

**49 CFR Part 1186****[STB Ex Parte No. 553]****Removal of Obsolete Regulations Concerning Exemption of Motor Carrier of Property Finance Transactions****AGENCY:** Surface Transportation Board, Transportation.**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (the Board) is removing from the Code of Federal Regulations obsolete regulations concerning exemption of finance transactions between motor carriers of property and between such carriers and noncarriers.

**EFFECTIVE DATE:** March 6, 1997.

**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, Public Law 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that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."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 January 1, 1996, former 49 U.S.C. 11343 provided that certain rail, motor, and water carrier finance transactions, including those related to mergers, purchases, and acquisitions of control, could not be carried out without prior ICC approval. However, under former 49 U.S.C. 11343(e), the ICC could exempt from regulation certain individual financial transactions involving motor carriers of property. Regulations implementing this exemption provision are found at 49 CFR 1186.<sup>1</sup>

Under the ICCTA, portions of section 11343, including the exemption provision of 49 U.S.C. 11343(e), have been repealed. Accordingly, we will eliminate the exemption regulations at 49 CFR part 1186.

We also note that new 49 U.S.C. 14303 is the only remaining statutory provision analogous to the non-rail portions of former 49 U.S.C. 11343. Under section 14303, motor carriers of passengers must still obtain Board approval for the same transactions that formerly were subject to former 49 U.S.C. 11343, unless the parties'

aggregate gross operating revenues do not exceed \$2 million.<sup>2</sup>

Currently, our regulations at 49 CFR part 1182 govern the purchase, merger, or acquisition of control of motor passenger and water carriers. In a separate proceeding instituted shortly, we will remove the regulations for water carriers in part 1182 (49 U.S.C. 14303(g) applies only to motor passenger carriers) and make appropriate modifications to the portions of 49 CFR part 1182 dealing with motor passenger carriers.

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 1186**

Administrative practice and procedure, Freight Forwarders, Motor carriers.

Decided: January 24, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,  
*Secretary.*

**PART 1186—[REMOVED]**

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 by removing part 1186.

[FR Doc. 97-2547 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

**49 CFR Part 1310****[STB Ex Parte No. 555]****Household Goods Tariffs****AGENCY:** Surface Transportation Board, Transportation.**ACTION:** Final rules.

**SUMMARY:** The Surface Transportation Board (Board) adopts regulations governing the tariffs that motor carriers and freight forwarders are required to maintain for the transportation of household goods; and establishing the notice requirements with which household goods carriers must comply in order to be entitled to enforce the provisions of their tariffs against individuals whose shipments are subject to such tariffs. These regulations reflect changes effected by the ICC Termination Act of 1995.

**EFFECTIVE DATE:** These rules are effective March 6, 1997.

<sup>2</sup>Regulatory approval, formally required under former 49 U.S.C. 10926, is no longer needed when the parties' aggregate gross operating revenues do not exceed the \$2 million threshold.

**FOR FURTHER INFORMATION CONTACT:**

Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The Board's decision adopting these regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289-4357.

**Small Entities**

The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities.

**Environment**

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 1310**

Household goods carriers, Moving of household goods, Tariffs.

Decided: January 22, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,  
*Secretary.*

For the reasons set forth in the preamble, the Board adds a new part 1310 to title 49, chapter X, of the Code of Federal Regulations to read as follows:

**PART 1310—TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS****Sec.**

1310.1 Scope; Definitions.

1310.2 Requirement to maintain tariffs.

1310.3 Contents of tariffs.

1310.4 Incorporation of tariff provisions by reference.

1310.5 Availability of tariffs at carrier offices.

1310.6 Furnishing copies of tariff publications.

Authority: 49 U.S.C. 721(a), 13702(a), 13702(c) and 13702(d).

**§ 1310.1 Scope; Definitions.**

(a) The provisions of this part address the tariff requirements imposed by 49 U.S.C. 13702 on motor carriers and freight forwarders for the transportation of household goods, and the notice requirements with which such carriers must comply in order to be entitled to enforce the provisions of their tariffs against individuals whose shipments are subject to such tariffs.

(b) The provisions of this part apply to all movements of household goods defined in paragraph (c)(1) of this section, and to those movements of household goods defined in paragraph (c)(2) of this section that are not provided under contracts entered into pursuant to 49 U.S.C. 14101(b) or former

<sup>1</sup>These rules were originally promulgated in *Exemption of Certain Transactions Under 49 U.S.C. 11343*, 133 M.C.C. 449 (1984).

49 U.S.C. 10702 (repealed January 1, 1996).

(c) For the purposes of this part, the term *household goods* means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling; or

(2) Arranged and paid for by another party.

(d) For the purposes of this part *service terms* means all classifications, rules, regulations and practices that affect the rates, charges, or level of service for movements of household goods.

#### **§ 1310.2 Requirement to maintain tariffs.**

(a) Except when providing transportation for charitable purposes without charge, carriers subject to the Board's jurisdiction under Chapter 135 of Title 49 of the United States Code may provide transportation or service for movements of household goods only if the rates, and related rules and practices, for such transportation or service are contained in a published tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, by giving a person a privilege, by allowing the use of a facility that affects the value of that transportation or service, or through another device. Tariffs shall be published in the English language and rates shall be stated in money of the United States.

(b) Tariffs maintained pursuant to this part must be available for inspection by the Board, and must be provided to the Board promptly and free of charge, upon request, by mail or other delivery service.

(c) A carrier that maintains a tariff pursuant to this part may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff, as provided in § 1310.4 of this part.

(d) The Board may invalidate a tariff prepared by or on behalf of a carrier under this part if that tariff violates 49 U.S.C. 13702 or the regulations contained in this part.

#### **§ 1310.3 Contents of tariffs.**

(a) Tariffs prepared under this part must include an accurate description of the services offered to the public; must provide the specific applicable rates, charges and service terms; and must be arranged in a way that allows for the determination of the exact rate, charges and service terms applicable to any given shipment. Increases, reductions and other changes must be symbolized or highlighted in some way to facilitate ready identification of the changes and their effective dates.

(b) All information necessary to determine applicable rates, charges and service terms for a given shipment need not be contained in a single tariff, but if multiple tariffs are used to convey that information, the tariff containing the rates must make specific reference to all other tariffs required to determine applicable rates, charges and service terms. The carrier(s) party to the rate(s) must participate in all of the tariffs so linked and all such tariffs must be made available to shippers upon reasonable request.

#### **§ 1310.4 Incorporation of tariff provisions by reference.**

(a) Carriers that maintain tariffs pursuant to this part may incorporate the terms of such tariffs by reference (i.e., without stating their full text) into the bill of lading or other document embodying the contract of carriage for the transportation of household goods, provided that:

(1) The bill of lading or other document must contain a conspicuous notice that the contract of carriage incorporates the terms of the carrier's tariffs; the carrier must give notice that its tariffs are available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to such tariffs; and the carrier must make the full text of incorporated terms readily available for inspection by the shipper, free of charge, upon request. If such terms cannot be made available immediately, they must be made available promptly and free of charge by mail or other delivery service.

(2) If the incorporated terms include any of the terms set forth in paragraphs (a)(2)(i) through (a)(2)(iii) of this section, the notice on the bill of lading or other document must indicate that such terms are included; the shipper must be provided with a brief summary of the principal features of such terms on or with the document; and the shipper must be able to obtain a more complete explanation of such terms upon request.

(i) Limits on the carrier's liability for loss, damage, or delay of goods, including fragile or valuable goods.

(ii) Claim restrictions, including time periods within which shippers or consignees must file a claim or bring an action against the carrier for its acts or omissions or those of its agents.

(iii) Rights of the carrier to impose monetary penalties on shippers or consignees, increase the price of the transportation, or change any terms of the contract.

(b) A carrier may not claim the benefit as against a shipper or consignee of, and a shipper or consignee shall not be bound by, any tariff term that is incorporated by reference under this section unless the carrier has complied with the requirements of paragraph (a) of this section.

(c) The disclosure requirements established by this section preempt any State requirements on the same subject, for tariff terms that are incorporated by reference into the bill of lading or other document embodying the contract of carriage for the transportation of household goods.

#### **§ 1310.5 Availability of tariffs at carrier offices.**

(a) Each carrier shall maintain, at its principal office, a complete set of its effective tariffs and those to which it is a party.

(b) Each carrier shall also maintain some or all of its tariffs at its other business offices, upon request. Carriers shall provide information regarding all locations where tariffs may be viewed.

(c) At all points where tariffs are maintained, they shall be made available for inspection by any person during the carrier's normal business hours. The tariffs shall be accessible and readable. The carrier shall also display, in a conspicuous place in those locations, a notice, in large print, which contains a statement that the tariffs are available for public inspection.

(d) At all other carrier business offices, the carrier shall display a notice advising the public of the location of the nearest available tariff. The notice shall be in large print and posted in a conspicuous place. In addition, the carrier shall, upon request, make its tariffs available at that location as soon as possible but not later than within 20 days, or provide the sought information orally if satisfactory to the requestor.

(e) Any publication referred to in a tariff must be maintained with that tariff.

(f) If any tariff maintained pursuant to paragraph (b) of this section has not been used for a substantial length of time, the availability of that tariff,

including its reissues, may be discontinued at that office until such time as it is again requested. It shall then be made available within 20 days.

**§ 1310.6 Furnishing copies of tariff publications.**

(a) Copies of tariffs, specific tariff provisions or tariff subscriptions shall be provided upon request to any interested person.

(b) Except for providing to shippers the full text of tariff terms incorporated by reference into the bill of lading or other document embodying the contract of carriage for the transportation of household goods, as described in § 1310.4(a)(1), carriers may assess charges for furnishing copies of tariff publications to interested persons. If a charge is made, the charge must be reasonable, and identical for the same publications and delivery service.

[FR Doc. 97-2549 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P