

longer any economic rationale for these restrictions. We recommend elimination of all restrictions against intermodal ownership and removal of Federal jurisdiction over intermodal rates, routes, and practices.

Domestic Water Carriers

The ICC has authority to regulate water carriage both within the contiguous states and between the continental U.S. and its possessions (the domestic offshore trades). Most of the water traffic within the contiguous states is already exempt from regulation, and competition is sufficient to prevent abuses. We recommend an end to all ICC regulation of such traffic.

Regulatory authority over the domestic offshore trades is already shared between the ICC and the Federal Maritime Commission (FMC). When an offshore movement is intermodal and employs a joint through rate, ICC regulation applies, but is minimal. Other types of movements are regulated by the FMC. This bifurcation makes no sense. We recommend eliminating all economic regulation (including tariff filing) by both the ICC and the FMC in the contiguous states and in the domestic offshore trades. The provisions of the Intercoastal Shipping Act, 1933, should also be repealed. Any continuing jurisdiction over non-tariff-related malpractices in the domestic trades, such as boycotts of shippers by carriers, would be transferred to DOT.

Federal vs. State Interests

Surface transportation in the U.S. is a national system. The "Commerce Clause" of the Constitution of the

United States (Article 1, Section 8, Paragraph 3) grants the power to Congress "to regulate commerce with foreign nations and among the several States." This provisions allows Congress to regulate a huge volume of trade moved via land, water, and air. The recommendations outlined above would reduce or eliminate Federal oversight by repealing Federal laws that constrict the efficient and competitive operation of the surface freight transportation system. It is also essential to preclude conflicting state laws or procedures that could overturn the benefits of Federal deregulation, as has been done in previous legislation affecting the airline industry in 1978 and the trucking industry in 1994.

Administration of Remaining ICC Functions

TIRRA identified a wide range of organizational choices for relocating ICC functions. These included retaining the ICC in its current form, merging the ICC into DOT as an independent agency, merging ICC into DOT but not as an independent agency, eliminating the ICC and transferring all or some of its functions to DOT or other Federal agencies, and combining the ICC with other Federal agencies (e.g., the Federal Maritime Commission). Each of these alternatives was extensively examined in the Department's study.

Given the dramatic reductions in regulatory authority recommended in this report, it is clear that there is no longer any need to maintain the ICC as an independent agency. Further, given that the functions to be retained are quite diverse (e.g., motor carrier leasing,

railroad rate oversight), we do not believe that it makes sense to consolidate these functions, either in a separate agency or in a discrete agency within DOT. It may be appropriate to house them in a new rail regulatory unit within the organizational structure of DOT, with labor protection at the Department of Labor.

However, there is no need for such an office to remain completely independent. Most of the remnant regulatory functions are similar to activities currently administered by DOT (or other agencies) without any independent or insulated staff. For those few functions where there is a special need for "insulated" decision-making (such as resolution of disputes between passenger and freight railroads), administrative procedures can be readily established.

Careful planning of the transition of functions is important. This includes examination of staffing requirements, workload and workflow, space and other physical resources, and processes for performing specific functions within the new organizational framework. It is critical to the transportation industry, shippers, and the economy that transition plans maintain continuity and integrity for any remaining regulatory functions. The Administration proposes that the transition occur during FY 1996.

Dated: February 22, 1995.

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[FR Doc. 95-4834 Filed 2-24-95; 8:45 am]

BILLING CODE 4910-62-M