

104TH CONGRESS
1ST SESSION

H. R. 2539

AN ACT

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.

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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**

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

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

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

1 “PART A—RAIL

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 regu-
10 latory control over the rail transportation system
11 and to require fair and expeditious regulatory deci-
12 sions when 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 continu-
17 ation of a sound rail transportation system with ef-
18 fective competition among rail carriers and with
19 other modes, to meet the needs of the public and the
20 national 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
7 capital;

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
12 and 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
20 suitable 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 con-
4 servation.

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 vehi-
10 cles, and special types of equipment used in the
11 transportation of property by a rail carrier, and (B)
12 the supply of trains by a rail carrier;

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

19 “(3) ‘Panel’ means the Transportation Adju-
20 dication 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 common carrier railroad transportation for com-

1 pensation, but does not include street, suburban, or
2 interurban electric railways not operated as part of
3 the general system 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 own-
23 ership 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 with respect to regulation
 9 of rail transportation are exclusive and preempt the rem-
 10 edies provided under Federal or State law.

11 **“CHAPTER 103—JURISDICTION**

“Sec.

“10301. General jurisdiction.

“10302. Authority to exempt rail carrier transportation.

12 **“§ 10301. General jurisdiction**

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

16 “(A) only by railroad; or

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

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

22 “(A) a State and a place in the same or an-
 23 other State;

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

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

6 “(D) a territory or possession of the United
7 States and another place in the same territory or
8 possession;

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

11 “(F) the United States and a place in a foreign
12 country.

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

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

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

24 is exclusive.

25 “(c)(1) In this subsection—

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

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

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

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

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

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

17 “(i) safety;

18 “(ii) the representation of employees for collec-
19 tive bargaining; and

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

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

1 ICC Termination Act of 1995 shall have no effect on
2 which employees and employers are covered by the Rail-
3 way Labor Act, the Railroad Retirement Act of 1974, the
4 Railroad Retirement Tax Act, and the Railroad Unem-
5 ployment Insurance Act.

6 **“§ 10302. Authority to exempt rail carrier transpor-**
7 **tation**

8 “(a) In a matter related to a rail carrier providing
9 transportation subject to the jurisdiction of the Panel
10 under this part, the Panel, to the maximum extent consist-
11 ent with this part, shall exempt a person, class of persons,
12 or a transaction or service whenever the Panel finds that
13 the application of a provision of this part—

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

16 “(2) either—

17 “(A) the transaction or service is of limited
18 scope; or

19 “(B) the application of the provision is not
20 needed to protect shippers from the abuse of
21 market power.

22 “(b) The Panel may, where appropriate, begin a pro-
23 ceeding under this section on its own initiative or on appli-
24 cation by the Secretary of Transportation or an interested

1 party. The Panel shall, within 90 days after receipt of any
2 such application, determine whether to begin an appro-
3 priate proceeding. If the Panel decides not to begin a pro-
4 ceeding, the reasons for the decision shall be published in
5 the Federal Register. Any proceeding begun as a result
6 of an application under this subsection shall be completed
7 within one year after it is begun.

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

10 “(d) The Panel may revoke an exemption, to the ex-
11 tent it specifies, when it finds that application of a provi-
12 sion of this part to the person, class, or transportation
13 is necessary to carry out the transportation policy of sec-
14 tion 10101 of this title. The Panel shall, within 90 days
15 after receipt of a request for revocation under this sub-
16 section, determine whether to begin an appropriate pro-
17 ceeding. If the Panel decides not to begin a proceeding,
18 the reasons for the decision shall be published in the Fed-
19 eral Register. Any proceeding begun as a result of a re-
20 quest under this subsection shall be completed within one
21 year after it is begun.

22 “(e) No exemption order issued pursuant to this sec-
23 tion shall operate to relieve any rail carrier from an obliga-
24 tion to provide contractual terms for liability and claims
25 which are consistent with the provisions of section 11506

1 of this title. Nothing in this subsection or section 11506
 2 of this title shall prevent rail carriers from offering alter-
 3 native terms nor give the Panel the authority to require
 4 any specific level of rates or services based upon the provi-
 5 sions of section 11506 of this title.

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

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

12 **“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. Rail cost adjustment factor.

“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.

1 “SUBCHAPTER I—GENERAL AUTHORITY

2 “§ 10501. **Standards for rates, classifications, through**
3 **routes, rules, and practices**

4 “(a) A through route established by a rail carrier
5 must be reasonable. Divisions of joint rates by rail carriers
6 must be made without unreasonable discrimination
7 against a participating carrier and must be reasonable.

8 “(b) A rail carrier providing transportation subject
9 to the jurisdiction of the Panel under this part may not
10 discriminate in its rates against a connecting line of an-
11 other rail carrier providing transportation subject to the
12 jurisdiction of the Panel under this part or unreasonably
13 discriminate against that line in the distribution of traffic
14 that is not routed specifically by the shipper.

15 “(c) Except as provided in subsection (d) of this sec-
16 tion and unless a rate is prohibited by a provision of this
17 part, a rail carrier providing transportation subject to the
18 jurisdiction of the Panel under this part may establish any
19 rate for transportation or other service provided by the
20 rail carrier.

21 “(d)(1) If the Panel determines, under section 10507
22 of this title, that a rail carrier has market dominance over
23 the transportation to which a particular rate applies, the

1 rate established by such carrier for such transportation
2 must be reasonable.

3 “(2) In determining whether a rate established by a
4 rail carrier is reasonable for purposes of this section, the
5 Panel shall give due consideration to—

6 “(A) the amount of traffic which is transported
7 at revenues which do not contribute to going concern
8 value and the efforts made to minimize such traffic;

9 “(B) the amount of traffic which contributes
10 only marginally to fixed costs and the extent to
11 which, if any, rates on such traffic can be changed
12 to maximize the revenues from such traffic; and

13 “(C) the carrier’s mix of rail traffic to deter-
14 mine whether one commodity is paying an unreason-
15 able share of the carrier’s overall revenues,

16 recognizing the policy of this part that rail carriers shall
17 earn adequate revenues, as established by the Panel under
18 section 10504(a)(2) of this title.

19 “(3) The Panel shall, within one year after the date
20 of the enactment of this paragraph, complete the pending
21 Interstate Commerce Commission non-coal rate guidelines
22 proceeding.

1 **“§ 10502. Authority for rail carriers to establish rates,**
2 **classifications, rules, and practices**

3 “A rail carrier providing transportation or service
4 subject to the jurisdiction of the Panel under this part
5 shall establish reasonable—

6 “(1) rates, to the extent required by section
7 10507, divisions of joint rates, and classifications for
8 transportation and service it may provide under this
9 part; and

10 “(2) rules and practices on matters related to
11 that transportation or service.

12 **“§ 10503. Authority for rail carriers to establish**
13 **through routes**

14 “Rail carriers providing transportation subject to the
15 jurisdiction of the Panel under this part shall establish
16 through routes with each other, shall establish rates and
17 classifications applicable to those routes, and shall estab-
18 lish rules for their operation and provide—

19 “(1) reasonable facilities for operating the
20 through route; and

21 “(2) reasonable compensation to persons enti-
22 tled to compensation for services related to the
23 through route.

1 **“§ 10504. Authority and criteria: rates, classifications,**
2 **rules, and practices prescribed by Panel**

3 “(a)(1) When the Panel, after a full hearing, decides
4 that a rate charged or collected by a rail carrier for trans-
5 portation subject to the jurisdiction of the Panel under
6 this part, or that a classification, rule, or practice of that
7 carrier does or will violate this part, the Panel may pre-
8 scribe the maximum rate, classification, rule, or practice
9 to be followed. The Panel may order the carrier to stop
10 the violation. When a rate, classification, rule, or practice
11 is prescribed under this subsection, the affected carrier
12 may not publish, charge, or collect a different rate and
13 shall adopt the classification and observe the rule or prac-
14 tice prescribed by the Panel.

15 “(2) The Panel shall maintain and revise as nec-
16 essary standards and procedures for establishing revenue
17 levels for rail carriers providing transportation subject to
18 its jurisdiction under this part that are adequate, under
19 honest, economical, and efficient management, to cover
20 total operating expenses, including depreciation and obso-
21 lescence, plus a reasonable and economic profit or return
22 (or both) on capital employed in the business. The Panel
23 shall make an adequate and continuing effort to assist
24 those carriers in attaining revenue levels prescribed under
25 this paragraph. Revenue levels established under this
26 paragraph should—

1 “(A) provide a flow of net income plus deprecia-
2 tion adequate to support prudent capital outlays, as-
3 sure the repayment of a reasonable level of debt,
4 permit the raising of needed equity capital, and
5 cover the effects of inflation; and

6 “(B) attract and retain capital in amounts ade-
7 quate to provide a sound transportation system in
8 the United States.

9 “(3) On the basis of the standards and procedures
10 described in paragraph (2), the Panel shall annually deter-
11 mine which rail carriers are earning adequate revenues.

12 “(b) The Panel may begin a proceeding under this
13 section on its own initiative or on complaint. A complaint
14 under subsection (a) of this section must be made under
15 section 11501 of this title, but the proceeding may also
16 be in extension of a complaint pending before the Panel.

17 **“§ 10505. Authority: through routes, joint classifica-**
18 **tions, rates, and divisions prescribed by**
19 **Panel**

20 “(a)(1) The Panel may, and shall when it considers
21 it desirable in the public interest, prescribe through
22 routes, joint classifications, joint rates, the division of
23 joint rates, and the conditions under which those routes
24 must be operated, for a rail carrier providing transpor-

1 tation subject to the jurisdiction of the Panel under this
2 part.

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

9 “(A) required under sections 10541, 10542, or
10 10902 of this title;

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

15 “(C) the Panel decides that the proposed
16 through route is needed to provide adequate, and
17 more efficient or economic, transportation.

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

21 “(b) The Panel shall prescribe the division of joint
22 rates to be received by a rail carrier providing transpor-
23 tation subject to its jurisdiction under this part when it
24 decides that a division of joint rates established by the
25 participating carriers under section 10503 of this title, or

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

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

12 **“§ 10506. Rate agreements: exemption from antitrust**
13 **laws**

14 “(a)(1) In this subsection—

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

20 “(B) the term ‘single-line rate’ refers to a rate
21 or allowance proposed by a single rail carrier that is
22 applicable only over its line and for which the trans-
23 portation (exclusive of terminal services by switch-
24 ing, drayage or other terminal carriers or agencies)
25 can be provided by that carrier; and

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

4 “(2)(A) A rail carrier providing transportation sub-
5 ject to the jurisdiction of the Panel under this part that
6 is a party to an agreement of at least 2 rail carriers that
7 relates to rates (including charges between rail carriers
8 and compensation paid or received for the use of facilities
9 and equipment), classifications, divisions, or rules related
10 to them, or procedures for joint consideration, initiation,
11 publication, or establishment of them, shall apply to the
12 Panel for approval of that agreement under this sub-
13 section. The Panel shall approve the agreement only when
14 it finds that the making and carrying out of the agreement
15 will further the transportation policy of section 10101 of
16 this title and may require compliance with conditions nec-
17 essary to make the agreement further that policy as a con-
18 dition of its approval. If the Panel approves the agree-
19 ment, it may be made and carried out under its terms
20 and under the conditions required by the Panel, and the
21 Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15
22 U.S.C. 12, et seq.), the Federal Trade Commission Act
23 (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson
24 Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19,
25 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to par-

1 ties and other persons with respect to making or carrying
2 out the agreement. However, the Panel may not approve
3 or continue approval of an agreement when the conditions
4 required by it are not met or if it does not receive a veri-
5 fied statement under subparagraph (B) of this paragraph.

6 “(B) The Panel may approve an agreement under
7 subparagraph (A) of this paragraph only when the rail
8 carriers applying for approval file a verified statement
9 with the Panel. Each statement must specify for each rail
10 carrier that is a party to the agreement—

11 “(i) the name of the carrier;

12 “(ii) the mailing address and telephone number
13 of its headquarter’s office; and

14 “(iii) the names of each of its affiliates and the
15 names, addresses, and affiliates of each of its offi-
16 cers and directors and of each person, together with
17 an affiliate, owning or controlling any debt, equity,
18 or security interest in it having a value of at least
19 \$1,000,000.

20 “(3)(A) An organization established or continued
21 under an agreement approved under this subsection shall
22 make a final disposition of a rule or rate docketed with
23 it by the 120th day after the proposal is docketed. Such
24 an organization may not—

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

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

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

23 “(B)(i) In any proceeding in which a party alleges
24 that a rail carrier voted or agreed on a rate or allowance
25 in violation of this subsection, that party has the burden

1 of showing that the vote or agreement occurred. A showing
2 of parallel behavior does not satisfy that burden by itself.

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

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

20 “(II) concerned an interline movement of the
21 rail carrier, and the discussion or agreement would
22 not, considered by itself, violate the laws referred to
23 in the 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
7 be made, and that such transcripts or recordings and vot-
8 ing records be submitted to the Panel and made available
9 to other Federal agencies in connection with their statu-
10 tory responsibilities over rate bureaus, except that such
11 material shall be kept confidential and shall not be subject
12 to disclosure under section 552 of title 5, United States
13 Code.

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

1 tion or on its own initiative, investigate whether the par-
2 ties to such an agreement have exceeded its scope, and
3 upon a finding that they have, the Panel may issue such
4 orders as are necessary, including an order dissolving the
5 agreement, to ensure that actions taken pursuant to the
6 agreement are limited as provided in this paragraph.

7 “(5)(A) Whenever two or more shippers enter into
8 an agreement to discuss among themselves that relates to
9 the amount of compensation such shippers propose to be
10 paid by rail carriers providing transportation subject to
11 the jurisdiction of the Panel under this part, for use by
12 such rail carriers of rolling stock owned or leased by such
13 shippers, the shippers shall apply to the Panel for approval
14 of that agreement under this paragraph. The Panel shall
15 approve the agreement only when it finds that the making
16 and carrying out of the agreement will further the trans-
17 portation policy set forth in 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 ap-
20 proval. If the Panel approves the agreement, it may be
21 made and carried out under its terms and under the terms
22 required by the Panel, and the antitrust laws set forth
23 in paragraph (2) of this subsection do not apply to parties
24 and other persons with respect to making or carrying out
25 the agreement. The Panel shall approve or disapprove an

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

3 “(B) If the Panel approves an agreement described
4 in subparagraph (A) of this paragraph and the shippers
5 entering into such agreement and the rail carriers propos-
6 ing to use rolling stock owned or leased by such shippers,
7 under payment by such carriers or under a published al-
8 lowance, are unable to agree upon the amount of com-
9 pensation to be paid for the use of such rolling stock, any
10 party directly involved in the negotiations may require
11 that the matter be settled by submitting the issues in dis-
12 pute to the Panel. The Panel shall render a binding deci-
13 sion, based upon a standard of reasonableness and after
14 taking into consideration any past precedents on the sub-
15 ject matter of the negotiations, no later than 90 days after
16 the date of the submission 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
20 of rail carriers to utilize rolling stock owned or leased by
21 shippers.

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
10 section on its own initiative or on application. Action of
11 the 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
18 laws 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
21 least 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 require-
25 ments 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
6 shall 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
19 that will further the goals of this part and of the
20 transportation 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
4 absence of effective competition from other rail carriers
5 or modes of transportation for the transportation to which
6 a 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
12 the rate has market dominance over the transportation to
13 which the rate applies. The Panel may make that deter-
14 mination on its own initiative or on complaint. A finding
15 by the Panel that the rail carrier does not have market
16 dominance is determinative in a proceeding under this
17 part related to that rate or transportation unless changed
18 or set aside by the Panel or set aside by a court of com-
19 petent jurisdiction.

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
24 to be unreasonable if it exceeds a reasonable maximum
25 for that transportation. However, a finding of market

1 dominance does not establish a presumption that the pro-
2 posed rate exceeds 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
7 carrier proves that the rate charged results in a revenue-
8 variable cost percentage for such transportation that is
9 less than 180 percent.

10 “(B) For purposes of this section, variable costs for
11 a rail carrier shall be determined only by using such car-
12 rier’s unadjusted costs, calculated using the Uniform Rail
13 Costing System cost finding methodology (or an alter-
14 native methodology adopted by the Panel in lieu thereof)
15 and indexed quarterly to account for current wage and
16 price levels in the region in which the carrier operates,
17 with adjustments specified by the Panel. A rail carrier
18 may meet its burden of proof under this subsection by es-
19 tablishing its variable costs in accordance with this para-
20 graph, but a shipper may rebut that showing by evidence
21 of such type, and in accordance with such burden of proof,
22 as the Panel shall prescribe.

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

1 equal to or greater than 180 percent does not establish
2 a presumption 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 ex-
6 ceed a reasonable maximum.

7 **“§ 10508. Rail cost adjustment factor**

8 “(a) The Panel shall, as often as practicable, but in
9 no event less often than quarterly, publish a rail cost ad-
10 justment factor which shall be a fraction, the numerator
11 of which is the latest published Index of Railroad Costs
12 (which index shall be compiled or verified by the Panel,
13 with appropriate adjustments to reflect the change in com-
14 position of railroad costs, including the quality and mix
15 of material and labor) and the denominator of which is
16 the same index for the fourth quarter of every fifth year,
17 beginning with the fourth quarter of 1992.

18 “(b) The rail cost adjustment factor published by the
19 Panel under subsection (a) of this section shall take into
20 account changes in railroad productivity. The Panel shall
21 also publish a similar index that does not take into ac-
22 count changes in railroad productivity.

23 **“§ 10509. Contracts**

24 “(a) One or more rail carriers providing transpor-
25 tation subject to the jurisdiction of the Panel under this

1 part may enter into a contract with one or more pur-
2 chasers of rail services to provide specified services under
3 specified rates and conditions.

4 “(b) A party to a contract entered into under this
5 section shall have no duty in connection with services pro-
6 vided under such contract other than those duties specified
7 by the terms of the contract.

8 “(c)(1) A contract that is authorized by this section,
9 and transportation under such contract, shall not be sub-
10 ject to this part, and may not be subsequently challenged
11 before the Panel or in any court on the grounds that such
12 contract violates a provision of this part.

13 “(2) The exclusive remedy for any alleged breach of
14 a contract entered into under this section shall be an ac-
15 tion in an appropriate State court or United States dis-
16 trict court, unless the parties otherwise agree. The district
17 courts of the United States shall not have jurisdiction pur-
18 suant to this section based on section 1331 or 1337 of
19 title 28, United States Code.

20 “(d)(1) A summary of each contract for the transpor-
21 tation of agricultural commodities entered into under this
22 section shall be filed with the Panel, containing such
23 nonconfidential information as the Panel prescribes. The
24 Panel shall publish special rules for such contracts in

1 order to ensure that the essential terms of the contract
2 are available to the general public.

3 “(2) Documents, papers, and records (and any copies
4 thereof) relating to a contract described in subsection (a)
5 shall not be subject to the mandatory disclosure require-
6 ments of section 552 of title 5.

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

11 “(f) A rail carrier that enters into a contract as au-
12 thorized by this section remains subject to the common
13 carrier obligation set forth in section 10901, with respect
14 to rail transportation not provided under such a contract.

15 “(g) The Panel shall implement by regulation admin-
16 istrative complaint remedies substantively equivalent to
17 the provisions of section 10713 of this title, as in effect
18 before the date of the enactment of the ICC Termination
19 Act of 1995, with regard to contracts for the transpor-
20 tation of agricultural commodities. Such regulations shall
21 be adopted no later than 90 days after the date of the
22 enactment of the ICC Termination Act of 1995.

1 “SUBCHAPTER II—SPECIAL CIRCUMSTANCES

2 **“§ 10521. Government traffic**

3 “A rail carrier providing transportation or service for
4 the United States Government may transport property for
5 the United States Government without charge or at a rate
6 reduced from the applicable commercial rate. Section 3709
7 of the Revised Statutes (41 U.S.C. 5) does not apply when
8 transportation for the United States Government can be
9 obtained from a rail carrier lawfully operating in the area
10 where the transportation would be provided.

11 **“§ 10522. Emergency rates**

12 “(a) The Panel may authorize a rail carrier providing
13 transportation or service subject to its jurisdiction under
14 this part to give reduced rates for service and transpor-
15 tation of property to or from an area in the United States
16 to provide relief during emergencies. When the Panel
17 takes action under this subsection, it must—

18 “(1) define the area of the United States in
19 which the reduced rates will apply;

20 “(2) specify the period during which the re-
21 duced rates are to be in effect; and

22 “(3) define the class of persons entitled to the
23 reduced rates.

24 “(b) The Panel may specify those persons entitled to
25 reduced rates by reference to those persons designated as

1 being in need of relief by the United States Government
2 or by a State government authorized to assist in providing
3 relief during the emergency. The Panel may act under this
4 section without regard to subchapter II of chapter 5 of
5 title 5.

6 **“§ 10523. Car utilization**

7 “In order to encourage more efficient use of freight
8 cars, notwithstanding any other provision of this part, rail
9 carriers shall be permitted to establish premium charges
10 for special services or special levels of services not other-
11 wise applicable to the movement. The Panel shall facilitate
12 development of such charges so as to increase the utiliza-
13 tion of equipment.

14 “SUBCHAPTER III—LIMITATIONS

15 **“§ 10541. Prohibitions against discrimination by rail**
16 **carriers**

17 “(a)(1) A rail carrier providing transportation or
18 service subject to the jurisdiction of the Panel under this
19 part may not subject a person, place, port, or type of traf-
20 fic to unreasonable discrimination.

21 “(2) For purposes of this section, a rail carrier en-
22 gages in unreasonable discrimination when it charges or
23 receives from a person a different compensation for a serv-
24 ice rendered, or to be rendered, in transportation the rail
25 carrier may perform under this part than it charges or

1 receives from another person for performing a like and
2 contemporaneous service in the transportation of a like
3 kind of traffic under substantially similar circumstances.

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

5 “(1) contracts described in section 10509 of
6 this title;

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

8 “(3) discrimination against the traffic of an-
9 other carrier providing transportation by any mode.

10 “(c) Differences between rates, classifications, rules,
11 and practices of rail carriers do not constitute a violation
12 of this section if such differences result from different
13 services provided by rail carriers.

14 **“§ 10542. Facilities for interchange of traffic**

15 “A rail carrier providing transportation subject to the
16 jurisdiction of the Panel under this part shall provide rea-
17 sonable, proper, and equal facilities that are within its
18 power to provide for the interchange of traffic between,
19 and for the receiving, forwarding, and delivering of pas-
20 sengers and property to and from, its respective line and
21 a connecting line of another rail carrier.

22 **“§ 10543. Continuous carriage of freight**

23 “A rail carrier providing transportation or service
24 subject to the jurisdiction of the Panel under this part
25 may not enter a combination or arrangement to prevent

1 the carriage of freight from being continuous from the
2 place of shipment to the place of destination whether by
3 change of time schedule, carriage in different cars, or by
4 other means. The carriage of freight by those rail carriers
5 is considered to be a continuous carriage from the place
6 of shipment to the place of destination when a break of
7 bulk, stoppage, or interruption is not made in good faith
8 for a necessary purpose, and with the intent of avoiding
9 or unnecessarily interrupting the continuous carriage or
10 of evading this part.

11 **“§ 10544. Transportation services or facilities fur-**
12 **nished by shipper**

13 “A rail carrier providing transportation or service
14 subject to the jurisdiction of the Panel under this part
15 may publish a charge or allowance for transportation or
16 service for property when the owner of the property, di-
17 rectly or indirectly, furnishes a service related to or an
18 instrumentality used in the transportation or service. The
19 Panel may prescribe the maximum reasonable charge or
20 allowance a rail carrier subject to its jurisdiction may pay
21 for a service or instrumentality furnished under this sec-
22 tion. The Panel may begin a proceeding under this section
23 on its own initiative or on application.

1 **“§ 10545. Demurrage charges**

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

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

8 “(2) maintenance of an adequate supply of
9 freight cars to be available for transportation of
10 property.

11 **“§ 10546. Designation of certain routes by shippers**

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

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

24 “(B) a through rate has been established for
25 transportation over each of those through routes;
26 and

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

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

12 “(b) The Panel may prescribe exceptions to the au-
13 thority of a person to direct the movement of traffic under
14 subsection (a) of this section.

15 **“CHAPTER 107—LICENSING**

“Sec.

“10701. Authorizing construction and operation of railroad lines.

“10702. Short line purchases by Class II and Class III rail carriers.

“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.

“10707. Railroad development.

16 **“§10701. Authorizing construction and operation of**
17 **railroad lines**

18 “(a) A person may—

19 “(1) construct an extension to any of its rail-
20 road lines;

21 “(2) construct an additional railroad line;

1 “(3) provide transportation over, or by means
2 of, an extended or additional railroad line; or

3 “(4) in the case of a person other than a rail
4 carrier, acquire a railroad line or acquire or operate
5 an extended or additional railroad line,

6 only if the Panel issues a certificate authorizing such ac-
7 tivity under subsection (c).

8 “(b) A proceeding to grant authority under sub-
9 section (a) of this section begins when an application is
10 filed. On receiving the application, the Panel shall give
11 reasonable public notice of the beginning of such proceed-
12 ing.

13 “(c) The Panel shall issue a certificate authorizing
14 activities for which such authority is requested in an appli-
15 cation filed under subsection (b) unless the Panel finds
16 that such activities are inconsistent with the public con-
17 venience and necessity. Such certificate may approve the
18 application as filed, or with modifications, and may re-
19 quire compliance with conditions the Panel finds necessary
20 in the public interest.

21 “(d)(1) When a certificate has been issued by the
22 Panel under this section authorizing the construction or
23 extension of a railroad line, no other rail carrier may block
24 any construction or extension authorized by such certifi-

1 cate by refusing to permit the carrier to cross its property
2 if—

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

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

7 “(C) the owner of the crossing line compensates
8 the owner of the crossed line.

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

16 **“§ 10702. Short line purchases by Class II and Class
17 III rail carriers**

18 “(a) A Class II or Class III rail carrier providing
19 transportation subject to the jurisdiction of the Panel
20 under this part may acquire or operate an extended or
21 additional rail line under this section only if the Panel is-
22 sues a certificate authorizing such activity under sub-
23 section (c).

24 “(b) A proceeding to grant authority under sub-
25 section (a) of this section begins when an application is

1 filed. On receiving the application, the Panel shall give
2 reasonable public notice of the beginning of such proceed-
3 ing.

4 “(c) The Panel shall issue a certificate authorizing
5 activities for which such authority is requested in an appli-
6 cation filed under subsection (b) unless the Panel finds
7 that such activities are inconsistent with the public con-
8 venience and necessity. Such certificate may approve the
9 application as filed, or with modifications, and may re-
10 quire compliance with conditions the Panel finds necessary
11 in the public interest.

12 “(d) The Panel shall require any Class II rail carrier
13 which receives a certificate under subsection (c) of this
14 section to provide a fair and equitable arrangement for
15 the protection of the interests of employees who may be
16 affected thereby to the same extent as an arrangement
17 established pursuant to section 11126(b) of this title. The
18 Panel shall not require such an arrangement from a Class
19 III rail carrier which receives a certificate under sub-
20 section (c) of this section.

21 “(e) For purposes of this section, the terms ‘Class
22 II rail carrier’ and ‘Class III rail carrier’ have the meaning
23 given those terms by the Panel.

1 **“§ 10703. Filing and procedure for notice of intent to**
2 **abandon or discontinue**

3 “(a)(1) A rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part who in-
5 tends to—

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

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

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

10 An abandonment or discontinuance may be carried out
11 only as authorized under this chapter.

12 “(2) When a rail carrier providing transportation
13 subject to the jurisdiction of the Panel under this part
14 files a notice of intent, the notice shall include—

15 “(A) an accurate and understandable summary
16 of the rail carrier’s reasons for the proposed aban-
17 donment or discontinuance;

18 “(B) a statement indicating that each inter-
19 ested person is entitled to make recommendations to
20 the Panel on the future of the rail line; and

21 “(C)(i) a statement that the line is available for
22 sale in accordance with section 10704 of this title,
23 (ii) a statement that the rail carrier will promptly
24 provide to each interested party an estimate of the
25 minimum purchase price, calculated in accordance
26 with section 10704 of this title and (iii) the name

1 and business address of the person who is author-
2 ized to discuss sale terms for the rail carrier.

3 “(3) The rail carrier shall—

4 “(A) send by certified mail a copy of the notice
5 of intent to the chief executive officer of each State
6 that would be directly affected by the proposed
7 abandonment or discontinuance;

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

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

15 “(D) mail a copy of the notice, to the extent
16 practicable, to all shippers that have made signifi-
17 cant use (as designated by the Panel) of the railroad
18 line during the 12 months preceding the filing of the
19 notice of intent; and

20 “(E) attach to the notice filed with the Panel
21 an affidavit certifying the manner in which subpara-
22 graphs (A) through (D) of this paragraph have been
23 satisfied, and certifying that subparagraphs (A)
24 through (D) have been satisfied within the most re-

1 cent 30 days prior to the date the notice of intent
2 is filed.

3 “(b)(1) Except as provided in subsection (d), aban-
4 donment and discontinuance may occur as provided in sec-
5 tion 10704.

6 “(2) The Panel shall require as a condition of any
7 abandonment or discontinuance under this section provi-
8 sions to protect the interests of employees. The provisions
9 shall be at least as beneficial to those interests as the pro-
10 visions established under sections 11126(a) and 24706(c)
11 of this title.

12 “(c)(1) In this subsection, the term ‘potentially sub-
13 ject to abandonment’ has the meaning given the term in
14 regulations of the Panel. The regulations may include
15 standards that vary by region of the United States and
16 by railroad or group of railroads.

17 “(2) Each rail carrier shall maintain a complete dia-
18 gram of the transportation system operated, directly or
19 indirectly, by the rail carrier. The rail carrier shall submit
20 to the Panel and publish amendments to its diagram that
21 are necessary to maintain the accuracy of the diagram.
22 The diagram shall—

23 “(A) include a detailed description of each of its
24 railroad lines potentially subject to abandonment;
25 and

1 “(B) identify each railroad line for which the
2 rail carrier plans to file a notice of intent to abandon
3 or discontinue under subsection (a) of this section.
4 tion.

5 “(d) The Panel may disapprove a proposed abandonment
6 or discontinuance if the Panel finds it inconsistent
7 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
8 price required;

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

12 “(3) traffic, revenue, and other data necessary
13 to 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 4 months after a notice of intent is filed
19 under section 10703, any person may offer to purchase
20 the railroad line that is the subject of such notice of intent.
21 Such offer shall be filed concurrently with the Panel. If
22 the offer to purchase is less than the minimum purchase
23 price stated pursuant to subsection (a)(1), the offer shall
24 explain the basis of the disparity, and the manner in which
25 the offer is calculated.

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

9 “(2) If the Panel finds that such an offer or offers
10 to purchase have been made within such period, abandon-
11 ment 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 compensa-
16 tion are established under subsection (e).

17 “(d) Except as provided in subsection (e)(3), if the
18 rail carrier and a financially responsible person (including
19 a 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
22 the conditions and amount of compensation.

23 “(e)(1) Whenever the Panel is requested to establish
24 the 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
6 value of the line (including, unless otherwise mutu-
7 ally agreed, all facilities on the line or portion nec-
8 essary to provide effective transportation services).

9 “(2) The decision of the Panel shall be binding on
10 both parties, except that the person who has offered to
11 purchase the line may withdraw his offer within 10 days
12 of the Panel’s decision. In such a case, the abandonment
13 or discontinuance may be carried out immediately, unless
14 other offers are being considered pursuant to paragraph
15 (3) of 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
18 to transact business, and complete the sale agreement, or
19 request that the Panel establish the conditions and
20 amount of compensation before the 40th day after the ex-
21 piration of the 4-month period described in subsection (b).
22 If no agreement on sale is reached within such 40-day pe-
23 riod and the Panel has not been requested to establish
24 the conditions and amount of compensation, any other
25 offeror whose offer was made within the 4-month period

1 described in subsection (b) may request that the Panel es-
2 tablish the conditions and amount of compensation. If the
3 Panel has established the conditions and amount of com-
4 pensation, and the original offer has been withdrawn, any
5 other offeror whose offer was made within the 4-month
6 period described in subsection (b) may accept the Panel's
7 decision within 20 days after such decision, and the Panel
8 shall require the carrier to enter into a sale agreement
9 with such offeror, if such sale agreement incorporates the
10 Panel's decision.

11 “(4) No purchaser of a line or portion of line sold
12 under this section may transfer or discontinue service on
13 such line prior to the end of the second year after con-
14 summation of the sale, nor may such purchaser transfer
15 such line, except to the rail carrier from whom it was pur-
16 chased, prior to the end of the fifth year after consumma-
17 tion of the sale.

18 “(f) Upon abandonment of a railroad line under this
19 section, the obligation of the rail carrier abandoning the
20 line to provide transportation on that line, as required by
21 section 10901(a), is extinguished.

22 **“§ 10705. Offering abandoned rail properties for sale**
23 **for public purposes**

24 “When a rail carrier files a notice of intent to aban-
25 don or discontinue under section 10703, the Panel shall

1 find whether the rail properties that are involved in the
2 proposed abandonment or discontinuance are appropriate
3 for use for public purposes, including highways, other
4 forms of mass transportation, conservation, energy pro-
5 duction or transmission, or recreation. If the Panel finds
6 that the rail properties proposed to be abandoned are ap-
7 propriate for public purposes and not required for contin-
8 ued rail operations, the properties may be sold, leased, ex-
9 changed, or otherwise disposed of only under conditions
10 provided in the order of the Panel. The conditions may
11 include a prohibition on any such disposal for a period
12 of not more than 180 days after the effective date of the
13 order, unless the properties have first been offered, on rea-
14 sonable terms, for sale for public purposes.

15 **“§ 10706. Exception**

16 “Notwithstanding section 10701 and subchapter II
17 of chapter 111 of this title, and without the approval of
18 the Panel, a rail carrier providing transportation subject
19 to the jurisdiction of the Panel under this part may enter
20 into arrangements for the joint ownership or joint use of
21 spur, industrial, team, switching, or side tracks. The Panel
22 does not have authority under this chapter over construc-
23 tion, acquisition, operation, abandonment, or discontinu-
24 ance of spur, industrial, team, switching, or side tracks.

1 **“§ 10707. Railroad development**

2 “(a) In this section, the term ‘financially responsible
3 person’ means a person who—

4 “(1) is capable of paying the constitutional min-
5 imum value of the railroad line proposed to be ac-
6 quired; and

7 “(2) is able to assure that adequate transpor-
8 tation will be provided over such line for a period of
9 not less than 3 years.

10 Such term includes a governmental authority but does not
11 include a Class I or Class II rail carrier.

12 “(b)(1) When the Panel finds that—

13 “(A)(i) the public convenience and necessity re-
14 quire or permit the sale of a particular railroad line
15 under this section; or

16 “(ii) a railroad line is on a system diagram map
17 as required under section 10703 of this title, but the
18 rail carrier owning such line has not filed a notice
19 of intent to abandon such line under section 10703
20 of this title before an application to purchase such
21 line, or any required preliminary filing with respect
22 to such application, is filed under this section; and

23 “(B) an application to purchase such line has
24 been filed by a financially responsible person,

1 the Panel shall require the rail carrier owning the railroad
2 line to sell such line to such financially responsible person
3 at a price not less than the constitutional minimum value.

4 “(2) For purposes of this subsection, the constitu-
5 tional minimum value of a particular railroad line shall
6 be presumed to be not less than the net liquidation value
7 of such line or the going concern value of such line, which-
8 ever is greater.

9 “(c)(1) For purposes of this section, the Panel may
10 determine that the public convenience and necessity re-
11 quire or permit the sale of a railroad line if the Panel
12 determines, after a hearing on the record, that—

13 “(A) the rail carrier operating such line refuses
14 within a reasonable time to make the necessary ef-
15 forts to provide adequate service to shippers who
16 transport traffic over such line;

17 “(B) the transportation over such line is inad-
18 equate for the majority of shippers who transport
19 traffic over such line;

20 “(C) the sale of such line will not have a signifi-
21 cantly adverse financial effect on the rail carrier op-
22 erating such line;

23 “(D) the sale of such line will not have an ad-
24 verse effect on the overall operational performance
25 of the rail carrier operating such line; and

1 “(E) the sale of such line will be likely to result
2 in improved railroad transportation for shippers that
3 transport traffic over such line.

4 “(2) In a proceeding under this subsection, the bur-
5 den of proving that the public convenience and necessity
6 require or permit the sale of a particular railroad line is
7 on the person filing the application to acquire such line.
8 If the Panel finds under this subsection that the public
9 convenience and necessity require or permit the sale of a
10 particular railroad line, the Panel shall concurrently notify
11 the parties of such finding and publish such finding in
12 the Federal Register.

13 “(d) In the case of any railroad line subject to sale
14 under subsection (a) of this section, the Panel shall, upon
15 the request of the acquiring carrier, require the selling
16 carrier to provide to the acquiring carrier trackage rights
17 to allow a reasonable interchange with the selling carrier
18 or to move power equipment or empty rolling stock be-
19 tween noncontiguous feeder lines operated by the acquir-
20 ing carrier. The Panel shall require the acquiring carrier
21 to provide the selling carrier reasonable compensation for
22 any such trackage rights.

23 “(e) The Panel shall require, to the maximum extent
24 practicable, the use of the employees who would normally

1 have performed work in connection with a railroad line
2 subject to a sale under this section.

3 “(f) In the case of a railroad line which carried less
4 than 3,000,000 gross ton miles of traffic per mile in the
5 preceding calendar year, whenever a purchasing carrier
6 under this section petitions the Panel for joint rates appli-
7 cable to traffic moving over through routes in which the
8 purchasing carrier may practicably participate, the Panel
9 shall, within 30 days after the date such petition is filed
10 and pursuant to section 10505(a) of this title, require the
11 establishment of reasonable joint rates and divisions over
12 such route.

13 “(g)(1) Any person operating a railroad line acquired
14 under this section may elect to be exempt from any of
15 the provisions of this part, except that such a person may
16 not be exempt from the provisions of chapter 105 of this
17 title with respect to transportation under a joint rate.

18 “(2) The provisions of paragraph (1) of this sub-
19 section shall apply to any line of railroad which was aban-
20 doned during the 18-month period immediately prior to
21 the effective date of the Staggers Rail Act of 1980 and
22 was subsequently purchased by a financially responsible
23 person.

24 “(h) If a purchasing carrier under this section pro-
25 poses to sell or abandon all or any portion of a purchased

1 railroad line, such purchasing carrier shall offer the right
 2 of first refusal with respect to such line or portion thereof
 3 to the carrier which sold such line under this section. Such
 4 offer shall be made at a price equal to the sum of the
 5 price paid by such purchasing carrier to such selling car-
 6 rier for such line or portion thereof and the fair market
 7 value (less deterioration) of any improvements made, as
 8 adjusted to reflect inflation.

9 “(i) Any person operating a railroad line acquired
 10 under this section may determine preconditions, such as
 11 payment of a subsidy, which must be met by shippers in
 12 order to obtain service over such lines, but such operator
 13 must notify the shippers on the line of its intention to
 14 impose such preconditions.

15 **“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.

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“10941. Definitions.

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“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
5 shall provide the transportation or service on reasonable
6 request. A rail carrier shall not be found to have violated
7 this section because it fulfills its reasonable commitments
8 under contracts authorized under section 10509 of this
9 title before responding to reasonable requests for service.
10 Commitments which deprive a carrier of its ability to re-
11 spond to reasonable requests for common carrier service
12 are not reasonable.

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

17 “(1) in writing and forwarded to the requesting
18 person promptly after receipt of the request; or

19 “(2) promptly made available in electronic
20 form.

21 “(c) A rail carrier may not increase any common car-
22 rier rates or change any common carrier service terms un-

1 less 20 days have expired after written notice is provided
2 in accordance with subsection (d) to—

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

5 “(2) any person who has made arrangements
6 with the carrier for a shipment that would be sub-
7 ject to such increased rates or changed terms.

8 “(d) The Panel shall, by regulation, establish rules
9 to implement this section. Final regulations shall be
10 adopted by the Panel not later than 180 days after the
11 date of the enactment of the ICC Termination Act of
12 1995.

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

14 “(a) The Panel may require terminal facilities, in-
15 cluding main-line tracks for a reasonable distance outside
16 of 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 with-
20 out substantially impairing the ability of the rail carrier
21 owning the facilities or entitled to use the facilities to han-
22 dle its own business. The rail carriers are responsible for
23 establishing the conditions and compensation for use of
24 the facilities. However, if the rail carriers cannot agree,
25 the Panel may establish conditions and compensation for

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

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

14 “(c)(1) The Panel may require rail carriers to enter
15 into reciprocal switching agreements, where it finds such
16 agreements to be practicable and in the public interest,
17 or where such agreements are necessary to provide com-
18 petitive rail service. The rail carriers entering into such
19 an agreement shall establish the conditions and compensa-
20 tion applicable to such agreement, but, if the rail carriers
21 cannot agree upon such conditions and compensation
22 within a reasonable period of time, the Panel may estab-
23 lish such conditions and compensation.

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

1 subsection to contain provisions for the protection of the
2 interests 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
5 the 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
11 shall construct, maintain, and operate, on reasonable con-
12 ditions, a switch connection to connect that branch line
13 or private side track with its railroad and shall furnish
14 cars to move that traffic to the best of its ability without
15 discrimination in favor of or against the shipper when the
16 connection—

17 “(1) is reasonably practicable;

18 “(2) can be made safely; and

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

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

1 shall investigate the complaint and decide the safety, prac-
2 ticability, justification, and compensation to be paid for
3 the connection. The Panel may direct the rail carrier to
4 comply with subsection (a) of this section only after a full
5 hearing.

6 “SUBCHAPTER II—CAR SERVICE

7 “§ 10921. **Criteria**

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

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

1 “(B) the amount spent for the facilities or
2 equipment, including a return equal to the rail car-
3 rier’s current cost of capital, will be recovered; and

4 “(C) providing the facilities or equipment will
5 not impair the ability of the rail carrier to attract
6 adequate capital.

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

9 “(b) The Panel may designate and appoint agents
10 and agencies to make and carry out its directions related
11 to car service and matters under sections 10923 and
12 10924(a)(1) of this title.

13 **“§ 10922. Compensation and practice**

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

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

19 “(2) the other terms of any arrangement for
20 the use by a rail carrier of a locomotive, freight car,
21 or other vehicle not owned by the rail carrier using
22 the locomotive, freight car, or other vehicle, whether
23 or not owned by another carrier, shipper, or third
24 person; and

25 “(3) sanctions for nonobservance.

1 “(b) The rate of compensation to be paid for each
2 type of freight car shall be determined by the expense of
3 owning and maintaining that type of freight car, including
4 a fair return on its cost giving consideration to current
5 costs of capital, repairs, materials, parts, and labor. In
6 determining the rate of compensation, the Panel shall con-
7 sider the transportation use of each type of freight car,
8 the national level of ownership of each type of freight car,
9 and other factors that affect the adequacy of the national
10 freight car supply.

11 **“§ 10923. Rerouting traffic on failure of rail carrier to**
12 **serve the public**

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

23 “(b)(1) Except as provided in paragraph (2) of this
24 subsection, the Panel may act under this section on its

1 own initiative or on application without regard to sub-
2 chapter II of chapter 5 of title 5.

3 “(2) When the rail carriers do not agree on the terms
4 of compensation under this section, the Panel may estab-
5 lish the terms for them in a later proceeding.

6 “(c) When there is a shortage of equipment, conges-
7 tion of traffic, or other emergency declared by the Panel,
8 it may prescribe temporary through routes that are desir-
9 able in the public interest on its own initiative or on appli-
10 cation without regard to subchapter II of chapter 7 of this
11 title, and subchapter II of chapter 5 of title 5.

12 **“§ 10924. War emergencies; embargoes imposed by**
13 **carriers**

14 “(a)(1) When the President, during time of war or
15 threatened war, notifies the Panel that it is essential to
16 the defense and security of the United States to give pref-
17 erence or priority to the movement of certain traffic, the
18 Panel shall direct that preference or priority be given to
19 that traffic.

20 “(2) When the President, during time of war or
21 threatened war, demands that preference and precedence
22 be given to the transportation of troops and material of
23 war over all other traffic, all rail carriers providing trans-
24 portation subject to the jurisdiction of the Panel under

1 this part shall adopt every means within their control to
2 facilitate and expedite the military traffic.

3 “(b) An embargo imposed by any such rail carrier
4 does not apply to shipments consigned to agents of the
5 United States Government for its use. The rail carrier
6 shall deliver those shipments as promptly as possible.

7 “SUBCHAPTER III—REPORTS AND RECORDS

8 **“§ 10941. Definitions**

9 “In this subchapter—

10 “(1) the terms ‘rail carrier’ and ‘lessor’ include
11 a receiver or trustee of a rail carrier and lessor, re-
12 spectively;

13 “(2) the term ‘lessor’ means a person owning a
14 railroad that is leased to and operated by a carrier
15 providing transportation subject to the jurisdiction
16 of the Panel under this part; and

17 “(3) the term ‘association’ means an organiza-
18 tion maintained by or in the interest of a group of
19 rail carriers providing transportation or service sub-
20 ject to the jurisdiction of the Panel under this part
21 that performs a service, or engages in activities, re-
22 lated to transportation under this part.

23 **“§ 10942. Uniform accounting system**

24 “The Panel may prescribe a uniform accounting sys-
25 tem for classes of rail carriers providing transportation

1 subject to the jurisdiction of the Panel under this part.
2 To the maximum extent practicable, the Panel shall con-
3 form such system to generally accepted accounting prin-
4 ciples, and shall administer this subchapter in accordance
5 with such principles.

6 **“§ 10943. Depreciation charges**

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

17 “(1) charge to operating expenses a deprecia-
18 tion charge on a class of property other than that
19 prescribed by the Panel;

20 “(2) charge another rate of depreciation; or

21 “(3) include other depreciation charges in oper-
22 ating expenses.

23 **“§ 10944. Records: form; inspection; preservation**

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

1 “(1) by rail carriers and lessors, including
2 records related to movement of traffic and receipts
3 and expenditures of money; and

4 “(2) by persons furnishing cars to or for a rail
5 carrier providing transportation subject to the juris-
6 diction of the Panel under this part to the extent re-
7 lated to those cars or that service.

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

10 “(1) inspect and examine the lands, buildings,
11 and equipment of a rail carrier or lessor; and

12 “(2) inspect and copy any record of—

13 “(A) a rail carrier, lessor, or association;
14 and

15 “(B) a person controlling, controlled by, or
16 under common control with a rail carrier if the
17 Panel considers inspection relevant to that per-
18 son’s relation to, or transaction with, that rail
19 carrier.

20 “(c) The Panel may prescribe the time period during
21 which operating, accounting, and financial records must
22 be preserved by rail carriers, lessors, and persons furnish-
23 ing cars.

1 **“§ 10945. Reports by rail carriers, lessors, and asso-**
2 **ciations**

3 “(a) The Panel may require rail carriers, lessors, and
4 associations, or classes of them as the Panel may pre-
5 scribe, to file annual, periodic, and special reports with
6 the Panel containing answers to questions asked by it.

7 “(b)(1) An annual report shall contain an account,
8 in as much detail as the Panel may require, of the affairs
9 of the rail carrier, lessor, or association for the 12-month
10 period ending on December 31 of each year.

11 “(2) An annual report shall be filed with the Panel
12 by the end of the third month after the end of the year
13 for which the report is made unless the Panel extends the
14 filing date or changes the period covered by the report.
15 The annual report and, if the Panel requires, any other
16 report made under this section, shall be made under oath.

17 “SUBCHAPTER IV—RAILROAD COST
18 ACCOUNTING

19 **“§ 10961. Implementation of cost accounting prin-**
20 **ciples**

21 “Not less than once every five years after the promul-
22 gation of original rules implementing the cost accounting
23 principles established by the Railroad Accounting Prin-
24 ciples Board, the Panel shall review such principles and
25 shall, by rule, make such changes in such principles as
26 are required to achieve the regulatory purposes of this

1 part. The Panel shall insure that the rules promulgated
2 under this section are the most efficient and least burden-
3 some means by which the required information may be de-
4 veloped for regulatory purposes. To the maximum extent
5 practicable, the Panel shall conform such rules to gen-
6 erally accepted accounting principles.

7 **“§ 10962. Rail carrier cost accounting system**

8 “(a) Each rail carrier shall have and maintain a cost
9 accounting system that is in compliance with the rules pro-
10 mulgated by the Panel under section 10961 of this title.
11 A rail carrier may, after notifying the Panel, make modi-
12 fications in such system unless, within 60 days after the
13 date of notification, the Panel finds such modifications to
14 be inconsistent with the rules promulgated by the Panel
15 under section 10961 of this title.

16 “(b) For purposes of determining whether the cost
17 accounting system of a rail carrier is in compliance with
18 the rules promulgated by the Panel, the Panel shall have
19 the right to examine and make copies of any documents,
20 papers, or records of such rail carrier relating to compli-
21 ance with such rules. Such documents, papers, and records
22 (and any copies thereof) shall not be subject to the manda-
23 tory disclosure requirements of section 552 of title 5.

1 **“§ 10963. Cost availability**

2 “As required by the rules of the Panel governing dis-
3 covery in Panel proceedings, rail carriers shall make rel-
4 evant cost data available to shippers, States, ports, com-
5 munities, and other interested parties that are a party to
6 a Panel proceeding in which such data are required.

7 **“§ 10964. Accounting and cost reporting**

8 “(a) To obtain expense and revenue information for
9 regulatory purposes, the Panel may promulgate reasonable
10 rules for rail carriers providing transportation subject to
11 the jurisdiction of the Panel under this part, prescribing
12 expense and revenue accounting and reporting require-
13 ments consistent with generally accepted accounting prin-
14 ciples uniformly applied to such carriers. Such require-
15 ments shall be cost effective and compatible with and not
16 duplicative of the managerial and responsibility account-
17 ing requirements of those carriers. To the extent such
18 rules are required solely to provide expense and revenue
19 information necessary for determining railroad costs in
20 regulatory proceedings under this part, such rules shall
21 be promulgated in accordance with the cost accounting
22 principles established by the Railroad Accounting Prin-
23 ciples Board.

24 “(b) Any reports required by the rules established by
25 the Panel under this section shall include only information
26 considered necessary for disclosure under the cost ac-

1 counting principles established by the Board or under gen-
 2 erally accepted accounting principles or the requirements
 3 of the Securities and Exchange Commission.

4 **“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 ap-
 proval.

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

“11126. Employee protective arrangements in transactions involving rail car-
 riers.

“11127. Supplemental orders.

5 “SUBCHAPTER I—EQUIPMENT TRUSTS AND
 6 SECURITY INTERESTS

7 **“§ 11101. Equipment trusts: recordation; evidence of**
 8 **indebtedness**

9 “(a) A mortgage, lease equipment trust agreement,
 10 conditional sales agreement, or other instrument evidenc-
 11 ing the mortgage, lease, conditional sale, or bailment of
 12 or security interest in railroad cars, locomotives, or other
 13 rolling stock, or accessories used on such railroad cars,
 14 locomotives, or other rolling stock (including super-
 15 structures and racks), intended for a use related to inter-
 16 state commerce shall be filed with the Panel in order to
 17 perfect the security interest that is the subject of such

1 instrument. An assignment of a right or interest under
2 one of those instruments and an amendment to that in-
3 strument or assignment including a release, discharge, or
4 satisfaction of any part of it shall also be filed with the
5 Panel. The instrument, assignment, or amendment must
6 be in writing, executed by the parties to it, and acknowl-
7 edged or verified under Panel regulations. When filed
8 under this section, that document is notice to, and enforce-
9 able against, all persons. A document filed under this sec-
10 tion does not have to be filed, deposited, registered, or re-
11 corded under another law of the United States, a State
12 (or its political subdivisions), or territory or possession of
13 the United States, related to filing, deposit, registration,
14 or recordation of those documents.

15 “(b) The Panel shall maintain a system for recording
16 each document filed under subsection (a) of this section
17 and mark each of them with a consecutive number and
18 the date and hour of their recordation. The Panel shall
19 maintain and keep open for public inspection an index of
20 documents filed under that subsection. That index shall
21 include the name and address of the principal debtors,
22 trustees, guarantors, and other parties to those documents
23 and may include other facts that will assist in determining
24 the rights of the parties to those transactions.

1 “(c) The Panel shall to the greatest extent practicable
2 perform its functions under this section through contracts
3 with private sector entities.

4 “(d) The Panel shall assess user fees for services per-
5 formed by the Panel or a contractor thereof under this
6 section. Such fees may be used by the Panel to offset its
7 costs, to the extent provided in advance in appropriations
8 Acts.

9 “(e) A mortgage, lease, equipment trust agreement,
10 conditional sales agreement, or other instrument evidenc-
11 ing the mortgage, lease, conditional sale, or bailment of
12 or security interest in railroad cars, locomotives, or other
13 rolling stock, or accessories used on such railroad cars,
14 locomotives, or other rolling stock (including super-
15 structures and racks), or any assignment thereof, which—

16 “(1) is duly constituted under the laws of a
17 country other than the United States; and

18 “(2) relates to property that bears the reporting
19 marks and identification numbers of any person
20 domiciled in or corporation organized under the laws
21 of such country,

22 shall be recognized with the same effect as having been
23 filed under this section.

24 “(f) Interests with respect to which documents are
25 filed or recognized under this section are deemed perfected

1 in all jurisdictions, and shall be governed by applicable
2 State or foreign law in all matters not specifically gov-
3 erned by this section.

4 “(g) The Panel shall collect, maintain, and keep open
5 for public inspection a railway equipment register consist-
6 ent with the manner and format maintained by the Inter-
7 state Commerce Commission as of the date of the enact-
8 ment of the ICC Termination Act of 1995.

9 “SUBCHAPTER II—COMBINATIONS

10 “§ 11121. **Scope of authority**

11 “The authority of the Panel under this subchapter
12 is exclusive. A rail carrier or corporation participating in
13 or resulting from a transaction approved by or exempted
14 by the Panel under this subchapter may carry out the
15 transaction, own and operate property, and exercise con-
16 trol or franchises acquired through the transaction with-
17 out the approval of a State authority. A rail carrier, cor-
18 poration, or person participating in that approved or ex-
19 empted transaction is exempt from the antitrust laws and
20 from all other law, including State and municipal law, as
21 necessary to let that rail carrier, corporation, or person
22 carry out the transaction, hold, maintain, and operate
23 property, and exercise control or franchises acquired
24 through the transaction.

1 **“§ 11122. Limitation on pooling and division of trans-**
2 **portation or earnings**

3 “(a) A rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part may not
5 agree or combine with another of those rail carriers to pool
6 or divide traffic or services or any part of their earnings
7 without the approval of the Panel under this section or
8 section 10923 of this title. The Panel may approve and
9 authorize the agreement or combination if the rail carriers
10 involved assent to the pooling or division and the Panel
11 finds that a pooling or division of traffic, services, or earn-
12 ings—

13 “(1) will be in the interest of better service to
14 the public or of economy of operation; and

15 “(2) will not unreasonably restrain competition.

16 “(b) The Panel may impose conditions governing the
17 pooling or division and may approve and authorize pay-
18 ment of a reasonable consideration between the rail car-
19 riers.

20 “(c) The Panel may begin a proceeding under this
21 section on its own initiative or on application.

22 **“§ 11123. Consolidation, merger, and acquisition of**
23 **control**

24 “(a) The following transactions involving rail carriers
25 providing transportation subject to the jurisdiction of the

1 Panel under this part may be carried out only with the
2 approval and authorization of the Panel:

3 “(1) Consolidation or merger of the properties
4 or franchises of at least 2 rail carriers into one cor-
5 poration for the ownership, management, and oper-
6 ation of the previously separately owned properties.

7 “(2) A purchase, lease, or contract to operate
8 property of another rail carrier by any number of
9 rail carriers.

10 “(3) Acquisition of control of a rail carrier by
11 any number of rail carriers.

12 “(4) Acquisition of control of at least 2 rail car-
13 riers by a person that is not a rail carrier.

14 “(5) Acquisition of control of a rail carrier by
15 a person that is not a rail carrier but that controls
16 any number of rail carriers.

17 “(6) Acquisition by a rail carrier of trackage
18 rights over, or joint ownership in or joint use of, a
19 railroad line (and terminals incidental to it) owned
20 or operated by another rail carrier.

21 “(b) A person may carry out a transaction referred
22 to in subsection (a) of this section or participate in achiev-
23 ing the control or management, including the power to ex-
24 ercise control or management, in a common interest of
25 more than one of those rail carriers, regardless of how that

1 result is reached, only with the approval and authorization
2 of the Panel under this subchapter. In addition to other
3 transactions, each of the following transactions are consid-
4 ered achievements of control or management:

5 “(1) A transaction by a rail carrier that has the
6 effect of putting that rail carrier and person affili-
7 ated with it, taken together, in control of another
8 rail carrier.

9 “(2) A transaction by a person affiliated with
10 a rail carrier that has the effect of putting that rail
11 carrier and persons affiliated with it, taken together,
12 in control of another rail carrier.

13 “(3) A transaction by at least 2 persons acting
14 together (one of whom is a rail carrier or is affili-
15 ated with a rail carrier) that has the effect of put-
16 ting those persons and rail carriers and persons af-
17 filiated with any of them, or with any of those affili-
18 ated rail carriers, taken together, in control of an-
19 other rail carrier.

20 “(c) A person is affiliated with a rail carrier under
21 this subchapter if, because of the relationship between
22 that person and a rail carrier, it is reasonable to believe
23 that the affairs of another rail carrier, control of which
24 may be acquired by that person, will be managed in the
25 interest of the other rail carrier.

1 **“§ 11124. Consolidation, merger, and acquisition of**
2 **control: conditions of approval**

3 “(a) The Panel may begin a proceeding to approve
4 and authorize a transaction referred to in section 11123
5 of this title on application of the person seeking that au-
6 thority. When an application is filed with the Panel, the
7 Panel shall notify the chief executive officer of each State
8 in which property of the rail carriers involved in the pro-
9 posed transaction is located and shall notify those rail car-
10 riers. The Panel shall hold a public hearing unless the
11 Panel determines that a public hearing is not necessary
12 in the public interest.

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

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

18 “(2) the effect on the public interest of includ-
19 ing, or failing to include, other rail carriers in the
20 area involved in the proposed transaction;

21 “(3) the total fixed charges that result from the
22 proposed transaction;

23 “(4) the interest of rail carrier employees af-
24 fected by the proposed transaction; and

25 “(5) whether the proposed transaction would
26 have an adverse effect on competition among rail

1 carriers in the affected region or in the national rail
2 system.

3 “(c) The Panel shall approve and authorize a trans-
4 action under this section when it finds the transaction is
5 consistent with the public interest. The Panel may impose
6 conditions governing the transaction, including the divesti-
7 ture of parallel tracks or requiring the granting of track-
8 age rights and access to other facilities. Any trackage
9 rights and related conditions imposed to alleviate anti-
10 competitive effects of the transaction shall provide for op-
11 erating terms and compensation levels to ensure that such
12 effects are alleviated. When the transaction contemplates
13 a guaranty or assumption of payment of dividends or of
14 fixed charges or will result in an increase of total fixed
15 charges, the Panel may approve and authorize the trans-
16 action only if it finds that the guaranty, assumption, or
17 increase is consistent with the public interest. The Panel
18 may require inclusion of other rail carriers located in the
19 area involved in the transaction if they apply for inclusion
20 and the Panel finds their inclusion to be consistent with
21 the public interest.

22 “(d) In a proceeding under this section which does
23 not involve the merger or control of at least two Class I
24 railroads, as defined by the Panel, the Panel shall approve
25 such an application unless it finds that—

1 “(1) as a result of the transaction, there is like-
2 ly to be substantial lessening of competition, cre-
3 ation of a monopoly, or restraint of trade in freight
4 surface transportation in any region of the United
5 States; and

6 “(2) the anticompetitive effects of the trans-
7 action outweigh the public interest in meeting sig-
8 nificant transportation needs.

9 In making such findings, the Panel shall, with respect to
10 any application that is part of a plan or proposal developed
11 under section 333(a)–(d) of this title, accord substantial
12 weight to any recommendations of the Attorney General.

13 “(e) No transaction described in section 11126(b)
14 may have the effect of avoiding a collective bargaining
15 agreement or shifting work from a rail carrier with a col-
16 lective bargaining agreement to a rail carrier without a
17 collective bargaining agreement.

18 “(f)(1) To the extent provided in this subsection, a
19 proceeding under this subchapter relating to a transaction
20 involving at least one Class I rail carrier shall not be con-
21 sidered an adjudication required by statute to be deter-
22 mined on the record after opportunity for an agency hear-
23 ing, for the purposes of subchapter II of chapter 5 of title
24 5, United States Code.

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

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

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

16 “(4) Nothing in this subsection shall be construed to
17 require the Panel or any of its members or employees to
18 engage in any ex parte communication with any person.
19 Nothing in this subsection or any other law shall be con-
20 strued to limit the authority of the members or employees
21 of the Panel, in their discretion, to note in the docket or
22 otherwise publicly the occurrence and substance of an ex
23 parte communication.

1 **“§ 11125. Consolidation, merger, and acquisition of**
2 **control: procedure**

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

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

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

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

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

23 “(1) Written comments about an application
24 may be filed with the Panel within 45 days after no-
25 tice of the application is published under subsection
26 (a) of this section. Copies of such comments shall be

1 served on the Attorney General, who may decide to
2 intervene as a party to the proceeding. That decision
3 must be made by the 15th day after the date of re-
4 ceipt of the written comments, and if the decision is
5 to intervene, preliminary comments about the appli-
6 cation must be sent to the Panel by the end of the
7 15th day after the date of receipt of the written
8 comments.

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
12 applications for inclusion in the transaction, be filed
13 with it by the 90th day after publication of notice
14 under that subsection.

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

21 “(c) If the application involves a transaction other
22 than the merger or control of at least two Class I rail-
23 roads, as defined by the Panel, which the Panel has deter-
24 mined to be of regional or national transportation signifi-
25 cance, the following conditions apply:

1 “(1) Written comments about an application,
2 including comments of the Attorney General, may be
3 filed with the Panel within 30 days after notice of
4 the application is published under subsection (a) of
5 this section.

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

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

18 “(d) For all applications under this section other
19 than those specified in subsections (b) and (c) of this sec-
20 tion, the following conditions apply:

21 “(1) Written comments about an application,
22 including comments of the Attorney General, may be
23 filed with the Panel within 30 days after notice of
24 the application is published under subsection (a) of
25 this section.

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

7 **“§ 11126. Employee protective arrangements in trans-**
8 **actions involving rail carriers**

9 “(a) Except as otherwise provided in this section,
10 when approval is sought for a transaction under sections
11 11124 and 11125 of this title, the Panel shall require the
12 rail carrier to provide a fair arrangement at least as pro-
13 tective of the interests of employees who are affected by
14 the transaction as the terms imposed under section 5(2)(f)
15 of the Interstate Commerce Act before February 5, 1976,
16 and the terms established under section 24706(c) of this
17 title. Notwithstanding this part, the arrangement may be
18 made by the rail carrier and the authorized representative
19 of its employees. The arrangement and the order approv-
20 ing the transaction must require that the employees of the
21 affected rail carrier will not be in a worse position related
22 to their employment as a result of the transaction during
23 the 4 years following the effective date of the final action
24 of the Panel (or if an employee was employed for a lesser

1 period of time by the rail carrier before the action became
2 effective, for that lesser period).

3 “(b) When approval is sought under sections 11124
4 and 11125 for a transaction involving one Class II and
5 one or more Class III rail carriers, there shall be an ar-
6 rangement as required under subsection (a) of this sec-
7 tion, except that the arrangement shall be limited to one
8 year of severance pay, which shall not exceed the amount
9 of earnings from the railroad employment of that employee
10 during the 12-month period immediately preceding the
11 date on which the application for approval of such trans-
12 action is filed with the Panel. The amount of such sever-
13 ance pay shall be reduced by the amount of earnings from
14 railroad employment of that employee with the acquiring
15 carrier during the 12-month period immediately following
16 the effective date of the transaction. The parties may
17 agree to terms other than as provided in this subsection.

18 “(c) When approval is sought under sections 11124
19 and 11125 for a transaction involving only Class III rail
20 carriers, this section shall not apply.

21 “(d) For purposes of this section, the terms ‘Class
22 II rail carrier’ and ‘Class III rail carrier’ have the meaning
23 given those terms by the Panel.

1 **“§ 11127. Supplemental orders**

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

5 **“CHAPTER 113—FEDERAL-STATE**
6 **RELATIONS**

“Sec.

“11301. Tax discrimination against rail transportation property.

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

7 **“§ 11301. Tax discrimination against rail transpor-**
8 **tation property**

9 “(a) In this section—

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

12 “(2) the term ‘assessment jurisdiction’ means a
13 geographical area in a State used in determining the
14 assessed value of property for ad valorem taxation;

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

20 “(4) the term ‘commercial and industrial prop-
21 erty’ means property, other than transportation
22 property and land used primarily for agricultural
23 purposes or timber growing, devoted to a commercial
24 or industrial use and subject to a property tax levy.

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

5 “(1) Assess rail transportation property at a
6 value that has a higher ratio to the true market
7 value of the rail transportation property than the
8 ratio that the assessed value of other commercial
9 and industrial property in the same assessment ju-
10 risdiction has to the true market value of the other
11 commercial and industrial property.

12 “(2) Levy or collect a tax on an assessment
13 that may not be made under paragraph (1) of this
14 subsection.

15 “(3) Levy or collect an ad valorem property tax
16 on rail transportation property at a tax rate that ex-
17 ceeds the tax rate applicable to commercial and in-
18 dustrial property in the same assessment jurisdic-
19 tion.

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

23 “(c) Notwithstanding section 1341 of title 28 and
24 without regard to the amount in controversy or citizenship
25 of the parties, a district court of the United States has

1 jurisdiction, concurrent with other jurisdiction of courts
2 of the United States and the States, to prevent a violation
3 of subsection (b) of this section. Relief may be granted
4 under this subsection only if the ratio of assessed value
5 to true market value of rail transportation property ex-
6 ceeds by at least 5 percent the ratio of assessed value to
7 true market value of other commercial and industrial
8 property in the same assessment jurisdiction. The burden
9 of proof in determining assessed value and true market
10 value is governed by State law. If the ratio of the assessed
11 value of other commercial and industrial property in the
12 assessment jurisdiction to the true market value of all
13 other commercial and industrial property cannot be deter-
14 mined to the satisfaction of the district court through the
15 random-sampling method known as a sales assessment
16 ratio study (to be carried out under statistical principles
17 applicable to such a study), the court shall find, as a viola-
18 tion of this section—

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

1 **“§ 11501. General authority**

2 “(a) Except as otherwise provided in this part, the
3 Panel may begin an investigation under this part only on
4 complaint. If the Panel finds that a rail carrier is violating
5 this part, the Panel shall take appropriate action to com-
6 pel compliance with 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
12 of the violation. The Panel may dismiss a complaint it de-
13 termines does not state reasonable grounds for investiga-
14 tion and action. However, the Panel may not dismiss a
15 complaint made against a rail carrier providing transpor-
16 tation subject to the jurisdiction of the Panel under this
17 part because of the absence of direct damage to the com-
18 plainant.

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

24 **“§ 11502. Enforcement by the Panel**

25 “The Panel may bring a civil action—

1 “(1) to enjoin a rail carrier from violating sec-
2 tions 10701 through 10706 of this title, or a regula-
3 tion prescribed or order or certificate issued under
4 any of those sections;

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

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

13 **“§ 11503. Enforcement by the Attorney General**

14 “The Attorney General may, and on request of the
15 Panel shall, bring court proceedings to enforce this part,
16 or a regulation or order of the Panel or certificate or per-
17 mit issued under this part, and to prosecute a person vio-
18 lating this part or a regulation or order of the Panel or
19 certificate or permit issued under this part.

20 **“§ 11504. Rights and remedies of persons injured by**
21 **rail carriers**

22 “(a) A person injured because a rail carrier providing
23 transportation or service subject to the jurisdiction of the
24 Panel under this part does not obey an order of the Panel,
25 except an order for the payment of money, may bring a

1 civil action in a United States District Court to enforce
2 that order under this subsection.

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

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

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

23 “(d)(1) When a person begins a civil action under
24 subsection (b) of this section to enforce an order of the
25 Panel requiring the payment of damages by a rail carrier

1 providing transportation subject to the jurisdiction of the
2 Panel under this part, the text of the order of the Panel
3 must be included in the complaint. In addition to the dis-
4 trict courts of the United States, a State court of general
5 jurisdiction having jurisdiction of the parties has jurisdic-
6 tion to enforce an order under this paragraph. The find-
7 ings and order of the Panel are competent evidence of the
8 facts stated in them. Trial in a civil action brought in a
9 district court of the United States under this paragraph
10 is in the judicial district—

11 “(A) in which the plaintiff resides;

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

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

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

19 “(2) All parties in whose favor the award was made
20 may be joined as plaintiffs in a civil action brought in a
21 district court of the United States under this subsection
22 and all the rail carriers that are parties to the order
23 awarding damages may be joined as defendants. Trial in
24 the action is in the judicial district in which any one of
25 the plaintiffs could bring the action against any one of

1 the defendants. Process may be served on a defendant at
2 its principal operating office when that defendant is not
3 in the district in which the action is brought. A judgment
4 ordering recovery may be made in favor of any of those
5 plaintiffs against the defendant found to be liable to that
6 plaintiff.

7 “(3) The district court shall award a reasonable at-
8 torney’s fee as a part of the damages for which a rail car-
9 rier is found liable under this subsection. The district
10 court shall tax and collect that fee as a part of the costs
11 of the action.

12 **“§ 11505. Limitation on actions by and against rail**
13 **carriers**

14 “(a) A rail carrier providing transportation or service
15 subject to the jurisdiction of the Panel under this part
16 must begin a civil action to recover charges for transpor-
17 tation or service provided by the carrier within 3 years
18 after the claim accrues.

19 “(b) A person must file a complaint with the Panel
20 to recover damages under section 11504(b) of this title
21 within 2 years after the claim accrues.

22 “(c) The limitation period under subsection (b) of
23 this section is extended for 6 months from the time written
24 notice is given to the claimant by the rail carrier of dis-
25 allowance of any part of the claim specified in the notice

1 if a written claim is given to the rail carrier within that
2 limitation period. The limitation period under subsection
3 (b) of this section is extended for 90 days from the time
4 the rail carrier begins a civil action under subsection (a)
5 of this section to recover charges related to the same
6 transportation or service, or collects (without beginning a
7 civil action under that subsection) the charge for that
8 transportation or service if that action is begun or collec-
9 tion is made within the appropriate period.

10 “(d) A person must begin a civil action to enforce
11 an order of the Panel against a rail carrier for the pay-
12 ment of money within one year after the date the order
13 required the money to be paid.

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

19 “(1) payment of the rate for the transportation
20 or service involved;

21 “(2) subsequent refund for overpayment of that
22 rate; or

23 “(3) deduction made under section 3726 of title
24 31, whichever is later.

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

4 **“§ 11506. Liability of rail carriers under receipts and**
5 **bills of lading**

6 “(a) A rail carrier providing transportation or service
7 subject to the jurisdiction of the Panel under this part
8 shall issue a receipt or bill of lading for property it receives
9 for transportation under this part. That rail carrier and
10 any other rail carrier that delivers the property and is pro-
11 viding transportation or service subject to the jurisdiction
12 of the Panel under this part are liable to the person enti-
13 tled to recover under the receipt or bill of lading. The li-
14 ability imposed under this subsection is for the actual loss
15 or injury to the property caused by—

16 “(1) the receiving rail carrier;

17 “(2) the delivering rail carrier; or

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

23 Failure to issue a receipt or bill of lading does not affect
24 the liability of a rail carrier. A delivering rail carrier is
25 deemed to be the rail carrier performing the line-haul

1 transportation nearest the destination but does not include
2 a rail carrier providing only a switching service at the des-
3 tination.

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

13 “(c)(1) A rail carrier may not limit or be exempt from
14 liability imposed under subsection (a) of this section ex-
15 cept as provided in this subsection. A limitation of liability
16 or of the amount of recovery or representation or agree-
17 ment in a receipt, bill of lading, contract, or rule in viola-
18 tion of this section is void.

19 “(2) A rail carrier of passengers may limit its liability
20 under its passenger rate for loss or injury of baggage car-
21 ried on trains carrying passengers.

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

1 “(A) the liability of the rail carrier for such
2 property is limited to a value established by written
3 declaration of the shipper or by a written agreement
4 between the shipper and the carrier; or

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

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

12 “(2)(A) A civil action under this section may only be
13 brought—

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

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

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

1 “(B) In this section, ‘judicial district’ means (i) in
2 the case of a United States district court, a judicial dis-
3 trict of the United States, and (ii) in the case of a State
4 court, the applicable geographic area over which such
5 court exercises jurisdiction.

6 “(e) A rail carrier may not provide by rule, contract,
7 or otherwise, a period of less than 9 months for filing a
8 claim against it under this section and a period of less
9 than 2 years for bringing a civil action against it under
10 this section. The period for bringing a civil action is com-
11 puted from the date the carrier gives a person written no-
12 tice that the carrier has disallowed any part of the claim
13 specified in the notice. For the purposes of this sub-
14 section—

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

20 “(2) communications received from a carrier’s
21 insurer shall not constitute a disallowance of any
22 part of the claim unless the insurer, in writing, in-
23 forms the claimant that such part of the claim is
24 disallowed, provides reasons for such disallowance,

1 and informs the claimant that the insurer is acting
2 on behalf of the carrier.

3 **“CHAPTER 117—CIVIL AND CRIMINAL**
4 **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.

5 **“§ 11701. General civil penalties**

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

16 “(b) A rail carrier providing transportation subject
17 to the jurisdiction of the Panel under this part, or a re-
18 ceiver or trustee of that rail carrier, violating a regulation
19 or order of the Panel under section 10924 (a)(2) or (b)
20 of this title is liable to the United States Government for

1 a civil penalty of \$500 for each violation and for \$25 for
2 each day the violation continues.

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

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

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

22 “(2) A rail carrier providing transportation subject
23 to the jurisdiction of the Panel under this part, and a les-
24 sor, receiver, or trustee of that rail carrier, violating sec-

1 tion 10944(b)(1) of this title, is liable to the United States
2 Government for a civil penalty of \$100 for each violation.

3 “(3) A rail carrier providing transportation subject
4 to the jurisdiction of the Panel under this part, a lessor,
5 receiver, or trustee of that rail carrier, a person furnishing
6 cars, and an officer, agent, or employee of one of them,
7 required to make a report to the Panel or answer a ques-
8 tion that does not make the report or does not specifically,
9 completely, and truthfully answer the question, is liable
10 to the United States Government for a civil penalty of
11 \$100 for each violation.

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

14 “(f) Trial in a civil action under subsections (a)
15 through (e) of this section is in the judicial district in
16 which the rail carrier has its principal operating office or
17 in a district through which the railroad of the rail carrier
18 runs.

19 **“§ 11702. Interference with railroad car supply**

20 “(a) A person that offers or gives anything of value
21 to another person acting for or employed by a rail carrier
22 providing transportation subject to the jurisdiction of the
23 Panel under this part intending to influence an action of
24 that other person related to supply, distribution, or move-
25 ment of cars or vehicles used in the transportation of prop-

1 erty, or because of the action of that other person shall
2 be fined not more than \$1,000, imprisoned for not more
3 than 2 years, or both.

4 “(b) A person acting for or employed by a rail carrier
5 providing transportation subject to the jurisdiction of the
6 Panel under this part that solicits, accepts, or receives
7 anything of value—

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

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

15 **“§ 11703. Record keeping and reporting violations**

16 “A person required to make a report to the Panel,
17 or make, prepare, or preserve a record, under subchapter
18 III of chapter 109 of this title about transportation sub-
19 ject to the jurisdiction of the Panel under this part that
20 knowingly and willfully—

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

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

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

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

5 “(5) files a false report or record with the
6 Panel,

7 shall be fined not more than \$5,000, imprisoned for not
8 more than 2 years, or both.

9 **“§ 11704. Unlawful disclosure of information**

10 “(a) A—

11 “(1) rail carrier providing transportation sub-
12 ject to the jurisdiction of the Panel under this part,
13 or an officer, agent, or employee of that rail carrier,
14 or another person authorized to receive information
15 from that rail carrier, that knowingly discloses to
16 another person, except the shipper or consignee; or

17 “(2) a person who solicits or knowingly re-
18 ceives,

19 information described in subsection (b) without the con-
20 sent of the shipper or consignee shall be fined not more
21 than \$1,000.

22 “(b) The information referred to in subsection (a) is
23 information about the nature, kind, quantity, destination,
24 consignee, or routing of property tendered or delivered to
25 that rail carrier for transportation provided under this

1 part, or information about the contents of a contract au-
2 thorized under section 10509 of this title, that may be
3 used to the detriment of the shipper or consignee or may
4 disclose improperly, to a competitor, the business trans-
5 actions of the shipper or consignee.

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

9 “(1) in response to legal process issued under
10 authority of a court of the United States or a State;

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

14 “(3) to another rail carrier or its agent to ad-
15 just mutual traffic accounts in the ordinary course
16 of business.

17 “(d) An employee of the Panel delegated to make an
18 inspection or examination under section 10944 of this title
19 who knowingly discloses information acquired during that
20 inspection or examination, except as directed by the Panel,
21 a court, or a judge of that court, shall be fined not more
22 than \$500, imprisoned for not more than 6 months, or
23 both.

24 “(e) A person that knowingly discloses confidential
25 data made available to such person under section 10963

1 of this title by a rail carrier providing transportation sub-
2 ject to the jurisdiction of the Panel under this part shall
3 be fined not more than \$50,000.

4 **“§ 11705. Disobedience to subpoenas**

5 “A person not obeying a subpoena or requirement of
6 the Panel to appear and testify or produce records shall
7 be fined at least \$100 but not more than \$5,000, impris-
8 oned for not more than one year, or both.

9 **“§ 11706. General criminal penalty when specific**
10 **penalty not provided**

11 “When another criminal penalty is not provided
12 under this chapter, a rail carrier providing transportation
13 subject to the jurisdiction of the Panel under this part,
14 and when that rail carrier is a corporation, a director or
15 officer of the corporation, or a receiver, trustee, lessee, or
16 person acting for or employed by the corporation that,
17 alone or with another person, willfully violates this part
18 or an order prescribed under this part, shall be fined not
19 more than \$5,000. However, if the violation is for dis-
20 crimination in rates charged for transportation, the person
21 may be imprisoned for not more than 2 years in addition
22 to being fined under this section. A separate violation oc-
23 curs each day a violation of section 11122 of this title con-
24 tinues.

1 **“§ 11707. Punishment of corporation for violations**
2 **committed by certain individuals**

3 “An act or omission that would be a violation of this
4 part if committed by a director, officer, receiver, trustee,
5 lessee, agent, or employee of a rail carrier providing trans-
6 portation or service subject to the jurisdiction of the Panel
7 under this part that is a corporation is also a violation
8 of this part by that corporation. The penalties of this
9 chapter apply to that violation. When acting in the scope
10 of their employment, the actions and omissions of individ-
11 uals acting for or employed by that rail carrier are consid-
12 ered to be the actions and omissions of that rail carrier
13 as well as that individual.”.

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

18 **SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT**
19 **FORWARDER PROVISIONS.**

20 Subtitle IV of title 49, United States Code, is further
21 amended by adding at the end the following:

22 “PART B—MOTOR CARRIERS, WATER CARRIERS,
23 BROKERS, AND FREIGHT FORWARDERS
24 **“CHAPTER 131—GENERAL PROVISIONS**

“Sec.
“13101. Transportation policy.

“13102. Definitions.

“13103. Remedies as cumulative.

1 **“§ 13101. Transportation policy**

2 “(a) IN GENERAL.—To ensure the development, co-
3 ordination, and preservation of a transportation system
4 that meets the transportation needs of the United States,
5 including the United States Postal Service and national
6 defense, it is the policy of the United States Government
7 to oversee the modes of transportation and—

8 “(1) in overseeing those modes—

9 “(A) to recognize and preserve the inher-
10 ent advantage of each mode of transportation;

11 “(B) to promote safe, adequate, economi-
12 cal, and efficient transportation;

13 “(C) to encourage sound economic condi-
14 tions in transportation, including sound eco-
15 nomic conditions among carriers;

16 “(D) to encourage the establishment and
17 maintenance of reasonable rates for transpor-
18 tation, without unreasonable discrimination or
19 unfair or destructive competitive practices;

20 “(E) to cooperate with each State and the
21 officials of each State on transportation mat-
22 ters; and

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

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

4 “(A) encourage fair competition, and rea-
5 sonable rates for transportation by motor car-
6 riers of property;

7 “(B) promote efficiency in the motor car-
8 rier transportation system and to require fair
9 and expeditious decisions when required;

10 “(C) meet the needs of shippers, receivers,
11 passengers, and consumers;

12 “(D) allow a variety of quality and price
13 options to meet changing market demands and
14 the diverse requirements of the shipping and
15 traveling public;

16 “(E) allow the most productive use of
17 equipment and energy resources;

18 “(F) enable efficient and well-managed
19 carriers to earn adequate profits, attract cap-
20 ital, and maintain fair wages and working con-
21 ditions;

22 “(G) provide and maintain service to small
23 communities and small shippers and intrastate
24 bus services;

1 “(H) provide and maintain commuter bus
2 operations;

3 “(I) improve and maintain a sound, safe,
4 and competitive privately owned motor carrier
5 system;

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

8 “(K) promote intermodal transportation;
9 and

10 “(3) in overseeing transportation by motor car-
11 rier of passengers—

12 “(A) to cooperate with the States on trans-
13 portation matters for the purpose of encourag-
14 ing the States to exercise intrastate regulatory
15 jurisdiction in accordance with the objectives of
16 this part;

17 “(B) to provide Federal procedures which
18 ensure that intrastate regulation is exercised in
19 accordance with this part; and

20 “(C) to ensure that Federal reform initia-
21 tives enacted by section 31138 and the Bus
22 Regulatory Reform Act of 1982 are not nul-
23 lified by State regulatory actions.

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

4 **“§ 13102. Definitions**

5 “In this part, the following definitions shall apply:

6 “(1) BROKER.—The term ‘broker’ means a per-
7 son, other than a motor carrier or an employee or
8 agent of a motor carrier, that as a principal or agent
9 sells, offers for sale, negotiates for, or holds itself
10 out by solicitation, advertisement, or otherwise as
11 selling, providing, or arranging for, transportation
12 by motor carrier for compensation.

13 “(2) CARRIER.—The term ‘carrier’ means a
14 motor carrier, a water carrier, and a freight for-
15 warder.

16 “(3) CONTRACT CARRIAGE.—The term ‘contract
17 carriage’ means—

18 “(A) for transportation provided before the
19 effective date of this section, service provided
20 pursuant to a permit issued under section
21 10923, as in effect on the day before the effec-
22 tive date of this section; and

23 “(B) for transportation provided on or
24 after such date, service provided under an
25 agreement entered into under section 14101(b).

1 “(4) CONTROL.—The term ‘control’, when re-
2 ferring to a relationship between persons, includes
3 actual control, legal control, and the power to exer-
4 cise control, through or by—

5 “(A) common directors, officers, stockhold-
6 ers, a voting trust, or a holding or investment
7 company, or

8 “(B) any other means.

9 “(5) FOREIGN MOTOR CARRIER.—The term
10 ‘foreign motor carrier’ means a person (including a
11 motor carrier of property but excluding a motor pri-
12 vate carrier)—

13 “(A)(i) that is domiciled in a contiguous
14 foreign country; or

15 “(ii) that is owned or controlled by persons
16 of a contiguous foreign country; and

17 “(B) in the case of a person that is not a
18 motor carrier of property, that provides inter-
19 state transportation of property by motor vehi-
20 cle under an agreement or contract entered into
21 with a motor carrier of property (other than a
22 motor private carrier or a motor carrier of
23 property described in subparagraph (A)).

24 “(6) FOREIGN MOTOR PRIVATE CARRIER.—The
25 term ‘foreign motor private carrier’ means a person

1 (including a motor private carrier but excluding a
2 motor carrier of property)—

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 private carrier, that provides interstate
9 transportation of property by motor vehicle
10 under an agreement or contract entered into
11 with a person (other than a motor carrier of
12 property or a motor private carrier described in
13 subparagraph (A)).

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

20 “(A) assembles and consolidates, or pro-
21 vides for assembling and consolidating, ship-
22 ments and performs or provides for break-bulk
23 and distribution operations of the shipments;

1 “(B) assumes responsibility for the trans-
2 portation from the place of receipt to the place
3 of destination; and

4 “(C) uses for any part of the transpor-
5 tation a carrier subject to jurisdiction under
6 this part.

7 The term does not include a person using transpor-
8 tation of an air carrier subject to part A of subtitle
9 VII.

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

12 “(9) HOUSEHOLD GOODS.—The term ‘house-
13 hold goods’, as used in connection with transpor-
14 tation, means personal effects and property used or
15 to be used in a dwelling, when a part of the equip-
16 ment or supply of such dwelling, and similar prop-
17 erty if the transportation of such effects or property
18 is—

19 “(A) arranged and paid for by the house-
20 holder, including transportation of property
21 from a factory or store when the property is
22 purchased by the householder with intent to use
23 in his or her dwelling, or

24 “(B) arranged and paid for by another
25 party.

1 “(10) HOUSEHOLD GOODS FREIGHT FOR-
2 WARDER.—The term ‘household goods freight for-
3 warder’ means a freight forwarder of one or more of
4 the following items: household goods, unaccompanied
5 baggage, or used automobiles.

6 “(11) MOTOR CARRIER.—The term ‘motor car-
7 rier’ means a person providing motor vehicle trans-
8 portation for compensation.

9 “(12) MOTOR PRIVATE CARRIER.—The term
10 ‘motor private carrier’ means a person, other than a
11 motor carrier, transporting property by motor vehi-
12 cle when—

13 “(A) the transportation is as provided in
14 section 13501 of this title;

15 “(B) the person is the owner, lessee, or
16 bailee of the property being transported; and

17 “(C) the property is being transported for
18 sale, lease, rent, or bailment or to further a
19 commercial enterprise.

20 “(13) MOTOR VEHICLE.—The term ‘motor vehi-
21 cle’ means a vehicle, machine, tractor, trailer, or
22 semitrailer propelled or drawn by mechanical power
23 and used on a highway in transportation, or a com-
24 bination determined by the Secretary, but does not
25 include a vehicle, locomotive, or car operated only on

1 a rail, or a trolley bus operated by electric power
2 from a fixed overhead wire, and providing local pas-
3 senger transportation similar to street-railway serv-
4 ice.

5 “(14) NONCONTIGUOUS DOMESTIC TRADE.—
6 The term ‘noncontiguous domestic trade’ means
7 transportation subject to jurisdiction under chapter
8 135 involving traffic originating in or destined to
9 Alaska, Hawaii, or a territory or possession of the
10 United States.

11 “(15) PANEL.—The term ‘Panel’ means the
12 Transportation Adjudication Panel.

13 “(16) PERSON.—The term ‘person’, in addition
14 to its meaning under section 1 of title 1, includes a
15 trustee, receiver, assignee, or personal representative
16 of a person.

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

19 “(18) STATE.—The term ‘State’ means the 50
20 States of the United States and the District of Co-
21 lumbia.

22 “(19) TRANSPORTATION.—The term ‘transporta-
23 tion’ includes—

24 “(A) a motor vehicle, vessel, warehouse,
25 wharf, pier, dock, yard, property, facility, in-

1 strumentality, or equipment of any kind related
2 to the movement of passengers or property, or
3 both, regardless of ownership or an agreement
4 concerning use; and

5 “(B) services related to that movement, in-
6 cluding receipt, delivery, elevation, transfer in
7 transit, refrigeration, icing, ventilation, storage,
8 handling, and interchange of passengers and
9 property.

10 “(20) UNITED STATES.—The term ‘United
11 States’ means the States of the United States and
12 the District of Columbia.

13 “(21) VESSEL.—The term ‘vessel’ means a
14 watercraft or other artificial contrivance that is
15 used, is capable of being used, or is intended to be
16 used, as a means of transportation by water.

17 “(22) WATER CARRIER.—The term ‘water car-
18 rier’ means a person providing water transportation
19 for compensation.

20 **“§ 13103. Remedies as cumulative**

21 “Except as otherwise provided in this part, the rem-
22 edies provided under this part are in addition to remedies
23 existing under another law or common law.

24 **“CHAPTER 133—ADMINISTRATIVE PROVISIONS**

“Sec.

“13301. Powers.

“13302. Intervention.

“13303. Service of notice in proceedings.

“13304. Service of process in court proceedings.

1 **“§ 13301. Powers**

2 “(a) GENERAL POWERS OF SECRETARY.—Except as
3 otherwise specified, the Secretary shall carry out this part.
4 Enumeration of a power of the Secretary in this part does
5 not exclude another power the Secretary may have in car-
6 rying out this part. The Secretary may prescribe regula-
7 tions in carrying out this part.

8 “(b) OBTAINING INFORMATION.—The Secretary may
9 obtain from carriers providing, and brokers for, transpor-
10 tation and service subject to this part, and from persons
11 controlling, controlled by, or under common control with
12 those carriers or brokers to the extent that the business
13 of that person is related to the management of the busi-
14 ness of that carrier or broker, information the Secretary
15 decides is necessary to carry out this part.

16 “(c) SUBPOENA POWER.—

17 “(1) BY SECRETARY.—The Secretary may sub-
18 poena witnesses and records related to a proceeding
19 under this part from any place in the United States,
20 to the designated place of the proceeding. If a wit-
21 ness disobeys a subpoena, the Secretary, or a party
22 to a proceeding under this part, may petition a court
23 of the United States to enforce that subpoena.

1 “(2) ENFORCEMENT.—The district courts of the
2 United States have jurisdiction to enforce a sub-
3 poena issued under this section. Trial is in the dis-
4 trict in which the proceeding is conducted. The court
5 may punish a refusal to obey a subpoena as a con-
6 tempt of court.

7 “(d) TESTIMONY OF WITNESSES.—

8 “(1) PROCEDURE FOR TAKING TESTIMONY.—In
9 a proceeding under this part, the Secretary may
10 take the testimony of a witness by deposition and
11 may order the witness to produce records. A party
12 to a proceeding pending under this part may take
13 the testimony of a witness by deposition and may re-
14 quire the witness to produce records at any time
15 after a proceeding is at issue on petition and an-
16 swer.

17 “(2) SUBPOENA.—If a witness fails to be de-
18 posed or to produce records under paragraph (1) of
19 this subsection, the Secretary may subpoena the wit-
20 ness to take a deposition, produce the records, or
21 both.

22 “(3) DEPOSITIONS.—A deposition may be taken
23 before a judge of a court of the United States, a
24 United States magistrate judge, a clerk of a district
25 court, or a chancellor, justice, or judge of a supreme

1 or superior court, mayor or chief magistrate of a
2 city, judge of a county court, or court of common
3 pleas of any State, or a notary public who is not
4 counsel or attorney of a party or interested in the
5 proceeding.

6 “(4) NOTICE OF DEPOSITION.—Before taking a
7 deposition, reasonable notice must be given in writ-
8 ing by the party or the attorney of that party pro-
9 posing to take a deposition to the opposing party or
10 the attorney of record of that party, whoever is near-
11 est. The notice shall state the name of the witness
12 and the time and place of taking the deposition.

13 “(5) TRANSCRIPT.—The testimony of a person
14 deposed under this subsection shall be taken under
15 oath. The person taking the deposition shall prepare,
16 or cause to be prepared, a transcript of the testi-
17 mony taken. The transcript shall be subscribed by
18 the deponent.

19 “(6) FOREIGN COUNTRY.—The testimony of a
20 witness who is in a foreign country may be taken by
21 deposition before an officer or person designated by
22 the Secretary or agreed on by the parties by written
23 stipulation filed with the Secretary. A deposition
24 shall be filed with the Secretary promptly.

1 “(e) WITNESS FEES.—Each witness summoned be-
2 fore the Secretary or whose deposition is taken under this
3 section and the individual taking the deposition are enti-
4 tled to the same fees and mileage paid for those services
5 in the courts of the United States.

6 “(f) POWERS OF PANEL.—For those provisions of
7 this part that are specified to be carried out by the Panel,
8 the Panel shall have the same powers as the Secretary
9 has under this section.

10 **“§ 13302. Intervention**

11 “Under regulations of the Secretary, reasonable no-
12 tice of, and an opportunity to intervene and participate
13 in, a proceeding under this part related to transportation
14 subject to jurisdiction under subchapter I of chapter 135
15 shall be given to interested persons.

16 **“§ 13303. Service of notice in proceedings**

17 “(a) AGENTS FOR SERVICE OF PROCESS.—A carrier,
18 a broker, or a freight forwarder providing transportation
19 or service subject to jurisdiction under chapter 135 shall
20 designate, in writing, an agent by name and post office
21 address on whom service of notices in a proceeding before,
22 and of actions of, the Secretary may be made.

23 “(b) FILING WITH STATE.—A motor carrier provid-
24 ing transportation under this part shall also file the des-
25 ignation with the appropriate authority of each State in

1 which it operates. The designation may be changed at any
2 time in the same manner as originally made.

3 “(c) NOTICE.—A notice to a motor carrier, freight
4 forwarder, or broker shall be served personally or by mail
5 on the motor carrier, freight forwarder, or broker or on
6 its designated agent. Service by mail on the designated
7 agent shall be made at the address filed for the agent.
8 When notice is given by mail, the date of mailing is consid-
9 ered to be the time when the notice is served. If a motor
10 carrier, freight forwarder, or broker does not have a des-
11 igned agent, service may be made by posting a copy of
12 the notice at the headquarters of the Department of
13 Transportation.

14 **“§ 13304. Service of process in court proceedings**

15 “(a) DESIGNATION OF AGENT.—A motor carrier or
16 broker providing transportation subject to jurisdiction
17 under chapter 135 of this title, including a motor carrier
18 or broker operating within the United States while provid-
19 ing transportation between places in a foreign country or
20 between a place in one foreign country and a place in an-
21 other foreign country, shall designate an agent in each
22 State in which it operates by name and post office address
23 on whom process issued by a court with subject matter
24 jurisdiction may be served in an action brought against
25 that carrier or broker. The designation shall be in writing

1 and filed with the Department of Transportation. If a des-
 2 ignation under this subsection is not made, service may
 3 be made on any agent of the carrier or broker within that
 4 State.

5 “(b) CHANGE.—A designation under this section may
 6 be changed at any time in the same manner as originally
 7 made.

8 “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.

9 “SUBCHAPTER I—MOTOR CARRIER 10 TRANSPORTATION

11 “§ 13501. General jurisdiction

12 “The Secretary and the Panel have jurisdiction, as
 13 specified in this part, over transportation by motor carrier
 14 and the procurement of that transportation, to the extent

1 that passengers, property, or both, are transported by
2 motor carrier—

3 “(1) between a place in—

4 “(A) a State and a place in another State;

5 “(B) a State and another place in the
6 same State through another State;

7 “(C) the United States and a place in a
8 territory or possession of the United States to
9 the extent the transportation is in the United
10 States;

11 “(D) the United States and another place
12 in the United States through a foreign country
13 to the extent the transportation is in the United
14 States; or

15 “(E) the United States and a place in a
16 foreign country to the extent the transportation
17 is in the United States; and

18 “(2) in a reservation under the exclusive juris-
19 diction of the United States or on a public highway.

20 **“§ 13502. Exempt transportation between Alaska and**
21 **other States**

22 “To the extent that transportation by a motor carrier
23 between a place in Alaska and a place in another State
24 under section 13501 is provided in a foreign country—

1 “(1) neither the Secretary nor the Panel has ju-
2 risdiction to impose a requirement over conduct of
3 the motor carrier in the foreign country conflicting
4 with a requirement of that country; but

5 “(2) the motor carrier, as a condition of provid-
6 ing transportation in the United States, shall com-
7 ply, with respect to all transportation provided be-
8 tween Alaska and the other State, with the require-
9 ments of this part related to rates and practices ap-
10 plicable to the transportation.

11 **“§ 13503. Exempt motor vehicle transportation in ter-
12 minal areas**

13 “(a) TRANSPORTATION BY CARRIERS.—

14 “(1) IN GENERAL.—Neither the Secretary nor
15 the Panel has jurisdiction under this subchapter
16 over transportation by motor vehicle provided in a
17 terminal area when the transportation—

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

19 “(B) is provided by—

20 “(i) a rail carrier subject to jurisdic-
21 tion under chapter 105;

22 “(ii) a water carrier subject to juris-
23 diction under subchapter II of this chapter;

24 or

1 “(iii) a freight forwarder subject to
2 jurisdiction under subchapter III of this
3 chapter; and

4 “(C) is incidental to transportation or
5 service provided by the carrier or freight for-
6 warder that is subject to jurisdiction under
7 chapter 105 of this title or under subchapter II
8 or III of this chapter.

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

17 “(b) TRANSPORTATION BY AGENT.—

18 “(1) IN GENERAL.—Except to the extent pro-
19 vided by paragraph (2) of this subsection, neither
20 the Secretary nor the Panel has jurisdiction under
21 this subchapter over transportation by motor vehicle
22 provided in a terminal area when the transpor-
23 tation—

24 “(A) is a transfer, collection, or delivery;
25 and

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

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

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

7 “(iii) a water carrier subject to juris-
8 diction under subchapter II of this chapter;

9 or

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

13 “(2) TREATMENT OF TRANSPORTATION BY
14 PRINCIPAL.—Transportation exempt from jurisdic-
15 tion under paragraph (1) of this subsection is con-
16 sidered transportation provided by the carrier or
17 service provided by the freight forwarder for whom
18 the transportation was provided and is subject to ju-
19 risdiction under chapter 105 of this title when pro-
20 vided for such a rail carrier, under this subchapter
21 when provided for such a motor carrier, under sub-
22 chapter II of this chapter when provided for such a
23 water carrier, and under subchapter III of this chap-
24 ter when provided for such a freight forwarder.

1 **“§ 13504. Exempt motor carrier transportation en-**
2 **tirely in one State**

3 “Neither the Secretary nor the Panel has jurisdiction
4 under this subchapter over transportation, except trans-
5 portation of household goods, by a motor carrier operating
6 solely within the State of Hawaii. The State of Hawaii
7 may regulate transportation exempt from jurisdiction
8 under this section and, to the extent provided by a motor
9 carrier operating solely within the State of Hawaii, trans-
10 portation exempt under section 13503 of this title.

11 **“§ 13505. Transportation furthering a primary busi-**
12 **ness**

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

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

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

21 “(b) CORPORATE FAMILIES.—

22 “(1) IN GENERAL.—Neither the Secretary nor
23 the Panel has jurisdiction under this part over
24 transportation of property by motor vehicle for com-
25 pensation provided by a person who is a member of

1 a corporate family for other members of such cor-
2 porate family.

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

8 **“§ 13506. Miscellaneous motor carrier transportation**
9 **exemptions**

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

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

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

18 “(3) a motor vehicle owned or operated by or
19 for a hotel and only transporting hotel patrons be-
20 tween the hotel and the local station of a common
21 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
4 15(a) 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
8 the cooperative association or federation provides
9 transportation for compensation between a place in
10 a State and a place in another State, or between a
11 place in a State and another place in the same State
12 through another State—

13 “(A) for a nonmember that is not a farm-
14 er, cooperative association, federation, or the
15 United States Government, the transportation
16 (except for transportation otherwise exempt
17 under this 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 ton-
2 nage; and

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

9 “(6) transportation by motor vehicle of—

10 “(A) ordinary livestock;

11 “(B) agricultural or horticultural commod-
12 ities (other than manufactured products there-
13 of);

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

23 “(D) cooked or uncooked fish, whether
24 breaded or not, or frozen or fresh shellfish, or
25 byproducts thereof not intended for human con-

1 sumption, other than fish or shellfish that have
2 been treated for preserving, such as canned,
3 smoked, pickled, spiced, corned, or kippered
4 products; and

5 “(E) livestock and poultry feed and agri-
6 cultural seeds and plants, if such products (ex-
7 cluding products otherwise exempt under this
8 paragraph) are transported to a site of agricul-
9 tural production or to a business enterprise en-
10 gaged in the sale to agricultural producers of
11 goods used in agricultural production;

12 “(7) a motor vehicle used only to distribute
13 newspapers;

14 “(8)(A) transportation of passengers by motor
15 vehicle incidental to transportation by aircraft;

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

23 “(C) transportation of property by motor vehi-
24 cle in lieu of transportation by aircraft because of
25 adverse weather conditions or mechanical failure of

1 the aircraft or other causes due to circumstances be-
2 yond the control of the carrier or shipper;

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

5 “(10) a motor vehicle carrying not more than
6 15 individuals in a single, daily roundtrip to com-
7 mute to and from work;

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

14 “(12) transportation of natural, crushed, vesic-
15 ular rock to be used for decorative purposes;

16 “(13) transportation of wood chips;

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

19 “(15) transportation of broken, crushed, or
20 powdered glass.

21 “(b) EXEMPT UNLESS OTHERWISE NECESSARY.—
22 Except to the extent the Secretary or Panel, as applicable,
23 finds it necessary to exercise jurisdiction to carry out the
24 transportation policy of section 13101, neither the Sec-

1 retary nor the Panel has jurisdiction under this part
2 over—

3 “(1) transportation provided entirely in a mu-
4 nicipality, in contiguous municipalities, or in a zone
5 that is adjacent to, and commercially a part of, the
6 municipality or municipalities, except—

7 “(A) when the transportation is under
8 common control, management, or arrangement
9 for a continuous carriage or shipment to or
10 from a place outside the municipality, munici-
11 palities, or zone; or

12 “(B) that in transporting passengers over
13 a route between a place in a State and a place
14 in another State, or between a place in a State
15 and another place in the same State through
16 another State, the transportation is exempt
17 from jurisdiction under this part only if the
18 motor carrier operating the motor vehicle also
19 is lawfully providing intrastate transportation of
20 passengers over the entire route under the laws
21 of each State through which the route runs;

22 “(2) transportation by motor vehicle provided
23 casually, occasionally, or reciprocally but not as a
24 regular occupation or business, except when a broker
25 or other person sells or offers for sale passenger

1 transportation provided by a person authorized to
2 transport passengers by motor vehicle under an ap-
3 plication pending, or registration issued, under this
4 part; or

5 “(3) the emergency towing of an accidentally
6 wrecked or disabled motor vehicle.

7 **“§ 13507. Mixed loads of regulated and unregulated**
8 **property**

9 “A motor carrier of property providing transportation
10 exempt from jurisdiction under paragraph (6), (8), (11),
11 (12), or (13) of section 13506(a) may transport property
12 under such paragraph in the same vehicle and at the same
13 time as property which the carrier is authorized to trans-
14 port under a registration issued under section 13902(a).
15 Such transportation shall not affect the unregulated sta-
16 tus of such exempt property or the regulated status of the
17 property which the carrier is authorized to transport
18 under such registration.

19 **“§ 13508. Limited authority over cooperative associa-**
20 **tions**

21 “(a) IN GENERAL.—Notwithstanding section
22 13506(a)(5), any cooperative association (as defined by
23 section 15(a) of the Agricultural Marketing Act (12
24 U.S.C. 1141j(a))) or a federation of cooperative associa-
25 tions shall prepare and maintain such records relating to

1 transportation provided by such association or federation,
2 in such form as the Secretary or the Panel may require
3 by regulation to carry out the provisions of such section
4 13506(a)(5). The Secretary or the Panel, or an employee
5 designated by the Secretary or the Panel, may on demand
6 and display of proper credentials—

7 “(1) inspect and examine the lands, buildings,
8 and equipment of such association or federation; and

9 “(2) inspect and copy any record of such asso-
10 ciation or federation.

11 “(b) REPORTS.—Notwithstanding section
12 13506(a)(5), the Secretary or the Panel may require a co-
13 operative association or federation of cooperative associa-
14 tions described in subsection (a) of this section to file re-
15 ports with the Secretary or the Panel containing answers
16 to questions about transportation provided by such asso-
17 ciation or federation.

18 “(c) ENFORCEMENT.—The Secretary or the Panel
19 may bring a civil action to enforce subsections (a) and (b)
20 of this section or a regulation or order of the Secretary
21 or the Panel issued under this section, when violated by
22 a cooperative association or federation of cooperative asso-
23 ciations described in subsection (a).

24 “(d) REPORTING PENALTIES.—

1 “(1) IN GENERAL.—A person required to make
2 a report to the Secretary or the Panel, answer a
3 question, or maintain a record under this section, or
4 an officer, agent, or employee of that person, that—

5 “(A) does not make the report;

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

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

14 “(2) VENUE.—Trial in a civil action under
15 paragraph (1) shall be in the judicial district in
16 which—

17 “(A) the cooperative association or federa-
18 tion of cooperative associations has its principal
19 office;

20 “(B) the violation occurred; or

21 “(C) the offender is found.

22 Process in the action may be served in the judicial
23 district of which the offender is an inhabitant or in
24 which the offender may be found.

1 “(e) EVASION PENALTIES.—A person, or an officer,
2 employee, or agent of that person, that by any means
3 knowingly and willfully tries to evade compliance with the
4 provisions of this section shall be fined at least \$200 but
5 not more than \$500 for the first violation and at least
6 \$250 but not more than \$2,000 for a subsequent violation.

7 “(f) RECORDKEEPING PENALTIES.—A person re-
8 quired to make a report, answer a question, or maintain
9 a record under this section, or an officer, agent, or em-
10 ployee of that person, that—

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

12 “(2) willfully does not specifically, completely,
13 and truthfully answer that question in 30 days from
14 the date that the question is required to be an-
15 swered;

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

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

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

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

1 “(7) knowingly and willfully maintains a record
2 in violation of a regulation or order issued under
3 this section;
4 shall be fined not more than \$5,000.

5 “SUBCHAPTER II—WATER CARRIER
6 TRANSPORTATION

7 “**§ 13521. General jurisdiction**

8 “(a) GENERAL RULES.—The Secretary and the
9 Panel have jurisdiction over transportation insofar as
10 water carriers are concerned—

11 “(1) by water carrier between a place in a State
12 and a place in another State, even if part of the
13 transportation is outside the United States;

14 “(2) by water carrier and motor carrier from a
15 place in a State to a place in another State; except
16 that if part of the transportation is outside the
17 United States, the Secretary only has jurisdiction
18 over that part of the transportation provided—

19 “(A) by motor carrier that is in the United
20 States; and

21 “(B) by water carrier that is from a place
22 in the United States to another place in the
23 United States; and

24 “(3) by water carrier or by water carrier and
25 motor carrier between a place in the United States

1 and a place outside the United States, to the extent
2 that—

3 “(A) when the transportation is by motor
4 carrier, the transportation is provided in the
5 United States;

6 “(B) when the transportation is by water
7 carrier to a place outside the United States, the
8 transportation is provided by water carrier from
9 a place in the United States to another place in
10 the United States before transshipment from a
11 place in the United States to a place outside
12 the United States; and

13 “(C) when the transportation is by water
14 carrier from a place outside the United States,
15 the transportation is provided by water carrier
16 from a place in the United States to another
17 place in the United States after transshipment
18 to a place in the United States from a place
19 outside the United States.

20 “(b) LIMITATION.—The Panel may not exempt a
21 water carrier from the application of, or compliance with,
22 sections 13701 and 13702 for transportation in noncontig-
23 uous domestic trade.

1 “SUBCHAPTER IV—AUTHORITY TO EXEMPT

2 “§ 13541. Authority to exempt transportation or serv-
3 ices

4 “(a) IN GENERAL.—In any matter subject to juris-
5 diction under this part, the Secretary or the Panel, as ap-
6 plicable, shall exempt a person, class of persons, or a
7 transaction or service from the application of a provision
8 of this part, or use this exemption authority to modify the
9 application of a provision of this part as it applies to such
10 person, class, transaction, or service, when the Secretary
11 or Panel finds that the application of that provision in
12 whole or in part—

13 “(1) is not necessary to carry out the transpor-
14 tation policy of section 13101;

15 “(2) is not needed to protect shippers from the
16 abuse of market power or that the transaction or
17 service is of limited scope; and

18 “(3) is in the public interest.

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

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

1 “(d) REVOCATION.—The Secretary or Panel, as ap-
 2 plicable, may revoke an exemption, to the extent specified,
 3 on finding that application of a provision of this part to
 4 the person, class, or transportation is necessary to carry
 5 out the transportation policy of section 13101.

6 “(e) LIMITATIONS.—The exemption authority under
 7 this section may not be used to relieve a person from the
 8 application of, and compliance with, any law, rule, regula-
 9 tion, standard, or order pertaining to cargo loss and dam-
 10 age, insurance, safety fitness, or activities approved under
 11 section 13703 or 14302 or not terminated under section
 12 13907(d)(2).

13 **“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. Payment of rates.

“13708. Billing and collecting practices.

“13709. Procedures for resolving claims involving unfiled, negotiated transpor-
 tation rates.

“13710. Additional billing and collecting practices.

“13711. Alternative procedure for resolving undercharge disputes.

“13712. Government traffic.

“13713. Food and grocery transportation.

14 **“§ 13701. Requirements for reasonable rates, classi-** 15 **fications, through routes, rules, and prac-** 16 **tices for certain transportation**

17 “(a) REASONABLENESS.—

1 “(1) CERTAIN HOUSEHOLD GOODS TRANSPOR-
2 TATION; JOINT RATES INVOLVING WATER TRANSPOR-
3 TATION.—A rate, classification, rule, or practice re-
4 lated to transportation or service provided by a car-
5 rier subject to jurisdiction under chapter 135 for
6 transportation or service involving—

7 “(A) a movement of household goods,

8 “(B) a rate for a movement by or with a
9 water carrier in noncontiguous domestic trade,
10 or

11 “(C) rates, rules, and classifications made
12 collectively by motor carriers under agreement
13 pursuant to section 13703,
14 must be reasonable.

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

19 “(b) PRESCRIPTION BY PANEL FOR VIOLATIONS.—
20 When the Panel finds it necessary to stop or prevent a
21 violation of subsection (a), the Panel shall prescribe the
22 rate, classification, rule, practice, through route, or divi-
23 sion of joint rates to be applied for such transportation
24 or service.

25 “(c) ZONE OF REASONABLENESS.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, a rate or division of a carrier for service in
3 noncontiguous domestic trade is reasonable if the
4 aggregate of increases and decreases in any such
5 rate or division is not more than 10 percent above,
6 or more than 10 percent below, the rate or division
7 in effect 1 year before the effective date of the pro-
8 posed rate or division.

9 “(2) ADJUSTMENTS TO THE ZONE.—The per-
10 centage specified in paragraph (1) shall be increased
11 or decreased, as the case may be, by the percentage
12 change in the Producers Price Index, as published
13 by the Department of Labor, that has occurred dur-
14 ing the most recent 1-year period before the date the
15 rate or division in question first took effect.

16 **“§ 13702. Tariff requirement for certain transpor-**
17 **tation**

18 “(a) IN GENERAL.—A carrier subject to jurisdiction
19 under chapter 135 may provide transportation or service
20 that is—

21 “(1) in noncontiguous domestic trade, except
22 with regard to bulk cargo, forest products, recycled
23 metal scrap, waste paper, and paper waste; or

24 “(2) for movement of household goods;

1 only if the rate for such transportation or service is con-
2 tained in a tariff that is in effect under this section. The
3 carrier may not charge or receive a different compensation
4 for the transportation or service than the rate specified
5 in the tariff, whether by returning a part of that rate to
6 a person, giving a person a privilege, allowing the use of
7 a facility that affects the value of that transportation or
8 service, or another device. A rate contained in a tariff shall
9 be stated in money of the United States.

10 “(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS
11 DOMESTIC TRADE.—

12 “(1) FILING.—A carrier providing transpor-
13 tation or service described in subsection (a)(1) shall
14 publish and file with the Panel tariffs containing the
15 rates established for such transportation or service.
16 The carriers shall keep such tariffs available for
17 public inspection. The Panel shall prescribe the form
18 and manner of publishing, filing, and keeping tariffs
19 available for public inspection under this subsection.

20 “(2) CONTENTS.—The Panel may prescribe any
21 specific information and charges to be identified in
22 a tariff, but at a minimum tariffs must identify
23 plainly—

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

1 “(B) the places between which property
2 will be transported;

3 “(C) terminal charges if a carrier provides
4 transportation or service subject to jurisdiction
5 under subchapter III of chapter 135;

6 “(D) privileges given and facilities allowed;
7 and

8 “(E) any rules that change, affect, or de-
9 termine any part of the published rate.

10 “(3) INLAND DIVISIONS.—A carrier providing
11 transportation or service described in subsection
12 (a)(1) under a joint rate for a through movement
13 shall not be required to state separately or otherwise
14 reveal in tariff filings the inland divisions of that
15 through rate.

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

19 “(5) CHANGES.—The Panel may permit car-
20 riers to change rates, classifications, rules, and prac-
21 tices without filing complete tariffs under this sub-
22 section that cover matter that is not being changed
23 when the Panel finds that action to be consistent
24 with the public interest. Those carriers may either—

1 “(A) publish new tariffs that incorporate
2 changes, or

3 “(B) plainly indicate the proposed changes
4 in the tariffs then in effect and make the tariffs
5 as changed available for public inspection.

6 “(c) TARIFF REQUIREMENTS FOR HOUSEHOLD
7 GOODS CARRIERS.—

8 “(1) IN GENERAL.—A carrier providing trans-
9 portation described in subsection (a)(2) shall main-
10 tain rates and related rules and practices in a tariff.
11 The tariff must be submitted to the Panel for in-
12 spection and be made available for inspection by
13 shippers upon reasonable request.

14 “(2) NOTICE OF AVAILABILITY.—A carrier that
15 maintains a tariff under this subsection may not en-
16 force the provisions of the tariff unless the carrier
17 has given notice that the tariff is available for in-
18 spection in its bill of lading or by other actual notice
19 to individuals whose shipments are subject to the
20 tariff.

21 “(3) REQUIREMENTS.—A carrier that main-
22 tains a tariff under this subsection is bound by the
23 tariff except as otherwise provided in this part. A
24 tariff that does not comply with this subsection may
25 not be enforced against any individual shipper.

1 “(F) divisions;

2 “(G) rate adjustments of general applica-
3 tion based on industry average carrier costs (so
4 long as there is no discussion of individual mar-
5 kets or particular single-line rates); or

6 “(H) procedures for joint consideration,
7 initiation, or establishment of matters described
8 in subparagraphs (A) through (G).

9 “(2) SUBMISSION OF AGREEMENT TO PANEL;
10 APPROVAL.—An agreement entered into under sub-
11 section (a) may be submitted by any carrier or car-
12 riers that are parties to such agreement to the Panel
13 for approval and may be approved by the Panel only
14 if it finds that such agreement is in the public inter-
15 est.

16 “(3) CONDITIONS.—The Panel may require
17 compliance with reasonable conditions consistent
18 with this part to assure that the agreement furthers
19 the transportation policy set forth in section 13101.

20 “(4) INDEPENDENTLY ESTABLISHED RATES.—
21 Any carrier which is a party to an agreement under
22 paragraph (1) is not, and may not be precluded,
23 from independently establishing its own rates, classi-
24 fication, and mileages or from adopting and using a
25 noncollectively made classification or mileage guide.

1 “(5) INVESTIGATIONS.—

2 “(A) REASONABLENESS.—The Panel may
3 suspend and investigate the reasonableness of
4 any rate, rule, classification, or rate adjustment
5 of general application made pursuant to an
6 agreement under this section.

7 “(B) ACTIONS NOT IN THE PUBLIC INTER-
8 EST.—The Panel may investigate any action
9 taken pursuant to an agreement approved
10 under this section. If the Panel finds that the
11 action is not in the public interest, the Panel
12 may take such measures as may be necessary to
13 protect the public interest with regard to the
14 action, including issuing an order directing the
15 parties to cease and desist or modify the action.

16 “(6) EFFECT OF APPROVAL.—If the Panel ap-
17 proves the agreement or renews approval of the
18 agreement, it may be made and carried out under its
19 terms and under the conditions required by the
20 Panel, and the antitrust laws, as defined in the first
21 section of the Clayton Act (15 U.S.C. 12), do not
22 apply to parties and other persons with respect to
23 making or carrying out the agreement.

24 “(b) RECORDS.—The Panel may require an organiza-
25 tion established or continued under an agreement ap-

1 proved under this section to maintain records and submit
2 reports. The Panel, or its delegate, may inspect a record
3 maintained under this section, or monitor any organiza-
4 tion's compliance with this section.

5 “(c) REVIEW.—The Panel may review an agreement
6 approved under this section, on its own initiative or on
7 request, and shall change the conditions of approval or
8 terminate it when necessary to protect the public interest.
9 Action of the Panel under this section—

10 “(1) approving an agreement,

11 “(2) denying, ending, or changing approval,

12 “(3) prescribing the conditions on which ap-
13 proval is granted, or

14 “(4) changing those conditions,

15 has effect only as related to application of the antitrust
16 laws referred to in subsection (a).

17 “(d) EXPIRATION OF APPROVALS; RENEWALS.—Sub-
18 ject to subsection (c), approval of an agreement under sub-
19 section (a) shall expire 3 years after the date of approval
20 unless renewed under this subsection. The approval may
21 be renewed upon request of the parties to the agreement
22 if such parties resubmit the agreement to the Panel, the
23 agreement is unchanged, and the Panel approves such re-
24 newal. The Panel shall approve the renewal unless it finds
25 that the renewal is not in the public interest. Parties to

1 the agreement may continue to undertake activities pursu-
2 ant to the previously approved agreement while the re-
3 newal request is pending.

4 “(e) EXISTING AGREEMENTS.—Agreements approved
5 under former section 10706(b) and in effect on the day
6 before the effective date of this section shall be treated
7 for purposes of this section as approved by the Panel
8 under this section beginning on such effective date.

9 “(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

10 “(1) UNDERCHARGE CLAIMS.—Nothing in this
11 section shall serve as a basis for any undercharge
12 claim.

13 “(2) OBLIGATION OF SHIPPER.—Nothing in
14 this title, the ICC Termination Act of 1995, or any
15 amendments or repeals made by such Act shall be
16 construed as creating any obligation for a shipper
17 based solely on a classification that was on file with
18 the Interstate Commerce Commission or elsewhere
19 on the day before the effective date of this section.

20 “(g) INDUSTRY STANDARD GUIDES.—

21 “(1) IN GENERAL.—

22 “(A) PUBLIC AVAILABILITY.—Routes,
23 rates, classifications, mileage guides, and rules
24 established under agreements approved under

1 this section shall be published and made avail-
2 able for public inspection upon request.

3 “(B) PARTICIPATION OF CARRIERS.—

4 “(i) IN GENERAL.—A motor carrier of
5 property whose routes, rates, classifica-
6 tions, mileage guides, rules, or packaging
7 are determined or governed by publications
8 established under agreements approved
9 under this section must participate in the
10 determining or governing publication for
11 such provisions to apply.

12 “(ii) POWER OF ATTORNEY.—The
13 motor carrier of property shall issue a
14 power of attorney to the publishing agent
15 and, upon its acceptance, the agent shall
16 issue a written certification to the motor
17 carrier affirming its participation in the
18 governing publication, and the certification
19 shall be made available for public inspec-
20 tion.

21 “(2) MILEAGE LIMITATION.—No carrier subject
22 to jurisdiction under subchapter I or III of chapter
23 135 may enforce collection of its mileage rates un-
24 less such carrier—

1 “(A) uses an independent publication of
2 mileage that is developed independently of any
3 other publication of mileage developed by any
4 other carrier and that can be examined by any
5 interested person upon reasonable request; or

6 “(B) is a participant in a publication of
7 mileages formulated under an agreement ap-
8 proved under this section.

9 “(h) SINGLE LINE RATE DEFINED.—In this section,
10 the term ‘single line rate’ means a rate, charge, or allow-
11 ance proposed by a single motor carrier that is applicable
12 only over its line and for which the transportation can be
13 provided by that carrier.

14 **“§ 13704. Household goods rates—estimates; guaran-**
15 **tees of service**

16 “(a) IN GENERAL.—

17 “(1) AUTHORITY.—Subject to the provisions of
18 paragraph (2) of this subsection, a motor carrier
19 providing transportation of household goods subject
20 to jurisdiction under subchapter I of chapter 135
21 may establish a rate for the transportation of house-
22 hold goods which is based on the carrier’s written,
23 binding estimate of charges for providing such trans-
24 portation.

1 “(2) NONPREFERENTIAL; NONPREDATORY.—
2 Any rate established under this subsection must be
3 available on a nonpreferential basis to shippers and
4 must not result in charges to shippers which are
5 predatory.

6 “(b) RATES FOR GUARANTEED SERVICE.—

7 “(1) AUTHORITY.—Subject to the provisions of
8 paragraph (2) of this subsection, a motor carrier
9 providing transportation of household goods subject
10 to jurisdiction under subchapter I of chapter 135
11 may establish rates for the transportation of house-
12 hold goods which guarantee that the carrier will pick
13 up and deliver such household goods at the times
14 specified in the contract for such services and pro-
15 vide a penalty or per diem payment in the event the
16 carrier fails to pick up or deliver such household
17 goods at the specified time. The charges, if any, for
18 such guarantee and penalty provision may vary to
19 reflect one or more options available to meet a par-
20 ticular shipper’s needs.

21 “(2) AUTHORITY OF SECRETARY TO REQUIRE
22 NONGUARANTEED SERVICE RATES.—Before a carrier
23 may establish a rate for any service under paragraph
24 (1) of this subsection, the Secretary may require
25 such carrier to have in effect and keep in effect, dur-

1 ing any period such rate is in effect under para-
2 graph (1), a rate for such service which does not
3 guarantee the pick up and delivery of household
4 goods at the times specified in the contract for such
5 services and which does not provide a penalty or per
6 diem payment in the event the carrier fails to pick
7 up or deliver household goods at the specified time.

8 **“§ 13705. Requirements for through routes among**
9 **motor carriers of passengers**

10 “(a) ESTABLISHMENT; REASONABLENESS.—A motor
11 carrier providing transportation of passengers subject to
12 jurisdiction under subchapter I of chapter 135 shall estab-
13 lish through routes with other carriers of the same type
14 and shall establish individual and joint rates applicable to
15 them. Such through route must be reasonable.

16 “(b) PRESCRIBED BY PANEL.—When the Panel finds
17 it necessary to enforce the requirements of this section,
18 the Panel may prescribe through routes and the conditions
19 under which those routes must be operated for motor car-
20 riers providing transportation of passengers subject to ju-
21 risdiction under subchapter I of chapter 135.

22 **“§ 13706. Liability for payment of rates**

23 “(a) LIABILITY OF CONSIGNEE.—Liability for pay-
24 ment of rates for transportation for a shipment of prop-
25 erty by a shipper or consignor to a consignee other than

1 the shipper or consignor, is determined under this section
2 when the transportation is provided by motor carrier
3 under this part. When the shipper or consignor instructs
4 the carrier transporting the property to deliver it to a con-
5 signee that is an agent only, not having beneficial title
6 to the property, the consignee is liable for rates billed at
7 the time of delivery for which the consignee is otherwise
8 liable, but not for additional rates that may be found to
9 be due after delivery if the consignee gives written notice
10 to the delivering carrier before delivery of the property—

11 “(1) of the agency and absence of beneficial
12 title; and

13 “(2) of the name and address of the beneficial
14 owner of the property if it is reconsigned or diverted
15 to a place other than the place specified in the origi-
16 nal bill of lading.

17 “(b) LIABILITY OF BENEFICIAL OWNER.—When the
18 consignee is liable only for rates billed at the time of deliv-
19 ery under subsection (a), the shipper or consignor, or, if
20 the property is reconsigned or diverted, the beneficial
21 owner is liable for those additional rates regardless of the
22 bill of the lading or contract under which the property was
23 transported. The beneficial owner is liable for all rates
24 when the property is reconsigned or diverted by an agent
25 but is refused or abandoned at its ultimate destination if

1 the agent gave the carrier in the reconsignment or diver-
2 sion order a notice of agency and the name and address
3 of the beneficial owner. A consignee giving the carrier er-
4 roneous information about the identity of the beneficial
5 owner of the property is liable for the additional rates.

6 **“§ 13707. Payment of rates**

7 “(a) TRANSFER OF POSSESSION UPON PAYMENT.—
8 Except as provided in subsection (b), a carrier providing
9 transportation or service subject to jurisdiction under this
10 part shall give up possession at the destination of the
11 property transported by it only when payment for the
12 transportation or service is made.

13 “(b) EXCEPTIONS.—

14 “(1) REGULATIONS.—Under regulations of the
15 Secretary governing the payment for transportation
16 and service and preventing discrimination, those car-
17 riers may give up possession at destination of prop-
18 erty transported by them before payment for the
19 transportation or service. The regulations of the Sec-
20 retary may provide for weekly or monthly payment
21 for transportation provided by motor carriers and
22 for periodic payment for transportation provided by
23 water carriers.

24 “(2) EXTENSIONS OF CREDIT TO GOVERN-
25 MENTAL ENTITIES.—Such a carrier (including a

1 motor carrier being used by a household goods
2 freight forwarder) may extend credit for transport-
3 ing property for the United States Government, a
4 State, a territory or possession of the United States,
5 or a political subdivision of any of them.

6 **“§ 13708. Billing and collecting practices**

7 “(a) DISCLOSURE.—A motor carrier subject to juris-
8 diction under subchapter I of chapter 135 shall disclose,
9 when a document is presented or electronically transmit-
10 ted for payment to the person responsible directly to the
11 motor carrier for payment or agent of such responsible
12 person, the actual rates, charges, or allowances for any
13 transportation service and shall also disclose, at such time,
14 whether and to whom any allowance or reduction in
15 charges is made.

16 “(b) FALSE OR MISLEADING INFORMATION.—No
17 person may cause a motor carrier to present false or mis-
18 leading information on a document about the actual rate,
19 charge, or allowance to any party to the transaction.

20 “(c) ALLOWANCES FOR SERVICES.—When the actual
21 rate, charge, or allowance is dependent upon the perform-
22 ance of a service by a party to the transportation arrange-
23 ment, such as tendering a volume of freight over a stated
24 period of time, the motor carrier shall indicate in any doc-
25 ument presented for payment to the person responsible di-

1 rectly to the motor carrier that a reduction, allowance, or
2 other adjustment may apply.

3 **“§ 13709. Procedures for resolving claims involving**
4 **unfiled, negotiated transportation rates**

5 “(a) TRANSPORTATION PROVIDED AT RATES OTHER
6 THAN LEGAL TARIFF RATES.—

7 “(1) IN GENERAL.—When a claim is made by
8 a motor carrier of property (other than a household
9 goods carrier) providing transportation subject to ju-
10 risdiction under subchapter II of chapter 105, as in
11 effect on the day before the effective date of this sec-
12 tion, by a freight forwarder (other than a household
13 goods freight forwarder), or under subchapter I of
14 chapter 135, or by a party representing such a car-
15 rier or freight forwarder regarding the collection of
16 rates or charges for such transportation in addition
17 to those originally billed and collected by the carrier
18 or freight forwarder for such transportation, the per-
19 son against whom the claim is made may elect to
20 satisfy the claim under the provisions of subsection
21 (b), (c), or (d), upon showing that—

22 “(A) the carrier or freight forwarder is no
23 longer transporting property or is transporting
24 property for the purpose of avoiding the appli-
25 cation of this section; and

1 “(B) with respect to the claim—

2 “(i) the person was offered a trans-
3 portation rate by the carrier or freight for-
4 warder other than that legally on file with
5 the Interstate Commerce Commission or
6 the Panel, as required, for the transpor-
7 tation service;

8 “(ii) the person tendered freight to
9 the carrier or freight forwarder in reason-
10 able reliance upon the offered transpor-
11 tation rate;

12 “(iii) the carrier or freight forwarder
13 did not properly or timely file with the
14 Interstate Commerce Commission or the
15 Panel, as required, a tariff providing for
16 such transportation rate or failed to enter
17 into an agreement for contract carriage;

18 “(iv) such transportation rate was
19 billed and collected by the carrier or
20 freight forwarder; and

21 “(v) the carrier or freight forwarder
22 demands additional payment of a higher
23 rate filed in a tariff.

24 “(2) FORUM FOR RESOLUTION OF SHOWINGS.—

25 If there is a dispute as to the showing under para-

1 graph (1)(A), such dispute shall be resolved by the
2 court in which the claim is brought. If there is a dis-
3 pute as to the showing under paragraph (1)(B),
4 such dispute shall be resolved by the Panel. Pending
5 the resolution of any such dispute, the person shall
6 not have to pay any additional compensation to the
7 carrier or freight forwarder.

8 “(3) EFFECT OF SATISFACTION OF CLAIMS
9 UNDER DISPUTE RESOLUTION PROCEDURE.—Satis-
10 faction of a claim under subsection (b), (c), or (d)
11 shall be binding on the parties, and the parties shall
12 not be subject to chapter 119, as in effect on the
13 day before the effective date of this section, or chap-
14 ter 149.

15 “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING
16 10,000 POUNDS OR LESS.—A person from whom the ad-
17 ditional legally applicable and effective tariff rate or
18 charges are sought may elect to satisfy the claim, if the
19 shipments each weighed 10,000 pounds or less, by pay-
20 ment of 20 percent of the difference between the carrier’s
21 applicable and effective tariff rate and the rate originally
22 billed and paid. In the event that a dispute arises as to
23 the rate that was legally applicable to the shipment, such
24 dispute shall be resolved by the Panel.

1 “(c) CLAIMS INVOLVING SHIPMENTS WEIGHING
2 MORE THAN 10,000 POUNDS.—A person from whom the
3 additional legally applicable and effective tariff rate or
4 charges are sought may elect to satisfy the claim, if the
5 shipments each weighed more than 10,000 pounds, by
6 payment of 15 percent of the difference between the car-
7 rier’s applicable and effective tariff rate and the rate origi-
8 nally billed and paid. In the event that a dispute arises
9 as to the rate that was legally applicable to the shipment,
10 such dispute shall be resolved by the Panel.

11 “(d) CLAIMS INVOLVING PUBLIC WAREHOUSE-
12 MEN.—Notwithstanding subsections (b) and (c), a person
13 from whom the additional legally applicable and effective
14 tariff rate or charges are sought may elect to satisfy the
15 claim by payment of 5 percent of the difference between
16 the carrier’s applicable and effective tariff rate and the
17 rate originally billed and paid if such person is a public
18 warehouseman. In the event that a dispute arises as to
19 the rate that was legally applicable to the shipment, such
20 dispute shall be resolved by the Panel.

21 “(e) EFFECTS OF ELECTION.—When a person from
22 whom additional legally applicable freight rates or charges
23 are sought does not elect to use the provisions of sub-
24 sections (b), (c) or (d), the person may pursue all rights
25 and remedies existing under this part or, for transpor-

1 tation provided before the effective date of this section,
2 all rights and remedies that existed under this title on the
3 day before the effective date of this section.

4 “(f) STAY OF ADDITIONAL COMPENSATION.—When
5 a person proceeds under this section to challenge the rea-
6 sonableness of the legally applicable freight rate or
7 charges being claimed by a carrier or freight forwarder
8 in addition to those already billed and collected, the person
9 shall not have to pay any additional compensation to the
10 carrier or freight forwarder until the Panel has made a
11 determination as to the reasonableness of the challenged
12 rate as applied to the freight of the person against whom
13 the claim is made.

14 “(g) NOTIFICATION OF ELECTION.—

15 “(1) GENERAL RULE.—A person must notify
16 the carrier or freight forwarder as to its election to
17 proceed under subsection (b), (c), or (d). Except as
18 provided in paragraphs (2), (3), and (4), such elec-
19 tion may be made at any time.

20 “(2) DEMANDS FOR PAYMENT INITIALLY MADE
21 AFTER DECEMBER 3, 1993.—If the carrier or freight
22 forwarder or party representing such carrier or
23 freight forwarder initially demands the payment of
24 additional freight charges after December 3, 1993,
25 and notifies the person from whom additional freight

1 charges are sought of the provisions of subsections
2 (a) through (f) at the time of the making of such
3 initial demand, the election must be made not later
4 than the later of—

5 “(A) the 60th day following the filing of an
6 answer to a suit for the collection of such addi-
7 tional legally applicable freight rate or charges,
8 or

9 “(B) March 5, 1994.

10 “(3) PENDING SUITS FOR COLLECTION MADE
11 BEFORE DECEMBER 4, 1993.—If the carrier or
12 freight forwarder or party representing such carrier
13 or freight forwarder has filed, before December 4,
14 1993, a suit for the collection of additional freight
15 charges and notifies the person from whom addi-
16 tional freight charges are sought of the provisions of
17 subsections (a) through (f), the election must be
18 made not later than the 90th day following the date
19 on which such notification is received.

20 “(4) DEMANDS FOR PAYMENT MADE BEFORE
21 DECEMBER 4, 1993.—If the carrier or freight for-
22 warder or party representing such carrier or freight
23 forwarder has demanded the payment of additional
24 freight charges, and has not filed a suit for the col-
25 lection of such additional freight charges, before De-

1 cember 4, 1993, and notifies the person from whom
2 additional freight charges are sought of the provi-
3 sions of subsections (a) through (f), the election
4 must be made not later than the later of—

5 “(A) the 60th day following the filing of an
6 answer to a suit for the collection of such addi-
7 tional legally applicable freight rate or charges,
8 or

9 “(B) March 5, 1994.

10 “(h) CLAIMS INVOLVING SMALL-BUSINESS CON-
11 CERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE
12 MATERIALS.—

13 “(1) IN GENERAL.—Notwithstanding sub-
14 sections (b), (c), and (d), a person from whom the
15 additional legally applicable and effective tariff rate
16 or charges are sought shall not be liable for the dif-
17 ference between the carrier’s applicable and effective
18 tariff rate and the rate originally billed and paid—

19 “(A) if such person qualifies as a small-
20 business concern under the Small Business Act
21 (15 U.S.C. 631 et seq.),

22 “(B) if such person is an organization
23 which is described in section 501(c)(3) of the
24 Internal Revenue Code of 1986 and exempt
25 from tax under section 501(a) of such Code, or

1 “(C) if the cargo involved in the claim is
2 recyclable materials.

3 “(2) RECYCLABLE MATERIALS DEFINED.—In
4 this subsection, the term ‘recyclable materials’
5 means waste products for recycling or reuse in the
6 furtherance of recognized pollution control pro-
7 grams.

8 **“§ 13710. Additional billing and collecting practices**

9 “(a) MISCELLANEOUS PROVISIONS.—

10 “(1) INFORMATION RELATING TO BASIS OF
11 RATE.—A motor carrier of property (other than a
12 motor carrier providing transportation in noncontig-
13 uous domestic trade) shall provide to the shipper, on
14 request of the shipper, a written or electronic copy
15 of the rate, classification, rules, and practices, upon
16 which any rate applicable to its shipment or agreed
17 to between the shipper and carrier may have been
18 based.

19 “(2) REASONABLENESS OF RATES; COLLECTING
20 ADDITIONAL CHARGES.—When the applicability or
21 reasonableness of the rates and related provisions
22 billed by a motor carrier is challenged by the person
23 paying the freight charges, the Panel shall determine
24 whether such rates and provisions are reasonable or
25 applicable based on the record before it.

1 “(3) BILLING DISPUTES.—

2 “(A) INITIATED BY MOTOR CARRIERS.—In
3 those cases where a motor carrier (other than
4 a motor carrier providing transportation of
5 household goods or in noncontiguous domestic
6 trade) seeks to collect charges in addition to
7 those billed and collected which are contested
8 by the payor, the carrier may request that the
9 Panel determine whether any additional charges
10 over those billed and collected must be paid. A
11 carrier must issue any bill for charges in addi-
12 tion to those originally billed within 180 days of
13 the receipt of the original bill in order to have
14 the right to collect such charges.

15 “(B) INITIATED BY SHIPPERS.—If a ship-
16 per seeks to contest the charges originally billed
17 or additional charges subsequently billed, the
18 shipper may request that the Panel determine
19 whether the charges billed must be paid. A
20 shipper must contest the original bill or subse-
21 quent bill within 180 days of receipt of the bill
22 in order to have the right to contest such
23 charges.

24 “(4) VOIDING OF CERTAIN TARIFFS.—Any tar-
25 iff on file with the Interstate Commerce Commission

1 on August 26, 1994, and not required to be filed
2 after that date is null and void beginning on that
3 date. Any tariff on file with the Interstate Com-
4 merce Commission on the effective date of this sec-
5 tion and not required to be filed after that date is
6 null and void beginning on that date.

7 “(b) RESOLUTION OF DISPUTES OVER STATUS OF
8 COMMON CARRIER OR CONTRACT CARRIER.—If a motor
9 carrier (other than a motor carrier providing transpor-
10 tation of household goods) that was subject to jurisdiction
11 under subchapter II of chapter 105, as in effect on the
12 day before the effective date of this section, and that had
13 authority to provide transportation as both a motor com-
14 mon carrier and a motor contract carrier and a dispute
15 arises as to whether certain transportation that was pro-
16 vided prior to the effective date of this section was pro-
17 vided in its common carrier or contract carrier capacity
18 and the parties are not able to resolve the dispute consen-
19 sually, the Panel shall resolve the dispute.

20 **“§ 13711. Alternative procedure for resolving under-**
21 **charge disputes**

22 “(a) GENERAL RULE.—It shall be an unreasonable
23 practice for a motor carrier of property (other than a
24 household goods carrier) providing transportation subject
25 to jurisdiction under subchapter I of chapter 135 or, be-

1 fore the effective date of this section, to have provided
2 transportation that was subject to jurisdiction under sub-
3 chapter II of chapter 105, as in effect on the day before
4 the effective date of this section, a freight forwarder (other
5 than a household goods freight forwarder), or a party rep-
6 resenting such a carrier or freight forwarder to attempt
7 to charge or to charge for a transportation service the dif-
8 ference between (1) the applicable rate that was lawfully
9 in effect pursuant to a tariff that was filed in accordance
10 with this chapter or, with respect to transportation pro-
11 vided before the effective date of this section, in accord-
12 ance with chapter 107, as in effect on the date the trans-
13 portation was provided, by the carrier or freight forwarder
14 applicable to such transportation service, and (2) the ne-
15 gotiated rate for such transportation service if the carrier
16 or freight forwarder is no longer transporting property be-
17 tween places described in section 13501(1) or is transport-
18 ing property between places described in section 13501(1)
19 for the purpose of avoiding application of this section.

20 “(b) JURISDICTION OF PANEL.—

21 “(1) DETERMINATION.—The Panel shall have
22 jurisdiction to make a determination of whether or
23 not attempting to charge or the charging of a rate
24 by a motor carrier or freight forwarder or party rep-
25 resenting a motor carrier or freight forwarder is an

1 unreasonable practice under subsection (a). If the
2 Panel determines that attempting to charge or the
3 charging of the rate is an unreasonable practice
4 under subsection (a), the carrier, freight forwarder,
5 or party may not collect the difference described in
6 subsection (a) between the applicable rate and the
7 negotiated rate for the transportation service.

8 “(2) FACTORS TO CONSIDER.—In making a de-
9 termination under paragraph (1), the Panel shall
10 consider—

11 “(A) whether the person was offered a
12 transportation rate by the carrier or freight for-
13 warder or party other than that legally on file
14 with the Interstate Commerce Commission or
15 the Panel, as required, at the time of the move-
16 ment for the transportation service;

17 “(B) whether the person tendered freight
18 to the carrier or freight forwarder in reasonable
19 reliance upon the offered transportation rate;

20 “(C) whether the carrier or freight for-
21 warder did not properly or timely file with the
22 Interstate Commerce Commission or the Panel,
23 as required, a tariff providing for such trans-
24 portation rate or failed to enter into an agree-
25 ment for contract carriage;

1 “(D) whether the transportation rate was
2 billed and collected by the carrier or freight for-
3 warder; and

4 “(E) whether the carrier or freight for-
5 warder or party demands additional payment of
6 a higher rate filed in a tariff.

7 “(c) STAY OF ADDITIONAL COMPENSATION.—When
8 a person proceeds under this section to challenge the rea-
9 sonableness of the practice of a motor carrier, freight for-
10 warder, or party described in subsection (a) to attempt
11 to charge or to charge the difference described in sub-
12 section (a) between the applicable rate and the negotiated
13 rate for the transportation service in addition to those
14 charges already billed and collected for the transportation
15 service, the person shall not have to pay any additional
16 compensation to the carrier, freight forwarder, or party
17 until the Panel has made a determination as to the reason-
18 ableness of the practice as applied to the freight of the
19 person against whom the claim is made.

20 “(d) TREATMENT.—Subsection (a) is an exception to
21 the requirements of section 13702 and, for transportation
22 provided before the effective date of this section, to the
23 requirements of sections 10761(a) and 10762, as in effect
24 on the day before such effective date, as such sections re-

1 late to a filed tariff rate and other general tariff require-
2 ments.

3 “(e) NONAPPLICABILITY OF NEGOTIATED RATE DIS-
4 PUTE RESOLUTION PROCEDURE.—If a person elects to
5 seek enforcement of subsection (a) with respect to a rate
6 for a transportation or service, section 13709 shall not
7 apply to such rate.

8 “(f) DEFINITIONS.—In this section, the term “nego-
9 tiated rate” means a rate, charge, classification, or rule
10 agreed upon by a motor carrier or freight forwarder and
11 a shipper through negotiations pursuant to which no tariff
12 was lawfully and timely filed and for which there is written
13 evidence of such agreement.

14 “(g) APPLICABILITY TO PENDING CASES.—This sec-
15 tion shall apply to all cases and proceedings pending on
16 the effective date of this section.

17 **“§ 13712. Government traffic**

18 “A carrier providing transportation or service for the
19 United States Government may transport property or indi-
20 viduals for the United States Government without charge
21 or at a rate reduced from the applicable commercial rate.
22 Section 3709 of the Revised Statutes (41 U.S.C. 5) does
23 not apply when transportation for the United States Gov-
24 ernment can be obtained from a carrier lawfully operating
25 in the area where the transportation would be provided.

1 **“§ 13713. Food and grocery transportation**

2 “(a) CERTAIN COMPENSATION PROHIBITED.—Not-
3 withstanding any other provision of law, it shall not be
4 unlawful for a seller of food and grocery products using
5 a uniform zone delivered pricing system to compensate a
6 customer who picks up purchased food and grocery prod-
7 ucts at the shipping point of the seller if such compensa-
8 tion is available to all customers of the seller on a non-
9 discriminatory basis and does not exceed the actual cost
10 to the seller of delivery to such customer.

11 “(b) SENSE OF CONGRESS.—It is the sense of the
12 Congress that any savings accruing to a customer by rea-
13 son of compensation permitted by subsection (a) of this
14 section should be passed on to the ultimate consumer.

15 **“CHAPTER 139—REGISTRATION**

“Sec.

“13901. Requirement for registration.

“13902. Registration of motor carriers.

“13903. Registration of freight forwarders.

“13904. Registration of brokers.

“13905. Effective periods of registration.

“13906. Security of motor carriers, brokers, and freight forwarders.

“13907. Household goods agents.

“13908. Registration and other reforms.

16 **“§ 13901. Requirement for registration**

17 “A person may provide transportation or service sub-
18 ject to jurisdiction under subchapter I or III of chapter
19 135 or be a broker for transportation subject to jurisdic-
20 tion under subchapter I of that chapter, only if the person

1 is registered under this chapter to provide the transpor-
2 tation or service.

3 **“§ 13902. Registration of motor carriers**

4 “(a) MOTOR CARRIER GENERALLY.—

5 “(1) IN GENERAL.—Except as provided in this
6 section, the Secretary shall register a person to pro-
7 vide transportation subject to jurisdiction under sub-
8 chapter I of chapter 135 of this title as a motor car-
9 rier if the Secretary finds that the person is willing
10 and able to comply with—

11 “(A) this part and the applicable regula-
12 tions of the Secretary and the Panel;

13 “(B) any safety regulations imposed by the
14 Secretary and the safety fitness requirements
15 established by the Secretary under section
16 31144; and

17 “(C) the minimum financial responsibility
18 requirements established by the Secretary pur-
19 suant to sections 13906 and 31138.

20 “(2) CONSIDERATION OF EVIDENCE; FIND-
21 INGS.—The Secretary shall consider and, to the ex-
22 tent applicable, make findings on, any evidence dem-
23 onstrating that the registrant is unable to comply
24 with the requirements of subparagraph (A), (B), or
25 (C) of paragraph (1).

1 “(3) WITHHOLDING.—If the Secretary deter-
2 mines that any registrant under this section does
3 not meet the requirements of paragraph (1), the
4 Secretary shall withhold registration.

5 “(4) LIMITATION ON COMPLAINTS.—The Sec-
6 retary may hear a complaint from any person con-
7 cerning a registration under this subsection only on
8 the ground that the registrant fails or will fail to
9 comply with this part, the applicable regulations of
10 the Secretary and the Panel, the safety regulations
11 of the Secretary, or the safety fitness or minimum
12 financial responsibility requirements of paragraph
13 (1) of this subsection.

14 “(b) MOTOR CARRIERS OF PASSENGERS.—

15 “(1) REGISTRATION OF PRIVATE RECIPIENTS
16 OF GOVERNMENTAL ASSISTANCE.—The Secretary
17 shall register under subsection (a)(1) a private recip-
18 ient of governmental assistance to provide special or
19 charter transportation subject to jurisdiction under
20 subchapter I of chapter 135 as a motor carrier of
21 passengers if the Secretary finds that the recipient
22 meets the requirements of subsection (a)(1), unless
23 the Secretary finds, on the basis of evidence pre-
24 sented by any person objecting to the registration,

1 that the transportation to be provided pursuant to
2 the registration is not in the public interest.

3 “(2) REGISTRATION OF PUBLIC RECIPIENTS OF
4 GOVERNMENTAL ASSISTANCE.—

5 “(A) CHARTER TRANSPORTATION.—The
6 Secretary shall register under subsection (a)(1)
7 a public recipient of governmental assistance to
8 provide special or charter transportation subject
9 to jurisdiction under subchapter I of chapter
10 135 as a motor carrier of passengers if the Sec-
11 retary finds that—

12 “(i) the recipient meets the require-
13 ments of subsection (a)(1); and

14 “(ii) (I) no motor carrier of passengers
15 (other than a motor carrier of passengers
16 which is a public recipient of governmental
17 assistance) is providing, or is willing to
18 provide, the transportation; or

19 “(II) the transportation is to be pro-
20 vided entirely in the area in which the pub-
21 lic recipient provides regularly scheduled
22 mass transportation services.

23 “(B) REGULAR-ROUTE TRANSPOR-
24 TATION.—The Secretary shall register under
25 subsection (a)(1) a public recipient of govern-

1 mental assistance to provide regular-route
2 transportation subject to jurisdiction under sub-
3 chapter I of chapter 135 as a motor carrier of
4 passengers if the Secretary finds that the recip-
5 ient meets the requirements of subsection
6 (a)(1), unless the Secretary finds, on the basis
7 of evidence presented by any person objecting
8 to the registration, that the transportation to be
9 provided pursuant to the registration is not in
10 the public interest.

11 “(C) TREATMENT OF CERTAIN PUBLIC RE-
12 CIPIENTS.—Any public recipient of govern-
13 mental assistance which is providing or seeking
14 to provide transportation of passengers subject
15 to jurisdiction under subchapter I of chapter
16 135 shall, for purposes of this part, be treated
17 as a person which is providing or seeking to
18 provide transportation of passengers subject to
19 such jurisdiction.

20 “(3) INTRASTATE TRANSPORTATION.—A motor
21 carrier of passengers that is registered by the Sec-
22 retary under subsection (a) is authorized to provide
23 regular-route transportation entirely in one State as
24 a motor carrier of passengers if such intrastate
25 transportation is to be provided on a route over

1 which the carrier provides interstate transportation
2 of passengers.

3 “(4) PREEMPTION REGARDING CERTAIN SERV-
4 ICE.—No State or political subdivision thereof and
5 no interstate agency or other political agency of 2 or
6 more States shall enact or enforce any law, rule, reg-
7 ulation, standard or other provision having the force
8 and effect of law relating to the provision of pickup
9 and delivery of express packages, newspapers, or
10 mail in a commercial zone if the shipment has had
11 or will have a prior or subsequent movement by bus
12 in intrastate commerce and, if a city within the com-
13 mercial zone, is served by a motor carrier of pas-
14 sengers providing regular-route transportation of
15 passengers subject to jurisdiction under subchapter
16 I of chapter 135.

17 “(5) TREATMENT.—Any intrastate transpor-
18 tation authorized by this subsection shall be treated
19 as transportation subject to jurisdiction under sub-
20 chapter I of chapter 135 until such time as the car-
21 rier takes such action as is necessary to establish
22 under the laws of such State rates, rules, and prac-
23 tices applicable to such transportation, but in no
24 case later than the 30th day following the date on
25 which the motor carrier of passengers first begins

1 providing transportation entirely in one State under
2 this paragraph.

3 “(6) SPECIAL OPERATIONS.—This subsection
4 shall not apply to any regular-route transportation
5 of passengers provided entirely in one State which is
6 in the nature of a special operation.

7 “(7) SUSPENSION OR REVOCATION.—Intrastate
8 transportation authorized under this subsection may
9 be suspended or revoked by the Secretary under sec-
10 tion 13905 of this title at any time.

11 “(8) DEFINITIONS.—In this subsection, the fol-
12 lowing definitions apply:

13 “(A) PUBLIC RECIPIENT OF GOVERN-
14 MENTAL ASSISTANCE.—The term ‘public recipi-
15 ent of governmental assistance’ means—

16 “(i) any State,

17 “(ii) any municipality or other politi-
18 cal subdivision of a State,

19 “(iii) any public agency or instrumen-
20 tality of one or more States and munici-
21 palities and political subdivisions of a
22 State,

23 “(iv) any Indian tribe,

24 “(v) any corporation, board, or other
25 person owned or controlled by any entity

1 described in clause (i), (ii), (iii), or (iv),
2 and
3 which before, on, or after the effective date of
4 this subsection received governmental assistance
5 for the purchase or operation of any bus.

6 “(B) PRIVATE RECIPIENT OF GOVERN-
7 MENT ASSISTANCE.—The term ‘private recipi-
8 ent of government assistance’ means any person
9 (other than a person described in subparagraph
10 (A)) who before, on, or after the effective date
11 of this paragraph received governmental finan-
12 cial assistance in the form of a subsidy for the
13 purchase, lease, or operation of any bus.

14 “(c) RESTRICTIONS ON MOTOR CARRIERS DOMI-
15 CILED IN OR OWNED OR CONTROLLED BY NATIONALS OF
16 A CONTIGUOUS FOREIGN COUNTRY.—

17 “(1) PREVENTION OF DISCRIMINATORY PRAC-
18 TICES.—If the President, or the delegate thereof, de-
19 termines that an act, policy, or practice of a foreign
20 country contiguous to the United States, or any po-
21 litical subdivision or any instrumentality of any such
22 country is unreasonable or discriminatory and bur-
23 dens or restricts United States transportation com-
24 panies providing, or seeking to provide, motor car-

1 rier transportation to, from, or within such foreign
2 country, the President or such delegate may—

3 “(A) seek elimination of such practices
4 through consultations; or

5 “(B) notwithstanding any other provision
6 of law, suspend, modify, amend, condition, or
7 restrict operations, including geographical re-
8 striction of operations, in the United States by
9 motor carriers of property or passengers domi-
10 ciled in such foreign country or owned or con-
11 trolled by persons of such foreign country.

12 “(2) EQUALIZATION OF TREATMENT.—Any ac-
13 tion taken under paragraph (1)(A) to eliminate an
14 act, policy, or practice shall be so devised so as to
15 equal to the extent possible the burdens or restric-
16 tions imposed by such foreign country on United
17 States transportation companies.

18 “(3) REMOVAL OR MODIFICATION.—The Presi-
19 dent, or the delegate thereof, may remove or modify
20 in whole or in part any action taken under para-
21 graph (1)(A) if the President or such delegate deter-
22 mines that such removal or modification is consist-
23 ent with the obligations of the United States under
24 a trade agreement or with United States transpor-
25 tation policy.

1 “(4) PROTECTION OF EXISTING OPERATIONS.—
2 Unless and until the President, or the delegate
3 thereof, makes a determination under paragraph (1)
4 or (3), nothing in this subsection shall affect—

5 “(A) operations of motor carriers of prop-
6 erty or passengers domiciled in any contiguous
7 foreign country or owned or controlled by per-
8 sons of any contiguous foreign country per-
9 mitted in the commercial zones along the Unit-
10 ed States-Mexico border as such zones were de-
11 fined on the day before the effective date of this
12 section; or

13 “(B) any existing restrictions on oper-
14 ations of motor carriers of property or pas-
15 sengers domiciled in any contiguous foreign
16 country or owned or controlled by persons of
17 any contiguous foreign country or any modifica-
18 tions thereof pursuant to section 6 of the Bus
19 Regulatory Reform Act of 1982.

20 “(5) PUBLICATION; COMMENT.—Unless the
21 President, or the delegate thereof, determines that
22 expeditious action is required, the President shall
23 publish in the Federal Register any determination
24 under paragraph (1) or (3), together with a descrip-
25 tion of the facts on which such a determination is

1 based and any proposed action to be taken pursuant
2 to paragraph (1)(B) or (3), and provide an oppor-
3 tunity for public comment.

4 “(6) DELEGATION TO SECRETARY.—The Presi-
5 dent may delegate any or all authority under this
6 subsection to the Secretary, who shall consult with
7 other agencies as appropriate. In accordance with
8 the directions of the President, the Secretary may
9 issue regulations to enforce this subsection.

10 “(7) CIVIL ACTIONS.—Either the Secretary or
11 the Attorney General may bring a civil action in an
12 appropriate district court of the United States to en-
13 force this subsection or a regulation prescribed or
14 order issued under this subsection. The court may
15 award appropriate relief, including injunctive relief.

16 “(8) LIMITATION ON STATUTORY CONSTRUC-
17 TION.—This subsection shall not be construed as af-
18 fecting the requirement for all foreign motor carriers
19 operating in the United States to comply with all ap-
20 plicable laws and regulations pertaining to fitness,
21 safety of operations, financial responsibility, and
22 taxes imposed by section 4481 of the Internal Reve-
23 nue Code of 1986.

24 “(d) MOTOR CARRIER DEFINED.—In this section
25 and sections 13905 and 13906, the term ‘motor carrier’

1 includes foreign motor carriers and foreign motor private
2 carriers.

3 **“§ 13903. Registration of freight forwarders**

4 “(a) IN GENERAL.—The Secretary shall register a
5 person to provide service subject to jurisdiction under sub-
6 chapter III of chapter 135 as a freight forwarder if the
7 Secretary finds that the person is willing and able to pro-
8 vide the service and to comply with this part and applica-
9 ble regulations of the Secretary and the Panel.

10 “(b) REGISTRATION AS CARRIER REQUIRED.—The
11 freight forwarder may provide transportation as the car-
12 rier itself only if the freight forwarder also has registered
13 to provide transportation as a carrier under this chapter.

14 **“§ 13904. Registration of brokers**

15 “(a) IN GENERAL.—The Secretary shall register,
16 subject to section 13906(b), a person to be a broker for
17 transportation of property subject to jurisdiction under
18 subchapter I of chapter 135, if the Secretary finds that
19 the person is willing and able to be a broker for transpor-
20 tation and to comply with this part and applicable regula-
21 tions of the Secretary .

22 “(b) LIMITATION.—The broker may provide trans-
23 portation itself only if the broker also has registered to
24 provide transportation as a carrier under this chapter.

1 “(c) REGULATIONS TO PROTECT SHIPPERS.—Regu-
2 lations of the Secretary applicable to brokers registered
3 under this section shall provide for the protection of ship-
4 pers by motor vehicle.

5 “(d) BOND AND INSURANCE.—The Secretary may
6 impose on brokers for motor carriers of passengers such
7 requirements for bonds or insurance or both as the Sec-
8 retary determines are needed to protect passengers and
9 carriers dealing with such brokers.

10 **“§ 13905. Effective periods of registration**

11 “(a) PERSON HOLDING ICC AUTHORITY.—Any per-
12 son having authority to provide transportation or service
13 as a motor carrier, freight forwarder, or broker under this
14 title, as in effect on the day before the effective date of
15 this section, shall be deemed, for purposes of this part,
16 to be registered to provide such transportation or service
17 under this part.

18 “(b) IN GENERAL.—Each registration issued under
19 section 13902, 13903, or 13904 shall be effective from
20 the date specified by the Secretary and shall remain in
21 effect, except as otherwise provided in this part.

22 “(c) SUSPENSION, AMENDMENTS, AND REVOCA-
23 TIONS.—On application of the registrant, the Secretary
24 may amend or revoke a registration. On complaint or on
25 the Secretary’s own initiative and after notice and an op-

1 portunity for a proceeding, the Secretary may suspend,
2 amend, or revoke any part of the registration of a motor
3 carrier, broker, or freight forwarder for willful failure to
4 comply with this part, an applicable regulation or order
5 of the Secretary or of the Panel, or a condition of its reg-
6 istration.

7 “(d) PROCEDURE.—Except on application of the reg-
8 istrant, the Secretary may revoke a registration of a motor
9 carrier, freight forwarder, or broker, only after—

10 “(1) the Secretary has issued an order to the
11 registrant under section 14701 requiring compliance
12 with this part, a regulation of the Secretary, or a
13 condition of the registration; and

14 “(2) the registrant willfully does not comply
15 with the order for a period of 30 days.

16 “(e) EXPEDITED PROCEDURE.—

17 “(1) PROTECTION OF SAFETY.—Without regard
18 to subchapter II of chapter 5 of title 5, the Sec-
19 retary may suspend the registration of a motor car-
20 rier, a freight forwarder, or a broker for failure to
21 comply with safety requirements of the Secretary or
22 the safety fitness requirements pursuant to section
23 13904(c), 13906, or 31144, of this title, or an order
24 or regulation of the Secretary prescribed under those
25 sections.

1 “(2) IMMINENT HAZARD TO PUBLIC HEALTH.—
2 Without regard to subchapter II of chapter 5 of title
3 5, the Secretary may suspend a registration of a
4 motor carrier of passengers if the Secretary finds
5 that such carrier has been conducting unsafe oper-
6 ations which are an imminent hazard to public
7 health or property.

8 “(3) NOTICE; PERIOD OF SUSPENSION.—The
9 Secretary may suspend under this subsection the
10 registration only after giving notice of the suspen-
11 sion to the registrant. The suspension remains in ef-
12 fect until the registrant complies with those applica-
13 ble sections or, in the case of a suspension under
14 paragraph (2), until the Secretary revokes such sus-
15 pension.

16 **“§ 13906. Security of motor carriers, brokers, and**
17 **freight forwarders**

18 “(a) MOTOR CARRIER REQUIREMENTS.—

19 “(1) LIABILITY INSURANCE REQUIREMENT.—
20 The Secretary may register a motor carrier under
21 section 13902 only if the registrant files with the
22 Secretary a bond, insurance policy, or other type of
23 security approved by the Secretary, in an amount
24 not less than such amount as the Secretary pre-
25 scribes pursuant to, or as is required by, sections

1 31138 and 31139, and the laws of the State or
2 States in which the registrant is operating, to the
3 extent applicable. The security must be sufficient to
4 pay, not more than the amount of the security, for
5 each final judgment against the registrant for bodily
6 injury to, or death of, an individual resulting from
7 the negligent operation, maintenance, or use of
8 motor vehicles, or for loss or damage to property
9 (except property referred to in paragraph (3) of this
10 subsection), or both. A registration remains in effect
11 only as long as the registrant continues to satisfy
12 the security requirements of this paragraph.

13 “(2) AGENCY REQUIREMENT.—A motor carrier
14 shall comply with the requirements of sections
15 13303 and 13304. To protect the public, the Sec-
16 retary may require any such motor carrier to file the
17 type of security that a motor carrier is required to
18 file under paragraph (1) of this subsection. This
19 paragraph only applies to a foreign motor private
20 carrier and foreign motor carrier operating in the
21 United States to the extent that such carrier is pro-
22 viding transportation between places in a foreign
23 country or between a place in one foreign country
24 and a place in another foreign country.

1 “(3) TRANSPORTATION INSURANCE.—The Sec-
2 retary may require a registered motor carrier to file
3 with the Secretary a type of security sufficient to
4 pay a shipper or consignee for damage to property
5 of the shipper or consignee placed in the possession
6 of the motor carrier as the result of transportation
7 provided under this part. A carrier required by law
8 to pay a shipper or consignee for loss, damage, or
9 default for which a connecting motor carrier is re-
10 sponsible is subrogated, to the extent of the amount
11 paid, to the rights of the shipper or consignee under
12 any such security.

13 “(b) BROKER REQUIREMENTS.—The Secretary may
14 register a person as a broker under section 13904 only
15 if the person files with the Secretary a bond, insurance
16 policy, or other type of security approved by the Secretary
17 to ensure that the transportation for which a broker ar-
18 ranges is provided. The registration remains in effect only
19 as long as the broker continues to satisfy the security re-
20 quirements of this subsection.

21 “(c) FREIGHT FORWARDER REQUIREMENTS.—

22 “(1) LIABILITY INSURANCE.—The Secretary
23 may register a person as a freight forwarder under
24 section 13903 of this title only if the person files
25 with the Secretary a bond, insurance policy, or other

1 type of security approved by the Secretary. The se-
2 curity must be sufficient to pay, not more than the
3 amount of the security, for each final judgment
4 against the freight forwarder for bodily injury to, or
5 death of, an individual, or loss of, or damage to,
6 property (other than property referred to in para-
7 graph (2) of this subsection), resulting from the neg-
8 ligent operation, maintenance, or use of motor vehi-
9 cles by or under the direction and control of the
10 freight forwarder when providing transfer, collection,
11 or delivery service under this part.

12 “(2) FREIGHT FORWARDER INSURANCE.—The
13 Secretary may require a registered freight forwarder
14 to file with the Secretary a bond, insurance policy,
15 or other type of security approved by the Secretary
16 sufficient to pay, not more than the amount of the
17 security, for loss of, or damage to, property for
18 which the freight forwarder provides service.

19 “(3) EFFECTIVE PERIOD.—The freight for-
20 warder’s registration remains in effect only as long
21 as the freight forwarder continues to satisfy the se-
22 curity requirements of this subsection.

23 “(d) TYPE OF INSURANCE.—The Secretary may de-
24 termine the type and amount of security filed under this
25 section. A motor carrier may submit proof of qualifications

1 as a self-insurer to satisfy the security requirements of
2 this section. The Secretary shall adopt regulations govern-
3 ing the standards for approval as a self-insurer. Motor
4 carriers which have been granted authority to self-insure
5 as of the effective date of this section shall retain that
6 authority unless, for good cause shown and after notice
7 and an opportunity for a hearing, the Secretary finds that
8 the authority must be revoked.

9 “(e) NOTICE OF CANCELLATION OF INSURANCE.—
10 The Secretary shall issue regulations requiring the sub-
11 mission to the Secretary of notices of insurance cancella-
12 tion sufficiently in advance of actual cancellation so as to
13 enable the Secretary to promptly revoke the registration
14 of any carrier or broker after the effective date of the can-
15 cellation.

16 “(f) FORM OF ENDORSEMENT.—The Secretary shall
17 also prescribe the appropriate form of endorsement to be
18 appended to policies of insurance and surety bonds which
19 will subject the insurance policy or surety bond to the full
20 security limits of the coverage required under this section.

21 **“§ 13907. Household goods agents**

22 “(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each
23 motor carrier providing transportation of household goods
24 shall be responsible for all acts or omissions of any of its
25 agents which relate to the performance of household goods

1 transportation services (including accessorial or terminal
2 services) and which are within the actual or apparent au-
3 thority of the agent from the carrier or which are ratified
4 by the carrier.

5 “(b) STANDARD FOR SELECTING AGENTS.—Each
6 motor carrier providing transportation of household goods
7 shall use due diligence and reasonable care in selecting
8 and maintaining agents who are sufficiently knowledge-
9 able, fit, willing, and able to provide adequate household
10 goods transportation services (including accessorial and
11 terminal services) and to fulfill the obligations imposed
12 upon them by this part and by such carrier.

13 “(c) ENFORCEMENT.—

14 “(1) COMPLAINT.—Whenever the Secretary has
15 reason to believe from a complaint or investigation
16 that an agent providing household goods transpor-
17 tation services (including accessorial and terminal
18 services) under the authority of a motor carrier pro-
19 viding transportation of household goods has vio-
20 lated section 14901(e) or 14912 or is consistently
21 not fit, willing, and able to provide adequate house-
22 hold goods transportation services (including acces-
23 sorial and terminal services), the Secretary may
24 issue to such agent a complaint stating the charges
25 and containing notice of the time and place of a

1 hearing which shall be held no later than 60 days
2 after service of the complaint to such agent.

3 “(2) RIGHT TO DEFEND.—The agent shall have
4 the right to appear at such hearing and rebut the
5 charges contained in the complaint.

6 “(3) ORDER.—If the agent does not appear at
7 the hearing or if the Secretary finds that the agent
8 has violated section 14901(e) or 14912 or is consist-
9 ently not fit, willing, and able to provide adequate
10 household goods transportation services (including
11 accessorial and terminal services), the Secretary may
12 issue an order to compel compliance with the re-
13 quirement that the agent be fit, willing, and able.
14 Thereafter, the Secretary may issue an order to
15 limit, condition, or prohibit such agent from any in-
16 volvement in the transportation or provision of serv-
17 ices incidental to the transportation of household
18 goods if, after notice and an opportunity for a hear-
19 ing, the Secretary finds that such agent, within a
20 reasonable time after the date of issuance of a com-
21 pliance order under this section, but in no event less
22 than 30 days after such date of issuance, has will-
23 fully failed to comply with such order.

24 “(4) HEARING.—Upon filing of a petition with
25 the Secretary by an agent who is the subject of an

1 order issued pursuant to the second sentence of
2 paragraph (3) of this subsection and after notice, a
3 hearing shall be held with an opportunity to be
4 heard. At such hearing, a determination shall be
5 made whether the order issued pursuant to para-
6 graph (3) of this subsection should be rescinded.

7 “(5) COURT REVIEW.—Any agent adversely af-
8 fected or aggrieved by an order of the Secretary is-
9 sued under this subsection may seek relief in the ap-
10 propriate United States court of appeals as provided
11 by and in the manner prescribed in chapter 158 of
12 title 28, United States Code.

13 “(d) LIMITATION ON APPLICABILITY OF ANTITRUST
14 LAWS.—

15 “(1) IN GENERAL.—The antitrust laws, as de-
16 fined in the first section of the Clayton Act (15
17 U.S.C. 12), do not apply to discussions or agree-
18 ments between a motor carrier providing transpor-
19 tation of household goods and its agents (whether or
20 not an agent is also a carrier) related solely to—

21 “(A) rates for the transportation of house-
22 hold goods under the authority of the principal
23 carrier;

24 “(B) accessorial, terminal, storage, or
25 other charges for services incidental to the

1 transportation of household goods transported
2 under the authority of the principal carrier;

3 “(C) allowances relating to transportation
4 of household goods under the authority of the
5 principal carrier; and

6 “(D) ownership of a motor carrier provid-
7 ing transportation of household goods by an
8 agent or membership on the board of directors
9 of any such motor carrier by an agent.

10 “(2) PANEL REVIEW.—The Panel, upon its own
11 initiative or request, shall review any activities un-
12 dertaken under paragraph (1) and shall modify or
13 terminate the activity if necessary to protect the
14 public interest.

15 “(e) DEFINITIONS.—In this section, the following
16 definitions apply:

17 “(1) HOUSEHOLD GOODS.—The term ‘house-
18 hold goods’ has the meaning such term had under
19 section 10102(11) of this title, as in effect on the
20 day before the effective date of this section.

21 “(2) TRANSPORTATION.—The term ‘transporta-
22 tion’ means transportation that would be subject
23 to the jurisdiction of the Interstate Commerce Com-
24 mission under subchapter II of chapter 105 of this

1 title, as in effect on the day before such effective
2 date, if such subchapter were still in effect.

3 **“§ 13908. Registration and other reforms**

4 “(a) REGULATIONS REPLACING CERTAIN PRO-
5 GRAMS.—The Secretary, in cooperation with the States,
6 and after notice and opportunity for public comment, shall
7 issue regulations to replace the current Department of
8 Transportation identification number system, the single
9 State registration system under section 14504, the reg-
10 istration system contained in this chapter, and the finan-
11 cial responsibility information system under section 13906
12 with a single, on-line, Federal system. The new system
13 shall serve as a clearinghouse and depository of informa-
14 tion on and identification of all foreign and domestic
15 motor carriers, brokers, and freight forwarders, and others
16 required to register with the Department as well as infor-
17 mation on safety fitness and compliance with required lev-
18 els of financial responsibility. In issuing the regulations,
19 the Secretary shall consider whether or not to integrate
20 the requirements of section 13304 into the new system
21 and may integrate such requirements into the new system.

22 “(b) FACTORS TO BE CONSIDERED.—In conducting
23 the rulemaking under subsection (a), the Secretary shall,
24 at a minimum, consider the following factors:

1 “(1) Funding for State enforcement of motor
2 carrier 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
6 the 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
10 services.

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 registra-
17 tion and filing evidence of financial responsibility under
18 the new system under subsection (a). Fees collected under
19 the fee system shall cover the costs of operating and up-
20 grading the registration system, including all personnel
21 costs associated with the system. Fees collected under this
22 subsection may be credited to the Department of Trans-
23 portation appropriations account for purposes for which
24 such fees are collected, and shall be available for expendi-
25 ture until expended.

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 (including filings and
4 fees authorized under section 14504), the Secretary may
5 prevent any State or political subdivision thereof, or any
6 political authority of 2 or more States, from imposing any
7 insurance filing requirements or fees that are for the same
8 purposes as filings or fees the Secretary requires under
9 the new system under subsection (a).

10 “(e) DEADLINE FOR CONCLUSION; MODIFICA-
11 TIONS.—Not later than 24 months after the effective date
12 of this section, the Secretary—

13 “(1) shall conclude the rulemaking under this
14 section;

15 “(2) may implement such changes under this
16 section as the Secretary considers appropriate and in
17 the public interest; and

18 “(3) shall transmit to Congress a report on any
19 findings of the rulemaking and the changes being
20 implemented under this section, together with such
21 recommendations for legislative language necessary
22 to conform this part to such changes.

23 **“CHAPTER 141—OPERATIONS OF**
24 **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 provid-
 4 ing transportation or service subject to jurisdiction under
 5 chapter 135 shall provide the transportation or service on
 6 reasonable request. In addition, a motor carrier shall pro-
 7 vide 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 ship-
 12 per, other than for the movement of household goods
 13 described in section 13102(9)(A), to provide speci-
 14 fied services under specified rates and conditions. If
 15 the shipper, in writing, expressly waives all rights
 16 and remedies under this part for the transportation
 17 covered 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.

1 “(2) REMEDY FOR BREACH OF CONTRACT.—
2 The exclusive remedy for any alleged breach of a
3 contract entered into under this subsection shall be
4 an action in an appropriate State court or United
5 States district court, unless the parties otherwise
6 agree.

7 **“§ 14102. Leased motor vehicles**

8 “(a) GENERAL AUTHORITY OF SECRETARY.—The
9 Secretary may require a motor carrier providing transpor-
10 tation subject to jurisdiction under subchapter I of chapter
11 135 that uses motor vehicles not owned by it to transport
12 property under an arrangement with another party to—

13 “(1) make the arrangement in writing signed
14 by the parties specifying its duration and the com-
15 pensation to be paid by the motor carrier;

16 “(2) carry a copy of the arrangement in each
17 motor vehicle to which it applies during the period
18 the arrangement is in effect;

19 “(3) inspect the motor vehicles and obtain li-
20 ability and cargo insurance on them; and

21 “(4) have control of and be responsible for op-
22 erating those motor vehicles in compliance with re-
23 quirements prescribed by the Secretary on safety of
24 operations and equipment, and with other applicable

1 law as if the motor vehicles were owned by the
2 motor carrier.

3 “(b) RESPONSIBLE PARTY FOR LOADING AND UN-
4 LOADING.—The Secretary shall require, by regulation,
5 that any arrangement, between a motor carrier of property
6 providing transportation subject to jurisdiction under sub-
7 chapter I of chapter 135 and any other person, under
8 which such other person is to provide any portion of such
9 transportation by a motor vehicle not owned by the carrier
10 shall specify, in writing, who is responsible for loading and
11 unloading the property onto and from the motor vehicle.

12 **“§ 14103. Loading and unloading motor vehicles**

13 “(a) SHIPPER RESPONSIBLE FOR ASSISTING.—
14 Whenever a shipper or receiver of property requires that
15 any person who owns or operates a motor vehicle trans-
16 porting property in interstate commerce (whether or not
17 such transportation is subject to jurisdiction under sub-
18 chapter I of chapter 135) be assisted in the loading or
19 unloading of such vehicle, the shipper or receiver shall be
20 responsible for providing such assistance or shall com-
21 pensate the owner or operator for all costs associated with
22 securing and compensating the person or persons provid-
23 ing such assistance.

24 “(b) COERCION PROHIBITED.—It shall be unlawful
25 to coerce or attempt to coerce any person providing trans-

1 portation of property by motor vehicle for compensation
2 in interstate commerce (whether or not such transpor-
3 tation is subject to jurisdiction under subchapter I of
4 chapter 135) to load or unload any part of such property
5 onto or from such vehicle or to employ or pay one or more
6 persons to load or unload any part of such property onto
7 or from such vehicle; except that this subsection shall not
8 be construed as making unlawful any activity which is not
9 unlawful under the National Labor Relations Act or the
10 Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et
11 seq.), commonly known as the Norris-LaGuardia Act.

12 **“§ 14104. Household goods carrier operations**

13 “(a) GENERAL REGULATORY AUTHORITY.—

14 “(1) PAPERWORK MINIMIZATION.—The Sec-
15 retary may issue regulations, including regulations
16 protecting individual shippers, in order to carry out
17 this part with respect to the transportation of house-
18 hold goods by motor carriers subject to jurisdiction
19 under subchapter I of chapter 135. The regulations
20 and paperwork required of motor carriers providing
21 transportation of household goods shall be mini-
22 mized to the maximum extent feasible consistent
23 with the protection of individual shippers.

24 “(2) PERFORMANCE STANDARDS.—

1 “(A) IN GENERAL.—Regulations of the
2 Secretary protecting individual shippers shall
3 include, where appropriate, reasonable perform-
4 ance standards for the transportation of house-
5 hold goods subject to jurisdiction under sub-
6 chapter I of chapter 135.

7 “(B) FACTORS TO CONSIDER.—In estab-
8 lishing performance standards under this para-
9 graph, the Secretary shall take into account at
10 least the following—

11 “(i) the level of performance that can
12 be achieved by a well-managed motor car-
13 rier transporting household goods;

14 “(ii) the degree of harm to individual
15 shippers which could result from a viola-
16 tion of the regulation;

17 “(iii) the need to set the level of per-
18 formance at a level sufficient to deter
19 abuses which result in harm to consumers
20 and violations of regulations;

21 “(iv) service requirements of the car-
22 riers;

23 “(v) the cost of compliance in relation
24 to the consumer benefits to be achieved
25 from such compliance; and

1 “(vi) the need to set the level of per-
2 formance at a level designed to encourage
3 carriers to offer service responsive to ship-
4 per needs.

5 “(3) LIMITATIONS ON STATUTORY CONSTRUC-
6 TION.—Nothing in this section shall be construed to
7 limit the Secretary’s authority to require reports
8 from motor carriers providing transportation of
9 household goods or to require such carriers to pro-
10 vide specified information to consumers concerning
11 their past performance.

12 “(b) ESTIMATES.—

13 “(1) AUTHORITY TO PROVIDE WITHOUT COM-
14 PENSATION.—Every motor carrier providing trans-
15 portation of household goods subject to jurisdiction
16 under subchapter I of chapter 135, upon request of
17 a prospective shipper, may provide the shipper with
18 an estimate of charges for transportation of house-
19 hold goods and for the proposed services. The Sec-
20 retary shall not prohibit any such carrier from
21 charging a prospective shipper for providing a writ-
22 ten, binding estimate for the transportation and pro-
23 posed services.

24 “(2) APPLICABILITY OF ANTITRUST LAWS.—
25 Any charge for an estimate of charges provided by

1 a motor carrier to a shipper for transportation of
2 household goods subject to jurisdiction under sub-
3 chapter I of chapter 135 shall be subject to the anti-
4 trust laws, as defined in the first section of the Clay-
5 ton Act (15 U.S.C. 12).

6 “(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The
7 Secretary shall issue regulations that provide motor car-
8 riers providing transportation of household goods subject
9 to jurisdiction under subchapter I of chapter 135 with the
10 maximum possible flexibility in weighing shipments, con-
11 sistent with assurance to the shipper of accurate weighing
12 practices. The Secretary shall not prohibit such carriers
13 from backweighing shipments or from basing their charges
14 on the reweigh weights if the shipper observes both the
15 tare and gross weighings (or, prior to such weighings,
16 waives in writing the opportunity to observe such
17 weighings) and such weighings are performed on the same
18 scale.

19 “SUBCHAPTER II—REPORTS AND RECORDS

20 “§ 14121. **Definitions**

21 “In this subchapter, the following definitions apply:

22 “(1) CARRIER AND BROKER.—The terms ‘car-
23 rier’ and ‘broker’ include a receiver or trustee of a
24 carrier and broker, respectively.

1 “(2) ASSOCIATION.—The term ‘association’
2 means an organization maintained by or in the in-
3 terest of a group of carriers or brokers providing
4 transportation or service subject to jurisdiction
5 under chapter 135 that performs a service, or en-
6 gages in activities, related to transportation under
7 this part.

8 **“§ 14122. Records: form; inspection; preservation**

9 “(a) FORM OF RECORDS.—The Secretary or the
10 Panel, as applicable, may prescribe the form of records
11 required to be prepared or compiled under this subchapter
12 by carriers and brokers, including records related to move-
13 ment of traffic and receipts and expenditures of money.

14 “(b) RIGHT OF INSPECTION.—The Secretary or
15 Panel, or an employee designated by the Secretary or
16 Panel, may on demand and display of proper credentials—

17 “(1) inspect and examine the lands, buildings,
18 and equipment of a carrier or broker; and

19 “(2) inspect and copy any record of—

20 “(A) a carrier, broker, or association; and

21 “(B) a person controlling, controlled by, or
22 under common control with a carrier if the Sec-
23 retary or Panel, as applicable, considers inspec-
24 tion relevant to that person’s relation to, or
25 transaction with, that carrier.

1 “(c) PERIOD FOR PRESERVATION OF RECORDS.—
2 The Secretary or Panel, as applicable, may prescribe the
3 time period during which operating, accounting, and fi-
4 nancial records must be preserved by carriers and brokers.

5 **“§ 14123. Financial reporting**

6 “(a) IN GENERAL.—The Secretary shall require
7 Class I motor carriers, and may require Class II motor
8 carriers, to file with the Secretary annual financial and
9 safety reports, the form and substance of which shall be
10 prescribed by the Secretary; except that, at a minimum,
11 such reports shall include balance sheets and income state-
12 ments.

13 “(b) MATTERS TO BE COVERED.—In determining
14 the matters to be covered by any reports to be filed under
15 subsection (a), the Secretary shall consider—

16 “(1) safety needs;

17 “(2) the need to preserve confidential business
18 information and trade secrets and prevent competi-
19 tive harm;

20 “(3) private sector, academic, and public use of
21 information in the reports; and

22 “(4) the public interest.

23 “(c) EXEMPTION FROM PUBLIC RELEASE.—

24 “(1) IN GENERAL.—The Secretary shall allow,
25 upon request, a filer of a report under subsection (a)

1 that is not a publicly held corporation or that is not
2 subject to financial reporting requirements of the
3 Securities and Exchange Commission, an exemption
4 from the public release of such report.

5 “(2) PROCEDURE.—After a request under para-
6 graph (1) and notice and opportunity for comment
7 but no event later than 90 days after the date of
8 such request, the Secretary shall approve such re-
9 quest if the Secretary finds that the exemption re-
10 quested is necessary to avoid competitive harm and
11 to avoid the disclosure of information that qualifies
12 as a trade secret or privileged or confidential infor-
13 mation under section 552(b)(4) of title 5.

14 “(3) USE OF DATA FOR INTERNAL DOT PUR-
15 POSES.—If an exemption is granted under this sub-
16 section, nothing shall prevent the Secretary from
17 using data from reports filed under this subsection
18 for internal purposes of the Department of Trans-
19 portation or including such data in aggregate indus-
20 try statistics released for publication if such inclu-
21 sion would not render the filer’s data readily identi-
22 fiable.

23 “(4) PERIOD OF EXEMPTIONS.—Exemptions
24 granted under this subsection shall be for 3-year pe-
25 riods.

1 from the date of assignment, a trustee in a case
2 under title 11 from the date of filing of the petition
3 in that case, and a receiver in equity from the date
4 of appointment of the receiver.

5 “(3) SECURITY INTEREST.—The term ‘security
6 interest’ means an interest (including an interest es-
7 tablished by a conditional sales contract, mortgage,
8 equipment trust, or other lien or title retention con-
9 tract, or lease) in a motor vehicle when the interest
10 secures payment or performance of an obligation.

11 “(4) PERFECTION.—The term ‘perfection’, as
12 related to a security interest, means taking action
13 (including public filing, recording, notation on a cer-
14 tificate of title, and possession of collateral by the
15 secured party), or the existence of facts, required
16 under law to make a security interest enforceable
17 against general creditors and subsequent lien credi-
18 tors of a debtor, but does not include compliance
19 with requirements related only to the establishment
20 of a valid security interest between the debtor and
21 the secured party.

22 “(b) REQUIREMENTS FOR PERFECTION OF SECURITY
23 INTEREST.—A security interest in a motor vehicle owned
24 by, or in the possession and use of, a carrier registered
25 under section 13902 of this title and owing payment or

1 performance of an obligation secured by that security in-
2 terest is perfected in all jurisdictions against all general,
3 and subsequent lien, creditors of, and all persons taking
4 a motor vehicle by sale (or taking or retaining a security
5 interest in a motor vehicle) from, that carrier when—

6 “(1) a certificate of title is issued for a motor
7 vehicle under a law of a jurisdiction that requires or
8 permits indication, on a certificate or title, of a secu-
9 rity interest in the motor vehicle if the security in-
10 terest is indicated on the certificate;

11 “(2) a certificate of title has not been issued
12 and the law of the State where the principal place
13 of business of that carrier is located requires or per-
14 mits public filing or recording of, or in relation to,
15 that security interest if there has been such a public
16 filing or recording; and

17 “(3) a certificate of title has not been issued
18 and the security interest cannot be perfected under
19 paragraph (2) of this subsection, if the security in-
20 terest has been perfected under the law (including
21 the conflict of laws rules) of the State where the
22 principal place of business of that carrier is located.

1 **“§ 14302. Pooling and division of transportation or**
2 **earnings**

3 “(a) APPROVAL REQUIRED.—A carrier providing
4 transportation subject to jurisdiction under subchapter I
5 of chapter 135 may not agree or combine with another
6 such carrier to pool or divide traffic or services or any
7 part of their earnings without the approval of the Panel
8 under this section.

9 “(b) STANDARDS FOR APPROVAL.—The Panel may
10 approve and authorize an agreement or combination be-
11 tween or among motor carriers of passengers, or between
12 a motor carrier of passengers and a rail carrier of pas-
13 sengers if the carriers involved assent to the pooling or
14 division and the Panel finds that a pooling or division of
15 traffic, services, or earnings—

16 “(1) will be in the interest of better service to
17 the public or of economy of operation; and

18 “(2) will not unreasonably restrain competition.

19 “(c) PROCEDURE.—

20 “(1) APPLICATION.—Any motor carrier of prop-
21 erty may apply to the Panel for approval of an
22 agreement or combination with another such carrier
23 to pool or divide traffic or any services or any part
24 of their earnings by filing such agreement or com-
25 bination with the Panel not less than 50 days before
26 its effective date.

1 “(2) DETERMINATION OF IMPORTANCE AND RE-
2 STRAINT ON COMPETITION.—Prior to the effective
3 date of the agreement or combination, the Panel
4 shall determine whether the agreement or combina-
5 tion is of major transportation importance and
6 whether there is substantial likelihood that the
7 agreement or combination will unduly restrain com-
8 petition. If the Panel determines that neither of
9 these 2 factors exists, it shall, prior to such effective
10 date and without a hearing, approve and authorize
11 the agreement or combination, under such rules and
12 regulations as the Panel may issue, and for such
13 consideration between such carriers and upon such
14 terms and conditions as shall be found by the Panel
15 to be just and reasonable.

16 “(3) HEARING.—If the Panel determines either
17 that the agreement or combination is of major trans-
18 portation importance or that there is substantial
19 likelihood that the agreement or combination will
20 unduly restrain competition, the Panel shall hold a
21 hearing concerning whether the agreement or com-
22 bination will be in the interest of better service to
23 the public or of economy in operation and whether
24 it will unduly restrain competition and shall suspend
25 operation of such agreement or combination pending

1 such hearing and final decision thereon. After such
2 hearing, the Panel shall indicate to what extent it
3 finds that the agreement or combination will be in
4 the interest of better service to the public or of econ-
5 omy in operation and will not unduly restrain com-
6 petition and if assented to by all the carriers in-
7 volved, shall to that extent, approve and authorize
8 the agreement or combination, under such rules and
9 regulations as the Panel may issue, and for such
10 consideration between such carriers and upon such
11 terms and conditions as shall be found by the Panel
12 to be just and reasonable.

13 “(4) SPECIAL RULES FOR HOUSEHOLD GOODS
14 CARRIERS.—In the case of an application for Panel
15 approval of an agreement or combination between a
16 motor carrier providing transportation of household
17 goods and its agents to pool or divide traffic or serv-
18 ices or any part of their earnings, such agreement
19 or combination shall be presumed to be in the inter-
20 est of better service to the public and of economy in
21 operation and not to restrain competition unduly if
22 the practices proposed to be carried out under such
23 agreement or combination are the same as or similar
24 to practices carried out under agreements and com-
25 binations between motor carriers providing transpor-

1 tation of household goods to pool or divide traffic or
2 service of any part of their earnings approved by the
3 Interstate Commerce Commission before the effec-
4 tive date of this section.

5 “(5) STREAMLINING AND SIMPLIFYING.—The
6 Panel shall streamline, simplify, and expedite, to the
7 maximum extent practicable, the process (including
8 any paperwork) for submission and approval of ap-
9 plications under this section for agreements and
10 combinations between motor carriers providing
11 transportation of household goods and their agents.

12 “(d) CONDITIONS.—The Panel may impose condi-
13 tions governing the pooling or division and may approve
14 and authorize payment of a reasonable consideration be-
15 tween the carriers.

16 “(e) INITIATION OF PROCEEDING.—The Panel may
17 begin a proceeding under this section on its own initiative
18 or on application.

19 “(f) EFFECT OF APPROVAL.—A carrier may partici-
20 pate in an arrangement approved by or exempted by the
21 Panel under this section without the approval of any other
22 Federal, State, or municipal body. A carrier participating
23 in an approved or exempted arrangement is exempt from
24 the antitrust laws and from all other law, including State

1 and municipal law, as necessary to let that person carry
2 out the arrangement.

3 “(g) DEFINITIONS.—In this section, the following
4 definitions apply:

5 “(1) HOUSEHOLD GOODS.—The term ‘house-
6 hold goods’ has the meaning such term had under
7 section 10102(11) of this title, as in effect on the
8 day before the effective date of this section.

9 “(2) TRANSPORTATION.—The term ‘transporta-
10 tion’ means transportation that would be subject
11 to the jurisdiction of the Interstate Commerce Com-
12 mission under subchapter II of chapter 105 of this
13 title, as in effect on the day before such effective
14 date, if such subchapter were still in effect.

15 **“§ 14303. Consolidation, merger, and acquisition of**
16 **control of motor carriers of passengers**

17 “(a) APPROVAL REQUIRED.—The following trans-
18 actions involving motor carriers of passengers subject to
19 jurisdiction under subchapter I of chapter 135 may be car-
20 ried out only with the approval of the Panel:

21 “(1) Consolidation or merger of the properties
22 or franchises of at least 2 carriers into one operation
23 for the ownership, management, and operation of
24 the previously separately owned properties.

1 “(2) A purchase, lease, or contract to operate
2 property of another carrier by any number of car-
3 riers.

4 “(3) Acquisition of control of a carrier by any
5 number of carriers.

6 “(4) Acquisition of control of at least 2 carriers
7 by a person that is not a carrier.

8 “(5) Acquisition of control of a carrier by a per-
9 son that is not a carrier but that controls any num-
10 ber of carriers.

11 “(b) STANDARD FOR APPROVAL.—The Panel shall
12 approve and authorize a transaction under this section
13 when it finds the transaction is consistent with the public
14 interest. The Panel shall consider at least the following:

15 “(1) The effect of the proposed transaction on
16 the adequacy of transportation to the public.

17 “(2) The total fixed charges that result from
18 the proposed transaction.

19 “(3) The interest of carrier employees affected
20 by the proposed transaction.

21 The Panel may impose conditions governing the trans-
22 action.

23 “(c) DETERMINATION OF COMPLETENESS OF APPLI-
24 CATION.—Within 30 days after the date on which an ap-
25 plication is filed under this section, the Panel shall either

1 publish a notice of the application in the Federal Register
2 or reject the application if it is incomplete.

3 “(d) COMMENTS.—Written comments about an appli-
4 cation may be filed with the Panel within 45 days after
5 the date on which notice of the application is published
6 under subsection (c).

7 “(e) DEADLINES.—The Panel shall conclude evi-
8 dentiary proceedings by the 240th day after the date on
9 which notice of the application is published under sub-
10 section (c). The Panel shall issue a final decision by the
11 180th day after the conclusion of the evidentiary proceed-
12 ings. The Panel may extend a time period under this sub-
13 section; except that the total of all such extensions with
14 respect to any application shall not exceed 90 days.

15 “(f) EFFECT OF APPROVAL.—A carrier or corpora-
16 tion participating in or resulting from a transaction ap-
17 proved by the Panel under this section, or exempted by
18 the Panel from the application of this section pursuant
19 to section 13541, may carry out the transaction, own and
20 operate property, and exercise control or franchises ac-
21 quired through the transaction without the approval of a
22 State authority. A carrier, corporation, or person partici-
23 pating in the approved or exempted transaction is exempt
24 from the antitrust laws and from all other law, including
25 State and municipal law, as necessary to let that person

1 carry out the transaction, hold, maintain, and operate
 2 property, and exercise control or franchises acquired
 3 through the transaction.

4 “(g) LIMITATION ON APPLICABILITY.—This section
 5 shall not apply to transactions involving carriers whose ag-
 6 gregate gross operating revenues were not more than
 7 \$2,000,000 during a period of 12 consecutive months end-
 8 ing not more than 6 months before the date of the agree-
 9 ment of the parties.

10 **“CHAPTER 145—FEDERAL-STATE RELATIONS**

“Sec.

“14501. Federal authority over intrastate transportation.

“14502. Tax discrimination against motor carrier transportation property.

“14503. Withholding State and local income tax by certain carriers.

“14504. Registration of motor carriers by a State.

“14505. State tax.

11 **“§ 14501. Federal authority over intrastate transpor-**
 12 **tation**

13 “(a) MOTOR CARRIERS OF PASSENGERS.—No State
 14 or political subdivision thereof and no interstate agency
 15 or other political agency of 2 or more States shall enact
 16 or enforce any law, rule, regulation, standard, or other
 17 provision having the force and effect of law relating to
 18 scheduling of interstate or intrastate transportation (in-
 19 cluding discontinuance or reduction in the level of service)
 20 provided by motor carrier of passengers subject to juris-
 21 diction under subchapter I of chapter 135 of this title on
 22 an interstate route or relating to the implementation of

1 any change in the rates for such transportation or for any
2 charter transportation except to the extent that notice, not
3 in excess of 30 days, of changes in schedules may be re-
4 quired. This subsection shall not apply to intrastate com-
5 muter bus operations.

6 “(b) FREIGHT FORWARDERS AND BROKERS.—

7 “(1) GENERAL RULE.—Subject to paragraph
8 (2) of this subsection, no State or political subdivi-
9 sion thereof and no intrastate agency or other politi-
10 cal agency of 2 or more States shall enact or enforce
11 any law, rule, regulation, standard, or other provi-
12 sion having the force and effect of law relating to
13 intrastate rates, intrastate routes, or intrastate serv-
14 ices of any freight forwarder or broker.

15 “(2) CONTINUATION OF HAWAII’S AUTHOR-
16 ITY.—Nothing in this subsection and the amend-
17 ments made by the Surface Freight Forwarder De-
18 regulation Act of 1986 shall be construed to affect
19 the authority of the State of Hawaii to continue to
20 regulate a motor carrier operating within the State
21 of Hawaii.

22 “(c) MOTOR CARRIERS OF PROPERTY.—

23 “(1) GENERAL RULE.—Except as provided in
24 paragraphs (2) and (3), a State, political subdivision
25 of a State, or political authority of 2 or more States

1 may not enact or enforce a law, regulation, or other
2 provision having the force and effect of law related
3 to a price, route, or service of any motor carrier
4 (other than a carrier affiliated with a direct air car-
5 rier covered by section 41713(b)(4)) or any motor
6 private carrier, broker, or freight forwarder with re-
7 spect to the transportation of property.

8 “(2) MATTERS NOT COVERED.—Paragraph
9 (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
14 or weight of the motor vehicle or the hazardous
15 nature of the cargo, or the authority of a State
16 to regulate motor carriers with regard to mini-
17 mum amounts of financial responsibility relat-
18 ing to insurance requirements and self-insur-
19 ance authorization;

20 “(B) does not apply to the transportation
21 of 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 without the prior
3 consent or authorization of the owner or opera-
4 tor of the motor vehicle.

5 “(3) STATE STANDARD TRANSPORTATION PRAC-
6 TICES.—

7 “(A) CONTINUATION.—Paragraph (1) shall
8 not affect any authority of a State, political
9 subdivision of a State, or political authority of
10 2 or more States to enact or enforce a law, reg-
11 ulation, or other provision, with respect to the
12 intrastate transportation of property by motor
13 carriers, related to—

14 “(i) uniform cargo liability rules,
15 “(ii) uniform bills of lading or receipts
16 for property being transported,
17 “(iii) uniform cargo credit rules, or
18 “(iv) antitrust immunity for joint line
19 rates or routes, classifications, and mileage
20 guides,

21 if such law, regulation, or provision meets the
22 requirements of subparagraph (B).

23 “(B) REQUIREMENTS.—A law, regulation,
24 or provision of a State, political subdivision, or

1 political authority meets the requirements of
2 this subparagraph if—

3 “(i) the law, regulation, or provision
4 covers the same subject matter as, and
5 compliance with such law, regulation, or
6 provision is no more burdensome than
7 compliance with, a provision of this part or
8 a regulation issued by the Secretary or the
9 Panel under this part; and

10 “(ii) the law, regulation, or provision
11 only applies to a carrier upon request of
12 such carrier.

13 “(C) ELECTION.—Notwithstanding any
14 other provision of law, a carrier affiliated with
15 a direct air carrier through common controlling
16 ownership may elect to be subject to a law, reg-
17 ulation, or provision of a State, political sub-
18 division, or political authority under this para-
19 graph.

20 “(4) This subsection shall not apply with re-
21 spect to the State of Hawaii until August 22, 1997.

22 **“§ 14502. Tax discrimination against motor carrier**
23 **transportation property**

24 “(a) DEFINITIONS.—In this section, the following
25 definitions apply:

1 “(1) ASSESSMENT.—The term ‘assessment’
2 means valuation for a property tax levied by a taxing
3 district.

4 “(2) ASSESSMENT JURISDICTION.—The term
5 ‘assessment jurisdiction’ means a geographical area
6 in a State used in determining the assessed value of
7 property for ad valorem taxation.

8 “(3) MOTOR CARRIER TRANSPORTATION PROP-
9 erty.—The term ‘motor carrier transportation
10 property’ means property, as defined by the Sec-
11 retary, owned or used by a motor carrier providing
12 transportation in interstate commerce whether or
13 not such transportation is subject to jurisdiction
14 under subchapter I of chapter 135.

15 “(4) COMMERCIAL AND INDUSTRIAL PROP-
16 erty.—The term ‘commercial and industrial prop-
17 erty’ means property, other than transportation
18 property and land used primarily for agricultural
19 purposes or timber growing, devoted to a commercial
20 or industrial use, and subject to a property tax levy.

21 “(b) ACTS BURDENING INTERSTATE COMMERCE.—
22 The following acts unreasonably burden and discriminate
23 against interstate commerce and a State, subdivision of
24 a State, or authority acting for a State or subdivision of
25 a State may not do any of them:

1 “(1) EXCESSIVE VALUATION OF PROPERTY.—
2 Assess motor carrier transportation property at a
3 value that has a higher ratio to the true market
4 value of the motor carrier transportation property
5 than the ratio that the assessed value of other com-
6 mercial and industrial property in the same assess-
7 ment jurisdiction has to the true market value of the
8 other commercial and industrial property.

9 “(2) TAX ON ASSESSMENT.—Levy or collect a
10 tax on an assessment that may not be made under
11 paragraph (1).

12 “(3) AD VALOREM TAX.—Levy or collect an ad
13 valorem property tax on motor carrier transportation
14 property at a tax rate that exceeds the tax rate ap-
15 plicable to commercial and industrial property in the
16 same assessment jurisdiction.

17 “(c) JURISDICTION.—

18 “(1) IN GENERAL.—Notwithstanding section
19 1341 of title 28 and without regard to the amount
20 in controversy or citizenship of the parties, a district
21 court of the United States has jurisdiction, concur-
22 rent with other jurisdiction of courts of the United
23 States and the States, to prevent a violation of sub-
24 section (b) of this section.

1 “(2) LIMITATION IN RELIEF.—Relief may be
2 granted under this subsection only if the ratio of as-
3 sessed value to true market value of motor carrier
4 transportation property exceeds, by at least 5 per-
5 cent, the ratio of assessed value to true market value
6 of other commercial and industrial property in the
7 same assessment jurisdiction.

8 “(3) BURDEN OF PROOF.—The burden of proof
9 in determining assessed value and true market value
10 is governed by State law.

11 “(4) VIOLATION.—If the ratio of the assessed
12 value of other commercial and industrial property in
13 the assessment jurisdiction to the true market value
14 of all other commercial and industrial property can-
15 not be determined to the satisfaction of the district
16 court through the random-sampling method known
17 as a sales assessment ratio study (to be carried out
18 under statistical principles applicable to such a
19 study), the court shall find, as a violation of this sec-
20 tion—

21 “(A) an assessment of the motor carrier
22 transportation property at a value that has a
23 higher ratio to the true market value of the
24 motor carrier transportation property than the
25 assessment value of all other property subject

1 to a property tax levy in the assessment jurisdic-
2 tion has to the true market value of all such
3 other property; and

4 “(B) the collection of ad valorem property
5 tax on the motor carrier transportation prop-
6 erty at a tax rate that exceeds the tax ratio rate
7 applicable to taxable property in the taxing dis-
8 trict.

9 **“§ 14503. Withholding State and local income tax by**
10 **certain carriers**

11 “(a) SINGLE STATE TAX WITHHOLDING.—

12 “(1) IN GENERAL.—No part of the compensa-
13 tion paid by a motor carrier providing transportation
14 subject to jurisdiction under subchapter I of chapter
15 135 or by a motor private carrier to an employee
16 who performs regularly assigned duties in 2 or more
17 States as such an employee with respect to a motor
18 vehicle shall be subject to the income tax laws of any
19 State or subdivision of that State, other than the
20 State or subdivision thereof of the employee’s resi-
21 dence.

22 “(2) EMPLOYEE DEFINED.—In this subsection,
23 the term ‘employee’ has the meaning given such
24 term in section 31132.

25 “(b) SPECIAL RULES.—

1 “(1) CALCULATION OF EARNINGS.—In this sub-
2 section, an employee is deemed to have earned more
3 than 50 percent of pay in a State or subdivision of
4 that State in which the time worked by the employee
5 in the State or subdivision is more than 50 percent
6 of the total time worked by the employee while em-
7 ployed during the calendar year.

8 “(2) WATER CARRIERS.—A water carrier pro-
9 viding transportation subject to jurisdiction under
10 subchapter II of chapter 135 shall file income tax
11 information returns and other reports only with—

12 “(A) the State and subdivision of residence
13 of the employee (as shown on the employment
14 records of the carrier); and

15 “(B) the State and subdivision in which
16 the employee earned more than 50 percent of
17 the pay received by the employee from the car-
18 rier during the preceding calendar year.

19 “(3) APPLICABILITY TO SAILORS.—This sub-
20 section applies to pay of a master, officer, or sailor
21 who is a member of the crew on a vessel engaged in
22 foreign, coastwise, intercoastal, or noncontiguous
23 trade or in the fisheries of the United States.

24 “(c) FILING OF INFORMATION.—A motor and motor
25 private carrier withholding pay from an employee under

1 subsection (a) of this section shall file income tax informa-
2 tion returns and other reports only with the State and
3 subdivision of residence of the employee.

4 **“§ 14504. Registration of motor carriers by a State**

5 “(a) DEFINITIONS.—In this section, the terms
6 ‘standards’ and ‘amendments to standards’ mean the
7 specification of forms and procedures required by regula-
8 tions of the Secretary to prove the lawfulness of transpor-
9 tation by motor carrier referred to in section 13501.

10 “(b) GENERAL RULE.—The requirement of a State
11 that a motor carrier, providing transportation subject to
12 jurisdiction under subchapter I of chapter 135 and provid-
13 ing transportation in that State, must register with the
14 State is not an unreasonable burden on transportation re-
15 ferred to in section 13501 when the State registration is
16 completed under standards of the Secretary under sub-
17 section (c). When a State registration requirement im-
18 poses obligations in excess of the standards of the Sec-
19 retary, the part in excess is an unreasonable burden.

20 “(c) SINGLE STATE REGISTRATION SYSTEM.—

21 “(1) IN GENERAL.—The Secretary shall main-
22 tain standards for implementing a system under
23 which—

24 “(A) a motor carrier is required to register
25 annually with only one State by providing evi-

1 dence of its Federal registration under chapter
2 139;

3 “(B) the State of registration shall fully
4 comply with standards prescribed under this
5 section; and

6 “(C) such single State registration shall be
7 deemed to satisfy the registration requirements
8 of all other States.

9 “(2) SPECIFIC REQUIREMENTS.—

10 “(A) EVIDENCE OF FEDERAL REGISTRA-
11 TION; PROOF OF INSURANCE; PAYMENT OF
12 FEES.—Under the standards of the Secretary
13 implementing the single State registration sys-
14 tem described in paragraph (1) of this sub-
15 section, only a State acting in its capacity as
16 registration State under such single State sys-
17 tem may require a motor carrier registered by
18 the Secretary under this part—

19 “(i) to file and maintain evidence of
20 such Federal registration;

21 “(ii) to file satisfactory proof of re-
22 quired insurance or qualification as a self-
23 insurer;

24 “(iii) to pay directly to such State fee
25 amounts in accordance with the fee system

1 established under subparagraph (B)(iv) of
2 this paragraph, subject to allocation of fee
3 revenues among all States in which the
4 carrier operates and which participate in
5 the single State registration system; and

6 “(iv) to file the name of a local agent
7 for service of process.

8 “(B) RECEIPTS; FEE SYSTEM.—The stand-
9 ards of the Secretary—

10 “(i) shall require that the registration
11 State issue a receipt, in a form prescribed
12 under the standards, reflecting that the
13 carrier has filed proof of insurance as pro-
14 vided under subparagraph (A)(ii) of this
15 paragraph and has paid fee amounts in ac-
16 cordance with the fee system established
17 under clause (iv) of this subparagraph;

18 “(ii) shall require that copies of the
19 receipt issued under clause (i) of this sub-
20 paragraph be kept in each of the carrier’s
21 commercial motor vehicles;

22 “(iii) shall not require decals, stamps,
23 cab cards, or any other means of register-
24 ing or identifying specific vehicles operated
25 by the carrier;

1 “(iv) shall establish a fee system for
2 the filing of proof of insurance as provided
3 under subparagraph (A)(ii) of this para-
4 graph that—

5 “(I) is based on the number of
6 commercial motor vehicles the carrier
7 operates in a State and on the num-
8 ber of States in which the carrier op-
9 erates;

10 “(II) minimizes the costs of com-
11 plying with the registration system;
12 and

13 “(III) results in a fee for each
14 participating State that is equal to
15 the fee, not to exceed \$10 per vehicle,
16 that such State collected or charged
17 as of November 15, 1991; and

18 “(v) shall not authorize the charging
19 or collection of any fee for filing and main-
20 taining a certificate or permit under sub-
21 paragraph (A)(i) of this paragraph.

22 “(C) PROHIBITED FEES.—The charging or
23 collection of any fee under this section that is
24 not in accordance with the fee system estab-
25 lished under subparagraph (B)(iv) of this para-

1 graph shall be deemed to be a burden on inter-
2 state commerce.

3 “(D) LIMITATION ON PARTICIPATION BY
4 STATES.—Only a State which, as of January 1,
5 1991, charged or collected a fee for a vehicle
6 identification stamp or number under part 1023
7 of title 49, Code of Federal Regulations, shall
8 be eligible to participate as a registration State
9 under this subsection or to receive any fee reve-
10 nue under this subsection.

11 **“§ 14505. State tax**

12 “A State or political subdivision thereof may not col-
13 lect or levy a tax, fee, head charge, or other charge on—

14 “(1) a passenger traveling in interstate com-
15 merce by motor carrier;

16 “(2) the transportation of a passenger traveling
17 in interstate commerce by motor carrier;

18 “(3) the sale of passenger transportation in
19 interstate commerce by motor carrier; or

20 “(4) the gross receipts derived from such trans-
21 portation.

22 **“CHAPTER 147—ENFORCEMENT;**
23 **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.

1 **“§ 14701. General authority**

2 “(a) INVESTIGATIONS.—The Secretary or the Panel,
3 as applicable, may begin an investigation under this part
4 on the Secretary’s or the Panel’s own initiative or on com-
5 plaint. If the Secretary or Panel, as applicable, finds that
6 a carrier or broker is violating this part, the Secretary
7 or Panel, as applicable, shall take appropriate action to
8 compel compliance with this part. If the Secretary finds
9 that a foreign motor carrier or foreign motor private car-
10 rier is violating chapter 139, the Secretary shall take ap-
11 propriate action to compel compliance with that chapter.
12 The Secretary or Panel, as applicable, may take action
13 under this subsection only after giving the carrier or
14 broker notice of the investigation and an opportunity for
15 a proceeding.

16 “(b) COMPLAINTS.—A person, including a govern-
17 mental authority, may file with the Secretary or Panel,
18 as applicable, a complaint about a violation of this part
19 by a carrier providing, or broker for, transportation or
20 service subject to jurisdiction under this part or a foreign
21 motor carrier or foreign motor private carrier providing
22 transportation registered under section 13902 of this title.
23 The complaint must state the facts that are the subject

1 of the violation. The Secretary or Panel, as applicable,
2 may dismiss a complaint that it determines does not state
3 reasonable grounds for investigation and action.

4 “(c) DEADLINE.—A formal investigative proceeding
5 begun by the Secretary or Panel under subsection (a) of
6 this section is dismissed automatically unless it is con-
7 cluded with administrative finality by the end of the 3d
8 year after the date on which it was begun.

9 “(d) LIMITATION.—The Secretary and the Panel only
10 have authority under this section with respect to matters
11 within their respective jurisdictions under this part.

12 **“§ 14702. Enforcement by the regulatory authority**

13 “(a) IN GENERAL.—The Secretary or the Panel, as
14 applicable, may bring a civil action—

15 “(1) to enforce section 14103 of this title; or

16 “(2) to enforce this part, or a regulation or
17 order of the Secretary or Panel, as applicable, when
18 violated by a carrier or broker providing transpor-
19 tation or service subject to jurisdiction under sub-
20 chapter I or III of chapter 135 of this title or by
21 a foreign motor carrier or foreign motor private car-
22 rier providing transportation registered under sec-
23 tion 13902 of this title.

24 “(b) VENUE.—In a civil action under subsection
25 (a)(2) of this section—

1 “(1) trial is in the judicial district in which the
2 carrier, foreign motor carrier, foreign motor private
3 carrier, or broker operates;

4 “(2) process may be served without regard to
5 the territorial limits of the district or of the State
6 in which the action is instituted; and

7 “(3) a person participating with a carrier or
8 broker in a violation may be joined in the civil action
9 without regard to the residence of the person.

10 “(c) STANDING.—The Panel may bring or participate
11 in any civil action involving motor carrier undercharges.

12 **“§ 14703. Enforcement by the Attorney General**

13 “The Attorney General may, and on request of either
14 the Secretary or the Panel shall, bring court proceed-
15 ings—

16 “(1) to enforce this part or a regulation or
17 order of the Secretary or Panel or terms of registra-
18 tion under this part; and

19 “(2) to prosecute a person violating this part or
20 a regulation or order of the Secretary or Panel or
21 term of registration under this part.

22 **“§ 14704. Rights and remedies of persons injured by**
23 **carriers or brokers**

24 “(a) IN GENERAL.—

1 “(1) ENFORCEMENT OF ORDER.—A person in-
2 jured because a carrier or broker providing transpor-
3 tation or service subject to jurisdiction under chap-
4 ter 135 does not obey an order of the Secretary or
5 the Panel, as applicable, under this part, except an
6 order for the payment of money, may bring a civil
7 action to enforce that order under this subsection. A
8 person may bring a civil action for injunctive relief
9 for violations of sections 14102 and 14103.

10 “(2) DAMAGES FOR VIOLATIONS.—A carrier or
11 broker providing transportation or service subject to
12 jurisdiction under chapter 135 is liable for damages
13 sustained by a person as a result of an act or omis-
14 sion of that carrier or broker in violation of this
15 part.

16 “(b) LIABILITY AND DAMAGES FOR EXCEEDING
17 TARIFF RATE.—A carrier providing transportation or
18 service subject to jurisdiction under chapter 135 is liable
19 to a person for amounts charged that exceed the applicable
20 rate for transportation or service contained in a tariff in
21 effect under section 13702.

22 “(c) ELECTION.—

23 “(1) COMPLAINT TO DOT OR PANEL; CIVIL AC-
24 TION.—A person may file a complaint with the
25 Panel or the Secretary, as applicable, under section

1 14701(b) or bring a civil action under subsection (b)
2 to enforce liability against a carrier or broker pro-
3 viding transportation or service subject to jurisdic-
4 tion under chapter 135.

5 “(2) ORDER OF DOT OR PANEL.—

6 “(A) IN GENERAL.—When the Panel or
7 Secretary, as applicable, makes an award under
8 subsection (b) of this section, the Panel or Sec-
9 retary, as applicable, shall order the carrier to
10 pay the amount awarded by a specific date. The
11 Panel or Secretary, as applicable, may order a
12 carrier or broker providing transportation or
13 service subject to jurisdiction under chapter
14 135 to pay damages only when the proceeding
15 is on complaint.

16 “(B) ENFORCEMENT BY CIVIL ACTION.—

17 The person for whose benefit an order of the
18 Panel or Secretary requiring the payment of
19 money is made may bring a civil action to en-
20 force that order under this paragraph if the
21 carrier or broker does not pay the amount
22 awarded by the date payment was ordered to be
23 made.

24 “(d) PROCEDURE.—

1 “(1) IN GENERAL.—When a person begins a
2 civil action under subsection (b) of this section to
3 enforce an order of the Panel or Secretary requiring
4 the payment of damages by a carrier or broker pro-
5 viding transportation or service subject to jurisdic-
6 tion under chapter 135 of this title, the text of the
7 order of the Panel or Secretary must be included in
8 the complaint. In addition to the district courts of
9 the United States, a State court of general jurisdic-
10 tion having jurisdiction of the parties has jurisdic-
11 tion to enforce an order under this paragraph. The
12 findings and order of the Panel or Secretary are
13 competent evidence of the facts stated in them. Trial
14 in a civil action brought in a district court of the
15 United States under this paragraph is in the judicial
16 district in which the plaintiff resides or in which the
17 principal operating office of the carrier or broker is
18 located. In a civil action under this paragraph, the
19 plaintiff is liable for only those costs that accrue on
20 an appeal taken by the plaintiff.

21 “(2) PARTIES.—All parties in whose favor the
22 award was made may be joined as plaintiffs in a civil
23 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 joined as defendants. Trial in the action is in the ju-
2 dicial district in which any one of the plaintiffs could
3 bring the action against any one of the defendants.
4 Process may be served on a defendant at its prin-
5 cipal operating office when that defendant is not in
6 the district in which the action is brought. A judg-
7 ment ordering recovery may be made in favor of any
8 of those plaintiffs against the defendant found to be
9 liable to that plaintiff.

10 “(e) ATTORNEY’S FEES.—The district court shall
11 award a reasonable attorney’s fee under this section. The
12 district court shall tax and collect that fee as part of the
13 costs of the action.

14 **“§ 14705. Limitation on actions by and against car-**
15 **riers**

16 “(a) IN GENERAL.—A carrier providing transpor-
17 tation or service subject to jurisdiction under chapter 135
18 must begin a civil action to recover charges for transpor-
19 tation or service provided by the carrier within 18 months
20 after the claim accrues.

21 “(b) OVERCHARGES.—A person must begin a civil ac-
22 tion to recover overcharges within 18 months after the
23 claim accrues. If the claim is against a carrier providing
24 transportation subject to jurisdiction under chapter 135
25 and an election to file a complaint with the Panel or Sec-

1 retary, as applicable, is made under section 14704(c)(1),
2 the complaint must be filed within 3 years after the claim
3 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) within 2 years after the claim
7 accrues.

8 “(d) EXTENSIONS.—The limitation periods under
9 subsection (b) of this section are extended for 6 months
10 from the time written notice is given to the claimant by
11 the carrier of disallowance of any part of the claim speci-
12 fied in the notice if a written claim is given to the carrier
13 within those limitation periods. The limitation periods
14 under subsections (b) and (c) of this section are extended
15 for 90 days from the time the carrier begins a civil action
16 under subsection (a) to recover charges related to the
17 same transportation or service, or collects (without begin-
18 ning a civil action under that subsection) the charge for
19 that transportation or service if that action is begun or
20 collection is made within the appropriate period.

21 “(e) PAYMENT.—A person must begin a civil action
22 to enforce an order of the Panel or Secretary against a
23 carrier for the payment of money within 1 year after the
24 date the order required the money to be paid.

1 “(f) GOVERNMENT TRANSPORTATION.—This section
2 applies to transportation for the United States Govern-
3 ment. The time limitations under this section are ex-
4 tended, as related to transportation for or on behalf of
5 the United States Government, for 3 years from the later
6 of the date of—

7 “(1) payment of the rate for the transportation
8 or service involved;

9 “(2) subsequent refund for overpayment of that
10 rate; or

11 “(3) deduction made under section 3726 of title
12 31.

13 “(g) ACCRUAL DATE.—A claim related to a shipment
14 of property accrues under this section on delivery or ten-
15 der of delivery by the carrier.

16 **“§ 14706. Liability of carriers under receipts and bills**
17 **of lading**

18 “(a) GENERAL LIABILITY.—

19 “(1) MOTOR CARRIERS AND FREIGHT FOR-
20 WARDERS.—A carrier providing transportation or
21 service subject to jurisdiction under subchapter I or
22 III of chapter 135 shall issue a receipt or bill of lad-
23 ing for property it receives for transportation under
24 this part. That carrier and any other carrier that de-
25 livers the property and is providing transportation or

1 service subject to jurisdiction under subchapter I or
2 III of chapter 135 or chapter 105 are liable to the
3 person entitled to recover under the receipt or bill of
4 lading. The liability imposed under this paragraph is
5 for the actual loss or injury to the property caused
6 by (A) the receiving carrier, (B) the delivering car-
7 rier, or (C) another carrier over whose line or route
8 the property is transported in the United States or
9 from a place in the United States to a place in an
10 adjacent foreign country when transported under a
11 through bill of lading and, except in the case of a
12 freight forwarder, applies to property reconsigned or
13 diverted under a tariff under section 13702. Failure
14 to issue a receipt or bill of lading does not affect the
15 liability of a carrier. A delivering carrier is deemed
16 to be the carrier performing the line-haul transpor-
17 tation nearest the destination but does not include
18 a carrier providing only a switching service at the
19 destination.

20 “(2) FREIGHT FORWARDER.—A freight for-
21 warder is both the receiving and delivering carrier.
22 When a freight forwarder provides service and uses
23 a motor carrier providing transportation subject to
24 jurisdiction under subchapter I of chapter 135 to re-
25 ceive property from a consignor, the motor carrier

1 may execute the bill of lading or shipping receipt for
2 the freight forwarder with its consent. With the con-
3 sent of the freight forwarder, a motor carrier may
4 deliver property for a freight forwarder on the
5 freight forwarder's bill of lading, freight bill, or ship-
6 ping receipt to the consignee named in it, and re-
7 ceipt for the property may be made on the freight
8 forwarder's delivery receipt.

9 “(b) APPORTIONMENT.—The carrier issuing the re-
10 ceipt or bill of lading under subsection (a) of this section
11 or delivering the property for which the receipt or bill of
12 lading was issued is entitled to recover from the carrier
13 over whose line or route the loss or injury occurred the
14 amount required to be paid to the owners of the property,
15 as evidenced by a receipt, judgment, or transcript, and the
16 amount of its expenses reasonably incurred in defending
17 a civil action brought by that person.

18 “(c) SPECIAL RULES.—

19 “(1) LIMITATION OF LIABILITY.—A carrier may
20 limit liability imposed under subsection (a) by estab-
21 lishing rates for the transportation of property
22 (other than household goods) under which the liabil-
23 ity of the carrier for such property (A) is limited to
24 a value established by written or electronic declara-
25 tion of the shipper or by a mutual written agreement

1 between the carrier and shipper, or (B) is contained
2 in a schedule of rules and rates maintained by the
3 carrier and provided to the shipper upon request.
4 The schedule shall clearly state its dates of applica-
5 bility.

6 “(2) WATER CARRIERS.—If loss or injury to
7 property occurs while it is in the custody of a water
8 carrier, the liability of that carrier is determined by
9 its bill of lading and the law applicable to water
10 transportation. The liability of the initial or deliver-
11 ing carrier is the same as the liability of the water
12 carrier.

13 “(d) CIVIL ACTIONS.—

14 “(1) AGAINST DELIVERING CARRIER.—A civil
15 action under this section may be brought against a
16 delivering carrier in a district court of the United
17 States or in a State court. Trial, if the action is
18 brought in a district court of the United States is
19 in a judicial district, and if in a State court, is in
20 a State through which the defendant carrier oper-
21 ates.

22 “(2) AGAINST CARRIER RESPONSIBLE FOR
23 LOSS.—A civil action under this section may be
24 brought against the carrier alleged to have caused

1 the loss or damage, in the judicial district in which
2 such loss or damage is alleged to have occurred.

3 “(3) JURISDICTION OF COURTS.—A civil action
4 under this section may be brought in a United
5 States district court or in a State court.

6 “(4) JUDICIAL DISTRICT DEFINED.—In this
7 section, ‘judicial district’ means—

8 “(A) in the case of a United States district
9 court, a judicial district of the United States;
10 and

11 “(B) in the case of a State court, the ap-
12 plicable geographic area over which such court
13 exercises jurisdiction.

14 “(e) MINIMUM PERIOD FOR FILING CLAIMS.—

15 “(1) IN GENERAL.—A carrier may not provide
16 by rule, contract, or otherwise, a period of less than
17 9 months for filing a claim against it under this sec-
18 tion and a period of less than 2 years for bringing
19 a civil action against it under this section. The pe-
20 riod for bringing a civil action is computed from the
21 date the carrier gives a person written notice that
22 the carrier has disallowed any part of the claim
23 specified in the notice.

24 “(2) SPECIAL RULES.—For the purposes of this
25 subsection—

1 “(A) an offer of compromise shall not con-
2 stitute a disallowance of any part of the claim
3 unless the carrier, in writing, informs the claim-
4 ant that such part of the claim is disallowed
5 and provides reasons for such disallowance; and

6 “(B) communications received from a car-
7 rier’s insurer shall not constitute a disallowance
8 of any part of the claim unless the insurer, in
9 writing, informs the claimant that such part of
10 the claim is disallowed, provides reason for such
11 disallowance, and informs the claimant that the
12 insurer is acting on behalf of the carrier.

13 “(f) LIMITING LIABILITY OF HOUSEHOLD GOODS
14 CARRIERS TO DECLARED VALUE.—A carrier or group of
15 carriers subject to jurisdiction under subchapter I or III
16 of chapter 135 may petition the Panel to modify, elimi-
17 nate, or establish rates for the transportation of household
18 goods under which the liability of the carrier for that prop-
19 erty is limited to a value established by written declaration
20 of the shipper or by a written agreement.

21 “(g) MODIFICATIONS AND REFORMS.—

22 “(1) STUDY.—The Secretary shall conduct a
23 study to determine whether any modifications or re-
24 forms should be made to the loss and damage provi-
25 sions of this section.

1 “(2) FACTORS TO CONSIDER.—In conducting
2 the study, the Secretary, at a minimum, shall con-
3 sider—

4 “(A) the efficient delivery of transportation
5 services;

6 “(B) international and intermodal har-
7 mony;

8 “(C) the public interest; and

9 “(D) the interest of carriers and shippers.

10 “(3) REPORT.—Not later than 18 months after
11 the effective date of this section, the Secretary shall
12 submit to Congress a report on the results of the
13 study, together with any recommendations of the
14 Secretary (including legislative recommendations)
15 for implementing modifications or reforms identified
16 by the Secretary as being appropriate.

17 **“§ 14707. Private enforcement of registration require-**
18 **ment**

19 “(a) IN GENERAL.—If a person provides transpor-
20 tation by motor vehicle or service in clear violation of sec-
21 tion 13901–13904 or 13906, a person injured by the
22 transportation or service may bring a civil action to en-
23 force any such section. In a civil action under this sub-
24 section, trial is in the judicial district in which the person
25 who violated that section operates.

1 goods concerning damage or loss to the household goods
2 transported.

3 “(b) ARBITRATION REQUIREMENTS.—

4 “(1) PREVENTION OF SPECIAL ADVANTAGE.—

5 The arbitration that is offered must be designed to
6 prevent a carrier from having any special advantage
7 in any case in which the claimant resides or does
8 business at a place distant from the carrier’s prin-
9 cipal or other place of business.

10 “(2) NOTICE OF ARBITRATION PROCEDURE.—

11 The carrier must provide the shipper an adequate
12 notice of the availability of neutral arbitration, in-
13 cluding a concise easy-to-read, accurate summary of
14 the arbitration procedure, any applicable fees, and
15 disclosure of the legal effects of election to utilize ar-
16 bitration. Such notice must be given to persons for
17 whom household goods are to be transported by the
18 carrier before such goods are tendered to the carrier
19 for transportation.

20 “(3) PROVISION OF FORMS.—Upon request of a
21 shipper, the carrier must promptly provide such
22 forms and other information as are necessary for
23 initiating an action to resolve a dispute under arbi-
24 tration.

1 “(4) INDEPENDENCE OF ARBITRATOR.—Each
2 person authorized to arbitrate or otherwise settle
3 disputes must be independent of the parties to the
4 dispute and must be capable, as determined under
5 such regulations as the Secretary may issue, to re-
6 solve such disputes fairly and expeditiously. The car-
7 rier must ensure that each person chosen to settle
8 the disputes is authorized and able to obtain from
9 the shipper or carrier any material and relevant in-
10 formation to the extent necessary to carry out a fair
11 and expeditious decision making process.

12 “(5) LIMITATION ON FEES.—No fee of more
13 than \$25 may be charged a shipper for instituting
14 an arbitration proceeding under this subsection. The
15 arbitrator may determine which party shall pay the
16 cost or a portion of the cost of the arbitration pro-
17 ceeding.

18 “(6) REQUESTS.—The carrier must not require
19 the shipper to agree to utilize arbitration prior to
20 the time that a dispute arises. If the dispute involves
21 a claim for \$1,000 or less and the shipper requests
22 arbitration, such arbitration shall be binding on the
23 parties. If the dispute involves a claim for more than
24 \$1,000 and the shipper requests arbitration, such

1 arbitration shall be binding on the parties only if the
2 carrier agrees to arbitration.

3 “(7) ORAL PRESENTATION OF EVIDENCE.—The
4 arbitrator may provide for an oral presentation of a
5 dispute concerning transportation of household
6 goods by a party to the dispute (or a party’s rep-
7 resentative), but such oral presentation may be
8 made only if all parties to the dispute expressly
9 agree to such presentation and the date, time, and
10 location of such presentation.

11 “(8) DEADLINE FOR DECISION.—The arbitrator
12 must, as expeditiously as possible but at least within
13 60 days of receipt of written notification of the dis-
14 pute, render a decision based on the information
15 gathered; except that, in any case in which a party
16 to the dispute fails to provide in a timely manner
17 any information concerning such dispute which the
18 person settling the dispute may reasonably require
19 to resolve the dispute, the arbitrator may extend
20 such 60-day period for a reasonable period of time.
21 A decision resolving a dispute may include any rem-
22 edies appropriate under the circumstances, including
23 repair, replacement, refund, reimbursement for ex-
24 penses, and compensation for damages.

1 “(c) LIMITATION ON USE OF MATERIALS.—Materials
2 and information obtained in the course of a decision mak-
3 ing process to settle a dispute by arbitration under this
4 section may not be used to bring an action under section
5 14905.

6 “(d) ATTORNEY’S FEES TO SHIPPERS.—In any court
7 action to resolve a dispute between a shipper of household
8 goods and a carrier providing transportation or service
9 subject to jurisdiction under subchapter I or III of chapter
10 135 concerning the transportation of household goods by
11 such carrier, the shipper shall be awarded reasonable at-
12 torney’s fees if—

13 “(1) the shipper submits a claim to the carrier
14 within 120 days after the date the shipment is deliv-
15 ered or the date the delivery is scheduled, whichever
16 is later;

17 “(2) the shipper prevails in such court action;
18 and

19 “(3)(A) a decision resolving the dispute was not
20 rendered through arbitration under this section with-
21 in the period provided under subsection (b)(8) of
22 this section or an extension of such period under
23 such subsection; or

24 “(B) the court proceeding is to enforce a deci-
25 sion rendered through arbitration under this section

1 and is instituted after the period for performance
2 under such decision has elapsed.

3 “(e) ATTORNEY’S FEES TO CARRIERS.—In any court
4 action to resolve a dispute between a shipper of household
5 goods and a carrier providing transportation, or service
6 subject to jurisdiction under subchapter I or III of chapter
7 135 concerning the transportation of household goods by
8 such carrier, such carrier may be awarded reasonable at-
9 torney’s fees by the court only if the shipper brought such
10 action in bad faith—

11 “(1) after resolution of such dispute through
12 arbitration under this section; or

13 “(2) after institution of an arbitration proceed-
14 ing by the shipper to resolve such dispute under this
15 section but before—

16 “(A) the period provided under subsection
17 (b)(8) for resolution of such dispute (including,
18 if applicable, an extension of such period under
19 such subsection) ends; and

20 “(B) a decision resolving such dispute is
21 rendered.

22 “(f) LIMITATION OF APPLICABILITY TO COLLECT-
23 ON-DELIVERY TRANSPORTATION.—The provisions of this
24 section shall apply only in the case of collect-on-delivery
25 transportation of household goods.

1 “(g) REVIEW BY SECRETARY.—Not later than 36
2 months after the effective date of this section, the Sec-
3 retary shall complete a review of the dispute settlement
4 program established under this section. If, after notice and
5 opportunity for comment, the Secretary determines that
6 changes are necessary to such program to ensure the fair
7 and equitable resolution of disputes under this section, the
8 Secretary shall implement such changes and transmit a
9 report to Congress on such changes.

10 **“§ 14709. Tariff reconciliation rules for motor car-**
11 **riers of property**

12 “Subject to review and approval by the Panel, motor
13 carriers subject to jurisdiction under subchapter I of chap-
14 ter 135 (other than motor carriers providing transpor-
15 tation of household goods) and shippers may resolve, by
16 mutual consent, overcharge and under-charge claims re-
17 sulting from incorrect tariff provisions or billing errors
18 arising from the inadvertent failure to properly and timely
19 file and maintain agreed upon rates, rules, or classifica-
20 tions in compliance with section 13702 or, with respect
21 to transportation provided before the effective date of this
22 section, sections 10761 and 10762, as in effect on the day
23 before the effective date of this section. Resolution of such
24 claims among the parties shall not subject any party to
25 the penalties for departing from a tariff.

1 **“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 individ-
uals.

“14912. Weight-bumping in household goods transportation.

“14913. Conclusiveness of rates in certain prosecutions.

2 **“§ 14901. General civil penalties**

3 “(a) REPORTING AND RECORDKEEPING.—A person
4 required to make a report to the Secretary or the Panel,
5 answer a question, or make, prepare, or preserve a record
6 under this part concerning transportation subject to juris-
7 diction under subchapter I or III of chapter 135 or trans-
8 portation by a foreign carrier registered under section
9 13902, or an officer, agent, or employee of that person
10 that—

11 “(1) does not make the report;

12 “(2) does not specifically, completely, and
13 truthfully answer the question;

14 “(3) does not make, prepare, or preserve the
15 record in the form and manner prescribed;

16 “(4) does not comply with section 13901; or

17 “(5) does not comply with section 13902(c);

1 is liable to the United States Government for a civil pen-
2 alty of not less than \$500 for each violation and for each
3 additional day the violation continues; except that, in the
4 case of a person who is not registered under this part to
5 provide transportation of passengers, or an officer, agent,
6 or employee of such person, that does not comply with sec-
7 tion 13901 with respect to providing transportation of
8 passengers, the amount of the civil penalty shall not be
9 less than \$2,000 for each violation and for each additional
10 day the violation continues.

11 “(b) TRANSPORTATION OF HAZARDOUS WASTES.—
12 A person subject to jurisdiction under subchapter I of
13 chapter 135, or an officer, agent, or employee of that per-
14 son, and who is required to comply with section 13901
15 of this title but does not so comply with respect to the
16 transportation of hazardous wastes as defined by the En-
17 vironmental Protection Agency pursuant to section 3001
18 of the Solid Waste Disposal Act (but not including any
19 waste the regulation of which under the Solid Waste Dis-
20 posal Act has been suspended by Congress) shall be liable
21 to the United States for a civil penalty not to exceed
22 \$20,000 for each violation.

23 “(c) FACTORS TO CONSIDER IN DETERMINING
24 AMOUNT.—In determining and negotiating the amount of
25 a civil penalty under subsection (a) or (d) concerning

1 transportation of household goods, the degree of culpabil-
2 ity, any history of prior such conduct, the degree of harm
3 to shipper or shippers, ability to pay, the effect on ability
4 to do business, whether the shipper has been adequately
5 compensated before institution of the proceeding, and such
6 other matters as fairness may require shall be taken into
7 account.

8 “(d) PROTECTION OF HOUSEHOLD GOODS SHIP-
9 PERS.—If a carrier providing transportation of household
10 goods subject to jurisdiction under subchapter I or III of
11 chapter 135 or a receiver or trustee of such carrier fails
12 or refuses to comply with any regulation issued by the Sec-
13 retary or the Panel relating to protection of individual
14 shippers, such carrier, receiver, or trustee is liable to the
15 United States for a civil penalty of not less than \$1,000
16 for each violation and for each additional day during which
17 the violation continues.

18 “(e) VIOLATION RELATING TO TRANSPORTATION OF
19 HOUSEHOLD GOODS.—Any person that knowingly en-
20 gages in or knowingly authorizes an agent or other per-
21 son—

22 “(1) to falsify documents used in the transpor-
23 tation of household goods subject to jurisdiction
24 under subchapter I or III of chapter 135 which evi-
25 dence the weight of a shipment; or

1 “(2) to charge for accessorial services which are
2 not performed or for which the carrier is not entitled
3 to be compensated in any case in which such services
4 are not reasonably necessary in the safe and ade-
5 quate movement of the shipment;
6 is liable to the United States for a civil penalty of not
7 less than \$2,000 for each violation and of not less than
8 \$5,000 for each subsequent violation. Any State may bring
9 a civil action in the United States district courts to compel
10 a person to pay a civil penalty assessed under this sub-
11 section.

12 “(f) VENUE.—Trial in a civil action under sub-
13 sections (a) through (e) of this section is in the judicial
14 district in which—

15 “(1) the carrier or broker has its principal of-
16 fice;

17 “(2) the carrier or broker was authorized to
18 provide transportation or service under this part
19 when the violation occurred;

20 “(3) the violation occurred; or

21 “(4) the offender is found.

22 Process in the action may be served in the judicial district
23 of which the offender is an inhabitant or in which the of-
24 fender may be found.

1 **“§ 14902. Civil penalty for accepting rebates from car-**
2 **rier**

3 “A person—

4 “(1) delivering property to a carrier providing
5 transportation or service subject to jurisdiction
6 under chapter 135 for transportation under this part
7 or for whom that carrier will transport the property
8 as consignor or consignee for that person from a
9 State or territory or possession of the United States
10 to another State or possession, territory, or to a for-
11 eign country; and

12 “(2) knowingly accepting or receiving by any
13 means a rebate or offset against the rate for trans-
14 portation for, or service of, that property contained
15 in a tariff required under section 13702;

16 is liable to the United States Government for a civil pen-
17 alty in an amount equal to 3 times the amount of money
18 that person accepted or received as a rebate or offset and
19 3 times the value of other consideration accepted or re-
20 ceived as a rebate or offset. In a civil action under this
21 section, all money or other consideration received by the
22 person during a period of 6 years before an action is
23 brought under this section may be included in determining
24 the amount of the penalty, and if that total amount is
25 included, the penalty shall be 3 times that total amount.

1 **“§ 14903. Tariff violations**

2 “(a) CRIMINAL PENALTY FOR UNDERCHARGING.—A
3 person that knowingly offers, grants, gives, solicits, ac-
4 cepts, or receives by any means transportation or service
5 provided for property by a carrier subject to jurisdiction
6 under chapter 135 at less than the rate in effect under
7 section 13702 shall be fined at least \$1,000 but not more
8 than \$20,000, imprisoned for not more than 2 years, or
9 both.

10 “(b) GENERAL CRIMINAL PENALTY.—A carrier pro-
11 viding transportation or service subject to jurisdiction
12 under chapter 135 or an officer, director, receiver, trustee,
13 lessee, agent, or employee of a corporation that is subject
14 to jurisdiction under that chapter, that willfully does not
15 observe its tariffs as required under section 13702, shall
16 be fined at least \$1,000 but not more than \$20,000, im-
17 prisoned for not more than 2 years, or both.

18 “(c) ACTIONS OF AGENTS AND EMPLOYEES.—When
19 acting in the scope of their employment, the actions and
20 omissions of persons acting for or employed by a carrier
21 or shipper that is subject to this section are considered
22 to be the actions and omissions of that carrier or shipper
23 as well as that person.

24 “(d) VENUE.—Trial in a criminal action under this
25 section is in the judicial district in which any part of the

1 violation is committed or through which the transportation
2 is conducted.

3 **“§ 14904. Additional rate violations**

4 “(a) REBATES BY AGENTS.—A person, or an officer,
5 employee, or agent of that person, that—

6 “(1) knowingly offers, grants, gives, solicits, ac-
7 cepts, or receives a rebate for concession, in violation
8 of a provision of this part related to motor carrier
9 transportation subject to jurisdiction under sub-
10 chapter I of chapter 135; or

11 (2) by any means knowingly and willfully as-
12 sists or permits another person to get transportation
13 that is subject to jurisdiction under that subchapter
14 at less than the rate in effect for that transportation
15 under section 13702,

16 shall be fined at least \$200 for the first violation and at
17 least \$250 for a subsequent violation.

18 “(b) UNDERCHARGING.—

19 “(1) FREIGHT FORWARDER.—A freight for-
20 warder providing service subject to jurisdiction
21 under subchapter III of chapter 135, or an officer,
22 agent, or employee of that freight forwarder, that
23 knowingly and willfully assists a person in getting,
24 or willingly permits a person to get, service provided
25 under that subchapter at less than the rate in effect

1 for that service under section 13702, shall be fined
2 not more than \$500 for the first violation and not
3 more than \$2,000 for a subsequent violation.

4 “(2) OTHERS.—A person that knowingly and
5 willfully by any means gets, or attempts to get, serv-
6 ice provided under subchapter III of chapter 135 at
7 less than the rate in effect for that service under
8 section 13702, shall be fined not more than \$500 for
9 the first violation and not more than \$2,000 for a
10 subsequent violation.

11 **“§ 14905. Penalties for violations of rules relating to**
12 **loading and unloading motor vehicles**

13 “(a) CIVIL PENALTIES.—Any person who knowingly
14 authorizes, consents to, or permits a violation of sub-
15 section (a) or (b) of section 14103 or who knowingly vio-
16 lates subsection (a) of such section is liable to the United
17 States Government for a civil penalty of not more than
18 \$10,000 for each violation.

19 “(b) CRIMINAL PENALTIES.—Any person who know-
20 ingly violates section 14103(b) of this title shall be fined
21 not more than \$10,000, imprisoned for not more than 2
22 years, or both.

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
5 to evade regulation provided under this part for carriers
6 or brokers shall be fined at least \$200 for the first viola-
7 tion 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
14 person, 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 pre-
21 serve that record in the form and manner pre-
22 scribed;

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

25 “(5) knowingly and willfully files a false report
26 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,
5 or preserves a record in violation of an applicable
6 regulation 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 IN-
10 FORMATION.—

11 “(1) VIOLATIONS.—A carrier or broker provid-
12 ing 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 per-
18 son, except the shipper or consignee, and another
19 person may not solicit, or knowingly receive, infor-
20 mation about the nature, kind, quantity, destination,
21 consignee, or routing of property tendered or deliv-
22 ered to that carrier or broker for transportation pro-
23 vided under this part without the consent of the
24 shipper or consignee if that information may be used
25 to the detriment of the shipper or consignee or may

1 disclose improperly to a competitor the business
2 transactions 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
13 authority 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
18 mutual traffic accounts in the ordinary course of
19 business.

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
23 produce records shall be fined not less than \$5,000, im-
24 prisoned for 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
4 under this chapter, a person that knowingly and willfully
5 violates a provision of this part or a regulation or order
6 prescribed under this part, or a condition of a registration
7 under this part related to transportation that is subject
8 to jurisdiction under subchapter I or III of chapter 135
9 or a condition of a registration of a foreign motor carrier
10 or foreign motor private carrier under section 13902, shall
11 be fined at least \$500 for the first violation and at least
12 \$500 for a subsequent violation. A separate violation oc-
13 curs each day the violation continues.

14 **“§ 14911. Punishment of corporation for violations**
15 **committed by certain individuals**

16 “An act or omission that would be a violation of this
17 part if committed by a director, officer, receiver, trustee,
18 lessee, agent, or employee of a carrier providing transpor-
19 tation or service subject to jurisdiction under chapter 135
20 that is a corporation is also a violation of this part by
21 that corporation. The penalties of this chapter apply to
22 that violation. When acting in the scope of their employ-
23 ment, the actions and omissions of individuals acting for
24 or employed by that carrier are considered to be the ac-
25 tions and omissions of that carrier as well as that individ-
26 ual.

1 **“§ 14912. Weight-bumping in household goods trans-**
2 **portation**

3 “(a) WEIGHT-BUMPING DEFINED.—For the pur-
4 poses of this section, ‘weight-bumping’ means the knowing
5 and willful making or securing of a fraudulent weight on
6 a shipment of household goods which is subject to jurisdic-
7 tion 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, im-
11 prisoned 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
16 published or filed rate is conclusive proof against that car-
17 rier, its officers, and agents that it is the legal rate for
18 that transportation or service in a proceeding begun under
19 section 14902 or 14903. A departure, or offer to depart,
20 from that published or filed rate is a violation of those
21 sections.”.

22 **SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.**

23 (a) MULTIPLE INSURERS.—Section 31138(c) of title
24 49, United States Code, is amended by adding at the end
25 thereof the following new paragraph:

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 (b) MINIMUM FINANCIAL RESPONSIBILITY REQUIRE-
6 MENTS WITH RESPECT TO CERTAIN MASS TRANSPOR-
7 TATION SERVICE.—Section 31138(e) is amended—

8 (1) by striking “or” at the end of paragraph
9 (2);

10 (2) by striking the period at the end of para-
11 graph (3) and inserting “; or”; and

12 (3) by adding at the end the following:

13 “(4) providing mass transportation service with-
14 in a transit service area in other than urbanized
15 areas under an agreement with a State or local gov-
16 ernment funded, in whole or in part, with a grant
17 under section 5310 or 5311, including transpor-
18 tation designed and carried out to meet the special
19 needs of elderly individuals and individuals with dis-
20 abilities; provided that, in any case in which the
21 transit service area is located in more than 1 State,
22 the minimum level of financial responsibility for such
23 motor vehicle will be at least the highest level re-
24 quired for any of such States.”.

1 (c) TRANSPORTERS OF PROPERTY.—Section
2 31139(e) of such title is amended by adding at the end
3 thereof the following:

4 “(3) A motor carrier may obtain the required amount
5 of financial responsibility from more than one source pro-
6 vided the cumulative amount is equal to the minimum re-
7 quirements of this section.”.

8 (d) COMMERCIAL MOTOR VEHICLE DEFINED.—Sec-
9 tion 31132(1) of such title is amended—

10 (1) by redesignating subparagraph (C) as sub-
11 paragraph (D); and

12 (2) by striking subparagraph (B) and inserting
13 the following:

14 “(B) is designed or used to transport pas-
15 sengers for compensation, but excluding vehicles
16 providing taxicab service and having a capacity
17 of not more than 6 passengers and not operated
18 on a regular route or between specified places;

19 “(C) is designed or used to transport more
20 than 15 passengers, including the driver, and is
21 not used to transport passengers for compensa-
22 tion; or”.

23 (e) SELF-INSURANCE RULES.—The Secretary of
24 Transportation shall continue to enforce the rules and reg-
25 ulations of the Interstate Commerce Commission, as in ef-

1 fect on July 1, 1995, governing the qualifications for ap-
2 proval of a motor carrier as a self-insurer, until such time
3 as the Secretary finds it in the public interest to revise
4 such rules. The revised rules must provide for—

5 (1) continued ability of motor carriers to qualify
6 as self-insurers; and

7 (2) the continued qualification of all carriers
8 then so qualified under the terms and conditions set
9 by the Interstate Commerce Commission or Sec-
10 retary at the time of qualification.

11 (f) AUTOMOBILE TRANSPORTERS DEFINED.—The
12 Secretary of Transportation shall issue a regulation
13 amending the definition of automobile transporters under
14 part 658 of title 23, Code of Federal Regulations, to mean
15 any vehicle combination designed and used specifically for
16 the transport of assembled (capable of being driven) high-
17 way vehicles, race car transporters, or specialty trailers
18 designed for the racing industry with a 10-foot 1-inch
19 spread axle setting.

20 **SEC. 105. CREDITABILITY OF ANNUAL LEAVE FOR PUR-**
21 **POSES OF MEETING MINIMUM ELIGIBILITY**
22 **REQUIREMENTS FOR AN IMMEDIATE ANNU-**
23 **ITY.**

24 (a) IN GENERAL.—An employee of the Interstate
25 Commerce Commission who is separated from Govern-

1 ment service pursuant to the abolition of that agency
2 under section 101 shall, upon appropriate written applica-
3 tion, be given credit, for purposes of determining eligibility
4 for and computing the amount of any annuity under sub-
5 chapter III of chapter 83 or chapter 84 of title 5, United
6 States Code, for accrued annual leave standing to such
7 employee's credit at the time of separation.

8 (b) LIMITATION AND OTHER CONDITIONS.—Any reg-
9 ulations necessary to carry out this section shall be pre-
10 scribed by the Office of Personnel Management. Such reg-
11 ulations shall include provisions—

12 (1) defining the types of leave for which credit
13 may be given under this section (such definition to
14 be similar to the corresponding provisions of the reg-
15 ulations under section 351.608(c)(2) of title 5 of the
16 Code of Federal Regulations, as in effect on the date
17 of the enactment of this Act);

18 (2) limiting the amount of accrued annual leave
19 which may be used for the purposes specified in sub-
20 section (a) to the minimum period of time necessary
21 in order to permit such employee to attain first eligi-
22 bility for an immediate annuity under section 8336,
23 8412, or 8414 of title 5, United States Code (in a
24 manner similar to the corresponding provisions of
25 the regulations referred to in paragraph (1));

1 (3) under which contributions (or arrangements
2 for the making of contributions) shall be made so
3 that—

4 (A) employee contributions for any period
5 of leave for which retirement credit may be ob-
6 tained under this section shall be made by the
7 employee; and

8 (B) Government contributions with respect
9 to such period shall similarly be made by the
10 Interstate Commerce Commission or other ap-
11 propriate officer or entity (out of appropriations
12 otherwise available for such contributions); and

13 (4) under which subsection (a) shall not apply
14 with respect to an employee who declines a reason-
15 able offer of employment in another position in the
16 Department of Transportation made under this Act
17 or any amendment made by this Act.

18 (c) EXTINGUISHMENT OF ELIGIBILITY FOR LUMP-
19 SUM PAYMENT.—A lump-sum payment under section
20 5551 of title 5, United States Code, shall not be payable
21 with respect to any leave for which retirement credit is
22 obtained under this section.

1 **TITLE II—TRANSPORTATION**
 2 **ADJUDICATION PANEL**

3 **SEC. 201. TITLE 49 AMENDMENT.**

4 (a) AMENDMENT.—Subtitle I of title 49, United
 5 States Code, is amended by adding at the end the follow-
 6 ing new chapter:

7 **“CHAPTER 7—TRANSPORTATION**
 8 **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. Administrative support.
- “726. Definitions.

9 “SUBCHAPTER I—ESTABLISHMENT

10 **“§ 701. Establishment of Panel**

11 “(a) ESTABLISHMENT.—There is hereby established
 12 within the Department of Transportation the Transpor-
 13 tation Adjudication Panel.

14 “(b) MEMBERSHIP.—(1) The Panel shall consist of
 15 3 members, to be appointed by the President, by and with
 16 the advice and consent of the Senate. Not more than 2
 17 members may be appointed from the same political party.

1 “(2) At any given time, at least 2 members of the
2 Panel shall be individuals with professional standing and
3 demonstrated knowledge in the fields of transportation or
4 transportation regulation, and at least one member shall
5 be an individual with professional or business experience
6 in the private sector.

7 “(3) The term of each member of the Panel shall be
8 5 years and shall begin when the term of the predecessor
9 of that member ends. An individual appointed to fill a va-
10 cancy occurring before the expiration of the term for which
11 the predecessor of that individual was appointed, shall be
12 appointed for the remainder of that term. When the term
13 of office of a member ends, the member may continue to
14 serve until a successor is appointed and qualified, but for
15 a period not to exceed one year. The President may re-
16 move a member for inefficiency, neglect of duty, or malfea-
17 sance in office.

18 “(4) On the effective date of this section, the mem-
19 bers of the Interstate Commerce Commission then serving
20 unexpired terms shall become members of the Panel, to
21 serve for a period of time equal to the remainder of the
22 term for which they were originally appointed to the Inter-
23 state Commerce Commission.

24 “(5) No individual may serve as a member of the
25 Panel for more than 2 terms. In the case of an individual

1 who becomes a member of the Panel pursuant to para-
2 graph (4), or an individual appointed to fill a vacancy oc-
3 ccurring before the expiration of the term for which the
4 predecessor of that individual was appointed, such individ-
5 ual may not be appointed for more than one additional
6 term.

7 “(6) A member of the Panel may not have a pecu-
8 niary interest in, hold an official relation to, or own stock
9 in or bonds of, a carrier providing transportation by any
10 mode and may not engage in another business, vocation,
11 or employment.

12 “(7) A vacancy in the membership of the Panel does
13 not impair the right of the remaining members to exercise
14 all of the powers of the Panel. The Panel may designate
15 a member to act as Director during any period in which
16 there is no Director designated by the President.

17 “(c) DIRECTOR.—(1) There shall be at the head of
18 the Panel a Director, who shall be designated by the Presi-
19 dent from among the members of the Panel. The Director
20 shall receive compensation at the rate prescribed for level
21 III of the Executive Schedule under section 5314 of title
22 5.

23 “(2) Subject to the general policies, decisions, find-
24 ings, and determinations of the Panel the Director shall
25 be responsible for administering the Panel. The Director

1 may delegate the powers granted under this paragraph to
2 an officer, employee, or office of the Panel. The Director
3 shall—

4 “(A) appoint and supervise, other than regular
5 and full time employees in the immediate offices of
6 another member, the officers and employees of the
7 Panel, including attorneys to provide legal aid and
8 service to the Panel and its members, and to rep-
9 resent the Panel in any case in court;

10 “(B) appoint the heads of offices with the ap-
11 proval of the Panel;

12 “(C) distribute Panel responsibilities among of-
13 ficers and employees and offices of the Panel;

14 “(D) prepare requests for appropriations for
15 the Panel and submit those requests to the Presi-
16 dent and Congress with the prior approval of the
17 Panel; and

18 “(E) supervise the expenditure of funds allo-
19 cated by the Panel for major programs and pur-
20 poses.

21 **“§ 702. Functions**

22 “Except as otherwise provided in the ICC Termi-
23 nation Act of 1995, or the amendments made thereby, the
24 Panel shall perform all functions that, immediately before
25 the effective date of such Act, were functions of the Inter-

1 state Commerce Commission or were performed by any of-
2 ficer or employee of the Interstate Commerce Commission
3 in the capacity as such officer or employee.

4 **“§ 703. Administrative provisions**

5 “(a) EXECUTIVE REORGANIZATION.—Chapter 9 of
6 title 5, United States Code, shall apply to the Panel in
7 the same manner as it does to an independent regulatory
8 agency.

9 “(b) OPEN MEETINGS.—For purposes of section
10 552b of title 5, United States Code, the Panel shall be
11 deemed to be an agency.

12 “(c) INDEPENDENCE.—In the performance of their
13 functions, the members, employees, and other personnel
14 of the Panel shall not be responsible to or subject to the
15 supervision or direction of any officer, employee, or agent
16 of any other part of the Department of Transportation.

17 “(d) REPRESENTATION BY ATTORNEYS.—Attorneys
18 designated by the Director of the Panel may appear for,
19 and represent the Panel in, any civil action brought in con-
20 nection with any function carried out by the Panel pursu-
21 ant to this chapter or subtitle IV or as otherwise author-
22 ized by law.

23 “(e) ADMISSION TO PRACTICE.—Subject to section
24 500 of title 5, the Panel may regulate the admission of

1 individuals to practice before it and may impose a reason-
2 able admission fee.

3 “(f) BUDGET REQUESTS.—In each annual request
4 for appropriations by the President, the Secretary of
5 Transportation shall identify the portion thereof intended
6 for the support of the Panel and include a statement by
7 the Panel—

8 “(1) showing the amount requested by the
9 Panel in its budgetary presentation to the Secretary
10 and the Office of Management and Budget; and

11 “(2) an assessment of the budgetary needs of
12 the Panel.

13 “(g) DIRECT TRANSMITTAL TO CONGRESS.—The
14 Panel shall transmit to Congress copies of budget esti-
15 mates, requests, and information (including personnel
16 needs), legislative recommendations, prepared testimony
17 for congressional hearings, and comments on legislation
18 at the same time they are sent to the Secretary of Trans-
19 portation. An officer of an agency may not impose condi-
20 tions on or impair communications by the Panel with Con-
21 gress, or a committee or member of Congress, about the
22 information.

23 **“§ 704. Annual report**

24 “The Panel shall annually transmit to the Congress
25 a report on its activities.

1 **“§ 705. Authorization of appropriations**

2 “There are authorized to be appropriated to the Sec-
3 retary of Transportation for the activities of the Panel—

4 “(1) \$8,421,000 for fiscal year 1996;

5 “(2) \$12,000,000 for fiscal year 1997; and

6 “(3) \$12,000,000 for fiscal year 1998.

7 **“§ 706. Reporting official action**

8 “(a) The Panel shall make a written report of each
9 proceeding conducted on complaint or on its own initiative
10 and furnish a copy to each party to that proceeding. The
11 report shall include the findings, conclusions, and the
12 order of the Panel and, if damages are awarded, the find-
13 ings of fact supporting the award. The Panel may have
14 its reports published for public use. A published report
15 of the Panel is competent evidence of its contents.

16 “(b)(1) When action of the Panel in a matter related
17 to a rail carrier is taken by the Panel, an individual mem-
18 ber of the Panel, or another individual or group of individ-
19 uals designated to take official action for the Panel, the
20 written statement of that action (including a report, order,
21 decision and order, vote, notice, letter, policy statements,
22 or regulation) shall indicate—

23 “(A) the official designation of the individual or
24 group taking the action;

25 “(B) the name of each individual taking, or
26 participating in taking, the action; and

1 “(C) the vote or position of each participating
2 individual.

3 “(2) If an individual member of a group taking an
4 official action referred to in paragraph (1) of this sub-
5 section does not participate in it, the written statement
6 of the action shall indicate that the member did not par-
7 ticipate. An individual participating in taking an official
8 action is entitled to express the views of that individual
9 as part of the written statement of the action. In addition
10 to any publication of the written statement, it shall be
11 made available to the public under section 552(a) of title
12 5.

13 “SUBCHAPTER II—ADMINISTRATIVE

14 “§ 721. Powers

15 “(a) The Panel shall carry out this chapter and sub-
16 title IV. Enumeration of a power of the Panel in this chap-
17 ter or subtitle IV does not exclude another power the
18 Panel may have in carrying out this chapter or subtitle
19 IV. The Panel may prescribe regulations in carrying out
20 this chapter and subtitle IV.

21 “(b) The Panel may—

22 “(1) inquire into and report on the manage-
23 ment of the business of carriers providing, and bro-
24 kers for, transportation and services subject to sub-
25 title IV;

1 “(2) inquire into and report on the manage-
2 ment of the business of a person controlling, con-
3 trolled by, or under common control with those car-
4 riers or brokers to the extent that the business of
5 that person is related to the management of the
6 business of that carrier or broker;

7 “(3) obtain from those carriers, brokers, and
8 persons information the Panel decides is necessary
9 to carry out subtitle IV; and

10 “(4) when necessary to prevent irreparable
11 harm, issue an appropriate order without regard to
12 subchapter II of chapter 5 of title 5.

13 “(c)(1) The Panel may subpoena witnesses and
14 records related to a proceeding of the Panel from any
15 place in the United States, to the designated place of the
16 proceeding. If a witness disobeys a subpoena, the Panel,
17 or a party to a proceeding before the Panel, may petition
18 a court of the United States to enforce that subpoena.

19 “(2) The district courts of the United States have
20 jurisdiction to enforce a subpoena issued under this sec-
21 tion. Trial is in the district in which the proceeding is con-
22 ducted. The court may punish a refusal to obey a sub-
23 poena as a contempt of court.

24 “(d)(1) In a proceeding, the Panel may take the testi-
25 mony of a witness by deposition and may order the witness

1 to produce records. A party to a proceeding pending before
2 the Panel may take the testimony of a witness by deposi-
3 tion and may require the witness to produce records at
4 any time after a proceeding is at issue on petition and
5 answer.

6 “(2) If a witness fails to be deposed or to produce
7 records under paragraph (1) of this subsection, the Panel
8 may subpoena the witness to take a deposition, produce
9 the records, or both.

10 “(3) A deposition may be taken before a judge of a
11 court of the United States, a United States magistrate
12 judge, a clerk of a district court, or a chancellor, justice,
13 or judge of a supreme or superior court, mayor or chief
14 magistrate of a city, judge of a county court, or court of
15 common pleas of any State, or a notary public who is not
16 counsel or attorney of a party or interested in the proceed-
17 ing.

18 “(4) Before taking a deposition, reasonable notice
19 must be given in writing by the party or the attorney of
20 that party proposing to take a deposition to the opposing
21 party or the attorney of record of that party, whoever is
22 nearest. The notice shall state the name of the witness
23 and the time and place of taking the deposition.

24 “(5) The testimony of a person deposed under this
25 subsection shall be taken under oath. The person taking

1 the deposition shall prepare, or cause to be prepared, a
2 transcript of the testimony taken. The transcript shall be
3 subscribed by the deponent.

4 “(6) The testimony of a witness who is in a foreign
5 country may be taken by deposition before an officer or
6 person designated by the Panel or agreed on by the parties
7 by written stipulation filed with the Panel. A deposition
8 shall be filed with the Panel promptly.

9 “(e) Each witness summoned before the Panel or
10 whose deposition is taken under this section and the indi-
11 vidual taking the deposition are entitled to the same fees
12 and mileage paid for those services in the courts of the
13 United States.

14 **“§ 722. Panel action**

15 “(a) Unless otherwise provided in subtitle IV, the
16 Panel may determine, within a reasonable time, when its
17 actions, other than an action ordering the payment of
18 money, take effect.

19 “(b) An action of the Panel remains in effect under
20 its own terms or until superseded. The Panel may change,
21 suspend, or set aside any such action on notice. Notice
22 may be given in a manner determined by the Panel. A
23 court of competent jurisdiction may suspend or set aside
24 any such action.

1 “(c) The Panel may, at any time on its own initiative
2 because of material error, new evidence, or substantially
3 changed circumstances—

4 “(1) reopen a proceeding;

5 “(2) grant rehearing, reargument, or reconsid-
6 eration of an action of the Panel; or

7 “(3) change an action of the Panel.

8 An interested party may petition to reopen and reconsider
9 an action of the Panel under this subsection under regula-
10 tions of the Panel.

11 “(d) Notwithstanding subtitle IV, an action of the
12 Panel under this section is final on the date on which it
13 is served, and a civil action to enforce, enjoin, suspend,
14 or set aside the action may be filed after that date.

15 **“§ 723. Service of notice in Panel proceedings**

16 “(a) A carrier providing transportation subject to the
17 jurisdiction of the Panel under subtitle IV shall designate
18 an agent in the District of Columbia, on whom service of
19 notices in a proceeding before, and of actions of, the Panel
20 may be made.

21 “(b) A designation under subsection (a) of this sec-
22 tion shall be in writing and filed with the Panel.

23 “(c) Except as otherwise provided, notices of the
24 Panel shall be served on its designated agent at the office
25 or usual place of residence in the District of Columbia of

1 that agent. A notice of action of the Panel shall be served
2 immediately on the agent or in another manner provided
3 by law. If that carrier does not have a designated agent,
4 service may be made by posting the notice in the office
5 of the Panel.

6 “(d) In a proceeding involving the lawfulness of clas-
7 sifications, rates, or practices of a rail carrier that has
8 not designated an agent under this section, service of no-
9 tice of the Panel on an attorney in fact for the carrier
10 constitutes service of notice on the carrier.

11 **“§ 724. Service of process in court proceedings**

12 “(a) A carrier providing transportation subject to the
13 jurisdiction of the Panel under subtitle IV shall designate
14 an agent in the District of Columbia on whom service of
15 process in an action before a district court may be made.
16 Except as otherwise provided, process in an action before
17 a district court shall be served on the designated agent
18 of that carrier at the office or usual place of residence
19 in the District of Columbia of that agent. If the carrier
20 does not have a designated agent, service may be made
21 by posting the notice in the office of the Panel.

22 “(b) A designation under this section may be changed
23 at any time in the same manner as originally made.

1 **“§ 725. Administrative support**

2 “The Secretary of Transportation shall provide ap-
3 propriate administrative support for the Panel.

4 **“§ 726. Definitions**

5 “All terms used in this chapter that are defined in
6 subtitle IV shall have the meaning given those terms in
7 that subtitle.”.

8 (b) TABLE OF CHAPTERS AMENDMENT.—The table
9 of chapters of subtitle I of title 49, United States Code,
10 is 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
13 Panel (in this Act referred to as the “Panel”) may allocate
14 or reallocate any function of the Panel, consistent with
15 this title and subchapter I of chapter 7, as amended by
16 section 201 of this title, among the members or employees
17 of the Panel, and may establish, consolidate, alter, or dis-
18 continue in the Panel any organizational entities that were
19 entities of the Interstate Commerce Commission, as the
20 Director considers 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 or the Secretary by this
3 Act shall be available to the Panel or the Secretary at such
4 time and to such extent as the President directs for use
5 in connection with the functions transferred.

6 **SEC. 204. SAVING PROVISIONS.**

7 (a) LEGAL DOCUMENTS.—All orders, determinations,
8 rules, regulations, permits, grants, loans, contracts, agree-
9 ments, certificates, licenses, and privileges—

10 (1) that have been issued, made, granted, or al-
11 lowed to become effective by the President, the
12 Interstate Commerce Commission, any officer or em-
13 ployee of the Interstate Commerce Commission, or
14 any other Government official, or by a court of com-
15 petent jurisdiction, in the performance of any func-
16 tion that is transferred by this Act or the amend-
17 ments made by this Act; and

18 (2) that are in effect on the effective date of
19 such transfer (or become effective after such date
20 pursuant to their terms as in effect on such effective
21 date),

22 shall continue in effect according to their terms until
23 modified, terminated, superseded, set aside, or revoked in
24 accordance with law by the President, the Panel, any other
25 authorized official, a court of competent jurisdiction, or

1 operation of law. The Panel shall promptly rescind all reg-
2 ulations established by the Interstate Commerce Commis-
3 sion that are based on provisions of law repealed and not
4 substantively reenacted by this Act.

5 (b) PROCEEDINGS.—(1) Except as provided in para-
6 graph (2), the Panel shall assume responsibility for the
7 continuation of all proceedings pending before the Inter-
8 state Commerce Commission, and shall complete such pro-
9 ceedings in accordance with law and regulations as in ef-
10 fect before the date of the enactment of this Act.

11 (2) In the case of a proceeding under a provision of
12 law repealed, and not reenacted, by this Act, such proceed-
13 ing shall be terminated.

14 (c) SUITS.—(1) This Act shall not affect suits com-
15 menced before the date of the enactment of this Act, ex-
16 cept that the Panel shall assume the position of the Inter-
17 state Commerce Commission, and, except as provided in
18 paragraph (2), in all such suits, proceeding shall be had,
19 appeals taken, and judgments rendered in the same man-
20 ner and with the same effect as if this Act had not been
21 enacted.

22 (2) If the court in a suit described in paragraph (1)
23 remands a case to the Panel, subsequent proceedings re-
24 lated to such case shall proceed in accordance with appli-

1 cable law and regulations as in effect at the time of such
2 subsequent proceedings.

3 (d) EXERCISE OF AUTHORITIES.—Except as other-
4 wise provided by law, an officer or employee of the Panel
5 may, for purposes of performing a function transferred by
6 this Act or the amendments made by this Act, exercise
7 all authorities under any other provision of law that were
8 available with respect to the performance of that function
9 to the official responsible for the performance of the func-
10 tion immediately before the effective date of the transfer
11 of the function under this Act or the amendments made
12 by this Act.

13 **SEC. 205. REFERENCES.**

14 Any reference to the Interstate Commerce Commis-
15 sion in any other Federal law, Executive order, rule, regu-
16 lation, or delegation of authority, or any document of or
17 pertaining to the Interstate Commerce Commission or an
18 officer or employee of the Interstate Commerce Commis-
19 sion, is deemed to refer to the Panel or a member or em-
20 ployee of the Panel, as appropriate.

1 **TITLE III—CONFORMING**
2 **AMENDMENTS**
3 **Subtitle A—Amendments to United**
4 **States Code**

5 **SEC. 301. TITLE 5 AMENDMENTS.**

6 (a) COMPENSATION FOR POSITIONS AT LEVEL III.—
7 Section 5314 of title 5, United States Code, is amended
8 by striking “Chairman, Interstate Commerce Commis-
9 sion.” and inserting in lieu thereof “Director, Transpor-
10 tation Adjudication Panel.”.

11 (b) COMPENSATION FOR POSITIONS AT LEVEL IV.—
12 Section 5315 of title 5, United States Code, is amended
13 by striking “Members, Interstate Commerce Commis-
14 sion.” and inserting in lieu thereof “Members, Transpor-
15 tation Adjudication Panel.”.

16 **SEC. 302. TITLE 11 AMENDMENTS.**

17 Subchapter IV of chapter 11 of title 11, United
18 States Code, is amended—

19 (1) by amending section 1162 to read as fol-
20 lows:

21 **“§ 1162. Definition**

22 “In this subchapter, ‘Panel’ means the ‘Transpor-
23 tation Adjudication Panel.’”; and

24 (2) by striking “Commission” each place it ap-
25 pears and inserting in lieu thereof “Panel”.

1 **SEC. 303. TITLE 18 AMENDMENT.**

2 Section 6001(1) of title 18, United States Code, is
3 amended by striking “Interstate Commerce Commission”
4 and inserting in lieu thereof “Transportation Adjudication
5 Panel”.

6 **SEC. 304. INTERNAL REVENUE CODE OF 1986 AMEND-**
7 **MENTS.**

8 (a) SECTION 3231.—Section 3231 of the Internal
9 Revenue Code of 1986 is amended—

10 (1) by striking “Interstate Commerce Commis-

11 sion” in subsection (a) and inserting in lieu thereof

12 “Transportation Adjudication Panel”; and

13 (2) by striking “an express carrier, sleeping car

14 carrier, or” in subsection (g) and inserting in lieu

15 thereof “a”.

16 (b) SECTION 7701.—Section 7701 of the Internal
17 Revenue Code of 1986 is amended—

18 (1) in paragraph (33)(B), by striking “Federal

19 Power Commission” and inserting in lieu thereof

20 “Federal Energy Regulatory Commission”;

21 (2) in paragraph (33)(C)(i), by striking “Inter-

22 state Commerce Commission” and inserting in lieu

23 thereof “Transportation Adjudication Panel”;

24 (3) in paragraph (33)(C)(ii), by striking “Inter-

25 state Commerce Commission” and inserting in lieu

26 thereof “Federal Energy Regulatory Commission”;

1 (4) in paragraph (33)(F), by striking “Inter-
2 state Commerce Commission under subchapter III of
3 chapter 105” and inserting in lieu thereof “Trans-
4 portation Adjudication Panel under subchapter II of
5 chapter 135”;

6 (5) in paragraph (33)(G), by striking “sub-
7 chapter I of chapter 105” and inserting in lieu
8 thereof “part A of subtitle IV”; and

9 (6) in paragraph (33)(H), by striking “sub-
10 chapter I of chapter 105” and inserting in lieu
11 thereof “part A of subtitle IV”.

12 **SEC. 305. TITLE 28 AMENDMENTS.**

13 (a) CHAPTER 157 AMENDMENTS.—(1) Chapter 157
14 of title 28, United States Code, is amended—

15 (A) by striking “**INTERSTATE COM-**
16 **MERCE COMMISSION**” in the chapter head-
17 ing and inserting in lieu thereof “**TRANSPOR-**
18 **TATION ADJUDICATION PANEL**”;

19 (B) by striking “**Commission’s**” in the sec-
20 tion heading of section 2321 and inserting in lieu
21 thereof “**Panel’s**”;

22 (C) by striking “Interstate Commerce Commis-
23 sion” each place it appears and inserting in lieu
24 thereof “Transportation Adjudication Panel”; and

1 (D) by striking “Commission” each place it ap-
2 pears and inserting in lieu thereof “Panel”.

3 (2)(A) The item relating to chapter 157 in the table
4 of chapters of title 28, United States Code, is amended
5 by striking “Interstate Commerce Commission” and in-
6 serting in lieu thereof “Transportation Adjudication
7 Panel”.

8 (B) The item relating to section 2321 in the table
9 of sections of chapter 157 of title 28, United States Code,
10 is amended by striking “Commission’s” and inserting in
11 lieu thereof “Panel’s”.

12 (b) CHAPTER 158 AMENDMENTS.—Chapter 158 of
13 title 28, United States Code, is amended—

14 (1) by striking “the Interstate Commerce Com-
15 mission,” in section 2341(3)(A);

16 (2) by striking “and” at the end of section
17 2341(3)(C);

18 (3) by striking the period at the end of section
19 2341(3)(D) and inserting in lieu thereof “; and”;

20 (4) by inserting at the end of section 2341(3)
21 the following new subparagraph:

22 “(E) the Panel, when the order was en-
23 tered by the Transportation Adjudication
24 Panel.”; and

25 (5) in section 2342, by—

1 (A) inserting “or pursuant to part B of
2 subtitle IV of title 49, United States Code” be-
3 fore the semicolon at the end of paragraph
4 (3)(A); and

5 (B) striking paragraph (5) and inserting
6 the following:

7 “(5) all rules, regulations, or final orders of the
8 Transportation Adjudication Panel made reviewable
9 by section 2321 of this title; and”.

10 **SEC. 306. TITLE 39 AMENDMENTS.**

11 Title 39, United States Code, is amended—

12 (1) in section 5005(a)(4) by striking “5201(7)”
13 and inserting “5201(6)”;

14 (2) in section 5005(b)(3), by striking “Inter-
15 state Commerce Commission” and inserting in lieu
16 thereof “Transportation Adjudication Panel”; and

17 (3) in chapter 52—

18 (A) by amending paragraph (1) of section
19 5201 to read as follows:

20 “(1) ‘Panel’ means the Transportation Adju-
21 dication Panel;”;

22 (B) in section 5201(2) by striking “a
23 motor common carrier, or express carrier” and
24 inserting “or a motor carrier”;

25 (C) in section 5201(4)—

- 1 (i) by striking “common”; and
- 2 (ii) by striking “permit” and inserting
- 3 “registration”;
- 4 (D) in section 5201(5)—
- 5 (i) by striking “common” each place
- 6 it appears;
- 7 (ii) by striking “10102(14)” and in-
- 8 serting “13102(11)”;
- 9 (iii) by striking “certificate of public
- 10 convenience and necessity” and inserting
- 11 “registration”;
- 12 (E) by striking paragraph (6);
- 13 (F) by redesignating paragraphs (7) and
- 14 (8) as paragraphs (6) and (7), respectively;
- 15 (G) in section 5201(6), as so redesignated,
- 16 by striking “certificate of public convenience
- 17 and necessity” and inserting “certificate or reg-
- 18 istration;
- 19 (H) by striking subsection (f) of section
- 20 5203, and redesignating subsection (g) of such
- 21 section as subsection (f);
- 22 (I) in subsection (f) of section 5203, as so
- 23 redesignated by subparagraph (H) of this para-
- 24 graph—

1 (i) by striking “Commission” and in-
2 serting “Panel”; and

3 (ii) by striking “motor common car-
4 rier” each place it appears and inserting
5 “motor carrier;

6 (J) by striking “**Interstate Commerce**
7 **Commission**” in the section heading of sec-
8 tion 5207 and inserting in lieu thereof
9 “**Transportation Adjudication Panel**”;

10 (K) by striking “Commission’s” in sections
11 5208(a) and 5215(a) and inserting in lieu
12 thereof “Panel’s”;

13 (L) by striking “Commission” each place it
14 appears and inserting in lieu thereof “Panel”;

15 (M) in the item relating to section 5207 in
16 the table of sections, by striking “Interstate
17 Commerce Commission” and inserting in lieu
18 thereof “Transportation Adjudication Panel”;
19 and

20 (N) in section 5215(a) by striking “motor
21 common carrier” and inserting “motor carrier”.

22 **SEC. 307. TITLE 49 AMENDMENTS.**

23 Title 49, United States Code, is amended—

1 (1) in section 22106(e)(1) by striking “an ap-
2 plication for abandonment of” and inserting in lieu
3 thereof “a notice of intent to abandon”; and

4 (2) by repealing subsection (d) of section
5 24705.

6 **Subtitle B—Other Amendments**

7 **SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938** 8 **AMENDMENT.**

9 Section 201 of the Agricultural Adjustment Act of
10 1938 (7 U.S.C. 1291) is amended—

11 (1) by striking “Interstate Commerce Commis-
12 sion” each place it appears and inserting in lieu
13 thereof “Transportation Adjudication Panel”;

14 (2) by striking “Commission” each place it ap-
15 pears and inserting in lieu thereof “Panel”; and

16 (3) by striking “Commission’s” in subsection
17 (b) and inserting in lieu thereof “Panel’s”.

18 **SEC. 312. ANIMAL WELFARE ACT AMENDMENT.**

19 Section 15(a) of the Animal Welfare Act (7 U.S.C.
20 2145(a)) is amended by striking “Interstate Commerce
21 Commission” and inserting in lieu thereof “Transpor-
22 tation Adjudication Panel”.

1 **SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971**
2 **AMENDMENTS.**

3 Section 401 of the Federal Election Campaign Act
4 of 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
9 shall each maintain”; and

10 (2) by inserting “or Panel” 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
14 (15 U.S.C. 1681s(b)(4)) is amended by striking “Inter-
15 state Commerce Commission with respect to any common
16 carrier subject to those Acts” and inserting in lieu thereof
17 “Secretary of Transportation, with respect to all carriers
18 subject to the jurisdiction of the Transportation Adjudica-
19 tion Panel”.

20 **SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

21 Section 704(a)(4) of the Equal Credit Opportunity
22 Act (15 U.S.C. 1691c(a)(4)) is amended by striking
23 “Interstate Commerce Commission with respect to any
24 common carrier subject to those Acts” and inserting in
25 lieu thereof “Secretary of Transportation, with respect to

1 all carriers subject to the jurisdiction of the Transpor-
2 tation Adjudication Panel”.

3 **SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMEND-**
4 **MENT.**

5 Section 814(b)(4) of the Fair Debt Collection Prac-
6 tices Act (15 U.S.C. 1692l(b)(4)) is amended by striking
7 “Interstate Commerce Commission with respect to any
8 common carrier subject to those Acts” and inserting in
9 lieu thereof “Secretary of Transportation, with respect to
10 all carriers subject to the jurisdiction of the Transpor-
11 tation Adjudication 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 Inter-
16 state Commerce Commission” and inserting in
17 lieu thereof “Director of the Transportation
18 Adjudication 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
22 Commerce 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
3 Commission” and inserting in lieu thereof
4 “Transportation Adjudication Panel”; and

5 (B) by inserting “, Panel,” 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 appli-
9 cable to common carriers subject to the Interstate
10 Commerce Act, as amended” and inserting in lieu
11 thereof “Transportation Adjudication Panel where
12 applicable to common carriers subject to subtitle IV
13 of title 49, United States Code”; and

14 (3) in section 16 (15 U.S.C. 22), by striking
15 “in equity for injunctive relief” and all that follows
16 through “Interstate Commerce Commission” and in-
17 serting 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
23 1978 (5 U.S.C. App.) is amended by striking “the Inter-
24 state 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
11 Commission” both places it appears and insert-
12 ing in lieu thereof “Transportation Adjudica-
13 tion Panel”; and

14 (B) by striking “commission” and insert-
15 ing in lieu thereof “Panel”; and

16 (2) in section 28 (46 U.S.C. App. 884)—

17 (A) by striking “Interstate Commerce
18 Commission” and inserting in lieu thereof
19 “Transportation 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 Inter-

1 state Commerce Act” in the first paragraph and in-
2 sserting in lieu thereof “railroad subject to the juris-
3 diction of 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 diction 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
23 of the Board” in subsection (a)(2)(ii) and inserting
24 in lieu thereof “Transportation Adjudication Panel

1 is hereby authorized and directed upon request of
2 the Railroad Retirement Board”; and

3 (3) by inserting “the Transportation Adjudica-
4 tion Panel,” after “the Interstate Commerce Com-
5 mission,” in subsection (o).

6 **SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT**
7 **AMENDMENTS.**

8 The Railroad Unemployment Insurance Act is
9 amended—

10 (1) by striking “Interstate Commerce Commis-
11 sion is hereby authorized and directed upon request
12 of the Board” in section 1(a) (45 U.S.C. 351(a))
13 and inserting in lieu thereof “Transportation Adju-
14 dication Panel is hereby authorized and directed
15 upon request 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
19 the jurisdiction of the Transportation Adjudication Panel
20 under part A of subtitle IV of title 49, United States
21 Code.”;

22 and

23 (3) by striking “Interstate Commerce Commis-
24 sion, adjusted, as determined by the Board” in sec-
25 tion 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in

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.
6 744(d)(3))—

7 (A) by striking “this title,” and all that
8 follows through “(A) shall take” and inserting
9 in lieu thereof “this title, the Commission shall
10 take”; and

11 (B) by striking “this subsection; and” and
12 all that follows through “205(d)(6) of this Act”
13 and inserting in lieu thereof “this subsection”;
14 and

15 (2) in section 707 (45 U.S.C. 797f)—

16 (A) by inserting “(a)” at the beginning of
17 the text; and

18 (B) by adding at the end the following new
19 subsections:

20 “(b) Notwithstanding any other provision of this Act
21 or any agreement or arrangement in effect as of the date
22 of the enactment of this subsection, the Corporation may
23 not sell or transfer ownership or management, in whole
24 or in part, of any facility acquired by the Corporation
25 under this Act that is used for the repair, rehabilitation,
26 or maintenance of cars or locomotives, without first ob-

1 taining the express consent of the authorized representa-
2 tives of the employees at such facility covered by collective
3 bargaining agreements. Any transaction undertaken in
4 violation of this subsection or subsection (c) shall be con-
5 sidered in violation of section 6 of the Railway Labor Act,
6 and shall be actionable as such.

7 “(c) Notwithstanding any other provision of this Act
8 or any agreement or arrangement in effect as of the date
9 of the enactment of this subsection, any transfer by the
10 Corporation of ownership, in whole or in part, other than
11 for scrappage, of a car or locomotive that was repaired,
12 rehabilitated, or maintained, before the date of the enact-
13 ment of this subsection, at a facility acquired by the Cor-
14 poration under this Act, without first obtaining the ex-
15 press consent of the authorized representatives of the em-
16 ployees at the Corporation’s principal maintenance facility
17 covered by collective bargaining agreements, is prohib-
18 ited.”.

19 **SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT**
20 **AMENDMENT.**

21 Section 18 of the Milwaukee Railroad Restructuring
22 Act (45 U.S.C. 916) is repealed.

1 **SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EM-**
2 **PLOYEE ASSISTANCE ACT AMENDMENTS.**

3 The Rock Island Railroad Transition and Employee
4 Assistance Act is amended—

5 (1) in section 104(a) (45 U.S.C. 1003(a)) by
6 striking “section 11125 of title 49, United States
7 Code, or”; and

8 (2) by repealing section 120 (45 U.S.C. 1015).

9 **SEC. 330. RAILROAD REVITALIZATION AND REGULATORY**
10 **REFORM ACT OF 1976 AMENDMENTS.**

11 The Railroad Revitalization and Regulatory Reform
12 Act of 1976 is amended—

13 (1) in section 505(a)(3) (45 U.S.C.
14 825(a)(3))—

15 (A) by striking “A financially responsible
16 person (as defined in section 10910(a)(1) of
17 title 49, United States Code)” and inserting in
18 lieu thereof “(A) A financially responsible per-
19 son”; and

20 (B) by inserting at the end the following
21 new subparagraph:

22 “(B) For purposes of this paragraph, the term ‘finan-
23 cially responsible person’ means a person who (i) is capa-
24 ble of paying the constitutional minimum value of the rail-
25 road line proposed to be acquired, and (ii) is able to assure
26 that adequate transportation will be provided over such

1 line for a period of not less than 3 years. Such term in-
2 cludes a governmental authority but does not include a
3 class I or class II rail carrier.”;

4 (2) in section 509(b) (45 U.S.C. 829(b)) by
5 striking paragraph (2); and

6 (3) in section 510 (45 U.S.C. 830) by striking
7 “the provisions of section 20a of the Interstate Com-
8 merce Act (49 U.S.C. 20a), nor”.

9 **SEC. 331. SERVICE CONTRACT ACT OF 1965 AMENDMENT.**

10 Section 7(3) of the Service Contract Act of 1965 (41
11 U.S.C. 356(3)) is amended by striking “where published
12 tariff rates are in effect”.

13 **SEC. 332. FISCAL YEAR 1982 CONTINUING RESOLUTION**
14 **AMENDMENT.**

15 Section 115 of the Joint Resolution entitled “Joint
16 Resolution making further continuing appropriations for
17 the fiscal year 1982, and for other purposes” (Public Law
18 97–92; 95 Stat. 1196) is repealed.

19 **SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORK-**
20 **ER PROTECTION ACT.**

21 Section 401(b) of the Migrant and Seasonal Agricul-
22 tural Worker Protection Act (29 U.S.C. 1841(b)) is
23 amended by—

24 (1) striking “part II of the Interstate Com-
25 merce Act (49 U.S.C. 301 et seq.), or any successor

1 provision of” in paragraph (2)(C) and inserting
2 “part B of”; and

3 (2) striking “common carriers of passengers
4 under part II of the Interstate Commerce Act (49
5 U.S.C. 301 et seq.), and any successor provision of”
6 in paragraph (3) and inserting “carriers of pas-
7 sengers under part B of”.

8 **SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHOR-**
9 **IZATION ACT OF 1994.**

10 Section 601(d) of the Federal Aviation Administra-
11 tion Authorization Act of 1994 (Public Law 103–305) is
12 amended by striking all after “subsection (c)” and insert-
13 ing “shall not take effect as long as section 14501(b)(2)
14 of title 49, United States Code, applies to that State.”.

15 **SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHOR-**
16 **ITY.**

17 (a) REPEAL OF INTERCOASTAL SHIPPING ACT,
18 1933.—The Act of March 3, 1933 (Chapter 199; 46 App.
19 U.S.C. 843 et seq.), commonly referred to as the
20 Intercoastal Shipping Act, 1933, is repealed effective Sep-
21 tember 30, 1996.

22 (b) REPEAL OF PROVISIONS OF SHIPPING ACT,
23 1916.—The following provisions of the Shipping Act,
24 1916, are repealed effective September 30, 1996:

25 (1) Section 3 (46 U.S.C. App. 804).

- 1 (2) Section 14 (46 U.S.C. App. 812).
- 2 (3) Section 15 (46 U.S.C. App. 814).
- 3 (4) Section 16 (46 U.S.C. App. 815).
- 4 (5) Section 17 (46 U.S.C. App. 816).
- 5 (6) Section 18 (46 U.S.C. App. 817).
- 6 (7) Section 19 (46 U.S.C. App. 818).
- 7 (8) Section 20 (46 U.S.C. App. 819).
- 8 (9) Section 21 (46 U.S.C. App. 820).
- 9 (10) Section 22 (46 U.S.C. App. 821).
- 10 (11) Section 23 (46 U.S.C. App. 822).
- 11 (12) Section 24 (46 U.S.C. App. 823).
- 12 (13) Section 25 (46 U.S.C. App. 824).
- 13 (14) Section 27 (46 U.S.C. App. 826).
- 14 (15) Section 29 (46 U.S.C. App. 828).
- 15 (16) Section 30 (46 U.S.C. App. 829).
- 16 (17) Section 31 (46 U.S.C. App. 830).
- 17 (18) Section 32 (46 U.S.C. App. 831).
- 18 (19) Section 33 (46 U.S.C. App. 832).
- 19 (20) Section 35 (46 U.S.C. App. 833a).
- 20 (21) Section 43 (46 U.S.C. App. 841a).
- 21 (22) Section 45 (46 U.S.C. App. 841c).

1 **SEC. 336. DEPARTMENT OF TRANSPORTATION AND RELAT-**
2 **ED AGENCIES APPROPRIATION ACT, 1982**
3 **AMENDMENT.**

4 Section 402 of the Department of Transportation and
5 Related Agencies Appropriation Act, 1982 (Public Law
6 97-102; 95 Stat. 1465) is repealed.

Passed the House of Representatives November 14,
1995.

Attest:

Clerk.