

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: April 30, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

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FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket No. 02-15]

Passenger Vessel Financial Responsibility

AGENCY: Federal Maritime Commission.

ACTION: Notice of Public Hearing Date.

SUMMARY: The Commission has determined to set June 11, 2003, as the date for the public hearing in this proceeding.

DATES: Requests to participate in Public Hearing due May 28, 2003.

ADDRESSES: Address all submissions to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION: On April 3, 2003, the Commission announced that it had determined to hold a public hearing at which interested parties could make presentations and field questions from the Commissioners concerning the issues raised in this proceeding. The Commission has now determined to convene this public hearing on June 11, 2003. The hearing will be held in the Commission's Main Hearing Room, Room 100, 800 North Capitol Street, NW., Washington, DC, at a time which will be announced in a subsequent notice. Parties wishing to participate in this hearing must notify the Office of the Secretary by close-of-business May 28, 2003, of the name, street address, e-mail address, telephone number, and the name of your company or employer, if any. Parties wishing to participate should also provide a short, brief statement describing their position on the proposed rule.

Submissions should be addressed to the Office of the Secretary: by e-mail to secretary@fmc.gov; by facsimile to 202-523-0014 or by U.S. mail or courier to Federal Maritime Commission, 800

North Capitol Street, NW., Washington, DC 20573. (To avoid delay, electronic or facsimile submissions are encouraged.)

The Commission will announce the time of the hearing and the order of presentation and time allotment during the week of June 2, 2003.

By the Commission.

Bryant L. VanBrakle,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1137

[STB Ex Parte No. 637 (Sub-No. 1)]

Removal of Divisions of Revenue Regulations

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) is proposing to remove its regulations concerning divisions of revenue proceedings because of changes in the statute and the infrequency of divisions of revenue complaints.

DATES: Comments are due June 5, 2003.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1661. [Federal Information Relay Service for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: In *Removal and Revision of Regulations*, STB Ex Parte No. 637, served and published in the *Federal Register* on August 28, 2002 (67 FR 55166), the Board, *inter alia*, removed regulations at 49 CFR 1137.2 concerning expeditious procedures for the publication of separate rates for distinct service. In that proceeding, the Board indicated that we were not revising our rules at 49 CFR 1137.1 concerning divisions of revenue, but would "examine this regulation in a separate proceeding."

The regulations at 49 CFR 1137.1 concerning divisions of revenue between carriers participating in a joint rate were issued in response to the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The 4R Act amended former section 15(6) of the Interstate Commerce Act by adding provisions that would expedite the handling of divisions of revenue cases. In response, the Interstate Commerce Commission (ICC) issued the original divisions of revenue rules in *Expedient Handling of*

Divisions of Revenue Cases, 353 I.C.C. 349 (1976).¹ Section 15(6) was recodified at former 49 U.S.C. 10705, which was later modified by the Staggers Rail Act of 1980. Former section 10705 in general required that evidentiary proceedings in cases brought by complaint be completed in 9 months and a final decision be issued within 180 days after the close of the record.²

Under the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995), section 10705 has been modified. Although the Board retains jurisdiction over divisions of joint rates, the provision for the filing of a notice of intent and the deadlines for gathering evidence and issuing a final decision have been removed.

We are proposing to remove the rules at section 1137.1. Our records indicate that we have not had a divisions of revenue complaint in over 20 years,³ and, accordingly, retaining the regulations appears to be administratively inefficient. The rules, moreover, contain the notice of intent and deadline provisions that no longer have a statutory basis. The Board has general rules for filing and handling complaints at 49 CFR part 1111, which appear to be adequate for any future divisions complaints.

Because these rules have been rarely used, retention of the evidentiary guidelines in 1137.1(g) appears to be unnecessary, and we propose to remove them. However, parties may believe that these guidelines with modifications (such as removing the obsolete reference to Rail Form A) or alternative guidelines are helpful. If so, they should explain why codified guidelines are necessary, when parties, on a case-by-case basis, are free to use any evidence they consider relevant.⁴

We certify that the proposed rule will not have a significant impact on a substantial number of small entities, because the rules are partly obsolete and have been infrequently used. We seek comments on all matters raised by this notice.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ The regulations were originally issued at 49 CFR 1109.5. They were later redesignated at 49 CFR 1137.1 in *Revision of the Rules of Practice*, Ex Parte No. 55 (Sub-No. 55), 47 FR 49534 (Nov. 1, 1982).

² The ICC subsequently modified the regulations in section 1137.1 in *Revised Procedures for Divisions of Revenue Cases*, 367 I.C.C. 353 (1983).

³ *Increases in Freight Rates and Charges—1973*, 365 I.C.C. 193 (1981).

⁴ Parties could indeed, if they wish, use former guidelines following their removal.