

tive and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 13902. Registration of motor carriers

(a) MOTOR CARRIER GENERALLY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases only if the Secretary determines that the person—

(A) is willing and able to comply with—

(i) this part and the applicable regulations of the Secretary and the Board;

(ii) any safety regulations imposed by the Secretary;

(iii) the duties of employers and employees established by the Secretary under section 31135;

(iv) the safety fitness requirements established by the Secretary under section 31144;

(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

(B) has been issued a USDOT number under section 31134;

(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and

(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.

(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—

(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c); and

(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.

(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration.

(5) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Board (including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus), the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection. In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.

(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.

(b) MOTOR CARRIERS OF PASSENGERS.—

(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transpor-

tation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

(i) the recipient meets the requirements of subsection (a)(1); and

(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Subject to section 14501(a), any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such trans-

portation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

(8) DEFINITIONS.—In this subsection, the following definitions apply:

(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term “public recipient of governmental assistance” means—

(i) any State,

(ii) any municipality or other political subdivision of a State,

(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

(iv) any Indian tribe, and

(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv),

which before, on, or after January 1, 1996, received governmental assistance for the purchase or operation of any bus.

(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term “private recipient of government assistance” means any person (other than a person described in subparagraph (A)) who before, on, or after January 1, 1996, received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

(C) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

(A) seek elimination of such practices through consultations; or

(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the bur-

dens or restrictions imposed by such foreign country on United States transportation companies.

(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on December 31, 1995; or

(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

(d) TRANSITION RULE.—

(1) IN GENERAL.—Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section—

(A) as a motor common carrier if such person would have been issued a certificate to

provide transportation as a motor common carrier under this subtitle on December 31, 1995; and

(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

(2) DEFINITIONS.—In this subsection, the terms “motor common carrier” and “motor contract carrier” have the meaning such terms had under section 10102 as such section was in effect on December 31, 1995.

(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date.

(e) PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—In addition to other penalties available under law, motor carriers that fail to register their operations as required by this section or that operate beyond the scope of their registrations may be subject to the following penalties:

(1) OUT-OF-SERVICE ORDERS.—If, upon inspection or investigation, the Secretary determines that a motor carrier providing transportation requiring registration under this section is operating without a registration or beyond the scope of its registration, the Secretary may order the motor carrier operations out-of-service. Subsequent to the issuance of the out-of-service order, the Secretary shall provide an opportunity for review in accordance with section 554 of title 5, United States Code; except that such review shall occur not later than 10 days after issuance of such order.

(2) PERMISSION FOR OPERATIONS.—A person domiciled in a country contiguous to the United States with respect to which an action under subsection (c)(1)(A) or (c)(1)(B) is in effect and providing transportation for which registration is required under this section shall maintain evidence of such registration in the motor vehicle when the person is providing the transportation. The Secretary shall not permit the operation in interstate commerce in the United States of any motor vehicle in which there is not a copy of the registration issued pursuant to this section.

(f) MODIFICATION OF CARRIER REGISTRATION.—

(1) IN GENERAL.—On and after the transition termination date, the Secretary—

(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

(B) shall register applicants under this section as motor carriers; and

(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any

person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

(B) any other provision of this title that was in effect before the transition termination date.

(3) TRANSITION TERMINATION DATE DEFINED.—In this section, the term “transition termination date” means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.

(g) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term “motor carrier” includes foreign motor private carriers.

(h) UPDATE OF REGISTRATION.—

(1) IN GENERAL.—The Secretary shall require a registrant to update its registration under this section not later than 30 days after a change in the registrant’s address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(2) MOTOR CARRIERS OF PASSENGERS.—In addition to the requirements of paragraph (1), the Secretary shall require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under this section.

(i) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

(1) may only provide transportation of property with—

(A) self-propelled motor vehicles owned or leased by the motor carrier; or

(B) interchanges under regulations issued by the Secretary if the originating carrier—

(i) physically transports the cargo at some point; and

(ii) retains liability for the cargo and for payment of interchanged carriers; and

(2) may not arrange transportation except as described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 880; amended Pub. L. 104-287, §5(32), Oct. 11, 1996, 110 Stat. 3391; Pub. L. 106-159, title II, §205, Dec. 9, 1999, 113 Stat. 1762; Pub. L. 109-59, title IV, §§4113(b), 4204, 4303(c), Aug. 10, 2005, 119

Stat. 1725, 1753, 1762; Pub. L. 110-291, §2, July 30, 2008, 122 Stat. 2915; Pub. L. 112-141, div. C, title II, §§32101(a), 32107(a), 32111, 32915, 32921(a), July 6, 2012, 126 Stat. 777, 781, 783, 820, 827; Pub. L. 114-94, div. A, title V, §5508(a)(1), Dec. 4, 2015, 129 Stat. 1554.)

HISTORICAL AND REVISION NOTES

PUB. L. 104-287, §5(32)(A)

This amends 49:13902(b)(8)(A) to correct a grammatical error and to set out the effective date of 49:13902(b).

PUB. L. 104-287, §5(32)(B)

This sets out the effective date of 49:13902(b)(8).

PUB. L. 104-287, §5(32)(C)

This amends 49:13902(c)(4)(A) and (d)(1) and (2) for clarity and consistency.

REFERENCES IN TEXT

Section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, referred to in subsec. (a)(1)(D), is section 32101(b) of Pub. L. 112-141, which is set out as a note below.

Section 6 of the Bus Regulatory Reform Act of 1982, referred to in subsec. (c)(4)(B), is section 6 of Pub. L. 97-261, Sept. 20, 1982, 96 Stat. 1103, which amended former sections 10102, 10322, 10521, 10922, and 11711 of this title, section 250 of Title 26, Internal Revenue Code, and former section 5201 of Title 39, Postal Service.

Section 4481 of the Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to section 4481 of Title 26, Internal Revenue Code.

Section 10102, referred to in subsec. (d)(2), was omitted and a new section 10102 enacted in the general amendment of this subtitle by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804, 806, effective Jan. 1, 1996.

The date of enactment of the Unified Carrier Registration Act of 2005, referred to in subsec. (f)(3), is the date of enactment of subtitle C of title IV of Pub. L. 109-59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 10922 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2015—Subsec. (i)(2). Pub. L. 114-94 inserted “except as” before “described”.

2012—Subsec. (a)(1). Pub. L. 112-141, §32915(1)(A), inserted “using self-propelled vehicles the motor carrier owns, rents, or leases” after “motor carrier” in introductory provisions.

Pub. L. 112-141, §32101(a), amended par. (1) generally. Prior to amendment, text read as follows: “Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

“(A) this part and the applicable regulations of the Secretary and the Board;

“(B)(i) any safety regulations imposed by the Secretary;

“(ii) the duties of employers and employees established by the Secretary under section 31135; and

“(iii) the safety fitness requirements established by the Secretary under section 31144;

“(C) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus; and

“(D) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.”

Subsec. (a)(2)(B). Pub. L. 112-141, §32921(a)(1), substituted “section 13702(c); and” for “section 13702(c);”.

Subsec. (a)(2)(C). Pub. L. 112-141, §32921(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage; and”.

Subsec. (a)(2)(D). Pub. L. 112-141, §32921(a)(3), struck out subpar. (D) which read as follows: “discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.”

Subsec. (a)(6). Pub. L. 112-141, §32915(1)(B), added par. (6).

Subsec. (e)(1). Pub. L. 112-141, §32111, substituted “a motor carrier” for “a motor vehicle” and “order the motor carrier operations” for “order the vehicle”.

Subsec. (h). Pub. L. 112-141, §32107(a), added subsec. (h).

Subsec. (i). Pub. L. 112-141, §32915(2), added subsec. (i). 2008—Subsec. (a)(1)(C), (D). Pub. L. 110-291, §2(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (a)(5). Pub. L. 110-291, §2(b), inserted “(including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus)” after “Board”.

2005—Subsec. (a)(1)(B). Pub. L. 109-59, §4113(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and”.

Subsec. (a)(2), (3). Pub. L. 109-59, §4204(1), (3), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

“(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

“(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.”

Subsec. (a)(4). Pub. L. 109-59, §4204(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109-59, §4204(2), (4), redesignated par. (4) as (5) and inserted at end “In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.”

Subsec. (d)(3). Pub. L. 109-59, §4303(c)(1), added par. (3).

Subsecs. (f), (g). Pub. L. 109-59, §4303(c)(2), added subsec. (f) and redesignated former subsec. (f) as (g).

1999—Subsecs. (e), (f). Pub. L. 106-159 added subsec. (e) and redesignated former subsec. (e) as (f).

1996—Subsec. (b)(8)(A). Pub. L. 104-287, §5(32)(A), inserted “and” after “any Indian tribe,” in cl. (iv), struck out “and” after “clause (i), (ii), (iii), or (iv),” in cl. (v), and substituted “January 1, 1996,” for “the effective date of this subsection” in concluding provisions.

Subsec. (b)(8)(B). Pub. L. 104-287, §5(32)(B), substituted “January 1, 1996,” for “the effective date of this paragraph”.

Subsecs. (c)(4)(A), (d)(1)(A), (2). Pub. L. 104-287, §5(32)(C), substituted “December 31, 1995” for “the day before the effective date of this section”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by sections 32101(a), 32107(a), 32111, and 32915 of Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

Pub. L. 112-141, div. C, title II, §32921(c), July 6, 2012, 126 Stat. 828, provided that: “The amendments made by this section [amending this section and section 31144 of this title] shall take effect 2 years after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways].”

REGULATIONS

Pub. L. 109-59, title IV, §4308, Aug. 10, 2005, 119 Stat. 1774, provided that: “The Secretary [of Transportation] may issue such regulations as the Secretary determines are necessary to carry out this subtitle [subtitle C (§§4301-4308) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title] and the amendments made by this subtitle.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

WRITTEN PROFICIENCY EXAMINATION

Pub. L. 112-141, div. C, title II, §32101(b), July 6, 2012, 126 Stat. 777, provided that: “Not later than 18 months after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall establish through a rulemaking a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person’s knowledge of applicable safety regulations, standards, and orders of the Federal government.”

DEADLINE FOR IMPLEMENTATION OF REGISTRATION REQUIREMENTS

Pub. L. 110-291, §4, July 30, 2008, 122 Stat. 2915, provided that: “Not later than 30 days after the date of enactment of this Act [July 30, 2008], the Secretary shall take necessary actions to implement the changes required by the amendment made by section 2(a) [amending this section] relating to registration of motor carriers providing transportation by an over-the-road bus.”

COORDINATION WITH DEPARTMENT OF JUSTICE

Pub. L. 110-291, §5, July 30, 2008, 122 Stat. 2916, provided that: “Not later than 6 months after the date of enactment of this Act [July 30, 2008], the Secretary of Transportation and the Attorney General shall enter into a memorandum of understanding to delineate the specific roles and responsibilities of the Department of Transportation and the Department of Justice, respectively, in enforcing the compliance of motor carriers of passengers providing transportation by an over-the-road bus (as defined in section 13102 of title 49, United States Code) with the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor

regulations to those accessibility requirements as the Secretary may issue. Such memorandum shall recognize the Department of Transportation's statutory responsibilities as clarified by this Act [see Short Title of 2008 Amendment note set out under section 10101 of this title] (including the amendments made by this Act)."

AUTHORITY OF MEXICAN MOTOR CARRIERS TO OPERATE BEYOND UNITED STATES MUNICIPALITIES AND COMMERCIAL ZONES ON UNITED STATES-MEXICO BORDER

Pub. L. 110-28, title VI, §6901, May 25, 2007, 121 Stat. 183, provided that:

"(a) Hereafter, funds limited or appropriated for the Department of Transportation may be obligated or expended to grant authority to a Mexico-domiciled motor carrier to operate beyond United States municipalities and commercial zones on the United States-Mexico border only to the extent that—

"(1) granting such authority is first tested as part of a pilot program;

"(2) such pilot program complies with the requirements of section 350 of Public Law 107-87 [set out below] and the requirements of section 31315(c) of title 49, United States Code, related to pilot programs; and

"(3) simultaneous and comparable authority to operate within Mexico is made available to motor carriers domiciled in the United States.

"(b) Prior to the initiation of the pilot program described in subsection (a) in any fiscal year—

"(1) the Inspector General of the Department of Transportation shall transmit to Congress and the Secretary of Transportation a report verifying compliance with each of the requirements of subsection (a) of section 350 of Public Law 107-87, including whether the Secretary of Transportation has established sufficient mechanisms to apply Federal motor carrier safety laws and regulations to motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border and to ensure compliance with such laws and regulations; and

"(2) the Secretary of Transportation shall—

"(A) take such action as may be necessary to address any issues raised in the report of the Inspector General under subsection (b)(1) and submit a report to Congress detailing such actions; and

"(B) publish in the Federal Register, and provide sufficient opportunity for public notice and comment—

"(i) comprehensive data and information on the pre-authorization safety audits conducted before and after the date of enactment of this Act [May 25, 2007] of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border;

"(ii) specific measures to be required to protect the health and safety of the public, including enforcement measures and penalties for noncompliance;

"(iii) specific measures to be required to ensure compliance with section 391.11(b)(2) and section 365.501(b) of title 49, Code of Federal Regulations;

"(iv) specific standards to be used to evaluate the pilot program and compare any change in the level of motor carrier safety as a result of the pilot program; and

"(v) a list of Federal motor carrier safety laws and regulations, including the commercial drivers license requirements, for which the Secretary of Transportation will accept compliance with a corresponding Mexican law or regulation as the equivalent to compliance with the United States law or regulation, including for each law or regulation an analysis as to how the corresponding United States and Mexican laws and regulations differ.

"(c) During and following the pilot program described in subsection (a), the Inspector General of the Depart-

ment of Transportation shall monitor and review the conduct of the pilot program and submit to Congress and the Secretary of Transportation an interim report, 6 months after the commencement of the pilot program, and a final report, within 60 days after the conclusion of the pilot program. Such reports shall address whether—

"(1) the Secretary of Transportation has established sufficient mechanisms to determine whether the pilot program is having any adverse effects on motor carrier safety;

"(2) Federal and State monitoring and enforcement activities are sufficient to ensure that participants in the pilot program are in compliance with all applicable laws and regulations; and

"(3) the pilot program consists of a representative and adequate sample of Mexico-domiciled carriers likely to engage in cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border.

"(d) In the event that the Secretary of Transportation in any fiscal year seeks to grant operating authority for the purpose of initiating cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border either with Mexico-domiciled motor coaches or Mexico-domiciled commercial motor vehicles carrying placardable quantities of hazardous materials, such activities shall be initiated only after the conclusion of a separate pilot program limited to vehicles of the pertinent type. Each such separate pilot program shall follow the same requirements and processes stipulated under subsections (a) through (c) of this section and shall be planned, conducted and evaluated in concert with the Department of Homeland Security or its Inspector General, as appropriate, so as to address any and all security concerns associated with such cross-border operations."

RELATIONSHIP TO OTHER LAWS

Pub. L. 109-59, title IV, §4302, Aug. 10, 2005, 119 Stat. 1761, provided that: "Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this subtitle, this subtitle [subtitle C (§§ 4301-4308) of title IV of Pub. L. 109-59, see Short Title of 2005 Amendment note set out under section 10101 of this title] is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law."

SAFETY OF CROSS-BORDER TRUCKING BETWEEN UNITED STATES AND MEXICO

Pub. L. 107-87, title III, §350, Dec. 18, 2001, 115 Stat. 864, as amended by Pub. L. 114-113, div. L, title I, §130(b), Dec. 18, 2015, 129 Stat. 2850, provided that:

"(a) No funds limited or appropriated in this Act [see Tables for classification] may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until the Federal Motor Carrier Safety Administration—

"(1)(A) requires a safety examination of such motor carrier to be performed before the carrier is granted conditional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

"(B) requires the safety examination to include—

"(i) verification of available performance data and safety management programs;

"(ii) verification of a drug and alcohol testing program consistent with part 40 of title 49, Code of Federal Regulations;

"(iii) verification of that motor carrier's system of compliance with hours-of-service rules, including hours-of-service records;

“(iv) verification of proof of insurance;

“(v) a review of available data concerning that motor carrier’s safety history, and other information necessary to determine the carrier’s preparedness to comply with Federal Motor Carrier Safety rules and regulations and Hazardous Materials rules and regulations;

“(vi) an inspection of that Mexican motor carrier’s commercial vehicles to be used under such operating authority, if any such commercial vehicles have not received a decal from the inspection required in subsection (a)(5);

“(vii) an evaluation of that motor carrier’s safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections;

“(viii) verification of drivers’ qualifications, including a confirmation of the validity of the Licencia de Federal de Conductor of each driver of that motor carrier who will be operating under such authority; and

“(ix) an interview with officials of that motor carrier to review safety management controls and evaluate any written safety oversight policies and practices.

“(C) requires that—

“(i) Mexican motor carriers with three or fewer commercial vehicles need not undergo on-site safety examination; however 50 percent of all safety examinations of all Mexican motor carriers shall be conducted onsite; and

“(ii) such on-site inspections shall cover at least 50 percent of estimated truck traffic in any year.

“(2) requires a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the motor carrier a satisfactory rating, before the carrier is granted permanent operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border, and requires that any such safety compliance review take place within 18 months of that motor carrier being granted conditional operating authority, provided that—

“(A) Mexican motor carriers with three or fewer commercial vehicles need not undergo onsite compliance review; however 50 percent of all compliance reviews of all Mexican motor carriers shall be conducted on-site; and

“(B) any Mexican motor carrier with 4 or more commercial vehicles that did not undergo an on-site safety exam under (a)(1)(C), shall undergo an on-site safety compliance review under this section.

“(3) requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;

“(A) for every such vehicle carrying a placardable quantity of hazardous materials;

“(B) whenever the inspection required in subsection (a)(5) is performed; and

“(C) randomly for other Mexican motor carrier commercial vehicles, but in no case less than 50 percent of all other such commercial vehicles.

“(4) gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;

“(5) requires, with the exception of Mexican motor carriers that have been granted permanent operating authority for three consecutive years—

“(A) inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified inspectors in accordance with

the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage;

“(B) a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (A) or a re-inspection if the vehicle has met the criteria for the Level I inspection; and

“(C) that any such decal, when affixed, expire at the end of a period of not more than 90 days, but nothing in this paragraph shall be construed to preclude the Administration from requiring reinspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted.

“(6) requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

“(7)(A) equips all United States-Mexico commercial border crossings with scales suitable for enforcement action; equips 5 of the 10 such crossings that have the highest volume of commercial vehicle traffic with weigh-in-motion (WIM) systems; ensures that the remaining 5 such border crossings are equipped within 12 months; requires inspectors to verify the weight of each Mexican motor carrier commercial vehicle entering the United States at said WIM equipped high volume border crossings; and

“(B) initiates a study to determine which other crossings should also be equipped with weigh-in-motion systems;

“(8) the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed in the United States;

“(9) requires commercial vehicles operated by a Mexican motor carrier to enter the United States only at commercial border crossings where and when a certified motor carrier safety inspector is on duty and where adequate capacity exists to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections.

“(10) publishes—

“(A) interim final regulations under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106-159] (49 U.S.C. 31144 note) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that may include the administration of a proficiency examination;

“(B) interim final regulations under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;

“(C) a policy under sections 218(a) and (b) of that Act (49 U.S.C. 31133 note) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;

“(D) a policy under section 219(d) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States; and

“(E) a policy under section 219(a) of that Act (49 U.S.C. 14901 note) that prohibits foreign motor car-

riers from operating in the United States that is found to have operated illegally in the United States.

“(b) No vehicles owned or leased by a Mexican motor carrier and carrying hazardous materials in a placardable quantity may be permitted to operate beyond a United States municipality or commercial zone until the United States has completed an agreement with the Government of Mexico which ensures that drivers of such vehicles carrying such placardable quantities of hazardous materials meet substantially the same requirements as United States drivers carrying such materials.

“(c) No vehicles owned or leased by a Mexican motor carrier may be permitted to operate beyond United States municipalities and commercial zones under conditional or permanent operating authority granted by the Federal Motor Carrier Safety Administration until—

“(1) the Department of Transportation Inspector General conducts a comprehensive review of border operations within 180 days of enactment [probably means date of enactment of this Act, which was approved Dec. 18, 2001] to verify that—

“(A) all new inspector positions funded under this Act [see Tables for classification] have been filled and the inspectors have been fully trained;

“(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

“(C) the requirement of subparagraph (a)(2) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

“(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

“(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of United States enforcement authorities to allow United States authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

“(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections;

“(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

“(H) measures are in place to enable United States law enforcement authorities to ensure the effective enforcement and monitoring of license revocation and licensing procedures of Mexican motor carriers.

“(2) The Secretary of Transportation certifies in writing in a manner addressing the Inspector Gen-

eral's findings in paragraphs (e)(1)(A) through (e)(1)(H) of this section that the opening of the border does not pose an unacceptable safety risk to the American public.

“[(d) Repealed. Pub. L. 114-113, div. L, title I, § 130(b), Dec. 18, 2015, 129 Stat. 2850.]

“(e) For purposes of this section, the term ‘Mexican motor carrier’ shall be defined as a Mexico-domiciled motor carrier operating beyond United States municipalities and commercial zones on the United States-Mexico border.

“(f) In addition to amounts otherwise made available in this Act, to be derived from the Highway Trust Fund, there is hereby appropriated to the Federal Motor Carrier Safety Administration, \$25,866,000 for the salary, expense, and capital costs associated with the requirements of this section.”

LIMITED MODIFICATION TO MORATORIUM ON ISSUANCE OF CERTIFICATES OR PERMITS WITH RESPECT TO MEXICO

Memorandum of President of the United States, May 6, 1993, 58 F.R. 27647, provided:

Memorandum for the Secretary of Transportation
Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. The Act [Pub. L. 97-261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a contiguous foreign country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

I am pleased that an agreement between the United States and Mexico has been concluded to ensure fair and reciprocal treatment for charter and tour bus interests on both sides of the border. The agreement reached, however, does not allow for full access to cross-border and domestic markets. Therefore, the moratorium must reflect the conditions under which operating authority may be issued to Mexican charter and tour companies under the agreement.

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(l)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], I hereby make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or special operations, in foreign commerce, in round trip or one-way service between Mexico and the United States pursuant to the following restrictions:

1. The Mexican motor carrier can conduct cross-border charter or special service in the United States only when the international tour or charter begins in Mexico;

2. Tickets or tour packages for such operations cannot be sold in the United States; and

3. The terms of the grants of authority given to Mexican motor carriers will be limited by the life of the agreement with Mexico covering reciprocal cross-border charter and special operations.

This action applies only to international charter and tour operations, does not allow for point-to-point service within the United States, and does not authorize companies to conduct cross-border regular route service. This action preserves the status quo with respect to Mexican trucking companies and Mexican companies engaged in regular route service, and will maintain the moratorium on those operations through September 25, 1994, unless earlier revoked or modified.

Accordingly, you are directed to notify the Congress today on my behalf that, effective 60 days hence, the moratorium will no longer be in effect for Mexican charter and tour bus companies subject to the above stated conditions. Because of this action, the Interstate Commerce Commission will then accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms. I should note that applications in Mexico by United States charter and tour bus firms will be similarly treated.

You are hereby authorized and directed to publish this determination in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 1, 1994, 59 F.R. 653, provided:

Memorandum for the Secretary of Transportation
Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country. The Act [Pub. L. 97-261, see Tables for classification] authorized the President to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a foreign contiguous country or political subdivision thereof that substantially prohibits the granting of motor carrier authority to persons from the United States.

As set forth in the Statement of Administrative Action regarding the North American Free Trade Agreement (NAFTA) that I submitted to the Congress on November 3, 1993, the moratorium with respect to Mexico will be lifted in phases to coincide with the schedule of liberalization in the relevant provisions of the NAFTA. The NAFTA specifically states that the moratorium will not apply to the provision of cross-border charter or tour bus services as of the date of entry into force of the Agreement.

This is to give public notice that, pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. section 10922(l)(2)(A) [see former 49 U.S.C. 10922(m)(2)(A)], on November 3, 1993, I gave the Congress notice of my intention to make a limited modification to the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of Mexico. This modification will take effect on January 1, 1994, the 60th day after my notice to the Congress.

The moratorium is modified only to authorize the Interstate Commerce Commission to grant Mexican motor carriers authority to transport passengers in charter or tour bus operations, in foreign commerce, in round-trip or one-way service between Mexico and the United States.

This action applies only to international charter or tour bus operations, does not allow for point-to-point bus service within the United States, and does not authorize companies to conduct cross-border regular route bus service.

Effective January 1, 1994, the Interstate Commerce Commission will begin to accept and process expeditiously all applications for operating authority from Mexican owned, controlled, or domiciled charter and tour bus firms.

This determination shall be published in the Federal Register.

WILLIAM J. CLINTON.

[Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of this title and section 101 of Pub. L. 104-88, set out as a

note under section 1301 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of this title.]

EXTENSION OF MORATORIUM

Memorandum of President of the United States, Mar. 2, 1995, 60 F.R. 12393, provided:

Memorandum for the Secretary of Transportation [and] the United States Trade Representative

Pursuant to section 6 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. 10922(l)(1) and (2) [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)], I hereby extend for an additional 2 years both the moratorium imposed by that section and all actions taken by my predecessors under that section on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. This action preserves the *status quo* and will maintain the moratorium through September 19, 1996, unless earlier revoked or modified.

This memorandum shall be published in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Sept. 25, 1992, 57 F.R. 44647, extended moratorium through Sept. 19, 1994.

Memorandum of President of the United States, Sept. 17, 1990, 55 F.R. 38657, extended moratorium through Sept. 19, 1992.

Memorandum of President of the United States, Sept. 15, 1988, 53 F.R. 36430, extended moratorium through Sept. 19, 1990.

Memorandum of President of the United States, Sept. 23, 1986, 51 F.R. 34079, extended moratorium through Sept. 19, 1988.

Memorandum of President of the United States, Aug. 30, 1984, 49 F.R. 35001, extended moratorium through Sept. 19, 1986.

Memorandum of President of the United States, June 5, 2001, 66 F.R. 30799, provided:

Memorandum for the Secretary of Transportation
Section 6 of the Bus Regulatory Reform Act of 1982 [Pub. L. 97-261, see former 49 U.S.C. 10922(m)(1), (2)] imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by, persons of a contiguous foreign country, and authorized the President to modify the moratorium. The Interstate Commerce Commission Termination Act of 1995 (ICCTA) [ICC Termination Act of 1995, Pub. L. 104-88, see Tables for classification] maintained these restrictions, subject to modifications made prior to the enactment of the ICCTA [Dec. 29, 1995], and authorized the President to make further modifications to the moratorium. The relevant provisions of the ICCTA are codified at 49 U.S.C. 13902.

The North American Free Trade Agreement (NAFTA) established a schedule for liberalizing certain restrictions on investment in truck and bus services. Pursuant to 49 U.S.C. 13902(c)(3), I have determined that the following modifications to the moratorium are consistent with obligations of the United States under NAFTA and with U.S. transportation policy, and that the moratorium shall be modified accordingly. First, enterprises domiciled in the United States that are owned or controlled by persons of Mexico will be allowed to obtain operating authority to provide truck services for the transportation of international cargo between points in the United States. Second, enterprises domiciled in the United States that are owned or controlled by persons of Mexico will be allowed to obtain operating authority to provide bus services between points in the United States. These modifications shall be effective today.

Pursuant to 49 U.S.C. 13902(c)(5), I have determined that expeditious action is required to implement these modifications to the moratorium. Effective today, the Department of Transportation will accept and expedi-

tiously process applications, submitted by enterprises domiciled in the United States that are owned or controlled by persons of Mexico, to obtain operating authority to provide truck services for the transportation of international cargo between points in the United States or to provide bus services between points in the United States.

Motor carriers domiciled in the United States that are owned or controlled by persons of Mexico will be subject to the same Federal and State regulations and procedures that apply to all other U.S. carriers. These include safety regulations, such as drug and alcohol testing; insurance requirements; taxes and fees; and all other applicable laws and regulations, including those administered by the U.S. Customs Service, the Immigration and Naturalization Service, and the Department of Labor.

This memorandum shall be published in the Federal Register.

GEORGE W. BUSH.

Memorandum of President of the United States, Nov. 27, 2002, 67 F.R. 71795, provided:

Memorandum for the Secretary of Transportation
Section 6 of the Bus Regulatory Reform Act of 1982, Public Law 97-261, 96 Stat. 1103 [see former 49 U.S.C. 10922(m)(1), (2)], imposed a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country and authorized the President to modify the moratorium. The Interstate Commerce Commission Termination Act of 1995 (ICCTA), Public Law 104-88, 109 Stat. 803 [ICC Termination Act of 1995, see Tables for classification], maintained these restrictions, subject to modifications made prior to the enactment of the ICCTA [Dec. 29, 1995], and empowered the President to make further modifications to the moratorium.

Pursuant to 49 U.S.C. 13902(c)(3), I modified the moratorium on June 5, 2001, to allow motor carriers domiciled in the United States that are owned or controlled by persons of Mexico to obtain operating authority to transport international cargo by truck between points in the United States and to provide bus services between points in the United States.

The North American Free Trade Agreement (NAFTA) established a schedule for liberalizing certain restrictions on the provision of bus and truck services by Mexican-domiciled motor carriers in the United States. Pursuant to 49 U.S.C. 13902(c)(3), I hereby determine that the following modifications to the moratorium are consistent with obligations of the United States under NAFTA and with our national transportation policy and that the moratorium shall be modified accordingly.

First, qualified motor carriers domiciled in Mexico will be allowed to obtain operating authority to transport passengers in cross-border scheduled bus services. Second, qualified motor carriers domiciled in Mexico will be allowed to obtain operating authority to provide cross-border truck services. The moratorium on the issuance of certificates or permits to Mexican-domiciled motor carriers for the provision of truck or bus services between points in the United States will remain in place. These modifications shall be effective on the date of this memorandum.

Furthermore, pursuant to 49 U.S.C. 13902(c)(5), I hereby determine that expeditious action is required to implement this modification to the moratorium. Effective on the date of this memorandum, the Department of Transportation is authorized to act on applications, submitted by motor carriers domiciled in Mexico, to obtain operating authority to provide cross-border scheduled bus services and cross-border truck services. In reviewing such applications, the Department shall continue to work closely with the Department of Justice, the Office of Homeland Security, and other relevant Federal departments, agencies, and offices in order to help ensure the security of the border and to prevent potential threats to national security.

Motor carriers domiciled in Mexico operating in the United States will be subject to the same Federal and

State laws, regulations, and procedures that apply to carriers domiciled in the United States. These include safety regulations, such as drug and alcohol testing requirements; insurance requirements; taxes and fees; and other applicable laws and regulations, including those administered by the United States Customs Service, the Immigration and Naturalization Service, the Department of Labor, and Federal and State environmental agencies.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 13903. Registration of freight forwarders

(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary determines that the person—

- (1) has sufficient experience to qualify the person to act as a freight forwarder; and
- (2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who—

- (1) has at least 3 years of relevant experience; or
- (2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.

(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.

(e) UPDATE OF REGISTRATION.—The Secretary shall require a freight forwarder to update its registration under this section not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 884; amended Pub. L. 109-59, title IV, § 4142(b), Aug. 10, 2005, 119 Stat. 1747; Pub. L. 110-244, title III, § 305(d), June 6, 2008, 122 Stat. 1620; Pub. L. 112-141, div. C, title II, §§ 32107(b), 32916(a), July 6, 2012, 126 Stat. 782, 820; Pub. L. 114-94, div. A, title V, § 5508(a)(2), Dec. 4, 2015, 129 Stat. 1554.)

AMENDMENTS

2015—Subsec. (d). Pub. L. 114-94 struck out par. (1) designation and heading before “A freight forwarder”.

2012—Subsec. (a). Pub. L. 112-141, § 32916(a)(1), substituted “determines that the person—” for “finds that the person is fit”, added par. (1), inserted par. (2) designation and “is fit” before “, willing”, and, in par. (2), struck out “and the Board” after “Secretary”.

Subsec. (b). Pub. L. 112-141, § 32916(a)(3), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 112-141, § 32916(a)(3), added subsec. (c). Former subsec. (c) redesignated (e).

Pub. L. 112-141, § 32107(b), added subsec. (c).