

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1001, 1002, 1005, 1007, 1011, 1012, 1013, 1014, 1016, 1017, 1018, 1019, 1021, 1034, 1035, 1039, 1090, 1101, 1102, 1103, 1104, 1105, 1110, 1111, 1113, 1114, 1115, 1118, 1139, 1144, 1146, 1150, 1151, 1152, 1180, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, and 1253

[Docket No. EP 712]

Improving Regulation and Regulatory Review

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The Surface Transportation Board (Board) is revising, correcting, and updating its regulations. These modifications include replacing obsolete statutory references, updating office and address references, and correcting spelling, grammatical, terminology, explanatory, and typographical errors. The Board is also making changes to certain authority citations and to certain regulations related to reporting requirements.

DATES: Effective March 25, 2016.

FOR FURTHER INFORMATION CONTACT: Allison Davis: (202) 245-0378. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877-8339.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 13563, “Improving Regulation and Regulatory Review,” and Executive Order 13579, “Regulation and Independent Regulatory Agencies,” the Board began this proceeding on October 12, 2011, to review its existing regulations and sought public comments on whether any of its regulations may be

outmoded, ineffective, insufficient, or excessively burdensome, and how to modify, streamline, expand, or repeal them, as appropriate. See Exec. Order No. 13563, 76 FR 3821 (Jan. 21, 2011); Exec. Order No. 13579, 76 FR 41587 (Jul. 14, 2011). In this decision, we are revising, correcting, and updating our regulations in 49 CFR Chapter X, pursuant to the comments received and the Board's own internal review of its regulations.

The changes made by this decision generally fall into the following categories: eliminating or changing obsolete agency/office titles (e.g., 49 CFR 1007.6(a)(8)); making spelling, grammatical, terminology, explanatory, and typographical changes (e.g., 49 CFR 1016.105(a)); correcting references to United States Code or Code of Federal Regulations sections that have been moved or are otherwise incorrect (e.g., 49 CFR 1013.2(d), 49 CFR 1018.6(a));¹ and amending rules of agency organization, procedure, or practice (e.g., 49 CFR 1011.7(a), 49 CFR 1111.1(a)). Additionally, this decision makes certain nonsubstantive updates related to the Board's reporting requirements, including adding the option of electronic submissions and eliminating language requiring the filing of duplicate copies (e.g., 49 CFR 1243.1), and updating form titles (e.g., 49 CFR 1245.2).²

Because these changes either remove obsolete regulations, make revisions that are not substantive, or update rules to reflect current agency practice, we find good cause to dispense with notice and comment under the Administrative Procedure Act (APA). 5 U.S.C. 553(b)(3)(A) and (B). These changes are not intended to be a comprehensive response to the comments

¹ We recognize that the recently enacted Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110, recodifies provisions of title 49, United States Code. To the extent those provisions are referenced in our regulations, the Board will address those and other changes to the Code of Federal Regulations stemming from that Act at a later date.

² These changes were proposed in Accelerating Reporting Requirements for Class I Railroads, EP 701 (STB served July 8, 2015).

received in this docket; the Board will continue to evaluate those comments and review its regulations, and may promulgate additional revisions at a later date.

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601-612, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

These final rules do not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3549.

It is ordered:

1. The rule modifications set forth below are adopted as final rules.
2. This decision is effective March 25, 2016.

List of Subjects

49 CFR Part 1001

Administrative practice and procedure, Confidential business information, Freedom of information.

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information.

49 CFR Part 1005

Claims, Freight, Investigations, Maritime carriers, Motor carriers, Railroads.

49 CFR Part 1007

Privacy.

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies),
Organization and functions (Government agencies).

49 CFR Part 1012

Sunshine Act.

49 CFR Part 1013

Common carriers, Reporting and recordkeeping requirements, Securities, Trusts and
trustees.

49 CFR Part 1014

Administrative practice and procedure, Civil rights, Equal employment opportunity,
Federal buildings and facilities, Individuals with disabilities.

49 CFR Part 1016

Claims, Equal access to justice, Lawyers.

49 CFR Part 1017

Claims, Government employees, Wages.

49 CFR Part 1018

Claims, Income taxes.

49 CFR Part 1019

Conflict of interests.

49 CFR Part 1021

Claims.

49 CFR Part 1034

Railroads.

49 CFR Part 1035

Maritime carriers, Railroads.

49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

49 CFR Part 1090

Freight, Intermodal transportation, Maritime carriers, Motor carriers, Railroads.

49 CFR Part 1101

Administrative practice and procedure.

49 CFR Part 1102

Administrative practice and procedure.

49 CFR Part 1103

Administrative practice and procedure, Lawyers.

49 CFR Part 1104

Administrative practice and procedure.

49 CFR Part 1105

Environmental impact statements, Reporting and recordkeeping requirements.

49 CFR Part 1110

Administrative practice and procedure.

49 CFR Part 1111

Administrative practice and procedure, Investigations.

49 CFR Part 1113

Administrative practice and procedure.

49 CFR Part 1114

Administrative practice and procedure.

49 CFR Part 1115

Administrative practice and procedure.

49 CFR Part 1118

Administrative practice and procedure.

49 CFR Part 1139

Administrative practice and procedure, Buses, Freight, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 1144

Railroads.

49 CFR Part 1146

Railroads.

49 CFR Part 1150

Administrative practice and procedure, Railroads.

49 CFR Part 1151

Administrative practice and procedure, Railroads.

49 CFR Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, Uniform System of Accounts.

49 CFR Part 1180

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1241

Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1242

Railroads, Taxes.

49 CFR Part 1243

Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1244

Freight, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1245

Railroad employees, Reporting and recordkeeping requirements, Wages.

49 CFR Part 1246

Railroad employees, Reporting and recordkeeping requirements.

49 CFR Part 1247

Freight, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1248

Freight, Railroads, Reporting and recordkeeping requirements, Statistics.

49 CFR Part 1253

Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads, Reporting and recordkeeping requirements.

Decided: February 11, 2016

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Commissioner Begeman commented with a separate expression.

Kenyatta Clay

Clearance Clerk

For the reasons set forth in the preamble, under the authority of 49 U.S.C. 1321, title 49, chapter X, parts 1001, 1002, 1005, 1007, 1011, 1012, 1013, 1014, 1016, 1017, 1018, 1019, 1021, 1034, 1035, 1039, 1090, 1101, 1102, 1103, 1104, 1105, 1110, 1111, 1113, 1114, 1115, 1118, 1139, 1144, 1146, 1150, 1151, 1152, 1180, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, and 1253 of the Code of Federal Regulations are amended as follows:

PART 1001—INSPECTION OF RECORDS

1. The authority citation for part 1001 continues to read as follows:

Authority: 5 U.S.C. 552, 49 U.S.C. 702, and 49 U.S.C. 721.

§ 1001.3 [Amended]

2. In § 1001.3, remove the words “within 10 days of receipt of a request” and add in their place the words “within 20 days of receipt of a request”.

PART 1002—FEES

3. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721.

Section 1002.1(g)(11) is also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

§ 1002.2 [Amended]

4. In § 1002.2(f)(78), add “(\$26 flat fee for electronic filing.)” following “(\$26 min. charge.)”

PART 1005—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

5. The authority citation for Part 1005 continues to read as follows:

Authority: 49 U.S.C. 721, 11706, 14706, 15906.

6. Revise § 1005.5 to read as follows:

§ 1005.5 Disposition of claims.

Each carrier subject to the Interstate Commerce Act which receives a written or electronically transmitted claim for loss or damage to baggage or for loss, damage, injury, or delay to property transported shall pay, decline, or make a firm compromise settlement offer in writing or electronically to the claimant within 120 days after receipt of the claim by the carrier; *provided, however*, that, if the claim cannot be processed and disposed of within 120 days after the receipt thereof, the carrier shall at that time and at the expiration of each succeeding 60-day period while the claim remains pending, advise the claimant in writing or electronically of the status of the claim and the reason for the delay in making the final disposition thereof, and it shall retain a copy of such advice to the claimant in its claim file thereon.

**PART 1007—RECORDS CONTAINING INFORMATION ABOUT
INDIVIDUALS**

7. The authority citation for Part 1007 continues to read as follows:

Authority: 5 U.S.C. 552, 49 U.S.C. 721.

§ 1007.6 [Amended]

8. In § 1007.6:
- a. In paragraph (a)(8), remove the title “National Archives of the United States” and add in its place “National Archives and Records Administration” and remove the title “Administrator of General Services” and add in its place “Archivist of the United States”.

- b. In paragraph (a)(11), remove the title “General Accounting Office” and add in its place “Government Accountability Office”.

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

- 9. The authority citation for Part 1011 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 11123, 11124, 11144, 14122, and 15722.

- 10. Revise the first sentence of § 1011.2(a)(7) to read as follows:

§ 1011.2 The Board.

(a) * * *

(7) All appeals of initial decisions issued by the Director of the Office of Proceedings under the authority delegated by § 1011.7(a), and all appeals of initial decisions issued by the Office of Public Assistance, Governmental Affairs, and Compliance under the authority delegated by § 1011.7(b). * * *

* * * * *

§ 1011.4 [Amended]

- 11. In § 1011.4(a)(7), remove “section 308 of the Regional Rail Reorganization Act of 1973” and add in its place “section 308 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 748.”.

§ 1011.6 [Amended]

- 12. In § 1011.6(h), remove “section 308 of the Regional Rail Reorganization Act of 1973” and add in its place “section 308 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 748.”.

- 13. In § 1011.7:

- a. Revise paragraph (a)(1).
- b. In paragraph (a)(2)(xvii), remove the word “meditation” and add in its place the word “mediation”.
- c. Add paragraph (b)(6).

The revision and addition read as follows:

§ 1011.7 Delegations of authority by the Board to specific offices of the Board.

(a) *Office of Proceedings.* (1) The Director of the Office of Proceedings is delegated the authority to determine (in consultation with involved Offices) whether to waive filing fees set forth at 49 CFR 1002.2(f).

* * * * *

(b) * * *

(6) Issue, on written request, informal opinions and interpretations which are not binding on the Board. In issuing informal opinions or interpretations, the Director of the Office of Public Assistance, Governmental Affairs, and Compliance shall consult with the Directors of the appropriate Board offices. Such requests must be directed to the Director of the Office of Public Assistance, Governmental Affairs, and Compliance, Surface Transportation Board, Washington, DC.

PART 1012—MEETINGS OF THE BOARD

14. The authority citation for Part 1012 continues to read as follows:

Authority: 5 U.S.C. 552b(g), 49 U.S.C. 701, 721.

§ 1012.3 [Amended]

15. In § 1012.3:

- a. In paragraph (c), remove the words “in paragraphs (d) and (e) of this section” and add in their place the words “in paragraph (d) of this section”.
- b. Remove paragraph (d).
- c. Redesignate paragraph (e) as paragraph (d).
- d. Redesignate paragraph (f) as paragraph (e).

PART 1013—GUIDELINES FOR THE PROPER USE OF VOTING TRUSTS

16. The authority citation for Part 1013 continues to read as follows:

Authority: 49 U.S.C. 721, 13301(f).

§ 1013.2 [Amended]

17. In § 1013.2(d), remove the reference to “49 U.S.C. 11343” and add in its place “49 U.S.C. 11323”.

18. Revise § 1013.3(c) to read as follows:

§ 1013.3 Review and reporting requirements for regulated carriers.

* * * * *

(c) Any carrier required to file a Schedule 13D with the Securities and Exchange Commission (17 CFR 240.13d-1) which reports the purchase of 5 percent or more of the registered securities of another Board regulated carrier (or the listed shares of a company controlling 10 percent or more of the stock of a Board regulated carrier), must simultaneously file a copy of that schedule with the Board, along with any supplements to that schedule.

* * * * *

**PART 1014—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF
HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE
SURFACE TRANSPORTATION BOARD**

19. The authority citation for Part 1014 continues to read as follows:

Authority: 29 U.S.C. 794.

§ 1014.110 [Removed]

20. Remove § 1014.110.

**PART 1016—SPECIAL PROCEDURES GOVERNING THE RECOVERY OF
EXPENSES BY PARTIES TO BOARD ADJUDICATORY PROCEEDINGS**

21. The authority citation for Part 1016 continues to read as follows:

Authority: 5 U.S.C. 504(c)(1), 49 U.S.C. 721.

§ 1016.103 [Amended]

22. In § 1016.103(a), remove the reference to “49 U.S.C. 10925” and add in its place “49 U.S.C. 13905” and remove the reference to “49 CFR 1100.11” and add in its place “49 CFR 1103.5”.

§ 1016.105 [Amended]

23. In § 1016.105:

- a. In paragraph (a), remove “The term ‘party’ is defined” and add in its place “The term ‘party’ is defined”.
- b. In paragraph (b)(3), remove the reference to “Internal Revenue Code of 1954” and add in its place “Internal Revenue Code of 1986”.

24. Revise the first sentence of § 1016.107(b) to read as follows:

§ 1016.107 Allowable fees and expenses.

* * * * *

(b) No award for the fee of an attorney or agent under these rules may exceed the amount specified by 5 U.S.C. 504(b)(1)(A), unless a higher fee is justified. * * *

* * * * *

§ 1016.202 [Amended]

25. In § 1016.202(a), remove the reference to “§ 1016.105(f)” and add in its place “§ 1016.105(e)”.

PART 1017—DEBT COLLECTION—COLLECTION BY OFFSET FROM INDEBTED GOVERNMENT AND FORMER GOVERNMENT EMPLOYEES

26. Revise the authority citation for Part 1017 to read as follows:

Authority: 31 U.S.C. 3716, 5 U.S.C. 5514; Pub. L. 97-365; 31 CFR parts 900-904; 5 CFR part 550.

§ 1017.9 [Amended]

27. In § 1017.9(b)(2), remove the reference to “5 CFR 1108” and add in its place “5 CFR 550.1109” and remove the word “provided” and add in its place “followed”.

PART 1018—DEBT COLLECTION

28. Revise the authority citation for Part 1018 to read as follows:

Authority: 31 U.S.C. 3701, 31 U.S.C. 3711 *et seq.*, 49 U.S.C. 721, 31 CFR parts 900-904.

29. Revise § 1018.3 to read as follows:

§ 1018.3 Communications.

Unless otherwise specified, all communications concerning the regulations in this part should be addressed to the Chief, Section of Financial Services, Surface Transportation Board, Washington, DC.

§ 1018.6 [Amended]

30. In § 1018.6(a), remove the reference to “4 CFR parts 101 through 105” and add in its place “31 CFR parts 900 through 904”.

§ 1018.8 [Amended]

31. In § 1018.8, remove the words “compromising or suspending or terminating collection” and add in their place “compromising, suspending, or terminating”.

§ 1018.20 [Amended]

32. In § 1018.20:

- a. In paragraph (a)(4), remove the reference to “4 CFR 102.13” and add in its place “31 CFR 901.9”.
- b. In paragraph (b)(3)(iii), remove the reference to “4 CFR 102.5” and add in its place “31 CFR 901.4”.

§ 1018.25 [Amended]

33. In § 1018.25:

- a. In paragraph (a), remove “a certified or cashier’s check or a money order” and add in its place “a certified check, cashier’s check, or money order”.
- b. In paragraph (a), remove the words “or insurance filing fee”.
- c. In paragraph (b), remove the words “or insurance” wherever they appear.
- d. In paragraph (d), remove the words “or insurance” wherever they appear.

- e. In the heading of paragraph (d), remove the words “privileges or certificates,” and add in their place “privileges, certificates,”.

§ 1018.28 [Amended]

34. In § 1018.28:

- a. In paragraph (a), remove the reference to “4 CFR 102.2, 102.3, and 102.4” and add in its place “31 CFR 901.2 and 901.3”.
- b. In paragraph (b), remove the reference to “4 CFR 102.4” and add in its place “31 CFR 901.3(e)”.
- c. In paragraph (d)(1)(vi), remove the reference to “4 CFR 102.3(c)” and add in its place “31 CFR 901.3(e)”.

§ 1018.30 [Amended]

35. In § 1018.30:

- a. In paragraph (a), remove the reference to “4 CFR 102.13” and add in its place “31 CFR 901.9”.
- b. In paragraph (b), remove the reference to “4 CFR 102.2 and 102.13” and add in its place “31 CFR 901.2 and 901.9”.

§ 1018.51 [Amended]

36. In § 1018.51:

- a. In paragraph (a)(3), remove the reference to “4 CFR 103.4” and add in its place “31 CFR 902.2”.
- b. In paragraph (b), remove the reference to “4 CFR part 103” and add in its place “31 CFR part 902”.

§ 1018.72 [Amended]

37. In § 1018.72(d), remove the reference to “4 CFR 105.2” and add in its place “31 CFR 904.2”.

38. Amend § 1018.91 as follows:

- a. At the end of paragraphs (b)(3) and (b)(4), remove the periods and add semicolons in their place.
- b. Revise paragraph (b)(7).
- c. In paragraph (b)(8), remove the reference to “26 CFR 301.6402-6T” and add in its place “26 CFR 301.6402-6”.

The revision reads as follows:

§ 1018.91 Applicability and scope.

* * * * *

(b) * * *

(7) Is at least \$25.00; and

* * * * *

**PART 1019—REGULATIONS GOVERNING CONDUCT OF SURFACE
TRANSPORTATION BOARD EMPLOYEES**

39. The authority citation for Part 1019 continues to read as follows:

Authority: 49 U.S.C. 721.

§ 1019.2 [Amended]

40. In § 1019.2(a), remove the title “Executive Counsel” and add in its place “General Counsel”.

**PART 1021—ADMINISTRATIVE COLLECTION OF ENFORCEMENT
CLAIMS**

41. The authority citation for Part 1021 continues to read as follows:

Authority: 31 U.S.C. 3701, 3711, 3717, 3718.

42. Revise § 1021.1 to read as follows:

§ 1021.1 Standards.

The regulations issued jointly by the Comptroller General of the United States and the Attorney General of the United States under section 3 of the Federal Claims Collection Act of 1966, as amended, (31 U.S.C. 3701 *et seq.*) and published in 31 CFR parts 900 through 904 are hereby adopted by the Surface Transportation Board for the administrative collection of enforcement claims.

PART 1034—ROUTING OF TRAFFIC

43. The authority citation for Part 1034 continues to read as follows:

Authority: 49 U.S.C. 721, 11123.

§ 1034.1 [Amended]

44. In § 1034.1:

- a. In paragraph (a), remove the words “submit a written or telegraphic notice” and add in their place “submit a written or electronic notice” and remove the title “Office of Compliance and Enforcement” and add in its place “Office of Public Assistance, Governmental Affairs, and Compliance”.
- b. In paragraph (c), remove the title “Office of Compliance and Enforcement” and add in its place “Office of Public Assistance, Governmental Affairs, and Compliance”.

PART 1035—BILLS OF LADING

45. The authority citation for Part 1035 continues to read as follows:

Authority: 49 U.S.C. 721, 11706, 14706.

46. In Appendix A to Part 1035 remove “, 19_____” and add in its place “, 20_____”.

47. In Appendix B to Part 1035, remove “4. (a)” and add in its place “Sec. 4. (a)”.

PART 1039—EXEMPTIONS

48. The authority citation for Part 1039 continues to read as follows:

Authority: 49 U.S.C. 10502, 13301.

§ 1039.12 [Removed]

49. Remove § 1039.12.

§ 1039.14 [Amended]

50. Amend § 1039.14 by removing “.” and adding in its place “;” at the end of paragraphs (b)(1) through (4) and removing “.” and adding in its place “; and” at the end of paragraph (b)(5).

§ 1039.21 [Removed]

51. Remove § 1039.21.

§ 1039.22 [Amended]

52. In § 1039.22(a)(2), remove the reference to “49 U.S.C. 10713” and add in its place “49 U.S.C. 10709”, remove the reference to “49 U.S.C. 10761(a)” and add in its place “49 U.S.C. 13702(a)”, and remove the reference to “10762(a)(1)” and add in its place “13702(b)-(d)”.

PART 1090—PRACTICES OF CARRIERS INVOLVED IN THE INTERMODAL MOVEMENT OF CONTAINERIZED FREIGHT

53. The authority citation for Part 1090 continues to read as follows:

Authority: 49 U.S.C. 721.

§ 1090.2 [Amended]

54. In § 1090.2, remove the reference to “49 U.S.C. 10505(e) and (g), 109229(1), and 10530” and add in its place “49 U.S.C. 10502(e) and (g) and 13902”.

PART 1101—DEFINITIONS AND CONSTRUCTION

55. The authority citation for Part 1101 continues to read as follows:

Authority: 49 U.S.C. 721.

§ 1101.2 [Amended]

56. In § 1101.2(e)(1), remove the reference to “1130.3” and add in its place “1130.2”.

PART 1102—COMMUNICATIONS

57. The authority citation for Part 1102 continues to read as follows:

Authority: 49 U.S.C. 721.

§ 1102.2 [Amended]

58. In § 1102.2(c)(1) and (2), remove the words “joint board member, employee board member”.

PART 1103—PRACTITIONERS

59. The authority citation for Part 1103 continues to read as follows:

Authority: 21 U.S.C. 862; 49 U.S.C. 703(e), 721.

60. In § 1103.3:

- a. In paragraph (d), remove the reference to “49 CFR 1002.2(f)(100)” and add in its place “49 CFR 1002.2(f)(99)(i)”.
- b. Revise paragraph (h).
- c. In paragraphs (l), (m), and (n), remove the reference to “49 CFR 1002.2(f)(100)” and add in its place “49 CFR 1002.2(f)(99)(i)”.

- d. Revise paragraph (o).

The revisions read as follows:

§ 1103.3 Persons not attorneys-at-law—qualifications and requirements for practice before the Board.

* * * * *

(h) *Location of examination.* Examinations will be conducted at the Board’s office in Washington, DC.

* * * * *

(o) *Content and grading of examination.* A Board staff member is responsible, under the general supervision of the Vice Chairman, for the examination of non-attorney applicants, the preparation of examination questions, and the grading of examinations. The staff member is appointed by the Chairman, with the approval of the Board. The staff member must be an attorney and must have at least two years of experience with the Board.

* * * * *

§ 1103.16 [Amended]

61. In § 1103.16(c), remove the words “secrets or confidence” and add in their place

“secrets or confidences”.

62. In § 1103.20:

- a. Revise paragraph (b).
- b. In paragraph (g), remove “in behalf of the client” and add in its place “on behalf of the client”.

The revision reads as follows:

§ 1103.20 Practitioner’s fees and related practices.

* * * * *

(b) *Compensation, commission, and rebates.* A practitioner shall accept no compensation, commission, rebates, or other advantages from the parties in a proceeding other than his client without the knowledge and consent of his client after full disclosure.

* * * * *

**PART 1104—FILING WITH THE BOARD-COPIES-VERIFICATION-SERVICE-
PLEADINGS, GENERALLY**

63. The authority citation for Part 1104 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 18 U.S.C. 1621; 21 U.S.C. 862; and 49 U.S.C. 721.

64. Amend § 1104.3(a) by adding the following sentence at the end of the paragraph:

§ 1104.3 Copies.

(a)* * * When confidential documents are filed, redacted versions must also be filed.

* * * * *

65. Revise § 1104.5(c) to read as follows:

**§ 1104.5 Affirmation or declarations under penalty of perjury in accordance
with 18 U.S.C. 1621 in lieu of oath.**

* * * * *

(c) Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable under 18 U.S.C. 1001. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621.

§ 1104.6 [Amended]

66. In the last sentence of § 1104.6, remove “5 p.m.” and add in its place “11:59 p.m.”

67. In § 1104.12:

- a. Amend § 1104.12(a) by adding a sentence at the end of the paragraph.
- b. In the parenthetical, remove the reference to “49 U.S.C. 10321” and add in its place “49 U.S.C. 721”.

The addition reads as follows:

§ 1104.12 Service of pleadings and papers.

(a) * * * If a document is filed with the Board through the e-filing process, a copy of the e-filed document should be emailed to other parties, or a paper copy of the document should be personally served on the other parties, but if neither email nor personal service is feasible, service of a paper copy should be by first-class or express mail.

* * * * *

68. Amend § 1104.14(a) by adding a sentence at the end of the paragraph to read as follows:

§ 1104.14 Protective orders to maintain confidentiality.

(a) * * * When confidential documents are filed, redacted versions must also be filed.

* * * * *

PART 1105—PROCEDURES FOR IMPLEMENTATION OF ENVIRONMENTAL LAWS

69. Revise the authority citation for Part 1105 to read as follows:

Authority: 16 U.S.C. 1456 and 1536; 42 U.S.C. 4332 and 6362(b); 49 U.S.C. 701 note (1995) (Savings Provisions), 721(a), 10502, and 10903-10905; 54 U.S.C. 306108.

70. Revise § 1105.2 to read as follows:

§ 1105.2 Responsibility for administration of these rules.

The Director of the Office of Environmental Analysis is delegated the authority to sign, on behalf of the Board, memoranda of agreement entered into pursuant to 36 CFR 800.5(e)(4) regarding historic preservation matters. The Director of the Office of Environmental Analysis is responsible for the preparation of documents under these rules and is delegated the authority to provide interpretations of the Board's National Environmental Policy Act (NEPA) process, to render initial decisions on requests for waiver or modification of any of these rules for individual proceedings, and to recommend rejection of environmental reports not in compliance with these rules. This delegated authority shall be used only in a manner consistent with Board policy. Appeals to the Board will be available as a matter of right.

71. Revise § 1105.3 to read as follows:

§ 1105.3 Information and assistance.

Information and assistance regarding the rules and the Board's environmental and historic review process is available by writing or calling the Office of Environmental Analysis.

72. In § 1105.4:

a. Revise paragraph (i).

- b. In paragraph (j), remove the references to “SEA’s” wherever they appear and add in their place “OEA’s”.

The revision reads as follows:

§ 1105.4 Definitions.

* * * * *

(i) *Office of Environmental Analysis* or “OEA” means the Office that prepares the Board’s environmental documents and analyses.

* * * * *

§ 1105.5 [Amended]

73. In § 1105.5(c)(3), remove the reference to “49 U.S.C. 10905” and add in its place “49 U.S.C. 10904”.

§ 1105.6 [Amended]

74. In § 1105.6:

- a. In paragraph (b)(4) introductory text, remove the reference to “49 U.S.C. 10901 or 10910” and add in its place “49 U.S.C. 10901, 10902, or 10907”, and remove the reference to “49 U.S.C. 11343” and add in its place “49 U.S.C. 11323 and 14303.”
- b. In paragraph (b)(5), add “and” following “environmental impacts;”.
- c. Remove paragraph (b)(6).
- d. Redesignate paragraph (b)(7) as paragraph (b)(6).
- e. Remove paragraph (c)(1).
- f. Redesignate paragraphs (c)(2) through (7) as paragraphs (c)(1) through (6).

- g. In newly redesignated paragraph (c)(1)(i), remove the reference to “49 U.S.C. 10901 or 10910” and add in its place “49 U.S.C. 10901, 10902, or 10907”, and remove the reference to “49 U.S.C. 11343” and add in its place “49 U.S.C. 11323 and 14303.”
- h. Remove newly redesignated paragraph (c)(1)(v).
- i. Further redesignate newly redesignated paragraph (c)(1)(vi) as paragraph (c)(1)(v).

75. Amend § 1105.7 as follows:

- a. Add a sentence to the end of paragraph (a).
- b. In paragraph (e)(3)(iv), remove the reference “49 U.S.C. 10906” and add in its place “49 U.S.C. 10905”.

The addition reads as follows:

§ 1105.7 Environmental reports.

(a) *Filing.* * * * The Environmental Report may be filed with the Board electronically.

* * * * *

76. Amend § 1105.8(a) by adding a sentence at the end of the paragraph to read as follows:

§ 1105.8 Historic Reports.

(a) *Filing.* * * * The Historic Report may be filed with the Board electronically.

* * * * *

§ 1105.10 [Amended]

77. In § 1105.10:

- a. In paragraphs (b) and (d), remove the references to “SEA” wherever they appear and add in their place “OEA”.
- b. In paragraph (d), remove the references to “SEA’s” wherever they appear and add in their place “OEA’s”.
- c. In paragraph (f), remove the abbreviation “CZMA” and add in its place “Coastal Zone Management Act”.

§ 1105.11 [Amended]

78. In the appendix to § 1105.11, remove the reference to “the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423” and add in its place “the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC”.

§ 1105.12 [Amended]

79. In the appendix to § 1105.12:

- a. In the Sample Local Newspaper Notice for Out-of-Service Abandonment

Exemptions:

- i. In the first paragraph, remove the zip code “20423”.
- ii. In the second paragraph, remove the references to “Section of Environmental Analysis (SEA)” wherever they appear and add in their place “Office of Environmental Analysis (OEA)”; and remove the zip code “20423”.
- iii. In the third paragraph remove the reference to “Section of Administration, Office of Proceedings, 395 E Street, SW., Washington, DC 20423-0001” and add in its place “Office of Proceedings, Washington, DC”.

b. In the Sample Local Newspaper Notice for Petitions for Abandonment

Exemptions:

- i. In the first paragraph, remove the zip code “20423”.
- ii. In the second paragraph, remove the references to “Section of Environmental Analysis (SEA)” wherever they appear and add in their place “Office of Environmental Analysis (OEA)”; and remove the zip code “20423”.
- iii. In the third paragraph remove the reference to “Section of Administration, Office of Proceedings, 395 E Street, SW., Washington, DC 20423-0001” and add in its place “Office of Proceedings, Washington, DC”.

**PART 1110—PROCEDURES GOVERNING INFORMAL RULEMAKING
PROCEEDINGS**

80. The authority citation for Part 1110 continues to read as follows:

Authority: 49 U.S.C. 721.

81. Amend § 1110.2 by revising paragraphs (b) and (c)(1) to read as follows:

§ 1110.2 Opening of proceeding.

* * * * *

(b) Any person may petition the Board to open a proceeding to issue, amend, or repeal a rule.

* * * * *

(c) * * *

(1) Be submitted, along with 15 copies, to the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington DC;

* * * * *

§ 1110.5 [Amended]

82. In § 1110.5, remove the word “additional” and add in its place “undue”.

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

83. The authority citation for Part 1111 continues to read as follows:

Authority: 49 U.S.C. 721, 10704, and 11701.

§ 1111.1 [Amended]

84. In § 1111.1:

- a. In paragraph (a), remove the words “at the hearing”.
- b. In paragraph (e), remove the reference to “49 CFR 1244.8” and add in its place “49 CFR 1244.9”.

PART 1113—ORAL HEARING

85. The authority citation for Part 1113 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

§ 1113.2 [Amended]

86. In § 1113.2:

- a. In paragraph (d), remove “return on the subpoena” and add in its place “return of the subpoena”.
- b. In paragraph (e), remove “at whose instance” and add in its place “at whose insistence”.

§ 1113.3 [Amended]

87. In § 1113.3(c)(2), remove “after the close of hearing” and add in its place “after the close of the hearing”.

§ 1113.8 [Amended]

88. In § 1113.8, remove “in whose behalf” and add in its place “on whose behalf”.

§ 1113.11 [Amended]

89. In § 1113.11, remove “damage” and add in its place “damages”.

PART 1114—EVIDENCE; DISCOVERY

90. The authority citation for Part 1114 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

§ 1114.21 [Amended]

91. In § 1114.21(a)(1), remove the reference to “§1011.6” and add in its place “§1011.5”.

§ 1114.24 [Amended]

92. In § 1114.24(g), remove “(1) Not a relative” and add in its place “(1) not a relative”.

§ 1114.25 [Amended]

93. In § 1114.25:

- a. In paragraph (b)(2), remove “seasonable” and add in its place “reasonable”.
- b. In paragraph (c), remove “Errors and irregularities” and add in its place “Objections to errors and irregularities”.

§ 1114.26 [Amended]

94. In § 1114.26(a), remove the reference to “§1114.21(b)(2)” and add in its place “§1114.21(a)”.

§ 1114.27 [Amended]

95. In § 1114.27(a), remove the reference to “§1114.21(b)(2)” and add in its place “§1114.21(a)”.

PART 1115—APPELLATE PROCEDURES

96. The authority citation for Part 1115 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

§ 1115.2 [Amended]

97. In § 1115.2(b)(3), remove the words “governing precedent;” and add in their place “governing precedent; or”.

**PART 1118—PROCEDURES IN INFORMAL PROCEEDINGS BEFORE
EMPLOYEE BOARDS**

98. Under the authority of 49 U.S.C. 1321, Part 1118 is removed.

**PART 1139—PROCEDURES IN MOTOR CARRIER REVENUE
PROCEEDINGS**

99. Under the authority of 49 U.S.C. 1321, Part 1139 is removed.

PART 1144—INTRAMODAL RAIL COMPETITION

100. The authority citation for Part 1144 continues to read as follows:

Authority: 49 U.S.C. 721, 10703, 10705, and 11102.

§ 1144.2 [Amended]

101. In § 1144.2:

a. In paragraph (a) introductory text, remove the reference to “49 U.S.C. 11102” and add in its place “49 U.S.C. 11102(c)”.

b. In paragraph (a)(1), remove the reference to “and 11102” and add in its place “and 11102(c)”.

PART 1146—EXPEDITED RELIEF FOR SERVICE EMERGENCIES

102. The authority citation for Part 1146 continues to read as follows:

Authority: 49 U.S.C. 721, 11101, and 11123.

§ 1146.1 [Amended]

103. In § 1146.1(d)(1), remove “Carrier are” and add in its place “Carriers are”.

**PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE
RAILROAD LINES**

104. The authority citation for Part 1150 continues to read as follows:

Authority: 49 U.S.C. 721(a), 10502, 10901, and 10902.

§ 1150.3 [Amended]

105. In § 1150.3(h), remove the reference to “paragraphs (e) or (f)” and add in its place “paragraphs (f) or (g)”.

106. In § 1150.21 revise the second sentence to read as follows:

§ 1150.21 Scope of rules.

* * * The rail line must have been fully abandoned, or approved for abandonment by the Board or a bankruptcy court. * * *

§ 1150.31 [Amended]

107. In § 1150.31(b), remove the words “and the from securities regulation at 49 CFR part 1175” and add in their place “and the exemption from securities regulation at 49 CFR part 1177”.

108. In § 1150.35:

- a. Revise paragraph (b) introductory text.
- b. In paragraph (f), remove the sentence “Stay petitions must be filed within 7 days of the filing of the notion of exemption.”
- c. In paragraph (g), remove the reference to “§ 1150.33(g)” and add in its place “§ 1150.32(d)”.

The revision reads as follows:

§ 1150.35 Procedures and relevant dates—transactions that involve creation of Class I or Class II carriers.

* * * * *

(b) The notice of intent must contain all of the information required in § 1150.33, exclusive of § 1150.33(g), plus:

* * * * *

§ 1150.42 [Amended]

109. Remove the last sentence of § 1150.42(a).

PART 1151—FEEDER RAILROAD DEVELOPMENT PROGRAM

110. The authority citation for Part 1151 continues to read as follows:

Authority: 49 U.S.C. 10907.

111. Amend § 1151.3 by revising the last sentence in paragraphs (a)(9) and (12) and revising the first sentence in paragraph (a)(14) introductory text to read as follows:

§ 1151.3 Contents of application.

(a) * * *

(9) * * * (This statement will be binding upon applicant if the application is approved.)

* * * * *

(12) * * * (This statement will be binding upon applicant if the application is approved.)

* * * * *

(14) If applicant requests Board-prescribed joint rates and divisions in the feeder line proceeding, a description of any joint rate and division agreement must be included in the application. * * *

* * * * *

§ 1151.4 [Amended]

112. In § 1151.4(e), remove the reference to “49 U.S.C. 10709(d)(2)” and add in its place “49 U.S.C. 10707”.

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

113. The authority citation for Part 1152 continues to read as follows:

Authority: 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 701 note (1995) (section 204 of the ICC Termination Act of 1995), 721(a), 10502, 10903-10905, and 11161.

114. In § 1152.30:

- a. In paragraph (b), remove the reference to “49 CFR part 1201” and add in its place “49 CFR part 1201, subpart B”.
- b. Revise paragraph (c)(1) to read as follows:

§ 1152.30 General.

* * * * *

(c) *Final payment of financial assistance.* (1) When a financial assistance agreement to subsidize is concluded, the final payment will be adjusted to reflect the actual revenues derived, avoidable costs incurred, and value of the properties used in the subsidy year.

* * * * *

§ 1152.32 [Amended]

115. In § 1152.32:

- a. In paragraph (j)(4), remove the reference to “paragraphs (f)(2) or (3)” and add in its place “paragraphs (j)(2) or (3)”.
- b. In paragraph (o) introductory text, remove the words “depreciation cost” and add in their place “depreciation expense”.

**PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER,
CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE
PROCEDURES**

116. The authority citation for Part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323-11325.

§ 1180.3 [Amended]

117. In § 1180.3(h), remove the reference to “1180.4(d)(4)(ii)” and add in its place “1180.4(d)(2)”.

118. In § 1180.4(c)(8), revise the last sentence of the paragraph to read as follows:

§ 1180.4 Procedures

* * * * *

(c) * * *

(8) * * * See *Railroad Consolidation Procedures*, 363 I.C.C. 767 (1980).

* * * * *

PARTS 1240-1259—REPORTS

119. Revise the note for Parts 1240-1259 to read as follows:

Note: The report forms prescribed by parts 1240-1259 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

**PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS
SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT**

120. The authority citation for Part 1241 continues to read as follows:

Authority: 49 U.S.C. 11145.

121. Revise the note for Part 1241 to read as follows:

Note: The report forms prescribed by part 1241 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

§ 1241.11 [Amended]

122. In § 1241.11(a), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics” and remove the zip code “20423”.

§ 1241.15 [Amended]

123. In § 1241.15, remove the title “Bureau of Accounts” and add in its place “Office of Economics” and remove the zip code “20423”.

**PART 1242—SEPARATION OF COMMON OPERATING EXPENSES
BETWEEN FREIGHT SERVICE AND PASSENGER SERVICE FOR
RAILROADS**

124. The authority citation for Part 1242 continues to read as follows:

Authority: 49 U.S.C. 721, 11142.

125. Revise the note for Part 1242 to read as follows:

Note: The report forms prescribed by part 1242 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

126. In the note to § 1242.87, remove the title “Bureau of Accounts” and add in its place “Office of Economics”.

PART 1243—QUARTERLY OPERATING REPORTS—RAILROADS

127. The authority citation for Part 1243 continues to read as follows:

Authority: 49 U.S.C. 721, 11145.

128. Revise the note for Part 1243 to read as follows:

Note: The report forms prescribed by part 1243 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

129. In § 1243.1, revise the last sentence to read as follows:

§ 1243.1 Revenues, expenses and income.

* * * Such quarterly reports shall be submitted, in paper or electronically, to the Office of Economics, Surface Transportation Board, Washington, DC, within 30 days after the end of the quarter to which they relate.

130. In § 1243.2, revise the last sentence to read as follows:

§ 1243.2 Condensed balance sheet.

* * * Such quarterly reports shall be submitted, in paper or electronically, to the Office of Economics, Surface Transportation Board, Washington, DC, within 30 days after the end of the quarter to which they relate.

131. In § 1243.3, revise the last sentence of the introductory text to read as follows:

§ 1243.3 Report of fuel cost, consumption, and surcharge revenue.

* * * Such reports shall be submitted, in paper or electronically, to the Office of Economics, Surface Transportation Board, Washington, DC, within 30 days after the end of the quarter reported.

**PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—
RAILROADS**

132. The authority citation for Part 1244 continues to read as follows:

Authority: 49 U.S.C. 721, 10707, 11144, 11145.

§ 1244.3 [Amended]

133. In § 1244.3(b)(4), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics” and remove the zip code “20423-0001”.

§ 1244.9 [Amended]

134. In § 1244.9:

- a. In paragraph (a), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics”.
- b. In paragraph (d)(2), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics”.
- c. In paragraph (d)(3)(ii), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics” and remove the zip code “20423”.
- d. In paragraph (d)(4)(i), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics”.

- e. In paragraph (e)(2), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics” and remove the zip code “20423”.
- f. In paragraph (f)(4), remove the title “OTA” and add in its place “Office of Economics”.
- g. In paragraph (g)(3), remove the title “Office of Economics, Environmental Analysis, and Administration” and add in its place “Office of Economics” and remove the zip code “20423”.

PART 1245—CLASSIFICATION OF RAILROAD EMPLOYEES; REPORTS OF SERVICE AND COMPENSATION

135. The authority citation for Part 1245 continues to read as follows:

Authority: 49 U.S.C. 721, 11145.

136. Revise the note for Part 1245 to read as follows:

Note: The report forms prescribed by part 1245 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

137. Revise § 1245.2 to read as follows:

§ 1245.2 Reports of railroad employees, service and compensation.

Each Class I railroad is required to file a Quarterly Report of Railroad Employees, Service, and Compensation, (Quarterly Wage Forms A & B). In addition, such carriers shall also file an Annual Report of Railroad Employees, Service, and Compensation, (Annual Wage Forms A & B) for each calendar year. Both reports shall be submitted, in paper or electronically, to the Office of Economics, Surface Transportation Board, Washington, DC. The quarterly report shall be

submitted within 30 days after the end of each calendar quarter. The annual report shall be submitted within 45 days after the end of the reporting year.

PART 1246—NUMBER OF RAILROAD EMPLOYEES

138. The authority citation for Part 1246 continues to read as follows:

Authority: 49 U.S.C. 721, 11145.

139. Revise § 1246.1 to read as follows:

§ 1246.1 Monthly report of number of railroad employees.

Each Class I railroad shall file a Monthly Report of Number of Railroad Employees (Form C) each month. The report should be submitted, in paper or electronically, to the Office of Economics, Surface Transportation Board, Washington, DC, by the end of the month to which it applies.

140. Revise the note for part 1246 to read as follows:

Note: The report forms prescribed by part 1246 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

PART 1247—REPORT OF CARS LOADED AND CARS TERMINATED

141. The authority citation for Part 1247 continues to read as follows:

Authority: 49 U.S.C. 721, 10707, 11144, 11145.

§ 1247.1 [Amended]

142. In § 1247.1:

- a. Remove the title “Office of Economics, Environmental Analysis, and Administration (OEEAA)” and add in its place “Office of Economics”.
- b. Remove the zip code “20243”.

c. In the last sentence, remove “(<http://www.stb.dot.gov/infoex1.htm#forms>)” and add in its place “(<http://www.stb.dot.gov>)”.

d. Remove “OEEAA” and add in its place “the Office of Economics”.

PART 1248—FREIGHT COMMODITY STATISTICS

143. The authority citation for Part 1248 continues to read as follows:

Authority: 49 U.S.C. 721, 11144 and 11145.

144. Revise the note for Part 1248 to read as follows:

Note: The report forms prescribed by part 1248 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

145. In § 1248.5(a), revise the first sentence to read as follows:

§ 1248.5 Report forms and date of filing.

(a) Reports required from Class I carriers by this section shall be submitted, in paper or electronically, to the Office of Economics, Surface Transportation Board, Washington, DC, on forms which will be furnished to the carriers. * * *

* * * * *

PART 1253—RATE-MAKING ORGANIZATION; RECORDS AND REPORTS

146. The authority citation for Part 1253 continues to read as follows:

Authority: 49 U.S.C. 721, 10706, 13703, 11144 and 11145.

147. Revise the note for Part 1253 to read as follows:

Note: The report forms prescribed by part 1253 are available upon request from the Office of Economics, Surface Transportation Board, Washington, DC.

Note: The following comment will not appear in the Code of Federal Regulations.

COMMISSIONER BEGEMAN, commenting:

It is disappointing that today's decision is all we can muster up more than four years after receiving public comments on whether any of the Board's regulations are "ineffective, insufficient, or excessively burdensome, and how to modify, streamline, expand, or repeal them...." I certainly don't object to replacing obsolete references and correcting spelling and other errors, but we should be doing so as a matter of course. Today's decision is simply not responsive to what we set out to do in 2011. Nor does it meet the spirit—let alone achieve the purpose—of the President's two Executive Orders.

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