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SERVICE DATE - SEPTEMBER 1, 1998

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SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 559

Revisions to Regulations Governing Finance Applications Involving Motor
Passenger Carriers
[49 CFR Parts 1002, 1182, 1187, and 1188]

AGENCY: Surface Transportation Board, DOT.

ACTION: Final Rules.

SUMMARY: The Surface Transportation Board (Board) adopts revised procedures governing finance applications involving motor passenger carriers filed under 49 U.S.C. 14303. In addition, the regulations in parts 1187 and 1188 are removed and replaced by new provisions incorporated in part 1182. The rules at part 1002 are modified to redescribe fee categories.

DATES: This rule is effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: By decision served and published in the Federal Register on July 8, 1997 (49 FR 36477), the Board issued a notice of proposed rulemaking (NPR) proposing to establish revised procedures governing finance applications involving motor passenger carriers, filed under 49 U.S.C. 14303. The proposed regulations would adopt, with modifications, the existing procedures promulgated by the Interstate Commerce Commission (ICC) at 49 CFR 1182.¹ Also, we proposed to remove the regulations at 49 CFR parts 1187 and 1188 and to replace them with provisions incorporated in part 1182. Comments were received from the American Bus Association, Inc. (ABA), Coach USA, Inc. (Coach), and Greyhound Lines, Inc. (Greyhound).

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (ICCTA), which took effect on January 1, 1996, abolished the ICC and transferred certain of its motor carrier regulatory functions to the Secretary of Transportation (Secretary) and to the Board.

ANALYSIS

Jurisdiction over Affiliates. The provisions of 49 U.S.C. 14303(g) give the Board jurisdiction over finance transactions involving motor carriers of passengers only if the carriers' aggregate gross operating revenues exceed \$2 million during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties. Our proposal at §1182.2(a)(5)² would have required that, pursuant to 49 U.S.C. 14303(g), applications include a jurisdictional statement "that the aggregate gross operating revenues, including revenues of all motor carrier parties and all of their motor carrier affiliates from all transportation sources (whether interstate, intrastate, foreign, regulated, or unregulated) exceeded \$2 million[.]" ABA supports the proposed revision to the jurisdictional threshold as consistent with the statute, which speaks to "gross operating revenues" without limitations.³ Coach suggests that the adopted rules should clarify that the Board also has jurisdiction over transactions between a noncarrier applicant that controls carriers with aggregate revenues exceeding \$2 million and a carrier with revenues below the statutory threshold.

We agree with Coach that the proposed rule should be clarified to include the revenues of the affiliates of noncarrier applicants. As we stated in the NPR at 3, the intent of Congress "was not to measure the strict extent of revenues generated subject to Federal regulatory jurisdiction, but rather to gauge the economic power of the parties participating in a finance transaction. . . ." Accordingly, we will modify the proposed rule to state that the jurisdictional threshold is based on the "revenues of all motor carrier parties and all motor carriers controlling, controlled by, or under common control with any party. . . ." We will also modify the proposed rule by repeating the statutory one-year time frame in referring to aggregate gross operating revenues.

² (a) The application must contain the following information: * * *
 (5) A jurisdictional statement, under 49 U.S.C. 14303(g), that the aggregate gross operating revenues, including revenues of all motor carrier parties and all of their motor carrier affiliates from all transportation sources (whether interstate, intrastate, foreign, regulated, or unregulated) exceeded \$2 million; (NOTE: The motor passenger carrier parties and their motor passenger carrier affiliates may select a consecutive 12-month period ending not more than 6 months before the date of the parties' agreement covering the transaction. They must, however, select the same 12-month period.)

³ Indeed, no comment has challenged our substantive interpretation of the meaning of the statute in this regard.

Safety Ratings. The rule we proposed at §1182.2(a)(8)⁴ would require that applicants certify their safety fitness ratings issued by the U.S. Department of Transportation's Federal Highway Administration (FHWA). Coach suggests that the requirement for certification of safety ratings should be revised to clarify that each carrier party may certify as to its own safety rating or attach a copy of any safety rating letter it may have received from FHWA, so as not to require each carrier to obtain an official certification before filing its application. We agree with Coach's request and will modify the regulation to indicate that the certification can be made by the applicant.

Under current safety inspection protocols, some carriers do not have a safety rating, either because they are exempt from the safety inspection program or because an inspection has not yet been conducted. In these cases, the appropriate certification would be that the carrier is "unrated" for whatever particular reason is applicable.⁵ Moreover, as the final regulations will make clear, we are interested only in current safety ratings.

Coach also suggests that (a) the Board should state its policy with respect to transactions involving carriers that have unsatisfactory ratings and (b) that safety certifications should be required only of actual parties to transactions, not of affiliates. We understand Coach's point, but will not adopt the precise approach it suggests. First, we will consider the effect of unsatisfactory ratings on a case-by-case basis. As a general matter, we would be concerned if an acquiring carrier has an unsatisfactory safety rating. On the other hand, as Coach points out, acquisition of a carrier with an unsatisfactory rating by a carrier with a superior operating and safety record could be a positive development. Secondly, as to carriers affiliated with an acquiring carrier or controlled by an acquiring noncarrier, we believe it is relevant to know whether an acquiring applicant's affiliate has a less-than-satisfactory rating, even if an acquiring carrier's own safety rating is satisfactory. In sum, it appears prudent to have all relevant information on the record, with the weight to be given to that information determined in each particular case.

⁴ (a) The application must contain the following information: * * *
(8) Certification of the U.S. Department of Transportation safety fitness rating of each motor passenger carrier involved in the transaction, whether that carrier is a party to the transaction or is affiliated with a party to the transaction.

⁵ There may be carriers that had either conditional or unsatisfactory ratings at the time when the safety inspection process was changed, and were unable to obtain reinspection so as to expunge the less-than-satisfactory ratings from their records. In cases of this nature, carriers should attach an explanation of the circumstances of the rating.

Copies of Applications to be Filed with State Agencies. Our proposed rule at §1182.3(a)(1) would require one copy of each application to be delivered to the appropriate regulatory body in each State in which any of the parties to the transaction operates in intrastate commerce. Greyhound argues that the proposed requirement is burdensome. Greyhound points out that it is authorized to engage in intrastate operations over all routes on which it provides interstate transportation, and it operates in nearly every one of the continental 48 States. Greyhound submits that a given application, however, is ordinarily only of interest to affected States. Greyhound suggests revising the provision to provide for delivery of copies of an application only to those States in which the motor carrier proposed to be merged or acquired operates in intrastate commerce. ABA supports Greyhound's comments in this regard.

We will revise the proposed regulation accordingly. The purpose of the proposed requirement is to provide adequate and appropriate notice to those States directly affected by the proposed transaction. This would include any State in which the operator of intrastate bus services (pursuant either to State or to federal operating authority) will change or where that operator will come under control of (or under common control with) another carrier. States unaffected by the proposed transaction do not realistically need direct notice of the filing of the application.

Time Frame for Final Decisions. Our proposed rule in §1182.6 describes the manner in which opposed applications would be processed. Comments would be due 45 days after notice of the application is published and replies would be due 60 days after the notice. The reply could include a request for expedited action, and commenters could reply to such a request within 70 days of the publication of the notice. The proposed rules do not contain a deadline for deciding the case, nor do they mention the statutory requirement in section 14303(e) that the Board is to complete evidentiary proceedings within 240 days after the notice and to issue a final decision within 180 days after the close of the record.

Coach suggests that, in order to provide a greater degree of certainty, the Board should provide that it will normally process applications within a fixed time frame not to exceed 100 days from the date that a notice of the application is published, absent unusual circumstances that might require more extended evidentiary proceedings. We do not believe it is prudent or necessary to establish such a rule. Our experience has been that opposition to these applications is unusual, but it is difficult to predict whether some future case will be opposed or what the nature of any opposition might be. In any event, our goal is to process opposed applications quickly, and our rules are consistent with what Coach seeks. After the record closes (60 or 70 days after the notice), the Board will determine whether to decide a particular case on the existing record (which we hope to do within 100 days) or to establish a procedural schedule for the submission of further evidence (which will be done only in unusual cases).

Coach also suggests that the Board consider a class exemption that would allow control proceedings to be finalized following a notice filed with the Board, subject to petitions for revocation of the exemption. We do not believe the record warrants granting that request at this time. To the extent that there are time constraints on the closing of a transaction, the use of voting trust procedures (as discussed below) or interim approval would be the appropriate solution.

Voting Trusts. Our proposed rules in §1182.7 cover interim approval of motor passenger carrier finance applications. Greyhound seeks confirmation that the provisions for interim operations are not intended to foreclose the use of the voting trust procedures of 49 CFR part 1013, which permit parties to proceed on a proposed merger or acquisition pending Board approval.

While the voting trust provisions are available for use by parties to motor passenger finance transactions, as well as rail finance matters, we do not see the need to reference them specifically in connection with these rules.

Compliance with State Transfer Regulations. Our proposed rules in §1182.8(f)⁶ would require applicants to comply with State procedures if completion of a transaction requires the transfer of operating authorities issued by a State regulatory body. Coach argues that this provision is directly contrary to the preemption provisions of 49 U.S.C. 14303(f).

⁶ (f) If completion of a transaction requires the transfer of operating authorities or registrations from one or more parties to others, the parties shall comply with relevant procedures of State authorities and of the Office of Motor Carriers of the U.S. Department of Transportation, to accomplish such transfers.

Under 49 U.S.C. 14303(f),⁷ motor carriers of passengers subject to our jurisdiction are subject to our exclusive and plenary jurisdiction in carrying out a consolidation, merger, or acquisition of control. Accordingly, a State may not take any action that would in any way interfere with the applicants' consummation of a section 14303 transaction. See Colorado Mountain Express, Inc., and Airport Shuttle Colorado, Inc., d/b/a Aspen Limousine Service, Inc. — Consolidation and Merger — Colorado Mountain Express, STB Docket No. MC-F-20902 (STB served Feb. 28, 1997) at 3-4.

Nevertheless, to accomplish the necessary transfer of operating rights, ministerial actions by the State may be necessary to amend State records so as to give full effect to transactions we approve.⁸ That action is all that was contemplated by the proposed rule. To clarify the matter, we will modify the rule by stating that parties are to “comply with ministerial requirements of relevant State procedures.”

Filing Fees and Removed Regulations. The proposed rules included a redescription and clarification of the categories in which the filing fees applicable to these matters are specified. No change was proposed in the level of the filing fees. In the interim, however, the Board's filing fees have been revised, pursuant to Regulations Governing Fees for

⁷ The full text of section 14303(f) provides:

A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, 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 carrier, corporation, or person participating in the 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 person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

⁸ Cf. Leaseway Transp. Corp v. Bushnell, 888 F.2d 1212, 1215 (7th Cir. 1989), where the court discussed 49 U.S.C. 11341(a) (the predecessor of section 14303(f)), and stated that a State:

may not act as a “gate-keeper” handing down prior approval of Leaseway's acquisition, but it may certainly impose filing or notice requirements and taxes (as long as these do not interfere with Leaseway's ability to carry out the acquisition or exercise control as provided in section 11341(a)).

Services Performed in Connection with Licensing and Related Services—1998 Update, STB Ex Parte No. 542 (Sub-No. 2) (STB served Feb. 18, 1988). The filing fee for an application in a motor passenger finance case was increased from \$1,100 to \$1,300, and the filing fee for a request for interim approval (temporary authority) was increased from \$250 to \$300. The final rules we are adopting include the redescrptions of the fee categories, as proposed, and reflect the current fee schedule.

Finally, as proposed, we are removing the regulations in part 1187 (concerning temporary authority) and part 1188 (pertaining to gross operating revenues) and replacing them with provisions incorporated in part 1182.

The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities. We received no comments in response to the notice of proposed rulemaking concerning effects on small entities. These rules establish simple processing procedures and impose no new reporting requirements on small entities.

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 1002

Administrative practice and procedure, Common Carriers, Freedom of information, User fees.

49 CFR Part 1182

Administrative practice and procedure, Motor carriers.

49 CFR Part 1187

Administrative practice and procedure, Motor Carriers.

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49 CFR Part 1188

Administrative practice and procedure, Motor carriers.

Decided: August 24, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

APPENDIX

For the reasons set forth in the preamble, title 49, chapter X, parts 1002, 1182, 1187, and 1188 of the Code of Federal Regulations are amended as follows:

PART 1002 — FEES

1. The authority citation for part 1002 continues to read as follows:
Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

2. Section 1002.2 is amended by revising paragraphs (f)(2) and (f)(5) to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

Type of Proceeding	Fee
(2) An application to consolidate, merge, purchase, lease, or contract to operate the properties or franchises of motor carriers of passengers or to acquire control of motor carriers of passengers, under 49 U.S.C. 14303.	1,300.

* * * * *

(5) A request for interim approval in connection with a finance application involving a motor carrier of passengers, under 49 U.S.C. 14303(i).	300.
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3. Part 1182 is revised to read as follows:

PART 1182 - PURCHASE, MERGER, AND CONTROL OF MOTOR PASSENGER CARRIERS

Sec.

- 1182.1 Applications covered by this part.
- 1182.2 Content of applications.
- 1182.3 Filing the application.
- 1182.4 Board review of the application.
- 1182.5 Comments.
- 1182.6 Processing an opposed application.
- 1182.7 Interim approval.
- 1182.8 Miscellaneous requirements.

Authority: 5 U.S.C. 559; 21 U.S.C. 853a; and 49 U.S.C. 13501, 13902(c), and 14303.

§ 1182.1 Applications covered by this part.

The rules in this part govern applications for authority under 49 U.S.C. 14303 to consolidate, merge, purchase, lease, or contract to operate the properties or franchises of motor carriers of passengers or to acquire control of motor carriers of passengers. There is no application form for these proceedings. Applicants shall file a pleading containing the information described in 49 CFR 1182.2. See 49 CFR 1002.2(f)(2) and (5) for filing fees.

§ 1182.2 Content of applications.

(a) The application must contain the following information:

(1) Full name, address, and authorized signature of each of the parties to the transaction;

(2) Copies or descriptions of the pertinent operating authorities of all of the parties (NOTE: If an applicant is domiciled in Mexico or owned or controlled by persons of that country, copies of the actual operating authorities must be submitted.);

(3) A description of the proposed transaction;

(4) Identification of any motor passenger carriers affiliated with the parties, a brief description of their operations, and a summary of the intercorporate structure of the corporate family from top to bottom;

(5) A jurisdictional statement, under 49 U.S.C. 14303(g), that the 12-month aggregate gross operating revenues, including revenues of all motor carrier parties and all motor carriers controlling, controlled by, or under common control with any party from all transportation sources (whether interstate, intrastate, foreign, regulated, or unregulated) exceeded \$2 million. (NOTE: The motor passenger carrier parties and their motor passenger carrier affiliates may select a consecutive 12-month period ending not more than 6 months before the date of the parties' agreement covering the transaction. They must, however, select the same 12-month period.)

(6) A statement indicating whether the transaction will or will not significantly affect the quality of the human environment and the conservation of energy resources;

(7) Information to demonstrate that the proposed transaction is consistent with the public interest, including particularly: the effect of the proposed transaction on the adequacy of transportation to the public; the total fixed charges (e.g., interest) that result from the proposed transaction; and the interest of carrier employees affected by the proposed transaction. See 49 U.S.C. 14303(b);

(8) Certification by applicant of the current U.S. Department of Transportation safety fitness rating of each motor passenger carrier involved in the transaction, whether that carrier is a party to the transaction or is affiliated with a party to the transaction;

(9) Certification by the party acquiring any operating rights through the transaction that it has sufficient insurance coverage under 49 U.S.C. 13906(a) and (d) for the service it intends to provide;

(10) A statement indicating whether any party acquiring any operating rights through the transaction is either domiciled in Mexico or owned or controlled by persons of that country; and

(11) If the transaction involves the transfer of operating authority to an individual who will hold the authority in his or her name, that individual must complete the following certification:

I, _____, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that I have been so convicted, but I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a.

(b) The application shall contain applicants' entire case in support of the proposed transaction, unless the Board finds, on its own motion or that of a party to the proceeding, that additional evidentiary submissions are required to resolve the issues in a particular case.

(c) Any statements submitted on behalf of an applicant supporting the application shall be verified, as provided in 49 CFR 1182.8(e). Pleadings consisting strictly of legal argument, however, need not be verified.

(d) If an application or supplemental pleading contains false or misleading information, the granted application is void ab initio.

§ 1182.3 Filing the application.

(a) Each application shall be filed with the Board, complying with the requirements set forth at 49 CFR 1182.8.

(1) One copy of the application shall be delivered, by first-class mail, to the appropriate regulatory body in each State in which intrastate operations are affected by the transaction.

(2) If the application involves the merger or purchase of motor passenger carriers (contemplating transfer of operating authorities or registrations from one or more parties to others), one copy of the application shall be delivered, by first-class mail, to:

Chief, Lic. & Ins. Div., U.S.D.O.T. Office of Motor Carriers-HIA 30,
400 Virginia Ave., S.W., Ste. 600, Washington, DC 20004

(b) In their application, the parties shall certify that they have delivered copies of the application as provided in paragraph (a) of this section.

§ 1182.4 Board review of the application.

(a) All applications will be reviewed for completeness. Applicants will be given an opportunity to correct minor errors or omissions. Incomplete applications may be rejected, or, if omissions are corrected, the filing date of the application, for purposes of calculating the procedural schedule and statutory deadlines, will be deemed to be the date on which the complete information is filed with the Board.

(b) If the application is accepted, a summary of the application will be published in the Federal Register (within 30 days, as provided by 49 U.S.C. 14303(c)), to give notice to the public, in the form of a tentative grant of authority.

(c) If the published notice does not properly describe the transaction for which approval is sought, applicants shall inform the Board within 10 days after the publication date.

(d) A copy of the application will be available for inspection at the Board's offices in Washington, DC. Interested persons may obtain a copy of the application from the applicants' representative, as specified in the published notice.

§ 1182.5 Comments.

(a) Comments concerning an application must be received by the Board within 45 days after notice of the application is published, as provided by 49 U.S.C. 14303(d). Failure to file a timely comment waives further participation in the proceeding. If no comments are filed opposing the application, the published tentative grant of authority will automatically become effective at the close of the comment period. A tentative grant of authority does not entitle the applicant to consummate the transaction before the end of the comment period.

(b) A comment shall be verified, as provided in 49 CFR 1182.8(e), and shall contain all information upon which the commenter intends to rely, including the grounds for any opposition to the transaction and the commenter's interest in the proceeding.

(c) The docket number of the application must be conspicuously placed at the top of the first page of the comment.

(d) A copy of the comment shall be delivered concurrently to applicants' representative(s).

§ 1182.6 Processing an opposed application.

(a) If timely comments are submitted in opposition to an application, the tentative grant of authority is void.

(b) Applicants may file a reply to opposing comments, within 60 days after the date the application was published.

(1) The reply may include a request for an expedited decision on the issues raised by the comments. Otherwise, the reply may not contain any new evidence, but shall only rebut or further explain matters previously raised.

(2) The reply shall be verified, as provided in 49 CFR 1182.8(e), unless it consists strictly of legal argument.

(3) Applicants' reply must be served on each commenter in such manner that it is received no later than the date it is due to be filed with the Board.

(4) Opposing commenters may reply to a request for an expedited decision, within 70 days after notice of the application was published.

(c) The Board may:

(1) Dispense with further proceedings and make a final determination based on the record as developed; or

(2) Issue a procedural schedule specifying the dates by which: applicants may submit additional evidence in support of the application, in response to the comment(s) in opposition; and the opposing commenter(s) may reply.

(d) Further processing of an opposed application will be handled on a case-by-case basis, as appropriate to the particular issues raised in the comments filed in opposition to the application. Evidentiary proceedings must be concluded within 240 days after publication of the notice of the application.

§ 1182.7 Interim approval.

(a) A party may request interim approval of the operation of the properties sought to be acquired through the proposed transaction, for a period of not more than 180 days pending determination of the application. This request may be included in the application or

may be submitted separately after the application is filed (e.g., once a comment opposing the application has been filed). An additional filing fee is required, whether the request for interim approval is included in the application or is submitted separately at a later time. See 49 CFR 1002.2(f)(5) for the additional filing fee.

(b) A request for interim approval of the operation of the properties sought to be acquired in the application must show that failure to grant interim approval may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public.

(c) If a request for interim approval is submitted after the application is filed, it must be served on each person who files or has filed a comment in response to the published notice of the application. Service must be simultaneous upon those commenters who are known when the request for interim approval is submitted; otherwise, service must be within 5 days after the comment is received by applicants or their representative.

(d) Because the basis for requesting interim approval is to prevent destruction of or injury to motor passenger carrier properties sought to be acquired under 49 U.S.C. 14303, the processing of such requests is intended to promote expeditious decisions regarding interim approval. The Board has no obligation to give public notice of requests for interim approval, and such requests are decided without hearing or other formal proceeding.

(1) If a request for interim approval is included in the application, the Board's decision with regard to interim approval will be served in conjunction with the notice accepting the application.

(2) If an application is rejected, the request for interim approval will be denied.

(3) If an application is denied, after comments in opposition are submitted, any interim approval will terminate 30 days after service of the decision denying the application.

(e) A petition to reconsider a grant of interim approval may be filed only by a person who has filed a comment in opposition to the application.

(1) A petition to reconsider a grant of interim approval must be in writing and shall state the specific grounds upon which the commenter relies in opposing interim approval. The petition shall certify that a copy has been served on applicants' representative.

(2) The original and 10 copies of the petition to reconsider a grant of interim approval shall be filed with the Board, and one copy of the petition shall be served on applicants' representative(s).

(f) The Board may act on a petition to reconsider a grant of interim approval either separately or in connection with the final decision on the application.

§ 1182.8 Miscellaneous requirements.

(a) If applicants wish to withdraw an application, they shall jointly request dismissal in writing.

(b) An original and 10 copies of all applications, pleadings, and other material filed under this part must be filed with the Board.

(c) All pleadings (including motions and replies) submitted under this part shall be served on all other parties, concurrently and by the same (or more expeditious) means with which they are filed with the Board.

(d) Each pleading shall contain a certificate of service stating that the pleading has been served in accordance with paragraph (c) of this section.

(e) All applications and pleadings containing statements of fact (i.e., except motions to strike, replies thereto, and other pleadings that consist only of legal argument) must be verified by the person offering the statement, in the following manner:

I, [Name and Title of Witness], verify under penalty of perjury, under the laws of the United States of America, that all information supplied in connection with this application is true and correct. Further, I certify that I am qualified and authorized to file this application or pleading. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

[Signature and Date]

(f) If completion of a transaction requires the transfer of operating authorities or registrations from one or more parties to others, the parties shall comply with relevant procedures of the Office of Motor Carriers of the U.S. Department of Transportation, and comply with ministerial requirements of relevant State procedures.

4. Under the authority of 49 U.S.C. 721 and 14303, Parts 1187 and 1188 are removed.