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This decision will be printed in the bound volumes of
the STB printed reports at a later date.

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 696

POLICY STATEMENT ON PLAIN LANGUAGE DIGESTS IN DECISIONS

AGENCY: Surface Transportation Board.

ACTION: Statement of Board Policy.

SUMMARY: The Surface Transportation Board is issuing this policy statement to inform the public that, beginning on September 2, 2010, the Board will include a plain language digest in entire board decisions. The digests will summarize the decisions in plain language, without relying on citations to statutes or case law. These digests are designed for the convenience of the public and with the purpose of increasing transparency in government. They may not be cited or relied upon as precedent.

EFFECTIVE DATE: This policy statement is effective on September 2, 2010.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 245-0350.
[Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION:

In this Policy Statement, the Board informs the public that, beginning September 2, 2010, a clearly marked “Digest” will be added prior to the text of entire board decisions.¹ This Policy Statement explains the limited purpose and intended use of these digests.

Under the directive implementing a presidential memorandum on open government,² federal departments and independent agencies have been instructed to make their actions more

¹ At this time, this policy will apply only to entire board decisions, not to decisions delegated to Board employees, which address routine and procedural matters.

² Memorandum on Transparency and Open Government, 74 Fed. Reg. 4685-86 (Jan. 26, 2009).

transparent to the public, encourage public participation in government, and provide more accessible information to the public about what their government is doing.³ The purpose of including the digests is to increase transparency in government and to foster public understanding of Board decisions.

Board decisions often must use terms that have a specific legal or economic meaning or a statutory definition that may not be known by many members of the public. Digests will make the background and import of Board actions more accessible to persons not familiar with the statutes that the Board administers, the Board's regulations, the agency's precedent, and other authorities that may be pertinent to a particular case. As a result, the Board's actions will become more transparent to a broader sector of the general public that may be affected by Board decisions.

Because they will be provided for the convenience of the public and will be written using non-legal language, the digests will not cite to or, in some instances, use the same language as, the statutes and cases upon which the decisions themselves will be based. Accordingly, the digests may neither be relied upon as Board precedent, nor cited to or quoted from for any legal purpose. They will be analogous to the syllabus and headnotes of United States Supreme Court decisions, which are prepared for the convenience of the public, but cannot be relied upon as precedent. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337 (1906). To ensure that digests are not relied upon as precedent, each digest will be subject to the following disclaimer:

“The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See *Policy Statement on Plain Language Digests in Decisions*, EP 696 (STB served Sept. 2, 2010).”

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: September 2, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

³ Executive Office of the President, Memorandum on Open Government Directive, Dec. 8, 2009, available at http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-06.pdf.