International Registration Plan, Inc.

OFFICIAL AMENDMENT TO THE
INTERNATIONAL REGISTRATION PLAN

Ballot Number: 422 – Registrant from Non-Member Jurisdiction

Ballot Date: June 20, 2018

Ballot Expiration Date: Sept. 18, 2018

Amendment Effective Date, If Approved: Jan. 1, 2020

Sponsor: Texas Department of Motor Vehicles

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X Sponsor’s IRP voting member notified

SECTIONS TO BE AMENDED

International Registration Plan:
Article III, Applications for Apportioned Registration – Section 310, Registrant from Non-Member Jurisdiction

SUMMARY

The purpose of this ballot is to make Section 310 consistent with: 1) Section 305 of the IRP; 2) Section R325 of the International Fuel Tax Agreement (IFTA) Articles of Agreement; and 3) what appears to be the current practice in IRP Regions III and IV.
1. Make Section 310 Consistent with Section 305 of the IRP by Removing the “For Cause” Language and by Allowing Registration in a Member Jurisdiction in Which the Registrant’s Fleet “Accrues Distance”

Section 310 should be consistent with Section 305 because both sections govern applications under the IRP. Section 305 applies when the Applicant has an Established Place of Business or a Residence in a Member Jurisdiction. Section 310 applies when the Applicant does not have an Established Place of Business in a Member Jurisdiction. Section 305 of the IRP does not include a “for cause” requirement for rejecting an application; however, Section 310 currently includes a “for cause” requirement.

Also, a Member Jurisdiction that receives an application under Section 310 should have the discretion to reject the application, without having to satisfy a “for cause” requirement. Non-member jurisdictions do not give our motor carriers apportioned registration, so our motor carriers will be required to pay full price for vehicle registration in the non-member jurisdictions. Also, the Member Jurisdiction that grants apportioned registration under Section 310 takes on the duties that the non-member jurisdiction(s) would have to perform regarding such Registrant(s) had the non-member jurisdiction(s) joined the IRP.\(^1\) Despite these inequities, if a Member Jurisdiction currently chooses to deny apportioned registration under Section 310, it is subject to an action under Section 1355 (Peer Review) and Article XIV (Dispute Resolution and Plan Interpretation) to ensure the Member Jurisdiction complies with Section 310, which does not define the term “for cause.”

Further, it is time to remove the “for cause” language, which was added to the IRP based on a stated intention that has not been acted upon. In 2004, the Border States sponsored a successful ballot (Ballot #320) that added the “for cause” language to the section that later became Section 310, based on Mexico’s stated intent to join the IRP within four to five years. As of May of 2018, Mexico has not applied to become a member of the IRP.

This ballot also proposes to amend Section 310 to use the same language that is used in Section 305 regarding the accrual of distance. Section 305 uses the following language regarding distance: “where the Fleet the Applicant seeks to register under the Plan accrues distance.” Section 310 currently uses the following language regarding

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\(^1\) Member Jurisdictions are required to comply with the requirements of the IRP, such as registering vehicles, collecting fees, transmitting collected fees to applicable Member Jurisdictions, keeping records, auditing accounts, participating in peer reviews, submitting annual activity reports, completing annual fee tests, and paying dues that range from $7,120 to $58,800 per year. The IRP requires Member Jurisdictions to audit an average of three percent per year of the number of Fleets that it renews each year under IRP. The IRP dues are based on the number of power units the Member Jurisdiction registers per year. The more Registrants and power units a Member Jurisdiction registers, the more likely it is that the Member Jurisdiction will have to audit more accounts and to pay higher dues.
distance: “the Member Jurisdiction in which it expects to operate the greatest distance in the first year of operation as a Registrant.” It is preferable to use the same language in Sections 305 and 310 regarding distance. Both sections govern applications under the IRP, regardless of whether the Applicant is a new Applicant who has not yet operated in a Member Jurisdiction.

As of April of 2018, at least 15 Registrants from Alaska (a non-member jurisdiction) had apportioned registration under Section 310 of the IRP for approximately 49 vehicles. As of April of 2018, at least one Registrant from the Yukon Territory (a non-member jurisdiction) had apportioned registration under Section 310 of the IRP for approximately 15 vehicles. This ballot does not prevent the Member Jurisdictions from continuing to register the vehicles for the current Section 310 Registrants, as long as the Registrants comply with the requirements under Section 310. However, this ballot proposes to give the Member Jurisdictions the discretion to deny registration to the Registrants under Section 310.

This ballot also proposes to authorize other Member Jurisdictions to grant apportioned registration to the current Section 310 Registrants, as long as the Registrants comply with the requirements under Section 310. This ballot further proposes to authorize any Member Jurisdiction to grant apportioned registration to a new Section 310 Applicant, as long as the Applicant complies with the requirements under Section 310.

II. Make Section 310 Consistent with Section R325 of the IFTA Articles of Agreement by Removing the “For Cause” Language and by Allowing Registration in a Member Jurisdiction in which the Applicant Operates

This ballot proposes to make Section 310 consistent with the language in IFTA, which is an international agreement that provides for the uniform administration of motor fuels use tax laws for certain motor vehicles that are operated in more than one member jurisdiction. It makes sense for the language in Section R325 of IFTA and Section 310 of the IRP to be consistent because the language in both sections applies to applicants that aren’t based in a member jurisdiction.

IFTA authorizes a member jurisdiction to accept or reject an application from an applicant that is not based in a member jurisdiction, rather than using a “for cause” standard for a rejection. IFTA also authorizes the applicant to apply in the member jurisdiction in which it operates, rather than requiring the applicant to apply in the member jurisdiction in which it expects to operate the greatest distance in the first year of operation as a registrant.

III. Make Section 310 Consistent with What Appears to be the Current Practice in IRP Regions III and IV

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Approximately 15 Registrants from Alaska (a non-member jurisdiction) have apportioned registration under Section 310 for approximately 49 vehicles in Member Jurisdictions located in the United States in Regions III and IV. Due to the distance between Alaska and the Member Jurisdictions in which Alaskan Registrants are currently registered, it appears as though some Member Jurisdictions in Regions III and IV are operating as though this ballot has already become effective.

AMENDMENT

310 REGISTRANT FROM NON-MEMBER JURISDICTION

(a) An Applicant whose only Established Place of Business is in a Jurisdiction that is not a Member Jurisdiction may submit an application to any Member Jurisdiction where the Fleet the Applicant seeks to register under the Plan accrues distance. A Member Jurisdiction may accept or reject an application from an Applicant [A Person] whose only Established Place of Business is in a Jurisdiction that is not a Member Jurisdiction, [may, until such time as this Jurisdiction becomes a Member Jurisdiction, declare as its Base Jurisdiction the Member Jurisdiction in which it expects to operate the greatest distance in the first year of operation as a Registrant. A Member Jurisdiction that has received an application for registration under this subsection may reject it for cause.] A Registrant may not continue maintaining a Base Jurisdiction under this Section if [once] the Jurisdiction in which the Registrant has an Established Place of Business becomes a Member Jurisdiction, or if the Registrant obtains an Established Place of Business in a Member Jurisdiction.

(b) A Person that has taken advantage of the provisions of subsection (a) for registration under the Plan shall, in the event that a Jurisdiction in which the Person has an Established Place of Business becomes a Member Jurisdiction, or in the event the Registrant obtains an Established Place of Business in a Member Jurisdiction, henceforth use that Member Jurisdiction as its Base Jurisdiction. The re-registration of the Registrant’s Apportionable Vehicles in the new Base Jurisdiction shall be accomplished through orderly and equitable procedures to be established by the Member Jurisdictions involved. Such procedures shall not require payment of duplicate Apportionable Fees.

Official Commentary

The purpose of this Section is to allow a Member Jurisdiction to register an Applicant’s vehicles, [Person to take advantage of registration under the Plan] even though the [Person] Applicant does not have an Established Place of Business in a Member Jurisdiction, [has a business]
location only in a Jurisdiction which is not a Plan member. A Member Jurisdiction receiving an application for registration from such a Person may reject it for reasonable cause. It is required that Persons with an Established Place of Business only in a Jurisdiction located south of the United States will under this Section declare as Base Jurisdiction one of the four states (Arizona, California, New Mexico, and Texas) that border Mexico.] This Section also provides for an orderly transition should either of the following occur: 1) the Jurisdiction in with the Registrant has an Established Place of Business subsequently becomes a Member Jurisdiction; or 2) the Registrant obtains an Established Place of Business in a Member Jurisdiction [that Jurisdiction subsequently become a Member Jurisdiction].