part may not agree or combine with another of
those rail carriers to pool or divide traffic or
services or any part of their earnings without
the approval of the Board under this section or
section 11123 of this title. The Board may ap-
prove and authorize the agreement or combina-
tion if the rail carriers involved assent to the
pooling or division and the Board finds that a
pooling or division of traffic, services, or earn-
ings—
(1) will be in the interest of better service to
the public or of economy of operation; and
(2) will not unreasonably restrain competi-
tion.
(b) The Board may impose conditions gov-
erning the pooling or division and may approve
and authorize payment of a reasonable consider-
bation between the rail carriers.
(c) The Board may begin a proceeding under
this section on its own initiative or on appli-
cation.

(Added Pub. L. 104–88, title I, §102(a), Dec. 29,

Editorial Notes

Prior Provisions
Provisions similar to those in this section were con-
tained in section 11342 of this title prior to the general
amendment of this subtitle by Pub. L. 104–88, §102(a).
Stat. 1433, related to restrictions on officers and direc-
tors of carriers, prior to the general amendment of this
subtitle by Pub. L. 104–88, §102(a). See section 11328 of
this title.

Statutory Notes and Related Subsidiaries

Effective Date
Section effective Jan. 1, 1996, except as otherwise pro-
vided in Pub. L. 104–88, see section 2 of Pub. L. 104–88,
set out as a note under section 1301 of this title.

§ 11323 Consolidation, merger, and acquisition of
control

(a) The following transactions involving rail
 carriers providing transportation subject to the
jurisdiction of the Board under this part may be
carried out only with the approval and author-
ization of the Board:
(1) Consolidation or merger of the properties
or franchises of at least 2 rail carriers into one
 corporation for the ownership, management,
and operation of the previously separately
owned properties.
(2) A purchase, lease, or contract to operate
property of another rail carrier by any number
of rail carriers.
(3) Acquisition of control of a rail carrier by
any number of rail carriers.
(4) Acquisition of control of at least 2 rail
 carriers by a person that is not a rail carrier.
(5) Acquisition of control of a rail carrier by
a person that is not a rail carrier but that con-
trols any number of rail carriers.
(6) Acquisition by a rail carrier of trackage
rights over, or joint ownership in or joint use
of, a railroad line (and terminals incidental to it)
owned or operated by another rail carrier.
(b) A person may carry out a transaction re-
ferred to in subsection (a) of this section or par-
ticipate in achieving the control or manage-
ment, including the power to exercise control or
management, in a common interest of more
than one of those rail carriers, regardless of how
that result is reached, only with the approval
and authorization of the Board under this sub-
chapter. In addition to other transactions, each
of the following transactions are considered
achievements of control or management:
(1) A transaction by a rail carrier that has
the effect of putting that rail carrier and per-
son affiliated with it, taken together, in con-
trol of another rail carrier.
(2) A transaction by a person affiliated with
a rail carrier that has the effect of putting
that rail carrier and persons affiliated with it,
taken together, in control of another rail car-
rrier.
(3) A transaction by at least 2 persons acting
together (one of whom is a rail carrier or is af-
filiated with a rail carrier) that has the effect
of putting those persons and rail carriers and
persons affiliated with any of them, or with
any of those affiliated rail carriers, taken to-
gether, in control of another rail carrier.
(Added Pub. L. 104–88, title I, §102(a), Dec. 29,

Editorial Notes

Prior Provisions
Provisions similar to those in this section were con-
tained in section 11343 of this title prior to the general
amendment of this subtitle by Pub. L. 104–88, §102(a).
Stat. 2997, related to limitation on ownership of other
carriers by household goods freight forwarders, prior to
the general amendment of this subtitle by Pub. L.
104–88, §102(a).

Statutory Notes and Related Subsidiaries

Effective Date
Section effective Jan. 1, 1996, except as otherwise pro-
vided in Pub. L. 104–88, see section 2 of Pub. L. 104–88,
set out as a note under section 1301 of this title.

§ 11324 Consolidation, merger, and acquisition of
control: conditions of approval

(a) The Board may begin a proceeding to ap-
prove and authorize a transaction referred to in
subsection (a) of this section on its own initiative or on
application between the rail carriers.
(b) A person may carry out a transaction re-
ferred to in subsection (a) of this section or par-
ticipate in achieving the control or manage-
ment, including the power to exercise control or
management, in a common interest of more
than one of those rail carriers, regardless of how
that result is reached, only with the approval
and authorization of the Board under this sub-
chapter. In addition to other transactions, each
of the following transactions are considered
achievements of control or management:
(1) A transaction by a rail carrier that has
the effect of putting that rail carrier and per-
son affiliated with it, taken together, in con-
trol of another rail carrier.
(2) A transaction by a person affiliated with
a rail carrier that has the effect of putting
that rail carrier and persons affiliated with it,
taken together, in control of another rail car-
rrier.
(3) A transaction by at least 2 persons acting
together (one of whom is a rail carrier or is af-
filiated with a rail carrier) that has the effect
of putting those persons and rail carriers and
persons affiliated with any of them, or with
any of those affiliated rail carriers, taken to-
gether, in control of another rail carrier.
(Added Pub. L. 104–88, title I, §102(a), Dec. 29,

Editorial Notes

Prior Provisions
Provisions similar to those in this section were con-
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amendment of this subtitle by Pub. L. 104–88, §102(a).
Stat. 2997, related to limitation on ownership of other
carriers by household goods freight forwarders, prior to
the general amendment of this subtitle by Pub. L.
104–88, §102(a).

Statutory Notes and Related Subsidiaries

Effective Date
Section effective Jan. 1, 1996, except as otherwise pro-
vided in Pub. L. 104–88, see section 2 of Pub. L. 104–88,
set out as a note under section 1301 of this title.