

standing series B preferred stock following the date of distribution pursuant to section 743(c)(4) of this title); and

(B) the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 743(c)(4) of this title to the transferor receiving such series of certificates of value (adjusted to reflect any stock splits, stock combinations, reclassifications, or similar transactions affecting the number of shares of outstanding common stock following the date of distribution pursuant to section 743(c)(4) of this title) by the total number of certificates of value in the series so distributed to such transferor.

(4) The base value of each certificate of value of any series shall be the value obtained by (A) taking the net liquidation value, as determined by the special court, to which the transferor to whom such series of certificates of value is issued is entitled by virtue of transfers of rail properties, under section 743(b)(1) of this title to the Corporation or a subsidiary thereof; (B) subtracting the value of other benefits provided under this chapter, as determined by the special court; (C) adding such amount, if any, as the special court may determine shall be required after taking into consideration compensable unconstitutional erosion, if any, in the estate of a railroad in reorganization, or of a railroad leased, operated, or controlled by such a railroad, which the special court finds to have occurred during any bankruptcy proceeding with respect to such railroad; (D) adding interest from the transfer date to the redemption date to be compounded annually at a rate of 8 percent per annum; and (E) dividing the resulting value by the number of certificates of value of such series distributed to such transferor. In determining such base value, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of conveyances of rail properties under section 743(b)(1) of this title. For purposes of this paragraph, the term "rail properties" includes all rights with respect to employee benefit plans transferred and assigned to the Corporation pursuant to section 743(b)(6) of this title. Net liquidation value with respect to such rights shall be determined after taking into account all obligations finally transferred or assigned to the Corporation pursuant to such section.

(5) The fair market value of series B preferred stock and of common stock of the Corporation shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value thereof as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of

the security to be valued, and one to be selected by the two first selected.

#### **(d) Authorization of appropriations**

There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.

(Pub. L. 93-236, title III, §306, as added Pub. L. 94-210, title VI, §610(b), Feb. 5, 1976, 90 Stat. 104; amended Pub. L. 94-248, §§2, 3, Mar. 25, 1976, 90 Stat. 286.)

### **Editorial Notes**

#### AMENDMENTS

1976—Subsec. (c)(3)(A). Pub. L. 94-248, §2, substituted "adjusted to reflect" for "without regard to".

Subsec. (c)(3)(B). Pub. L. 94-248, §3, inserted provisions relating to adjustment of number of shares of common stock to reflect any stock splits, stock combinations, etc.

#### **Statutory Notes and Related Subsidiaries**

##### ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of this title.

##### 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.

### **§ 747. Protection of Federal funds**

#### **(a) Audit**

(1) The Comptroller General of the United States is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (A) Federal funds provided pursuant to this chapter are being used to finance any portion of its operations, or (B) Federal funds have been invested therein pursuant to this chapter. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the security of such Federal funds and guarantees and, to the extent appropriate, make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations.

(2) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a designated representative of the Comptroller General, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by the Corporation.

#### **(b) Report**

The Association shall prepare and submit an annual report to Congress on the performance of

the Corporation in order to keep the Congress informed as to matters which may affect the quality of rail services in the region and which may affect the security of Federal funds referred to in subsection (a) of this section. Each such report shall be submitted within 150 days after the end of the fiscal year of the Corporation. Each such report shall include an evaluation of—

- (1) the degree to which the goals of section 716(a) of this title are being met;
- (2) the amounts and causes of deviations, if any, from the financial projections of the final system plan;
- (3) the amount of Federal funds made available to the Corporation and a clear description of the uses of such funds;
- (4) the projected financial needs of the Corporation;
- (5) the projected sources from which such financial needs are likely to be met; and
- (6) the ability of the Corporation to become financially self-sustaining without requiring Federal funds in excess of those authorized by section 716(f) of this title.

**(c) Monitoring of Corporation**

(1) The Association shall also report to the Congress, in accordance with this subsection, on the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

(2) Within 90 days after November 1, 1978, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C)(i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90-day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purpose of this subchapter.

(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or group of parts contributes to profits or losses, (C) the efforts of management to contain or reduce the contribution of such part or group of parts to losses, (D) the results of such efforts, and (E) such other information as the Association deems necessary or appropriate.

(4) The Association shall (A) transmit to the Congress the first such monitoring report pursuant to paragraph (3) at the end of the first calendar quarter which begins after the end of the 90-day period for preparation and submission of the methodological information pursuant to paragraph (2), (B) report such monitoring information to the Congress at the end of the first quarter of each calendar year thereafter, (C) update methodological and monitoring informa-

tion periodically as the Association deems necessary or appropriate, but in no case less frequently than once a year, and (D) where the results of such updating are statistically significant or relevant to Congressional policymaking, report them and the reasons for their significance at the end of the calendar quarter in which the updating occurred.

(Pub. L. 93-236, title III, §307, as added Pub. L. 94-210, title VI, §609, Feb. 5, 1976, 90 Stat. 99; amended Pub. L. 95-565, §7, Nov. 1, 1978, 92 Stat. 2400.)

**Editorial Notes**

AMENDMENTS

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

**Statutory Notes and Related Subsidiaries**

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.)

**Editorial Notes**

## 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)”.

<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.