unnecessary words. The words “the dispute” are added for clarity and consistency in this section.

REFERENCES IN TEXT

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (f)(1), is section 207 of Pub. L. 110-432, which is set out in a note under section 24101 of this title.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-432, §213(d)(2), substituted “Board” for “Commission” wherever appearing.

Subsec. (a)(2)(A). Pub. L. 110-432, §213(d)(1), substituted “Surface Transportation Board” for “Interstate Commerce Commission” in introductory provisions.

Subsec. (b). Pub. L. 110-432, §213(d)(2), substituted “Board” for “Commission” in two places.

Subsec. (c). Pub. L. 110-432, §213(d)(3), (4), substituted “Board” for “Secretary of Transportation” after “unless the” and for “Secretary” in three places.

Subsecs. (d), (e)(1), (2). Pub. L. 110-432, §213(d)(4), substituted “Board” for “Secretary” wherever appearing.

Subsec. (e)(3). Pub. L. 110-432, §213(d)(2), substituted “Board” for “Commission”.

Subsec. (f). Pub. L. 110-432, §213(a), added subsec. (f).

FEES

Pub. L. 110-432, div. B, title II, §213(b), Oct. 16, 2008, 122 Stat. 4926, provided that: “The Surface Transportation Board may establish and collect filing fees from any entity that files a complaint under section 24308(f)(1) of title 49, United States Code, or otherwise requests or requires the Board’s services pursuant to this division [see Short Title of 2008 Amendment note set out under section 20101 of this title]. The Board shall establish such fees at levels that will fully or partially, as the Board determines to be appropriate, offset the costs of adjudicating complaints under that section and other requests or requirements for Board action under this division. The Board may waive any fee established under this subsection for any governmental entity as determined appropriate by the Board.”

SPECIAL PASSENGER TRAINS

Pub. L. 110-432, div. B, title II, §216, Oct. 16, 2008, 122 Stat. 4930, provided that: “Amtrak is encouraged to increase the operation of special trains funded by, or in partnership with, private sector operators through competitive contracting to minimize the need for Federal subsidies. Amtrak shall utilize the provisions of section 24308 of title 49, United States Code, when necessary to obtain access to facilities, train and engine crews, or services of a rail carrier or regional transportation authority that are required to operate such trains.”

§ 24309. Retaining and maintaining facilities

(a) DEFINITIONS.—In this section—

(1) “facility” means a rail line, right of way, fixed equipment, facility, or real property re-

lated to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair tracks, a station building, a platform, and a related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or altering a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) APPROVAL REQUIRED FOR DOWNGRADING OR DISPOSAL.—A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, or on January 1, 1997, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c) NOTIFICATION AND ANALYSIS.—(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintenance of tracks, structures, and equipment and depreciation).

(d) APPROVAL OF APPLICATION AND PAYMENT OF AVOIDABLE COSTS.—(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) COMPLIANCE WITH OTHER OBLIGATIONS.—Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 913; Pub. L. 105-134, title I, §162, Dec. 2, 1997, 111 Stat. 2578.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
24309(a)	45:566(e)(1), (2).	Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §406; added Sept. 29, 1979, Pub. L. 96-73, §121, 93 Stat. 548.
24309(b)	45:566(a).	
24309(c)(1) ..	45:566(b).	
24309(c)(2) ..	45:566(d)(2).	
24309(d)(1) ..	45:566(c)(1).	
24309(d)(2) ..	45:566(c)(2), (d)(1).	
24309(e)	45:566(e)(3).	

In subsection (a)(1), the words “rail line” are substituted for “railroad tracks” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the word “authority” is substituted for “agency” for consistency in the revised title and with other titles of the Code. The words “obtaining the” are omitted as surplus.

In subsection (c)(1), the words “first” and “to take such action” are omitted as surplus.

In subsection (c)(2), before clause (A), the words “need for the” are added for clarity. The words “necessary or” are omitted as surplus. The words “Within 90 days after September 29, 1979” and 45:566(d)(2)(A)(i) are omitted as executed. The word “maintain” is substituted for “take steps to prepare” for clarity. The words “survey plan which shall provide for” and “compilation, and storage” are omitted as surplus. In clause (F), the words “over time” are omitted as surplus.

In subsection (d)(2), before clause (A), the word “timely” is omitted as surplus. In clause (F), the words “rail line” are substituted for “lines of railroad” for consistency in the revised title and with other titles of the Code.

In subsection (e), the words “approval of” are omitted as surplus.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-134 inserted “or on January 1, 1997,” after “1979.”

§ 24310. Management accountability

(a) IN GENERAL.—Within 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008, and 2 years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

(b) ASSESSMENT.—The management assessment undertaken by the Inspector General may include a review of—

- (1) effectiveness in improving annual financial planning;
- (2) effectiveness in implementing improved financial accounting;
- (3) efforts to implement minimum train performance standards;
- (4) progress maximizing revenues, minimizing Federal subsidies, and improving financial results; and
- (5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.

(Added Pub. L. 110-432, div. B, title II, § 221(a), Oct. 16, 2008, 122 Stat. 4931.)

REFERENCES IN TEXT

The Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (a), is div. B of Pub. L. 110-432, Oct. 16, 2008, 122 Stat. 4907. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 20101 of this title and Tables.

PRIOR PROVISIONS

A prior section 24310, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 914, allowed petition or application for assistance in upgrading facilities to correct dangerous conditions or State and local violations, prior to repeal by Pub. L. 105-134, title IV, § 403, Dec. 2, 1997, 111 Stat. 2585.

§ 24311. Acquiring interests in property by eminent domain

(a) GENERAL AUTHORITY.—(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary’s duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b) CIVIL ACTIONS.—(1) A civil action to acquire an interest in property by eminent domain

under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the property sufficient to identify it;

(C) a statement of the interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c) AUTHORITY TO CONDEMN RAIL CARRIER PROPERTY INTERESTS.—(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Surface Transportation Board for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Board, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Board decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and