

simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and continue to be open to location under the mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

February 22, 1983.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

(PR Doc. 83-5873 Filed 3-7-83; 8:45 am)

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Arizona et al.

AGENCY: Federal Emergency
Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation

These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated in the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (final) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Pima County (Unincorporated Areas), FEMA-6254.	Santa Cruz River	120 feet upstream of the intersection of Avra Valley Road and Santa Cruz River.	*2,065
			130 feet downstream of the intersection of Sunset Road and Santa Cruz River.	*2,213
		Santa Cruz River—With Consideration of Levee.	75 feet downstream of the intersection of the Southern Pacific Railroad spur bridge and Santa Cruz River.	*2,714
		Santa Cruz River—Without Consideration of Levee.	Intersection of Sahuarita Road and Southern Pacific Railroad.	*2,704
		Santa Cruz River	80 feet upstream of the intersection of Continental Road and Santa Cruz River.	*2,854
			Center of U.S. Highway 89 (State Highway 93), 150 feet north of its intersection with Pima Mine Road.	#3
		Santa Cruz River West Overflow Channel.	125 feet downstream of the intersection of Continental Road and Santa Cruz River West Overflow Channel.	*2,854
		Los Robles Wash	150 feet upstream of the intersection of Trico Road and Los Robles Wash.	*1,929
			Center of Avra Road, 1000 feet north of its intersection with Avra Valley Road.	#3
		West Branch Brawley Wash	110 feet downstream of the intersection of Avra Valley Road and West Branch Brawley Wash.	*1,991
		Blanco Wash	Intersection of Chinle Road and Chinle Lane.	*1,918
			Center of Tucker Road, 4,200 feet west of its intersection with Arway Road.	#2
		Brawley Wash	Intersection of Marville Road and Reservation Road.	#1
		Black Wash	Center of Snyder Hill Road, 2.5 miles east of its intersection with Sandario Road.	#2
		Rillito Creek	Intersection of La Cholla Boulevard and Rillito Creek.	*2,256
			25 feet downstream of the intersection of Dodge Boulevard and Rillito Creek.	*2,362
		Rillito Creek North Overbank Diversion.	Approximately 550 feet upstream of its confluence with Rillito Creek.	*2,347

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pantano Wash—With Consideration of Levee.	50 feet north of the intersection of North Craycroft Road and Pantano Wash.	*2,435
		Pantano Wash—Without Consideration of Levee.	Center of North Craycroft Road, 1,250 feet north of its intersection with Fort Lowell Road.	*2,434
		Pantano Wash	Intersection of Golf Links Road and Camino Seco	*2,667
		Canada del Oro	Intersection of Magee Road and Shannon Road	*2,301
			25 feet upstream of the intersection of U.S. Highway 89 (Tucson-Florence Highway) and Canada del Oro.	*2,639
			Intersection of Rollins Road and Lago del Oro Parkway.	*2,926
		Tanque Verde Creek	100 feet upstream of the intersection of Sabino Canyon Road and Tanque Verde Creek.	*2,478
			Center of Barbary Coast Road, 150 feet east of its intersection with Soldier Terrace.	*2,624
		Sopori Wash	Intersection of Arivaca Road and Sopori Ranch Road	*3,197
		Sopori Wash Overflow	Center of U.S. Highway 89, 350 feet south of its intersection with Arivaca Road.	*3,059
		West Branch Santa Cruz River	Center of Valencia Road, 3500 feet east of its intersection with Mission Road.	#1
		East Branch Brawley Wash	Intersection of Clayton Road and Twin Peaks Road.	#1
		Big Wash	75 feet downstream of the intersection of Wilda Road and Big Wash.	*2,870
		Rincon Creek—With Consideration of Levee.	Center of Old Spanish Trail, 1,500 feet west of its intersection with Camino del Garanon.	*2,902
		Rincon Creek—Without Consideration of Levee.	North side of the levee, 2,100 feet upstream along Rincon Creek from its intersection with Old Spanish Trail.	*2,894
		Rincon Creek	50 feet upstream of the intersection of Camino Loma Alta and Rincon Creek.	*2,987
		Sabino Creek	200 feet east of the intersection of Snyder Road and Hidden Valley Road.	*2,594
		Agua Caliente Wash	Intersection of Fort Lowell Road and Conestoga Avenue.	*2,643
		Julian Wash	25 feet upstream of the intersection of Alvernon Way and Julian Wash.	*2,603
		Airport Wash	Intersection of McKinley Avenue and Dream Street.	#1
			50 feet downstream of the intersection of the Air National Guard Access Road and Airport Wash.	*2,548
		Ventana Canyon Wash	130 feet upstream of the intersection of River Road and Ventana Canyon Wash.	*2,506
		Pima Wash	Intersection of Orange Grove Road and Pima Wash.	*2,483
		Gibson Arroyo	Intersection of Arroyo Avenue and Palm Street.	*1,749

Maps available for inspection at Planning and Zoning Department, 131 West Congress, Tucson, Arizona.

Massachusetts	Bedford, Town Middlesex County (Docket No. FEMA-6128).	Concord River	Downstream Corporate Limits	*12
			Upstream Corporate Limits	*12
		Shawsheen River	Downstream Corporate Limits	*96
			Upstream side of George Walsh Highway (U. S. Route 3) Southbound.	*10
			Great Road (Upstream side)	*11
			Summer Street (Upstream side)	*11
			Hanscom Airfield Access Road (Upstream side)	*11
		Elm Brook	Confluence with Shawsheen River	*11
			South Road (Upstream side)	*11
			Upstream Corporate Limits	*12
		Spring Brook	Confluence in Shawsheen River	*10
			Abandoned Bridge (Upstream side)	*11
			Upstream side of Alcott Street	*12
			Approximately 2.1 miles upstream of confluence with Shawsheen River.	*13
		Mongo Brook	Confluence with Elm Brook	*11
			Fern Way (Upstream side)	*11
		Tributary to Mill Brook	Confluence with Mill Brook	*12
			Upstream Sweetwater Avenue	*15

Maps available for inspection at the Town Clerk's Office, Town Hall, 16 South Street, Bedford, Massachusetts.

Massachusetts	Dartmouth, Town Bristol County (Docket No. FEMA-5843).	Buzzards Bay	Entire shoreline within Town	*13
			Stocums River	*13
			Apponagansett Bay	*13
		Paskamansett River	Approximately 3,400 feet downstream of Access Road	*34
			Upstream U. S. Route 6	*44
			Upstream Mill Dam	*50
			Approximately 750 feet upstream of Mill Dam	*50
		Buttonwood Brook	Confluence with Apponagansett Bay	*13
			Approximately 750 feet upstream of Elm Street	*23
			Confluence of Buttonwood Brook west	*38
			Upstream Milton Street	*54
			Upstream Sharp Street	*71
			Upstream Allen Street	*82
			Gaywood Street (extended)	*95
			Approximately 100 feet downstream of Lexington Avenue.	*103
		East Buttonwood Brook	Confluence with Buttonwood Brook	*38
			Arnold Street (extended)	*58
			Upstream Sharp Street	*71

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Buttonwood Brook	Confluence with Buttonwood Brook	*40
			Cypress Drive	*62
			Upstream Slocum Road	*80
			Standish Drive (extended)	*86
			Approximately 800 feet downstream of Allen Street	*105
			Downstream Allen Street	*117

Maps available for inspection at the Dartmouth Town Clerk's Office, South Dartmouth, Massachusetts.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-5535 Filed 3-7-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 360

State Assistance Program for Training and Education in Comprehensive Emergency Management

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This regulation deletes a provision which states that the program envisions after fiscal year 1981 a sharing of eligible costs between FEMA and the States. This will make the regulations consistent with the current Federal budget.

DATE: March 8, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Charles N. Turner, Acting Chief, Academic Support and Operations, Telephone Number: (301) 447-6771.

SUPPLEMENTARY INFORMATION: The regulation governing the State assistance program for training and education has a provision which states that for fiscal year 1981 only FEMA funding for this activity would be at 100% of allowable costs and that in future years it was envisioned that there would be cost sharing between the Federal Government and the States. It has now been determined that FEMA will reimburse State and local participants in FEMA field training activities funded under the Comprehensive Cooperative Agreement at the 100% level. As this regulation relieves a restriction, it can be made effective immediately. Also, for the same reason, notice and public comment are considered unnecessary. The rule applies only to States and thus no regulatory flexibility analysis is

required. This is also not a major regulation.

List of Subjects in 44 CFR Part 360

Grant programs—education.

PART 360—[AMENDED]

Accordingly, 44 CFR 360.2(e) is amended by numbering the first paragraph as paragraph (1) and by revising the last paragraph to read as follows:

360.2 Description of program.

- (e) * * *
- (2) Allowable cost will be funded at 100%.

Dated: February 23, 1983.

Fred J. Vilella,
Associate Director.

[FR Doc. 83-5803 Filed 3-7-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13, Amendment No. 10;
Docket No. 80-56]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Commission is providing for 24-hour receipt of permanent tariff filings, including the use of electronic filing methods, in lieu of accepting temporary tariff filings. This will eliminate what has become an unnecessary burden on the

Commission's staff and resources and will also simplify the use of foreign commerce tariffs by shippers, carriers and other interested persons. Providing for the receipt of permanent tariff filings on an around-the-clock basis, including those filed by electronic modes, should benefit carriers, conferences and shippers by enabling them to meet commercial exigencies.

DATE: Effective May 30, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Warner, Chief, Office of Foreign Tariffs, Federal Maritime Commission, 1100 L Street NW., Room 10213, Washington, D.C. 20573, (202) 523-5827.

SUPPLEMENTARY INFORMATION: On September 3, 1981, the Commission stayed its Final Rule in this proceeding (46 FR 44190). That rule would have precluded the filing of temporary amendments to tariffs published by carriers or conferences of carriers in the foreign commerce of the United States, effective September 8, 1981 (46 FR 35092). The stay was requested by various conferences which sought an additional period for commenting on the rationale employed by the Commission in arriving at this decision.

By notice served December 28, 1981, the Commission granted interested parties an opportunity to comment on the basis for its rule (46 FR 62669). This notice also proposed a new procedure which would permit the receipt of permanent tariff amendments before and after the Commission's normal business hours, including weekends and holidays.

Comments were received from fourteen commentators on behalf of twenty-three conferences, two ocean carriers, three shippers and four tariff

publishing services. Seven of the commenting conferences support the Commission's proposed discontinuance of the temporary tariff filing privilege,¹ while fifteen conferences object to it.²

Other commenting parties support the Commission's proposal, but request that it be expanded to allow the permanent filing of tariff pages by electronic modes, on a 24-hour basis.³ This suggestion has merit and has been adopted. Also a definition of electronic tariff filing is added to the Commission's tariff filing regulations to recognize such filings as a type of permanent tariff filing. The Commission will receive tariff material 24 hours a day. Material submitted after normal working hours will be stamped in a mail drop in the lobby of the Commission's Washington, D.C. office. The procedure for the receipt of electronic tariff filings will be through the use of a date/time device on receiving machines which are presently, or may in the future be, located in the Commission's public file facilities.⁴

Certain commenting parties request that the Commission expand the rulemaking proceeding to permit the 24-hour filing privilege for tariffs which are filed in the domestic offshore commerce under the requirements of the Commission's General Order 38.⁵ Such a

request is beyond the scope of this proceeding, which relates only to tariffs filed in the foreign commerce of the United States.

The Commission has also been urged to: (1) Continue the telex filing privilege without restriction; (2) allow foreign based filers continued use of telexes, with or without a limit on the number of such messages; (3) provide further justification before eliminating the temporary tariff filing privilege; (4) provide for the use of temporary filings when filed with sequential numbers; (5) assess a fee for the use of temporary tariff filings; (6) allow tariffs to be filed in the Commission's field offices; and (7) pursue legislative modifications to the Shipping Act to permit filings to be made within a certain period after contracts of affreightment are concluded.⁶ Some of these comments⁷ have already been considered during the course of this rulemaking proceeding while others are inconsistent with the intent of this rulemaking and therefore merit no further consideration.

The decision to eliminate temporary tariff filings may be inconvenient to some. However, there are means by which tariff changes considered time sensitive can be transmitted to the Commission for immediate effectiveness. Present tariff filing regulations already contain specific language to permit telephonic special permission applications where "emergency situations" appear to exist (See 46 CFR 536.15(c)). Further, carriers and conferences can still request a waiver of the Commission's permanent tariff page filing requirements if good cause can be shown.

The provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply to this Final Rule. The Commission's prior certification that the rule, if implemented, would not have any significant economic impact on a substantial number of small entities was made to the Chief Counsel for Advocacy of the Small Business Administration on January 20, 1982 and published in the Federal Register on January 28, 1982.

List of Subjects in 46 CFR Part 536

Maritime carriers, Reporting and recordkeeping requirements.

¹ C. H. Dexter Division, the Dexter Corporation; Air Products and Chemicals, Inc.; World Tariff Services, Inc.; North Europe/U.S. Pacific Freight Conference, except Sea-Land Service, Inc.; Sections B and C of the Pacific Coast River Plate Brazil Conference; Trans-Pacific Freight Conference of Japan/Korea; Japan/Korea-Pacific Freight Conference; Thailand/Pacific Freight Conference; and Thailand/U.S. Atlantic and Gulf Conference.

² See 45 FR 58385, September 3, 1980.

Therefore, it is ordered, That pursuant to 5 U.S.C. 553, and sections 18(b), 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b), 821 and 841(a)), 46 CFR Part 536 is amended as follows:

§ 536.2 [Amended]

1. A new paragraph (q) is added to § 536.2 which read as follows:

§ 536.2 Definitions.

* * *

(q) Tariff filing, Electronic.

The transmission of tariff filings to the Commission through the use of commercial data processing terminals. The data processing receiving terminal(s) are to be located in the Commission's Washington, D.C. offices. Tariff material filed electronically must conform to all the regulations applicable to permanent tariff filings, except as follows:

(1) electronically filed tariff pages received from data processing terminals may be used for filing with the Commission; and

(2) electronically filed tariff matter shall be accompanied by an electronically filed letter of transmittal; and

§ 536.3 [Amended]

2. Paragraph (a) of § 536.3 is redesignated as Paragraph (a)(1); and a new paragraph (a)(2) is added to § 536.3 which reads as follows:

§ 536.3 Filing of tariffs; general.

(a) * * *

(2) Receipt of Tariffs—The Commission will receive tariff filings on an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted to the Commission by electronic modes will be receipted by a date/time device on the receiving machine; and

§ 536.10 [Amended]

3. Paragraph (c) of § 536.10 is deleted; and

It is further ordered, that the stay previously issued in this proceeding on September 3, 1981, is hereby rescinded.

By the Commission,
Francis C. Hurney,
Secretary.

[FR Doc. 83-5802 Filed 3-7-83; 8:45 am]

BILLING CODE 6730-01-M

¹ North Atlantic United Kingdom Freight Conference; North Atlantic French Atlantic Freight Conference; North Atlantic Continental Freight Conference; North Atlantic Baltic Freight Conference; Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference; Continental North Atlantic Westbound Freight Conference; and North Atlantic Westbound Freight Association.

² North Europe-United States Pacific Coast Freight Conference; Sections B and C of the Pacific Coast River Plate Brazil Conference; The "8900" Lines, Greek/U.S. Atlantic Agreement, Iberian/U.S. North Atlantic Westbound Freight Conference, Italy, South France, South Spain, Portugal/U.S. Gulf and Island of Puerto Rico Conference; Marseilles North Atlantic U.S.A. Freight Conference; Mediterranean-North Pacific Coast Freight Conference; North Atlantic Mediterranean Freight Conference; U.S. Atlantic & Gulf/Australia-New Zealand Conference; The West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference; Trans-Pacific Freight Conference of Japan/Korea; Japan/Korea-Pacific Freight Conference; Thailand/Pacific Freight Conference; and Thailand/U.S. Atlantic and Gulf Conference.

³ Pacific Westbound Conference; Sea-Land Service, Inc.; and Pacific Coast Tariff Bureau.

⁴ An acceptable tariff filing made by an electronic mode is any tariff amendment which has all the characteristics of a permanent tariff amendment. The basic difference between an electronic mode tariff filing and a mail or hand delivered permanent filing is the method of transmission. In other words, electronic filing is electronic mail. The equipment used to compile, send, and/or receive electronic tariff filings is commercially controlled by the tariff filers, with the Commission providing the space for the receiving (printer) machines.

⁵ Sea-Land Service, Inc.; Crowley Maritime Corporation; International Tariff Services, Inc.; Pacific Coast Tariff Bureau; and Jim Pitzer, Transportation Consultant.

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 11.5 to 11 cents per mile.

EFFECTIVE DATE: This decision will be effective on March 22, 1983.

FOR FURTHER INFORMATION CONTACT:

Lee Alexander (202) 275-7723
Ted Kalick (202) 275-6446
Alan Rothenberg (202) 275-7597
Boston, MA (603) 223-2372
Philadelphia, PA (215) 597-4460
Atlanta, GA (404) 881-2167
Chicago, IL (312) 353-6204
Ft. Worth, TX (817) 334-2794
San Francisco, CA (415) 974-7125

SUPPLEMENTARY INFORMATION:

In a decision served February 22, 1983 (48 FR 8152, February 25, 1983), the Commission established owner-operator reimbursement at 11.5 cents per mile for all carrier-related business miles. This change will become effective March 11, 1983. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of February 28, 1983, the current price of diesel fuel was 114.4 cents per gallon. The reimbursement figure is 10.8. Ten working days after publication of the notice in the *Federal Register* (effective March 22, 1983), carriers shall reimburse owner-operators at a minimum of 11 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81-2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a

copy with the Director, Office of the Federal Register, for publication.

Decided: February 28, 1983.

By the Commission, Heber P. Hardy, Director.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-5813 Filed 3-7-83; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1039, 1300, and 1301

[Ex Parte No. 346 (Sub-No. 3)]

Rail General Exemption Authority—Long and Short Haul Transportation

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: In light of the expanded exemption authority contained in the Staggers Rail Act of 1980, the Commission is: (1) Exempting all rail rates and charges from the need for prior Commission approval when departing from the restrictions of 49 U.S.C. 10726; (2) overruling case law holding that a violation of section 10726 is *prima facie* evidence of unreasonableness; and (3) eliminating regulations no longer required as a result of the exemption.

EFFECTIVE DATE: April 7, 1983.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION:

This proceeding began with a Notice of Proposed Rulemaking published October 29, 1979 (44 FR 61981) in which the Commission sought comment on a proposal to exempt certain categories of rail rates and charges from section 10726 of the Interstate Commerce Act. Section 10726 prohibits rail carriers, unless they obtain prior Commission approval, from charging a higher rate for:

(a) A shorter distance than for a longer distance over the same route in the same direction (where the longer route includes the shorter) or

(b) A through rate than for the sum of the intermediate rates.¹

¹ The Commission may grant relief from the requirements of this section in "special cases", often called "Fourth Section" cases since the provisions of section 10926 of the Act were, prior to its recodification, found in section 4. Relief is now granted to allow carriers to meet inter- and intramodal competition, to allow for different cost associated with different types of service, and to remedy technical situations (such as group rates to or from all points in a given area).

The October 29, 1979 proposal was limited to nine categories of rail rates. After comments were received in response to that notice, but before the Commission could reach a decision, Congress enacted the Staggers Rail Act of 1980 (Staggers Act) which not only amended section 10726, but also revised and expanded the Commission's exemption authority under 49 U.S.C. 10505.

In light of those statutory changes, the Commission issued a Second Notice of Proposed Rulemaking (second notice) on December 18, 1980 (45 FR 83380) proposing a broader exemption than that in the original notice. The second notice proposed to: (1) Exempt all rates that depart from the restrictions of section 10726 from pre-justification requirements and from the investigation and suspension procedures of section 10707; (2) overrule case law holding that a violation of section 10726 is *prima facie* evidence that a rate is unreasonable; and (3) eliminate the regulations governing Commission approval of departures from section 10726.

Additional information is contained in the Commission's full decision. For a copy of the decision write to: TS Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5043.

List of Subjects

49 CFR Part 1039

Administrative practice and procedure, Agricultural commodities, Intermodal transportation, Railroads.

49 CFR Part 1300

Freight, Maritime carriers, Pipelines, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1301

Freight, Railroads.

Dated: February 22, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary.

Appendix

PART 1039—[AMENDED]

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

1. § 1039.12 is added to read as follows: