

Board may initiate an investigation of the petition on its own motion.

\* \* \* \* \*

9. Part 1132 is revised to read as follows:

**PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATEMAKING ACTIONS**

Sec.

1132.1 Protests against collective ratemaking actions.

1132.2 Procedures in certain suspension matters.

**Authority:** 49 U.S.C. 721, 13301(f), and 13703.

**§ 1132.1 Protests against collective ratemaking actions.**

(a) *Content.* The protested collective ratemaking action sought to be suspended, whether or not contained in a tariff filed with the Board, should be identified by making reference to: The name of the publishing carrier or collective ratemaking organization; the identification of the tariff, if applicable, or the identification of the collective ratemaking action publication if it is not contained in a tariff filed with the Board; the specific items or particular provisions protested; and the effective date of the tariff or other collective ratemaking action publication. Reference should also be made to the tariff or collective ratemaking action, and the specific provisions proposed to be superseded. The protest should state the grounds in support thereof, and indicate in what respect the protested collective ratemaking action is considered to be unlawful. Such protests will be considered as addressed to the discretion of the Board. Should a protestant desire to proceed further against a collective ratemaking action which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, collective ratemaking actions will not be considered unless made in writing and filed with the Board at Washington, DC. If the protestant desires action by the Board before the effective date of the collective action, protests and requests for suspension shall reach the Board at least 12 days (except as provided in paragraph (c) of this section) before such effective date. If the protested collective ratemaking action is already in effect, or if the protestant does not desire action before its effective date, protests and requests for suspension can be filed at any time.

(c) *Motor carrier tariff bureau filings.* When motor common carrier tariff bureaus take collective actions subject to the special procedures adopted in Ex Parte No. MC-82, *New Procedures in Motor Carrier Rev. Proc.* 340 I.C.C. 1 (1971), and set forth at 49 CFR part 1139, protests must reach the Board at least 22 days before the effective dates of those actions if protestants desire action by the Board before such effective dates. All statements should be served by express mail or an equivalent expedited delivery service upon any party undertaking to bear the cost. Written request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Board.

(d) *Copies; service.* In connection with proceedings involving proposals subject to the special procedures in Ex Parte No. MC-82, *New Procedures in Motor Carrier Rev. Proc.* 339 I.C.C. 324, and set forth at 49 CFR part 1139, an original and 10 copies of every protest or reply filed under this section should be furnished for the use of the Board. Except as provided for proposals subject to the special procedures in Ex Parte No. MC-82, the original and 10 copies of each protest, or of each reply filed under this section, must be filed with the Board, and one copy simultaneously must be served upon the publishing carrier or collective ratemaking organization, and upon other persons known by protestant to be interested. These pleadings should be directed to the attention of the Secretary, Surface Transportation Board.

(e) *Reply to protest.* A reply to a protest filed at least 12 days before the effective date of proposed collective action provisions must reach the Board not later than the fourth working day prior to the scheduled effective date of the protested provisions unless otherwise provided. Replies to protests against motor carrier rate bureau proposals subject to Ex Parte No. MC-82 procedures, to be assured of consideration, must reach the Board no later than 14 days before the scheduled effective date of the protested provisions.

**§ 1132.2 Procedures in certain suspension matters.**

(a) A petition for reconsideration may be filed by any interested person within 20 days after the date of service of a Board decision which results in an order for:

- (1) Investigation and suspension of collective ratemaking actions, or
- (2) Investigation (without suspension) of collective ratemaking actions.

(b) Any interested person may file and serve a reply to any petition for reconsideration permitted under paragraph (a) of this section within 20 days after the filing of such petition with the Board, but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the rules of general applicability of the Rules of Practice.

[FR Doc. 97-25734 Filed 9-26-97; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

**49 CFR Parts 1022, 1030, 1091, 1131, 1143, 1156, and 1170**

[STB Ex Parte No. 572]

**Removal of Miscellaneous Obsolete Regulations**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is removing seven obsolete parts of the Code of Federal Regulations.

**EFFECTIVE DATE:** These rules are effective September 29, 1997.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

**SUPPLEMENTARY INFORMATION:** Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC) and established the Board. Section 204(a) of the ICCTA directs the Board to rescind all regulations established by the ICC that are based on provisions of law repealed and not substantively reenacted by the ICCTA. Pursuant to that directive, the Board has removed many such regulations. We have identified 6 additional parts of title 49, chapter X of the Code of Federal Regulations that should be removed because their statutory bases have been eliminated: Parts 1022, 1030, 1091, 1143, 1156, and 1170. A seventh part, 49 CFR part 1131, is being deleted because of revisions the Board is making in response to the ICCTA. Because it is clear that these regulations are obsolete, and in order to have these changes in place for the next issue of title 49, we are making the rule removals effective on the date of service.

**Part 1022**

In response to an amendment to former section 205(f) of the Interstate Commerce Act, the ICC issued the regulations now found at 49 CFR part 1022 concerning cooperative agreements with states. 31 FR 16402 (December 23, 1966). The statute authorized the ICC to make cooperative agreements with the States to enforce economic and safety laws and regulations of the States and the United States concerning highway transportation.<sup>1</sup> Section 205(f) was recodified,<sup>2</sup> as here relevant, at former 49 U.S.C. 11502.<sup>3</sup> This section has been removed by the ICCTA. Accordingly, we are removing the obsolete regulations at 49 CFR part 1022.

**Part 1030**

The regulations now found at 49 CFR part 1030 were originally published at 17 FR 7548 (August 19, 1952). This rule, concerning the filing of contracts with other carriers, was based on former section 6(5) of the Interstate Commerce Act, later recodified at former 49 U.S.C. 10764. That section has been eliminated by the ICCTA, and, accordingly, we are removing the part 1030 regulations based on that statute.

**Part 1091**

Part 1091 concerns tariff requirements for Alaskan motor-ocean-motor "substituted service," where water carriage is substituted for motor carriage for a portion of the transportation even though the motor carrier holds itself out to perform the entire movement. Under the ICCTA, tariffs no longer have to be filed with the Board for these movements. Now, the only motor carrier tariffs that must be filed with us are those concerning joint rates with water carriers in the noncontiguous domestic trade. 49 U.S.C. 13701(a)(1)(B).<sup>4</sup> It is unnecessary to file a "tariff where the entire service is held out by the motor carrier (notwithstanding that some of the service may be performed by a water carrier under substitute service rules. \* \* \*)" *Id.*<sup>5</sup> Because substituted

service is not a joint rate arrangement, the tariff requirements in part 1091 are obsolete and are being removed.

**Part 1131**

The rules at 49 CFR part 1131 concern the procedures for rate complaints and (§ 1131.4) petitions by railroads to review state intrastate rate decisions or applications to prescribe intrastate rates. We will remove these rules. Insofar as rate complaints are concerned, the ICC revised its regulations in 1982 to provide for two sets of formal complaint rules, one for rate complaints and another for all other complaints. See *Revision and Redesignation of the Rules of Practice*, Ex Parte No. 55 (Sub-No. 55) (ICC served Nov. 1, 1982) (47 FR 49572). By decision served on October 1, 1996, in *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings*, Ex Parte No. 527, published in the **Federal Register** on October 8, 1996, 61 FR 52710, the Board adopted final rules at 49 CFR part 1111 to expedite the handling of challenges to the reasonableness of railroad rates, including the adoption of a procedural schedule applicable in stand-alone rate cases.<sup>6</sup> Part 1111 also contains procedures for non-rate complaint cases. It is therefore unnecessary, and confusing, to have a second set of rate complaint rules.

With respect to intrastate rate decisions, the intrastate rail rate rules in § 1131.4 are based on former 49 U.S.C. 11501. The parts of § 11501 pertaining to rail matters were eliminated by the ICCTA.<sup>7</sup> Because the statutory basis for the § 1131.4 rules was removed, we are deleting these obsolete regulations.

**Part 1143**

Part 1143 provides that if an interstate motor carrier of passengers has requested permission from a state

*Declaratory Order*, Docket No. MC-C-10924, 1987 MCC Lexis 529, at \*10 (ICC served Mar. 13, 1987): "[S]ubstituted service is not a through route/joint rate arrangement \* \* \*."

<sup>6</sup>In an Advance Notice of Proposed Rulemaking, *Expedited Procedures for Processing Simplified Rail Rate Reasonableness Proceedings*, Ex Parte No. 527 (Sub-No. 1) (served and published in the **Federal Register** on February 12, 1997 (62 FR 6508)), the Board solicited comments to establish a general procedural schedule for cases processed under the simplified rate evaluation procedures adopted in *Rate Guidelines—Non-Coal Proceedings*, Ex Parte No. 347 (Sub-No. 2). When final rules are issued in that proceeding, the Board will have in place rules applicable to all rate complaints.

<sup>7</sup>Under 49 U.S.C. 10501(a)(2)(A), the Board has jurisdiction over transportation between a place in one state and a place in the same state "as part of the interstate rail network." Accordingly, only if the intrastate movement is not part of the interstate rail system can a state exercise jurisdiction. In such limited areas, the Board does not have jurisdiction.

authority to raise an intrastate rate, and that request has been denied in whole or in part or the state has not taken final action on the request within a 120 days, the carrier can petition the ICC for review. This provision was based on former 49 U.S.C. 11501(e). Section 211(b)(2) of Public Law 103-311, 108 Stat. 1673 (1994) removed the procedures of former section 11501(e) for petitioning the ICC. Moreover, the ICCTA broadened the preemption of state regulation of intrastate motor carrier of passenger rates. Prior to the ICCTA, states were preempted from regulating reductions in intrastate motor carrier passenger rates over interstate routes. Now, states are preempted from regulating all intrastate motor passenger rates over interstate routes. See 49 U.S.C. 14501(a). Accordingly, we are removing the part 1143 regulations.

**Part 1156**

Part 1156 concerns submission of cost data for reimbursement for directed service. Under former section 1(16)(b) of the Interstate Commerce Act (recodified at former 49 U.S.C. 11125), the directed carrier was to be reimbursed by the Federal Government in the amount that costs for routing, handling, and moving traffic over the other carrier's lines exceeded the direct revenues from that traffic. The regulations were originally issued in *Regional Rail Reorg. Act—Submission of Cost Data*, 348 I.C.C. 251 (1975). The directed service statute under the ICCTA is now found at 49 U.S.C. 11123, and the reimbursement provision has been eliminated. Now, section 11123(b)(3) states that "compensation for the directed operations shall derive only from revenues generated by the directed operations."<sup>8</sup> Accordingly, the regulations in part 1156 for providing cost data to justify reimbursement for directed service are obsolete and are being eliminated.

**Part 1170**

We are removing part 1170. These regulations concern reemployment rights for employees of motor passenger carriers who lose their jobs because of discontinuances or reductions of regular-route bus service. The rules were issued in response to section 27 of the Bus Regulatory Reform Act of 1982 and published as a note to former 49

<sup>8</sup>The conference report accompanying the ICCTA notes that the statute "restricts directed rail transportation to situations where no Federal funding is involved, and compensation to the carrier providing the directed service comes entirely from the revenues generated by the service." H.R. Conf. Rep. No. 422, 104th Cong., 1st Sess. 185 (1995), *reprinted in* 1995 U.S.C.C.A.N. 793, 870.

<sup>1</sup> The regulations were later modified, removing references to safety. 55 FR 11196 (March 27, 1990).

<sup>2</sup> In 1978, the Interstate Commerce Act was recodified without substantive change pursuant to Pub. L. 95-473, Oct. 17, 1978.

<sup>3</sup> Part of former section 205(f) concerning joint boards was recodified at former 49 U.S.C. 10344. This section was also removed by the ICCTA.

<sup>4</sup> In *Exemption of Freight Forwarders in the Noncontiguous Domestic Trade from Rate Reasonableness and Tariff Filing Requirements*, STB Ex Parte No. 598, \_\_ STB \_\_ (Feb. 21, 1997), slip. op. at 5, we interpreted the language in 49 U.S.C. 13701(a)(1)(B) ("movement by or with a water carrier") as denoting, as here relevant, "joint rates in which a water carrier is a participant."

<sup>5</sup> See also *Sea-Land Freight Serv., Inc. et al.—Alaskan Trade Substituted Serv.—Petition for*

U.S.C. 10935. *See Employee Protection—Motor Passenger Carriers*, 133 M.C.C. 140 (1983). By its terms, the provisions of section 27 expired 12 years after its November 1982 effective date. *See* Section 27(i). The ICCTA, moreover, repealed former section 10935.

#### Small Entities

The Board certifies that this rule 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

##### 49 CFR Part 1022

Intergovernmental relations.

##### 49 CFR Part 1030

Railroads.

##### 49 CFR Part 1091

Alaska, Intermodal transportation, Motor carriers.

##### 49 CFR Part 1131

Administrative practice and procedure, Investigations, Railroads.

##### 49 CFR Part 1143

Administrative practice and procedure, Intergovernmental relations.

##### 49 CFR Part 1156

Railroads, Uniform system of accounts.

##### 49 CFR Part 1170

Administrative practice and procedure, Buses, Employment.

Decided: September 19, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

**Vernon A. Williams**,  
Secretary.

**PART 1022—[REMOVED]**

**PART 1030—[REMOVED]**

**PART 1091—[REMOVED]**

**PART 1131—[REMOVED]**

**PART 1143—[REMOVED]**

**PART 1156—[REMOVED]**

**PART 1170—[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 parts 1022, 1030, 1091, 1131, 1143, 1156 and 1170.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 285

[I.D. 091897A]

#### Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Angling Category

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Closure.

**SUMMARY:** NMFS closes the fishery for school, large school, and small medium Atlantic bluefin tuna (ABT) conducted by Angling category fishermen in the waters off New Jersey and states north. Closure of this fishery is necessary because the annual quota of 57 metric tons (mt) of school ABT and 80 mt of large school/small medium ABT allocated for this subcategory in waters off New Jersey and states north is projected to be attained by October 1, 1997. The intent of this action is to prevent overharvest of the quotas established for this fishery.

**DATES:** Effective 11:30 p.m. local time on October 1, 1997, through December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, 301-713-2347, or Mark Murray-Brown, 508-281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(d)(1) of the regulations provides for annual quotas of 57 mt of school ABT and 80 mt of large school/small medium ABT to be harvested from waters off New Jersey and states north by individuals in the Angling category. The Assistant Administrator for Fisheries, NOAA (AA), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of those statistics, to project a date when the catch of ABT will equal any quota under § 285.22. The AA is further authorized under § 285.20(b)(1) to

prohibit fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22.

The AA has determined, based on the reported catch and estimated fishing effort, that the annual quota of school, large school, and small medium ABT for those fishing in waters off New Jersey and states north will be attained by October 1, 1997. Fishing for, catching, possessing, or landing any school, large school, or small medium ABT (measuring 27 inches to less than 73 inches (69 cm to less than 185 cm)) in the closed area must cease at 11:30 p.m. local time on October 1, 1997. The southern area (the waters off Delaware and states south) fishery for school, large school, and small medium ABT was previously closed for the 1997 season (62 FR 44423, August 21, 1997; 62 FR 35447, July 1, 1997).

The fishery for large medium and giant ABT (measuring 73 inches or greater) is not affected by this closure and remains open in all areas until further notice, subject to the trophy fish limit of one-per-vessel-per-year. Such large medium or giant ABT must be reported to the nearest NMFS enforcement office as required under § 285.24. In North Carolina, trophy fish must be reported to the Coast Guard at 919-995-6403. Anglers should verify that the trophy category remains open by calling the NMFS 24-hour Information Line at 301-713-1279 prior to each fishing trip. In addition, anglers may continue to tag and release ABT of all sizes under the NMFS tag-and-release program (50 CFR 285.27).

#### Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 971 *et seq.*

Dated: September 23, 1997.

**Bruce C. Morehead**,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 97-25671 Filed 9-23-97; 4:59 pm]

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