

which is not stayed by its filing which is received after or not acted upon before the effective date of the action shall be entertained and disposed of on its merits as a petition for reconsideration.

[Doc. No. T-1, 49 FR 50985, Dec. 31, 1984. Redesignated by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996. Amended by Doc. No. DOT-OST-2014-0140, 84 FR 15945, Apr. 16, 2019]

§ 385.33 Review by the staff.

Where a petition for review is duly filed, the staff member may, upon consideration of all documents properly filed, reverse his or her decision. Except in the case of Administrative Law Judges, action taken by a staff member other than an office head or Assistant General Counsel may be reversed by the respective office head or Assistant General Counsel who is in the supervisory chain of command with respect to the staff member who took the initial action. If the initial action is reversed, the petition for review will not be submitted to the Reviewing Official. Staff action reversing the initial action shall be subject to petition for Department review as any other staff action.

[Doc. No. T-1, 49 FR 50985, Dec. 31, 1984. Redesignated by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996]

§ 385.34 Decision by the Reviewing Official.

(a) *Decline of right to review.* If the Reviewing Official declines the right to exercise discretionary review, the staff action stayed by the petition for review shall become effective on the second business day following the date of service of the order, unless the order provides otherwise.

(b) *Exercise of right to review.* The Reviewing Official will exercise his or her discretionary right of review either upon petition or on his or her own motion. The Reviewing official may by order provide for interlocutory relief pending his or her decision on the merits and may limit the issues on review. The Reviewing Official may affirm, modify or set aside the staff action, may order the matter remanded, or may order further submittals or other proceedings before making a decision on the merits. In case the Reviewing Official

affirms the staff action, staff action stayed by the petition for review shall become effective on the second business day following the date of service of the Reviewing Official's order, unless the order provides otherwise. Decisions by the Reviewing Official under this part are final and are not subject to petitions for reconsideration.

[Doc. No. T-1, 49 FR 50985, Dec. 31, 1984; Amdt. 1, 50 FR 7170, Feb. 21, 1985. Redesignated by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

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AUTHORITY: 49 U.S.C. 40113, 40114, 41711; 31 U.S.C. 9701; and 5 U.S.C. 552.

SOURCE: Doc. No. DOT-OST-2014-0140, 84 FR 15945, Apr. 16, 2019, unless otherwise noted.

Subpart A—General Provisions

§ 389.1 Policy and scope.

Pursuant to the provisions of 31 U.S.C. 9701, Fees and charges for Government services and things of value, and as implemented by the Office of Management and Budget's Circular A-25, dated July 8, 1993, the Department sets forth in this part fees and charges to be paid for the use of certain services and resources of the Department as prescribed in this part.

Subpart B—Fees for Special Services

§ 389.10 Applicability of subpart.

This subpart describes certain services and resources made available by the Department and prescribes the fees and charges for those services and resources.

§ 389.11 Available services and resources.

Upon request and payment of fees as provided in this part, there are available, with respect to documents subject to inspection, services as follows:

- (a) Locating and copying records and documents;
- (b) Certification of copies of documents under seal of the Department; and
- (c) Transcripts of hearings and proceedings.

§ 389.12 Payment of fees and charges.

The fees charged for services and resources shall be paid for electronically at <http://www.pay.gov>, a secure government-wide collection portal, except for charges for reporting services that are performed under competitive bid contracts with non-Government firms. Fees for reporting are payable to the firms providing the services. Payments to pay.gov can be made directly from a bank account or by credit/debit card.

§ 389.13 Fees for services.

Fees for services and resources described in this subpart and subpart C of this part are pursuant to those fees set forth in 49 CFR part 7, subpart F, §§ 7.41 through 7.43, 7.45 and 7.46.

Subpart C—Filing and Processing License Fees

§ 389.20 Applicability of subpart.

(a) This subpart applies to the filing of certain documents and records with the Department by non-government parties, and prescribes fees for their processing.

(b) For the purpose of this subpart, record means an electronic tariff record submitted to the Department under subpart R of 14 CFR part 221, and contains a set of information that de-

scribes one (1) tariff fare, or a set of information that describes one (1) related element associated with such tariff fare.

§ 389.21 Payment of fees.

(a) Except as provided in paragraph (b) of this section, any document for which a filing fee is required by § 389.25 shall be paid for electronically at <http://www.pay.gov>, a secure government-wide collection portal, unless a waiver or modification of the filing fee has been requested and approved. Payments can be made directly from a bank account or by credit/debit card.

(b) Registration for all air taxi operators shall be accompanied by an 8 dollar (\$8) registration filing fee in the form of a check, draft, or postal money order payable to the U.S. Department of Transportation.

(c) Where a document seeks authority or relief in the alternative and therefore would otherwise be subject to more than one filing fee, only the highest fee shall be required.

(d) Where a document relating to a single transaction or matter seeks multiple authorities or relief and therefore would otherwise be subject to more than one filing fee, only the highest fee shall be required. Where a document relating to more than one transaction or matter seeks multiple authorities or relief, the required filing fee shall be determined by combining the highest fees for each transaction or matter. For purposes of this paragraph (d), a specific number of charters or inclusive tours described in one application will be regarded as a single transaction or matter.

(e) No fee shall be returned after the document has been filed with the Department, except as provided in §§ 389.23 and 389.27.

§ 389.22 Failure to make proper payment.

In accordance with 49 CFR part 7, subpart F, § 7.42, the Department will assess interest on unpaid fees on the 31st day following the day on which a notice of the amount due is first mailed to the requestor, unless the Department has granted an application for waiver or modification of the fees.

§ 389.23 Application for waiver or modification of fees.

(a) Applications may be filed asking for waiver or modification of any fee paid under this subpart. Each applicant shall set forth the reasons why a waiver or modification should be granted, and by what legal authority.

(b) Applications asking for a waiver or modification of fees shall be sent to the Director, Office of Aviation Analysis, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. This provision is in accordance §385.30 of this chapter. When no petition for review is filed with the Department, or when the Department reviews the Director's decision, if the amount found due is not paid within 10 days after receipt of notification of the final determination, the document shall be returned to the filing party.

§ 389.24 Foreign air carriers.

A foreign air carrier, or such carriers, if from the same country, acting jointly, may apply for a waiver of the requirements of this part based on reciprocity for U.S. air carriers contained in the requirement of their home governments, or as provided in a treaty or agreement with the United States. To apply for a waiver under this section, foreign air carriers shall send waiver requests to the Director, Office of International Aviation. The request should include applicable official government rules, decisions, statements of policy, or comparable evidence concerning filing fees for U.S. air carriers, or for all carriers serving that country. Once a waiver has been granted for a specific country, no further waiver applications need be filed for that country.

§ 389.25 Schedule of processing fees.

(a) *Document-filing fees.*

Code	Document	
Interstate Air Transportation		
Certificate of Public Convenience and Necessity (49 U.S.C. Chapter 411)		
1	Application for Certificate of Public Convenience and Necessity Interstate Air Transportation—Charter Authority Only.	850
2	Application for Certificate of Public Convenience and Necessity Interstate Air Transportation—Scheduled Service.	850
3	Dormant Authority	290
4	Application for Certificate of Public Convenience and Necessity Interstate Air Transportation—Cargo Authority Only.	670
5	Application to transfer Certificate of Public Convenience and Necessity Interstate Air Transportation.	290
6	Air Taxi Registration	8
7	Application for Commuter Air Carrier Authorization	670
8	Change of Name (registration of trade name or reissuance of certificate)	56
9	<i>Exemption Request—General (49 U.S.C. Chapter 401)</i>	
10	Request for an Exemption from 49 U.S.C. Chapter 415	53
11	Request for an Exemption from 49 U.S.C Chapter 411	280
12	Request for an Exemption from 49 U.S.C Chapter 417	120
13	Request for a Service Mail Rate Petition 49 U.S.C. Chapter 419	420
Foreign Air Transportation—U.S. Carriers (49 U.S.C. Chapter 411)		
14	Application for Certificate of Public Convenience and Necessity Foreign Air Transportation—Scheduled Service.	900
15	Amendment to Application for Certificate of Public Convenience and Necessity Foreign Air Transportation—Scheduled Service.	425
16	Application for Certificate of Public Convenience and Necessity Foreign Air Transportation—Charter Service.	600
17	Amendment to Application for Certificate of Public Convenience and Necessity Foreign Air Transportation—Charter Service.	200
18	Transfer of Certificate of Public Convenience and Necessity Foreign Air Transportation—Scheduled or Charter Service.	255
19	Change of Name (registration of trade name or reissuance of certificate)	56
Foreign Air Carrier Permit (49 U.S.C. Chapter 413)		
20	Foreign Air Carrier Permit—Initial Application	760

Code	Document	
21	Foreign Air Carrier Permit—Amendment/Renewal of permit	475
22	Foreign Air Carrier Permit—Amendment to application for a permit	215
Exemption (49 U.S.C. Chapter 401)		
23	Request for an Exemption from 49 U.S.C. Chapter 415	53
24	Request for an Exemption from 49 U.S.C. Chapters 411/413 (10 or fewer flights)	77
25	Request for an Exemption from 49 U.S.C. Chapters 411/413 (More than 10 flights)	360
26	Request for an Exemption from 49 U.S.C. Chapters 411/413 (Filed less than 10 days before effective date requested).	1 17
27	Other (U.S. and foreign air carriers)	360
28	Emergency cabotage (49 U.S.C. Chapter 401)	360
29	Relief for U.S. and foreign indirect air carriers (49 U.S.C. Chapter 401)	370
Undocketed Items		
30	Canadian Charter Air Taxi Registration	30
31	Foreign Freight Forwarder Registration	11
32	Foreign Tour Operator Registration	10
33	Foreign Aircraft Permit (14 CFR part 375)	25
34	Special Authorization (14 CFR part 375)	12
35	Charter Statement of Authorization	8
36	Intermodal Statement of Authorization	10
37	Special Authority (14 CFR part 216)	37
38	Fee for filing items 33–37 if filed less than time required before effective date	1 11
39	IATA resolutions	61
Other (U.S. and Foreign Air Carriers)		
Charters:		
40	Public Charter Prospectus	39
41	OMPC Operation Authorization	665
42	Waiver of Charter Regulations	39
Tariffs:		
43	Pages	2
44	Special Tariff Permission	12
45	Waiver of Tariff Regulations	12
46	Exemption request	371
Agreements filed under 49 U.S.C. Chapter 413		
47	Prior Approval (docketed)	1,080
48	Routine (non-docketed)	64
49	Application for free and reduced-rate transportation	16

¹ Additional.

(b) *Electronic tariff filing fees.* The filing fee for one (1) or more transactions proposed in any existing record, or for any new or canceled records, shall be 5 cents per record; *Provided:* That no fee shall be assessed for those records submitted to the Department pursuant to 14 CFR 221.500(b).

§ 389.26 Special rules for tariff page filings.

(a) *Tariffs issued by carriers.* The filing fee for tariff pages filed by U.S. air carriers will be charged even if the tariff includes matters involving participating foreign air carriers. It will also be charged if the tariff is issued by a foreign air carrier and includes matters involving participating U.S. air carriers, unless the foreign air carrier has obtained a waiver under § 389.24. The

fee will not be charged for a blank looseleaf page unless it cancels matter in the preceding issue of the page.

(b) *Tariffs issued by publishing agents.*

(1) If the tariff is issued for one or more air carriers exclusively, the fee will be charged for each page.

(2) If the tariff is issued for one or more air carriers and one or more foreign air carriers, the fee will be charged for each page, except for those pages that the issuing agent states contain only:

(i) Matters pertaining exclusively to foreign air carriers that have been granted a waiver; or

(ii) Changes in matters pertaining to foreign air carriers that have been granted a waiver and that are included on the same page with other matters that are reissued without change.

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(3) The fee will not be charged for a blank looseleaf page unless it cancels matters in the preceding page.

(4) No fee will be charged when two pages are published back-to-back, one page is not subject to the fee under paragraph (b)(2) of this section, and the page on the reverse is issued without substantive change.

(5) The fee will be charged for two looseleaf pages containing a correction

number check sheet unless all other pages of the tariff are exempt from the fee.

§ 389.27 Refund of fee.

Any fee charged under this part may be refunded in full or in part upon request if the document for which it is charged is withdrawn before final action is taken. Such requests shall be filed in accordance with § 389.23.