geographic clusters, with each cluster containing major and local roads. Assignment of sites and times within clusters should be random.

F. Two counts should be recorded for all eligible vehicles:

1. Number of front seat outboard occupants.

2. Number of these occupants wearing shoulder belts.

III. Estimation

A. Observations at each site should be weighted by the site's final probability of selection.

B. An estimate of one standard error should be calculated for the estimate of belt use. Using this estimate, 95 percent confidence intervals for the estimate of safety belt use should be calculated.

Issued on: August 26, 1998.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 98–23410 Filed 8–27–98; 11:54 am]

BILLING CODE 4910–59–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

[4310–55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Bristol Bay Federal Subsistence Regional Advisory Council Meeting; Subsistence Management Regulations for Public Lands in Alaska

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice informs the public of the Regional Council meeting identified above. The public is invited to attend and observe meeting proceedings. In addition, the public invited to provide oral testimony before the Bristol Bay Advisory Council on a Special Action request to change Subsistence Management Regulations for Public Lands in Alaska for the 1998–1999 regulatory year as set forth in a final rule on June 29, 1998 (63 FR 35332–35381). The Regional Council will receive testimony and consider six requests from local villages asking that federal public lands in Unit 9(E) be closed to taking of caribou by non-qualified subsistence users. Three requests from local villages additionally ask that federal lands be closed to the taking of moose by non-qualified subsistence users. The requests cite recent information on the continuing decline in population of the North Alaska Peninsula caribou herd. In addition, the severe reduction in the commercial fishery incomes this year is said to result in higher reliance on subsistence food resources.

DATES: The Federal Subsistence Board announces the forthcoming public meeting for the Federal Subsistence Regional Advisory Council. The Bristol Bay Regional Council will meet in Naknek, AK on September 2, 1998 at 10:30 A.M. in the Bristol Bay Borough Assembly Chambers.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, (907) 786–3888. For questions related to subsistence management issues on National Forest Service lands, inquiries may also be directed to Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271–2540.

SUPPLEMENTARY INFORMATION: The Regional Councils have been established in accordance with Section 805 of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and Subsistence Management Regulations for Public Lands in Alaska, 36 CFR part 242 and 50 CFR part 100, subparts A, B, and C (57 FR 22940–22964). The Regional Councils advise the Federal Government on all matters related to the subsistence taking of fish and wildlife on public lands in Alaska and operate in accordance with provisions of the Federal Advisory Committee Act.

The Bristol Bay Regional Council meeting will be open to the public. The public is invited to attend this meeting, observe the proceedings, and provide comments to the Regional Council.

This document provides less than the required 15 days notice. However, these requests were just received, and the Federal closure is requested to coincide with a comparable closure by the Alaska Department of Fish and Game which takes effect on September 10, 1998. Thus, in order to provide the Regional Council and the public an opportunity to comment on this proposal before Board action and for the board to act in a timely manner on this proposal, the Board finds good cause under 41 CFR 101–6.1015(b)(2) to conduct the meeting with less than 15 days notice. Additional notice of the meeting will be placed in local papers and broadcast on local radio and television stations.

Dated: August 25, 1998.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: August 25, 1998.

Ken Thompson,

Acting Regional Forester, USDA-Forest Service.

[FR Doc. 98–23562 Filed 8–28–98; 10:19 am]

BILLING CODE 3410–11–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1002, 1182, 1187, and 1188

[STB Ex Parte No. 559]

Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers

AGENCY: Surface Transportation Board.

ACTION: Final rules.

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

DATES: This rule is effective October 1, 1998.

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

SUPPLEMENTARY INFORMATION: By decision served and published in the **Federal Register** on July 8, 1997 (49 FR 36477), the Board issued a notice of proposed rulemaking (NPR) proposing to establish revised procedures governing finance applications involving motor passenger carriers, filed under 49 U.S.C. 14303. The proposed regulations would adopt, with modifications, the existing procedures promulgated by the Interstate Commerce Commission (ICC) at 49 CFR 1182.[1] Also, we proposed to remove the regulations at 49 CFR parts 1187 and 1188 and to replace them with provisions incorporated in part 1182. Comments were received from the American Bus Association, Inc. (ABA),

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

Coach USA, Inc. (Coach), and Greyhound Lines, Inc. (Greyhound).

Analysis

Jurisdiction over Affiliates

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

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

Safety Ratings

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

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

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

Copies of Applications To Be Filed With State Agencies

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

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

Time Frame for Final Decisions

Our proposed rule in § 1182.6 describes the manner in which opposed applications would be processed. Comments would be due 45 days after notice of the application is published and replies would be due 60 days after the notice. The reply could include a request for expedited action, and commenters could reply to such a request within 70 days of the publication of the notice. The proposed rules do not contain a deadline for deciding the case, nor do they mention

[2] (a) The application must contain the following information: * * *

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

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

[4] (a) The application must contain the following information: * * *

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

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

the statutory requirement in section 14303(e) that the Board is to complete evidentiary proceedings within 240 days after the notice and to issue a final decision within 180 days after the close of the record.

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

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

Voting Trusts

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

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

Compliance With State Transfer Regulations

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

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

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

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

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

A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

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

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

Filing Fees and Removed Regulations

The proposed rules included a redescription and clarification of the categories in which the filing fees applicable to these matters are specified. No change was proposed in the level of the filing fees. In the interim, however, the Board's filing fees have been revised, pursuant to *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—1998 Update*, STB Ex Parte No. 542 (Sub-No. 2) (STB served Feb. 18, 1988). The filing fee for an application in a motor passenger finance case was increased from $1,100 to $1,300, and the filing fee for a request for interim approval (temporary authority) was increased from $250 to $300. The final rules we are adopting include the redescriptions of the fee categories, as proposed, and reflect the current fee schedule.

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

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

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1002

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

49 CFR Part 1182

Administrative practice and procedure, Motor carriers.

49 CFR Part 1187

Administrative practice and procedure, Motor Carriers.

49 CFR Part 1188

Administrative practice and procedure, Motor carriers.

Decided: August 24, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1002,

1182, 1187, and 1188 of the Code of Federal Regulations are amended as follows:

PART 1002—FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

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

§ 1002.2 Filing fees.

* * * * *

(f) * * *

Type of proceeding	Fee
(2) An application to consolidate, merge, purchase, lease, or contract to operate the properties or franchises of motor carriers of passengers or to acquire control of motor carriers of passengers, under 49 U.S.C. 14303	1,300
* * * * *	
(5) A request for interim approval in connection with a finance application involving a motor carrier of passengers, under 49 U.S.C. 14303(i)	300
* * * * *	

3. Part 1182 is revised to read as follows:

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

Sec.

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

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

§ 1182.1 Applications covered by this part.

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

§ 1182.2 Content of applications.

(a) The application must contain the following information:

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

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

(3) A description of the proposed transaction;

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

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

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

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

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

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

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

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

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

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

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

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

§ 1182.3 Filing the application.

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

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

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

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

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

§ 1182.4 Board review of the application.

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

be the date on which the complete information is filed with the Board.

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

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

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

§ 1182.5 Comments.

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

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

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

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

§ 1182.6 Processing an opposed application.

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

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

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

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

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

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

(c) The Board may:

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

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

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

§ 1182.7 Interim approval.

(a) A party may request interim approval of the operation of the properties sought to be acquired through the proposed transaction, for a period of not more than 180 days pending determination of the application. This request may be included in the application or may be submitted separately after the application is filed (e.g., once a comment opposing the application has been filed). An additional filing fee is required, whether the request for interim approval is included in the application or is submitted separately at a later time. *See* 49 CFR 1002.2(f)(5) for the additional filing fee.

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

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

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

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

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

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

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

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

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

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

§ 1182.8 Miscellaneous requirements.

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

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

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

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

(e) All applications and pleadings containing statements of fact (i.e., except motions to strike, replies thereto,

and other pleadings that consist only of legal argument) must be verified by the person offering the statement, in the following manner:

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

[*Signature and Date*]

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

PARTS 1187 AND 1188—[REMOVED]

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

[FR Doc. 98–23352 Filed 8–31–98; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018—AE96

Migratory Bird Harvest Information Program; Participating States for the 1998–99 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) herein amends the Migratory Bird Harvest Information Program (Program) regulations. The Service requires all States except Hawaii to participate in the Program annually, beginning with the 1998–99 hunting season. This regulatory action will continue to require all licensed hunters who hunt migratory game birds in participating States to register as migratory game bird hunters and provide their name, address, and date of birth to the State licensing authority. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds in participating States. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunters' names and addresses are necessary to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys.

DATES: This rule takes effect on September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Paul I. Padding, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10815 Loblolly Pine Drive, Laurel, Maryland 20708–4028, (301)497–5980, FAX (301)497–5981.

SUPPLEMENTARY INFORMATION: This final rule expands the Program to include all States except Hawaii, beginning in the 1998–99 hunting season.

Background

The purpose of this cooperative Program is to annually obtain a nationwide sample frame of migratory bird hunters, from which representative samples of hunters will be selected and asked to participate in voluntary harvest surveys. State wildlife agencies will provide the sample frame by annually collecting the name, address, and date of birth of each licensed migratory bird hunter in the State. To reduce survey costs and to identify hunters who hunt less commonly-hunted species, States will also request that each migratory bird hunter answer a series of questions to provide a brief summary of his or her migratory bird hunting activity for the previous year. States are required to ask each licensed migratory bird hunter approximately how many ducks (0, 1–10, or more than 10), geese (0, 1–10, or more than 10), doves (0, 1–30, or more than 30), and woodcock (0, 1–30, or more than 30) he or she bagged the previous year, and whether he or she hunted coots, snipe, rails, and/or gallinules the previous year. States that have band-tailed pigeon hunting seasons are also required to ask migratory bird hunters whether they intend to hunt band-tailed pigeons during the current year. States are not required to ask questions about species that are not hunted in the State (for example, Maine does not allow dove hunting, therefore, the State of Maine is not required to ask migratory bird hunters how many doves they bagged the previous year). States will send this information to the Service, and the Service will sample hunters and conduct national hunter activity and harvest surveys.

A notice of intent to establish the Program was published on June 24, 1991 (56 FR 28812). A final rule establishing the Program and initiating a 2-year pilot phase in three volunteer States (California, Missouri, and South Dakota) was published on March 19, 1993 (58 FR 15093). The pilot phase was completed following the 1993–94 migratory bird hunting seasons in California, Missouri, and South Dakota. A State/Federal technical group was formed to evaluate Program requirements, the different approaches used by the pilot States, and the Service's survey procedures during the pilot phase. Changes incorporated into the Program as a result of the technical group's evaluation were specified in an October 21, 1994 final rule (59 FR 53334), that initiated the implementation phase of the Program. Implementation of the Program began with the addition of one State in 1994, three States in 1995 (60 FR 43318), ten States in 1996 (61 FR 46350), and five States in 1997 (62 FR 45706). Final implementation of the Program will be accomplished with the addition of 27 States (all except Hawaii) in this final rule.

All licensed hunters who hunt migratory game birds in participating States are required to have a Program validation, indicating that they have identified themselves as migratory bird hunters and have provided the required information to the State wildlife agency. Hunters must provide the required information to each State in which they hunt migratory birds. Validations are printed on, written on, or attached to the annual State hunting license or on a State-specific supplementary permit. The State may charge hunters a handling fee to compensate hunting-license agents and to cover the State's administrative costs. The Service's survey design calls for hunting-record forms to be distributed to hunters selected for the survey before they forget the details of their hunts. Because of this design requirement, States have only a short time to obtain hunter names and addresses from license vendors and to provide those names and addresses to the Service. Currently, participating States must send the required information to the Service within 30 calendar days of issuance of the migratory bird hunting authorization.

The Service has requested the cooperation of participating States to facilitate obtaining harvest estimates for