

STB EX PARTE NO. 544

REMOVAL OF OBSOLETE REGULATIONS
FOR DISCONTINUANCE OF BUS
TRANSPORTATION IN ONE STATE

49 CFR Part 1169

Decided April 9, 1996

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing from the *Code of Federal Regulations* obsolete regulations concerning discontinuance of bus transportation in one state.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927-5610.
[TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204 of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Under the Bus Regulatory Reform Act of 1982 (the Bus Act), state regulation of bus exit was relaxed. As here pertinent, section 16 of the Bus Act (codified at 49 U.S.C. 10935) provided a mechanism for bus companies to seek ICC permission to discontinue service on intrastate routes that form part of interstate routes when they have been denied permission by state regulatory

bodies to discontinue such service.¹ In *Preemption of State Regulations - Regular-Route Exit*, 133 M.C.C. 20 (1982), the ICC issued rules, found at 49 CFR 1169, to implement this statutory provision.

Pursuant to the ICCTA, 49 U.S.C. 10935 has been repealed. Because the section 10935 statutory basis for the part 1169 regulations for discontinuance of bus transportation in one state has been repealed, we are removing the now obsolete part 1169 regulations.²

Because this action merely reflects, and is required by, the enactment of the Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1169

Administrative practice and procedure, Buses, Motor Carriers.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

¹ Under 49 U.S.C. 10935, discontinuance means total cessation of service or reducing the level of service to less than one trip per weekday (excluding Saturdays and Sundays).

² We note that the repeal was not intended to reintroduce state regulation. Rather, under the preemption provisions of old 49 U.S.C. 11501(e), which were amended and recodified at 49 U.S.C. 14501(a), interstate or intrastate scheduling changes, including discontinuance and the reduction of the level of service on a carrier's interstate routes, are preempted from state regulation. The new law, we also note, leaves unchanged the ability of states to require notice, not to exceed 30 days, of schedule changes and discontinuances. As before, states may regulate intrastate commuter bus operations and strictly intrastate routes.

APPENDIX

Part 1169 - [Removed]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1169.

1 S.T.B.