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List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under New York, is amended by removing DTV channel 4 and adding DTV channel 7 at Albany.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04-6942 Filed 3-26-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 4)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2002 New Fees

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rules.

SUMMARY: The Board adopts final rules establishing 19 fees for services for which no fee currently is assessed; raising the below-cost fee that currently applies to six fee items; updating fees for nine existing fee items; and amending, renumbering and deleting certain rules to conform to existing and adopted fee collection policies and processes. The Board adopts these rules under the Independent Offices Appropriations Act and OMB Circular A-25, User Fees.

DATES: These rules are effective April 28, 2004.

FOR FURTHER INFORMATION CONTACT: Anne K. Quinlan (202) 565-1727 or David T. Groves (202) 565-1551. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-(800) 877-8339.]

SUPPLEMENTARY INFORMATION: Under the Independent Offices Appropriations

Act, 31 U.S.C. 9701 (IOAA), federal agencies are obliged to establish fees for specific services provided to identifiable beneficiaries. Office of Management and Budget Circular A-25 contains guidelines for agencies to apply in assessing and collecting those fees.

Pursuant to the IOAA and Circular A-25, the Board, on August 29, 2002, served and on September 11, 2002, published in the **Federal Register** (67 FR 57554) a notice of proposed rulemaking (NPR) to amend its regulations to accomplish the following: (1) Establish 22 new fees to cover services and activities not previously included in the Board's user fee regulations, including a catch-all "basic" fee for STB adjudicatory services not already covered by a specific fee; (2) raise the below-cost fee assessment applied to six fee items; (3) update fees for nine existing fee items; and (4) amend, renumber and delete certain rules to clarify the applicability and scope of certain fee items and to reflect current and proposed fee and billing practices and tariff requirements.

The Board received comments from the Association of American Railroads, The Burlington Northern and Santa Fe Railway Company, the National Industrial Transportation League, the North Dakota Grain Dealers Association and the United Transportation Union—General Committee of Adjustment. Some comments challenged the validity of several proposed fees; others challenged the levels of several proposed fees.

The Board found that it is appropriate to charge the proposed fees because, while the public in general will always benefit, either directly or indirectly, from the services the Board provides, the services provide special benefits to those requesting the services beyond those received by the general public.

The Board, after considering comments, lowered the level of several proposed fees and left others at the level proposed. The Board also declined, at this time, to adopt fees in connection with motions to compel discovery and appeals of discovery rulings because the agency recently adopted rules that may have the desired effect of reducing the incidence of frivolous, costly and ineffective discovery requests. Also, note that the Board amended several fee regulations to accomplish the following: (1) Reflect current business practices with respect to fee processing; (2) permit use of the billing account system to collect fees for documents filed for recording under 49 U.S.C. 11301; and (3) change the process for handling fee waiver requests. The final rules are set forth in the Appendix.

Pursuant to 5 U.S.C. 605(b) the Board certifies that the final rules will not have a significant economic impact on a substantial number of small entities. The economic impact of the proposed fees will not be significant because the Board fees represent only a small portion of the overall cost of the related endeavors. Moreover, few small entities avail themselves of the services to which the proposed fees apply. Finally, the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Additional information is contained in the Board's decision. To obtain a free copy of the full decision, visit the Board's Web site at <http://www.stb.dot.gov>; call the Board's Information Officer at (202) 565-1500; or pick up in person at Suite 100, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. To purchase a copy of the decision, write to, call, email, or pick up in person from ASAP Document Solutions, 9332 Annapolis Road, Suite 103, Lanham, Maryland 20706, (301) 577-2600, asapmd@verison.net. [Assistance for the hearing impaired is available through Federal Information Relay Services (FIRS): (800) 877-8339.]

List of Subjects in 49 CFR Part 1002

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

Decided: March 23, 2004.

By the Board, Chairman Nober.

Vernon A. Williams,
Secretary.

■ For the reasons set forth in the decision, the Surface Transportation Board amends 49 CFR part 1002 as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 is revised 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) also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

■ 2. Amend §1002.1 as follows:

■ a. Redesignate paragraphs (e) through (h) as paragraphs (f) through (i);

■ b. Remove newly redesignated paragraph (f)(2) and designate newly redesignated paragraph (f)(3) as paragraph (f)(2);

■ c. Add new paragraph (e) and revise newly redesignated paragraphs (g)(7), (g)(8) and (h) to read as follows:

§ 1002.1 Fees for records search, review, copying, certification, and related services.

(e) Fees for courier services to transport agency records to provide on-site access to agency records stored off-site will be set at the rates set forth in the Board's agreement with its courier service provider. Rate information is available on the Board's Web site (<http://www.stb.dot.gov>), or can be obtained from the Board's Information Officer, Suite 880, Surface Transportation Board, Washington, DC 20423-0001.

(g) * * *
 (7) The fee for photocopies shall be \$1.00 per letter or legal size exposure with a minimum charge of \$5.00.

(8) The fees for ADP data are set forth in paragraph (f) of this section.

(h) Fees for services described in paragraphs (a) through (g) of this section may be charged to accounts established in accordance with 49 CFR 1002.2(a)(2),

or paid for by check, money order, currency, or credit card in accordance with 49 CFR 1002.2(a)(3).

■ 3. Amend §1002.2 as follows:

- a. From paragraph (g)(1)(ii) remove "6.00" and in its place add "\$20.00";
- b. Remove paragraphs (f)(100)(ii) and (v)-(vii), and (f)(101)(ii), (iv) and (v).
- c. Redesignate paragraph (f)(2) as paragraph (f)(2)(i); redesignate paragraph (f)(27) as paragraph (f)(27)(i); redesignate paragraphs (f)(56)(ii) and (iii) as paragraphs (f)(56)(iii) and (iv); redesignate paragraph (f)(61) as paragraph (f)(61)(i); redesignate paragraph (f)(78)(i) as paragraph (f)(78); remove paragraph (f)(78)(ii); redesignate paragraphs (f)(100)(iii) and (iv) as paragraphs (f)(100)(ii) and (iii) and redesignate paragraphs (f)(101)(iii) and (vi) as paragraphs (f)(101)(ii) and (iii).
- d. Revise the last sentence of paragraph (a)(1), paragraph (a)(2), the first sentence of paragraph (b), and paragraphs (f)(27)(i), (f)(47), (f)(48), (f)(60) through (f)(62) and (f)(86).
- e. Add paragraphs (f)(2)(ii) and (iii), (f)(12)(iv), (f)(27)(ii), (f)(38)(vii), (f)(39)(vii), (f)(40)(vii), (f)(41)(vii),

(f)(56)(ii) and (v), (f)(63), (f)(64), (f)(88) and (f)(101)(iv).

The added and revised text is set forth as follows:

§ 1002.2 Filing fees.

(a) * * *
 (1) * * * 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.

(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. * * *

(f) *Schedule of filing fees.*

	Type of Proceeding	Fee
(2) (i) * * *		
(ii)	A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered.	\$2,300.
(iii)	A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	1,900.
(12) * * *		
(iv)	A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10901(d).	200.
(27) (i)	A request for a trail use condition in an abandonment proceeding under 16 U.S.C. 1247(d)	200.
(ii)	A request to extend the period to negotiate a trail use agreement	300.
(38) * * *		
(vii)	A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	3,800.
(39) * * *		
(vii)	A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	3,800.
(40) * * *		
(vii)	A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	3,800.
(41) * * *		
(vii)	A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	3,800.
(47)	National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	200.
(48)	National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	200.
(56) * * *		
(ii)	A formal complaint filed under the small rate case procedures	150.

Type of Proceeding	Fee
(v) A request for an order compelling a carrier to file a common carrier rate	200.
(60) A labor arbitration proceeding	200.
(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)	200.
(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	250.
(62) Motor carrier undercharge proceeding	200.
(63) Expedited relief for service inadequacies:	
(i) A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency	200.
(ii) A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacy	200.
(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)	400.
(86) Informal opinions:	
(i) A request for an informal opinion not otherwise covered	1,100.
(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)	3,500.
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered	350.
(88) Basic fee for STB adjudicatory services not otherwise covered	200.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Board or State proceeding that:	
(i) Does not require a Federal Register notice:	
(a) Set cost portion	100.
(b) Sliding cost portion	32 per party.
(ii) Does require a Federal Register notice:	
(a) Set cost portion	300.
(b) Sliding cost portion	32 per party.
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual	50.
(ii) Updated URCS PC version Phase III cost file—per year	25.
(iii) Public requests for <i>Source Codes</i> to the PC version URCS Phase III	100.
(101) Carload Waybill Sample data or recordable disk (R-CD):	
(i) Requests for Public Use File on R-CD—per year	250.
(ii) Waybill—Surface Transportation Board or State proceedings on R-CD—per year	500.
(iii) User Guide for latest available Carload Waybill Sample	50.
(iv) Specialized Programming for Waybill requests to the Board	76 per hour.

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Atmospheric Administration (NOAA),
Commerce.

DATES: This rule is effective April 28, 2004.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040113012-4093-02; I.D. 121903D]

RIN 0648-AR62

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 4

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

ACTION: Final rule for summer flounder, scup, and black sea bass fisheries.

SUMMARY: NMFS issues a final rule implementing measures contained in Framework Adjustment 4 (Framework 4) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) that would allow for the transfer at sea of scup between commercial fishing vessels, and clarify the circumstances under which a vessel must operate with the specified mesh. Regulations regarding the establishment and administration of research set-aside (RSA) quota would also be amended to clarify how unused RSA quota is to be returned to the fishery.

ADDRESSES: Copies of the Framework 4 document, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), the Environmental Assessment (EA), and other supporting documents for the framework adjustment are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are