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SERVICE DATE - JANUARY 30, 1997

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SURFACE TRANSPORTATION BOARD

DECISION

STB EX PARTE NO. 620

REMOVAL OF OBSOLETE REGULATIONS CONCERNING EXTENSION OF
OPERATIONS BY WATER CARRIERS

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing from the Code of Federal Regulations obsolete regulations concerning the extension of operations by water carriers over newly completed sections of waterways.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927-5660.
[TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204(a) of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

As here relevant, under the prior law, water common carriers needed a certificate to provide transportation (former section 10922) and water contract carriers needed a permit (former section 10923). See also former 49 U.S.C. 10921. However, under former 49 U.S.C. 10922(h)(3)(B), a water common carrier with authority to operate over a completed portion of a waterway had a right to extend its transportation over newly completed portions as they were opened for navigation. The regulations at 49 CFR part 1166 implemented that provision by specifying, inter alia, that if service was instituted over the newly completed waterway within 120 days after it was opened for navigation, the ICC would issue a certificate of public convenience and necessity without proof of public convenience and necessity.¹

The ICCTA removed the licensing requirements of former sections 10921, 10922, and 10923 as they pertain to water

¹ The ICC, on June 11, 1941, prescribed the form and content of applications for extension of service. These regulations were first issued at 6 FR 3118 (June 27, 1941) and codified at then 49 CFR part 305. See John I. Hay Co. Extension-Bayou Sorrel Lock, 285 I.C.C. 229, 230 (1952).

carriers.² Because the statutory basis (former section 10922) for the regulations at 49 CFR part 1166 has been eliminated, we will remove those regulations.

Because this action merely reflects, and is required by, the enactment of the ICCTA and will not have an adverse effect on the interests of any person, this action will be made effective on the date of publication in the Federal Register.

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

List of Subjects in 49 CFR Part 1166

Administrative practice and procedure.

Decided: January 16, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

PART 1166 [removed]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1166.

² See Champion's Auto Ferry, Inc.--Revocation of Certificate, Docket No. WC 1548 (Sub-No. 1C)(STB served Feb. 27, 1996). See also Removal of Obsolete Regulations Concerning Water Carriers, STB Ex Parte No. 557 (STB served Oct. 17, 1996) (removing obsolete water carrier regulations related to miscellaneous statutory exemptions).