

Surface Transportation Board

§ 1004.2

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) All updated fees shall be rounded downward 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 the nearest \$100. (This rounding procedure excludes copying, printing and search fees.)

[49 FR 18494, May 1, 1984, as amended at 52 FR 46483, Dec. 8, 1987; 59 FR 44644, Aug. 30, 1994; 61 FR 42194, Aug. 14, 1996; 79 FR 41141, July 15, 2014]

PART 1003—FORMS

AUTHORITY: 49 U.S.C. 1321, 13301(f).

§ 1003.1 General information.

(a) Printed forms are prescribed for various applications under the Interstate Commerce Act and the Board's regulations contained in this chapter.

(b) All prescribed forms include instructions for their completion.

(c) Copies of all prescribed forms except insurance forms are available upon request from the Office of Public Assistance, Governmental Affairs, and

Compliance, Surface Transportation Board, Washington, DC 20423.

[57 FR 41112, Sept. 9, 1992, as amended at 64 FR 53266, Oct. 1, 1999; 74 FR 52903, Oct. 15, 2009]

PART 1004—INTERPRETATIONS AND ROUTING REGULATIONS

Sec.

1004.1 Gifts, donations, and hospitality by carriers.

1004.2 Misrouting, adjustment of claims.

AUTHORITY: 49 U.S.C. 1321.

SOURCE: 64 FR 47711, Sept. 1, 1999, unless otherwise noted.

§ 1004.1 Gifts, donations, and hospitality by carriers.

It is unlawful for any common carrier engaged in interstate or foreign commerce to offer, make, or cause any undue or unreasonable preference or advantage to any person. Gifts or services or anything of substantial value to particular shippers or their representatives are considered violations of the law. Expenditures for such gifts may not support requests to increase carrier rates. The Board shall take appropriate enforcement action to redress such unlawful expenditures.

§ 1004.2 Misrouting, adjustment of claims.

Carriers should adjust claims for damages resulting from misrouting. Where a carrier admits responsibility for billing, forwarding, or diverting a shipment over a higher rated route than that directed by the shipper or otherwise available, the misrouting carrier should refund the difference to the shipper (or reimburse the delivering carrier, as the case may be). Where the misrouting carrier alleges justification for using the higher rated route, the Board may, at its discretion and upon appropriate petition, determine or express an advisory opinion on the lawfulness of such routing. This interpretation must not be used to evade or defeat tariff rates or to meet the rate of a competing carrier or route, nor to relieve a shipper from responsibility for routing instruction. Damages caused by misrouting are not overcharges.

PART 1005—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

Sec.

- 1005.1 Applicability of regulations.
- 1005.2 Filing of claims.
- 1005.3 Acknowledgment of claims.
- 1005.4 Investigation of claims.
- 1005.5 Disposition of claims.
- 1005.6 Processing of salvage.
- 1005.7 Weight as a measure of loss.

AUTHORITY: 49 U.S.C. 1321, 11706, 14706, 15906.

§ 1005.1 Applicability of regulations.

The regulations set forth in this part shall govern the processing of claims for loss, damage, injury, or delay to property transported or accepted for transportation, in interstate or foreign commerce, by each railroad, express company, motor carrier, water carrier, and freight forwarder (hereinafter called carrier), subject to the Interstate Commerce Act.

[46 FR 16224, Mar. 11, 1981]

§ 1005.2 Filing of claims.

(a) *Compliance with regulations.* A claim for loss or damage to baggage or for loss, damage, injury, or delay to cargo, shall not be voluntarily paid by a carrier unless filed, as provided in paragraph (b) of this section, with the receiving or delivering carrier, or carrier issuing the bill of lading, receipt, ticket, or baggage check, or carrier on whose line the alleged loss, damage, injury, or delay occurred, within the specified time limits applicable thereto and as otherwise may be required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto.

(b) *Minimum filing requirements.* A written or electronic communication (when agreed to by the carrier and shipper or receiver involved) from a claimant, filed with a proper carrier within the time limits specified in the bill of lading or contract of carriage or transportation and: (1) Containing facts sufficient to identify the baggage or shipment (or shipments) of property,

(2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, shall be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage; *Provided, however,* That where claims are electronically handled, procedures are established to ensure reasonable carrier access to supporting documents.

(c) *Documents not constituting claims.* Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents, or inspection reports issued by carriers or their inspection agencies, whether the extent of loss or damage is indicated in dollars and cents or otherwise, shall, standing alone, not be considered by carriers as sufficient to comply with the minimum claim filing requirements specified in paragraph (b) of this section.

(d) *Claims filed for uncertain amounts.* Whenever a claim is presented against a proper carrier for an uncertain amount, such as "\$100 more or less," the carrier against whom such claim is filed shall determine the condition of the baggage or shipment involved at the time of delivery by it, if it was delivered, and shall ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. It shall not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money shall have been filed in accordance with the provisions of paragraph (b) of this section.

(e) *Other claims.* If investigation of a claim develops that one or more other carriers has been presented with a similar claim on the same shipment, the carrier investigating such claim shall communicate with each such other carrier and, prior to any agreement entered into between or among them as to the proper disposition of such claim or claims, shall notify all claimants of the receipt of conflicting or overlapping claims and shall require further substantiation, on the part of