

the rights of parties under investigation otherwise provided for in this part.

(b) Unless otherwise provided for by the Investigating Officer, parties under investigation may submit a written statement, as described above, within 14 days after of being informed by the Investigating Officer of the proposed recommendation(s) and summary of findings. Such statements shall be no more than 20 pages, not including any supporting data, evidence, and verified statements that may be attached to the written statement, double spaced on 8½ by 11 inch paper, setting forth the views of the parties under investigation of factual or legal matters or other arguments relevant to the commencement of a Formal Board Proceeding. Any statement of fact included in the submission must be sworn to by a person with personal knowledge of such fact.

(c) Such written statements, if the parties under investigation choose to submit, shall be submitted to the Investigating Officer. The Investigating Officer shall provide any written statement(s) from the parties under investigation to the Board at the same time that he or she submits his or her recommendations and summary of findings to the Board.

## PARTS 1123–1129 [RESERVED]

### Parts 1130–1149—Rate Procedures

#### PART 1130—INFORMAL COMPLAINTS

Sec.

1130.1 When no damages sought.

1130.2 When damages sought.

AUTHORITY: 49 U.S.C. 1321, 13301(f), 14709.

##### § 1130.1 When no damages sought.

(a) *Form and content.* Informal complaint may be by letter or other writing filed with the Board and will be serially numbered as filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1111.2 and may embrace supporting papers.

(b) *Correspondence handling.* When an informal complaint appears susceptible of informal adjustment, the Board will send a copy or statement of the complaint to each subject of the complaint in an attempt to have it satisfied by correspondence, thereby avoiding the filing of a formal complaint.

(c) *Discontinuance of informal proceeding.* The filing of an informal com-

plaint does not preclude complainant from filing a formal complaint. If a formal complaint is filed, the informal proceeding will be discontinued.

[47 FR 49570, Nov. 1, 1982, as amended at 48 FR 44827, Sept. 30, 1983; 69 FR 12806, Mar. 18, 2004; 82 FR 57382, Dec. 5, 2017; 84 FR 12944, Apr. 3, 2019]

##### § 1130.2 When damages sought.

(a) *Actual filing required.* Notification to the Board that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute.

(b) *Content.* An informal complaint seeking damages must be filed within the statutory period, and should identify with reasonable definiteness the involved shipments or transportation services. The complaint should include:

(1) A statement that complainant seeks to recover damages;

(2) The names of each individual seeking damages;

(3) The names and addresses of defendants against which claim is made;

(4) The commodities, the rate applied, the date on which the charges were paid, the names of the parties paying the charges, and, if different, the names of the parties bearing the charges;

(5) The period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery;

(6) The specific origin and destination points or, where they are numerous, the territorial or rate group of the origin and destination points and, if known, the routes of movement; and

(7) The nature and amount of the injury sustained by each claimant.

(c) *Statement of prior claim.* A complaint filed under paragraph (b) of this section containing a claim which has been the subject of a previous informal or formal complaint must specifically refer to the previous complaint.

(d) *Copies.* The original of an informal complaint seeking damages must be accompanied by a sufficient number of copies to enable the Board to send one to each defendant named.

(e) [Reserved]

(f) *Notification to the parties; six months' rule.* If an informal complaint

## Surface Transportation Board

## § 1130.2

seeking damages (other than a contested tariff reconciliation petition) cannot be disposed of informally or is denied or withdrawn by complainant, the parties affected will be so notified in writing by the Board. Contested tariff reconciliation petitions either will be granted or denied by the entry of a decision. Unless within six months after the date on which a notice is mailed or a decision is served, a party either files a formal complaint or re-submits its informal complaint on an additional-fact basis, the matter in the complaint or petition will not be reconsidered. The claim will be considered abandoned and no complaint seeking damages on the same cause of action will be accepted unless filed within the statutory period. Any filing or resubmission satisfying the six months' requirement will be considered filed as of the date of the original filing and must specifically refer to that date and to the Board's file number. Any petition for reconsideration should be filed with the Board.

(g) *Tariff reconciliation proceedings for motor common carriers*—(1) *Petitions to waive collection or permit payment.* Subject to Board review and approval, motor common carriers (other than household goods carriers) and shippers may resolve, by mutual consent, overcharge and undercharge claims under the provisions of 49 U.S.C. 14709. Petitions for appropriate authority may be filed by either the carrier, shipper or consignee on the Board's tariff reconciliation docket by submitting a letter of intent to depart from the filed rate. The petitions will be deemed the equivalent of an informal complaint and answer admitting the matters stated in the petition. Petitions shall be sent to the Office of Compliance and Enforcement, Surface Transportation Board, Washington, DC 20423. The petitions shall contain, at a minimum, the following information:

- (i) The name(s) and address(es) of the payer(s) of the freight charges;
- (ii) The name(s) of the carrier(s) involved in the traffic;
- (iii) An estimate of the amount(s) involved;
- (iv) The time period when the shipment(s) involved were delivered or tendered for delivery;

(v) A general description of the point(s) of origin and destination of the shipment(s);

(vi) A general description of the commodity(ies) transported;

(vii) A statement certifying that the carrier(s) and shipper(s) participating in the shipment(s) or the payer(s) of the freight charges concur(s) with the intent to depart from the filed rate; and

(viii) A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate.

(2) *Public notice and protest.* Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition by the party that files the petition and will be made available by the Board for public inspection in the Office of Compliance and Enforcement Public File, Surface Transportation Board, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection with the Office of Compliance and Enforcement within 30 days of Board receipt of the petition. Letters of objection shall identify the tariff reconciliation proceeding, shall clearly state the reasons for the objection, and shall certify that a copy of the letter of objection has been served on all parties named in the petition. The Board may initiate an investigation of the petition on its own motion.

(3) *Uncontested petitions.* If a petition is not contested, and if the Board does not initiate an investigation of the petition on its own motion, approval is deemed granted without further action by the Board, effective 45 days after Board receipt of the petition.

(4) *Contested petitions.* If a petition is contested or the Board initiates an investigation of the petition on its own motion, 15 days will be allowed for reply. The 15-day period will commence on the date of service of the objections or, if the Board initiates an investigation on its own motion, on the date of service of the decision initiating the investigation. After the period for reply has expired, the Board will issue a decision approving or disapproving the petition, or requesting further submissions from the parties, and then

will issue a decision based on the further submissions.

[47 FR 49570, Nov. 1, 1982, as amended at 50 FR 15901, Apr. 23, 1985; 51 FR 5713, Feb. 18, 1986; 52 FR 26479, July 15, 1987; 53 FR 19301, May 27, 1988; 60 FR 2544, Jan. 10, 1995; 62 FR 50884, Sept. 29, 1997; 84 FR 12944, Apr. 3, 2019]

## **PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATE- MAKING ACTIONS**

Sec.

1132.1 Protest against collective ratemaking actions.

1132.2 Procedures in certain suspension matters.

AUTHORITY: 49 U.S.C. 1321, 13301(f), and 13703.

SOURCE: 62 FR 50885, Sept. 29, 1997, unless otherwise noted.

### **§ 1132.1 Protest against collective ratemaking actions.**

(a) *Content.* The protested collective ratemaking action sought to be suspended, whether or not contained in a tariff filed with the Board, should be identified by making reference to: The name of the publishing carrier or collective ratemaking organization; the identification of the tariff, if applicable, or the identification of the collective ratemaking action publication if it is not contained in a tariff filed with the Board; the specific items or particular provisions protested; and the effective date of the tariff or other collective ratemaking action publication. Reference should also be made to the tariff or collective ratemaking action, and the specific provisions proposed to be superseded. The protest should state the grounds in support thereof, and indicate in what respect the protested collective ratemaking action is considered to be unlawful. Such protests will be considered as addressed to the discretion of the Board. Should a protestant desire to proceed further against a collective ratemaking action which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, collective ratemaking actions will not be consid-

ered unless made in writing and filed with the Board at Washington, DC. If the protestant desires action by the Board before the effective date of the collective action, protests and requests for suspension shall reach the Board at least 12 days (except as provided in paragraph (c) of this section) before such effective date. If the protested collective ratemaking action is already in effect, or if the protestant does not desire action before its effective date, protests and requests for suspension can be filed at any time.

(c) *Copies; service.* Every protest or reply filed under this section should be directed to the attention of the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board. One copy of each protest or reply filed under this section simultaneously must be served upon the publishing carrier or collective ratemaking organization, and upon other persons known by protestant to be interested.

(d) *Reply to protest.* A reply to a protest filed at least 12 days before the effective date of proposed collective action provisions must reach the Board not later than the fourth working day prior to the scheduled effective date of the protested provisions unless otherwise provided.

[62 FR 50885, Sept. 29, 1997, as amended at 74 FR 52908, Oct. 15, 2009; 84 FR 12944, Apr. 3, 2019]

### **§ 1132.2 Procedures in certain suspension matters.**

(a) A petition for reconsideration may be filed by any interested person within 20 days after the date of service of a Board decision which results in an order for:

(1) Investigation and suspension of collective ratemaking actions, or

(2) Investigation (without suspension) of collective ratemaking actions.

(b) Any interested person may file and serve a reply to any petition for reconsideration permitted under paragraph (a) of this section within 20 days after the filing of such petition with the Board, but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects,