



\* Filter criteria could include:

Ability to impact  
Guiding Principles for the Process and others  
Something inherent in the resource itself that makes it a USA  
Uniqueness  
Irreplaceable  
Lack of substitutes  
Ecologically critical, etc

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Finally, participants brain stormed and identified the USA terms that they thought needed to be clarified. The following list is the result of that discussion. The workshop on April 10 will focus on the criteria, components, and parameters of these terms. This list is not final and RSPA invites comments on these terms and submissions of additional terms. This list and any additional terms that are submitted to the docket before April 3 will be considered at the April 10 workshop:

1. Serious threat
2. Contamination
3. Significant
4. Ecological
5. Economic areas
6. Recreational areas
7. Cultural areas
8. Readily available
9. Uniform

The workshop on April 11 will focus on the scope and objectives of the additional USA workshops on drinking water sources, ecological resources, cultural resources, and Indian tribal concerns. RSPA invites comments on the scope and objectives of these additional workshops. Items that are submitted to the docket before April 3 will be considered at the April 11 workshop.

Persons interested in receiving a transcript of the first or third workshop, the summary of the second workshop, material presented at the workshops, or comments submitted to the docket should contact the Dockets Unit at (202) 366-5046 and reference docket PS-140, PS-140(b), and PS-140(c).

Issued in Washington, DC on March 21, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96-7295 Filed 3-25-96; 8:45 am]

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### Surface Transportation Board

#### 49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 8)]

#### Exemption From Regulation—Boxcar Traffic

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Rulemaking.

**SUMMARY:** The Surface Transportation Board (the Board) is proposing to eliminate an obsolete regulation pertaining to recyclable rates.

**DATES:** Comments are due on April 25, 1996.

**ADDRESSES:** Send comments (an original and 10 copies) referring to Ex Parte No. 346 (Sub-No. 8) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue NW., Washington, DC 20423.

#### 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 (ICCTA) abolished the Interstate Commerce Commission (ICC) and established the Board. Section 204

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." In *Removal of Obsolete Recyclables Regulations*, 1 S.T.B. 7 (1996) (*Obsolete Regulations*), the Board removed, *inter alia*, obsolete recyclable regulations at 49 CFR 1134, pertaining to discrimination against recyclables, and at 49 CFR 1145, concerning rail rates on recyclables, because Congress repealed former 49 U.S.C. 10710 and 10731, the statutory bases for these regulations. We stated that we would separately consider the disposition of 49 CFR 1039.14(b)(5), which excludes rates on nonferrous recyclable commodities from the boxcar exemption.

In *Exemption from Regulation—Boxcar Traffic*, 367 I.C.C. 424 (1983), the ICC exempted the rail transportation of all commodities transported in boxcars from rate and certain car hire regulations. The ICC, however, excluded nonferrous recyclables from this exemption "only because Congress itself has singled them out for the application of special standards." 367 I.C.C. at 440. The ICC noted the reference to recyclable rates at former 49 U.S.C. 10731(e).

Although the statutory basis given by the agency for excluding recyclable commodities from the boxcar exemption has been repealed, and we do not believe there are other valid reasons to maintain the exception, we will not follow the procedure in *Obsolete Regulations* by issuing a final rule now.

Instead, we will issue a notice proposing to remove 49 CFR 1039.14(b)(5) from the regulations and redesignate paragraphs (6) and (7) to allow the public the opportunity to address whether there is any good reason to maintain the exception for recyclables. Comments (an original and 10 copies) are due on April 25, 1996.

The Board certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. This proposed rule will reduce regulation; it imposes no new reporting or other requirements directly or indirectly on small entities. Although we are proposing that recyclables no longer be excepted from the boxcar exemption, it appears that the impact, if any, on small entities would not be significant, nor would it likely affect a significant number of small entities. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

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 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

Decided: March 12, 1996.

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

Vernon A. Williams,  
Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), the Board proposes to amend title 49, chapter X, part 1039 of the Code of Federal Regulations 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.

##### § 1039.14 [Amended]

2. Section 1039.14 is amended by removing paragraph (b)(5) and redesignating paragraphs (b)(6) and (7) as paragraphs (b)(5) and (6).

[FR Doc. 96-7239 Filed 3-25-96; 8:45 am]

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#### 49 CFR Part 1313

##### [STB Ex Parte No. 541]

#### Railroad Contracts

**AGENCY:** Surface Transportation Board.  
**ACTION:** Advance Notice Of Proposed Rulemaking.

**SUMMARY:** Because the ICC Termination Act of 1995 (ICCTA) abolished the Interstate Commerce Commission (ICC) and revised the law respecting transportation contracts entered into by rail carriers to provide specified rail services under specified rates and conditions, the contract regulations formerly issued by the ICC are no longer in complete harmony with the applicable law. The Surface Transportation Board (Board) is issuing this advance notice of proposed rulemaking to solicit suggestions from the transportation community for appropriate regulations. Following the receipt of comments, the Board will issue a notice of proposed rulemaking.  
**DATES:** Comments are due on April 25, 1996.

**ADDRESSES:** Send comments (an original and 10 copies) referring to STB Ex Parte No. 541 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue NW., Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5610. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), enacted on December 29, 1995, abolished the ICC and transferred the responsibility for regulating rail transportation to the Board. See ICCTA Section 101 (abolition of the ICC). See also new 49 U.S.C. 701(a) (establishment of the Board), as enacted by ICCTA Section 201(a). The transfer took effect on January 1, 1996. See ICCTA Section 2 (effective date).

The new law (i.e., the law in effect on and after January 1, 1996) differs in several important respects from the former law (i.e., the law in effect prior to January 1, 1996). This notice concerns the differences between new 49 U.S.C. 10709 and former 49 U.S.C. 10713 as respects contracts entered into by rail carriers to provide specified rail services under specified rates and conditions.

New § 10709(a) provides that rail carriers may enter into contracts to provide specified rail services under specified rates and conditions. This is a reenactment of former § 10713(a).

New § 10709(b) relieves a party to such a contract from any duties other

than those specified by the contract. This is a reenactment of former § 10713(h).

New § 10709(c) relieves transportation provided under such contract from the regulatory provisions of new 49 U.S.C. 10101-11908, and makes the exclusive remedy for any alleged breach of such a contract an action in an appropriate state court or United States district court, unless the parties agree otherwise. This is a reenactment of former § 10713(i). New § 10709(c)(2) adds a clarification that this provision does not, in and of itself, confer original jurisdiction on the United States district courts.

New § 10709(d)(1) requires that a summary of each contract for the transportation of fertilizer and agricultural products, including grain as defined in 7 U.S.C. 75<sup>1</sup> and products thereof, be filed with the Board, containing such nonconfidential information as the Board prescribes. This represents a substantial narrowing from the prior filing requirement. Under former § 10713(b)(1), the filing requirement applied to all rail transportation contracts (not just contracts to transport agricultural products), and carriers were required to file the complete contract with the ICC (in addition to the summary of nonconfidential information).

New § 10709(d)(1) directs the Board to establish rules for such contracts for agricultural products, to ensure that the essential terms of such contracts are available to the general public. But, unlike former § 10713(b)(2)(A), the new statute does not list the minimum essential terms; it leaves that matter for Board implementation. Similarly, unlike former § 10713(b)(2)(B), the new statute does not address whether a new filing is required for amendments, supplements, or changes to such contracts; that too is a matter left to the Board.

New § 10709(d)(2) provides that documents, papers, and records relating to a rail transportation contract are not subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552 (FOIA). This is a new provision, with no analogue in former § 10713.

New § 10709(e) reenacts the "grandfathering" provision of former § 10713(j) for rail transportation contracts that predate the Staggers Rail Act of 1980.

New § 10709(f) specifies that a rail carrier that enters into a transportation contract remains subject to the common carrier obligation, as set forth in new

<sup>1</sup> 7 U.S.C. 75 is the codification of section 3 of the United States Grain Standards Act.