

STB EX PARTE NO. 531

REMOVAL OF OBSOLETE RECYCLABLES REGULATIONS

49 CFR Parts 1039, 1134, 1135 AND 1145

Decided February 15, 1996

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing obsolete recyclable commodities regulations from the *Code of Federal Regulations*.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927-5610. [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 (the Act), abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation the Surface Transportation Board. Section 204 of the Act provides that "[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act." 49 U.S.C. 10710, the statutory basis for the part 1134 discrimination against recyclables regulations,¹

¹ These regulations were originally issued in *Public Law 93-236 - Freight Rates for Recyclables*, 346 I.C.C. 408 (1974), and revised in *Revised Rules of Practice*, 358 I.C.C. 189 (1977). The regulations were redesignated as a result of final rules in Ex Parte No. 55 (Sub-No. 55), *Revision and Redesignation of the Rules of Practice*, published at 47 Fed. Reg. 49,534 (1982).

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and 49 U.S.C. 10731, the statutory basis for the part 1145 rail rates on recyclables regulations,² have been repealed. We are therefore removing the now obsolete parts 1134 and 1145 regulations, as well as a reference to part 1145 in § 1039.11 and another obsolete regulation pertaining to recyclable rates, § 1135.1(h). These changes are not necessarily the final revisions to the regulations in light of the elimination of § 10710 and § 10731.³

Because this action merely reflects, and is required by, the enactment of the Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

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 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

49 CFR Parts 1134 and 1145

Administrative practice and procedure, Freight, Railroads.

49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

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

² Final rules were adopted and revised in *Cost Ratios for Recyclables - Compliance Procedures*, 6 I.C.C.2d 103 (1989) and 8 I.C.C.2d 182 (1991).

³ We will consider separately the disposition of 49 CFR 1039.14(b)(5). Parties may inform the Board whether other regulations are affected by the removal of 49 U.S.C. 10710 and 10731.

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 1039 -- EXEMPTIONS

1. The authority citation for part 1039 is revised to read as follows:

Authority: 5 U.S.C. 553; and 49 U.S.C. 721 and 10502.

§ 1039.11 [amended]

2. § 1039.11(a) is amended by removing the following language from the paragraph immediately following the table in paragraph (a): "(Note: Certain recyclable commodities may be partially exempted pursuant to the provisions of 49 CFR 1145.9)."

PART 1134 [amended]

3. Part 1134 is removed.

PART 1135 -- RAILROAD COST RECOVERY PROCEDURES

4. The authority citation for part 1135 is revised to read as follows:

Authority: 5 U.S.C. 553; and 49 U.S.C. 721 and 10708.

§ 1135.1 [amended]

5. Section 1135.1 is amended by removing paragraph (h).

PART 1145 [amended]

6. Part 1145 is removed.