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PART 1039—EXEMPTIONS

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AUTHORITY: 49 U.S.C. 10502, 13301.

SOURCE: 47 FR 50262, Nov. 5, 1982, unless otherwise noted.

§ 1039.10 Exemption of agricultural commodities except grain, soybeans, and sunflower seeds.

The rail transportation of the commodities listed below is exempt from the provisions of subtitle IV of title 49, except that carriers must continue to comply with Board accounting and reporting requirements, including a brief statement in their annual reports of operations under this exemption, and must maintain copies of rates, charges, rules or regulations, for traffic moved under this exemption, at their principal office, subject to inspection, and send a letter of notification to the docket [Ex Parte No. 346 (Sub-No. 14)], within 30 days, of the fact that they are using the exemption. All tariffs pertaining to the transportation of these miscellaneous commodities will no longer apply except to the extent adopted by carrier quotations. The categories of commodities which are exempt under this decision, by Standard Transportation Commodity Code (STCC) number are:

- 01 Farm products, with the exception of grain (STCC No. 0113), soybeans (STCC No. 01144), and sunflower seeds (STCC No. 0114940).
- 09 Fresh fish and other marine products.

- 20-11 Fresh meat.
- 20-15 Fresh dressed poultry.
- 20-17 Processed poultry.
- 20-21 Creamery Butter.
- 20-23 Condensed, Evaporated or Dried Milk.
- 20-25 Cheese and Special Dairy Products.
- 20-26 Processed Whole Milk.
- 20-141 Hides and Skins.
- 20-144 Animal refuse, tankage, or meat meal.
- 20-421-27 Citrus pomace.
- 20-712-12 Shelled walnuts.
- 20-914-25 Cottonseed hulls.
- 20-915 Cotton linters.
- 20-999-29 Butter and honey mixed.
- 20-999-41 Honey, comb, granulated or strained, or heat treated to retard granulation.
- 20-999-76 Freeze-dried poultry.
- 20-999-77 Freeze-dried meat.
- 20-999-78 Freeze-dried salad ingredients.
- 20-999-93 Fresh and salted meat and products mixed, not hung.
- 20-999-94 Fresh and salted meat and products mixed, hung and not hung.
- 21-4 Stemmed or redried tobacco.
- 22-811-30 Cotton, carded, dyed or not dyed, but not spun, woven or knitted, but including cotton lap.
- 22-911-63 Mattress felt, nec, cjors, not finished.
- 22-911-74 Felts, cotton, nec.
- 22-971-35 Wool, nec, scoured.
- 22-995-22 Flax fibre.
- 22-999-26 Cotton linters, bleached or dyed.
- 28-423-37 Beeswax.

and shall embrace all articles assigned additional digits. The STCC shall be those code numbers in effect as of January 1, 1979, as shown in Standard Transportation Commodity Code Tariff 1-G, STB STCC 6001-C. Nothing in this exemption shall be construed to affect our jurisdiction under section 10502 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Board.

[48 FR 9277, Mar. 4, 1983; 49 FR 22095, May 25, 1984, as amended at 49 FR 26745, June 29, 1984; 49 FR 27321, July 3, 1984; 64 FR 53267, Oct. 1, 1999; 69 FR 58365, Sept. 30, 2004]

§ 1039.11 Miscellaneous commodities exemptions.

(a) *Commodities exempted.* Except as indicated in paragraph (b) of this section, the rail transportation of the commodities listed below is exempt from the provisions of 49 U.S.C. subtitle IV. The Standard Transportation Commodity Code (STCC) numbers that identify the exempted commodities are those in effect on the effective date of the tariff cited, and shall embrace all commodities assigned additional digits.

Surface Transportation Board, DOT

§ 1039.11

| STCC No. | STCC tariff | Commodity |
|--------------|----------------------|--|
| 14 1 | 6001-T, eff. 1-1-92 | Dimension stone, quarry. |
| 14 2 |do | Crushed or broken stone or riprap. |
| 14 411 |do | Sand (aggregate or ballast). |
| 14 412 |do | Gravel (aggregate or ballast). |
| 20 |do | Food or kindred products except 20 143 Grease or inedible tallow. 20 32 Canned specialties. 20 33 Canned fruits, jams, jellies, preserves or vegetables. 20 4 Grain mill products. 20 6 Sugar, beet or cane. 20 8 Beverages or flavoring extracts. 20 911 Cottonseed oil, crude or refined. 20 914 Cottonseed cake or meal or by-products. 20 92 Soybean oil or by-products. 20 93 Nut or vegetable oils or by-products. |
| 22 |do | Textile mill products. |
| 23 |do | Apparel or other finished textile products or knit apparel. |
| 24 |do | Lumber or wood products. |
| 25 |do | Furniture or fixtures. |
| 26 |do | Pulp, paper or allied products except 26 1 Pulp or pulp mill products. 26 211 Newsprint. 26 212 Ground wood paper, uncoated. 26 213 Printing paper, coated or uncoated, etc. 26 214 Wrapping paper, wrappers or coarse paper. 26 218 Sanitary tissue stock. 26 471 Sanitary tissues or health products. 26 6 Building paper or building board except 26 613 Wallboard. |
| 27 |do | Printed matter. |
| 28 195 22-23 |do | Iron chloride, liquid. |
| 28 195 27-30 |do | Iron sulphate. |
| 28 195 68-69 |do | Ferrous sulphate. |
| 29 914 |do | Coke produced from coal. |
| 29 915 |do | Distillate or residual fuel oil from coal refining. |
| 30 |do | Rubber or miscellaneous plastics products except 30 111 Rubber pneumatic tires or parts. |
| 31 |do | Leather or leather products. |
| 32 |do | Clay, concrete, glass or stone products except 32 411 Hydraulic cement, natural, portland or masonry. 32 741 Lime or lime plaster. 32 95 Nonmetallic earths or minerals, ground or treated in any other manner except 32 952 15 Cinders, clay, shale expanded shale), slate or volcanic (not pumice stone), or haydrite. |
| 33 |do | Primary metal products, including galvanized. |
| 34 |do | Fabricated metal products except 34 6 Metal stampings. 34 919 40 Radioactive material shipping containers, etc. |
| 35 |do | Machinery except 35 11 Steam engines, turbines, turbine generator sets, or parts. 35 85 Refrigerators or refrigeration machinery or complete air-conditioning units. |
| 36 |do | Electrical machinery, equipment or supplies except 36 12 Power, distribution or specialty transformers. 36 21 Motors or generators. |
| 37 11 |do | Motor vehicles. |
| 37 14 |do | Motor vehicle parts or accessories. |
| 38 |do | Instruments, photographic goods, optical goods, watches or clocks. |
| 39 |do | Miscellaneous products of manufacturing. |
| 41 118 | 6001-U, eff. 1-1-93 | Used vehicles. |
| 14 715 | 6001-V, eff. 1-1-94 | Rock salt. |
| 20 143 |do | Grease or inedible tallow. |
| 28 133 |do | Carbon dioxide. |
| 28 991 |do | Salt. |
| 32-4 |do | Hydraulic cement. |
| 34 912 | 6001-W, eff. 1-1-95. | Steel shipping containers. |
| 40 211 |do | Iron and steel scrap. |
| 33 119 | 6001-X, eff. 1-1-96 | Blast furnace, open hearth, rolling mill or coke oven products, NEC. |
| 20511 | 6001-X, eff., 1-1-96 | Bread or other bakery products exc. biscuits, crackers, pretzels or other dry bakery products. See 20521-20529. |
| 22941 |do | Textile waste, garnetted, processed, or recovered or recovered fibres or flock exc. packing or wiping cloths or rags. See 22994. |
| 22973 |do | Textile fibres, laps, noils, nubs, roving, sliver or slubs, prepared for spinning, combed or converted. |
| 22994 |do | Packing or wiping cloths or rags (processed textile wastes). |

| STCC No. | STCC tariff | Commodity |
|----------|---------------|---|
| 24293 |do. | Shavings or sawdust. |
| 30311 |do. | Reclaimed rubber. |
| 3229924 |do. | Cullet (broken glass). |
| 33312 |do. | Copper matte, speiss, flue dust, or residues, etc. |
| 33322 |do. | Lead matte, speiss, flue dust, dross, slag, skimmings, etc. |
| 33332 |do. | Zinc dross, residues, ashes, etc. |
| 33342 |do. | Aluminum residues, etc. |
| 33398 |do. | Misc. nonferrous metal residues, including solder babbitt or type metal residues. |
| 40112 |do. | Ashes. |
| 40212 |do. | Brass, bronze, copper or alloy scrap, tailings, or wastes. |
| 40213 |do. | Lead, zinc, or alloy scrap, tailings or wastes. |
| 40214 |do. | Aluminum or alloy scrap, tailings or wastes. |
| 4021960 |do. | Tin scrap, consisting of scraps or pieces of metallic tin, clippings, drippings, shavings, turnings, or old worn-out block tin pipe having value for remelting purposes only. |
| 40221 |do. | Textile waste, scrap or sweepings. |
| 40231 |do. | Wood scrap or waste. |
| 40241 |do. | Paper waste or scrap. |
| 40251 |do. | Chemical or petroleum waste, including spent. |
| 40261 |do. | Rubber or plastic scrap or waste. |
| 4029114 |do. | Municipal garbage waste, solid, digested and ground, other than sewage waste or fertilizer. |
| 4029176 |do. | Automobile shredder residue. |
| 4111434 |do. | Bags, old, burlap, gunny, istle (ixtle), jute, or sisal, NEC. |
| 41115 |do. | Articles, used, returned for repair or reconditioning. |
| 42111 |do. | Nonrevenue movement of containers, bags, barrels, bottles, boxes, crates, cores, drums, kegs, reels, tubes, or carriers, NEC, empty, returning in reverse of route used in loaded movement, and so certified. |
| 42112 |do. | Nonrevenue movement of shipping devices, consisting of blocking, bolsters, cradles, pallets, racks, skids, etc., empty, returning in reverse of route used in loaded movement, and so certified. |
| 42311 |do. | Revenue movement of containers, bags, barrels, bottles, boxes, crates, cores, drums, kegs, reels, tubes, or carriers, NEC., empty, returning in reverse of route used in loaded movement and so certified. |

Excluded from this exemption are any movements for which a finding of market dominance has been made. However, this exemption shall not be construed as affecting in any way the existing regulations, agreements, prescriptions, conditions, allowances or levels of compensation regarding the use of equipment, whether shipper or railroad owned or leased, including car hire, per diem and mileage allowances, and also including exemption from the anti-trust laws necessary to negotiate car service regulations or mandatory interchange of equipment or to maintain and execute such agreements. Nor shall this exemption be construed to affect existing Class III railroad "protections" in the case of boxcars.

(b) *Conditions.* Carriers must continue to comply with Board accounting and reporting requirements. All railroad tariffs pertaining to the transportation of these miscellaneous commodities will no longer apply. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Board.

[48 FR 24901, June 3, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1039.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 1039.12 Long and short haul transportation exemption.

(a) All rates and charges for rail transportation are exempt from the provisions of 49 U.S.C. 10726 to the extent that:

(1) Board approval or consideration before the effective date of these rates and charges is not required; and

(2) Section 10707 will not apply to rates to the extent that they are challenged on the basis of alleged violations of section 10726.

(b) This exemption does not extend to review by the Board upon the filing of a formal complaint alleging a violation of section 10726. Board review will, however, be subject to the following conditions:

(1) A showing that a rate violates section 10726 will not create a presumption that the higher rate is unreasonably high, and