

§ 12.315

Commission of the initial decision is mandatory as a prerequisite to appellate judicial review of a final decision and order entered pursuant to these rules.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984, as amended at 59 FR 9638, Mar. 1, 1994]

§ 12.315 Consequences of overstating damages claims not in excess of \$30,000.

If a party, who has claimed damages in excess of \$30,000, is adjudged to be entitled to recover less than the sum or value of \$30,000, computed without regard to a damage award to which an opposing party may be adjudged to be entitled, and exclusive of interest and costs, the Administrative Law Judge may assess such party the cost of the transcript of an oral hearing, if such a hearing is held, and, depending upon whether such party paid any part of the filing fee for the proceeding, deny the party such costs or impose such costs on that party.

[49 FR 6621, Feb. 22, 1984, as amended at 59 FR 9638, Mar. 1, 1994]

Subpart F—Commission Review of Decisions

§ 12.400 Scope and applicability of rules.

The rules set forth in this subpart are applicable to proceedings forwarded pursuant to §12.26 (b) and (c) of these rules. Except as provided in §§12.106(e) and 12.403(b) of these rules, the rules set forth in this subpart are not applicable to proceedings forwarded pursuant to §12.26(a) of the Reparation Rules.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984]

§ 12.401 Appeal to the Commission.

(a) *How effected.* Any aggrieved party to a proceeding forwarded pursuant to §12.26 (b) or (c) of these rules may appeal to the Commission an initial decision or other disposition of the entire proceeding by complying with the requirements of this section. An appealing party shall serve upon all parties and file with the Proceedings Clerk a notice of appeal within fifteen (15) days after service of the initial decision or

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other order disposing of the entire proceeding. The notice need consist only of a brief statement indicating the filing party's intent to appeal the initial decision, and shall include the date upon which the initial decision was rendered, the names of all parties, and the docket number of the proceeding. A non-refundable appellate filing fee in the amount of \$50 shall be paid at the time of filing a notice of appeal. The failure of a party timely to file and serve a notice of appeal, and to pay the appellate filing fee, in accordance with this paragraph, or to perfect the appeal in accordance with paragraph (b) of this section, shall constitute a voluntary waiver of any objection to the initial decision, or other order disposing of the proceeding, and of all further administrative or judicial review under these rules and the Commodity Exchange Act.

(b) *Perfecting the appeal; appeal brief.* An appeal shall be perfected by the appealing party by timely filing with the Proceedings Clerk an appeal brief which meets the requirements of paragraphs (b) and (d) of this section. An original and one copy of the appeal brief shall be filed within thirty (30) days after filing of the notice of appeal. By motion of the appealing party, the Commission may, for good cause shown, extend the time for filing the appeal brief. If the appeal brief is not filed within the time prescribed in this subparagraph, the Commission may, upon its own motion or upon motion by a party, dismiss the appeal, in which event the initial decision shall become the final decision and order of the Commission, effective upon service of the order of dismissal.

(c) *Answering brief.* Any party upon whom the appealing party serves a brief may, within thirty (30) days after service of the appeal brief, file an original and one copy of an answering brief, and serve one copy thereof, unless the time limit is extended by the Commission upon motion of the party and for good cause shown.

(d) *Briefs.* Parties filing an appeal brief or answering brief pursuant to this section shall meet the requirements of §12.11 of these rules as to form. The content of briefs shall satisfy the requirements of §10.102(d) of