

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****49 CFR Chapter III****Surface Transportation Board****49 CFR Chapter X**

RIN 2125-AD96

**Motor Carrier Transportation;
Redesignation of Regulations From the
Surface Transportation Board
Pursuant to the ICC Termination Act of
1995**

AGENCIES: Federal Highway Administration (FHWA) and Surface Transportation Board (STB), DOT.

ACTION: Final rule.

SUMMARY: This document transfers and redesignates certain motor carrier transportation regulations currently found in 49 CFR Chapter X, to the FHWA in 49 CFR Chapter III. The Interstate Commerce Commission Termination Act of 1995 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the STB and the DOT. The Secretary of Transportation delegated certain motor carrier provisions, which were transferred to the DOT from the ICC, to the FHWA and this rule implements that change.

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. John F. Grimm, Director, Office of Motor Carrier Information Analysis, (202) 366-4039, or Mr. Michael Falk, Motor Carrier Law Division, Office of the Chief Counsel, (202) 366-0834, at 400 Seventh Street SW., Washington, DC 20590. For STB: Ms. Beryl Gordon, Deputy Director, Office of Proceedings, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: This document transfers and redesignates certain motor carrier transportation regulations currently found in 49 CFR Chapter X, to the FHWA in 49 CFR Chapter III. The ICCTA, Public Law 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the ICC and transferred certain functions and proceedings to the STB and the DOT. Certain motor carrier functions previously under the jurisdiction of the ICC were transferred to the Secretary of Transportation, who subsequently delegated those functions to the FHWA.

Implementing regulations for those motor carrier functions now delegated to the FHWA, which were previously the responsibility of the ICC, are still located in 49 CFR Chapter X. On January 24, 1996, the STB changed the name of the agency in the heading of chapter X of subtitle B of title 49, Code of Federal Regulations, from the ICC to the STB. 61 FR 1842. As a result, although all regulations in chapter X previously issued by the ICC remain in effect until modified or terminated, in order for the FHWA to administer, execute, or modify those former ICC motor carrier transportation regulations delegated to it by the Secretary pursuant to the ICCTA, those regulations must be transferred to and redesignated in 49 CFR Chapter III, which includes regulations under the authority of the FHWA.

For the most part, the transfer and redesignation procedure will simply entail moving the pertinent motor carrier transportation regulations from chapter X to Parts 365 through 379, 387, and 390 of 49 CFR, within chapter III. Although no substantive changes will be made to the regulations, the order of those regulations will be slightly modified.

In addition to the transfer of functions from the ICC to the DOT, and subsequently to the FHWA, the ICCTA also transferred certain residual functions of the ICC partly to the Secretary, who has delegated them to the FHWA, and partly to the STB. Thus, certain parts of chapter X embrace matters which fall within the jurisdiction of both the FHWA and the STB. For example, the loss and damage claims regulations in part 1005 pertain to rail carriers as well as motor carriers. Parts 1004, 1220 and 1325 also involve dual jurisdiction. The transfer of regulations involving dual jurisdiction will be published in the Federal Register in a separate action in the near future.

Rulemaking Analyses and Notices

Because the amendments made by this document relate to departmental management, organization, procedure, and practice, prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(A). In addition, prior notice and opportunity for comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B) because the process of transferring and redesignating the sections is merely technical in nature and proposes no substantive changes to which public comment could be solicited. Going straight to a final rule is also in the public interest because the

sections now under the FHWA's jurisdiction may be modified or removed to correspond with the FHWA's new functions.

This final rule is made effective upon publication in the Federal Register. The FHWA believes that good cause exists for this final rule to be exempt from the 30-day delayed effective date requirement of 5 U.S.C. 553(d) for the above reason and because the process of transferring and redesignating the motor carrier transportation regulations makes no substantive changes to the regulations. In fact, the sooner the regulations are moved to chapter III, the more quickly the FHWA can begin the process of updating those regulations and making necessary changes to them.

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. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This final rule simply provides notice to the public that the motor carrier transportation regulations currently found in 49 CFR Chapter X are transferred to 49 CFR Chapter III and redesignated there. The FHWA is not altering the existing regulations in any way; no substantive changes are being made to them. The regulations are simply receiving new citations within the Code of Federal Regulations so that the FHWA may administer and execute those motor carrier functions transferred to it from the ICC by the ICCTA.

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, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. As noted above, this final rule simply provides notice to the public that the motor carrier transportation regulations currently found in 49 CFR Chapter X are transferred to 49 CFR Chapter III, and redesignated there. No substantive changes are being made to the regulations which will affect small entities.

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 on 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. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *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 of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Issued on: September 30, 1996.

Rodney E. Slater,

Federal Highway Administrator.

Linda J. Morgan,

Chairman, Surface Transportation Board.

In consideration of the foregoing and under the authority of 49 U.S.C. 104 and 721(a), the FHWA and the STB hereby amend 49 CFR Chapters III and X as set forth below:

1. Parts 1008, 1023, 1044, 1045, 1056, 1057, 1167, and 1171 in 49 CFR Chapter X are transferred to 49 CFR Chapter III and redesignated as set forth in the following table:

REDESIGNATION TABLE

Old Part 49 CFR Chapter X	New Part 49 CFR Chapter III
1008	378
1023	367
1044	366
1045	371
1056	375
1057	376
1167	369
1171	368

PART 1067—[REMOVED]

- 2. 49 CFR Part 1067 is removed.
- 3. The table of contents and authority citation for a new part 365 is added to read as follows:

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

Subpart A—How to Apply for Operating Authority

- Sec.
- 365.101 Applications governed by these rules.
- 365.103 Modified procedure.
- 365.105 Starting the application process: Form OP-1.
- 365.107 Types of applications.
- 365.109 Commission review of the application.
- 365.111 Appeals to rejections of the application.
- 365.113 Changing the request for authority or filing supplementary evidence after the application is filed.
- 365.115 After publication in the ICC Register.
- 365.117 Obtaining a copy of the application.
- 365.119 Opposed applications.
- 365.121 Filing a reply statement.
- 365.123 Applicant withdrawal.

Subpart B—How to Oppose Requests for Authority

- Sec.
- 365.201 Definitions.
- 365.203 Time for filing.
- 365.205 Contents of the protest.
- 365.207 Withdrawal.

Subpart C—General Rules Governing the Application Process

- Sec.
- 365.301 Applicable rules.
- 365.303 Contacting another party.
- 365.305 Serving copies of pleadings.
- 365.307 Replies to motions.
- 365.309 FAX filings.

Subpart D—Transfer of Operating Rights Under 49 U.S.C. 10926

- Sec.
- 365.401 Scope of rules.
- 365.403 Definitions.

- 365.405 Applications.
 - 365.407 Notice.
 - 365.409 Commission action and criteria for approval.
 - 365.411 Responsive pleadings.
 - 365.413 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.
- 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.

4. 49 CFR Part 1160 is redesignated as Part 365, subparts A, B, and C as set forth in the following table:

Old section	New section
1160 Part Heading	365 Part Heading
1160 Subpart A Heading.	365 Subpart A Heading
1160.1	365.101
1160.2	365.103
1160.3	365.105
1160.4	365.107
1160.5	365.109
1160.6	365.111
1160.7	365.113
1160.8	365.115
1160.9	365.117
1160.10	365.119
1160.11	365.121
1160.12	365.123
1160 Subpart B Heading.	365 Subpart B Heading
1160.40	365.201
1160.41	365.203
1160.42	365.205
1160.43	365.207
1160 Subpart C Heading.	365 Subpart C Heading
1160.60	365.301
1160.61	365.303
1160.62	365.305
1160.63	365.307
1160.64	365.309

5. 49 CFR Part 1181 is redesignated as Subpart D of Part 365 as set forth in the following table:

Old section	New section
1181 Part Heading	365 Subpart D Heading
1181.0	365.401
1181.1	365.403
1181.2	365.405
1181.3	365.407
1181.4	365.409
1181.5	365.411
1181.6	365.413

6. The table of contents, heading, and authority citation for a new part 372 are added to read as follows:

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

Subpart A—Exemptions

- Sec.
 372.101 Casual, occasional, or reciprocal transportation of passengers for compensation when such transportation is sold or arranged by anyone for compensation.
 372.103 Motor vehicles employed solely in transporting school children and teachers to or from school.
 372.105 Interstate operations by motor common carriers within a single State.
 372.107 Definitions.
 372.109 Computation of tonnage allowable in nonfarm-non-member transportation.
 372.111 Nonmember transportation limitation and recordkeeping.
 372.113 Notice to the FHWA.
 372.115 Commodities that are not exempt under 49 U.S.C. 13506(a)(6).
 372.117 Motor transportation of passengers incidental to transportation by aircraft.

Subpart B—Commercial Zones

- Sec.
 372.201 Albany, NY.
 372.203 Beaumont, TX.
 372.205 Charleston, SC.
 372.207 Charleston, WV.
 372.209 Lake Charles, LA.
 372.211 Pittsburgh, PA.
 372.213 Pueblo, CO.
 372.215 Ravenswood, WV.
 372.217 Seattle, WA.
 372.219 Washington, DC.
 372.221 Twin Cities.
 372.223 Consolidated governments.
 372.225 Lexington-Fayette Urban County, KY.
 372.227 Syracuse, NY.
 372.229 Spokane, WA.
 372.231 Tacoma, WA.
 372.233 Chicago, IL.
 372.235 New York, NY.
 372.237 Cameron, Hidalgo, Starr, and Willacy Counties, TX.
 372.239 Definitions.
 372.241 Commercial zones determined generally, with exceptions.
 372.243 Controlling distances and population data.

Subpart C—Terminal Areas

- Sec.
 372.301 Terminal areas of motor carriers and household goods freight forwarders at municipalities served.
 372.303 Terminal areas of motor carriers and household goods freight forwarders at unincorporated communities served.
 Authority: 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

7. 49 CFR Part 1047 is redesignated as Subpart A of Part 372 as set forth in the following table:

Old section	New section
1047 Part Heading	372, Subpart A Heading
1047.1	372.101

Old section	New section
1047.2	372.103
1047.10	372.105
1047.20	372.107
1047.21	372.109
1047.22	372.111
1047.23	372.113
1047.25	372.115
1047.45	372.117

7a. The undesignated center headings in Part 1047 are removed.

7b. The heading of § 372.115 is revised to read as set forth above.

8. 49 CFR Part 1048 is redesignated as Subpart B of Part 372 as set forth in the following table:

Old section	New section
1048 Part Heading	372, Subpart B Heading
1048.1	372.201
1048.2	372.203
1048.3	372.205
1048.4	372.207
1048.5	372.209
1048.6	372.211
1048.7	372.213
1048.8	372.215
1048.9	372.217
1048.10	372.219
1048.11	372.221
1048.12	372.223
1048.13	372.225
1048.14	372.227
1048.15	372.229
1048.16	372.231
1048.17	372.233
1048.18	372.235
1048.19	372.237
1048.100	372.239
1048.101	372.241
1048.102	372.243

9. 49 CFR Part 1049 is redesignated as Subpart C of Part 372 as set forth in the following table:

Old section	New section
1049 Part Heading	372, Subpart C Heading
1049.1	372.301
1049.2	372.303

10. The table of contents, part heading, and authority citation for a new Part 373 is added to read as follows:

PART 373—RECEIPTS AND BILLS

Subpart A—Motor Carrier Receipts and Bills

- Sec.
 373.101 Motor Carrier bills of lading.
 373.103 Expense bills.
 373.105 Low value packages.

Subpart B—Freight Forwarders; Bills of Lading

- Sec.
 373.201 Bills of lading for freight forwarders.
 Authority: 49 U.S.C. 13301 and 14706; 49 CFR 1.48.

11. 49 CFR Part 1051 is redesignated as Subpart A of Part 373 as set forth in the following table:

Old section	New section
1051 Part Heading	373, Subpart A Heading
1051.1	373.101
1051.2	373.103
1051.3	373.105

11a. The headings for subpart A and § 373.101 are revised to read as set forth above.

12. 49 CFR Part 1081 is redesignated as Subpart B of Part 373 as set forth in the following table:

Old section	New section
1081 Part Heading	373, Subpart B Heading
1081.1	373.201

12a. The headings for subpart B and § 373.201 are revised to read as set forth above.

13. The part heading, table of contents and authority citation for a new part 377 are added to read as follows:

PART 377—PAYMENT OF TRANSPORTATION CHARGES

Subpart A—Handling of C.O.D. Shipments

- Sec.
 377.101 Applicability.
 377.103 Tariff requirements.
 377.105 Collection and remittance.

Subpart B—Extension of Credit to Shippers by Motor Common Carriers, Water Common Carriers, and Household Goods Freight Forwarders

- Sec.
 377.201 Scope.
 377.203 Extension of credit to shippers.
 377.205 Presentation of freight bills.
 377.207 Effect of mailing freight bills or payments.
 377.209 Additional charges.
 377.211 Computation of time.
 377.213 Charges under average demurrage agreements.
 377.215 Household goods shipments by motor common carriers.
 377.217 Interline settlement of revenues.
 Authority: 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.48.

14. 49 CFR Part 1052 is redesignated as Subpart A of Part 377 as set forth in the following table:

Old section	New section
1052 Part Heading	377, Subpart A Heading
1052.1	377.101
1052.2	377.103
1052.3	377.105

15. 49 CFR Part 1320 is redesignated as Subpart B of Part 377 as set forth in the following table:

Old section	New section
1320 Part Heading	377, Subpart B Heading
1320.1	377.201
1320.2	377.203
1320.3	377.205
1320.4	377.207
1320.5	377.209
1320.6	377.211
1320.7	377.213
1320.8	377.215
1320.17	377.217

15a. The heading of subpart B is revised to read as set forth above.

16. The heading, table of contents, and authority citation of new part 374 are added to read as follows:

PART 374—PASSENGER CARRIER REGULATIONS

Subpart A—Discrimination in Operations of Interstate Motor Common Carriers of Passengers

- Sec.
 374.101 Discrimination prohibited.
 374.103 Notice to be printed on tickets.
 374.105 Discrimination in terminal facilities.
 374.107 Notice to be posted at terminal facilities.
 374.109 Carriers not relieved of existing obligations.
 374.111 Reports of interference with regulations.
 374.113 Definitions.

Subpart B—Limitation of Smoking on Interstate Passenger Carrier Vehicles

- Sec.
 374.201 Prohibition against smoking on interstate passenger-carrying motor vehicles.

Subpart C—Adequacy of Intercity Motor Common Carrier Passenger Service

- Sec.
 374.301 Applicability.
 374.303 Definitions.
 374.305 Ticketing and information.
 374.307 Baggage service.
 374.309 Terminal facilities.
 374.311 Service responsibility.
 374.313 Equipment.
 374.315 Transportation of passengers with disabilities.
 374.317 Identification—bus and driver.
 374.319 Relief from provisions.

Subpart D—Notice of and Procedures for Baggage Excess Value Declaration

- Sec.
 374.401 Minimum permissible limitations for baggage liability.
 374.403 Notice of passenger's ability to declare excess value on baggage.
 374.405 Baggage excess value declaration procedures.

Subpart E—Incidental Charter Rights

- 374.501 Applicability.
 374.503 Authority.
 374.505 Exceptions.
 Authority: 49 U.S.C. 13301 and 14101; 49 CFR 1.48.

17. 49 CFR Part 1055 is redesignated as Subpart A of Part 374 as set forth in the following table:

Old Section	New Section
055 Part Heading	374, Subpart A Heading
1055.1	374.101
1055.2	374.103
1055.3	374.105
1055.4	374.107
1055.5	374.109
1055.6	374.111
1055.10	374.113

18. 49 CFR Part 1061 is redesignated as Subpart B of Part 374 as set forth in the following table:

Old Section	New Section
1061 Part Heading	374, Subpart b Heading
1061.1	374.201

19. 49 CFR Part 1063 is redesignated as Subpart C of Part 374 as set forth in the following table:

Old Section	New Section
1063 Part Heading	374, Subpart C Heading
1063.1	374.301
1063.2	374.303
1063.3	374.305
1063.4	374.307
1063.5	374.309
1063.6	374.311
1063.7	374.313
1063.8	374.315
1063.9	374.317
1063.10	374.319

20. 49 CFR Part 1064 is redesignated as Subpart D of Part 374 as set forth in the following table:

Old Section	New Section
1064 Part Heading	374, Subpart D Heading
1064.1	374.401
1064.2	374.403
1064.3	374.405

21. 49 CFR Part 1054 is redesignated as subpart E of Part 374 as set forth in the following table:

Old Section	New Section
054 Part Heading	374, subpart E Heading
1054.1	374.501
1054.2	374.503
1054.3	374.505

22. The authority citation for Part 387 is revised to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, and 14701; 49 CFR 1.48.

23. In Part 387, the table of contents is amended by adding new Subparts C and D to read as follows:

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

* * * * *

Subpart C—Surety Bonds and Policies of Insurance for Motor Carriers and Property Brokers

- Sec.
 387.301 Surety bond, certificate of insurance, or other securities.
 387.303 Security for the protection of the public: Minimum limits.
 387.305 Combination vehicles.
 387.307 Property broker surety bond or trust fund.
 387.309 Qualifications as a self-insurer and other securities or agreements.
 387.311 Bonds and certificates of insurance.
 387.313 Forms and procedures.
 387.315 Insurance and surety companies.
 387.317 Refusal to accept, or revocation by the FHWA of surety bonds, etc.
 387.319 Fiduciaries.
 387.321 Operations in foreign commerce.
 387.323 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

Subpart D—Surety Bonds and Policies of Insurance for Freight Forwarders

- Sec.
 387.401 Definitions.
 387.403 General requirements.
 387.405 Limits of liability.
 387.407 Surety bonds and certificates of insurance.
 387.409 Insurance and surety companies.
 387.411 Qualifications as a self-insurer and other securities or agreements.
 387.413 Forms and procedure.
 387.415 Acceptance and revocation by the FHWA.
 387.417 Fiduciaries.
 387.419 Electronic filing of surety bonds, certificates of insurance and cancellations.

24. 49 CFR Part 1043 is redesignated as Subpart C of Part 387 as set forth in the following table:

Old section	New section
1043 Part Heading	387, Subpart C Heading
1043.1	387.301
1043.2	387.303
1043.3	387.305
1043.4	387.307
1043.5	387.309
1043.6	387.311
1043.7	387.313
1043.8	387.315
1043.9	387.317
1043.10	387.319
1043.11	387.321
1043.12	387.323

24a. The headings of subpart C and § 387.317 are revised to read as set forth above.

25. 49 CFR Part 1084 is redesignated as Subpart D of Part 387 as set forth in the following table:

Old section	New section
1084 Part Heading	387, Subpart D Heading
1084.1	387.401

Old section	New section
1084.2	387.403
1084.3	387.405
1084.4	387.407
1084.5	387.409
1084.6	387.411
1084.7	387.413
1084.8	387.415
1084.9	387.417
1084.10	387.419

25a. The headings of subpart D and § 387.415 are revised to read as set forth above.

26. The authority citation for Part 390 is revised to read as follows:

Authority: 49 U.S.C. 5901-5907, 13301, 13902, 31132- 31133, 31136, 31502, and 31504; 49 CFR 1.48.

27. In Part 390, subpart D is added to read as follows:

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

* * * * *

Subpart D—Identification of Vehicles

Sec.

- 390.401 Applicability.
- 390.403 Method of identification.
- 390.405 Size, shape, and color.
- 390.407 Driveaway service.

28. 49 CFR Part 1058 is redesignated as subpart D of Part 390 as set forth in the following table:

Old section	New section
1058 Part Heading	390, subpart D Heading
1058.1	390.401
1058.2	390.403
1058.3	390.405
1058.4	390.407

29. In 49 CFR chapter X, the undesignated center headings for “parts 1040-1069” and “parts 1080-1089” are removed.

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