

law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

(f) EFFECT OF LAND-USE EXEMPTION.—If the Board grants a land-use exemption to a solid waste rail transfer facility, all State laws, regulations, orders, or other requirements affecting the siting of a facility are preempted with regard to that facility. An exemption may require compliance with such State laws, regulations, orders, or other requirements.

(g) INJUNCTIVE RELIEF.—Nothing in this section precludes a person from seeking an injunction to enjoin a solid waste rail transfer facility from being constructed or operated by or on behalf of a rail carrier if that facility has materially violated, or will materially violate, its land-use exemption or if it failed to receive a valid land-use exemption under this section.

(h) FEES.—The Board may charge permit applicants reasonable fees to implement this section, including the costs of third-party consultants.

(i) DEFINITIONS.—In this section the terms “solid waste”, “solid waste rail transfer facility”, and “State requirements” have the meaning given such terms in section 10908(e).

(Added Pub. L. 110-432, div. A, title VI, § 604(a), Oct. 16, 2008, 122 Stat. 4903.)

REFERENCES IN TEXT

The date of enactment of the Clean Railroads Act of 2008, referred to in subsecs. (a)(2), (b), and (e), is the date of enactment of title VI of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

Public Law 108-421, referred to in subsec. (c)(2), is Pub. L. 108-421, Nov. 30, 2004, 118 Stat. 2375, known as the Highlands Conservation Act, which is not classified to the Code.

PRIOR PROVISIONS

For prior section 10909, see note set out under section 10907 of this title.

§ 10910. Effect on other statutes and authorities

Nothing in section 10908 or 10909 is intended to affect the traditional police powers of the State to require a rail carrier to comply with State and local environmental, public health, and public safety standards that are not unreasonably burdensome to interstate commerce and do not discriminate against rail carriers.

(Added Pub. L. 110-432, div. A, title VI, § 605(a), Oct. 16, 2008, 122 Stat. 4905.)

PRIOR PROVISIONS

For prior section 10910, see note set out under section 10907 of this title.

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SUBCHAPTER I—GENERAL REQUIREMENTS

§ 11101. Common carrier transportation, service, and rates

(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall provide the transportation or service on reasonable request. A rail carrier shall not be found to have violated this section because it fulfills its reasonable commitments under contracts authorized under section 10709 of this title before responding to reasonable requests for service. Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

(b) A rail carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a rail carrier to a request for the carrier's rates and other service terms shall be—

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

(2) promptly made available in electronic form.

(c) A rail carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—

(1) has requested such rates or terms under subsection (b); or

(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

(d) With respect to transportation of agricultural products, in addition to the requirements of subsections (a), (b), and (c), a rail carrier shall publish, make available, and retain for public inspection its common carrier rates, schedules of rates, and other service terms, and any proposed and actual changes to such rates and service terms. For purposes of this subsection, agricultural products shall include grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and all products thereof, and fertilizer.

(e) A rail carrier shall provide transportation or service in accordance with the rates and serv-

ice terms, and any changes thereto, as published or otherwise made available under subsection (b), (c), or (d).

(f) The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. Final regulations shall be adopted by the Board not later than 180 days after January 1, 1996.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 830; amended Pub. L. 104-287, §5(25), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

A prior section 11101, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1419; Pub. L. 96-258, §1(10), June 3, 1980, 94 Stat. 426; Pub. L. 96-448, title II, §222, Oct. 14, 1980, 94 Stat. 1929; Pub. L. 99-521, §9(a), Oct. 22, 1986, 100 Stat. 2997; Pub. L. 103-180, §8, Dec. 3, 1993, 107 Stat. 2052, related to duties of carriers to provide transportation and service, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 11101, 13710, 14101, and 15701 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of the ICC Termination Act of 1995”.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 701 of this title.

§ 11102. Use of terminal facilities

(a) The Board may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, to be used by another rail carrier if the Board finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The rail carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the rail carriers cannot agree, the Board may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier under this section.

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

(c)(1) The Board may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail

service. The rail carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the rail carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Board may establish such conditions and compensation.

(2) The Board may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.

(d) The Board shall complete any proceeding under subsection (a) or (b) within 180 days after the filing of the request for relief.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 831.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11103 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 11102, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1419, related to classification of carriers, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

§ 11103. Switch connections and tracks

(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

(1) is reasonably practicable;

(2) can be made safely; and

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

(b) If a rail carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Board under section 11701 of this title. The Board shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Board may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 831.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11104 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

Prior sections 11103 to 11111 were omitted in the general amendment of this subtitle by Pub. L. 104-88, §102(a).

Section 11103, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1419; Pub. L. 96-448, title II, §223, Oct. 14, 1980, 94 Stat. 1929, related to use of terminal facilities. See section 11102 of this title.

Section 11104, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1420, related to switch connections and tracks. See section 11103 of this title.