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anticipate the need to make their own defense.

(b) *Stay pending judicial review*. No request for a stay pending judicial review will be entertained unless it is served on the Board within 15 days after the date of service of the Board's order. The non-moving party may, within 5 days after the date of service of such a motion, file a reply thereto.

[68 FR 22625, Apr. 29, 2003, as amended at 77 FR 63245, Oct. 16, 2012; 77 FR 63253, Oct. 16, 2012; 78 FR 57534, Sept. 19, 2013]

PART 825—RULES OF PROCEDURE FOR MERCHANT MARINE APPEALS FROM DECISIONS OF THE COMMANDANT, U.S. COAST GUARD

Sec.
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AUTHORITY: Sec. 304(a)(9)(B), Independent Safety Board Act of 1974, Pub. L. 93–633, 88 Stat. 2169 (49 U.S.C. 1903(a)(9)(B)).

SOURCE: 40 FR 30248, July 17, 1975, unless otherwise noted.

§ 825.1 Applicability.

The provisions of this part govern all proceedings before the National Transportation Safety Board (Board) on appeals taken from decisions, on or after April 1, 1975, of the Commandant, U.S. Coast Guard, sustaining orders of an administrative law judge, revoking, suspending, or denying a license, certificate, document, or register in proceedings under:

(a) R.S. 4450, as amended (46 U.S.C. 239);

(b) Act of July 15, 1954 (46 U.S.C. 239a-b); or

(c) Section 4, Great Lakes Pilotage Act (46 U.S.C. 216(b)).

§ 825.5 Notice of appeal.

(a) A party may appeal from the Commandant's decision sustaining an order of revocation, suspension, or denial of a license, certificate, document, or register in proceedings described in §825.1, by filing a notice of appeal with the Board within 10 days after service of the Commandant's decision upon the party or his designated attorney. Upon good cause shown, the time for filing may be extended.

(b) Notice of appeal shall be addressed to the Docket Clerk, National Transportation Safety Board, Washington, DC 20594. At the same time, a copy shall be served on the Commandant (GL), U.S. Coast Guard, Washington, DC 20590.

(c) The notice of appeal shall state the name of the party, the number of the Commandant's decision, and, in brief, the grounds for the appeal.

§ 825.10 Referral of record.

Upon receipt of a notice of appeal, the Commandant shall immediately transmit to the Board the complete record of the hearing upon which his decision was based. This includes the charges, the transcript of testimony, and hearing proceedings (including exhibits), briefs filed by the party, the decision of the administrative law judge, and the Commandant's decision on appeal. It does not include intra-agency staff memoranda provided as advice to the Commandant to aid in his decision.

§ 825.15 Issues on appeal.

The only issues that may be considered on appeal are:

(a) A finding of a material fact is erroneous;

(b) A necessary legal conclusion is without governing precedent or is a departure from or contrary to law or precedent;

(c) A substantial and important question of law, policy, or discretion is involved; or

(d) A prejudicial procedural error has occurred.

§ 825.20 Briefs in support of appeal.

(a) Within 20 days after the filing of a notice of appeal, the appellant must file, in the same manner as prescribed for the notice in §825.5, a brief in support of the appeal.

(b) This document shall set forth:

(1) The name and address of the appellant;