

National Transportation Safety Board

§ 821.43

should have withdrawn and, if so, order appropriate relief.

[68 FR 22625, Apr. 29, 2003, as amended at 77 FR 63252, Oct. 16, 2012]

Subpart F—Hearing

§ 821.37 Notice of hearing.

(a) *Time and location of hearing.* The law judge to whom the proceeding is assigned (or the chief judge) shall set a reasonable date, time and place for the hearing. Except as provided with respect to emergency proceedings in § 821.56(a), a written notice of hearing shall be served on the parties at least 30 days in advance of the hearing. The law judge may set the hearing for a date fewer than 30 days after the date of the issuance of the notice of hearing if all of the parties consent to an earlier hearing date. In setting the date of the hearing, due regard shall be given to the parties' discovery needs. In setting the place of the hearing, due regard shall be given to the location of the subject incident, the convenience of the parties and their witnesses, and the conservation of Board funds. Another relevant factor in determining the place of the hearing is the convenience of the hearing site to scheduled transportation service. Only in the most extraordinary circumstances may consideration be given to locating a hearing in a foreign country.

(b) *Hearing in several sessions.* Where appropriate, the law judge may hold a hearing in more than one session, at the same or different locations.

§ 821.38 Evidence.

In any proceeding under the rules in this part, all evidence which is relevant, material, reliable and probative, and not unduly repetitious or cumulative, shall be admissible. All other evidence shall be excluded. The Federal Rules of Evidence will be applied in these proceedings to the extent practicable.

[78 FR 57534, Sept. 19, 2013]

§ 821.39 Argument and submissions.

At the hearing, the law judge shall give the parties adequate opportunity for the presentation of arguments in support of, or in opposition to, mo-

tions, objections and proposed rulings. Prior to the issuance of the initial decision, the parties shall be afforded a reasonable opportunity to submit for consideration proposed findings and conclusions, and supporting reasons therefor.

§ 821.40 Record.

The transcript of testimony and exhibits, together with all papers, requests and rulings filed in the proceeding before the law judge, shall constitute the exclusive record of the proceeding. Copies of the transcript may be obtained by any party upon payment of the reasonable cost thereof. A copy of the transcript may be examined at the National Transportation Safety Board, Office of Administrative Law Judges, Public Docket Section.

Subpart G—Initial Decision

§ 821.42 Initial decision by law judge.

(a) *Written or oral decision.* The law judge may render his or her initial decision orally at the close of the hearing, or in writing at a later date, except as provided with respect to emergency proceedings in § 821.56(c).

(b) *Content.* The initial decision shall include findings and conclusions upon all material issues of fact, credibility of witnesses, law and discretion presented on the record, together with a statement of the reasons therefor.

(c) *Furnishing parties with, and issuance date of, oral decision.* If the initial decision is rendered orally, a copy thereof, excerpted from the hearing transcript, shall be furnished to the parties by the Office of Administrative Law Judges. Irrespective of the date on which the copy of the decision is transmitted to the parties, the issuance date of the decision shall be the date on which it was orally rendered.

§ 821.43 Effect of law judge's initial decision or appealable order and appeal therefrom.

If no appeal from the law judge's initial decision or appealable order is timely filed, the initial decision or order shall become final with respect to the parties, but shall not be binding precedent for the Board. The filing of a timely notice of appeal with the Board