

STB EX PARTE NO. 542 (SUB-NO. 11)

REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED
IN CONNECTION WITH LICENSING AND RELATED SERVICES—2004
UPDATE

Decided September 24, 2004

The Board adopts the 2004 User Fee Update.

BY THE BOARD:

BACKGROUND

The Surface Transportation Board (Board or STB) is *required* by regulations at 49 CFR 1002.3 to update its user fees annually. The Board's regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. The Board's fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). In previous years, selected fees have been modified to reflect new cost study data or changes in agency fee policy.¹ The Board's last annual user fee update was issued in *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2003*, 7 S.T.B. 39 (2003) (*2003 Fee Update*).

Because Board employees received a salary increase of 4.42% in January 2004, the Board is updating its user fees to recover those costs. All fees, with the exception of those discussed below, will be updated based on the cost formula at 49 CFR 1002.3(d). The Board notes that its master fee schedule has been amended to include those new and revised fees contained in the *2002 New Fees* decision.

2004 UPDATE FACTORS

For this update, the direct labor cost data have been revised to reflect the combined 2004 Government-wide general salary and 2004 locality salary increase of 4.42% that took effect in January 2004. The Government Fringe Benefit Cost used in the update formula remains at 49.55%. Based on the Board's fiscal year (FY) 2003 actual budget data, its Office General and Administrative Expense Factor has decreased slightly from 22.09% to 21.96%, and its Operations Overhead Factor, which is developed from FY 2003 payroll cost data, has also decreased from 23.15% to 22.31%. Meanwhile, the Board's General and Administrative Expense Factor has

¹ Included in this annual update are fees recently adopted in *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2002 New Fees*, 7 S.T.B. 511 (2004) (*2002 New Fees*).

increased from 9.07% to 12.87%. This significant change of approximately 40% is due to the fact that the Board's Office of the Secretary was abolished and certain of that Office's employees were reassigned to positions that are currently captured through the Board's General and Administrative Expense Factor (increased from approximately 15 employees in FY 2002 to 22 employees in FY 2003). The 2004 full cost for each fee item developed from these factors is set forth in APPENDIX A.

FEDERAL REGISTER COST

On March 1, 2002, the cost of publishing documents in the *Federal Register* was increased to \$155 per column. The minimum cost of publishing a document also was increased to \$155. The \$155 represented an increase of approximately 4.73% over the then-existing \$148 level of *Federal Register* costs. Based on an inquiry made to the United States Government Printing Office, the 4.73% increase is still applicable and called for in this proceeding. Therefore, the publication costs reflected here are at the same level of rates as those included in the *2003 Fee Update*. Moreover, no additional publication cost is anticipated at this time.

FEE ITEMS INCREASED BASED ON ADDITIONAL CONSIDERATIONS

Formal Complaints:

In *Regulations Governing Fees for Service--1996 Update*, 1 S.T.B. 179 (1996) (*1996 Fee Update I*), based on concerns expressed by various parties commenting in that decision, the Board determined that fees for formal complaints should be set at 10% of full cost and increased gradually to the full cost level. However, because of ongoing legislative debate regarding complaint fees when *1996 Fee Update I* was decided, the Board maintained all complaint fees at \$1,000.

In *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services-1996 Update*, 1 S.T.B. 883 (1996) (*1996 Fee Update II*), the Board established fees for coal rail rate complaint cases and for all other types of complaints, except those that involve rail maximum rate complaints filed by small shippers, at \$23,300 and \$2,300, respectively. Those fees became effective on January 16, 1997, and remained in effect until the Board's decision in *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services--1998 Update*, 3 S.T.B. 11 (1998) (*1998 Fee Update*), at which time the fees, based on a cost-of-living update and overhead changes, increased to \$27,000 and \$2,600, respectively. For the year 1999, in *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services--1999 Update*, 4 S.T.B. 5 (1999) (*1999 Fee Update*) the Board increased the percentage from 10% to

20% of full cost² and set the two fee items at \$54,500 and \$5,400, respectively.

Because of continuing legislative debate over the Board’s rail rate reasonableness procedures, the Board has held the percentage at 20% of full cost since the *1999 Fee Update* decision. However, during the time period from 1999 through 2003, cost-of-living increases have been applied to the direct labor costs, as well as changes to the STB overheads for these fee items.

Below is a summary of the user fee updates for formal complaints for the years 2000 through 2003. The table contains the filing fee amounts and changes to the fee amounts from the prior year for both the maximum coal rate complaint cases and for all other formal complaint cases.

SUMMARY OF USER FEE UPDATES FOR FORMAL COMPLAINTS
(Years 2000 through 2003)

Year of the User Fee Decision	Fee for Maximum Coal Rate Complaints	Fee Change from Prior Year	Fee for All Other Formal Complaints	Fee Change from Prior Year
1999 Fee Update	\$54,500	----	\$5,400	----
2000 Fee Update ³	\$55,000	\$500	\$5,400	\$0
2001 Fee Update ⁴	\$57,500	\$2,500	\$5,700	\$300
2002 Fee Update ⁵	\$61,400	\$3,900	\$6,000	\$300
2003 Fee Update ⁶	\$62,100	\$700	\$6,100	\$100

For the *2004 Fee Update*, the Board is continuing to maintain these complaint fee items at 20% of full cost. Based on the 20% calculation, the

² This increase was in keeping with the fourth recommendation found in the Department of Transportation Inspector General’s Office Report (Report on Surface Transportation Board’s User Fees, Report Number: CE-1999-021, Issued November 17, 1998, at 11), for the Board to update the complaint fees by 10% until fees reflected the full cost.

³ For the 2000 update, the Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$55,000 per filing [\$275,479.82 (total 2000 cost) times 20% and then rounded]. The Board also adopted the fee for item 56(ii), All other formal complaints, set at \$5,400 per filing [\$27,332.27 (total 2000 cost) times 20% and then rounded].

⁴ The Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$57,500 per filing [\$287,749.20 (total 2001 cost) times 20% and then rounded]. It also adopted the fee for item 56(ii), All other formal complaints, set at \$5,700 per filing [\$28,549.60 (total 2001 cost) times 20% and then rounded].

⁵ For the 2002 update, the Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$61,400 per filing [\$307,365.01 (total 2002 cost) times 20% and then rounded]. It also adopted the fee for item 56(ii), All other formal complaints, set at \$6,000 per filing [\$30,495.80 (total 2002 cost) times 20% and then rounded].

⁶ The Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$62,100 per filing [\$310,623.05 (total 2003 cost) times 20% and then rounded]. The Board also adopted a fee for item 56(ii), All other formal complaints, set at \$6,100 per filing [\$30,819.06 (total 2003 cost) times 20% and then rounded].

filing fees for these two types of complaint proceedings, are set at \$66,600 (\$4,500 increase over the 2003 fee) and \$6,600 (\$500 increase over the 2003 fee), respectively.⁷

Other Below-Cost Fees:

In the *2002 New Fees* decision, the Board raised from \$150 to \$200, the filing fees established in the *1996 Fee Update I* and *1996 Fee Update II* decisions for items involving trails use requests – item 27(i); Amtrak conveyance and compensation proceedings – items 47 and 48, respectively; appeals to Board decisions – item 61(i); motor carrier undercharge proceedings – item 62; and labor arbitration proceedings – item 60. Fees for these six items remain at the \$200 level in this proceeding. In addition, the fee for item 13, A feeder line development program, remains at \$2,600, and fees for item 58(i), Petition for declaratory order involving a dispute over an existing rate or practice, and item 58(ii), All other petitions for declaratory order, are held at their current levels of \$1,000 and \$1,400, respectively.

NEW AND REVISED FEE ITEMS

New and revised fee items were adopted by the Board in the *2002 New Fees* decision. That decision became effective on April 28, 2004. In that proceeding the Board added 19 new fee or sub-fee items to its user fee schedule and, as mentioned in the paragraph above, increased to \$200 the six fee items previously capped at \$150. In addition, six of the 19 new fee or sub-fee items were capped for reasons discussed in either the *2002 New Fees* decision or in the NPR decision to that proceeding.⁸ The six new capped fee items are: item 12(iv), A request for determination of a dispute involving a rail construction that crosses the line of another carrier; item 56(ii), A formal complaint involving rail maximum rates filed under the small rate case procedures; item 56(v), A request for an order compelling a rail carrier to establish a common carrier rate; items 63(i) and 63(ii), A request for expedited or temporary relief for service emergency or service inadequacy, respectively; and item 88, Basic fee for STB adjudicatory services not otherwise covered. Except for the fee for item 56(ii), all new capped item fees were set at \$200. The capped fee for item 56(ii) was set at \$150.

Also in *2002 New Fees*, the Board amended and updated nine existing fee or sub-fee items to reflect Board processing changes. These amendments and updates dealt with Carload Waybill Sample requests and Uniform Railroad Costing System (URCS) software and information requests, and also entailed deletion of several fee and sub-fee items. Finally, the Board changed the

⁷ The Board adopts a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$66,600 per filing [\$333,008.61 (total 2004 cost) times 20% and then rounded]. The Board also adopts the fee for former item 56(ii), redesignated in *2002 New Fees* decision as item 56(iii), All other formal complaints, set at \$6,600 per filing [\$33,040.07 (total 2004 cost) times 20% and then rounded].

⁸ *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2002 New Fees*, STB Ex Parte No. 542 (Sub-No. 4) (STB served August 29, 2002).

language contained in a few of the user fee regulations at 49 CFR 1002 in order to clarify the scope and applicability of those fee items.

In this proceeding the Board is updating fee items adopted in *2002 New Fees* to reflect the 2004 direct labor and overhead cost levels. This is necessary because the direct labor and overhead costs contained in the *2002 New Fees* decision were based on 2001 cost levels. Thus, all fee and sub-fee items in the *2004 Fee Update* are reflected at the 2004 direct labor and overhead cost levels.

RESULTS FROM THE 2004 UPDATE

The Board's current master fee schedule contains 127 fee or sub-fee items (the old master schedule contained 114 fee or sub-fee items). In this decision, 104 of the 127 items (81.9%) are either unchanged (40 items) or increased by \$500 or less (64 items). Of the 104 items, 78 or approximately 75% either remain unchanged (40 items) or are increased by \$100 or less (38 items). Moreover, of the 23 fee or sub-fee items that are increased by more than \$500, 15 of them have been increased by more than \$1,000 but of that number, only five items reflect any activity with the STB at the present time. The five items include: applications and petitions for the construction of new rail lines – items 12(i) and 12(iii); abandonment applications – item 21(i); offers of financial assistance – set terms and conditions – item 26; and rail maximum coal stand-alone complaints – items 56(i).

NOTICE AND COMMENT REQUIREMENT

The fee increases adopted here generally are a product of the mechanical application of the current update formula at 49 CFR 1002.3(d), which was adopted through notice and comment procedures in *Regulations Governing Fees for Services-1987 Update*, 4 I.C.C.2d 137 (1987). This decision contains no new fee or sub-fee items. Accordingly, 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).

REGULATORY FLEXIBILITY ANALYSIS

The Board certifies that these rules will not have a significant economic effect 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.

It is ordered:

1. 49 CFR Part 1002 of the *Code of Federal Regulations* is amended as set forth in *APPENDIX B*. Notice of the final rules adopted here will be transmitted to Congress pursuant to Pub. L. 104-121 (Mar. 29, 1996).

7 S.T.B.

2. These rules are effective October 31, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey and
Commissioner Buttrey.

APPENDIX A

FEE	2003 DIRECT LABOR	2004 DIRECT LABOR UPDATE	GOVT. FRINGES	TOTAL 2+3	(22.31%) OPERAT- IONS OVER- HEAD	(21.96%) OFFICE G&A	(12.87%) BOARD G&A	PUBLIC- ATION COST	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
1	1,344.96	1,404.41	695.88	2,100.29	468.57	564.12	403.22	4.00	3,540.20
2i	567.02	592.08	293.38	885.46	197.55	237.83	169.99	184.38	1,675.20
2ii	879.78	918.67	455.20	1,373.87	306.51	369.01	263.76	332.38	2,645.53
2iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,174.41
3	8,336.81	8,705.30	4,313.47	13,018.77	2,904.49	3,496.35	2,499.35	184.38	22,103.74
4i	1,344.96	1,404.41	695.88	2,100.29	468.57	564.12	403.22	184.38	3,720.58
4ii	32.32	33.75	16.72	50.47	11.26	13.56	9.69	0.00	84.98
5	151.69	158.39	78.48	236.88	52.85	63.62	45.48	5.00	403.83
6	434.08	453.27	224.59	677.86	151.23	182.07	130.14	266.41	1,407.71
11i	2,162.42	2,258.00	1,118.84	3,376.84	753.37	906.99	648.29	155.00	5,840.49
11ii	463.04	483.51	239.58	723.08	161.32	194.22	138.82	284.17	1,501.61
11iii	3,765.28	3,931.71	1,948.16	5,879.87	1,311.80	1,579.29	1,128.82	184.38	10,084.15
12i	22,597.64	23,596.46	11,692.04	35,288.50	7,872.86	9,478.24	6,774.72	199.28	59,613.60
12ii	463.04	483.51	239.58	723.08	161.32	194.22	138.82	284.17	1,501.61
12iii	22,597.64	23,596.46	11,692.04	35,288.50	7,872.86	9,478.24	6,774.72	199.28	59,613.60
12iv	4,488.96	4,687.38	2,322.60	7,009.97	1,563.92	1,882.83	1,345.78	0.00	11,802.51
13	6,940.84	7,247.63	3,591.20	10,838.82	2,418.14	2,911.23	2,080.85	180.84	18,429.88
14i	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	184.38	4,997.36
14ii	463.04	483.51	239.58	723.08	161.32	194.22	138.82	284.17	1,501.61
14iii	1,952.23	2,038.52	1,010.09	3,048.60	680.14	818.83	585.27	203.45	5,336.30
15	467.43	488.09	241.85	729.94	162.85	196.06	140.13	158.53	1,387.51
21i	6,686.49	6,982.03	3,459.60	10,441.63	2,329.53	2,804.59	2,004.59	155.00	17,735.30
21ii	998.15	1,042.27	516.44	1,558.71	347.75	418.66	299.24	393.39	3,017.75

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	1	2	3	4	5	6	7	8	9
21iii	1,853.13	1,935.04	958.81	2,893.85	645.62	777.27	555.56	225.95	5,098.25
22	144.60	150.99	74.82	225.81	50.38	60.65	43.35	0.00	380.19
23	576.99	602.49	298.54	901.03	201.02	242.01	172.98	0.00	1,517.04
24	552.12	576.52	285.54	862.19	192.35	231.58	165.52	0.00	1,451.65
25	474.92	495.91	245.72	741.64	165.46	199.20	142.38	0.00	1,248.67
26	6,881.80	7,185.98	3,560.65	10,746.63	2,397.57	2,886.47	2,063.15	0.00	18,093.81
27i	356.07	371.81	184.23	556.04	124.05	149.35	106.75	0.00	936.19
27ii	139.64	145.81	72.25	218.05	48.65	58.57	41.86	0.00	367.13
36	5,700.32	5,952.27	2,949.35	8,901.63	1,985.95	2,390.91	1,708.94	184.38	15,171.81
37	3,052.79	3,187.72	1,579.52	4,767.24	1,063.57	1,280.98	915.22	184.38	8,210.85
38i	450,987.12	470,920.75	233,341.23	704,261.98	157,120.85	189,159.67	135,204.82	5,696.35	1,191,443.67
38ii	90,199.24	94,186.05	46,669.19	140,855.23	31,424.80	37,832.70	27,041.51	1,139.26	238,293.50
38iii	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
38iv	434.08	453.27	224.59	677.86	151.23	182.07	130.14	266.41	1,407.71
38v	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
38vi	2,794.27	2,917.78	1,445.76	4,363.54	973.50	1,172.01	837.72	184.38	7,531.15
38vii	1,681.26	1,755.57	869.89	2,625.46	585.74	705.18	504.04	0.00	4,420.41
39i	450,987.12	470,920.75	233,341.23	704,261.98	157,120.85	189,159.67	135,204.82	5,696.35	1,191,443.67
39ii	90,199.24	94,186.05	46,669.19	140,855.23	31,424.80	37,832.70	27,041.51	1,139.26	238,293.50
39iii	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
39iv	315.06	328.99	163.01	492.00	109.76	132.15	94.45	286.75	1,115.11
39v	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
39vi	2,794.27	2,917.78	1,445.76	4,363.54	973.50	1,172.01	837.72	184.38	7,531.15

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	1	2	3	4	5	6	7	8	9
39vii	1,681.26	1,755.57	869.89	2,625.46	585.74	705.18	504.04	0.00	4,420.41
40i	450,987.12	470,920.75	233,341.23	704,261.98	157,120.85	189,159.67	135,204.82	5,696.35	1,191,443.67
40ii	90,199.24	94,186.05	46,669.19	140,855.23	31,424.80	37,832.70	27,041.51	1,139.26	238,293.50
40iii	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
40iv	291.82	304.72	150.99	455.71	101.67	122.40	87.49	234.46	1,001.72
40v	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
40vi	2,794.27	2,917.78	1,445.76	4,363.54	973.50	1,172.01	837.72	184.38	7,531.15
40vii	1,681.26	1,755.57	869.89	2,625.46	585.74	705.18	504.04	0.00	4,420.41
41i	450,987.12	470,920.75	233,341.23	704,261.98	157,120.85	189,159.67	135,204.82	5,696.35	1,191,443.67
41ii	90,199.24	94,186.05	46,669.19	140,855.23	31,424.80	37,832.70	27,041.51	1,139.26	238,293.50
41iii	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
41iv	346.97	362.31	179.52	541.83	120.88	145.53	104.02	265.72	1,177.98
41v	1,830.57	1,911.48	947.14	2,858.62	637.76	767.80	548.80	1,456.48	6,269.46
41vi	1,952.23	2,038.52	1,010.09	3,048.60	680.14	818.83	585.27	203.45	5,336.30
41vii	1,681.26	1,755.57	869.89	2,625.46	585.74	705.18	504.04	0.00	4,420.41
42	626.60	654.30	324.20	978.50	218.30	262.82	187.85	335.84	1,983.31
43	21,147.21	22,081.92	10,941.59	33,023.51	7,367.54	8,869.87	6,339.88	184.38	55,785.18
44i	3,874.25	4,045.49	2,004.54	6,050.03	1,349.76	1,625.00	1,161.49	184.38	10,370.66
44ii	32.32	33.75	16.72	50.47	11.26	13.56	9.69	0.00	84.98
45	240.63	251.27	124.50	375.77	83.83	100.93	72.14	0.00	632.67
46	2,377.97	2,483.08	1,230.36	3,713.44	828.47	997.40	712.91	184.38	6,436.60
47	45,737.97	47,759.59	23,664.88	71,424.46	15,934.80	19,184.09	13,712.13	0.00	120,255.49

7 S.T.B.

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	1	2	3	4	5	6	7	8	9
48	55,475.28	57,927.29	28,702.97	86,630.26	19,327.21	23,268.26	16,631.35	0.00	145,857.08
56i	126,656.49	132,254.71	65,532.21	197,786.91	44,126.26	53,124.13	37,971.30	0.00	333,008.61
56ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56iii	12,566.46	13,121.90	6,501.90	19,623.80	4,378.07	5,270.81	3,767.39	0.00	33,040.07
56iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56v	15,662.90	16,355.20	8,104.00	24,459.20	5,456.85	6,569.56	4,695.70	0.00	41,181.31
57	2,695.33	2,814.46	1,394.57	4,209.03	939.03	1,130.52	808.05	0.00	7,086.63
58i	2,532.10	2,644.02	1,310.11	3,954.13	882.17	1,062.05	759.12	581.26	7,238.73
58ii	2,003.53	2,092.09	1,036.63	3,128.71	698.02	840.35	600.65	155.00	5,422.73
59	2,082.90	2,174.96	1,077.69	3,252.66	725.67	873.64	624.45	184.38	5,660.79
60	4,127.36	4,309.79	2,135.50	6,445.29	1,437.94	1,731.16	1,237.37	0.00	10,851.76
61i	2,012.14	2,101.08	1,041.08	3,142.16	701.02	843.96	603.23	0.00	5,290.37
61ii	114.79	119.87	59.39	179.26	39.99	48.15	34.41	0.00	301.82
62	3,187.79	3,328.69	1,649.37	4,978.06	1,110.60	1,337.07	955.69	0.00	8,381.42
63i	5,659.70	5,909.86	2,928.33	8,838.19	1,971.80	2,373.87	1,696.76	0.00	14,880.62
63ii	6,309.11	6,587.97	3,264.34	9,852.31	2,198.05	2,646.26	1,891.45	0.00	16,588.07
64	181.61	189.63	93.96	283.60	63.27	76.17	54.45	0.00	477.49
76	377.26	393.93	195.19	589.13	131.43	158.24	113.10	2.00	993.90
77	39.90	41.66	20.64	62.31	13.90	16.74	11.96	0.00	104.91
78	7.51	7.84	3.89	11.73	2.62	3.15	2.25	0.00	19.75
79i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
79ii	47.55	49.65	24.60	74.25	16.57	19.94	14.26	0.00	125.02

FEE	2003 DIRECT LABOR	2004 DIRECT LABOR UPDATE	GOVT. FRINGES	TOTAL 2+3	(22.31%) OPERAT- IONS OVER- HEAD	(21.96%) OFFICE G&A	(12.87%) BOARD G&A	PUBLIC ATION COST	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
80	186.09	194.32	96.28	290.60	64.83	78.05	55.79	0.00	489.27
81i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
81ii	47.55	49.65	24.60	74.25	16.57	19.94	14.26	0.00	125.02
82	75.56	78.90	39.09	117.99	26.32	31.69	22.65	0.00	198.66
83	12.49	13.04	6.46	19.50	4.35	5.24	3.74	0.00	32.84
84	80.93	84.51	41.87	126.38	28.20	33.94	24.26	0.00	212.78
85	347.91	363.29	180.01	543.30	121.21	145.93	104.30	0.00	914.73
86i	453.30	473.34	234.54	707.87	157.93	190.13	135.90	0.00	1,191.83
86ii	1,556.88	1,625.69	805.53	2,431.22	542.40	653.01	466.75	0.00	4,093.38
86iii	159.38	166.42	82.46	248.88	55.53	66.85	47.78	0.00	419.03
87i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87v	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
88	173.74	181.42	89.89	271.31	60.53	72.87	52.09	0.00	456.80
96	9.77	10.20	5.06	15.26	3.40	4.10	2.93	0.00	25.69
97	7.42	7.75	3.84	11.59	2.59	3.11	2.22	0.00	19.51
98ia	49.48	51.66	25.60	77.26	17.24	20.75	14.83	0.00	130.08
98ib	14.34	14.98	7.42	22.40	5.00	6.02	4.30	0.00	37.71
98iia	78.15	81.61	40.44	122.04	27.23	32.78	23.43	155.00	360.48
98iib	14.34	14.98	7.42	22.40	5.00	6.02	4.30	0.00	37.71

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FEE	2003 DIRECT LABOR	2004 DIRECT LABOR UPDATE	GOVT. FRINGES	TOTAL 2+3	(22.31%) OPERAT- IONS OVER- HEAD	(21.96%) OFFICE G&A	(12.87%) BOARD G&A	PUBLIC ATION COST	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
99i	58.07	60.64	30.05	90.68	20.23	24.36	17.41	0.00	152.68
99ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00
100i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
100i i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00
100i ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00
101i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250.00
101i i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00
101i ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
101i v	55.76	58.22	28.85	87.07	19.43	23.39	16.72	0.00	450.00
102	5.17	5.40	2.67	8.07	1.80	2.17	1.55	0.00	13.59
103	32.04	33.46	16.58	50.03	11.16	13.44	9.61	0.00	84.24
104	22.17	23.15	11.47	34.62	7.72	9.30	6.65	0.00	58.29
105	0.72	0.75	0.37	1.12	0.25	0.30	0.22	0.00	1.89
106	55.76	58.22	28.85	87.07	19.43	23.39	16.72	0.00	450.00

APPENDIX B

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 (a) through (d) and (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.*

* * * * *

(a) Certificate of the Secretary, \$13.00.

(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 \$33.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of \$23.00 per hour.

(d) Photocopies of tariffs, reports, and other public documents, at the rate of \$1.10 per letter or legal size exposure. A minimum charge of \$5.50 will be made for this service.

(f) * * *

(1) A fee of \$58.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

* * * * *

(g) * * *

(6) * * *

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Grade	Rate	Grade	Rate
GS-1	\$ 9.72	GS-9	\$22.71
GS-2	10.59	GS-10	25.01
GS-3	11.93	GS-11	27.47
GS-4	13.39	GS-12	32.93
GS-5	14.99	GS-13	39.16
GS-6	16.71	GS-14	46.27
GS-7	18.56	GS-15 and	54.43
GS-8	20.56	over	

(7) The fee for photocopies shall be \$1.10 per letter or legal size exposure with a minimum charge of \$5.50.

* * * * *

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

§ 1002.2 *Filing fees.*

(a) ***

(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 .	\$3,500.
(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	\$1,600.
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered	\$2,600.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	\$2,100.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	\$22,100.
(4) An application for approval of an amendment to a non-rail rate association agreement:	

(i) Significant amendment	\$3,700.
(ii) Minor amendment	\$80.
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	\$400.
(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	\$1,400.
(7)-(10) [Reserved]	

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	\$5,800.
(ii) Notice of exemption under 49 CFR 1150.31-1150.35	\$1,500.
(iii) Petition for exemption under 49 U.S.C. 10502	\$10,000.
(12)(i) An application involving the construction of a rail line	\$59,600.
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	\$1,500.
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	\$59,600.
(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)	\$200.
(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.	\$4,900.

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(ii) Notice of exemption under 49 CFR 1150.41 - 1150.45	\$1,500.
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902	\$5,300.
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21-1150.24	\$1,300.
(16)-(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)	\$17,700.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	\$3,000.
(iii) A petition for exemption under 49 U.S.C. 10502 .	\$5,000.
(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.	\$350.
(23) Abandonments filed by bankrupt railroads	\$1,500.
(24) A request for waiver of filing requirements for abandonment application proceedings	\$1,400.
(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	\$1,200.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	\$18,000.
(27)(i) 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	\$350.
(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	\$15,100.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	\$8,200.
(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	\$1,191,400.
(ii) Significant transaction	\$238,200.
(iii) Minor transaction	\$6,200.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,400.
(v) Responsive application	\$6,200.
(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$7,500.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$4,400.
(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	\$1,191,400.
(ii) Significant transaction	\$238,200.
(iii) Minor transaction	\$6,200.

(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,100.
(v) Responsive application	\$6,200.
(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$7,500.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$4,400.
(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	\$1,191,400.
(ii) Significant transaction	\$238,200.
(iii) Minor transaction	\$6,200.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,000.
(v) Responsive application	\$6,200.
(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$7,500.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$4,400.
(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:	
(i) Major transaction	\$1,191,400.
(ii) Significant transaction	\$238,200.
(iii) Minor transaction	\$6,200.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,100.
(v) Responsive application	\$6,200.

(vi) Petition for exemption under 49 U.S.C. 10502 . . .	\$5,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$4,400.
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	\$1,900.
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	\$55,700.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	\$10,300.
(ii) Minor amendment	\$80.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	\$600.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered	\$6,400.
(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.
(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)	\$66,600.
(ii) A formal complaint involving rail maximum rates filed under the small rate case procedures	\$150.

(iii) All other formal complaints (except competitive access complaints)	\$6,600.
(iv) Competitive access complaints	\$150.
(v) A request for an order compelling a rail carrier to establish a common carrier rate	\$200.
(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	\$7,000.
(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)	\$5,600.
(60) Labor arbitration proceedings	\$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	\$300.
(62) Motor carrier undercharge proceedings	\$200.
(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	\$200.
(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	\$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)	\$450.
(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 . .	\$950.
(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. (\$19 minimum charge.)
(79) Special docket applications from rail and water carriers:	
(i) Applications involving \$25,000 or less	\$50.
(ii) Applications involving over \$25,000	\$100.
(80) Informal complaint about rail rate applications	\$450.
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving \$25,000 or less	\$50.
(ii) Petitions involving over \$25,000	\$100.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3)	\$150.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c).	\$32 per document.
(84) Informal opinions about rate applications (all modes)	\$200.
(85) A railroad accounting interpretation	\$900.
(86)(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)	\$4,000.
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered	\$400.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(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	\$200.
(89)-(95) [Reserved]	

PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	\$25 per delivery.
(97) Request for service or pleading list for proceedings	\$19 per list.
(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	\$37 per party.
(ii) Does require a Federal Register notice:	
(a) Set cost portion	\$350.
(b) Sliding cost portion	\$37 per party.
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam	\$150.
(ii) Practitioners' Exam Information Package	\$25.
(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 per year.
(iii) Public requests for <u>Source Codes</u> to PC version URCS Phase III	\$100.
(101) Carload Waybill Sample data on recordable compact disk (R-CD):	
(i) Requests for Public Use File on R-CD -per year . . .	\$250 per year.
(ii) Waybill - Surface Transportation Board or State proceedings on R-CD - per year	\$500 per year.
(iii) User Guide for latest available Carload Waybill Sample	\$50.
(iv) Specialized programming for Waybill requests to the Board	\$87 per hour.
