

part on the Board's own initiative or upon receiving a complaint pursuant to subsection (b). If the Board finds that a rail carrier is violating this part, the Board shall take appropriate action to compel compliance with this part. If the Board finds a violation of this part in a proceeding brought on its own initiative, any remedy from such proceeding may only be applied prospectively.

(b) A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Board under this part because of the absence of direct damage to the complainant.

(c) A formal investigative proceeding begun by the Board under subsection (a) of this section is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the third year after the date on which it was begun.

(d) In any investigation commenced on the Board's own initiative, the Board shall—

(1) not later than 30 days after initiating the investigation, provide written notice to the parties under investigation, which shall state the basis for such investigation;

(2) only investigate issues that are of national or regional significance;

(3) permit the parties under investigation to file a written statement describing any or all facts and circumstances concerning a matter which may be the subject of such investigation;

(4) make available to the parties under investigation and Board members—

(A) any recommendations made as a result of the investigation; and

(B) a summary of the findings that support such recommendations;

(5) to the extent practicable, separate the investigative and decisionmaking functions of staff;

(6) dismiss any investigation that is not concluded by the Board with administrative finality within 1 year after the date on which it was commenced; and

(7) not later than 90 days after receiving the recommendations and summary of findings under paragraph (4)—

(A) dismiss the investigation if no further action is warranted; or

(B) initiate a proceeding to determine if a provision under this part has been violated.

(e)(1) Any parties to an investigation against whom a violation is found as a result of an investigation begun on the Board's own initiative may, not later than 60 days after the date of the order of the Board finding such a violation, institute an action in the United States court of appeals for the appropriate judicial circuit for de novo review of such order in accordance with chapter 7 of title 5.

(2) The court—

(A) shall have jurisdiction to enter a judgment affirming, modifying, or setting aside, in whole or in part, the order of the Board; and

(B) may remand the proceeding to the Board for such further action as the court may direct.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845; amended Pub. L. 114-110, §12(a), (b), Dec. 18, 2015, 129 Stat. 2234.)

PRIOR PROVISIONS

A prior section 11701, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1449; Pub. L. 96-296, §26(a), July 1, 1980, 94 Stat. 818; Pub. L. 98-554, title II, §226(c)(4), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 99-521, §12(a), Oct. 22, 1986, 100 Stat. 2998; Pub. L. 100-690, title IX, §9111(i), Nov. 18, 1988, 102 Stat. 4534; Pub. L. 103-272, §5(m)(34), July 5, 1994, 108 Stat. 1378, related to general authority of Interstate Commerce Commission to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11701, 14701, and 15901 of this title.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-110, §12(a), substituted “on the Board's own initiative or upon receiving a complaint pursuant to subsection (b)” for “only on complaint” and inserted at end “If the Board finds a violation of this part in a proceeding brought on its own initiative, any remedy from such proceeding may only be applied prospectively.”

Subsecs. (d), (e). Pub. L. 114-110, §12(b), added subsecs. (d) and (e).

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

RULEMAKINGS FOR INVESTIGATIONS OF THE BOARD'S INITIATIVE

Pub. L. 114-110, §12(c), Dec. 18, 2015, 129 Stat. 2235, provided that: “Not later than 1 year after the date of the enactment of this Act [Dec. 18, 2015], the Board shall issue rules, after notice and comment rulemaking, for investigations commenced on its own initiative that—

“(1) comply with the requirements of section 11701(d) of title 49, United States Code, as added by subsection (b);

“(2) satisfy due process requirements; and

“(3) take into account ex parte constraints.”

§ 11702. Enforcement by the Board

The Board may bring a civil action—

(1) to enjoin a rail carrier from violating sections 10901 through 10906 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

(2) to enforce subchapter II of chapter 113 of this title and to compel compliance with an order of the Board under that subchapter; and

(3) to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11702, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1450; Pub. L. 96-296, §§15(c), 16(c), July 1, 1980, 94 Stat. 809, 810; Pub. L. 97-261, §25(e), Sept. 20, 1982, 96

Stat. 1125; Pub. L. 98-554, title II, §226(c)(5), Oct. 30, 1984, 98 Stat. 2851; Pub. L. 100-690, title IX, §9111(j), Nov. 18, 1988, 102 Stat. 4534, related to authority of Interstate Commerce Commission to bring a civil action to enforce various provisions of this subtitle, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11702, 14702, and 15902 of this title.

§ 11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part, or a regulation or order of the Board or certificate issued under this part, and to prosecute a person violating this part or a regulation or order of the Board or certificate issued under this part.

(b) The United States Government may bring a civil action on behalf of a person to compel a rail carrier providing transportation subject to the jurisdiction of the Board under this part to provide that transportation to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the rail carrier, for like traffic under similar conditions to another person.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 845.)

PRIOR PROVISIONS

A prior section 11703, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1450, related to authority of Attorney General and United States Government to bring civil actions to enforce this subtitle, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11703, 14703, and 15903 of this title.

§ 11704. Rights and remedies of persons injured by rail carriers

(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part. A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

(c)(1) A person may file a complaint with the Board under section 11701(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) When the Board makes an award under subsection (b) of this section, the Board shall order the rail carrier to pay the amount awarded by a specific date. The Board may order a rail carrier providing transportation subject to the jurisdiction of the Board under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay

the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Board requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

(A) in which the plaintiff resides;

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

(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 846.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11705 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 11704, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1451, related to actions by private persons to enjoin abandonment of service, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 11705. Limitation on actions by and against rail carriers

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

(b) A person must begin a civil action to recover overcharges under section 11704(b) of this title within 3 years after the claim accrues, whether or not a complaint is filed under section 11704(c)(1).