

46721
EB

SERVICE DATE – MARCH 22, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 747

PAYMENT, FILING, AND SERVICE PROCEDURES

Decided: March 22, 2019

AGENCY: Surface Transportation Board.

ACTION: Final Rule.

SUMMARY: The Surface Transportation Board (Board or STB) adopts modifications to its rules pertaining to certain payment, filing, and service procedures. The adopted rule also updates and clarifies fees for copying, printing, and related services and removes outdated language from the Board's regulations.

DATES: This rule is effective on May 10, 2019.

ADDRESSES: Requests for information or questions regarding this final rule should reference Docket No. EP 747 and be submitted via the Board's e-filing format or in writing addressed to: Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's website at www.stb.gov at the E-Filing link.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher, (202) 245-0355. Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION: In April 2017, the Board established its Regulatory Reform Task Force (RRTF) to comply with the spirit of Executive Order 13,777. The RRTF's mission is to identify Board rules and practices that are burdensome, unnecessary, or outdated and to recommend how they should be addressed. See Regulatory Reform Task Force, EP 738 (STB served June 20, 2017). In a status report issued in May 2017, the RRTF identified the Board's payment and filing procedures as a potential area for reform and, following stakeholder input, recommended in its November 2017 status report that the Board update procedural and

filing rules that are in need of modernization.¹ The Board issued a notice of proposed rulemaking to revise and update its regulations relating to methods of payment, filing procedures, electronic service of Board decisions, and fees for copying, printing, and related services. Payment, Filing, & Serv. Procedures (NPRM), EP 747 (STB served Aug. 24, 2018). The Board received comments on the NPRM from the National Association of Reversionary Property Owners (NARPO), Gordon MacDougall, and the Western Coal Traffic League (WCTL).

After considering the comments and reviewing the proposed procedures, the Board is adopting a final rule with modifications to the electronic service (e-service) proposal. The final rule also removes references to “computer diskettes.” The attached Appendix contains the text of the final rule.

The proposed rule. The NPRM outlined proposals intended to promote increased use of electronic filing and payment systems, which would result in cost savings to both the Board and the public.² These proposals would also increase the accessibility of information relating to proceedings and functions of the Board.

Specifically, the NPRM proposed to revise Board filing fee payment options by adding an electronic payment option. NPRM, EP 747, slip op. at 2-4. The NPRM explained that the Board would implement the electronic payment option through Pay.gov, a website operated by the U.S. Department of the Treasury that allows payment of government fees through bank accounts, credit cards, debit cards with a MasterCard or Visa logo, and digital wallet. Given the availability and efficiency of an electronic payment option, the NPRM proposed to eliminate billing accounts and direct credit card payments to the Board. NPRM, EP 747, slip op. at 3. The NPRM proposed corresponding payment option changes to the regulations governing fees for recordations, water carrier tariffs, and contract summaries.

The NPRM explained that these payment option changes would eliminate the need to require paper filings for initial pleadings and other pleadings with associated fees, thereby allowing expanded use of electronic filing (e-filing). NPRM, EP 747, slip op. at 4-6. The Board proposed to allow all filings (subject to the current limit of 100 megabytes or less)³ to be e-filed, unless alternative filing procedures are required. The proposed rule would also require that any fees associated with e-filings be paid electronically.

¹ These status reports can both be accessed on the Board’s website.

² As explained in more detail in the NPRM, these changes apply to the regulations as shown in the Appendix, as well as to Board procedures related to payment, filings, and service.

³ This current limitation is discussed later in the decision.

The NPRM also proposed to modify the requirements for paper filers to reduce the burden on those filers. NPRM, EP 747, slip op. at 6-7. The Board proposed to eliminate the requirement to file 10 copies of paper filings in most proceedings and instead require paper filers generally to file only the original paper filing.⁴ The proposed changes would also eliminate the requirement that electronic versions of filings that are 20 or more pages in length be submitted on compact discs or 3.5-inch floppy diskettes. Instead, the proposed regulations would require filings that are 20 or more pages in length to be accompanied by electronic versions and would direct filers to the Board's website for information on how to provide those electronic versions. The NPRM also proposed to revise outdated format requirements regarding the submission of evidence or workpapers by directing filers to the Board's website for information on acceptable formats for such evidence.

The Board also proposed e-service of decisions. NPRM, EP 747, slip op. at 7-8. Parties who consent to e-service in a particular proceeding would be emailed decisions in that proceeding, instead of receiving paper service of Board decisions by mail.⁵ The NPRM explained that e-filing by a party in a proceeding would constitute that party's consent to e-service. The Board's updated e-filing form would allow users to provide email address(es) to be used for e-service. Id. In addition, the NPRM explained that if a party makes a paper filing and includes an email address(es) on that filing, a letter would be sent informing that filer that such email address(es) would be used on the service list for that proceeding. The letter would explain that the filer may opt out of e-service via written notification to the Board or provide a different email address(es) for e-service. For proceedings that are open at the time these rules become effective, the Board proposed that a party's email address would be added to the e-service list if the party: (1) utilizes e-filing or (2) does not opt out of e-service after making a paper filing that includes an email address. The proposal provided that paper service would continue for parties who do not consent to e-service in the manners discussed above.

⁴ The Board would reserve the right to require filers (both e-filers and paper filers) to provide paper copies of filings when necessary. The NPRM also indicated that the Board would retain the current requirement regarding the number of paper copies in merger proceedings (49 C.F.R. § 1180.4).

⁵ The NPRM explained that the Board would continue to serve paper copies of Board decisions as a backup to e-service during the early stages of e-service implementation. The Board expects that this transitional, dual-service period would last for up to three months after the effective date of this rule.

The NPRM proposed to modify the charge for copying and printing tariffs, reports, and other public documents at 49 C.F.R. § 1002.1(d) at a rate of \$0.25 per letter or legal size exposure, with a minimum charge of \$7.50. NPRM, EP 747, slip op. at 8, 11. Also, the NPRM proposed making the first 100 pages of copying or printing under § 1002.1(d) free. Id. at 8. With respect to documents not considered public under the Board's Freedom of Information Act regulations, the NPRM proposed reducing the charge to \$0.25 per letter or legal size exposure, with a minimum charge of \$7.50 for copying and printing documents. See 49 C.F.R. § 1002.1(f)(7) in Appendix A.

Lastly, the Board proposed minor updates to obsolete language, including addresses and telephone numbers. See 49 C.F.R. §§ 1012.2(a); 1012.3(b)(5); 1132.1; 1312.4.

Comments. As discussed below, the comments generally sought clarification and minor modifications concerning the proposed procedures.

NARPO asks whether electronic payments through Pay.gov include the option of electronic wire transfers. (NARPO Comments 1.) Pay.gov accepts the transfer of funds through bank accounts, which is a similar process to wire transfers.⁶

MacDougall notes the Board's goal of increased use of e-filing and states that the Board should not discourage filings made in other forms because filing entities may not be familiar with e-filing and/or email. (MacDougall Comments 2-3.) As proposed in the NPRM, the Board would encourage the use of e-filing but continue to accept paper filings at this time. To assist the public, the Board's website provides guidance regarding filing procedures. In addition, filers can contact Board staff by phone for filing assistance.

Next, MacDougall raises concerns that requiring paper filers to file only an original copy will negatively affect availability of filings to Board staff and the public. (Id. at 3.) MacDougall's concerns are misplaced. Board staff will continue to ensure that filings, whether e-filed or filed in paper, are promptly and appropriately distributed within the agency. Similarly, elimination of the paper copies requirement will not materially affect the timing of posting of new filings to the Board's website or availability for public examination. The Board strives to efficiently process both paper filings and e-filings, and generally filings are posted to the Board's website within one business day of submission.

Lastly, MacDougall suggests revising the Board's waiver and filing fee rules to include a grace period "for honest mistakes in the submission of an incorrect fee." (Id. at 3-4.) The Board

⁶ For more information on acceptable methods of payment on Pay.gov, see <https://www.pay.gov/WebHelp/HTML/about.html>, and click on "About Payments."

concludes that this modification is not necessary. Board staff is available for assistance with determining the correct fee prior to filing, and with correction of any errors discovered after filing.⁷

WCTL generally supports the Board's proposal, with certain caveats. Regarding the Board's proposal to remove outdated language at current 49 C.F.R. § 1104.3(b) (requiring the submission of workpapers in formats that are not commonly used today), WCTL recognizes that the format for electronic workpaper submission should be fluid, but it expresses concern that the Board has not provided details regarding the submission of electronic workpapers under 100 megabytes and instead has provided a placeholder in the proposed regulations that directs filers to the Board's website. (WCTL Comments 2.) WCTL suggests that the Board provide those details before finalizing changes to the existing rule. (*Id.* at 2, 10.) As stated in the NPRM, electronic workpapers under 100 megabytes may be submitted via e-filing and will be accepted by email, compact disc, or USB flash drive. NPRM, EP 747, slip op. at 5, 6 n.15. Guidance regarding acceptable software formats, which will be posted on the Board's website by the effective date of the new rule, will generally reflect current practices, and Board staff will be available to provide assistance. In rate reasonableness proceedings, files are typically submitted via hard drive or flash drive and those formats will continue to be acceptable.⁸ The Board will continue to accept common electronic filing formats used by practitioners, and the Board will keep parties updated on improvements to its electronic systems, including updated versions of its word processing, database, and other software programs.

Next, WCTL supports the proposed expansion of e-filing but suggests that the Board should allow e-filings in excess of 100 megabytes by revising its systems or establishing a secondary system. (WCTL Comments 2, 8-9.) At this time, the Board must continue to limit the size of e-filings to 100 megabytes or less due to technical limitations in the agency's current e-filing system, which cannot support uploading larger files.⁹ As the Board continues to work to improve its e-filing system, it will keep interested parties apprised of updates to technological capabilities that would allow the Board to accept e-filings larger than 100 megabytes.¹⁰

⁷ For assistance regarding filing and/or filing fees, please call (202) 245-0350.

⁸ The Board notes that in rate reasonableness proceedings, workpaper formatting will continue to be governed on case-by-case basis pursuant to procedural orders in individual proceedings.

⁹ The Board previously only accepted e-filings of up to 10 megabytes, but recently began accepting larger e-filings of up to 100 megabytes.

¹⁰ The Board's website will continue to provide guidance regarding filing procedures. Any updates to technological capabilities or increased filing sizes would be posted on the website, without additional regulatory changes.

Lastly, WCTL suggests eliminating the requirement in current 49 C.F.R. § 1104.3(a), which states that “[a]ppropriate notes or other indications shall be used so that matters shown in color on the original, but in black and white on the copies, will be accurately identified on all copies.” (WCTL Comments 11.) WCTL states that the need to identify color on the original is unnecessary for almost all applications under the Board’s proposal, and that this “hold-over language” ought to be eliminated. (*Id.*) The Board agrees that due to the increase in e-filing and the proposed elimination of paper filing copies in most instances, the need for this requirement may be reduced. However, because the requirement is not burdensome and would remain helpful in those instances where paper copies are filed, the adopted rules will retain that requirement, which will now be in 49 C.F.R. § 1104.3(b).

Updates to e-service procedures. The Board is modifying the e-service procedures described in the NPRM where the Board proposed, among other things, to mail letters to certain paper filers notifying them that they would receive e-service and did not propose to include a corresponding regulation. Under both the NPRM’s proposed procedure and the new procedure, two groups of filers will be deemed to have consented to e-service: (1) e-filers, and (2) paper filers that include email contact information on their filing and do not opt out of e-service via written notification.¹¹ With respect to the latter category, and in a departure from the Board’s original proposal, the Board will not send such paper filers a letter informing them that the email address(es) on the filing would be used on the service list. The Board is also adopting a new regulation at 49 C.F.R. § 1104.12, in which the Board describes these e-service procedures and specifies that paper filers that have not consented to e-service or that have opted out will be served by first-class mail. It is anticipated that the new regulation and procedures will increase participation in e-service and reduce the Board’s costs.

The NPRM stated that, for proceedings that are open at the effective date of the rule, a party’s email address would be added to the e-service list if the party: (1) utilizes e-filing or (2) does not opt out of e-service after making a paper filing that includes an email address. Parties wishing to ensure that they receive e-service in open proceedings are encouraged to e-file a single letter listing all the docket(s) in which they would like to receive e-service.

Finally, the Board encourages anyone who anticipates receiving e-service from the Board to add the email addresses eservice@stb.dot.gov and eservice@stb.gov to their email contact information.¹² This will help prevent emails from those addresses being sent to junk mail folders.

¹¹ Those who wish to opt out may send written notification to the Board by mail or email at MILSS@stb.gov.

¹² Initially, service will be made from the eservice@stb.dot.gov address. That address

(continued. . .)

Updates to additional regulations. In the NPRM, the Board proposed to no longer require that electronic versions of documents or pleadings be submitted on compact discs or 3.5-inch floppy diskettes. NPRM, slip op. at 6 (describing changes to § 1104.3(b)). For consistency with those changes, the final rule also removes outdated references to diskettes in additional regulations in 49 C.F.R. parts 1150 and 1152, governing transactions that involve the creation of Class I or Class II rail carriers and procedures for abandonments or discontinuances of rail service. Specifically, the final rule eliminates the requirement that a copy of the draft Federal Register notice be submitted “as data contained on a computer diskette.” See 49 C.F.R. §§ 1152.22(i), 1152.60(c). Similarly, the final rule also removes this same language from the procedures governing applications for land-use-exemption permits at 49 C.F.R. § 1155.21(e).

Conclusion. The Board will adopt the rule modifications proposed in the NPRM, subject to the refinements noted above. The Board anticipates that the changes in this final rule will, among other things, significantly increase the percentage of electronic filings the agency receives, the use of electronic payment systems, and the efficiency of service of Board decisions. After implementation of this final rule, the Board will endeavor on an ongoing basis to improve its filing and information systems in ways that will add value to the public by monitoring the number of paper filings received, assessing the effectiveness of and participation in electronic service of decisions, and reviewing the technological limitations and functionality of the e-filing system.

Administrative Procedure Act and Regulatory Flexibility Act

As the Board stated in the NPRM, these revisions to the regulations are not subject to the provisions of the Administrative Procedure Act (APA) requiring notice and opportunity for public comment. See 5 U.S.C. § 553(b)(3)(A). However, the proposed rules were published for notice and comment because the Board determined that it would be useful to do so. Regardless, because the Board determined that notice and comment were not required under the APA, the requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. §§ 601-612, also do not apply.

(. . .continued)
will eventually be replaced with eservice@stb.gov.

List of Subjects

49 C.F.R. Part 1002

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

49 C.F.R. Part 1012

Sunshine Act.

49 C.F.R. Part 1104

Administrative practice and procedure.

49 C.F.R. Part 1110

Administrative practice and procedure.

49 C.F.R. Part 1111

Administrative practice and procedure, Investigations.

49 C.F.R. Part 1113

Administrative practice and procedure.

49 C.F.R. Part 1130

Administrative practice and procedure.

49 C.F.R. Part 1132

Administrative practice and procedure.

49 C.F.R. Part 1150

Administrative practice and procedure, Railroads.

49 C.F.R. Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, Uniform System of Accounts.

49 C.F.R. Part 1155

Administrative practice and procedure, Railroads, Waste treatment and disposal.

49 C.F.R. Part 1182

Administrative practice and procedure, Motor carriers.

49 C.F.R. Part 1244

Freight, Railroads, Reporting and recordkeeping requirements.

49 C.F.R. Part 1312

Freight forwarders, Maritime carriers, Motor carriers, Moving of household goods, Pipelines, Railroads.

49 C.F.R. Part 1313

Administrative practice and procedure, Agricultural commodities, Forests and forest products, Railroads.

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rule will be published in the Federal Register.

2. This decision is effective on May 10, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

**Appendix A
Code of Federal Regulations**

For the reasons set forth in the preamble, the Surface Transportation Board amends parts 1002, 1012, 1104, 1110, 1111, 1113, 1130, 1132, 1150, 1152, 1155, 1182, 1244, 1312, and 1313 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1002—FEES

- 1. The authority citation for part 1002 is revised to read as follows:

5 U.S.C. 552(a)(4)(A), (a)(6)(B), and 553; 31 U.S.C. 9701; and 49 U.S.C. 1321. Section 1002.1(f)(11) is also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

- 2. Amend § 1002.1 as follows:
 - a. Amend paragraph (c) by removing the word “identical” and replacing it with “incidental”;
 - b. Revise paragraph (d);
 - c. Amend paragraph (e) by removing the words “Room 1200.”;
 - d. Remove paragraph (f), redesignate paragraphs (g) through (i) as paragraphs (f) through (h);
 - e. Revise newly redesignated paragraph (f)(7);
 - f. Remove newly redesignated paragraph (f)(8), redesignate paragraphs (f)(9) through (f)(14) as (f)(8) through (f)(13); and
 - g. Revise newly redesignated paragraph (g);The revisions read as follows:

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

* * * * *

(d) Copies or computer printouts of tariffs, reports, and other public documents, at the rate of \$.25 per letter or legal size exposure, only after the first 100 pages, with a minimum charge of \$7.50. Copies of electronic records, audiovisual materials, or other forms of data are available at the actual cost of duplication or transcription.

(f) * * *

(7) The fee for copies or computer printouts shall be \$.25 per letter or legal size exposure, with a minimum charge of \$7.50. Copies of electronic records, audiovisual materials, or other forms of data are available at the actual cost of duplication or transcription.

* * * * *

(g) Fees for services described in paragraph (a) through (f) of this section may be paid by check, money order, or through the Board’s electronic payment system in accordance with 49 CFR 1002.2(a)(2).

* * * * *

3. Amend § 1002.2 as follows:
 - a. Amend paragraph (a)(1) by removing the last sentence;
 - b. Remove paragraph (a)(2);
 - c. Redesignate paragraph (a)(3) as paragraph (a)(2);
 - d. Revise newly redesignated paragraph (a)(2); and
 - e. Revise paragraph (b);The revisions read as follows:

§ 1002.2 Filing fees.

* * * * *

(a)(2) Filing fees for all e-filings must be paid via the Board’s electronic payment system found on the Board’s website. Filing fees for other filings may be paid via the electronic payment system, but will also be accepted payable to the Surface Transportation Board, either by check payable in United States currency drawn upon funds deposited in a United States or foreign bank or other financial institution, or by money order payable in United States currency.

(b) Any filing that is not accompanied by the appropriate filing fee or a request for waiver of the fee is deficient. If a filer requests a fee waiver but does not submit the appropriate fee, the filing is held for processing until a determination has been made on the fee waiver request. If the filer requests a fee waiver and submits the appropriate fee, the filing is accepted and the Board refunds the fee or a portion thereof if the fee waiver is ultimately granted.

* * * * *

PART 1012—MEETINGS OF THE BOARD

4. The authority citation for part 1012 continues to read as follows:

5 U.S.C. 552b(g), 49 U.S.C. 1301, 1321.

§ 1012.2 [Amended]

5. In § 1012.2(a), remove the words “located at 1925 K Street, NW, Washington, DC”.

§ 1012.3 [Amended]

6. In § 1012.3(b)(5), remove the sentence “Unless otherwise specified, that official will be the Board’s Public Information Officer, whose telephone number is (202) 275-7252.”.

7. In § 1012.6, revise paragraph (a) to read as follows:

§ 1012.6 Petitions seeking to open or close a meeting.

(a) The Board will entertain petitions requesting either the opening of a meeting proposed to be closed to the public or the closing of a meeting proposed to be open to the public.

In the case of a meeting of the Board, or a Division or committee of the Board, a petition shall be filed.

* * * * *

**PART 1104—FILING WITH THE BOARD-COPIES-VERIFICATION-SERVICE-
PLEADINGS, GENERALLY**

8. The authority citation for part 1104 continues to read as follows:

5 U.S.C. § 553 and 559; 18 U.S.C. 1621; and 49 U.S.C. 1321.

9. In § 1104.1, revise paragraph (e) to read as follows:

§ 1104.1 Address, identification, and electronic filing option.

* * * * *

(e) Unless otherwise directed by the Board, persons filing pleadings and documents with the Board have the option of electronically filing (e-filing) pleadings and documents instead of filing paper copies. Details regarding file size limitations, permissible formats, procedures to be followed, acceptable signature formats, and other pertinent information are available on the Board’s website, www.stb.gov. If the e-filing option is chosen, then the applicable requirements will be those specified on the Board’s website, and any requirements of 49 CFR part 1104 that specifically apply to filing of paper copies will not apply to the e-filed pleadings and documents (these requirements include, but are not limited to, stapling or binding specifications, signature “in ink,” etc.). Persons are not required to e-file and may continue to use the Board’s processes for filing paper copies.

10. Revise § 1104.3 to read as follows:

§ 1104.3 Paper filings, electronic submissions, and copies.

(a) The executed original of a paper pleading or document permitted or required to be filed under this subchapter, including correspondence, must be furnished for the use of the Board. Textual submissions of 20 or more pages must be accompanied by an electronic version. Details regarding electronic submissions, including evidence, workpapers, and other pertinent information are available on the Board’s website, www.stb.gov.

(b) The Board may, at its discretion, request paper copies of a pleading, document, or paper filed or e-filed with the Board. Any such copies must be clear and legible. Appropriate notes or other indications shall be used so that matters shown in color on the original, but in black and white on copies, will be accurately identified on all copies.

- 11. Amend § 1104.12 as follows:
 - a. Revise the section heading;
 - b. Add paragraph (d).

§ 1104.12 Service of pleadings, papers, and decisions.

* * * * *

(d) *Service by the Board.* Service of decisions and other Board issuances as appropriate generally will be made by electronic means (e-service), except in the case of paper filers that have not consented to e-service, in which case service upon that recipient will be made by first-class mail. Paper filers that include email contact information on their filing and do not opt out of e-service via written notification will be deemed to have consented to e-service.

PART 1110—PROCEDURES GOVERNING INFORMAL RULEMAKING PROCEEDINGS

- 12. The authority citation for part 1110 continues to read as follows:

49 U.S.C. 1321.

- 13. Amend § 1110.2 by revising paragraph (c)(1) to read as follows:

§ 1110.2 Opening of proceeding.

* * * * *

(c) * * *

(1) Be submitted to the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington DC;

* * * * *

§ 1110.6 [Amended]

- 14. Amend § 1110.6(a) by removing the phrase “and one copy”.

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

- 15. The authority citation for part 1111 continues to read as follows:

49 U.S.C. 10704, 11701, and 1321.

- 16. In § 1111.4, revise the sixth sentence and remove the seventh sentence to read as follows:

§ 1111.4 [Amended]

* * * The complaint should be filed with the Board together with an acknowledgment of service by the persons served or proof of service in the form of a statement of the date and

manner of service, of the names of the persons served, and of the addresses to which the papers were mailed or at which they were delivered, certified by the person who made service.

17. Amend § 1111.5 by revising paragraph (c) to read as follows:

§ 1111.5 Answers and cross complaints.

* * * * *

(c) *Time for filing; copies; service.* An answer must be filed with the Board within 20 days after the service of the complaint or within such additional time as the Board may provide. The defendant must serve copies of the answer upon the complainant and any other defendants.

* * * * *

PART 1113—ORAL HEARING

18. The authority citation for part 1113 continues to read as follows:

5 U.S.C. 559; 49 U.S.C. 1321.

19. Amend § 1113.7 by revising paragraph (e) to read as follows:

§ 1113.7 Intervention; petitions

* * * * *

(e) *Copies; service; replies.* When a petition for leave to intervene is tendered at the hearing, sufficient copies of the petition must be provided for distribution to the parties represented at the hearing. When a petition for leave to intervene is not tendered at the hearing, the petition should be submitted to the Board together with a certificate that service has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within 20 days after service of the petition to intervene. At the discretion of the Board, leave to intervene may be granted or denied before the expiration of the time allowed for replies. * * *

* * * * *

§ 1113.13 [Amended]

20. Amend § 1113.13 as follows:

- a. Revise the section heading; and
 - b. Remove the last sentence of the paragraph;
- The revisions read as follows:

§ 1113.13 Filing evidence subsequent to hearing.

* * * * *

PART 1130—INFORMAL COMPLAINTS

21. The authority citation for part 1130 continues to read as follows:

49 U.S.C. 1321, 13301(f), 14709.

22. Amend § 1130.1 by revising paragraph (a) to read as follows:

§ 1130.1 When no damages sought.

(a) *Form and content.* Informal complaint may be by letter or other writing filed with the Board and will be serially numbered as filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1111.2 and may embrace supporting papers.

* * * * *

23. Amend § 1130.2 by revising the last sentence of paragraph (f) to read as follows:

§ 1130.2 When damages sought.

* * * * *

(f) * * * Any petition for reconsideration should be filed with the Board.

* * * * *

PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATEMAKING ACTIONS

24. The authority citation for part 1132 continues to read as follows:

49 U.S.C. 1321, 13301(f), and 13703.

25. Amend § 1132.1 as follows:

- a. Remove paragraph (c);
- b. Redesignate paragraphs (d) and (e) as (c) and (d);
- c. Revise newly designated paragraph (c);
- d. Remove the last sentence of newly designated paragraph (d);

The revisions read as follows:

§ 1132.1 Protest against collective rate-making actions.

* * * * *

(c) *Copies; service.* Every protest or reply filed under this section should be directed to the attention of the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board. One copy of each protest or reply filed under this section simultaneously must be served upon the publishing carrier or collective ratemaking organization, and upon other persons known by protestant to be interested.

* * * * *

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

26. The authority citation for part 1150 continues to read as follows:

49 U.S.C. 1321(a), 10502, 10901, and 10902.

§ 1150.10 [Amended]

27. In § 1150.10:

a. In paragraph (b), remove the words “The original and 10 copies of the application” and add in their place “An application”, and remove the words “application shall include” and add in their place “application may include”; and

b. In paragraph (g), remove “(with 10 copies)”.

§ 1150.16 [Amended]

28. In § 1150.16, remove the reference to “(plus three copies)”.

§ 1150.45 [Amended]

29. Amend § 1150.45(d) by removing the last sentence of the paragraph.

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

30. The authority citation for part 1152 continues to read as follows:

11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 1301, 1321(a), 10502, 10903-10905, and 11161.

§ 1152.21 [Amended]

31. In § 1152.21, in the paragraph beginning with, “Written comments and protests, including all requests...”, remove the words “The original and 10 copies of all comments or protests” and add in their place “Every comment or protest”.

§ 1152.22 [Amended]

32. In § 1152.22(i):

a. Remove the sentence beginning with, “In addition to the regular...”, in the first paragraph; and

b. In the paragraph beginning with, “Written comments and protests, including all requests...”, remove the words “The original and 10 copies of all comments or protests” and add in their place “Every comment or protest”.

33. Amend § 1152.24 by revising paragraph (a) to read as follows:

§ 1152.24 Filing and service of application.

(a) The application shall be filed with the Chief, Section of Administration, Office of Proceedings, Washington, DC 20423-0001. The application shall bear the date and signature and shall be complete in itself. The applicable filing fee must be paid by check, money order, or through the Board’s electronic payment system (see 49 CFR part 1002). If the applicant carrier is in bankruptcy, the application shall also be filed on the bankruptcy court.

* * * * *

34. Amend § 1152.25 as follows:

- a. Remove paragraph (c)(2);
- b. Redesignate paragraphs (c)(3) to (c)(4) as paragraphs (c)(2) to (c)(3).
- c. Revise newly redesignated paragraph (c)(3);
- d. Revise paragraphs (e)(1)(iii), (4), (6), and (7)(i);

The revisions read as follows:

§ 1152.25 Participation in abandonment or discontinuance proceedings.

(c) * * *

(3) Replies or rebuttal to written comments and protests shall be filed and served by applicants no later than 60 days after the filing of the application. * * * * *

(e) * * *

(1) * * *

(iii) The applicability and administration of the Trails Act [16 U.S.C. 1247(d)] in abandonment proceedings under 49 U.S.C. 10903 (and abandonment exemption proceedings), issued pursuant to delegations of authority at 49 CFR 1011.7(a)(2)(iv) and (v), will be acted on by the entire Board as set forth at 49 CFR 1011.2(a)(7). Any appeals, and replies to appeals, under this section must be filed with the Board.

* * * * *

(4) *Petitions to reopen administratively final actions.* A person may file with the Board a petition to reopen any administratively final action of the Board. A petition to reopen shall state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances.

* * * * *

(6) *Petitions to vacate.* In the event of procedural defects (such as the loss of a properly filed protest, the failure of the applicant to afford the public the requisite notice of its proposed abandonment, etc.), the Board will entertain petitions to vacate the abandonment or discontinuance authorization. Any petitions to vacate must be filed with the Board.

(7) * * *

(i) The filing of a petition to reopen shall not stay the effect of a prior action. Any petition to stay must be filed with the Board.

* * * * *

§ 1152.60 [Amended]

35. In § 1152.60(c), remove the sentence “The petitioner must submit a copy of the draft notice as data contained on a computer diskette compatible with the Board’s current word processing capabilities.”.

PART 1155—SOLID WASTE RAIL TRANSFER FACILITIES

36. The authority citation for part 1155 continues to read as follows:

49 U.S.C. 1321(a), 10908, 10909, 10910.

§ 1155.21(e) [Amended]

37. In § 1155.21(e), remove the sentence “In addition to the regular number of copies that must be filed with the Board, the petitioner must submit a copy of the draft notice as data contained on a computer diskette compatible with the Board’s current word processing capabilities.”.

§ 1155.23 [Amended]

38. In § 1155.23:

- a. In paragraph (c)(1), remove the sentence “An original and 10 copies of each comment shall be filed with the Board.”;
- b. In paragraph (c)(2), remove the sentence “An original and 10 copies of such comments shall be filed with the Board.”; and
- c. In paragraph (c)(3), remove the sentence “An original and 10 copies of such replies shall be filed with the Board.”

PART 1182—PURCHASE, MERGER, AND CONTROL OF MOTOR PASSENGER CARRIERS

39. The authority citation for part 1182 continues to read as follows:

5 U.S.C. 559; 21 U.S.C. 862; and 49 U.S.C. 13501, 13541(a), 13902(c), and 14303.

§ 1182.7 [Amended]

40. In § 1182.7(e)(2), remove the words “The original and 10 copies of the” and add in their place “The”.

§ 1182.8 [Amended]

41. Amend § 1182.8(b) by removing paragraph (b) and redesignating paragraphs (c) to (f) as paragraphs (b) to (e).

PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

42. The authority citation for part 1244 continues to read as follows:

49 U.S.C. 1321, 10707, 11144, 11145.

§ 1244.9 [Amended]

43. In § 1244.9:

- a. In paragraph (d)(3):
 - i. In paragraph (i), insert the words “with the Director, Office of Economics, Surface Transportation Board, Washington, DC” after “shipper”;
 - ii. Remove paragraph (ii); and
 - iii. Redesignate subparagraph (iii) as subparagraph (ii).
- b. In paragraph (e)(2), remove the words “An original and 2 copies of the” and add in their place “The”.
- c. In paragraph (g)(3), remove the words “An original and three (3) copies of the” and add in their place “The”.

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN NONCONTIGUOUS DOMESTIC TRADE

44. The authority citation for part 1312 continues to read as follows:

49 U.S.C. 1321(a), 13702(a), 13702(b) and 13702(d).

§ 1312.4 [Amended]

45. In § 1312.4:

- a. In paragraph (a)(1), remove “1925 K Street, NW.”;
- b. In paragraph (a)(2)(iii), remove the words “enclosed, the account number to be billed, or the credit card to be charged;” and add in their place “method of payment (pursuant to 49 CFR 1002.2(a)); and”;

- c. In paragraph (a)(2)(iv), remove the words “numbers; and” and add in their place “numbers.”; and
- d. Remove paragraph (a)(2)(v).

PART 1313—RAILROAD CONTRACTS FOR THE TRANSPORTATION OF AGRICULTURAL PRODUCTS

46. The authority citation for part 1313 continues to read as follows:

49 U.S.C. 1321(a) and 10709.

47. In § 1313.4, revise paragraphs (a)(3)(iii) and (iv), and remove paragraph (a)(3)(v), to read as follows:

§ 1313.4 Filing procedures and formats for contract summaries.

(a) * * *

(3) * * *

(iii) The filing fee enclosed (pursuant to 49 CFR 1002.2(a)); and

(iv) The transmittal number if the filer utilizes transmittal numbers.

* * * * *

48. In § 1313.10, revise paragraph (a)(7) and remove paragraph (a)(8)(v) to read as follows:

§ 1313.10 Procedures for complaints and discovery.

(a) * * *

(7) *Filings.* If a complaint, petition, or reply is filed in paper, it must be filed with the Board in a package marked “Confidential Rail Contract Material”. If a complaint, petition, or reply is electronically filed, it must be designated as confidential in the Board’s e-filing system.

* * * * *