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SERVICE DATE - NOVEMBER 24, 1999

SURFACE TRANSPORTATION BOARD

DECISION

Ex Parte No. 346 (Sub-No. 28)

49 CFR Part 1039

RAIL GENERAL EXEMPTION AUTHORITY:  
EXPORT CORN AND EXPORT SOYBEANS

AGENCY: Surface Transportation Board.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Surface Transportation Board (Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 346 (Sub-No. 28) rulemaking proceeding relating to an exemption from the rail transportation of export corn and export soybeans.

DATES: The proposed rule is withdrawn and the rulemaking proceeding is discontinued on November 24, 1999.

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

SUPPLEMENTARY INFORMATION:

In a notice of proposed rulemaking (NPR) served July 15, 1992 (published in the Federal Register on July 16, 1992, at 57 FR 31489), the Interstate Commerce Commission (Commission) proposed to exempt from the provisions of 49 U.S.C. subtitle IV the rail transportation of export corn and export soybeans (i.e., corn and soybeans that originate at points in the United States and that move from the United States to destinations outside the United States).

The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was signed into law by President Clinton on December 29, 1995, abolished the Commission, established the Board, reenacted with certain changes 49 U.S.C. subtitle IV, and transferred to the Board responsibility for the performance of functions respecting new 49 U.S.C. subtitle IV, part A. See ICCTA § 101 (abolition of the Commission); new 49 U.S.C. 701(a), as enacted by ICCTA § 201(a) (establishment of the Board); new 49 U.S.C. subtitle IV, part A, as enacted by ICCTA § 102(a) (part A of the new subtitle IV contains the post-1995 version, as respects railroads, of the provisions

that had been contained in the pre-1996 version of subtitle IV); new 49 U.S.C. 702, as enacted by ICCTA § 201(a) (except as otherwise provided, the functions previously performed by the Commission shall henceforth be performed by the Board); ICCTA § 204(b)(1) (any proceeding pending before the Commission at the time of the enactment of ICCTA shall be transferred to the Board, insofar as that proceeding concerns functions transferred to the Board). In accordance with the mandate of ICCTA § 204(b)(1), the Ex Parte No. 346 (Sub-No. 28) rulemaking proceeding, which had been instituted by the Commission in the 1992 NPR, was transferred to the Board.

We have decided to withdraw the rule proposed by the Commission in the 1992 NPR and to discontinue the Ex Parte No. 346 (Sub-No. 28) rulemaking proceeding. The record compiled in this proceeding does not reflect the changes that have occurred in American agriculture in the past seven years. Under the circumstances, we do not believe it would be wise to consider the merits of the proposal now on this record. Withdrawal of the 1992 proposal would, in any event, allow any interested person who wished to do so the opportunity to file a petition under 49 CFR part 1121 to initiate a new proposal supported by a more current presentation of facts and arguments.

#### SMALL ENTITIES

The Board certifies that the action taken in this proceeding will not have a significant economic impact on a substantial number of small entities.

#### ENVIRONMENTAL AND ENERGY CONSIDERATIONS

The action taken in this proceeding will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### BOARD RELEASES AVAILABLE VIA THE INTERNET

Decisions and notices of the Board, including this notice, are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: November 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams  
Secretary