

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 16)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2009 Update**AGENCY:** Surface Transportation Board, DOT.**ACTION:** Final rules.

SUMMARY: The Board adopts its 2009 User-Fee Update and revises its fee schedule to reflect increased costs associated with the January 2009 government salary increases, changes to the Board's overhead costs, and to also reflect changes in the government fringe benefits.

DATES: *Effective Date:* These rules are effective on June 4, 2009.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 245-0327, or Anne Quinlan, (202) 245-0309. [TDD for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations at 49 CFR 1002.3 provide for annual updates of the Board's user-fee schedule. Fees are revised based on the cost-study formula set forth at 49 CFR 1002.3(d). The fee increases adopted here, which reflect increased costs and changes in overhead costs, result from the mechanical application of the update formula in 49 CFR 1002.3(d). No new fees are proposed in this proceeding. Therefore, the Board finds that notice and comment are unnecessary for this proceeding. See *Regulations Governing Fees For Services—1990 Update*, 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services—1991 Update*, 8 I.C.C.2d 13 (1991); and *Regulations*

Governing Fees For Services—1993 Update, 9 I.C.C.2d 855 (1993).

The Board concludes that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

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> or call the Board's Information Officer at (202) 245B0245. [Assistance for the hearing impaired is available through Federal Information Relay Services (FIRS): (800) 877B8339.]

List of Subjects in 49 CFR Part 1002

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

Decided: April 29, 2009. By the Board, Acting Chairman Mulvey and Vice Chairman Nottingham.

Jeffrey Herzig,
Clearance Clerk.

■ For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 continues 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(a).

■ 2. Section 1002.1 is amended by revising paragraphs (b) through (d); paragraph (f)(1); the table in paragraph (g)(6); and paragraph (g)(7) to read as follows:

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

* * * * *

(b) Service involved in examination of tariffs or schedules for preparation of

certified copies of tariffs or schedules or extracts therefrom at the rate of \$40.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., identical thereto, at the rate of \$27.00 per hour.

(d) Photocopies of tariffs, reports, and other public documents, at the rate of \$1.40 per letter or legal size exposure. A minimum charge of \$7.00 will be made for this service.

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(f) * * *

(1) A fee of \$70.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

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(g) * * *

(6) * * *

Grade	Rate
GS-1	\$11.72
GS-2	12.76
GS-3	14.38
GS-4	16.15
GS-5	18.07
GS-6	20.14
GS-7	22.38
GS-8	24.78
GS-9	27.37
GS-10	30.15
GS-11	33.12
GS-12	39.70
GS-13	47.21
GS-14	55.78
GS-15 and over	65.62

(7) The fee for photocopies shall be \$1.40 per letter or legal size exposure with a minimum charge of \$7.00.

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■ 3. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

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(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	\$4,500.
(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.	\$3,300.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	\$2,700.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703	\$28,100.
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	\$4,700.
(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].	

Type of proceeding	Fee
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.	\$7,400.
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	\$1,800.
(iii) Petition for exemption under 49 U.S.C. 10502	\$12,800.
(12) (i) An application involving the construction of a rail line	\$76,100.
(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	\$76,100.
(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.	\$6,300.
(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.	\$6,700.
(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.	\$6,300.
(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.	\$22,200.
(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).	\$22,600.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	\$3,700.
(iii) A petition for exemption under 49 U.S.C. 10502	\$6,400.
(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	\$1,900.
(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	\$23,100.
(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	\$19,300.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	\$10,400.
(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	\$1,520,600.
(ii) Significant transaction	\$304,100.
(iii) Minor transaction	\$7,600.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,700.
(v) Responsive application	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502	\$9,500.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,600.
(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	\$1,520,600.
(ii) Significant transaction	\$304,100.
(iii) Minor transaction	\$7,600.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,300.
(v) Responsive application	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502	\$9,500.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,600.
(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	\$1,520,600.
(ii) Significant transaction	\$304,100.
(iii) Minor transaction	\$7,600.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,200.
(v) Responsive application	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502	\$9,500.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,600.
(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:	

Type of proceeding	Fee
(i) Major transaction	\$1,520,600.
(ii) Significant transaction	\$304,100.
(iii) Minor transaction	\$7,600.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,400.
(v) Responsive application	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502	\$6,700.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	\$5,600.
(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	\$71,200.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	\$13,200.
(ii) Minor amendment	\$100.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	\$800.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	\$8,100.
(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)	\$21,100.
(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.	\$9,000.
(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.	\$1,000.
(ii) All other petitions for declaratory order	\$1,400.
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	\$7,100.
(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).	\$250.
(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	\$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.	\$250.
(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.
(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).	\$600.
(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. (\$25 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).	\$250.
(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	\$1,500.
(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).	\$5,200.
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered.	\$500.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	

Type of proceeding	Fee
(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	\$48 per party.
(ii) Does require a Federal Register notice:	
(a) Set cost portion	\$400.
(b) Sliding cost portion	\$48 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	\$109 per hour.

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[FR Doc. E9–10304 Filed 5–4–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 090324366–9371–01]

RIN 0648–AX81

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2009 Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; request for comments.

SUMMARY: NMFS establishes fishery management measures for the 2009 ocean salmon fisheries off Washington, Oregon, and California and the 2010 salmon seasons opening earlier than May 1, 2010. Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. exclusive economic zone (EEZ) (3–200 NM) off Washington, Oregon, and California. The management measures are intended

to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-treaty commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and to provide for inside fisheries (fisheries occurring in state internal waters).

DATES: Final rule is effective from 0001 hours Pacific Daylight Time, May 1, 2009, until the effective date of the 2010 management measures, as published in the **Federal Register**.

Comments must be received by May 20, 2009.

ADDRESSES: You may submit comments, identified by 0648–AX81, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- **Fax:** 206–526–6736 Attn: Peggy Busby, or 562–980–4047 Attn: Jennifer Isé

- **Mail:** Barry A. Thom, Acting Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070 or to Rod McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter

may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 200, Portland, OR 97220–1384, and are posted on its Web site (www.pcouncil.org).

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses listed above and to David Rostker, Office of Management and Budget (OMB), by e-mail at David.Rostker@omb.eop.gov, or by fax at (202)395–7285.

FOR FURTHER INFORMATION CONTACT:

Peggy Busby at 206–526–4323, or Jennifer Isé at 562–980–4046.

SUPPLEMENTARY INFORMATION:**Background**

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California are managed under a “framework” fishery management plan entitled the Pacific Coast Salmon Fishery Management Plan (Salmon FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making