

of origin or destination, or to fraud, then the resulting claim will be adjusted subject to the deductions authorized in the immediately preceding paragraph (a) of this §1037.3; provided, however, that the clear record of either the carrier's or shippers' facilities shall not be interpreted as affecting or changing the burden of proof now lawfully resting upon either party. Therefore, movement in a clear-record car is not conclusive evidence of the fact that the car is not defective. It must be considered along with other evidence to determine liability. See paragraph (e) of §1037.1

(c) In case of a disputed claim, the records of both the carrier and the claimant affecting the shipment involved shall be available to both parties. These records shall include a written complaint, if any, filed by the shipper with the railroad at the time the car was placed for loading that the car was defective, and the written report of an investigation of the complaint, filed by the railroad with the shipper, if made.

PART 1039—EXEMPTIONS

Sec.

- 1039.10 Exemption of agricultural commodities except grain, soybeans, and sunflower seeds.
- 1039.11 Miscellaneous commodities exemptions.
- 1039.12 Long and short haul transportation exemption.
- 1039.13 Rail intermodal transportation exemption.
- 1039.14 Boxcar transportation exemptions and rules.
- 1039.16 Exemption of new highway trailers or containers.
- 1039.17 Protective service contracts exemption.
- 1039.20 Storage leases.
- 1039.21 International joint through rates.
- 1039.22 Exemption of certain payments, services, and commitments from the Elkins Act and related provisions.

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, ciors, 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

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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.

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.