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49 CFR Ch. X (10–1–10 Edition)

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1002.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 1002.2 Filing fees.

(a) *Manner of payment.* (1) Except as specified in this section, all filing fees will be payable at the time and place the application, petition, notice, tariff, contract summary, or other document is tendered for filing. Filing fees for tariffs, including schedules, and contract summaries, including supplements (Item 78), and filing fees for documents submitted for recording (Item 83) may be charged to accounts established by the Board in accordance with paragraph (a)(2) of this section.

(2) *Billing account procedure.* Form STB-1032 must be submitted to the Board's Section of Financial Services to establish STB billing accounts for filing fees for tariffs and for documents submitted for recording.

(3) Fees will be payable to the Surface Transportation Board, by check payable in United States currency drawn upon funds deposited in a United States or foreign bank or other financial institution, money order payable in United States currency, or by credit card.

(b) Any filing that is not accompanied by the appropriate filing fee, payment via credit card or STB billing account, or a request for waiver of the fee, is deficient. However, the Board may find that a tariff which is submitted without the appropriate filing fee is deficient and reject the tariff filing, if the filer repeatedly fails to submit the appropriate filing fee after the Board has advised the filer of the proper filing fee and tariff filing procedures.

(c) *Fees not refundable.* Fees will be assessed for every filing in the type of proceeding listed in the schedule of fees contained in paragraph (f) of this section, subject to the exceptions contained in paragraphs (d) and (e) of this section. After the application, petition, notice, tariff, contract, or other document has been accepted for filing by the Board, the filing fee will not be refunded, regardless of whether the application, petition, notice, tariff, contract, or other document is granted or

approved, denied, rejected before docketing, dismissed, or withdrawn. If an individual exemption proceeding becomes a matter of general applicability and is handled through the rulemaking process, the Board will refund the filing fee.

(d) *Related or consolidated proceedings.*

(1)(i) Except as provided for in paragraph (d)(1)(ii) of this section, separate fees need not be paid for related applications filed by the same applicant that would be the subject of one proceeding.

(ii) In proceedings filed under the rail consolidation procedures at 49 CFR part 1180, the applicable filing fee must be paid for each proceeding submitted concurrently with the primary application. The fee for each type of proceeding is set forth in the fee schedule contained in paragraph (f) of this section.

(2) A separate fee will be assessed for the filing of an application for temporary authority to operate a motor carrier of passengers as provided for in paragraph (f)(5) of this section regardless of whether such application is related to a corresponding transfer proceeding as provided for in paragraph (f)(2) of this section.

(3) The Board may reject concurrently filed applications, petitions, notices, contracts, or other documents asserted to be related and refund the filing fee if, in its judgment, they embrace two or more severable matters which should be the subject of separate proceedings.

(e) *Waiver or reduction of filing fees.* It is the general policy of the Board not to waive or reduce filing fees except as described below:

(1) Filing fees are waived for an application or other proceeding which is filed by a federal government agency, or a state or local government entity. For purposes of this section the phrases "federal government agency" or "government entity" do not include a quasi-governmental corporation or government subsidized transportation company.

(2) In extraordinary situations the Board will accept requests for waivers or fee reductions in accordance with the following procedure:

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(i) *When to request.* At the time that a filing is submitted to the Board the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board.

(ii) *Basis.* The applicant must show the waiver or reduction of the fee is in

the best interest of the public, or that payment of the fee would impose an undue hardship upon the requestor.

(iii) *Board action.* The Chief, Section of Administration, Office of Proceedings, Surface Transportation Board will notify the applicant of the decision to grant or deny the request for waiver or reduction.

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement	
(1) An application for the pooling or division of traffic	\$4,400.
(2)(i) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303.	\$2,000.
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered.	\$3,200.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	\$2,600.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	\$27,600.
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	\$4,600.
(ii) Minor amendment	\$100.
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	\$500.
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.	\$1,700.
(7)-(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	\$7,200.
(ii) Notice of exemption under 49 CFR 1150.31-1150.35	\$1,800.
(iii) Petition for exemption under 49 U.S.C. 10502	\$12,500.
(12) (i) An application involving the construction of a rail line	\$74,500.
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	\$1,800.
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	\$74,500.
(iv) A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10902(d).	\$250.
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii).	\$2,600.
(14)(i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	\$6,200.
(ii) Notice of exemption under 49 CFR 1150.41-1150.45	\$1,800.
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902.	\$6,600.
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21-1150.24.	\$1,700.
(16) An application for a land-use-exemption permit for a facility existing as of October 16, 2008 under 49 U.S.C. 10909.	\$6,000.
(17) An application for a land-use-exemption permit for a facility not existing as of October 16, 2008 under 49 U.S.C. 10909.	\$21,100.
(18)-(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings	
(21)(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97-35], bankrupt railroads, or exempt abandonments).	\$22,100.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	\$3,600.
(iii) A petition for exemption under 49 U.S.C. 10502	\$6,300.
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	\$450.
(23) Abandonments filed by bankrupt railroads	\$1,800.
(24) A request for waiver of filing requirements for abandonment application proceedings	\$1,800.
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment.	\$1,500.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned.	\$22,600.

Type of proceeding	Fee
(27) (i) A request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d)	\$250.
(ii) A request to extend the period to negotiate a trail use agreement	\$450.
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102	\$18,900.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	\$10,200.
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,700.
(v) Responsive application	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	\$9,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,500.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,300.
(v) Responsive application	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	\$9,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,500.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,200.
(v) Responsive application	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	\$9,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,500.
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,400.
(v) Responsive application	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502	\$6,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,500.
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	\$2,400.
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	\$69,700.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	\$12,900.
(ii) Minor amendment	\$100.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	\$750.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	\$8,000.
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	\$250.
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	\$250.
(49)–(55) [Reserved]	
PART V: Formal Proceedings	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1).	\$350.
(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology	\$350.
(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology.	\$150.
(iv) All other formal complaints (except competitive access complaints)	\$20,600.
(v) Competitive access complaints	\$150.
(vi) A request for an order compelling a rail carrier to establish a common carrier rate	\$250.
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705.	\$8,800.

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(58) A petition for declaratory order: (i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding. (ii) All other petitions for declaratory order	\$1,000. \$1,400.
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	\$7,000.
(60) Labor arbitration proceedings	\$250.
(61)(i) An appeal of a Surface Transportation Board decision on the merits or petition to revoke an exemption pursuant to 49 U.S.C. 10502(d). (ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings.	\$250. \$350.
(62) Motor carrier undercharge proceedings	\$250.
(63)(i) Expedited relief for service inadequacies: A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency. (ii) Expedited relief for service inadequacies: A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacy.	\$250. \$250.
(64) A request for waiver or clarification of regulations except one filed in an abandonment or discontinuance proceeding, or in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$550.
(65)-(75) [Reserved]	
PART VI: Informal Proceedings	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706.	\$1,200.
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements.	\$100.
(78) The filing of tariffs, including supplements, or contract summaries	\$1 per page. (\$24 minimum charge.)
(79) Special docket applications from rail and water carriers: (i) Applications involving \$25,000 or less	\$75.
(ii) Applications involving over \$25,000	\$150.
(80) Informal complaint about rail rate applications	\$600.
(81) Tariff reconciliation petitions from motor common carriers: (i) Petitions involving \$25,000 or less	\$75.
(ii) Petitions involving over \$25,000	\$150.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3).	\$200.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c)	\$41 per document.
(84) Informal opinions about rate applications (all modes)	\$250.
(85) A railroad accounting interpretation	\$1,100.
(86) (i) A request for an informal opinion not otherwise covered	\$1,400.
(ii) A proposal to use on a voting trust agreement pursuant to 49 CFR 1013 and 49 CFR 1180.4(b)(4)(iv) in connection with a major control proceeding as defined at 49 CFR 1180.2(a). (iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered.	\$5,100. \$500.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108: (i) Complaint	\$75.
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(iii) Third Party Complaint	\$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	\$150.
(88) Basic fee for STB adjudicatory services not otherwise covered	\$250.
(89)-(95) [Reserved]	
PART VII: Services	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	\$32 per delivery.
(97) Request for service or pleading list for proceedings	\$24 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that: (i) Does not require a Federal Register notice: (a) Set cost portion	\$150.
(b) Sliding cost portion	\$47 per party.
(ii) Does require a Federal Register notice: (a) Set cost portion	\$400.
(b) Sliding cost portion	\$47 per party.
(99)(i) Application fee for the Surface Transportation Board's Practitioners' Exam	\$150.
(ii) Practitioners' Exam Information Package	\$25.
(100) Carload Waybill Sample data: (i) Requests for Public Use File for all years prior to the most current year Carload Waybill Sample data available, provided on CD-R.	\$250 per year.
(ii) Specialized programming for Waybill requests to the Board	\$112 per hour.

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(g) *Returned check policy.* (1) If a check submitted to the Board for a filing or service fee is dishonored by a bank or financial institution on which it is drawn, the Board will notify the person who submitted the check that:

(i) All work will be suspended on the filing or proceeding, other than a tariff filing, until the check is made good;

(ii) A returned check charge of \$20.00 and any bank charges incurred by the Board as a result of the dishonored check must be submitted with the filing fee which is outstanding; and

(iii) If payment is not made within the time specified by the Board, the proceeding will be dismissed or the filing may be rejected.

(2) If a person repeatedly submits dishonored checks to the Board for filing fees, the Board may notify the person that all future filing fees must be submitted in the form of a certified or cashier's check or a money order.

[49 FR 18492, May 1, 1984]

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§ 1002.3 Updating user fees.

(a) *Update.* Each fee established in this part shall be updated in accordance with this section at least once a year. However, any fee may be updated more than once a year, if the Board finds that an additional update is necessary.

(b) *Publication and effective dates.* Updated fees shall be published in the FEDERAL REGISTER and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a fee is established shall pay the fee in effect at the time of the filing.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. Cost components shall be updated as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of Board employees. Base level direct labor costs are direct labor costs determined by the cost study set forth in *Revision of Fees For*

Services, 1 I.C.C.2d 60 (1984) or subsequent cost studies. The base period for measuring changes shall be April 1984.

(2) Operations overhead shall be developed each year on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activity. Actual updating of operations overhead will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed each year on the basis of current level costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the Offices directly associated with user fee activity. Actual updating of office general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) Board general and administrative costs shall be developed each year on the basis of current level costs; i.e., dividing actual Board general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of Board general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the FEDERAL REGISTER.

(e) *Rounding of updated fees.* Updated fees shall be rounded in the following manner: (1) Fees between \$1–\$30 will be rounded to the nearest \$1; (2) fees between \$30–\$100 will be rounded to the nearest \$10; (3) fees between \$100–\$999 will be rounded to the nearest \$50; and (4) fees above \$1,000 will be rounded to