

## AMENDMENTS

1978—Subsec. (c). Pub. L. 95-565 added subsec. (c).

CONRAIL FUNDING STUDIES; REPORTS TO CONGRESS; RECOMMENDATIONS FOR FINANCIALLY SELF-SUSTAINING RAIL SYSTEM; AVAILABILITY OF RECOMMENDATIONS; PUBLICATION IN FEDERAL REGISTER; COMMENTS ON REPORTS; RECOMMENDATIONS BY SECRETARY ON FUTURE STRUCTURE AND OPERATIONS BY CORPORATION; IMMUNITY FROM ANTITRUST LAWS; ANALYSIS OF EFFECTS ON CORPORATION AND EMPLOYEES OF ALTERNATIVE CHANGES IN LABOR AGREEMENTS AND RELATED OPERATIONAL CHANGES; PROJECTIONS ON BENEFITS, CHANGES, SAVINGS, AND INCREASED REVENUES

Pub. L. 96-448, title VII, §703(a)-(d), Oct. 14, 1980, 94 Stat. 1962, directed the United States Railway Association and the Consolidated Rail Corporation, not later than Apr. 1, 1980 (which probably should have been Apr. 1, 1981) to each submit a report to Congress analyzing the impact, upon the Corporation, rail service in the region, railroad employees, the economy of the region, other rail carriers in the region and elsewhere, and the Federal budget, of no further Federal funding for the Corporation, continued Federal funding of the rail system of the Corporation as then structured, and future Federal funding of the Corporation to the extent necessary to preserve rail service in the region which could be self-supporting, without undue interim disruption of operations, required publication of these reports in the Federal Register, directed the Interstate Commerce Commission, not later than May 1, 1981, to submit to Congress its comments on the report of the Association, the Secretary of Transportation, and the Corporation, directed the Secretary of Transportation, not later than Apr. 1, 1981, to submit to Congress his recommendations with respect to the future structure and operations of the Corporation, and not later than May 1, 1981, to submit to Congress his comments and recommendations with respect to the reports of the Association and Corporation, provided that the antitrust laws as defined in section 791(a)(3) of this title not apply to any action of the Association or Secretary of Transportation prior to May 1, 1981, directed the Corporation, not later than Mar. 15, 1981 to submit to Congress an analysis of the effects upon the Corporation and its employees of alternative changes in labor agreements and related operational changes, including an analysis of any Federal funding that would be required, and directed the Corporation, not later than Jan. 15, 1981, to submit to the Association its projections of the benefits to the Corporation of the Staggers Rail Act of 1980, Pub. L. 96-448, Oct. 14, 1980, 94 Stat. 1895, its projections of changes needed in the structure of the rail system of the Corporation, including properties which might be abandoned or transferred, and other projections of potential savings or increased revenues to the Corporation.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (b) and (c)(4)(B) of this section relating to the requirement that the Association submit annual reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 11th and 12th items on page 195 of House Document No. 103-7.

## ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

## APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

## § 748. Abandonments

## (a) General

The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49.

## (b) Applications for abandonment

Any application for abandonment that is filed by the Corporation under this section before December 1, 1981, shall be granted by the Commission within 90 days after the date such application is filed unless, within such 90-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to the line to be abandoned.

## (c) Notice of insufficient revenues

(1) The Corporation may, prior to November 1, 1985, file with the Commission a notice of insufficient revenues for any line which is part of the system of the Corporation.

(2) At any time after the 90-day period beginning with the filing of a notice of insufficient revenues for a line, the Corporation may file an application for abandonment for such line. An application for abandonment that is filed by the Corporation under this subsection for a line for which a notice of insufficient revenues was filed under paragraph (1) shall be granted by the Commission within 90 days after the date such application is filed unless, within such 90-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.

## (d) Offers of financial assistance

(1) The provisions of section 10904 of title 49 (including the timing requirements of subsection (d) thereof) shall apply to any offer of financial assistance under subsection (b) or (c) of this section.

(2) The Corporation shall provide any person that intends to make an offer of financial assistance under subsection (b) or (c) of this section with such information as the Commission may require.

## (e) Liquidation

(1) If any application for abandonment is granted under subsection (b) of this section, the Commission shall, as soon as practicable, appraise the net liquidation value of the line to be abandoned, and shall publish notice of such appraisal in the Federal Register.

(2) Appraisals made under paragraph (1) shall not be appealable.

(3)(A) If, within 120 days after the date on which an appraisal is published in the Federal Register under paragraph (1), the Corporation receives a bona fide offer for the sale, for 75 percent of the amount at which the liquidation value of such line was appraised by the Commission, of the line to be abandoned, the Corporation shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

(B) If the Corporation receives no bona fide offer under subparagraph (A), within such 120-day period, the Corporation may abandon or dispose of the line as it chooses, except that the Corporation may not dismantle bridges, or other structures (not including rail, signals, and other rail facilities) for 120 days thereafter. The Secretary may require that bridges or other structures (not including rail, signals, and other rail facilities), not be dismantled for an additional 8 months if he assumes all liability of any sort related to such property.

(4) If the purchaser under paragraph (3)(A) of this subsection of any line of the Corporation abandons such line within five years after such purchase, the proceeds of any track liquidations shall be paid into the general fund of the Treasury of the United States.

#### (f) Employee protection

The provisions of section 10903(b)(3)<sup>1</sup> of title 49 shall not apply to any abandonment granted under this section. Any employee who was protected by the compensatory provisions of subchapter V<sup>2</sup> of this chapter immediately prior to August 13, 1981, who is deprived of employment by such an abandonment shall be eligible for employee protection under section 797<sup>2</sup> of this title.

(Pub. L. 93-236, title III, §308, as added Pub. L. 97-35, title XI, §1156(a), Aug. 13, 1981, 95 Stat. 679; amended Pub. L. 98-181, title II, §2003(c)(2), Nov. 30, 1983, 97 Stat. 1298; Pub. L. 104-88, title III, §327(4), Dec. 29, 1995, 109 Stat. 952.)

#### REFERENCES IN TEXT

Subchapter V of this chapter, referred to in subsec. (f), was repealed by Pub. L. 97-35, title XI, §1144(a)(1), Aug. 13, 1981, 95 Stat. 669.

Section 797 of this title, referred to in subsec. (f), was repealed by Pub. L. 99-509, title IV, §4024(c), Oct. 21, 1986, 100 Stat. 1904, effective on the sale date (Apr. 2, 1987).

#### AMENDMENTS

1995—Subsec. (d)(1). Pub. L. 104-88, §327(4)(A), substituted “section 10904” for “section 10905(d)-(f)”.

Subsec. (f). Pub. L. 104-88, §327(4)(B), substituted “section 10903(b)(3)” for “section 10903(b)(2)”.

1983—Subsec. (c)(1). Pub. L. 98-181 substituted “1985” for “1983”.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

#### EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as a note under section 1101 of this title.

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set

out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

#### SUBCHAPTER IV—TRANSFER OF FREIGHT SERVICES

#### §§ 761 to 769c. Repealed. Pub. L. 99-509, title IV, §4033(a)(1), Oct. 21, 1986, 100 Stat. 1908

Section 761, Pub. L. 93-236, title IV, §401, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 654, related to sale of interest of United States in common stock of Consolidated Rail Corporation.

A prior section 761, Pub. L. 93-236, title IV, §401, Jan. 2, 1974, 87 Stat. 1010, related to Congressional findings and purpose in providing for a program of rail service continuation subsidies, prior to repeal by Pub. L. 94-210, title VIII, §806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

Section 762, Pub. L. 93-236, title IV, §402, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 655, related to debt and preferred stock of Consolidated Rail Corporation.

A prior section 762, Pub. L. 93-236, title IV, §402, Jan. 2, 1974, 87 Stat. 1010; Pub. L. 93-488, §1(d), Oct. 26, 1974, 88 Stat. 1464; Pub. L. 94-210, title VIII, §805(a), Feb. 5, 1976, 90 Stat. 139, directed Secretary to provide financial assistance to States and local or regional transportation authorities in facilitating and maintaining main line or local rail service, prior to repeal by Pub. L. 94-210, title VIII, §806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

Section 763, Pub. L. 93-236, title IV, §403, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 655, related to determinations about profitability of Consolidated Rail Corporation.

A prior section 763, Pub. L. 93-236, title IV, §403, Jan. 2, 1974, 87 Stat. 1012; Pub. L. 93-488, §1(e), Oct. 26, 1974, 88 Stat. 1465; Pub. L. 94-210, title VIII, §805(b), (c), Feb. 5, 1976, 90 Stat. 142, authorized Association to provide loans for acquisition of rail properties by States or local or regional transportation authorities and for modernization of those acquired properties, prior to repeal by Pub. L. 94-210, title VIII, §806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

Section 764, Pub. L. 93-236, title IV, §404, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 656, related to failure to sell interest of United States in common stock of Consolidated Rail Corporation as an entity.

Section 765, Pub. L. 93-236, title IV, §405, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 657, related to plans to transfer Consolidated Rail Corporation's freight rail properties and service responsibilities.

Section 766, Pub. L. 93-236, title IV, §406, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 658, related to consolidation and review of freight transfer agreements.

Section 767, Pub. L. 93-236, title IV, §407, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 658, related to public comment and Congressional notification regarding freight transfer agreements.

Section 768, Pub. L. 93-236, title IV, §408, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 659, related to performance under freight transfer agreements.

Section 769, Pub. L. 93-236, title IV, §409, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 659, provided that conveyance of interest in rail properties under freight transfer agreement is deemed to be an assignment.

Section 769a, Pub. L. 93-236, title IV, §410, as added Pub. L. 97-35, title XI, §1142, Aug. 13, 1981, 95 Stat. 660, related to identification and sale of unprofitable subsidiaries of Consolidated Rail Corporation.

<sup>1</sup> So in original. Section 10903(b) of Title 49, Transportation, does not contain a par. (3).

<sup>2</sup> See References in Text note below.