

## STB EX PARTE NO. 550

REMOVAL OF OBSOLETE REGULATIONS  
CONCERNING RAILROAD CONTRACTS

49 CFR Part 1039

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*Decided May 24, 1996*

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AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing from the *Code of Federal Regulations* obsolete regulations exempting non-agricultural railroad transportation contracts from the contract filing requirement that previously applied to railroad contracts.

EFFECTIVE DATE: January 1, 1996.

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"[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Prior to the ICCTA, the ICC had issued regulations governing rail contracts in 49 CFR part 1313, which included provisions for filing all such contracts pursuant to former 49 U.S.C. 10713(b)(1). The ICC had later exempted rail carriers from the contract filing requirement, except where the contract was for the transportation of agricultural commodities.<sup>1</sup> *Railroad Transportation Contracts*, 8 I.C.C.2d 730 (1992). The regulations codifying this exemption were placed at 49 CFR 1039.23.<sup>2</sup>

The ICCTA changed the underlying law governing railroad transportation contracts, which is now located at 49 U.S.C. 10709, in several important respects. As pertinent here, it eliminates any regulation of non-agricultural contracts. Moreover, for agricultural contracts, new 49 U.S.C. 10709(d)(1) only requires a contract summary to be filed with the Board, and not the full contract.

In *Railroad Contracts*, STB Ex Parte No. 541 (STB served March 26, 1996) (ANPR), published at 61 Fed. Reg. 13,147 (1996), the Board issued an advance notice of proposed rulemaking soliciting comments from the transportation community as to appropriate regulations for administering new § 10709.<sup>3</sup> We noted that the regulations set forth at 49 CFR part 1313 that implemented former § 10713 are not suitable for carrying out new § 10709. While we will soon be issuing proposed rules in response to comments responding to the ANPR, we see no need in the interim to continue the obsolete regulations in § 1039.23. Because there is no longer a statutory

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<sup>1</sup> Rail carriers were still required to file contract summaries for all their transportation contracts.

<sup>2</sup> Minor changes were also made to part 1313.

<sup>3</sup> The comment date was extended to May 28, 1996.

requirement for any contract filing, the exemption from filing contracts and contract amendments for non-agricultural commodities is unnecessary. Moreover, the statement in § 1039.23 that contracts must be filed for agricultural commodities is no longer true. We are therefore removing the now obsolete § 1039.23 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 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.

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

## APPENDIX

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X, part 1039 of the Code of Federal Regulations is amended as set forth below:

## PART 1039 - EXEMPTIONS

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

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

§ 1039.23 [Removed]

2. Section 1039.23 is removed.