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104TH CONGRESS
1ST SESSION

H. R. 2539

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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1995

Mr. SHUSTER (for himself, Mr. PETRI, Mr. RAHALL, and Ms. MOLINARI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''ICC Termination Act of 1995''.

TITLE I—ABOLITION OF INTERSTATE COMMERCE COMMISSION

SEC. 101. ABOLITION.

The Interstate Commerce Commission is abolished.

SEC. 102. RAIL PROVISIONS.

(a) AMENDMENT.—Subtitle IV of title 49, United States Code, is amended to read as follows:

"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; REMEDIES.	14701
"149.	CIVIL AND CRIMINAL PENALTIES	14901

"PART A—RAIL

"CHAPTER 101—GENERAL PROVISIONS

"Sec.

''10101. Rail transportation policy.
''10102. Definitions.
''10103. Remedies are exclusive.

"§ 10101. Rail transportation policy

''In regulating the railroad industry, it is the policy of the United States Government—

''(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

''(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

''(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Panel;

''(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

''(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

''(6) to maintain reasonable rates where there is an absence of effective competition and where rail

rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

''(7) to reduce regulatory barriers to entry into and exit from the industry;

''(8) to operate transportation facilities and equipment without detriment to the public health and safety;

''(9) to encourage honest and efficient management of railroads;

''(10) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

''(11) to encourage fair wages and safe and suitable working conditions in the railroad industry;

''(12) to avoid undue concentrations of market power and to prohibit unlawful discrimination;

''(13) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

''(14) to encourage and promote energy conservation.

"§ 10102. Definitions

''In this part—

''(1) 'car service' includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier;

''(2) 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

''(3) 'Panel' means the Transportation Adjudication Panel;

''(4) 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

''(5) 'rail carrier' means a person providing railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation;

''(6) 'railroad' includes—

''(A) a bridge, car float, lighter, and ferry used by or in connection with a railroad;

''(B) the road used by a rail carrier and owned by it or operated under an agreement; and

''(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation;

''(7) 'rate' means a rate, fare, or charge for transportation;

''(8) 'State' means a State of the United States and the District of Columbia;

''(9) 'transportation' includes—

''(A) a locomotive, car, vehicle, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

''(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property; and

''(10) 'United States' means the States of the United States and the District of Columbia.

"§10103. Remedies are exclusive

''Except as otherwise provided in this part, the remedies provided under this part are exclusive and preempt the remedies provided under any Federal or State statute.

"CHAPTER 103—JURISDICTION

''Sec.
''10301. General jurisdiction.
''10302. Authority to exempt rail carrier transportation.

"§ 10301. General jurisdiction

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

''(A) only by railroad; or

''(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

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

''(A) a State and a place in the same or another State;

''(B) a State and a place in a territory or possession of the United States;

''(C) a territory or possession of the United States and a place in another such territory or possession;

''(D) a territory or possession of the United States and another place in the same territory or possession;

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

''(F) the United States and a place in a foreign country.

''(b) This part does not affect the power of a State to exercise its police power, unless the State requirement is inconsistent with an order of the Panel issued under this part or is prohibited under this part.

''(c) The jurisdiction of the Panel over—

''(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules, practices, and facilities of such carriers; and

''(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive.

"§ 10302. Authority to exempt rail carrier transportation

''(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, the Panel, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Panel finds that the application of a provision of this part—

''(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

''(2) either—

''(A) the transaction or service is of limited scope; or

''(B) the application of the provision is not needed to protect shippers from the abuse of market power.

''(b) The Panel may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Panel shall, within 90 days after receipt of any such application, approve or disapprove such application. If the application is approved, the Panel shall begin an appropriate proceeding as soon as practicable. If the application is disapproved, the reasons for the disapproval shall be published in the Federal Register. Any proceeding

begun as a result of an application under this subsection shall be completed within one year after it is begun.

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

''(d) The Panel may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title.

''(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11506 of this title. Nothing in this subsection or section 11506 of this title shall prevent rail carriers from offering alternative terms nor give the Panel the authority to require any specific level of rates or services based upon the provisions of section 11506 of this title.

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

''(g) The Panel may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part.

"CHAPTER 105—RATES

''SUBCHAPTER I—GENERAL AUTHORITY

''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. Inflation-based rate increases.
''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.

''SUBCHAPTER I—GENERAL AUTHORITY

"§ 10501. Standards for rates, classifications, through routes, rules, and practices

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

''(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may not discriminate in its rates against a connecting line of another rail carrier providing transportation subject to the

jurisdiction of the Panel under this part or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

''(c) Except as provided in subsection (d) of this section and unless a rate is prohibited by a provision of this part, a rail carrier providing transporation subject to the jurisdiction of the Panel under this part may establish any rate for transportation or other service provided by the rail carrier.

''(d)(1) If the Panel determines, under section 10507 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

''(2) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Panel shall recognize the policy of this part that rail carriers shall earn adequate revenues, as established by the Panel under section 10504(a)(2) of this title.

''(3) The Panel shall, within one year after the date of the enactment of this paragraph, complete the pending Interstate Commerce Commission non-coal rate guidelines proceeding to establish simplified and expedited procedures for the determination of rate reasonableness cases

in which a full presentation of constrained market pricing evidence is impractical.

"§ 10502. Authority for rail carriers to establish rates, classifications, rules, and practices

''A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall establish—

''(1) rates, including divisions of joint rates, and classifications for transportation and service it may provide under this part; and

''(2) rules and practices on matters related to that transportation or service.

"§ 10503. Authority for rail carriers to establish through routes

''Rail carriers providing transportation subject to the jurisdiction of the Panel under this part shall establish through routes with each other, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

''(1) reasonable facilities for operating the through route; and

''(2) reasonable compensation to persons entitled to compensation for services related to the through route.

"§ 10504. Authority and criteria: rates, classifications, rules, and practices prescribed by Panel

''(a)(1) When the Panel, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Panel under this part, or that a classification, rule, or practice of that carrier does or will violate this part, the Panel may prescribe the maximum rate, classification, rule, or practice to be followed. The Panel may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Panel.

''(2) The Panel shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Panel shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

''(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

''(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

''(3) On the basis of the standards and procedures described in paragraph (2), the Panel shall annually determine which rail carriers are earning adequate revenues.

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

''§ 10505. Authority: through routes, joint classifications, rates, and divisions prescribed by Panel

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

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

''(2) The Panel may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

''(A) required under sections 10541, 10542, or 11101 of this title;

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

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

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

''(b) The Panel shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction under this part when it decides that a division of joint rates established by the participating carriers under section 10503 of this title, or

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

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

"§ 10506. Rate agreements: exemption from antitrust laws

''(a)(1) In this subsection—

''(A) the term 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' refers to equity holdings in a business entity of at least 5 percent;

''(B) the term 'single-line rate' refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier; and

''(C) the term 'practicably participates in the movement' shall have such meaning as the Panel shall by regulation prescribe.

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

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

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

''(i) the name of the carrier;

''(ii) the mailing address and telephone number of its headquarter's office; and

''(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

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

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

''(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in the movement; or

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

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

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

''(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

''(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

''(II) concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of subclause (I) or (II) are satisfied before allowing the introduction of any such evidence.

''(C) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Panel and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.

''(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Panel approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Panel may, upon applica-

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

''(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Panel under this part, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Panel for approval of that agreement under this paragraph. The Panel shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Panel approves the agreement, it may be made and carried out under its terms and under the terms required by the Panel, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Panel shall approve or disapprove an

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

''(B) If the Panel approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Panel. The Panel shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Panel.

''(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.

''(b) The Panel may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Panel may inspect a record maintained under this section.

''(c) The Panel may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest and subsection (a). The Panel shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

''(d) The Panel may begin a proceeding under this section on its own initiative or on application. Action of the Panel under this section—

''(1) approving an agreement;

''(2) denying, ending, or changing approval;

''(3) prescribing the conditions on which approval is granted; or

''(4) changing those conditions,

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

''(e) The Panel shall review each agreement approved under subsection (a) of this section periodically, but at least once every 3 years—

''(1) to determine whether the agreement or an organization established or continued under one of those agreements still complies with the requirements of that subsection and the public interest; and

''(2) to evaluate the success and effect of that agreement or organization on the consuming public and the national rail freight transportation system. If the Panel finds that an agreement or organization does not conform to the requirements of that subsection, it shall end or suspend its approval.

''(f)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Panel on—

''(A) possible anticompetitive features of—

''(i) agreements approved or submitted for approval under subsection (a) of this section; and

''(ii) an organization operating under those agreements; and

''(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this part and of the transportation policy of section 10101 of this title.

''(2) Reports received by the Panel under this subsection shall be published and made available to the public under section 552(a) of title 5.

"§ 10507. Determination of market dominance in rail rate proceedings

''(a) In this section, 'market dominance' means an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.

''(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part is challenged as being unreasonably high, the Panel shall determine whether the rail carrier proposing the rate has market dominance over the transportation to which the rate applies. The Panel may make that determination on its own initiative or on complaint. A finding by the Panel that the rail carrier does not have market dominance is determinative in a proceeding under this part related to that rate or transportation unless changed or set aside by the Panel or set aside by a court of competent jurisdiction.

''(c) When the Panel finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum.

''(d)(1) In this subsection—

''(A) the term 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt;

''(B) the term 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier; and

''(C) for purposes of determining the cost recovery percentage only, the term 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

''(2) In making a determination under this section, the Panel shall find that the rail carrier establishing the

challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

''(3) A finding by the Panel that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

''(A) such rail carrier has or does not have market dominance over such transportation; or

''(B) the proposed rate exceeds or does not exceed a reasonable maximum.

"§ 10508. Inflation-based rate increases

''(a) The Panel may, on a quarterly basis and consistent with the rail transportation policy set forth in section 10101 of this title, prescribe a percentage rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate index may be applicable on an industry-wide, territory-wide, or carrier-by-carrier basis.

''(b) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase speci-

fied by the Panel as necessary to compensate for inflationary cost increases.

"§ 10509. Contracts

''(a) One or more rail carriers providing transportation subject to the jurisdiction of the Panel under this part may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

''(b) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

''(c)(1) A contract that is authorized by this section, and transportation under such contract, shall not be subject to this part, and may not be subsequently challenged before the Panel or in any court on the grounds that such contract violates a provision of this part.

''(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

''(d) Documents, papers, and records (and any copies thereof) relating to a contract described in subsection (a) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

''SUBCHAPTER II—SPECIAL CIRCUMSTANCES

"§ 10521. Government traffic

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

"§ 10522. Emergency rates

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

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

''(2) specify the period during which the reduced rates are to be in effect; and

''(3) define the class of persons entitled to the reduced rates.

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

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

"§ 10523. Car utilization

''In order to encourage more efficient use of freight cars, notwithstanding any other provision of this part, rail carriers shall be permitted to establish premium charges for special services or special levels of services not otherwise applicable to the movement. The Panel shall facilitate development of such charges so as to increase the utilization of equipment.

''SUBCHAPTER III—LIMITATIONS

"§ 10541. Prohibitions against discrimination by rail carriers

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

''(b) This section shall not apply to—

''(1) contracts described in section 10509 of this title; or

''(2) rail rates applicable to different routes.

"§ 10542. Facilities for interchange of traffic

''A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier.

"§ 10543. Continuous carriage of freight

''A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those rail carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this part.

"§ 10544. Transportation services or facilities furnished by shipper

''A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part

may publish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Panel may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Panel may begin a proceeding under this section on its own initiative or on application.

"§ 10545. Demurrage charges

''A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

''(1) freight car use and distribution; and

''(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

"CHAPTER 107—LICENSING

''10701. Authorizing construction and operation of railroad lines.
''10702. Finance and construction transactions by Class II and Class III rail carriers and noncarriers.
''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.

"§ 10701. Authorizing construction and operation of railroad lines

''(a) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may—

''(1) construct an extension to any of its railroad lines;

''(2) construct an additional railroad line;

''(3) acquire or operate an extended or additional railroad line; or

''(4) provide transportation over, or by means of, an extended or additional railroad line;

only if the Panel issues a certificate authorizing such activity under subsection (c).

''(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

''(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

''(d)(1) When a certificate has been issued by the Panel under this section or section 10702 authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by refusing to permit the carrier to cross its property if—

''(A) the construction does not unreasonably interfere with the operation of the crossed line;

''(B) the operation does not materially interfere with the operation of the crossed line; and

''(C) the owner of the crossing line compensates the owner of the crossed line.

''(2) If the parties are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Panel for determination. The Panel shall make a determination under this paragraph within 90 days after the dispute is submitted for determination.

''(e) Subsections (a), (b), and (c) of this section shall only apply to Class I rail carriers.

"§ 10702. Finance and construction transactions by Class II and Class III rail carriers and noncarriers

''(a)(1) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a noncarrier, may—

''(A) construct an extension of any of its railroad lines;

''(B) construct an additional railroad line; or

''(C) acquire or operate a railroad line,

only if the Panel issues a certificate authorizing such activity under subsection (c).

''(2) A certificate issued by the Panel under subsection (c) shall also be required for—

''(A) a Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a noncarrier to provide transportation over, or by means of, a railroad line by trackage rights, lease, or joint ownership or joint use of the railroad line (and terminals incidental thereto);

''(B) a consolidation or merger of the properties or franchises of at least 2 Class II or Class III rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties;

''(C) the acquisition of control of a Class II or Class III rail carrier by one or more Class II or Class III rail carriers;

''(D) the acquisition of control of at least 2 Class II or Class III rail carriers by a person that is not a rail carrier; and

''(E) the acquisition of control of a Class II or Class III rail carrier by a person that is not a rail carrier but that controls at least one Class II or Class III rail carrier.

''(b) A proceeding to grant authority under subsection (a) begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

''(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity because—

''(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

''(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

''(d) When a person is involved in a transaction for which approval is sought under this section, the Panel shall require such person to protect the interest of affected employees to an extent equal to the protection required under sections 2 through 5 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101–2104).

''(e) The authority of the Panel over transactions described in subsection (a)(2) is exclusive. A rail carrier or corporation participating in or resulting from such a transaction may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property and exercise control or franchises acquired through the transaction.

"§ 10703. Filing and procedure for notice of intent to abandon or discontinue

''(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part who intends to—

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

''(B) discontinue the operation of all rail transportation over any part of its railroad lines,

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

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

''(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

''(B) a statement indicating that each interested person is entitled to make recommendations to the Panel on the future of the rail line; and

''(C)(i) a statement that the line is available for sale in accordance with section 10704 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the minimum purchase price, calculated in accordance with section 10704 of this title and (iii) the name and business address of the person who is authorized to discuss sale terms for the rail carrier.

''(3) The rail carrier shall—

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

''(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

''(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

''(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Panel) of the railroad line during the 12 months preceding the filing of the notice of intent; and

''(E) attach to the notice filed with the Panel an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the notice of intent is filed.

''(b)(1) Except as provided in paragraph (2), abandonment and discontinuance may occur as provided in section 10704.

''(2) If, after considering the scope of an abandonment or discontinuance proposed in a notice of intent filed under this section, the Panel considers it necessary, to improve the viability of the lines included within the proposed abandonment or discontinuance for possible sale or transfer and continued operation, and to enhance competitive alternatives in the event of such sale or transfer, the Panel may require the filing of a new notice of intent which enlarges the scope of the proposed abandonment or discontinuance.

''(c)(1) In this subsection, the term 'potentially subject to abandonment' has the meaning given the term in regulations of the Panel. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

''(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the rail carrier. The rail carrier shall submit to the Panel and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

''(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

''(B) identify each railroad line for which the rail carrier plans to file a notice of intent to abandon or discontinue under subsection (a) of this section.

"§ 10704. Offers to purchase to avoid abandonment and discontinuance

''(a) Any rail carrier which has filed a notice of intent to abandon or discontinue shall provide promptly to a party considering an offer to purchase and shall provide concurrently to the Panel—

''(1) a statement of the minimum purchase price required;

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

''(3) traffic, revenue, and other data necessary to determine the commercial potential of the railroad line; and

''(4) any other information that the Panel considers necessary to allow a potential offeror to calculate an adequate purchase offer.

''(b) Within 6 months after a notice of intent is filed under section 10703, any person may offer to purchase the railroad line that is the subject of such notice of intent. Such offer shall be filed concurrently with the Panel. If the offer to purchase is less than the minimum purchase price stated pursuant to subsection (a)(1), the offer shall explain the basis of the disparity, and the manner in which the offer is calculated.

''(c)(1) Unless the Panel, within 15 days after the expiration of the 6-month period described in subsection (b), finds that one or more financially responsible persons (including a governmental authority) have offered to purchase that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued, abandonment or discontinuance may be carried out.

''(2) If the Panel finds that such an offer or offers to purchase have been made within such period, abandonment or discontinuance shall be postponed until—

''(A) the carrier and a financially responsible person have reached agreement on a transaction for sale of the line; or

''(B) the conditions and amount of compensation are established under subsection (e).

''(d) Except as provided in subsection (e)(3), if the rail carrier and a financially responsible person (including

a governmental authority) fail to agree on the amount or terms of the purchase, either party may, within 30 days after the offer is made, request that the Panel establish the conditions and amount of compensation.

''(e)(1) Whenever the Panel is requested to establish the conditions and amount of compensation under this section—

''(A) the Panel shall render its decision within 30 days;

''(B) the Panel shall determine the price and other terms of sale, except that in no case shall the Panel set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

''(2) The decision of the Panel shall be binding on both parties, except that the person who has offered to purchase the line may withdraw his offer within 10 days of the Panel's decision. In such a case, the abandonment or discontinuance may be carried out immediately, unless other offers are being considered pursuant to paragraph (3) of this subsection.

''(3) If a rail carrier receives more than one offer to purchase, it shall select the offeror with whom it wishes to transact business, and complete the sale agreement, or

request that the Panel establish the conditions and amount of compensation before the 40th day after the expiration of the 6-month period described in subsection (b). If no agreement on sale is reached within such 40-day period and the Panel has not been requested to establish the conditions and amount of compensation, any other offeror whose offer was made within the 6-month period described in subsection (b) may request that the Panel establish the conditions and amount of compensation. If the Panel has established the conditions and amount of compensation, and the original offer has been withdrawn, any other offeror whose offer was made within the 6-month period described in subsection (b) may accept the Panel's decision within 20 days after such decision, and the Panel shall require the carrier to enter into a sale agreement with such offeror, if such sale agreement incorporates the Panel's decision.

''(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the rail carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

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

"§ 10705. Offering abandoned rail properties for sale for public purposes

''When a rail carrier files a notice of intent to abandon or discontinue under section 10703, the Panel shall find whether the rail properties that are involved in the proposed abandonment or discontinuance are appropriate for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Panel finds that the rail properties proposed to be abandoned are appropriate for public purposes and not required for continued rail operations, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Panel. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

"§ 10706. Exception

''Notwithstanding section 10701 and subchapter II of chapter 111 of this title, and without the approval of

the Panel, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

"CHAPTER 109—OPERATIONS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''10901. Providing transportation, service, and rates.
''10902. Use of terminal facilities.
''10903. Switch connections and tracks.

''SUBCHAPTER II—CAR SERVICE

''10921. Criteria.
''10922. Compensation and practice.
''10923. Rerouting traffic on failure of rail carrier to serve the public.
''10924. War emergencies; embargoes imposed by carriers.

''SUBCHAPTER III—REPORTS AND RECORDS

''10941. Definitions.
''10942. Uniform accounting system.
''10943. Depreciation charges.
''10944. Records: form; inspection; preservation.
''10945. Reports by rail carriers, lessors, and associations.

''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.

''SUBCHAPTER I—GENERAL REQUIREMENTS

"§ 10901. Providing transportation, service, and rates

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel 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 commitments under con-

tracts authorized under section 10509 of this title before responding to reasonable requests for service.

''(b) A rail carrier shall also provide to any person, on reasonable request, rates and other service terms. The response by a rail carrier to a request for rates and other service terms shall be in writing and forwarded to the requesting person promptly after receipt of the request.

"§ 10902. Use of terminal facilities

''(a) The Panel 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 Panel under this part, to be used by another rail carrier if the Panel 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 Panel 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 Panel 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 Panel may establish such conditions and compensation.

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

"§ 10903. 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 Panel 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 Panel under section 11501 of this title. The Panel shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Panel may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

''SUBCHAPTER II—CAR SERVICE

"§ 10921. Criteria

''(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Panel may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Panel decides that the rail carrier has materially failed to furnish that service. The Panel may begin a proceeding under this paragraph when an interested person files an application with it. The Panel may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

''(A) providing the facilities or equipment will not materially and adversely affect the ability of the rail carrier to provide safe and adequate transportation;

''(B) the amount spent for the facilities or equipment, including a return equal to the rail carrier's current cost of capital, will be recovered; and

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

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

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

"§ 10922. Compensation and practice

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

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

''(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

''(3) sanctions for nonobservance.

''(b) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Panel shall con-

sider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

"§ 10923. Rerouting traffic on failure of rail carrier to serve the public

''(a) When the Panel considers that a rail carrier providing transportation subject to the jurisdiction of the Panel under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Panel may direct the handling, routing, and movement of the traffic of that rail carrier and its distribution over other railroad lines to promote commerce and service to the public. Subject to subsection (b)(2) of this section, the rail carriers may establish the terms of compensation between themselves.

''(b)(1) Except as provided in paragraph (2) of this subsection, the Panel may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

''(2) When the rail carriers do not agree on the terms of compensation under this section, the Panel may establish the terms for them in a later proceeding.

"§ 10924. War emergencies; embargoes imposed by carriers

''(a)(1) When the President, during time of war or threatened war, notifies the Panel that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Panel shall direct that preference or priority be given to that traffic.

''(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail carriers providing transportation subject to the jurisdiction of the Panel under this part shall adopt every means within their control to facilitate and expedite the military traffic.

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

''SUBCHAPTER III—REPORTS AND RECORDS

"§ 10941. Definitions

''In this subchapter—

''(1) the terms 'carrier', 'broker', and 'lessor' include a receiver or trustee of a carrier, broker, and lessor, respectively;

''(2) the term 'lessor' means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this part; and

''(3) the term 'association' means an organization maintained by or in the interest of a group of rail carriers or brokers providing transportation or service subject to the jurisdiction of the Commission under this part that performs a service, or engages in activities, related to transportation under this part.

"§ 10942. Uniform accounting system

''The Panel may prescribe a uniform accounting system for classes of rail carriers providing, and brokers for, transportation subject to the jurisdiction of the Panel under this part. To the maximum extent practicable, the Panel shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

"§ 10943. Depreciation charges

''The Panel shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included

under operating expenses and a rate of depreciation that may be charged to a class of property. The Panel may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

''(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Panel;

''(2) charge another rate of depreciation; or

''(3) include other depreciation charges in operating expenses.

"§ 10944. Records: form; inspection; preservation

''(a) The Panel may prescribe the form of records required to be prepared or compiled under this subchapter—

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

''(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to the extent related to those cars or that service.

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

''(1) inspect and examine the lands, buildings, and equipment of a rail carrier, broker, or lessor; and

''(2) inspect and copy any record of—

''(A) a rail carrier, broker, lessor, or association; and

''(B) a person controlling, controlled by, or under common control with a rail carrier if the Panel considers inspection relevant to that person's relation to, or transaction with, that rail carrier.

''(c) The Panel may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, brokers, lessors, and persons furnishing cars.

"§ 10945. Reports by rail carriers, lessors, and associations

''(a) The Panel may require rail carriers, brokers, lessors, and associations, or classes of them as the Panel may prescribe, to file annual, periodic, and special reports with the Panel containing answers to questions asked by it.

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

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

''SUBCHAPTER IV—RAILROAD COST ACCOUNTING

''§ 10961. Implementation of cost accounting principles

''Not less than once every five years after the promulgation of original rules implementing the cost accounting principles established by the Railroad Accounting Principles Board, the Panel shall review such principles and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this part. The Panel shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes. To the maximum extent practicable, the Panel shall conform such rules to generally accepted accounting principles.

''§ 10962. Rail carrier cost accounting system

''(a) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules pro-

mulgated by the Panel under section 10961 of this title. A rail carrier may, after notifying the Panel, make modifications in such system unless, within 60 days after the date of notification, the Panel finds such modifications to be inconsistent with the rules promulgated by the Panel under section 10961 of this title.

''(b) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Panel, the Panel shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

''§ 10963. Cost availability

''As required by the rules of the Panel governing discovery in Panel proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Panel proceeding in which such data are required.

''§ 10964. Accounting and cost reporting

''(a) To obtain expense and revenue information for regulatory purposes, the Panel may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Panel under this part, prescribing

expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings under this part, such rules shall be promulgated in accordance with the cost accounting principles established by the Railroad Accounting Principles Board.

''(b) Any reports required by the rules established by the Panel under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

''CHAPTER 111—FINANCE

''SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

''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 approval.
''11125. Consolidation, merger, and acquisition of control: procedure.

''11126. Employee protective arrangements in transactions involving rail carriers.
''11127. Supplemental orders.

''SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

''§ 11101. Equipment trusts: recordation; evidence of indebtedness

''(a) A mortgage, lease equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of railroad cars, locomotives, or other rolling stock, intended for a use related to interstate commerce shall be filed with the Panel. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it shall also be filed with the Panel. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Panel regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents.

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

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

''(d) The Panel shall assess user fees for services performed by the Panel or a contractor thereof under this section. Such fees may be used by the Panel to offset its costs, to the extent provided in advance in appropriations Acts.

''SUBCHAPTER II—COMBINATIONS

''§ 11121. Scope of authority

''(a) The authority of the Panel under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Panel under this subchapter may carry out the transaction, own and operate property, and exer-

cise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

''(b) The requirement to obtain the approval or authorization of the Panel under this subchapter shall only apply to transactions involving at least one Class I rail carrier, and shall not apply to transactions described in section 10702.

"§ 11122. Limitation on pooling and division of transportation or earnings

''(a) A rail carrier providing transportation subject to the jurisdiction of the Panel under this 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 Panel under this section or section 10923 of this title. The Panel may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Panel

finds that a pooling or division of traffic, services, or earnings—

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

''(2) will not unreasonably restrain competition.

''(b) The Panel may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

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

''§ 11123. Consolidation, merger, and acquisition of control

''(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Panel under this part may be carried out only with the approval and authorization of the Panel:

''(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 controls 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 referred to in subsection (a) of this section or participate in achieving the control or management, 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 Panel under this subchapter. 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 person affiliated with it, taken together, in control 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 carrier.

''(3) A transaction by at least 2 persons acting together (one of whom is a rail carrier or is affiliated 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 together, in control of another rail carrier.

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

''§ 11124. Consolidation, merger, and acquisition of control: conditions of approval

''(a) The Panel may begin a proceeding to approve and authorize a transaction referred to in section 11123 of this title on application of the person seeking that authority. When an application is filed with the Panel, the Panel shall notify the chief executive officer of each State in which property of the rail carriers involved in the pro-

posed transaction is located and shall notify those rail carriers. The Panel shall hold a public hearing unless the Panel determines that a public hearing is not necessary in the public interest.

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

''(1) the effect of the proposed transaction on the adequacy of transportation to the public;

''(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

''(3) the total fixed charges that result from the proposed transaction;

''(4) the interest of rail carrier employees affected by the proposed transaction; and

''(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

''(c) The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of track-

age rights. Any trackage rights conditions imposed to alleviate anticompetitive effects of the transaction shall provide for compensation levels to ensure that such effects are alleviated. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Panel may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. The Panel may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Panel finds their inclusion to be consistent with the public interest.

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

''(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

''(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

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

''(e)(1) To the extent provided in this subsection, a proceeding under this subchapter relating to a transaction involving at least one Class I rail carrier shall not be considered an adjudication required by statute to be determined on the record after opportunity for an agency hearing, for the purposes of subchapter II of chapter 5 of title 5, United States Code.

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

''(3)(A) Any member or employee of the Panel who makes or receives a written ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place the communication in the public docket of the proceeding.

''(B) Any member or employee of the Panel who makes or receives an oral ex parte communication concerning the merits of a proceeding described in paragraph

(1) shall promptly place a written summary of the oral communication in the public docket of the proceeding.

''(4) Nothing in this subsection shall be construed to require the Panel or any of its members or employees to engage in any ex parte communication with any person. Nothing in this subsection or any other law shall be construed to limit the authority of the members or employees of the Panel, in their discretion, to note in the docket or otherwise publicly the occurrence and substance of an ex parte communication.

"§ 11125. Consolidation, merger, and acquisition of control: procedure

''(a) The Panel shall publish notice of the application under section 11124 in the Federal Register by the end of the 30th day after the application is filed with the Panel. However, if the application is incomplete, the Panel shall reject it by the end of that period. The order of rejection is a final action of the Panel. The published notice shall indicate whether the application involves—

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

''(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

''(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

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

''(1) Written comments about an application may be filed with the Panel within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Attorney General, who may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Panel by the end of the 15th day after the date of receipt of the written comments.

''(2) The Panel shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed

with it by the 90th day after publication of notice under that subsection.

''(3) The Panel must conclude evidentiary proceedings by the end of the 6th month after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

''(c) If the application involves a transaction other than the merger or control of at least two Class I railroads, as defined by the Panel, which the Panel has determined to be of regional or national transportation significance, the following conditions apply:

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

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

''(3) The Panel must conclude any evidentiary proceedings by the 125th day after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 40th day after the date on which it concludes the evidentiary proceedings.

''(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

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

''(2) The Panel must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 40th day after the date on which it concludes the evidentiary proceedings.

''§ 11126. Employee protective arrangements in transactions involving rail carriers

''When approval is sought for a transaction under sections 11124 and 11125 of this title, the Panel shall require the rail carrier to provide a fair arrangement at

least as protective of the interests of employees who are affected by the transaction as the terms imposed under this section before February 5, 1976, and the terms established under section 24706(c) of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Panel (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

"§ 11127. Supplemental orders

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

"CHAPTER 113—FEDERAL-STATE RELATIONS

''Sec.
''11301. Tax discrimination against rail transportation property.
''11302. Withholding State and local income tax by rail carriers.

"§ 11301. Tax discrimination against rail transportation property

''(a) In this section—

''(1) the term 'assessment' means valuation for a property tax levied by a taxing district;

''(2) the term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

''(3) the term 'rail transportation property' means property, as defined by the Panel, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part; and

''(4) the term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

''(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

''(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment ju-

risdiction has to the true market value of the other commercial and industrial property.

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

''(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

''(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

''(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market

value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

''(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

''(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§ 11302. Withholding State and local income tax by rail carriers

''(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to an employee who performs

regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

''(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"CHAPTER 115—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

''Sec.
''11501. General authority.
''11502. Enforcement by the Panel.
''11503. Enforcement by the Attorney General.
''11504. Rights and remedies of persons injured by rail carriers.
''11505. Limitation on actions by and against rail carriers.
''11506. Liability of rail carriers under receipts and bills of lading.

"§ 11501. General authority

''(a) The Panel may begin an investigation under this part on its own initiative or on complaint. If the Panel finds that a rail carrier is violating this part, the Panel shall take appropriate action to compel compliance with this part.

''(b) A person, including a governmental authority, may file with the Panel a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part. The complaint must state the facts that are the subject

of the violation. The Panel may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Panel may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part because of the absence of direct damage to the complainant.

''(c) A formal investigative proceeding begun by the Panel under subsection (a) of this section is dismissed automatically unless it is concluded by the Panel with administrative finality by the end of the third year after the date on which it was begun.

"§ 11502. Enforcement by the Panel

''The Panel may bring a civil action—

''(1) to enjoin a rail carrier from violating sections 10701 through 10706 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

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

''(3) to enforce an order of the Panel, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing

transportation subject to the jurisdiction of the Panel under this part.

"§ 11503. Enforcement by the Attorney General

''The Attorney General may, and on request of the Panel shall, bring court proceedings to enforce this part, or a regulation or order of the Panel or certificate or permit issued under this part, and to prosecute a person violating this part or a regulation or order of the Panel or certificate or permit issued under this part.

"§ 11504. Rights and remedies of persons injured by rail carriers

''(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part does not obey an order of the Panel, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

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

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

''(2) When the Panel makes an award under subsection (b) of this section, the Panel shall order the rail carrier to pay the amount awarded by a specific date. The Panel may order a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Panel requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

''(d)(1) When a person begins a civil action under subsection (b) this section to enforce an order of the Panel requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, the text of the order of the Panel must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Panel are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

''(A) in which the plaintiff resides;

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

''(C) if a rail carrier, through which the railroad line of that carrier runs.

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

''(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

''(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

"§ 11505. Limitation on actions by and against rail carriers

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

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

''(c) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation period under subsection (b) of this section is extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

''(d) A person must begin a civil action to enforce an order of the Panel against a rail carrier for the pay-

ment of money within one year after the date the order required the money to be paid.

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

''(1) payment of the rate for the transportation or service involved;

''(2) subsequent refund for overpayment of that rate; or

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

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

"§ 11506. Liability of rail carriers under receipts and bills of lading

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other rail carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Panel under this part are liable to the person enti-

tled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

''(1) the receiving rail carrier;

''(2) the delivering rail carrier; or

''(3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

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

''(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

''(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

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

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

''(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

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

''(2)(A) A civil action under this section may only be brought—

''(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

''(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

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

''(B) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

''(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that

the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

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

''(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

"CHAPTER 117—CIVIL AND CRIMINAL 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.

"§ 11701. General civil penalties

''(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent

of one of them, knowingly violating an order of the Panel under this part is liable to the United States Government for a civil penalty of $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

''(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Panel under section 10924(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

''(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10701 through 10706 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

''(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Panel under section 10923 or 10924(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

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

''(2) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 10944(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

''(3) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars or protective services against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Panel or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

''(4) A separate violation occurs for each day violation under this subsection continues.

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

"§ 11702. Interference with railroad car supply

''(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part intending to influence an action of that other person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or because of the action of that other person shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

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

''(1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property; or

''(2) because of the action of that person,

shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

"§ 11703. Record keeping and reporting violations

''A person required to make a report to the Panel, or make, prepare, or preserve a record, under subchapter III of chapter 109 of this title about transportation subject to the jurisdiction of the Panel under this part that knowingly and willfully—

''(1) makes a false entry in the report or record;

''(2) destroys, mutilates, changes, or by another means falsifies the record;

''(3) does not enter business related facts and transactions in the record;

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

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

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

"§ 11704. Unlawful disclosure of information

''(a) A—

''(1) rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or an officer, agent, or employee of that rail carrier,

or another person authorized to receive information from that rail carrier, that knowingly discloses to another person, except the shipper or consignee; or

''(2) a person who solicits or knowingly receives,

information described in subsection (b) without the consent of the shipper or consignee shall be fined not more than $1,000.

''(b) The information referred to in subsection (a) is information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that rail carrier for transportation provided under this part, or information about the contents of a contract authorized under section 10509 of this title, that may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee.

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

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

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

''(3) to another rail carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

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

''(e) A person that knowingly discloses confidential data made available to such person under section 10963 of this title by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall be fined not more than $50,000.

''§ 11705. Disobedience to subpoenas

''A person not obeying a subpoena or requirement of the Panel to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

''§ 11706. General criminal penalty when specific penalty not provided

''When another criminal penalty is not provided under this chapter, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part,

and when that rail carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined not more than $5,000. However, if the violation is for discrimination in rates charged for transportation, the person may be imprisoned for not more than 2 years in addition to being fined under this section. A separate violation occurs each day a violation of section 11122 of this title continues.

"§ 11707. Punishment of corporation for violations committed by certain individuals

''An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that rail carrier are considered to be the actions and omissions of that rail carrier as well as that individual.''.

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

SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT FORWARDER PROVISIONS.

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

''PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

''CHAPTER 131—GENERAL PROVISIONS

''Sec.
''13101. Transportation policy.
''13102. Definitions.
''13103. Remedies as cumulative.

''§ 13101. Transportation policy

''(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

''(1) in overseeing those modes—

''(A) to recognize and preserve the inherent advantage of each mode of transportation;

''(B) to promote safe, adequate, economical, and efficient transportation;

''(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

''(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

''(E) to cooperate with each State and the officials of each State on transportation matters; and

''(F) to encourage fair wages and working conditions in the transportation industry;

''(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

''(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

''(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

''(C) meet the needs of shippers, receivers, passengers, and consumers;

''(D) allow a variety of quality and price options to meet changing market demands and

the diverse requirements of the shipping and traveling public;

''(E) allow the most productive use of equipment and energy resources;

''(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

''(G) provide and maintain service to small communities and small shippers and intrastate bus services;

''(H) provide and maintain commuter bus operations;

''(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

''(J) promote greater participation by minorities in the motor carrier system; and

''(K) promote intermodal transportation; and

''(3) in overseeing transportation by motor carrier of passengers—

''(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory

jurisdiction in accordance with the objectives of this part;

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

''(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.

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

"§ 13102. Definitions

''In this part, the following definitions shall apply:

''(1) BROKER.—The term 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

''(2) CARRIER.—The term 'carrier' means a motor carrier, a water carrier, and a freight forwarder, and, for purposes of sections 13902, 13905,

and 13906, the term includes foreign motor carriers and foreign motor private carriers.

''(3) CONTRACT CARRIAGE.—The term 'contract carriage' means—

''(A) for transportation provided before the effective date of this section, service provided pursuant to a permit issued under section 10923, as in effect on the day before the effective date of this section; and

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

''(4) CONTROL.—The term 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

''(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

''(B) any other means.

''(5) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

''(A)(i) that is domiciled in a contiguous foreign country; or

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

''(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

''(6) FOREIGN MOTOR PRIVATE CARRIER.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

''(A)(i) that is domiciled in a contiguous foreign country; or

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

''(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of

property or a motor private carrier described in subparagraph (A)).

''(7) FREIGHT FORWARDER.—The term 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

''(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

''(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

''(C) uses for any part of the transportation a carrier subject to jurisdiction under this part.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

''(8) HIGHWAY.—The term 'highway' means a road, highway, street, and way in a State.

''(9) HOUSEHOLD GOODS.—The term 'household goods', as used in connection with transpor-

tation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

''(A) arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling, or

''(B) arranged and paid for by another party.

''(10) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

''(11) MOTOR CARRIER.—The term 'motor carrier' means a person providing motor vehicle transportation for compensation.

''(12) MOTOR PRIVATE CARRIER.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

''(A) the transportation is as provided in section 13501 of this title;

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

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

''(13) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

''(14) NONCONTIGUOUS DOMESTIC TRADE.—The term 'noncontiguous domestic trade' means motor-water transportation subject to jurisdiction under chapter 135 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

''(15) PANEL.—The term 'Panel' means the Transportation Adjudication Panel.

"(16) PERSON.—The term 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(18) STATE.—The term 'State' means the 50 States of the United States and the District of Columbia.

"(19) TRANSPORTATION.—The term 'transportation' includes—

"(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

"(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

"(20) UNITED STATES.—The term 'United States' means the States of the United States and the District of Columbia.

''(21) VESSEL.—The term 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

''(22) WATER CARRIER.—The term 'water carrier' means a person providing water transportation for compensation.

"§ 13103. Remedies as cumulative

''Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

"CHAPTER 133—ADMINISTRATIVE PROVISIONS

''Sec.
''13301. Powers.
''13302. Intervention.
''13303. Service of notice in proceedings.
''13304. Service of process in court proceedings.

"§ 13301. Powers

''(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

''(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with

those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

''(c) SUBPOENA POWER.—

''(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

''(2) ENFORCEMENT.—The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

''(d) TESTIMONY OF WITNESSES.—

''(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may re-

quire the witness to produce records at any time after a proceeding is at issue on petition and answer.

''(2) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

''(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

''(4) NOTICE OF DEPOSITION.—Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

''(5) TRANSCRIPT.—The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

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

''(e) WITNESS FEES.—Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

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

''§ 13302. Intervention

''Under regulations of the Secretary, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation

subject to jurisdiction under subchapter I of chapter 135 shall be given to interested persons.

"§ 13303. Service of notice in proceedings

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

''(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

''(c) NOTICE.—A notice to a motor carrier, freight forwarder, or broker shall be served personally or by mail on the motor carrier, freight forwarder, or broker or on its designated agent. Service by mail on the designated agent shall be made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, freight forwarder, or broker does not have a des-

ignated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

"§ 13304. Service of process in court proceedings

''(a) DESIGNATION OF AGENT.—A motor carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

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

"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.

''SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

''§ 13501. General jurisdiction

''The Secretary and the Panel shall have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

''(1) between a place in—

''(A) a State and a place in another State;

''(B) a State and another place in the same State through another State;

''(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

''(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

''(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

''(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

''§ 13502. Exempt transportation between Alaska and other States

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

''(1) neither the Secretary nor the Panel has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

''(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

"§ 13503. Exempt motor vehicle transportation in terminal areas

''(a) TRANSPORTATION BY CARRIERS.—

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

''(A) is a transfer, collection, or delivery;

''(B) is provided by—

''(i) a rail carrier subject to jurisdiction under chapter 105;

''(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

''(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

''(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

''(2) APPLICABILITY OF OTHER PROVISIONS.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 when provided by such a rail car-

rier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

''(b) TRANSPORTATION BY AGENT.—

''(1) IN GENERAL.—Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Panel has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

''(A) is a transfer, collection, or delivery; and

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

''(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

''(ii) a motor carrier subject to jurisdiction under this subchapter;

''(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

''(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

''(2) TREATMENT OF TRANSPORTATION BY PRINCIPAL.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

"§ 13504. Exempt motor carrier transportation entirely in one State

''Neither the Secretary nor the Panel has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

"§ 13505. Transportation furthering a primary business

''(a) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over the transportation of property by motor vehicle when—

''(1) the property is transported by a person engaged in a business other than transportation; and

''(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

''(b) CORPORATE FAMILIES.—

''(1) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

''(2) DEFINITION.—In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

"§ 13506. Miscellaneous motor carrier transportation exemptions

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

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

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

''(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a common carrier;

''(4) a motor vehicle controlled and operated by a farmer and transporting—

''(A) the farmer's agricultural or horticultural commodities and products; or

''(B) supplies to the farm of the farmer;

''(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a

place in a State and another place in the same State through another State—

''(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

''(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

''(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

''(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

''(6) transportation by motor vehicle of—

''(A) ordinary livestock;

''(B) agricultural or horticultural commodities (other than manufactured products thereof);

''(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

''(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

''(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise en-

gaged in the sale to agricultural producers of goods used in agricultural production;

''(7) a motor vehicle used only to distribute newspapers;

''(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

''(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

''(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

''(9) the operation of a motor vehicle in a national park or national monument;

''(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

''(11) transportation of used pallets and used empty shipping containers (including intermodal

cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

''(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

''(13) transportation of wood chips;

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

''(15) transportation of broken, crushed, or powdered glass.

''(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Panel, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Panel has jurisdiction under this part over—

''(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

''(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or

from a place outside the municipality, municipalities, or zone; or

''(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

''(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

''(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

"§ 13507. Mixed loads of regulated and unregulated property

''A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

"§ 13508. Limited authority over cooperative associations

''(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Panel may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Panel, or an employee designated by the Secretary or the Panel, may on demand and display of proper credentials—

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

"(2) inspect and copy any record of such association or federation.

"(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Panel may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Panel containing answers to questions about transportation provided by such association or federation.

"(c) ENFORCEMENT.—The Secretary or the Panel may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Panel issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

"(d) REPORTING PENALTIES.—

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

"(A) does not make the report;

"(B) does not specifically, completely, and truthfully answer the question; or

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

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

''(A) the cooperative association or federation of cooperative associations has its principal office;

''(B) the violation occurred; or

''(C) the offender is found.

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

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

''(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain

a record under this section, or an officer, agent, or employee of that person, that—

''(1) willfully does not make that report;

''(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date that the question is required to be answered;

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

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

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

''(6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction; or

''(7) knowingly and willfully maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than $5,000.

''SUBCHAPTER II—WATER CARRIER TRANSPORTATION

"§ 13521. General jurisdiction

''(a) GENERAL RULES.—The Secretary has jurisdiction over transportation insofar as water carriers are concerned—

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

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

''(A) by motor carrier that is in the United States; and

''(B) by water carrier that is from a place in the United States to another place in the United States; and

''(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

''(A) when the transportation is by motor carrier, the transportation is provided in the United States;

''(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

''(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

''(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories of the United States.

''SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"§ 13531. General jurisdiction

''(a) IN GENERAL.—The Secretary and the Panel have jurisdiction, as specified in this part, over service

that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

''(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

''(2) a place in a State and another place in the same State through a place outside the State; or

''(3) a place in the United States and a place outside the United States.

''(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Panel has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

''SUBCHAPTER IV—AUTHORITY TO EXEMPT

''§ 13541. Authority to exempt transportation or services

''(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the Panel, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such

person, class, transaction, or service, when the Secretary or Panel finds that the application of that provision in whole or in part—

''(1) is not necessary to carry out the transportation policy of section 13101;

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

''(3) is in the public interest.

''(b) INITIATION OF PROCEEDING.—The Secretary or Panel, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Panel's own initiative or on application by an interested party.

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

''(d) REVOCATION.—The Secretary or Panel, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 13101.

''(e) LIMITATIONS.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and dam-

age, insurance, safety fitness, or activities approved under section 13703 or not terminated under section 13907(d)(2).

"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. Billing and collecting practices. .
''13708. Procedures for resolving claims involving unfiled, negotiated transportation rates.
''13709. Additional motor carrier undercharge provisions.
''13710. Alternative procedure for resolving undercharge disputes.
''13711. Government traffic.
''13712. Food and grocery transportation.

"§ 13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

''(a) REASONABLENESS.—

''(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title for transportation or service involving—

''(A) a movement of household goods described in section 13102(9)(A), or

"(B) a joint rate for a through movement with a water carrier in noncontiguous domestic trade,

must be reasonable.

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

"(b) PRESCRIPTION BY PANEL FOR VIOLATIONS.—When the Panel finds it necessary to stop or prevent a violation of subsection (a), the Panel shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

"§ 13702. Tariff requirement for certain transportation

"(a) SURFACE TRANSPORTATION COVERED.—A carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title may provide transportation or service that is—

"(1) under a joint rate for a through movement in noncontiguous domestic trade, or

"(2) for movement of household goods described in section 13102(9)(A),

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

''(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

''(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Panel tariffs containing the rates established for such transportation or service. The carriers shall keep such tariffs available for public inspection. The Panel shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

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

''(A) the carriers that are parties to it;

"(B) the places between which property will be transported;

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

"(D) privileges given and facilities allowed; and

"(E) any rules that change, affect, or determine any part of the published rate.

"(3) CHANGES.—The Panel may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs under this subsection that cover matter that is not being changed when the Panel finds that action to be consistent with the public interest. Those carriers may either—

"(A) publish new tariffs that incorporate changes, or

"(B) plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection.

"(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

"(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a tariff.

The tariff must be submitted to the Panel for inspection and be made available for inspection by shippers upon reasonable request.

''(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

''(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

''(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms, and other conditions in a tariff in agreements covering the transportation of households described in section 13102(9)(B).

''(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Panel for resolution.

"(d) INVALIDATION.—The Panel may invalidate a tariff prepared by a carrier or carriers under this section (other than subsection (e)) if that tariff violates this section or a regulation of the Panel carrying out this section.

"(e) PORT-TO-PORT TRANSPORTATION.—

"(1) IN GENERAL.—

"(A) FILING REQUIREMENT.—Except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste, each water common carrier subject to jurisdiction under subchapter II of chapter 135 performing transportation in domestic offshore commerce shall file with the Panel, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. Such carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Such tariffs shall—

"(i) state the places between which cargo will be carried;

"(ii) list each classification of cargo in use;

''(iii) state separately each terminal or other charge, privilege, or facility under the control of the carrier and any rules or regulations that in any way change, affect, or determine any part of the aggregate of the rates or charges; and

''(iv) include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

''(B) AVAILABILITY.—Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for them.

''(2) TIME-VOLUME RATES.—Rates shown in tariffs filed under paragraph (1) may vary with the volume of cargo offered over a specified period of time.

''(3) RATES.—No new or initial rate required to be filed under this subsection, or change in an existing rate required to be filed under this subsection, that results in an increased cost to a shipper may become effective earlier than 30 days after filing of the rate with the Panel; except that the Panel, for good cause, may allow such a new or initial rate or change to become effective in less than 30 days. A

change in such an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing of the rate with the Panel.

"§ 13703. Certain collective activities; exemption from antitrust laws

''(a) AGREEMENTS.—

''(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

''(A) through routes and joint rates;

''(B) rates for the transportation of household goods described in section 13102(9)(A);

''(C) classifications;

''(D) mileage guides;

''(E) rules;

''(F) divisions;

''(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

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

"(2) SUBMISSION OF AGREEMENT TO PANEL; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Panel for approval and may be approved by the Panel only if it finds that such agreement is in the public interest.

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

"(4) INVESTIGATIONS.—The Panel may suspend and investigate the reasonableness of any classification or rate adjustment of general application made pursuant to an agreement under this section.

"(5) EFFECT OF APPROVAL.—If the Panel approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Panel, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

"(b) RECORDS.—The Panel may require an organization established or continued under an agreement ap-

proved under this section to maintain records and submit reports. The Panel, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

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

''(1) approving an agreement,

''(2) denying, ending, or changing approval,

''(3) prescribing the conditions on which approval is granted, or

''(4) changing those conditions,

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

''(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Panel, the agreement is unchanged, and the Panel approves such renewal. The Panel shall approve the renewal unless it finds that the renewal is not in the public interest.

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

"(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

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

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

"(g) MILEAGE RATE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

"(1) uses an independent publication of mileage (other than a publication referred to in paragraph (2)) which can be examined by any interested person upon reasonable request; or

''(2) is a participant in a publication of mileages formulated under an agreement approved under this section.

''(h) SINGLE LINE RATE DEFINED.—In this section, the term 'single line rate' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

"§ 13704. Household goods rates—estimates; guarantees of service

''(a) IN GENERAL.—

''(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

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

''(b) RATES FOR GUARANTEED SERVICE.—

"(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

"(2) AUTHORITY OF SECRETARY TO REQUIRE NONGUARANTEED SERVICE RATES.—Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary may require such carrier to have in effect and keep in effect, during any period such rate is in effect under paragraph (1), a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per

diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

"§ 13705. Requirements for through routes among motor carriers of passengers

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

''(b) PRESCRIBED BY PANEL.—When the Panel finds it necessary to enforce the requirements of this section, the Panel may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

"§ 13706. Liability for payment of rates

''(a) LIABILITY OF CONSIGNEE.—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title

to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

''(1) of the agency and absence of beneficial title; and

''(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

''(b) LIABILITY OF BENEFICIAL OWNER.—When the consignee is liable only for rates billed at the time of delivery under subsection (a), the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of the lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

"§ 13707. Billing and collecting practices

''(a) TIMING.—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service.

''(b) FALSE OR MISLEADING INFORMATION.—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

''(c) ALLOWANCES FOR SERVICES.—When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

"§ 13708. Procedures for resolving claims involving unfiled, negotiated transportation rates

''(a) TRANSPORTATION PROVIDED BEFORE EFFECTIVE DATE.—

''(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household

goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

''(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

''(B) with respect to the claim—

''(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file with the Interstate Commerce Commission for the transportation service;

''(ii) the person tendered freight to the carrier or freight forwarder in reason-

able reliance upon the offered transportation rate;

''(iii) the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

''(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

''(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

''(2) FORUM FOR RESOLUTION OF SHOWINGS.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Panel. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder.

''(3) EFFECT OF SATISFACTION OF CLAIMS UNDER DISPUTE RESOLUTION PROCEDURE.—Satis-

faction of a claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119, as in effect on the day before the effective date of this section.

''(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim, if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Panel .

''(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim, if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Panel.

"(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Panel.

"(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsections (b), (c) or (d), the person may pursue all rights and remedies existing under this title on the day before the effective date of this section.

"(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Panel has made a determination as to the reasonableness of the challenged

rate as applied to the freight of the person against whom the claim is made.

''(g) NOTIFICATION OF ELECTION.—

''(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

''(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

''(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

''(B) March 5, 1994.

''(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or

freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

''(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

''(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

''(B) March 5, 1994.

"(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

"(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(C) if the cargo involved in the claim is recyclable materials.

"(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§ 13709. Additional motor carrier undercharge provisions

''(a) MISCELLANEOUS PROVISIONS.—

''(1) INFORMATION RELATING TO BASIS OF RATE.—A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based.

''(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—With respect to transportation provided before the effective date of this section, when the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Panel shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Panel determine whether any additional charges

over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

''(3) CHARGES BEFORE EFFECTIVE DATE.—With respect to transportation provided before the effective date of this section, if a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Panel determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

''(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of this section and not required to be filed after that date is null and void beginning on that date.

''(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT CARRIER.—If a motor

carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of this section was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Panel shall resolve the dispute.

"§ 13710. Alternative procedure for resolving undercharge disputes

''(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation that was subject to jurisdiction under subchapter II of chapter 105 before the effective date of this section, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with chapter 107 of this title by the carrier or freight forwarder applicable to such transportation

service and the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) of this title or is transporting property between places described in section 13501(1) of this title for the purpose of avoiding application of this section.

''(b) JURISDICTION OF PANEL.—

''(1) DETERMINATION.—The Panel shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Panel determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

''(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Panel shall consider—

''(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file

with the Interstate Commerce Commission at the time of the movement for the transportation service;

''(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

''(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

''(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

''(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

''(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation

service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Panel has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

''(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before the effective date of this section, to the requirements of sections 10761(a) and 10762, relating to a filed tariff rate and other general tariff requirements, as in effect on the day before such effective date.

''(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13708 shall not apply to such rate.

''(f) DEFINITIONS.—In this section, the term ''negotiated rate'' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

''§ 13711. Government traffic

''A carrier providing transportation or service for the United States Government may transport property or indi-

viduals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§ 13712. Food and grocery transportation

''(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

''(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

''Sec.
''13901. Requirement for registration.
''13902. Registration of motor carriers.
''13903. Registration of freight forwarders.
''13904. Registration of motor carrier brokers.
''13905. Effective periods of registration.
''13906. Security of motor carriers, brokers, and freight forwarders.
''13907. Household goods agents.
''13908. Registration and other reforms.

"§ 13901. Requirement for registration

''A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.

"§ 13902. Registration of motor carriers

''(a) MOTOR CARRIER GENERALLY.—

''(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

''(A) this part and the applicable regulations of the Secretary and the Panel;

''(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

''(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

''(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the ex-

tent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

''(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.

''(4) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Panel, the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

''(b) MOTOR CARRIERS OF PASSENGERS.—

''(1) INTRASTATE TRANSPORTATION.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over

which the carrier provides interstate transportation of passengers.

''(2) PREEMPTION REGARDING CERTAIN EXPRESS SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

''(3) TREATMENT.—Except as provided in section 14501(a), any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph and the carrier takes such action as is necessary to establish under the laws of such

State rates, rules, and practices applicable to such transportation.

''(4) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

''(5) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

''(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

''(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

''(A) seek elimination of such practices through consultations; or

"(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

"(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

"(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

"(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

''(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on the day before the effective date of this section; or

''(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

''(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3) and provide an opportunity for public comment.

"(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

"(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

"§ 13903. Registration of freight forwarders

"(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is willing and able to pro-

vide the service and to comply with this part and applicable regulations of the Secretary and the Panel.

''(b) REGISTRATION AS CARRIER REQUIRED.—The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.

"§ 13904. Registration of motor carrier brokers

''(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is willing and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

''(b) LIMITATION.—

''(1) REGISTRATION AS CARRIER REQUIRED.—The broker may provide transportation itself only if the broker also has registered to provide transportation as a carrier under this chapter.

''(2) EXCEPTION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

''(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

''(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

"§ 13905. Effective periods of registration

''(a) IN GENERAL.—Each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect, except as otherwise provided in this part.

''(b) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Panel, or a condition of its registration.

''(c) PROCEDURE.—Except on application of the registrant, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

''(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration of the registrant; and

''(2) the registrant willfully does not comply with the order for a period of 30 days.

''(d) EXPEDITED PROCEDURE.—

''(1) PROTECTION OF SAFETY.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

''(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe oper-

ations which are an imminent hazard to public health or property.

''(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.

"§ 13906. Security of motor carriers, brokers, and freight forwarders

''(a) MOTOR CARRIER REQUIREMENTS.—

''(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily

injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

''(2) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

''(3) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation

provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

''(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

''(c) FREIGHT FORWARDER REQUIREMENTS.—

''(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in para-

graph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

''(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

''(3) EFFECTIVE PERIOD.—The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

''(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the effective date of this section shall retain that authority unless, for good cause shown and after notice

and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

''(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation.

''(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

"§ 13907. Household goods agents

''(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to jurisdiction under subchapter I of chapter 135 and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

"(c) ENFORCEMENT.—

"(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of

paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

''(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

''(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

''(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 and its agents (whether or not an agent is also a carrier) related solely to—

''(A) rates for the transportation of household goods under the authority of the principal carrier;

''(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

''(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

''(D) ownership of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 by an agent or membership on the board of directors of any such motor carrier by an agent.

''(2) PANEL REVIEW.—The Panel, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

"§ 13908. Registration and other reforms

''(a) REGULATIONS REPLACING CERTAIN PROGRAMS.—The Secretary, in cooperation with the States, shall issue regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in chapter 139, and the financial responsibility information system under section 13906

with a single system. The new system shall serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, freight forwarders, and others required to register with the Department as well as information on safety fitness and compliance with required levels of financial responsibility.

''(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a) with respect to the single State registration system under section 14504, the Secretary shall, at a minimum, consider the following factors:

''(1) Funding for State enforcement of motor carrier safety regulations.

''(2) Whether the existing single State registration system is duplicative and burdensome.

''(3) The justification and need for collecting the statutory fee for such system under section 14504(c)(2)(B)(iv).

''(4) The public safety.

''(5) The efficient delivery of transportation services.

''(c) FEE SYSTEM.—The Secretary may establish fees as part of any system implemented under subsection (a). The system operation and upgrade, including all personnel

costs associated with the system, shall be fully supported by user fees collected.

''(d) DEADLINE FOR CONCLUSION; MODIFICATIONS.—Not later than 18 months after the effective date of this section, the Secretary—

''(1) shall conclude the rulemaking under this section;

''(2) may implement such changes under this section as the Secretary considers appropriate and in the public interest; and

''(3) shall transmit to Congress a report on any findings of the rulemaking and the changes being implemented under this section, together with such recommendations for legislative language necessary to conform this part to such changes.

''CHAPTER 141—OPERATIONS OF 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.

''SUBCHAPTER I—GENERAL REQUIREMENTS

''§ 14101. Providing transportation and service

''(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

''(b) CONTRACTS WITH SHIPPERS.—

''(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(9)(A), to provide specified services under specified rates and conditions. If the shipper, in writing, expressly waives all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to this part and may not be subsequently challenged on the ground that it violates a provision of this part.

''(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United

States district court, unless the parties otherwise agree.

"§ 14102. Leased motor vehicles

''(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

''(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

''(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

''(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

''(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

''(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property

providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

"§ 14103. Loading and unloading motor vehicles

''(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

''(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more

persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

"§ 14104. Household goods carrier operations

''(a) GENERAL REGULATORY AUTHORITY.—

''(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

''(2) PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

"(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following:

"(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

"(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

"(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

"(iv) service requirements of the carriers;

"(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

"(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to

limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

''(b) ESTIMATES.—

''(1) AUTHORITY TO PROVIDE WITHOUT COMPENSATION.—Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

''(2) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

''(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

''SUBCHAPTER II—REPORTS AND RECORDS

"§ 14121. Definitions

''In this subchapter, the following definitions apply:

''(1) CARRIER AND BROKER.—The terms 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

''(2) ASSOCIATION.—The term 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or en-

gages in activities, related to transportation under this part.

"§ 14122. Records: form; inspection; preservation

''(a) FORM OF RECORDS.—The Secretary or the Panel, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

''(b) RIGHT OF INSPECTION.—The Secretary or Panel, or an employee designated by the Secretary or Panel, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

''(2) inspect and copy any record of—

''(A) a carrier, broker, or association; and

''(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Panel, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

''(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Panel, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers.

"§ 14123. Financial reporting

[To be supplied]

"CHAPTER 143—FINANCE

''Sec.
''14301. Security interests in certain motor vehicles.
''14302. Pooling and division of transportation or earnings.

"§ 14301. Security interests in certain motor vehicles

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

''(2) LIEN CREDITOR.—The term 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

''(3) SECURITY INTEREST.—The term 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage,

equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

''(4) PERFECTION.—The term 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

''(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

''(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or

permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

''(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

''(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

"§ 14302. Pooling and division of transportation or earnings

''(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Panel under this section.

''(b) STANDARDS FOR APPROVAL.—The Panel may approve and authorize an agreement or combination be-

tween or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Panel finds that a pooling or division of traffic, services, or earnings—

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

''(2) will not unreasonably restrain competition.

''(c) PROCEDURE.—

''(1) APPLICATION.—Any motor carrier of property may apply to the Panel for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Panel not less than 50 days before its effective date.

''(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Panel shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Panel determines that neither of these 2 factors exists, it shall, prior to such effective

date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Panel may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Panel to be just and reasonable.

''(3) HEARING.—If the Panel determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Panel shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Panel shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Panel may issue, and for such

consideration between such carriers and upon such terms and conditions as shall be found by the Panel to be just and reasonable.

''(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Panel approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the effective date of this section.

''(5) STREAMLINING AND SIMPLIFYING.—The Panel shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and

combinations between motor carriers providing transportation of household goods and their agents.

''(d) CONDITIONS.—The Panel may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

''(e) INITIATION OF PROCEEDING.—The Panel may begin a proceeding under this section on its own initiative or on application.

''(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Panel under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

"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.

"§ 14501. Federal authority over intrastate transportation

''(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency

or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

''(b) FREIGHT FORWARDERS AND BROKERS.—

''(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

''(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder De-

regulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

''(c) MOTOR CARRIERS OF PROPERTY.—

''(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

''(2) MATTERS NOT COVERED.—Paragraph (1)—

''(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relat-

ing to insurance requirements and self-insurance authorization;

''(B) does not apply to the transportation of household goods; and

''(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed—

''(i) at the request of a law enforcement officer; or

''(ii) without the prior consent or authorization of the owner or operator of the motor vehicle.

''(3) STATE STANDARD TRANSPORTATION PRACTICES.—

''(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

''(i) uniform cargo liability rules,

''(ii) uniform bills of lading or receipts for property being transported,

''(iii) uniform cargo credit rules, or

''(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

''(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Panel under this part; and

''(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

''(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling

ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

''(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

"§ 14502. Tax discrimination against motor carrier transportation property

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) ASSESSMENT.—The term 'assessment' means valuation for a property tax levied by a taxing district.

''(2) ASSESSMENT JURISDICTION.—The term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

''(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term 'motor carrier transportation property' means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

"(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

"(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

"(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

"(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate ap-

plicable to commercial and industrial property in the same assessment jurisdiction.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

''(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction.

''(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

''(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district

court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

''(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

''(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§ 14503. Withholding State and local income tax by certain carriers

''(a) SINGLE STATE TAX WITHHOLDING.—

''(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee

who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

''(2) EMPLOYEE DEFINED.—In this subsection, the term 'employee' has the meaning given such term in section 31132.

''(b) SPECIAL RULES.—

''(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

''(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

''(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

"(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

"(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

"(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"§ 14504. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation re-

ferred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

''(c) SINGLE STATE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

''(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

''(B) the State of registration shall fully comply with standards prescribed under this section; and

''(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

''(2) SPECIFIC REQUIREMENTS.—

''(A) EVIDENCE OF FEDERAL REGISTRATION; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this sub-

section, only a State acting in its capacity as registration State under such single State system may require a motor carrier registered by the Secretary under this part—

''(i) to file and maintain evidence of such Federal registration;

''(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

''(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

''(iv) to file the name of a local agent for service of process.

''(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

''(i) shall require that the registration State issue a receipt, in a form prescribed under the standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this

paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

''(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

''(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

''(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that—

''(I) will be based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates;

''(II) will minimize the costs of complying with the registration system; and

''(III) will result in a fee for each participating State that is equal to

the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

''(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

''(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

''(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

''§ 14505. State tax

''A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

''(1) a passenger traveling in interstate commerce by motor carrier;

''(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

''(3) the sale of passenger transportation in interstate commerce by motor carrier; or

''(4) the gross receipts derived from such transportation.

"CHAPTER 147—ENFORCEMENT; 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.

"§ 14701. General authority

''(a) INVESTIGATIONS.—The Secretary or the Panel, as applicable, may begin an investigation under this part on the Secretary's or the Panel's own initiative or on complaint. If the Secretary or Panel, as applicable finds that a carrier or broker is violating this part, the Secretary or Panel, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take ap-

propriate action to compel compliance with that chapter. The Secretary or Panel, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

''(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Panel, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Panel, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

''(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Panel under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

"§ 14702. Enforcement by the regulatory authority

''(a) IN GENERAL.—The Secretary or the Panel, as applicable, may bring a civil action—

''(1) to enforce section 14103 of this title; or

''(2) to enforce this part, or a regulation or order of the Secretary or Panel, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

''(b) VENUE.—In a civil action under subsection (a)(2) of this section—

''(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

''(c) STANDING.—The Panel, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

"§ 14703. Enforcement by the Attorney General

''The Attorney General may, and on request of either the Secretary of Transportation or Intermodal Surface Transportation Panel shall, bring court proceedings—

''(1) to enforce this part or a regulation or order of the Secretary or Panel or terms of registration under this part; and

''(2) to prosecute a person violating this part or a regulation or order of the Secretary or Panel or term of registration under this part.

"§ 14704. Rights and remedies of persons injured by carriers or brokers

''(a) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Panel, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

''(b) LIABILITY AND DAMAGES.—

''(1) LIABILITY FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702 of this title.

"(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

"(c) ELECTION.—

"(1) COMPLAINT TO DOT OR PANEL; CIVIL ACTION.—A person may file a complaint with the Panel or the Secretary, as applicable, under section 14701(b) of this title or bring a civil action under subsection (b)(1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

"(2) ORDER OF DOT OR PANEL.—

"(A) IN GENERAL.—When the Panel or Secretary, as applicable, makes an award under subsection (b) of this section, the Panel or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Panel or Secretary, as applicable, may order a carrier or broker providing transportation or

service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

''(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Panel or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

''(d) PROCEDURE.—

''(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Panel or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Panel or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Panel or Secretary are competent evidence of the facts stated in them. Trial

in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

''(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

''(3) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier or broker is found liable under this subsection. The district court shall

tax and collect that fee as a part of the costs of the action.

"§ 14705. Limitation on actions by and against carriers

''(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

''(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Panel or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

''(c) DAMAGES.—A person must file a complaint with the Panel or Secretary, as applicable, to recover damages under section 14704(b)(2) of this title within 2 years after the claim accrues.

''(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim speci-

fied in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) of this section and the 2-year period under subsection (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

''(e) PAYMENT.—A person must begin a civil action to enforce an order of the Panel or Secretary against a carrier for the payment of money within 1 year after the date the order required the money to be paid.

''(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

''(1) payment of the rate for the transportation or service involved;

''(2) subsequent refund for overpayment of that rate; or

''(3) deduction made under section 3726 of title 31.

''(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

"§ 14706. Liability of carriers under receipts and bills of lading

''(a) GENERAL LIABILITY.—

''(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a

through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff filed under section 13702 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

''(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

''(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section

or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

''(c) SPECIAL RULES.—

''(1) LIMITATION OF LIABILITY BY CONTRACT.—A carrier may limit or be exempt from liability imposed under subsection (a) of this section by a mutual written agreement, that is referred to in the receipt, bill of lading, or contract for the transportation involved entered into with the shipper, to limit liability to a specified amount.

''(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

''(d) CIVIL ACTIONS.—

''(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a

delivering carrier (other than a rail carrier) in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

''(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

''(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

''(4) JUDICIAL DISTRICT DEFINED.—In this section, 'judicial district' means—

''(A) in the case of a United States district court, a judicial district of the United States; and

''(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

''(e) MINIMUM PERIOD FOR FILING CLAIMS.—

''(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than

9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

''(2) SPECIAL RULES.—For the purposes of this subsection—

''(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

''(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

''(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Panel to modify, elimi-

nate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

''(g) MODIFICATIONS AND REFORMS.—

''(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section.

''(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall consider—

''(A) the efficient delivery of transportation services;

''(B) international and intermodal harmony;

''(C) the public interest; and

''(D) the interest of carriers and shippers.

''(3) REPORT.—Not later than 18 months after the effective date of this section, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

"§ 14707. Private enforcement of registration requirement

''(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

''(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

''(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

"§ 14708. Dispute settlement program for household goods carriers

''(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer to shippers neutral arbitration as a means of settling disputes between such carriers and shippers of household goods concerning the transportation of household goods.

''(b) ARBITRATION REQUIREMENTS.—

''(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

''(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable fees, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the

carrier before such goods are tendered to the carrier for transportation.

''(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

''(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

''(5) LIMITATION ON FEES.—No fee of more than $25 may be charged a shipper for instituting an arbitration proceeding under this subsection. In any case in which a shipper is charged a fee under this paragraph for instituting an arbitration proceeding and such dispute is settled in favor of the shipper, the person settling the dispute must refund

such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

''(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the shipper requests arbitration, such shall be binding on the parties.

''(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

''(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend

such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

''(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

''(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a motor carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

''(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

''(2) the shipper prevails in such court action; and

''(3)(A) a decision resolving the dispute was not rendered through arbitration under this section with-

in the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

''(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

''(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

''(1) after resolution of such dispute through arbitration under this section; or

''(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

''(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

''(B) a decision resolving such dispute is rendered.

''(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods.

"§ 14709. Tariff reconciliation rules for motor carriers of property

''Subject to review and approval by the Panel, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with sections 10761 and 10762 of this title as in effect on the day before the effective date of this section. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a filed tariff.

"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 individuals. .
''14912. Weight-bumping in household goods transportation .
''14913. Conclusiveness of rates in certain prosecutions.

"§ 14901. General civil penalties

''(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Panel, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

''(1) does not make the report;

''(2) does not specifically, completely, and truthfully answer the question;

''(3) does not make, prepare, or preserve the record in the form and manner prescribed;

''(4) does not comply with section 13901; or

''(5) does not comply with section 13902(c);

is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who is not registered under this part to provide transportation of passengers, or an officer, agent,

or employee of such person, that does not comply with section 13901 with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

''(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

''(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such

other matters as fairness may require shall be taken into account.

''(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Panel relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

''(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

''(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

''(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

''(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

''(1) the carrier or broker has its principal office;

''(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

''(3) the violation occurred; or

''(4) the offender is found.

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

"§ 14902. Civil penalty for accepting rebates from carrier

''A person—

''(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part

or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

''(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

''§ 14903. Tariff violations

''(a) CRIMINAL PENALTY FOR UNDERCHARGING.—A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at less than the rate in effect under

section 13702 shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

''(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

"§ 14904. Additional rate violations

''(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

"(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"(b) UNDERCHARGING.—

"(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"(2) AGENTS AND OTHERS.—A person that knowingly and willfully by any means gets, or at-

tempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"§ 14905. Penalties for violations of rules relating to loading and unloading motor vehicles

''(a) CIVIL PENALTIES.—Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(b) CRIMINAL PENALTIES.—Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

"§ 14906. Evasion of regulation of carriers and brokers

''A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"§ 14907. Record keeping and reporting violations

''A person required to make a report to the Secretary or the Panel, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

''(1) willfully does not make that report;

''(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Panel, as applicable, requires the question to be answered;

''(3) willfully does not make, prepare, or preserve that record in the form and manner prescribed;

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

''(5) knowingly and willfully files a false report or record;

''(6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction; or

''(7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Panel;

shall be fined not more than $5,000.

"§ 14908. Unlawful disclosure of information

''(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

''(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

''(2) FINE; VENUE.—A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

''(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 from giving information—

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

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

''(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

''§ 14909. Disobedience to subpoenas

''A person not obeying a subpoena or requirement of the Secretary or the Panel to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than 1 year, or both.

''§ 14910. General criminal penalty when specific penalty not provided

''When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135

or a condition of a registration under section 13902, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

"§ 14911. Punishment of corporation for violations committed by certain individuals

''An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

"§ 14912. Weight-bumping in household goods transportation

''(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

''(b) PENALTY.—Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

"§ 14913. Conclusiveness of rates in certain prosecutions

''When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.''.

SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.

(a) MULTIPLE INSURERS.—Section 31138(c) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

(b) LOWER COVERAGE PERMITTED FOR CERTAIN OPERATIONS.—Section 31138 of such title is amended by adding at the end thereof the following:

"(f) LOWER COVERAGE PERMITTED FOR CERTAIN OPERATIONS.—Under regulations promulgated by the Secretary, the minimum amount set forth in subsection (b)(1) shall not apply to motor vehicles used, under a program funded in whole or in part with a Federal transit grant, to provide supplemental para-transit services for the elderly and disabled.".

(c) TRANSPORTERS OF PROPERTY.—Section 31139(e) of such title is amended by adding at the end thereof the following:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(d) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31132(1) of such title is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking subparagraph (B) and inserting the following:

"(B) is designed or used to transport passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

''(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or''.

(e) SELF-INSURANCE RULES.—The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

TITLE II—TRANSPORTATION ADJUDICATION PANEL

SEC. 201. TITLE 49 AMENDMENT.

(a) AMENDMENT.—Subtitle I of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 7—TRANSPORTATION 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. National organization of State commissions.
''726. Administrative support.
''727. Definitions.

''SUBCHAPTER I—ESTABLISHMENT

"§ 701. Establishment of Panel

''(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Transportation Adjudication Panel.

''(b) MEMBERSHIP.—(1) The Panel shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 members may be appointed from the same political party.

''(2) At any given time, at least 2 members of the Panel shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience in the private sector.

''(3) The term of each member of the Panel shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

''(4) On the effective date of this section, the members of the Interstate Commerce Commission then serving unexpired terms shall become members of the Panel, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

''(5) No individual may serve as a member of the Panel for more than 2 terms, including service as a member of the Interstate Commerce Commission. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

''(6) A member of the Panel may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

''(7) A vacancy in the membership of the Panel does not impair the right of the remaining members to exercise all of the powers of the Panel. The Panel may designate a member to act as Director during any period in which there is no Director designated by the President.

''(c) DIRECTOR.—(1) There shall be at the head of the Panel a Director, who shall be designated by the President from among the members of the Panel. The Panel shall be administered under the supervision and direction of the Director. The Director shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

''(2) Subject to the general policies, decisions, findings, and determinations of the Panel the Director shall be responsible for administering the Panel. The Director may delegate the powers granted under this paragraph to an officer, employee, or office of the Panel. The Director shall—

''(A) appoint and supervise, other than regular and full time employees in the immediate offices of

another member, the officers and employees of the Panel, including attorneys to provide legal aid and service to the Panel and its members, and to represent the Panel in any case in court;

''(B) appoint the heads of offices with the approval of the Panel;

''(C) distribute Panel responsibilities among officers and employees and offices of the Panel;

''(D) prepare requests for appropriations for the Panel and submit those requests to the President and Congress with the prior approval of the Panel; and

''(E) supervise the expenditure of funds allocated by the Panel for major programs and purposes.

''§ 702. Functions

''Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Panel shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

"§ 703. Administrative provisions

''(a) EXECUTIVE REORGANIZATION.—Chapter 9 of title 5, United States Code, shall apply to the Panel in the same manner as it does to an independent regulatory agency.

''(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Panel shall be deemed to be an agency.

''(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Panel shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

''(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Director of the Panel may appear for, and represent the Panel in, any civil action brought in connection with any function carried out by the Panel pursuant to this chapter or subtitle IV or as otherwise authorized by law.

''(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Panel may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

''(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended

for the support of the Panel and include a statement by the Panel—

''(1) showing the amount requested by the Panel in its budgetary presentation to the Secretary and the Office of Management and Budget; and

''(2) an assessment of the budgetary needs of the Panel.

''(g) DIRECT TRANSMITTAL TO CONGRESS.—The Panel shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Panel with Congress, or a committee or member of Congress, about the information.

''§ 704. Annual report

''The Panel shall annually transmit to the Congress a report on its activities.

''§ 705. Authorization of appropriations

''There are authorized to be appropriated to the Secretary of Transportation for the activities of the Panel—

''(1) $8,421,000 for fiscal year 1996;

''(2) $12,000,000 for fiscal year 1997; and

''(3) $12,000,000 for fiscal year 1998.

"§ 706. Reporting official action

''(a) The Panel shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Panel and, if damages are awarded, the findings of fact supporting the award. The Panel may have its reports published for public use. A published report of the Panel is competent evidence of its contents.

''(b)(1) When action of the Panel in a matter related to a rail carrier is taken by the Panel, an individual member of the Panel, or another individual or group of individuals designated to take official action for the Panel, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

''(A) the official designation of the individual or group taking the action;

''(B) the name of each individual taking, or participating in taking, the action; and

''(C) the vote or position of each participating individual.

''(2) If an individual member of a group taking an official action referred to in paragraph (1) of this sub-

section does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

''SUBCHAPTER II—ADMINISTRATIVE

"§ 721. Powers

''(a) The Panel shall carry out this chapter and subtitle IV. Enumeration of a power of the Panel in this chapter or subtitle IV does not exclude another power the Panel may have in carrying out this chapter or subtitle IV. The Panel may prescribe regulations in carrying out this chapter and subtitle IV.

''(b) The Panel may—

''(1) inquire into and report on the management of the business of carriers providing, and brokers for, transportation and services subject to subtitle IV;

''(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of

that person is related to the management of the business of that carrier or broker; and

''(3) obtain from those carriers, brokers, and persons information the Panel decides is necessary to carry out subtitle IV.

''(c)(1) The Panel may subpoena witnesses and records related to a proceeding of the Panel from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Panel, or a party to a proceeding before the Panel, may petition a court of the United States to enforce that subpoena.

''(2) The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

''(d)(1) In a proceeding, the Panel may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Panel may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

''(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Panel

may subpoena the witness to take a deposition, produce the records, or both.

''(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

''(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

''(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

''(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Panel or agreed on by the parties

by written stipulation filed with the Panel. A deposition shall be filed with the Panel promptly.

''(e) Each witness summoned before the Panel or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

"§ 722. Panel action

''(a) Unless otherwise provided in subtitle IV, the Panel may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect.

''(b) An action of the Panel remains in effect under its own terms or until superseded. The Panel may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Panel. A court of competent jurisdiction may suspend or set aside any such action.

''(c) The Panel may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

''(1) reopen a proceeding;

''(2) grant rehearing, reargument, or reconsideration of an action of the Panel; or

''(3) change an action of the Panel.

An interested party may petition to reopen and reconsider an action of the Panel under this subsection under regulations of the Panel.

''(d) Notwithstanding subtitle IV, an action of the Panel under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

"§ 723. Service of notice in Panel proceedings

''(a) A carrier providing transportation subject to the jurisdiction of the Panel under subtitle IV shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Panel may be made.

''(b) A designation under subsection (a) of this section shall be in writing and filed with the Panel.

''(c) Except as otherwise provided, notices of the Panel shall be served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Panel shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Panel.

''(d) In a proceeding involving the lawfulness of classifications, rates, or practices of a rail carrier that has

not designated an agent under this section, service of notice of the Panel on an attorney in fact for the carrier constitutes service of notice on the carrier.

"§ 724. Service of process in court proceedings

''(a) A carrier providing transportation subject to the jurisdiction of the Panel under subtitle IV shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Panel.

''(b) A designation under this section may be changed at any time in the same manner as originally made.

"§ 725. National organization of State commissions

''The Administrator of General Services shall assign space and facilities for the use of the national organization of the State commissions and their representatives. The space and facilities shall be available for the use of the State commissions and their representatives cooperating with the Panel or with another department, agency, or instrumentality of the United States Government. The rent-

al for such space shall be paid by the national organization's Federal agency members other than the Panel.

"§ 726. Administrative support

''The Secretary of Transportation shall provide appropriate administrative support for the Panel.

"§ 727. Definitions

''All terms used in this chapter that are defined in subtitle IV shall have the meaning given those terms in that subtitle.''.

(b) TABLE OF CHAPTERS AMENDMENT.—The table of chapters of subtitle I of title 49, United States Code, is amended by adding at the end the following new item:

''7. TRANSPORTATION ADJUDICATION PANEL ..... 701''.

SEC. 202. REORGANIZATION.

The Director of the Transportation Adjudication Panel (in this Act referred to as the ''Panel'') may allocate or reallocate any function of the Panel, consistent with this title and subchapter I of chapter 7, as amended by section 201 of this title, among the members or employees of the Panel, and may establish, consolidate, alter, or discontinue in the Panel any organizational entities that were entities of the Interstate Commerce Commission, as the Director considers necessary or appropriate.

SEC. 203. TRANSFER OF ASSETS.

Except as otherwise provided in this Act and the amendments made by this Act, so much of the personnel,

property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to the Panel by this Act shall be available to the Panel at such time or times as the President directs for use in connection with the functions transferred.

SEC. 204. SAVING PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in

accordance with law by the President, the Panel, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—(1) Except as provided in paragraph (2), the Panel shall assume responsibility for the continuation of all proceedings pending before the Interstate Commerce Commission, and shall complete such proceedings in accordance with law and regulations as in effect before the date of the enactment of this Act.

(2) In the case of a proceeding under a provision of law repealed, and not reenacted, by this Act, such proceeding shall be terminated.

(c) SUITS.—(1) This Act shall not affect suits commenced before the date of the enactment of this Act, except that the Panel shall assume the position of the Interstate Commerce Commission, and, except as provided in paragraph (2), in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) If the court in a suit described in paragraph (1) remands a case to the Panel, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(d) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Panel may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

SEC. 205. REFERENCES.

Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Panel or a member or employee of the Panel, as appropriate.

TITLE III—CONFORMING AMENDMENTS

Subtitle A—Amendments to United States Code

SEC. 301. TITLE 5 AMENDMENTS.

(a) COMPENSATION FOR POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended

by striking ''Chairman, Interstate Commerce Commission.'' and inserting in lieu thereof ''Director, Transportation Adjudication Panel.''.

(b) COMPENSATION FOR POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Members, Interstate Commerce Commission.'' and inserting in lieu thereof ''Members, Transportation Adjudication Panel.''.

SEC. 302. TITLE 11 AMENDMENTS.

Subchapter IV of chapter 11 of title 11, United States Code, is amended—

(1) by amending section 1162 to read as follows:

''§ 1162. Definition

''In this subchapter, 'Panel' means the ''Transportation Adjudication Panel.''; and

(2) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''.

SEC. 303. TITLE 18 AMENDMENT.

Section 6001(1) of title 18, United States Code, is amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 304. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.

(a) SECTION 3231.—Section 3231 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(2) by striking ''an express carrier, sleeping car carrier, or'' in subsection (g) and inserting in lieu thereof ''a''.

(b) SECTION 7701.—Section 7701 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (33)(B), by striking ''Federal Power Commission'' and inserting in lieu thereof ''Federal Energy Regulatory Commission'';

(2) in paragraph (33)(C)(i), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel'';

(3) in paragraph (33)(C)(ii), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Federal Energy Regulatory Commission'';

(4) in paragraph (33)(F), by striking ''Interstate Commerce Commission under subchapter III of chapter 105'' and inserting in lieu thereof ''Transportation Adjudication Panel under subchapter II of chapter 135'';

(5) in paragraph (33)(G), by striking ''subchapter I of chapter 105'' and inserting in lieu thereof ''part A of subtitle IV''; and

(6) in paragraph (33)(H), by striking ''subchapter I of chapter 105'' and inserting in lieu thereof ''part A of subtitle IV''.

SEC. 305. TITLE 28 AMENDMENTS.

(a) CHAPTER 157 AMENDMENTS.—(1) Chapter 157 of title 28, United States Code, is amended—

(A) by striking ''**INTERSTATE COMMERCE COMMISSION**'' in the chapter heading and inserting in lieu thereof ''**TRANSPORTATION ADJUDICATION PANEL**'';

(B) by striking ''**Commission's**'' in the section heading of section 2321 and inserting in lieu thereof ''**Panel's**'';

(C) by striking ''Interstate Commerce Commission'' each place it appears and inserting in lieu thereof ''Transportation Adjudication Panel'';

(D) by striking ''Commission's'' each place it appears and inserting in lieu thereof ''Panel's''; and

(E) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''.

(2)(A) The item relating to chapter 157 in the table of chapters of title 28, United States Code, is amended

by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

(B) The item relating to section 2321 in the table of sections of chapter 157 of title 28, United States Code, is amended by striking ''Commission's'' and inserting in lieu thereof ''Panel's''.

(b) CHAPTER 158 AMENDMENTS.—Chapter 158 of title 28, United States Code, is amended—

(1) by striking ''the Interstate Commerce Commission,'' in section 2341(3)(A);

(2) by striking ''and'' at the end of section 2341(3)(C);

(3) by striking the period at the end of section 2341(3)(D) and inserting in lieu thereof ''; and'';

(4) by inserting at the end of section 2341(3) the following new subparagraph:

''(E) the Panel, when the order was entered by the Transportation Adjudication Panel.''; and

(5) in section 2342, by—

(A) inserting ''or pursuant to part B of subtitle IV of title 49, United States Code'' at the end of paragraph (3)(A); and

(B) striking paragraph (5) and inserting the following:

''(5) all rules, regulations, or final orders of the Transportation Adjudication Panel made reviewable by section 2321 of this title; and''.

SEC. 306. TITLE 39 AMENDMENTS.

Title 39, United States Code, is amended—

(1) in section 5005(b)(3), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(2) in chapter 52—

(A) by amending paragraph (1) of section 5201 to read as follows:

''(1) 'Panel' means the Transportation Adjudication Panel;'';

(B) by striking subsection (f) of section 5203, and redesignating subsection (g) of such section as subsection (f);

(C) in subsection (f) of section 5203, as so redesignated by subparagraph (B) of this paragraph, by striking ''Commission'' and inserting in lieu thereof ''Panel'';

(D) by striking ''**Interstate Commerce Commission**'' in the section heading

of section 5207 and inserting in lieu thereof ''**Transportation Adjudication Panel**'';

(E) by striking ''Commission's'' in section 5208(a) and inserting in lieu thereof ''Panel's'';

(F) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''; and

(G) in the item relating to section 5207 in the table of sections, by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 307. TITLE 49 AMENDMENTS.

Title 49, United States Code, is amended—

(1) in section 22106(e)(1) by striking ''application for abandonment of'' and inserting in lieu thereof ''notice of intent to abandon''; and

(2) by repealing subsection (d) of section 24705.

Subtitle B—Other Amendments

SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938 AMENDMENT.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended—

(1) by striking ''Interstate Commerce Commission'' each place it appears and inserting in lieu thereof ''Transportation Adjudication Panel'';

(2) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''; and

(3) by striking ''Commission's'' in subsection (b) and inserting in lieu thereof ''Panel's''.

SEC. 312. ANIMAL WELFARE ACT AMENDMENT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS.

Section 401 of the Federal Election Campaign Act of 1971 is amended—

(1) by striking ''Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act'' and inserting in lieu thereof ''Transportation Adjudication Panel shall each maintain''; and

(2) by inserting ''or Board'' after ''or such Commission''.

SEC. 314. FAIR CREDIT REPORTING ACT AMENDMENT.

Section 621(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(4)) is amended by striking ''Interstate Commerce Commission with respect to any common carrier subject to those Acts'' and inserting in lieu thereof ''Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel''.

SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.

Section 704(a)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(4)) is amended by striking ''Interstate Commerce Commission with respect to any common carrier subject to those Acts'' and inserting in lieu thereof ''Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel''.

SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMENDMENT.

Section 814(b)(4) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)(4)) is amended by striking ''Interstate Commerce Commission with respect to any common carrier subject to those Acts'' and inserting in lieu thereof ''Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel''.

SEC. 317. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

The National Trails System Act is amended—

(1) in section 8(d)—

(A) by striking ''Chairman of the Interstate Commerce Commission'' and inserting in lieu thereof ''Director of the Transportation Adjudication Panel''; and

(B) by striking ''Commission'' and inserting in lieu thereof ''Panel''; and

(2) in section 9(b), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 318. CLAYTON ACT AMENDMENTS.

The Clayton Act is amended—

(1) in section 7 (15 U.S.C. 18)—

(A) by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(B) by inserting '', Board,'' after ''vesting such power in such Commission'';

(2) in section 11(a) (15 U.S.C. 21(a)), by striking ''Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended'' and inserting in lieu thereof ''Transportation Adjudication Panel where

applicable to common carriers subject to subtitle IV of title 49, United States Code''; and

(3) in section 16 (15 U.S.C. 22), by striking ''in equity for injunctive relief'' and all that follows through ''Interstate Commerce Commission'' and inserting in lieu thereof ''for injunctive relief against any common carrier subject to the jurisdiction of the Transportation Adjudication Panel under subtitle IV of title 49, United States Code''.

SEC. 319. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''the Interstate Commerce Commission,''.

SEC. 320. ENERGY POLICY ACT OF 1992 AMENDMENTS.

Subsections (a) and (d) of section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369(a) and (d)) are amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 321. MERCHANT MARINE ACT, 1920, AMENDMENTS

The Merchant Marine Act, 1920, is amended—

(1) in section 8 (46 U.S.C. App. 867)—

(A) by striking ''Interstate Commerce Commission'' both places it appears and insert-

ing in lieu thereof ''Transportation Adjudication Panel''; and

(B) by striking ''commission'' and inserting in lieu thereof ''board''; and

(2) in section 28 (46 U.S.C. App. 884)—

(A) by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(B) by striking ''commission'' each place it appears and inserting in lieu thereof ''Panel''.

SEC. 322. RAILWAY LABOR ACT AMENDMENTS.

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended—

(1) by striking ''express company, sleeping-car company, carrier by railroad, subject to the Interstate Commerce Act'' in the first paragraph and inserting in lieu thereof ''railroad subject to the jurisdiction of the Transportation Adjudication Panel'';

(2) by striking ''Interstate Commerce Commission'' each place it appears in the first and fifth paragraphs and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(3) by striking ''Commission'' each place it appears in the fifth paragraph and inserting in lieu thereof ''Panel''.

SEC. 323. RAILROAD RETIREMENT ACT OF 1974 AMENDMENTS.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended—

(1) by amending subsection (a)(1)(i) to read as follows:

''(i) any carrier by railroad subject to the jurisdiction of the Transportation Adjudication Panel under part A of subtitle IV of title 49, United States Code;'';

(2) by striking ''Interstate Commerce Commission is hereby authorized and directed upon request of the Board'' in subsection (a)(2)(ii) and inserting in lieu thereof ''Transportation Adjudication Panel is hereby authorized and directed upon request of the Railroad Retirement Board''; and

(3) by striking ''Interstate Commerce Commission'' in subsection (o) and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENTS.

The Railroad Unemployment Insurance Act is amended—

(1) by striking ''Interstate Commerce Commission is hereby authorized and directed upon request of the Board'' in section 1(a) (45 U.S.C. 351(a))

and inserting in lieu thereof ''Transportation Adjudication Panel is hereby authorized and directed upon request of the Railroad Retirement Board'';

(2) by amending paragraph (b) of such section 1 to read as follows:

''(b) The term 'carrier' means a railroad subject to the jurisdiction of the Transportation Adjudication Panel under part A of subtitle IV of title 49, United States Code.'';

and

(3) by striking ''Interstate Commerce Commission, adjusted, as determined by the Board'' in section 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in lieu thereof ''Transportation Adjudication Panel, adjusted, as determined by the Railroad Retirement Board''.

SEC. 325. EMERGENCY RAIL SERVICES ACT OF 1970 AMENDMENTS.

The Emergency Rail Services Act of 1970 is amended—

(1) by amending paragraph (2) of section 2 (45 U.S.C. 661(2)) to read as follows:

''(2) 'Panel' means the Transportation Adjudication Panel.'';

(2) by striking ''Interstate Commerce Commission'' in section 6(a) (45 U.S.C. 665(a)) and inserting in lieu thereof ''Panel''; and

(3) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''.

SEC. 326. ALASKA RAILROAD TRANSFER ACT OF 1982 AMENDMENTS.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended by striking ''Interstate Commerce Commission'' each place it appears and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 327. REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.

The Regional Rail Reorganization Act of 1973 is amended—

(1) in section 304(d)(3) (45 U.S.C. 744(d)(3))—

(A) by striking ''this title,'' and all that follows through ''(A) shall take'' and inserting in lieu thereof ''this title, the Commission shall take''; and

(B) by striking ''this subsection; and'' and all that follows through ''205(d)(6) of this Act'' and inserting in lieu thereof ''this subsection'';

(2) in section 308 (45 U.S.C. 748)—

(A) by repealing subsection (d); and

(B) by striking the first sentence of subsection (f); and

(3) in section 707 (45 U.S.C. 797f)—

(A) by inserting ''(a)'' at the beginning of the text; and

(B) by adding at the end the following new subsections:

''(b) Notwithstanding any agreement or arrangement in effect as of the date of the enactment of this subsection, the Corporation may not sell or transfer ownership or management, in whole or in part, of any facility acquired by the Corporation under this Act that is used for the repair, rehabilitation, or maintenance of cars or locomotives, without first obtaining the expess consent of the authorized representatives of the employees at such facility covered by collective bargaining agreements. Any transaction undertaken in violation of this subsection shall be considered a change in the status quo in violation of the Railway Labor Act.

''(c) Notwithstanding any agreement or arrangement in effect as of the date of the enactment of this subsection, any transfer by the Corporation of ownership, in whole or in part, of a car or locomotive that was repaired, rehabilitated, or maintained, before the date of the enactment

of this subsection, at a facility acquired by the Corporation under this Act, without first obtaining the express consent of the authorized representatives of the employees at such facility covered by collective bargaining agreements, is prohibited. Any transaction undertaken in violation of this subsection shall be considered a change in the status quo in violation of the Railway Labor Act.''.

SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT AMENDMENT.

Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is repealed.

SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS.

The Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in section 104(a) (45 U.S.C. 1003(a)) by striking ''section 11125 of title 49, United States Code, or''; and

(2) by repealing section 120 (45 U.S.C. 1015).

SEC. 330. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AMENDMENTS.

The Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) in section 505(a)(3) (45 U.S.C. 825(a)(3))—

(A) by striking ''A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code)'' and inserting in lieu thereof ''(A) A financially responsible person''; and

(B) by inserting at the end the following new subparagraph:

''(B) For purposes of this paragraph, the term 'financially responsible person' means a person who (i) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (ii) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a governmental authority but does not include a class I or class II rail carrier.'';

(2) in section 509(b) (45 U.S.C. 829(b)) by striking paragraph (2); and

(3) in section 510 (45 U.S.C. 830) by striking ''the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a), nor''.

SEC. 331. SERVICE CONTRACT ACT OF 1965 AMENDMENT.

Section 7(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)) is amended by striking ''where published tariff rates are in effect''.

SEC. 332. FISCAL YEAR 1982 CONTINUING RESOLUTION AMENDMENT.

Section 115 of the Joint Resolution entitled ''Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes'' (95 Stat. 1196) is repealed.

SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) , or any successor provision of'' in paragraph (2)(C) and inserting ''part B of''; and

(2) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of'' in paragraph (3) and inserting ''part B of''.

SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305) is amended by striking all after ''subsection (c)'' and inserting ''shall not take effect as long as section 11501(g)(2) of title 49, United States Code, applies to that State.''.

SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 App. U.S.C. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).

(2) Section 14 (46 U.S.C. App. 812).

(3) Section 15 (46 U.S.C. App. 814).

(4) Section 16 (46 U.S.C. App. 815).

(5) Section 17 (46 U.S.C. App. 816).

(6) Section 18 (46 U.S.C. App. 817).

(7) Section 19 (46 U.S.C. App. 818).

(8) Section 20 (46 U.S.C. App. 819).

(9) Section 21 (46 U.S.C. App. 820).

(10) Section 22 (46 U.S.C. App. 821).

(11) Section 23 (46 U.S.C. App. 822).

(12) Section 24 (46 U.S.C. App. 823).

(13) Section 25 (46 U.S.C. App. 824).

(14) Section 27 (46 U.S.C. App. 826).

(15) Section 29 (46 U.S.C. App. 828).

(16) Section 30 (46 U.S.C. App. 829).

(17) Section 31 (46 U.S.C. App. 830).

(18) Section 32 (46 U.S.C. App. 831).

(19) Section 33 (46 U.S.C. App. 832).

(20) Section 35 (46 U.S.C. App. 833a).

(21) Section 43 (46 U.S.C. App. 841a).

(22) Section 45 (46 U.S.C. App. 841c).

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