

STB EX PARTE NO. 553

REMOVAL OF OBSOLETE REGULATIONS CONCERNING
EXEMPTION OF MOTOR CARRIER OF PROPERTY FINANCE
TRANSACTIONS

Decided January 24, 1997

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 exemption of finance transactions between motor carriers of property and between such carriers and noncarriers.

EFFECTIVE DATE: March 6, 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that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Prior to January 1, 1996, former 49 U.S.C. 11343 provided that certain rail, motor, and water carrier finance transactions, including those related to mergers, purchases, and acquisitions of control, could not be carried out without prior ICC approval. However, under former 49 U.S.C. 11343(e), the ICC could

exempt from regulation certain individual financial transactions involving motor carriers of property. Regulations implementing this exemption provision are found at 49 CFR 1186.¹

Under the ICCTA, portions of section 11343, including the exemption provision of 49 U.S.C. 11343(e), have been repealed. Accordingly, we will eliminate the exemption regulations at 49 CFR part 1186.

We also note that new 49 U.S.C. 14303 is the only remaining statutory provision analogous to the non-rail portions of former 49 U.S.C. 11343. Under section 14303, motor carriers of passengers must still obtain Board approval for the same transactions that formerly were subject to former 49 U.S.C. 11343, unless the parties' aggregate gross operating revenues do not exceed \$2 million.²

Currently, our regulations at 49 CFR part 1182 govern the purchase, merger, or acquisition of control of motor passenger and water carriers. In a separate proceeding instituted shortly, we will remove the regulations for water carriers in part 1182 (49 U.S.C. 14303(g) applies only to motor passenger carriers) and make appropriate modifications to the portions of 49 CFR part 1182 dealing with motor passenger carriers.

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 1186

Administrative practice and procedure, Freight Forwarders, Motor carriers.

By the Board, Chairman Morgan and Vice Chairman Owen.

APPENDIX

PART 1186 [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 1186.

¹ These rules were originally promulgated in *Exemption of Certain Transactions Under 49 U.S.C. 11343*, 133 M.C.C. 449 (1984).

² Regulatory approval, formally required under former 49 U.S.C. 10926, is no longer needed when the parties' aggregate gross operating revenues do not exceed the \$2 million threshold.