

## STB EX PARTE NO. MC-180 (SUB-NO. 3)

REGULATIONS IMPLEMENTING SECTION 7 OF THE  
NEGOTIATED RATES ACT OF 1993

49 CFR Parts 1051, 1053 and 1312

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*Decided April 17, 1996*

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AGENCY: Surface Transportation Board (Board).<sup>1</sup>  
ACTION: Final Rule; Termination of Proceeding.  
SUMMARY: The Board is rescinding the rules previously issued by the Interstate Commerce Commission (ICC) in this proceeding concerning the off-bill discounting provisions of section 7 of the Negotiated Rates Act of 1993, Pub. L. No. 103-180 (NRA), and terminating the proceeding.

EFFECTIVE DATE: The action is effective on May 3, 1996.

FOR FURTHER INFORMATION CONTACT: Michael L. Martin, (202) 927-6033 [TDD for the hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: In accord with section 7 of the NRA, the ICC adopted regulations relating to off-bill discounting. *Regs. Implementing § 7 of the Negotiated Rates Act 1993*, 9 I.C.C.2d 1263 (1993). The rules, which were published at 59 Fed. Reg. 2303 (1994), prohibited, except as to certain services, motor common and contract carriers of property from providing "off-bill discounting." Off-bill discounting is a practice by which a carrier provides a reduction in a tariff rate or contract rate to a person who does not pay the freight charges for the services involved.

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<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions and proceedings to the Board.

Section 7 also contained other requirements beyond prohibiting off-bill discounting. To implement these provisions, the regulations also (1) made it unlawful to provide misleading or false billing information to a carrier; and (2) required that freight bills disclose the rates and reductions or allowances involved. 49 CFR 1051.

The ICC issued a further order, published at 59 Fed. Reg. 14,570 (1994), responding to inquiries it had received concerning the rules. In that order, the ICC invited additional questions and comments from interested parties, and it indicated that a further decision would be forthcoming. A number of comments have been filed.

Although it retained (with modifications) the other requirements of section 7, the ICCTA repealed and did not reenact the former statutory prohibition against off-bill discounting. See 49 U.S.C. 13708. Moreover, the ICCTA repealed and did not reenact the requirement that the ICC, or any agency, issue or maintain regulations to carry out the remaining requirements of section 7. *Id.* Therefore, the regulations, including the prohibition against off-bill discounting, are rescinded.<sup>2</sup>

Consequently, further consideration of the comments is unnecessary, and this proceeding is terminated.<sup>3</sup>

#### List of Subjects

##### 49 CFR Part 1051

Buses, Freight, Motor Carriers, Reporting and recordkeeping requirements.

##### 49 CFR Part 1053

Motor contract carriers.

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<sup>2</sup> Section 204(a) of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act."

<sup>3</sup> Section 204(b)(3) of the ICCTA provides that, "in the case of a proceeding under a provision of law repeal[ed], and not reenacted, by this Act such proceeding shall be terminated."

49 CFR Part 1312

Household goods freight forwarders, Motor carriers, Moving of household goods, Pipelines, Tariffs, Water carriers.

Authority: 49 U.S.C. 721(a); Sections 204(a) and 204(b)(3) of the ICC Termination Act.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

1 S.T.B.

## APPENDIX

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 as set forth below:

## Part 1051 - RECEIPTS AND BILLS

1. The authority citation for part 1051 is revised to read as follows:

Authority: 5 U.S.C. 553, 49 U.S.C. 721(a), 13710, 14122.

## § 1051.2 [amended]

2. In § 1051.2, paragraph (a)(1) is redesignated as paragraph (a) and paragraphs (a)(1)(i) through (a)(1)(xi) are redesignated as paragraphs (a)(1) through (a)(11), and paragraphs (a)(2) and (a)(3) are removed.

## Part 1053 [removed]

3. Part 1053 is removed.

Part 1312 - REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS,  
SCHEDULES AND RELATED DOCUMENTS OF MOTOR, PIPELINE AND WATER  
CARRIERS, AND HOUSEHOLD GOODS FREIGHT FORWARDERS

4. The authority citation for part 1312 is revised to read as follows:

Authority: 5 U.S.C. 553, 49 U.S.C. 721(a), 13702.

## § 1312.14 [amended]

5. In § 1312.14(a), paragraph (4) is removed.

1 S.T.B.