

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****Phased Implementation of Informal Hearing Process**

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice.

SUMMARY: The FMCSA is continuing a phased implementation of a new provision related to informal hearings in the 49 CFR part 386 Rules of Practice. On March 17, 2006, this alternative was implemented in States included in the Midwest Service Center geographic area. Beginning on February 13, 2007 this alternative is being expanded to States included in the Eastern Service Center geographic area.

DATES: The first phase began on March 17, 2006. The second phase will begin on February 13, 2007.

SUPPLEMENTARY INFORMATION: The Federal Motor Carrier Safety Administration's (FMCSA) final rule revising 49 CFR part 386, "Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings" (Rules of Practice), published on May 18, 2005, (70 FR 28467) became effective on November 14, 2005. As revised, the Rules of Practice permit a respondent in a civil penalty proceeding to request an informal hearing as an alternative to either a request for a formal hearing or a request to submit written evidence without a hearing. The Rules of Practice, however, do not prescribe specific procedures for conducting informal hearings.

As the informal hearing process is a new alternative for motor carriers, FMCSA is implementing this alternative in phases to allow FMCSA time to evaluate and refine how the informal hearing process is conducted.

The informal hearing process was initially implemented on March 17, 2006, (71 FR 13894) in the States served by the Midwest Service Center. FMCSA only considered requests for an informal hearing from respondents with a principal place of business within States included in the FMCSA Midwest Service Center's geographic area. That area encompasses the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin.

The agency intended to expand implementation of the informal hearing process nationwide within a year of the effective date of the Rules of Practice. However, due to the limited number of

requests for informal hearings, the agency has not collected sufficient data to evaluate and refine this new process. Therefore, FMCSA has decided to expand the informal hearing process to States in one additional Service Center to allow for continued evaluation of the process.

At this time, FMCSA is expanding use of the informal hearing process to States included in the FMCSA Eastern Service Center geographic area. This area encompasses the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, the District of Columbia and Puerto Rico. This second phase of implementation begins on February 13, 2007. FMCSA will publish any subsequent notices of implementation in the **Federal Register**.

When an informal hearing request is granted, the hearing officer will provide written information to each respondent about the procedures that will govern the hearing.

Issued on: February 6, 2007.

John H. Hill,
Administrator.

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket No. FRA-2007-27059, Notice No. 1]

Establishment of an Emergency Relief Docket for Calendar Year 2007

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of establishment of public docket.

SUMMARY: On August 30, 2006, FRA published an Interim Final Rule (IFR) addressing the establishment of emergency relief dockets (ERD) and the procedures for handling petitions for emergency waivers of safety regulations. 71 FR 51517. The IFR provided that each year, FRA will establish an ERD for that year and publish a notice in the **Federal Register** identifying the docket number of the ERD for that year. This Notice announces the establishment of FRA's ERD for the current year (calendar year 2007). The designated ERD for calendar year 2007 is docket number FRA-2007-27059.

ADDRESSES: See Supplementary Information section for further information regarding submitting

petitions and/or comments to Docket No. FRA-2007-27059.

SUPPLEMENTARY INFORMATION: On August 30, 2006, FRA published an IFR addressing the establishment of ERD and the procedures for handling petitions for emergency waivers of safety rules, regulations, or standards during an emergency situation or event. 71 FR 51517. As noted in the IFR, FRA's purpose for establishing the ERD and emergency waiver procedures is to provide an expedited process for FRA to address the needs of the public and the railroad industry during emergency situations or events. The IFR added § 211.45 to Subpart C of 49 CFR part 211 (49 CFR 211.45). Section 211.45(b) provides that each calendar year FRA will establish an ERD in the publicly accessible DOT Document Management System (DMS) and that FRA will publish a notice in the **Federal Register** identifying by docket number the ERD for that year. This Notice No. 1 announces that the designated ERD for calendar year 2007 is docket number FRA-2007-27059.

As detailed in the IFR, if the FRA Administrator determines that an emergency event as defined in 49 CFR 211.45(a) has occurred, or that an imminent threat of such an emergency occurring exists, and public safety would benefit from providing the railroad industry with operational relief, the emergency waiver procedures of 49 CFR 211.45 will go into effect. 70 FR 51518. In such an event, the FRA Administrator will issue a statement in the ERD indicating that the emergency waiver procedures are in effect and FRA will make every effort to post the statement on its Web site <http://www.fra.dot.gov/>. In addition, FRA will publish a notice in the **Federal Register** alerting interested parties that the emergency waiver procedures will be utilized. Any party desiring relief from FRA regulatory requirements as a result of the emergency situation should submit a petition for emergency waiver in accordance with 49 CFR 211.45(e) and (f). Specific instructions for filing petitions for emergency waivers in accordance with 49 CFR 211.45 are found at 49 CFR 211.45(f). Specific instructions for filing comments in response to petitions for emergency waivers are found at 49 CFR 211.45(h).

Privacy

Anyone is able to search all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may