

EX PARTE NO. 650

REVISION OF APPELLATE PROCEDURES AND
INFORMAL COMPLAINTS REGULATIONS

Decided March 12, 2004

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final Rule.

SUMMARY: The Surface Transportation Board is amending the appellate procedures and informal complaints regulations to change incorrect citations.

EFFECTIVE DATE: These rules are effective on March 12, 2004.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1661.
[Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: In *Revision of Delegation of Authority Regulations*, 6 S.T.B 373 (2002), the Board revised the delegation of authority regulations at 49 CFR Part 1011. As relevant here, the Board renumbered § 1011.7, Delegations of authority by the Chairman, as 49 CFR 1011.6. This renumbering resulted in an incorrect reference in the Appellate Procedures rules at 49 CFR 1115.1(c): “Appeals from the decisions of employees acting under authority delegated to them by the Chairman of the Board pursuant to § 1011.7 will be acted upon by the entire Board.” The reference to §1011.7 will be changed to §1011.6, which is now the section for delegations of authority by the Chairman.¹

The Board’s informal complaints regulations at 49 CFR 1130.1, state that an informal complaint shall “contain the essential components of a formal complaint as specified at 49 CFR 1131.1* * *.” The Board, however, removed Part 1131, dealing with, among other things, formal rate complaints, in *Removal of Miscellaneous Obsolete Regulations*, 2 S.T.B. 645 (1997). The Board noted in removing Part 1131 that it was unnecessary to keep these rules because there already existed, at 49 CFR Part 1111, regulations applicable to rate and non-rate complaint cases. 2 S.T.B. at 647. Section 1111.1(a) contains the substance of the rules found at former 49 CFR 1131.1, except that § 1111.1(a) does not contain a reference to requests for oral hearing. Accordingly, the Board will correct the citation in 49 CFR 1130.1(a) to read “49 CFR 1111.1(a)”.

¹ Section 1011.7 is now the section for “[d]elegations of authority by the Board to specific offices of the Board.”

Because these rule changes relate solely to the rules of agency practice and procedure, they will be issued as final rules without requesting public comment. *See* 5 U.S.C. 553(b)(A). Moreover, good cause is found for making these rules effective on less than 30 days' notice under 5 U.S.C. 553(d) in order to change the incorrect references as soon as possible.

The Board certifies that the rules will not have a significant impact on a substantial number of small entities. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1115
Administrative practice and procedure.

49 CFR Part 1130
Administrative practice and procedure.

By the Board, Chairman Nober.

APPENDIX

For the reasons set forth in the preamble, Parts 1115 and 1130, of title 49, chapter X, of the Code of Federal Regulations are amended as follows:

PART 1115 — APPELLATE PROCEDURES

1. The authority citation for Part 1115 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

2. In § 1115.1(c), remove the citation “§ 1011.7” and in its place add “§ 1011.6”.

PART 1130 — INFORMAL COMPLAINTS

3. The authority citation for Part 1130 continues to read as follows:

Authority: 49 U.S.C. 721, 13301(f), and 14709.

4. In § 1130.1(a), remove the citation “49 CFR 1131.1” and in its place add “49 CFR 1111.1(a)”.