**HISTORICAL AND REVISION NOTES—CONTINUED**

<table>
<thead>
<tr>
<th>Revised Section</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
</tr>
</thead>
</table>

In subsection (a), before clause (1), the word “maintain” is substituted for “Within 90 days after September 29, 1979” and “establish” for clarity.

In subsection (b), before clause (1), the word “act” is substituted for “take all steps necessary to” to eliminate unnecessary words. The words “access to” are added for clarity. In clause (1), the words “and devices” are omitted as surplus. In clause (4), the words “architectural and other” are omitted as surplus.

In subsection (c)(2), the words “period of” and “while on” are omitted as surplus.

In subsection (c)(2), the words “take such action as may be necessary to”, “the terms of . . . policy or”, and “such railroad employee” are omitted as surplus. The words “or group of railroads” are omitted because of 1:1.

**AMENDMENTS**

1997—Subsecs. (b), (c). Pub. L. 106-134 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

“(b) ACTIONS TO ENSURE ACCESS.—Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

“(1) acquiring special equipment;

“(2) conducting special training for employees;

“(3) designing and acquiring new equipment and facilities;

“(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

“(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas.”

**AMERICANS WITH DISABILITIES ACT OF 1990**


“(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements required by the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) at any station jointly used by Amtrak and a commuter authority.

“(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1999.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1999.”

**ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS**

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

**§ 24308. Use of facilities and providing services to Amtrak**

(a) **GENERAL AUTHORITY.**—(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the Interstate Commerce Commission finds it necessary to carry out this part, the Commission shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Commission shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The Commission shall decide the dispute not later than 90 days after Amtrak submits the dispute to the Commission.

(3) Amtrak’s right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) **OPERATING DURING EMERGENCIES.**—To facilitate operation by Amtrak during an emergency, the Commission, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Commission shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) **PREFERENCE OVER FREIGHT TRANSPORTATION.**—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief. If the Secretary, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Secretary shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) **ACCELERATED SPEEDS.**—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier
to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e) ADDITIONAL TRAINS.—(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Secretary shall consider—

(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) when establishing scheduled running times, the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Commission shall decide the dispute under subsection (a) of this section.


### Historical and Revision Notes

<table>
<thead>
<tr>
<th>Revised Section</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
</tr>
</thead>
<tbody>
<tr>
<td>24308(a)(4).....</td>
<td>45:562(note).</td>
<td></td>
</tr>
</tbody>
</table>

In subsection (a)(1), the word “authority” is substituted for “agencies” for consistency in the revised title and with other titles of the United States Code. The words “tracks and other” are omitted as surplus. The words “of . . . by, the carrier or authority” are added for clarity. The words “and conditions” are omitted as surplus.

In subsection (a)(2)(A), before clause (i), the words “the purposes of” are omitted as surplus. In clause (ii), the words “just and” are omitted as surplus.

Subsection (a)(2)(B) is substituted for 45:562(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (a)(3), the words “Amtrak’s right to use the facilities or have the services provided is conditioned on payment of the compensation” are substituted for “and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order . . . shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission” to eliminate unnecessary words. The words “or under an order issued under subsection (b)” are omitted as obsolesce because 45:562(b) is executed. The words “amount of”, “fixed”, “dually”, and “properly” are omitted as surplus.

In subsection (a)(4), the words “notwithstanding any other provision of law”, “hereafter”, and “becomes inadequate or otherwise” are omitted as surplus.

In subsections (b)–(d), the words “just and” are omitted as surplus.

In subsection (b), the words “as may be deemed by it to be necessary”, “tracks and other”, and “proceed to” are omitted as surplus. The words “personal injury” are substituted for “casualty” for consistency.

In subsections (c) and (d), the words “an opportunity for” are added for clarity and consistency.

In subsection (c), the word “given” is omitted as surplus. The words “rail line” are substituted for “line of track” for consistency in the revised title and with other titles of the Code. The word “appropriate” is omitted as surplus. The words “the carrier” are substituted for “trains” for clarity and consistency. The words “and Amtrak” are added for clarity.

In subsection (d), the words “upon request of the Corporation” and “otherwise” are omitted as surplus. The words “which improvements would be required” are substituted for “and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required” to eliminate unnecessary words.

In subsection (e)(1), the words “satisfactory, voluntary” are omitted as surplus. The words “or, allow Amtrak to provide” are added, and the words “Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains” are substituted for “Upon receipt of an application from the Corporation”, for clarity.

In subsection (e)(2)(A), the words “involved” and “seeking to oppose the operation of an additional train” are omitted as surplus. The words “when conducting a hearing” are added for clarity.

In subsection (e)(2)(B), the word “proper” is omitted as surplus. The words “60 miles” are substituted for “55 miles” for consistency with 45:501a(b), restated in section 24101(c)(6) of the revised title. Section 1172(3) of the Omnibus Budget Reconciliation Act of 1981 (Public Law
§ 24309. Retaining and maintaining facilities

(a) DEFINITIONS.—In this section—

(1) “facility” means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair tracks, a station building, a platform, and a related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or altering a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) APPROVAL REQUIRED FOR DOWNGRADE OR DISPOSAL.—A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, or on January 1, 1997, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c) NOTIFICATION AND ANALYSIS.—(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintenance of tracks, structures, and equipment and depreciation).

(d) APPROVAL OF APPLICATION AND PAYMENT OF AVOIDABLE COSTS.—(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) COMPLIANCE WITH OTHER OBLIGATIONS.—Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.