

STB EX PARTE NO. 621

REMOVAL OF OBSOLETE REGULATIONS CONCERNING
EXPEDITED COMPLAINT PROCEDURES AGAINST BUS CARRIER
RATES

Decided January 24, 1997

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing from the *Code of Federal Regulations* obsolete regulations concerning expedited complaint procedures against bus rates.

EFFECTIVE DATE: February 4, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927-5660.
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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(a) 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that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

As here relevant, the Bus Regulatory Reform Act of 1982 (Bus Act) established a zone of rate freedom (ZORF) within which bus carriers could raise or lower their rates without being subject to protest and investigation or suspension. Former 49 U.S.C. 10708(d)(4). The ZORF expanded by specified percentages over a 3-year period (former section 10708(d)(5)). After 3 years, the zone became unlimited. As a result, the ICC could not suspend or investigate a proposed rate on unreasonableness grounds unless the proposed

rate was established collectively under an agreement approved by the ICC under former 49 U.S.C. 10706(b). Former 49 U.S.C. 10708(e). Parties, however, could file complaints challenging the reasonableness of rates established within the ZORF, and, after 3 years, of any effective rate or fare filed under section 10708. Former 49 U.S.C. 10708(f). The resulting complaint proceedings were to be resolved within 90 days. *Id.* Consequently, the ICC established at 49 CFR part 1142 expedited procedures for filing and handling such complaints against effective bus rates or fares established under the ZORF on grounds that they were unreasonably high or low. *Procedures-Complaints Against Bus Car. Rates & Fares*, 133 M.C.C. 50 (1982), *modified on reopening*, 133 M.C.C. 240 (1983).

Under the ICCTA, the Board has jurisdiction to determine the reasonableness of rates or fares of motor carrier of passengers only if they are made collectively under agreements pursuant to new 49 U.S.C. 13703. New 49 U.S.C. 13703(a)(5). Moreover, the ICCTA eliminated the provisions under former section 10708(d) and (f) concerning the ZORF and the expedited procedures for filing complaints. Because the statutory basis for the regulations at 49 CFR part 1142 has been eliminated, we will remove those regulations. We note that parties still may file complaints against bus carriers under our regulations at 49 CFR part 1111.

Because this action merely reflects, and is required by, the enactment of the ICCTA and will not have an adverse effect on the interests of any person, this action will be made effective on the date of publication in the *Federal Register* on February 4, 1997.

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 1142

Administrative practice and procedure, Buses.

By the Board, Chairman Morgan and Vice Chairman Owen.

APPENDIX

PART 1142 [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 1142.

2 S.T.B.