

Authority: 49 U.S.C. 322, 23 U.S.C. 322; 49 CFR 1.49.

2. Section 268.3 is amended by revising paragraphs (b), (c), (d), (e), and (f) to read as follows:

§ 268.3 Different phases of the Maglev Deployment Program.

* * * * *

(b) Phase I—Competition for Planning Grants (Early October 1998–April 30, 1999).

(1) Description. In Phase I, States will apply for funds for preconstruction planning activities. As required by § 268.13, applications must be filed with FRA by February 15, 1999. FRA will select one or more projects to receive preconstruction planning financial assistance awarded under this part to perform Phase II of the Maglev Deployment Program.

(2) Timing of Major Milestones.

(i) February 15, 1999—Planning grant applications due.

(ii) March 31, 1999—FRA selects grantees for planning grants.

(iii) April 30, 1999—FRA awards planning grants for the conduct of activities listed in Phase II.

(c) Phase II—Project Description Development (May 1, 1999–April 30, 2000).

(1) Description. In Phase II, each grant recipients will prepare and submit to FRA a project description and supporting preconstruction planning reports and an EA. Supporting reports may include demand and revenue analyses, project specification, cost estimates, scheduling, financial studies, and other information in support of the project description. FRA will use this information in reaching a decision on which project to select for final engineering and construction financing. In addition, after completion of the EA, each grant recipient will initiate activities aimed at preparing a site-specific draft EIS. FRA will initiate documentation of environmental factors considered in the project selection process.

(2) Timing of Major Milestones.

(i) December 31, 1999—Deadline for submission of appropriate EA needed by FRA for the selection of one project under Phase III.

(ii) April 30, 2000—Deadline for submission of project descriptions and any related supporting reports needed by FRA for project selection.

(d) Phase III—Project Selection Process (May 1, 2000–August 31, 2000).

(1) Description. FRA will evaluate the information provided by the grant recipients under Phase II and will select one project for final design, engineering, and construction funding. Recipients of

assistance will progress work on site-specific EISs.

(2) Timing of Major Milestones. August 31, 2000—FRA selects the project.

(e) Phase IV—Project Development and Completion of Site-specific EIS (September 1, 2000–August 31, 2001).

(1) Description. The financial assistance recipient selected in Phase III will undertake final design and engineering work for the selected project together with completing the site-specific final EIS. Detailed agreements for the construction and operation of the project would be negotiated. The other grant recipients may also elect to complete the site-specific draft EISs initiated during Phase II.

(2) Timing of Major Milestones. August 31, 2001—Final Record of Decision on site-specific EIS, confirming the project design.

(f) Phase V—Completion of Detailed Engineering & Construction (September 1, 2001 and beyond).

(1) Description. In Phase V, the sponsoring State or State designated authority would oversee the efforts of the public/private partnership formed to progress the selected project, to complete the detailed engineering designs, finance, construct, equip, and operate the project in revenue service. Construction would likely be contingent on the appropriation of federal funds.

(2) [Revised]

3. Section 268.13 is revised to read as follows:

§ 268.13 Deadline for submission of applications for preconstruction planning assistance.

Completed application packages shall be returned to FRA by February 15, 1999. Applications shall be submitted to: Honorable Jolene M. Molitoris, Administrator, Federal Railroad Administration, ATTN: Maglev Project, RDV-11, 1120 Vermont Ave., NW, Stop 20, Washington, DC 20590.

Issued in Washington, DC, on February 9, 1999.

Donald M. Itzkoff,

Deputy Federal Railroad Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 360

RIN 2125-AE24

Fees for Services Performed in Connection With Motor Carrier Registration and Insurance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts filing fees and fee collection regulations for the motor carrier registration and insurance functions transferred to the FHWA as a result of the enactment of the ICC Termination Act of 1995 (ICCTA). The effect of this rule is to make these fees and regulations applicable to registration and insurance filings made with the FHWA.

DATES: This rule is effective March 15, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas T. Vining, Licensing and Insurance Division, Office of Motor Carrier Information Analysis, HIA-30, (202) 358-7028; or Mr. Michael Falk, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the **Federal Register's** home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The ICCTA (Pub. L. 104-88, 109 Stat. 803) which was enacted on December 29, 1995, abolished the Interstate Commerce Commission (ICC). The ICCTA transferred many of the ICC's motor carrier functions to the Secretary of Transportation. In particular, the former ICC's licensing and insurance functions, relating to operations by for-hire motor carriers, property brokers, and freight forwarders in interstate or foreign commerce, were transferred to the Secretary and are now performed by the FHWA, Office of Motor Carrier Information Analysis, Licensing and

Insurance Division. The ICC's remaining rail and motor carrier rate functions were transferred to the Surface Transportation Board (STB), a new entity, established within the DOT.

Section 204, the savings provision of ICCTA, provides that all regulations previously issued by the ICC continue in effect according to their terms until modified or terminated. All of the ICC regulations, including those related to filing fees, previously codified at 49 CFR Part 1002, were transferred to the STB in the final rule entitled "Transfer of Regulations from the Interstate Commerce Commission to the Surface Transportation Board Pursuant to the ICC Termination Act of 1995," 61 FR 1842 (January 24, 1996). The STB issued a notice of proposed rulemaking that proposed to modify the filing fees related to functions retained by the STB and to eliminate all filing fees related to the motor carrier functions transferred to the FHWA. See "Regulations Governing Fees For Services In Connection With Licensing and Related Services—1996 Update," 61 FR 15208 (April 5, 1996) (1996 Fee Update). The Board's final decision was issued in Regulations Governing Fees for Service, 1 S.T.B. 179 (1996) 61 FR 42190 (August 14, 1996). Consequently, the FHWA is issuing this final rule to preserve the filing fees and fee regulations pertaining to the FHWA's new motor carrier functions as part of the FHWA's regulations.

Revenues from these fees directly support the licensing and insurance functions transferred from the former ICC to the FHWA. For this reason, these fees may differ somewhat from fees for other similar services performed by the FHWA.

Section-By-Section Analysis

Record Search and Copying Fees

A new section codified at 49 CFR 360.1 will provide specific fees for record searches, and the review, copying, and certification of the FHWA's public records related to motor carriers. These fees cover charges for searching and copying records maintained in the FHWA microfilm, paper files, or computer databases.

The STB's regulations at 49 CFR 1002.1 from which these regulations are derived also contain provisions related to searches of records not considered public under the Freedom of Information Act (FOIA), 5 U.S.C. 552. Those provisions are not carried over in this new section, however, because FOIA requests for the FHWA records are covered by existing DOT regulations at 49 CFR Part 7.

Fee Processing Regulations and Schedule of Filing Fees

A new section at 49 CFR 360.3 will contain the general fee processing regulations and the schedule of filing fees related to the motor carrier registration and insurance functions that now are performed by the FHWA pursuant to the ICCTA. These general fee regulations will establish the following policies and procedures:

- (1) How and when filing fees must be paid;
- (2) The procedure for opening a billing account for insurance filings and the terms and conditions for such an account;
- (3) The policy that fees are not refundable;
- (4) The policy regarding fees for related or consolidated proceedings;
- (5) The policy and procedure for a request for waiver or reduction of a filing fee; and
- (6) The policy for checks returned to the FHWA by a bank or other financial institution.

The schedule of filing fees set forth in this new section contains the description of all fee items related to the motor carrier licensing and insurance functions that were transferred to the FHWA. The fee items in the schedule of filing fees set forth in § 360.3(f) cover such activities as motor carrier registration applications, name changes for motor carriers, property brokers, or freight forwarders, insurance filings, and self-insurance applications.¹ Some fee item references have been modified to more accurately describe the activity covered by the fee item and to remove or revise outdated regulatory and statutory citations. In addition, many fee items have been renumbered because of the elimination of various fee items and the desirability of grouping together similar fee items. These fee items were formerly found at 49 CFR 1002.2.

Fee Update Procedure and Cost Update Formula

New § 360.5 provides that fees may be updated as deemed necessary by the FHWA according to the cost update formula set forth in that section. These

¹ On September 23, 1997, the FHWA published an advance notice of proposed rulemaking to examine, in part, the need for assessing additional fees for processing and monitoring activities associated with the self-insurance program. See FHWA Docket No. FHWA-97-2923, MC-97-11, "Qualifications of Motor Carriers to Self-Insure Their Operations and Fees to Support The Approval and Compliance Process," 62 FR 49654. On September 29, 1997, the FHWA corrected the assigned FHWA docket number and address for submission of comments at 62 FR 50892. The final rule being announced here does not address the issues covered in that proceeding.

regulations also provide that notices of fee updates will be published in the **Federal Register** and will be effective 30 days after publication of the update notice. In addition, the regulations set forth the formula for rounding updated fees.

Fee Levels

The ICCTA included a provision codified at 49 U.S.C. 13908 which directs the Secretary to issue regulations to replace the former ICC registration and insurance programs, the DOT identification number system, and possibly the single State registration system under 49 U.S.C. 14504 with a single, on-line, Federal system. The new system will serve as a clearinghouse and depository for information on, and identification of, foreign and domestic motor carriers, brokers, and freight forwarders required to register with the DOT. An advance notice of proposed rulemaking which sought comments on the parameters of the new system was published in FHWA Docket No. MC-96-25, FHWA 97-2349, "Motor Carrier Replacement/Information System," 61 FR 43816 (August 26, 1996). Thus, the registration and insurance fees adopted here will only apply during the transition period to the new system.

The ICC's last user fee update, which established the ICC's filing fees at the 1995 cost level, was effective on February 1, 1995. See "Regulations Governing Fees for Services In Connection With Licensing and Related Services—1995 Update," 59 FR 67642 (December 30, 1994). The FHWA's schedule of fees will be updated to 1996 cost levels based on the costing formula in § 360.5. Because this is a transition period, complete FHWA budget data that would be necessary to develop various factors of the cost update formula are not available. Therefore, the FHWA will use the same update factor calculations that STB used in its 1996 Fee Update. In any future update proceedings, the FHWA budget data will be used to develop the cost update factors.

Accordingly, for this fee update, the direct labor cost data for all fees have been revised to reflect the combined 1996 governmentwide general salary and the 1996 locality salary increase of 2.54 percent that took effect in January 1996.² The Government Fringe Benefit

² The 1996 governmentwide general salary increase of 2.00 percent and the 1996 locality salary increase for the Washington, DC, area of 0.54 percent make up the combined 2.54 percent increase. The Washington, DC, locality salary increase is relied on because all employees involved in these fee activities are located in the Washington, DC, area.

Cost used in the cost update formula is 49.55 percent. Based on fiscal year 1995 actual budget data, the Office General and Administrative Expense Factor is 26.73 percent for 1996. The General and Administrative Expense Factor for 1996 is 11.36 percent. The Operations Overhead Factor, which is developed from fiscal year 1995 payroll data, is 13.97 percent for 1996. The 1996 fully distributed cost for each item developed from these factors is set forth in the appendix of this document. The appendix will not appear in the Code of Federal Regulations.

The fully distributed cost increased for all items. Due to the rounding procedures set forth in § 360.5(e), however, not all fees will change. The actual filing fees are set forth in § 360.3(f).

In this rulemaking proceeding the FHWA is adopting the ICC's fee regulations related to the recently transferred motor carrier functions without any substantive changes. Therefore, these regulations impose no new burdens on the public.

The fee update regulations in § 360.5 provide that updated fees are to be published in the **Federal Register** and are to be effective 30 days after publication. In previous update proceedings in which the former ICC only modified its filing fees on the basis of the cost update formula, the updated fee schedule was issued as a final rule without prior notice and comment. See "Regulations Governing Fees for Services In Connection With Licensing and Related Services—1995 Update," 59 FR 67642 (December 30, 1994); Regulations Governing Fees for Services—1993 Update, 9 I.C.C.2d 855 (1993); Regulations Governing Fees for Services—1991 Update, 8 I.C.C. 2d 13 (1991); and Regulations Governing Fees for Services—1990 Update, 7 I.C.C. 2d 855 (1990). The FHWA will follow that precedent and establish its filing fees at the 1996 cost level without prior notice and comment because this fee update only involves the mechanical application of the cost update formula. For these reasons and because this rule imposes no significant burdens on the public, the FHWA finds good cause to make this regulation final without prior notice and opportunity for comments under the Administrative Procedure Act.

Rulemaking Analyses and Notices

The FHWA believes that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B). The FHWA is not exercising discretion in a way that could be meaningfully affected by public comments. In this

rulemaking, the former ICC's filing fee regulations related to the motor carrier functions transferred to the FHWA are being recodified as FHWA regulations. Additionally, three fee items (for name changes, for self-insurance applications, and for reinstatement of revoked operating authority) are being increased as a result of the mechanical application of a cost formula originally adopted by the ICC after notice and comment. The public will also have sufficient advance notice of changes in the three fee items because these changes and the underlying regulations will be effective on 30 days notice as provided in the regulations adopted here in § 360.5.

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action under Executive Order 12866, or significant within the meaning of Department of Transportation regulatory policies and procedures. This regulatory action is not likely to have an annual effect on the economy of \$100 million or more. In addition, it is not expected to cause an adverse effect on any sector of the economy because this rule will simply move certain regulations from one part of the CFR to another and make incremental adjustments to three filing fees. It will not impose any significant burden on the public. No serious inconsistency or interference with another agency's actions or plans will result because this rulemaking is designed to facilitate the transfer of the former ICC's motor carrier functions and related programs to the FHWA. In light of this analysis, the FHWA finds that a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the agency has evaluated the effects of this rulemaking on small entities. The fee structure remains the same, and any fee increases are incremental. Moreover, with the exception of the unchanged \$10 fee for insurance filings made by insurance companies, the fee items are not assessed against any individual on a regular basis. Accordingly, the FHWA certifies that the action contained in this document will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

The FHWA has determined that this rule does not impose any unfunded mandates on State, local, or tribal

governments in the aggregate, or on the private sector, of \$100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Thus, an analysis of the federalism issue raised by issuance of these filing fee regulations is not required for the purposes of this rulemaking.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulatory Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Lists of Subjects in 49 CFR Part 360

Administrative practice and procedure, Fees, Insurance, and Motor carriers.

Issued on: February 4, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, Chapter III, by adding Part 360 to read as follows:

PART 360—FEES FOR MOTOR CARRIER REGISTRATION AND INSURANCE

Sec.

360.1 Fees for records search, review, copying, certification, and related services.

360.3 Filing fees.

360.5 Updating user fees.

Authority: 31 U.S.C. 9701; 49 U.S.C. 13908(c) and 14504(c)(2); and 49 CFR 1.48.

§ 360.1 Fees for records search, review, copying, certification, and related services.

Certifications and copies of public records and documents on file with the Federal Highway Administration will be furnished on the following basis, pursuant to the Freedom of Information Act regulations at 49 CFR Part 7:

(a) Certificate of the Director, Office of Motor Carrier Information Analysis, as to the authenticity of documents, \$9.00;

(b) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of \$16.00 per hour;

(c) Electrostatic copies of the public documents, at the rate of \$.80 per letter size or legal size exposure. A minimum charge of \$5.00 will be made for this service; and

(d) Search and copying services requiring ADP processing, as follows:

(1) A fee of \$42.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

(2) The fee for computer searches will be set at the current rate for computer service. Information on those charges can be obtained from the Chief, Licensing and Insurance Division.

(3) Printing shall be charged at the rate of \$.10 per page of computer generated output with a minimum charge of \$.25. A charge of \$30 per reel of magnetic tape will be made if the tape is to be permanently retained by the requestor.

§ 360.3 Filing fees.

(a) *Manner of payment.* (1) Except for the insurance fees described in the next sentence, all filing fees will be payable at the time and place the application, petition, or other document is tendered for filing. The service fee for insurance, surety or self-insurer accepted certificate of insurance, surety bond or other instrument submitted in lieu of a broker surety bond must be charged to an insurance service account established by the Federal Highway Administration in accordance with paragraph (a)(2) of this section.

(2) *Billing account procedure.* A written request must be submitted to the

Office of Motor Carrier Information Analysis, Licensing and Insurance Division, to establish an insurance service fee account.

(i) Each account will have a specific billing date within each month and a billing cycle. The billing date is the date that the bill is prepared and printed. The billing cycle is the period between the billing date in one month and the billing date in the next month. A bill for each account which has activity or an unpaid balance during the billing cycle will be sent on the billing date each month. Payment will be due 20 days from the billing date. Payments received before the next billing date are applied to the account. Interest will accrue in accordance with 4 CFR 102.13.

(ii) The Debt Collection Act of 1982, including disclosure to the consumer reporting agencies and the use of collection agencies, as set forth in 4 CFR 102.5 and 102.6 will be utilized to encourage payment where appropriate.

(iii) An account holder who files a petition in bankruptcy or who is the subject of a bankruptcy proceeding must provide the following information to the Office of Motor Carrier Information Analysis, Licensing and Insurance Division:

(A) The filing date of the bankruptcy petition;

(B) The court in which the bankruptcy petition was filed;

(C) The type of bankruptcy proceeding;

(D) The name, address, and telephone number of its representative in the bankruptcy proceeding; and

(E) The name, address, and telephone number of the bankruptcy trustee, if one has been appointed.

(3) Fees will be payable to the Federal Highway Administration by a 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 credit card (VISA or MASTERCARD).

(b) Any filing that is not accompanied by the appropriate filing fee is deficient except for filings that satisfy the deferred payment procedures in paragraph (a) of this section.

(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, or other document has been accepted for filing by the Federal Highway Administration, the filing fee will not be refunded, regardless of whether the application, petition, or

other document is granted or approved, denied, rejected before docketing, dismissed, or withdrawn.

(d) *Related or consolidated proceedings.* (1) Separate fees need not be paid for related applications filed by the same applicant which would be the subject of one proceeding. (This does not mean requests for multiple types of operating authority filed on forms in the OP-1 series under the regulations at 49 CFR part 365. A separate filing fee is required for each type of authority sought in each transportation mode, e.g., common, contract, and broker authority for motor property carriers.)

(2) Separate fees will be assessed for the filing of temporary operating authority applications as provided in paragraph (f)(6) of this section, regardless of whether such applications are related to an application for corresponding permanent operating authority.

(3) The Federal Highway Administration may reject concurrently filed applications, petitions, 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 Federal Highway Administration not to waive or reduce filing fees except as described as follows:

(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 Federal Highway Administration will accept requests for waivers or fee reductions in accordance with the following procedure:

(i) *When to request.* At the time that a filing is submitted to the Federal Highway Administration the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Director, Office of Motor Carrier Information Analysis.

(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) *Federal Highway Administration action.* The Director, Office of Motor Carrier Information Analysis, 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: Licensing: | | |
| (1) | An application for motor carrier operating authority, a certificate of registration for certain foreign carriers, property broker authority, or freight forwarder authority. | \$300 |
| (2) | A petition to interpret or clarify an operating authority | 3,000 |
| (3) | A request seeking the modification of operating authority only to the extent of making a ministerial correction, when the original error was caused by applicant, a change in the name of the shipper or owner of a plant site, or the change of a highway name or number. | 50 |
| (4) | A petition to renew authority to transport explosives | 250 |
| (5) | An application for authority to deviate from authorized regular-route authority | 150 |
| (6) | An application for motor carrier temporary authority issued in an emergency situation. | 100 |
| (7) | Request for name change of a motor carrier, property broker, or freight forwarder .. | 14 |
| (8)—(49) | [Reserved] | |
| Part II: Insurance: | | |
| (50) | (i) An application for original qualification as self-insurer for bodily injury and property damage insurance (BI&PD). | 4,200 |
| | (ii) An application for original qualification as self-insurer for cargo insurance | 420 |
| (51) | A service fee for insurer, surety, or self-insurer accepted certificate of insurance, surety bond, and other instrument submitted in lieu of a broker surety bond. | \$10 per accepted certificate, surety bond or other instrument submitted in lieu of a broker surety bond. |
| (52) | A petition for reinstatement of revoked operating authority | 80 |
| (53)—(79) | [Reserved]. | |
| Part III: Services: | | |
| (80) | Request for service or pleading list for proceedings | 13 per list |
| (81) | Faxed copies of operating authority to applicants or their representatives who did not receive a served copy. | 5 |

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

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

(ii) A returned check charge of \$6.00 and any bank charges incurred by the FHWA 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 FHWA, the proceeding will be dismissed or the filing may be rejected.

(2) If a person repeatedly submits dishonored checks to the FHWA for filing fees, the FHWA 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.

§ 360.5 Updating user fees.

(a) *Update.* Each fee established in this part may be updated in accordance with this section as deemed necessary by the FHWA.

(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 FHWA employees. Base level direct labor costs are direct labor costs determined by the cost study in *Regulations Governing Fees For Service*, 1 I.C.C. 2d 60 (1984), or subsequent cost studies. The base period for measuring changes shall be April 1984 or the year of the last cost study.

(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 levels

costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the office 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) FHWA general and administrative costs shall be developed each year on the basis of current level costs; i.e., dividing actual FHWA general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of FHWA 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** or FHWA-OMC Register.

(This rounding procedure excludes copying, printing and search fees.)

(e) *Rounding of updated fees.*
Updated fees shall be rounded in the following manner:

(1) Fees between \$1 and \$30 will be rounded to the nearest \$1;
(2) Fees between \$30 and \$100 will be rounded to the nearest \$10;

(3) Fees between \$100 and \$999 will be rounded to the nearest \$50; and
(4) Fees above \$1,000 will be rounded to the nearest \$100.

APPENDIX

[Based on 1996 pay increase and overhead changes]

| FEE# | 1995 Direct Labor | 1996 Direct Labor Updated | Check Process | Govt. Fringes | Total (2+3+4) | Operations Overhead | Office G&A | FHA G&A | Publication Cost | Total Sub (5-9) |
|----------|-------------------|---------------------------|---------------|---------------|---------------|---------------------|------------|---------|------------------|-----------------|
| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| 1. | 135.07 | 138.50 | 1.43 | 69.34 | 209.27 | 29.23 | 63.75 | 34.34 | 5.00 | 341.59 |
| 2. | 64.77 | 66.42 | 1.43 | 33.62 | 101.46 | 14.17 | 30.91 | 16.65 | 5.00 | 168.19 |
| 3. | 1,162.04 | 1,191.56 | 1.43 | 591.12 | 1,784.11 | 249.24 | 543.51 | 292.73 | 190.32 | 3,059.92 |
| 4. | 22.74 | 23.32 | 1.43 | 12.26 | 37.01 | 5.17 | 11.27 | 6.07 | 0.00 | 59.53 |
| 5. | 104.68 | 107.34 | 1.43 | 53.89 | 162.66 | 22.72 | 49.55 | 26.69 | 0.00 | 261.63 |
| 6. | 145.13 | 148.82 | 1.43 | 74.45 | 224.69 | 31.39 | 68.45 | 36.87 | 5.00 | 366.40 |
| 7. | 73.86 | 75.74 | 1.43 | 38.24 | 115.40 | 16.12 | 35.16 | 18.93 | 5.00 | 190.61 |
| 8. | 56.40 | 57.83 | 1.43 | 29.36 | 88.63 | 12.38 | 27.00 | 14.54 | 5.00 | 147.55 |
| 9. | 5.00 | 5.13 | 0.72 | 2.90 | 8.74 | 1.22 | 2.66 | 1.43 | 0.00 | 14.06 |
| 10. | 12.88 | 13.21 | 1.43 | 7.25 | 21.89 | 3.06 | 6.67 | 3.59 | 0.00 | 35.21 |
| 11. | 129.38 | 132.67 | 1.43 | 66.44 | 200.54 | 28.02 | 61.09 | 32.90 | 3.00 | 325.55 |
| 12. | 185.20 | 189.90 | 1.43 | 94.81 | 286.14 | 39.97 | 87.17 | 46.95 | 0.00 | 460.23 |
| 40 | 3,020.52 | 3,097.24 | 1.43 | 1,535.39 | 4,634.06 | 647.38 | 1,411.73 | 760.34 | 0.00 | 7,453.51 |
| 41 | 1,453.28 | 1,490.19 | 1.43 | 739.10 | 2,230.72 | 311.63 | 679.57 | 366.01 | 0.00 | 3,587.94 |
| 50i | 1,722.81 | 1,766.57 | 1.43 | 876.04 | 2,644.04 | 369.37 | 805.49 | 433.83 | 0.00 | 4,252.73 |
| 50ii | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 425.27 |
| 51 | 1.03 | 1.06 | 0.72 | 0.88 | 2.66 | 0.37 | 0.81 | 0.44 | 0.00 | 4.27 |
| 52 | 31.45 | 32.25 | 1.43 | 16.69 | 50.37 | 7.04 | 15.34 | 8.26 | 0.00 | 81.01 |
| 70 | 336.79 | 345.34 | 1.69 | 171.96 | 518.99 | 72.50 | 158.11 | 85.15 | 0.00 | 834.75 |
| 80 | 4.85 | 4.97 | 0.72 | 2.82 | 8.51 | 1.19 | 2.59 | 1.40 | 0.00 | 13.69 |
| 81i | 41.95 | 43.02 | 1.43 | 22.02 | 66.47 | 9.29 | 20.25 | 10.91 | 0.00 | 106.91 |
| 81ii | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 25.00 |
| 82 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5.00 |
| *101 | 3.17 | 3.25 | 0.72 | 1.97 | 5.94 | 0.83 | 1.81 | 0.97 | 0.00 | 9.55 |
| *102 | 16.55 | 16.97 | 0.00 | 8.41 | 25.38 | 3.55 | 7.73 | 4.16 | 0.00 | 40.82 |
| *103 | 0.55 | 0.56 | 0.00 | 0.28 | 0.84 | 0.12 | 0.26 | 0.14 | 0.00 | 1.36 |
| *104 | 41.63 | 42.69 | 0.00 | 21.15 | 63.84 | 8.92 | 19.45 | 10.47 | 0.00 | 102.68 |

*101—Certification of Director, Office of Motor Carrier Application Information Analysis (Fee Set a Rounded Fully Distributed Cost Level—Column (10) Above)—The 1996 Fee Is Set at \$9.00.
 *102—Service Involved on Checking Records To be Certified To Determine Authenticity, Including Clerical Work etc. Incidental Thereto (Fee Set at Rounded Direct Labor Only Level—Column (2) Above)—The 1996 Fee Is Set at \$16.00 Per Hour.
 *103—Electrostatic Copies of Public Documents, at a Specific Per Page Rate With a Minimum Charge of \$5.00 Per Request (Per Page Rate Based on the Rounded Total in Column (5) Above)—The 1996 Fee Is Set at \$.80 Per Page.
 *104—A Fee for Professional Staff Time Will Be Charged When It Is Required To Fulfill a Request For ADP Data (Fee Set at Rounded Direct Labor Only Level—Column (2) Above)—The 1996 Fee Is Set at \$42.00 Per Hour.
Note: This appendix will not appear in the Code of Federal Regulations.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-98-5033]

RIN No. 2127-AG07

Federal Motor Vehicle Safety Standards; Occupant Protection In Interior Impact

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: In April 1997, we issued a final rule amending its requirements for protecting vehicle occupants from impacts with upper vehicle interiors in crashes. One of the amendments in that final rule changed previously established procedures for relocating specific target points that are used to test compliance with the upper interior impact requirements. The procedure for relocating targets was modified by providing that targets could be relocated within a 25 millimeter (mm) radius sphere centered on the original target point. Prior to the modification, relocation was permitted within a 25 mm radius circle. However, the agency erroneously retained a provision specifying that the radius was to be measured along the surface of the vehicle interior. This technical

conforming amendment eliminates that provision.

DATES: *Effective Date:* The amendment made by this final rule is effective March 15, 1999.

Petitions: Petitions for reconsideration must be received by March 29, 1999.

ADDRESSES: Petitions for reconsideration should refer to the docket number of this rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For non-legal issues: Dr. William Fan, Office of Crashworthiness Standards,