

## Surface Transportation Board, DOT

## § 1011.5

or employee board for consideration and disposition by the Board.

(8) The Chairman may authorize any officer, employee, or administrative unit of the Board to perform a function vested in or delegated to the Chairman.

(9) The Chairman authorizes the institution of investigations on the Board's own motion, and their discontinuance at any time before hearing.

(10) The Chairman approves for publication all publicly issued documents by an office, except:

(i) Those authorized or adopted by the Board or an individual Board Member that involve decisions in formal proceedings;

(ii) Decisions or informal opinions of an office; and

(iii) Documents prepared for court cases or for introduction into evidence in a formal proceeding.

[67 FR 60167, Sept. 25, 2002, as amended at 74 FR 52903, Oct. 15, 2009]

### § 1011.4 Delegations to individual Board Members.

(a) The following matters are referred to the Chairman of the Board:

(1) Entry of reparation orders responsive to findings authorizing the filing of statements of claimed damages as provided at 49 CFR part 1133.

(2) Extensions of time for compliance with orders and procedural matters in any formal case or pending matter, except appeals taken from the decision of a hearing officer on requests for discovery.

(3) Postponement of the effective date of orders in proceedings that are the subject of suits brought in a court to enjoin, suspend, or set aside the decision.

(4) Dismissal of complaints and applications on the unopposed motion of any party.

(5) Requests for access to waybills and to statistics reported under orders of the Board.

(6) Exercise of control over litigation arising under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), except for determinations whether to seek further judicial review of:

(i) A decision in which a court finds under 5 U.S.C. 552(a)(4)(F) that Board

personnel may have acted arbitrarily or capriciously in improperly withholding records from disclosure; or

(ii) A decision in which a court finds under 5 U.S.C. 552a(g)(4) that Board personnel acted intentionally or willfully in violating the Privacy Act.

(7) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed.

(8) Designation in writing of employees authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment pursuant to 49 U.S.C. 11144, 14122, and 15722.

(9) Authority to act alone to take necessary actions in emergency situations when the Chairman is the only Board member reasonably available.

(b) The following matters are referred to the Vice Chairman of the Board:

(1) Matters within the jurisdiction of the Accounting Board if certified to the Vice Chairman by the Accounting Board or if removed from the Accounting Board by the Vice Chairman.

(2) Matters involving the admission, disbarment, or discipline of practitioners before the Board under 49 CFR part 1103.

(c) The Chairman, Vice Chairman, or other Board Member to whom a matter is assigned under this part may certify such matter to the Board.

(d) The Chairman shall notify all Board Members that a petition for a stay has been referred to the Chairman for disposition under paragraphs (a)(2) or (3) of this section. The Chairman shall also inform all Board Members of the decision on that petition before service of such decision. At the request of a Board Member, made at any time before the Chairman's decision is served, the petition will be referred to the Board for decision.

[67 FR 60167, Sept. 25, 2002, as amended at 68 FR 8726, Feb. 25, 2003]

### § 1011.5 Employee boards.

This section covers matters assigned to the Accounting Board, a board of employees of the Board.

## § 1011.6

## 49 CFR Ch. X (10–1–10 Edition)

(a) The Accounting Board has authority:

(1) To permit departure from general rules prescribing uniform systems of accounts for carriers and other persons under the Interstate Commerce Act, and from the regulations governing accounting and reporting forms;

(2) To prescribe rates of depreciation to be used by railroad and water carriers;

(3) To issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the Interstate Commerce Act; and

(4) To grant extensions of time for filing annual, periodic, and special reports in matters that do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) The board may certify any matter assigned to it to the Board.

### § 1011.6 Delegations of authority by the Chairman.

(a)(1) This section provides for delegations of authority by the Chairman of the Surface Transportation Board to individual Board employees.

(2) The Chairman of the Board may remove for disposition any matter delegated under this section, and any matter delegated under this section may be referred by the Board employee to the Chairman for disposition.

(b) The Board will decide appeals from decisions of employees acting under authority delegated under this section. Appeals must be filed within 10 days after the date of the employee's action, and replies must be filed within 10 days after the due date for appeals. Appeals are not favored and will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice.

(c)(1) As used in this paragraph, *procedural matter* includes, but is not limited to, the assignment of the time and place for hearing; the assignment of proceedings to administrative law judges; the issuance of decisions directing special hearing procedures; the establishment of dates for filing statements in cases assigned for hearing under modified (non-oral hearing) pro-

cedure; the consolidation of proceedings for hearing or disposition; the postponement of hearings and procedural dates; the waiver of formal specifications for pleadings; and extensions of time for filing pleadings. It does not include interlocutory appeals from the rulings of hearing officers; nor does it include postponement of the effective date of:

(i) Decisions pending judicial review,

(ii) Decisions of the entire Board,

(iii) Cease and desist orders, or

(iv) Final decisions where petitions for discretionary review have been filed under 49 CFR 1115.3.

(2) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of procedural matters is delegated to administrative law judges or Board Members in proceedings assigned to them.

(3) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure, other than those assigned to an administrative law judge or a Board Member, is assigned to the Director of the Office of Proceedings. The Director of the Office of Proceedings shall also have authority, unless otherwise ordered by the Chairman or by a majority of the Board in individual proceedings, to decide whether complaint proceedings shall be handled under the modified procedure or be assigned for oral hearings. In carrying out these duties, the Director of the Office of Proceedings shall consult, as necessary, with the General Counsel and the Director of any Board office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Director of the Office of Proceedings.

(e) Authority to grant or deny access to waybills and to statistics reported under orders of the Board is delegated to the Director of the Office of Economics, Environmental Analysis, and Administration.

(f) Certain accounts in the Uniform Systems of Accounts, 49 CFR parts 1200 through 1207, require Board approval to