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[FR Doc. 98-13778 Filed 5-21-98; 8:45 am]

BILLING CODE 7510-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 49 CFR Parts 365, 372, 373, 374, and 377

RIN 2125-AE41

#### Federal Motor Carrier Regulations; Authority Corrections

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule; technical corrections.

**SUMMARY:** This document makes technical amendments to the authority statements for various FHWA motor carrier regulations in order to remove the obsolete authority citations provided in the subparts. This correction is necessary due to changes required by the ICC Termination Act of 1995 (ICCTA) and the transfer of certain regulatory functions to the FHWA from the former Interstate Commerce Commission (ICC). The effect of these amendments is to remove the outdated authority citations listed in the subparts.

**DATES:** This final rule is effective May 22, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael J. Falk, Office of the Chief Counsel, Motor Carrier Law Division, (202) 366-1384, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On October 21, 1996, the FHWA published a final rule that transferred and redesignated certain motor carrier transportation regulations from chapter X of title 49, Code of Federal Regulations, to the FHWA in chapter III of that title. See Motor Carrier Transportation; Redesignation of Regulations From the Surface Transportation Board Pursuant to the ICC Termination Act of 1995 [61 FR 54706]. Another document also made technical amendments to former ICC regulations and was published on April 1, 1997. Technical Amendments to Former Interstate Commerce Commission Regulations in Accordance With the ICC Termination Act of 1995. [62 FR 15417]. The technical changes made in both of these documents were

required by section 204 of the ICCTA, Public Law 104-88, 109 Stat. 803. Part 365, Rules for governing applications for operating authority, subpart D (formerly part 1181); part 372, Exemptions, commercial zones, and terminal areas, subparts A, B, and C (formerly parts 1047, 1048, and 1049, respectively); part 373, Receipts and bills, subparts A and B (formerly parts 1051 and 1081, respectively); part 374, Passenger carrier regulations, subparts A, B, C, and D (formerly parts 1055, 1061, 1063, and 1064, respectively); and part 377, Payment of transportation charges, subparts A and B (formerly parts 1052 and 1320, respectively) included in the new statutory authority at the part level, but inadvertently failed to remove the former ICC authority at the subpart levels. Accordingly, the FHWA removes the obsolete ICC authority citations in the subpart levels noted above and retains the current authority citations in the part levels which reflect the changes mandated by the ICCTA.

#### Rulemaking Analyses and Notices

This final rule makes only minor technical corrections to existing regulations by removing obsolete ICC authority citations at the subpart levels of FHWA regulations. This rule replaces outdated authority citations with current statutory authority and the regulatory standards are not changed in any way. Therefore, the FHWA finds good cause to adopt the rule without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The Department of Transportation's regulatory policies and procedures also authorize promulgation of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making this rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely corrects existing regulations.

#### Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this rulemaking action makes only technical corrections to the current regulations, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, and since this rulemaking action makes only technical corrections to the authority citations in current regulations, the FHWA hereby certifies that this action will not have a significant impact on a substantial number of small entities.

#### Unfunded Mandates Reform Act

This rule does not impose any unfunded mandates on State, local, or tribal governments as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

#### Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

#### Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities do not apply to this program.

#### Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 44 U.S.C. 3501 *et seq.*

#### National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 432 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

#### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda for Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects****49 CFR Part 365**

Administrative practice and procedures, Brokers, Buses, Freight forwarders, Highways and roads, Motor carriers.

**49 CFR Part 372**

Buses, Commercial zones, Freight forwarders, Highway and roads, Motor carriers.

**49 CFR Part 373**

Buses, Highways and roads, Motor carriers, Reporting and recordkeeping requirements.

**49 CFR Part 374**

Baggage liability, Buses, Civil rights, Discrimination, Freight forwarders, Handicapped, Highways and roads, Motor carrier.

**49 CFR Part 377**

Credit, Freight forwarders, Highways and roads, Motor carriers.

Issued on: May 14, 1998.

**Kenneth R. Wykle,**

*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA amends title 49, Code of Federal Regulations, chapter III, as set forth below:

**PART 365—[AMENDED]**

1. The authority citation for 49 CFR part 365 continues to read as follows:

**Authority:** 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.48.

1a. The authority citation for subpart D is removed.

**PART 372—[AMENDED]**

2. The authority citation for 49 CFR part 372 continues to read as follows:

**Authority:** 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

2a. The authority citations for subparts A, B, and C are removed.

**PART 373—[AMENDED]**

3. The authority citation for part 373 continues to read as follows:

**Authority:** 49 U.S.C. 13301 and 14706; 49 CFR 1.48.

3a. The authority citations for subparts A and B are removed.

**PART 374—[AMENDED]**

4. The authority citation for part 374 continues to read as follows:

**Authority:** 49 U.S.C. 13301 and 14101; 49 CFR 1.48.

4a. The authority citations for subparts A, B, C, and D are removed.

**PART 377—[AMENDED]**

5. The authority citation for 49 CFR part 377 continues to read as follows:

**Authority:** 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.48.

5a. The authority citations for subparts A and B are removed.

[FR Doc. 98–13436 Filed 5–21–98; 8:45 am]

BILLING CODE 4910–22–M

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****49 CFR Parts 1152 and 1155**

[STB Ex Parte No. 566]

**Rail Service Continuation Subsidy Standards**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is removing from the Code of Federal Regulations rules concerning standards for determining subsidies for the continuation of rail service on rail properties not transferred to Consolidated Rail Corporation (Conrail) under the Final System Plan pursuant to the Regional Rail Reorganization Act of 1973. It is also amending the regulations concerning offers of financial assistance to provide rules for the purchase or subsidization of rail lines that have been continuously subsidized since the inception of the Final System Plan.

**EFFECTIVE DATE:** June 21, 1998.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]  
**SUPPLEMENTARY INFORMATION:** In a notice of proposed rulemaking (NPR) served and published in the **Federal Register** on August 8, 1997 (62 FR 42734), the Board proposed to remove the regulations at 49 CFR part 1155 that concern subsidy standards for certain rail lines of railroads in reorganization not included in the Final System Plan, described *infra*. The NPR noted that these regulations are based, at least partially, on statutes that are still in effect. 45 U.S.C. 744 (c) and (d). Under the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA),<sup>1</sup>

<sup>1</sup> Effective January 1, 1996, the ICCTA abolished the Interstate Commerce Commission and established the Board within the Department of

however, the Rail Services Planning Office (RSPO), the statutory body that developed the regulations, has been abolished. See repealed 49 U.S.C. 10361–64. Moreover, the Board has in place analogous offer of financial assistance (OFA) regulations providing national subsidy standards. 49 CFR 1152.27. Finally, the NPR stated that the regional subsidy regime at 45 U.S.C. 744, which applies to “rail service on rail properties of a railroad in reorganization,” may be outdated and may apply only to a limited number of situations. Accordingly, we instituted this proceeding to determine whether these regulations may be eliminated in light of the national OFA standards, whether portions of the part 1155 regulations could be transferred to the national standards, or whether they have a continuing vitality and should be retained.

After considering the record, we will eliminate the part 1155 rules and modify the national OFA rules at 1152.27. Because the part 1155 rules have only limited applicability, it is unnecessary to maintain these detailed regulations. However, to provide an opportunity for rail service continuation and to deal with abandonments of lines that are still being subsidized, we are modifying our national OFA regulations at 49 CFR 1152.27 to require that the line owner give notice of the abandonment or discontinuance to enable interested persons to purchase or subsidize the line.

**Background**

Our NPR gave a detailed background for the part 1155 regulations and will be repeated only as necessary. The part 1155 rules were based on the Regional Rail Reorganization Act of 1973, Public Law 93–236, 87 Stat. 985, 45 U.S.C. 701 *et seq.* (3R Act), as amended by the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Public Law 94–210, 90 Stat. 127. In response to the bankruptcy of the Penn Central Transportation Company and seven other major railroads in the Northeast and Midwest,<sup>2</sup> the 3R Act provided for the development and ultimate approval by Congress of a Final System Plan (Plan) for the redesign of rail services in

Transportation. Section 204(a) of the ICCTA provides that “[t]he Board shall promptly rescind all regulations established by the [Interstate Commerce Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.”

<sup>2</sup> The Lehigh Valley Railroad Company, the Central Railroad of New Jersey, the Ann Arbor Railroad Company, the Lehigh and Hudson Valley Railroad Company, the Boston and Maine Corporation, the Erie Lackawanna Railway Company, and the Reading Railroad.