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Subject: 37 CFR 1.655(a)

The last sentence in the interim final rule reads "The abuse of discretion standard shall apply only to procedural matters." However, that sentence does not identify whose decisions are reviewed under the abuse of discretion standard. Since the first and second sentences refer to decisions of the Board and decisions of an APJ, respectively, the last sentence of the interim rule could be construed to apply to either or both of those types of decisions. (Of course, assuming that the Board's decisions were being reviewed under the abuse of discretion standard would raise the question of who was reviewing the Board's decisions.) Only the discussion of the rule in the Federal Register clarifies how the last sentence of the interim rule is supposed to be applied.

I don't think that a practitioner to have to read the Federal Register to understand the rule. Therefore, I suggest that the last sentence of the rule be amended to read "The burden of showing that an interlocutory order should be modified is the abuse of discretion standard only for an interlocutory order involving a procedural matter."

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