

**SUMMARY:** The Commission is exempting from regulation the transportation by rail of hydraulic cement (STCC No. 32-4). Except for those shipments from the South Dakota State Cement Plant Commission (herein "Dacotah") cement plant in Rapid City, SD, as to which further comment is sought, this commodity is added to the list of exempt commodities, as set forth below. This exemption does not embrace exemptions from regulation of car hire and car service.

**DATES:** This final rule is effective on August 25, 1995. Comments are due on August 25, 1995. Replies to comments are due on September 14, 1995.

**ADDRESSES:** Comments referring to Ex Parte No. 346 (Sub-No. 34) to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW, Washington, DC 20423

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** For further information, see the Commission's printed decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services: (202) 927-5721.]

On October 21, 1993, at 58 FR 54317, we requested comments on a proposal

by the Association of American Railroads (AAR) to exempt from regulation the railroad transportation of hydraulic cement. The comments have been received and analyzed. We are approving AAR's proposal except for those shipments of hydraulic cement from the Dacotah cement plant at Rapid City, SD.

The Commission seeks comments on (1) whether the Dacotah Cement facility at Rapid City, SD is rail captive and (2) the extent to which the Commission's decision in *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control—Chicago and North Western Transportation Company and Chicago and North Western Railway Company*, Finance Docket No. 32133 (ICC served Mar. 7, 1995) has an impact on the Commission's consideration on this matter. Comments shall be due August 25, 1995. Replies to the comments are due September 14, 1995.

We reaffirm our initial finding that the exemption will not significantly affect either the quality of the human environment or the conservation of energy resources. We also reaffirm our initial finding that the exemption will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 49 CFR Part 1039.

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

Decided: July 14, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

**Vernon A. Williams,**  
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1039 of the Code of Federal Regulations is amended as follows:

#### PART 1039—EXEMPTIONS

1. The authority citation for part 1039 continues to read as follows:

**Authority:** 49 U.S.C. 10321 and 10505; and 5 U.S.C. 553.

2. In § 1039.11, the table in paragraph (a) is amended by adding the following new entry in the correct numerical order to STCC tariff 6001-V to read as follows:

#### § 1039.11 Miscellaneous commodities exemptions.

(a) \* \* \*

STCC No.	STCC tariff	Commodity
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32-4 .....	6001-V, eff.1-1-94.	Hydraulic cement, except shipments from the Dacotah Cement plant at Rapid City, SD.
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