

SERVICE DATE – MAY 5, 2009

This decision will be included in the bound volumes  
of printed reports at a later date.

## DECISION

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

### REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES–2009 UPDATE

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Decided: April 29, 2009  
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The Board adopts the 2009 User Fee Update.

## BACKGROUND

The Surface Transportation Board (Board or STB) is required by regulations at 49 CFR 1002.3 to update its user fees at least once per year. The Board's last annual user-fee update was issued in Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2008 Update, Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008) (2008 Fee Update). This decision (2009 Fee Update) updates our fees based on the cost study formula set forth at 49 CFR 1002.3(d) and other factors relevant to Board fee policy.<sup>1</sup>

## 2009 UPDATE FACTORS

In general, user fees increased because the Board's costs increased. For the 2009 update, direct-labor cost data reflect the combined 2009 government-wide general and locality salary increase of 4.78%<sup>2</sup> that took effect in January 2009. The Government Fringe Benefit Cost Factor in the current update formula has been revised to 56.25% from last year's 56.45%.<sup>3</sup> Based on

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<sup>1</sup> The current master fee schedule includes 125 fee or sub-fee items, a net increase of two items to the 123 contained in the Board's 2008 Fee Update decision.

<sup>2</sup> The combined increase is composed of a general schedule increase of 2.90% and a locality payment increase of 1.88%, for a total of 4.78%.

<sup>3</sup> Pursuant to a memorandum (M-08-13) from the Executive Office of the President–Office of Management and Budget (OMB) dated March 11, 2008, and based on past Board precedent, the component parts of the Government Fringe Benefit Cost Factor have been updated as follows: Standard Civilian Retirement Benefit is updated to 26.10%; Insurance and Health Benefit is updated to 7.00%; Medicare Benefit remains at 1.45%; Miscellaneous Fringe Benefit

(continued . . . )

fiscal year (FY) 2008 actual budget data, the Board’s Office General and Administrative Expense Factor decreased from 29.28% to 28.18%, while the Operations Overhead Factor, developed from FY 2008 payroll cost data, decreased from 21.00% to 19.01%. Lastly, the Board’s General and Administrative Expense Factor decreased from 12.44% to 11.93%. The 2009 full cost for each fee or sub-fee item developed from these factors is set forth in column 9 of **APPENDIX A**.<sup>4</sup>

**FEDERAL REGISTER COST**

There are no changes from the 2008 Fee Update decision to publication costs. The United States Government Printing Office (GPO) has informed the Board that charges in GPO’s March 2006 Circular Letter No. 609, with publication costs at \$163 per column, remain in effect.

**ADDITIONAL CHANGES TO FEES**

**1. Recent Changes to Formal Rate Complaint Fees:**

On September 5, 2007, in Ex Parte No. 646 (Sub-No. 1), Simplified Standards for Rail Rate Cases (Simplified Standards), the Board modified 49 CFR 1002.2(f)(56) to establish fees for new complaint procedures developed by the Board for small and medium-size rate cases. As of that date, section 1002.2(f)(56) read as follows:

(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) . . . . .	\$178,200.
(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology . . . . .	10,600.
(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology . . . . .	150.
(iv) All other formal complaints (except competitive access complaints) . .	17,600.
(v) Competitive access complaints . . . . .	150.
(vi) A request for an order compelling a rail carrier to establish a common carrier rate . . . . .	200.

Subsequent legislation mandated further revisions to the fee schedule adopted in Simplified Standards. On December 26, 2007, the Consolidated Appropriations Act, Pub. L.

( . . . continued)  
remains at 1.70%; and Leave and Holiday Benefit remains at 20.00%.

<sup>4</sup> The exact overhead factors utilized in **APPENDIX A** are as follows: Operations Overhead Factor = 0.19006237; Office Overhead Factor = 0.28181031; and Board Overhead Factor = 0.11934867.

No. 110-161, 121 Stat. 1844 (2007) was enacted into law. In addition to establishing the Board's FY 2008 funding, it also stated, in Section 194, the following:

None of the funds appropriated or otherwise made available under this Act may be used by the Surface Transportation Board of the Department of Transportation to charge or collect any filing fee for rate complaints filed with the Board in an amount in excess of the amount authorized for district court civil suit filing fees under section 1914 of title 28, United States Code.

As a result, the Board modified two of the six sub-fee items in 49 CFR 1002.2(f)(56) of its User Fee schedule. Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2007 Update, Ex Parte No. 542 (Sub-No. 14) (STB served Jan. 25, 2008) (Mandatory Modification). Specifically, the fees for both a formal complaint filed under the coal rate guidelines and one involving rail maximum rates filed under the Simplified-SAC methodology were reduced to \$350, the current district court filing fee under 28 U.S.C. 1914.<sup>5</sup> Because Congress mandated continuation of the \$350 filing-fee limit in the Omnibus Appropriations for FY 2009,<sup>6</sup> in this decision<sup>7</sup> the Board holds those rate-case fees at that level. These fees, and others the Board addresses, are included in the Schedule of Filing Fees in **APPENDIX B**.

The fee for all other formal complaints (i.e., non-rate)—sub-item 56(iv)—was not affected by the above legislation. In this proceeding, we set the fee for this sub-item at \$21,100, which is a \$400 increase over the 2008 sub-fee item amount to account for increased costs.<sup>8</sup> In addition, as explained below, we are also raising the fee for sub-fee item 56(vi) from \$200 to \$250.

## **2. Other Original Below-Cost Fees (Capped):**

Historically, certain fees have been held to levels well below full cost. In the past, various fees were capped out of a concern that higher fees would have a chilling effect on some complaints/petitions, or because certain actions brought by individuals were deemed to have large public benefits. Capped fees are occasionally adjusted; however, the Board continues to monitor them. Such fees include: trails use condition 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. See Regulations Governing Fees for Services Performed in Connection with Licensing and

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<sup>5</sup> The Board's full costs of processing these complaints is substantial, approximately \$425,372 for coal rate guidelines complaints and \$42,204 for Simplified-SAC cases.

<sup>6</sup> See Pub. L. No. 111-8 at Section 193, which contains identical language to that found in Section 194 of the Consolidated Appropriations Act, Pub. L. No. 110-161, 121 Stat. 1844 (2007) dealing with the Board's FY 2008 funding.

<sup>7</sup> Fees for the other types of rate complaints were already below \$350.

<sup>8</sup> The fee is set at 50% of the full 2009 costs (\$42,204.09), with a rounding adjustment.

Related Services–2002 New Fees, Ex Parte No. 542 (Sub-No. 4) (STB served Mar. 29, 2004) (2002 New Fees).

In this decision, the Board raises these six fee and sub-fee items from \$200 to \$250 for two reasons: first, they have been held constant for the past five years and second, they are for case types in which the full costs are substantially greater than this \$200 fee, thus justifying a minor \$50 increase to each item. Indeed, since the 2002 New Fees final decision was served, full cost levels for many of the capped fee items have risen by as much as 27.75%. Therefore, a 25% increase to the \$200 capped fee items is both justified and reasonable.

Fees for item 13, feeder line development program (\$2,600), item 58(i), petition for declaratory order involving a dispute over an existing rate or practice (\$1,000), and item 58(ii), all other petitions for declaratory order (\$1,400) will remain at their current fee levels.

### **3. Certain Fees from the 2002 New Fees Decision Held Below-Cost (Capped):**

In 2002 New Fees, the Board added 19 new fee or sub-fee items to its user-fee schedule. Six were capped below their full costs for reasons discussed either in the 2002 New Fees final decision or in the Notice of Proposed Rulemaking for that proceeding.<sup>9</sup> Those capped items included: item 12(iv), request for determination of a dispute involving a rail construction that crosses the line of another carrier; former item 56(ii), now 56(iii), formal complaint involving rail maximum rates filed under the Three Benchmark methodology; item 56(vi), request for an order compelling a rail carrier to establish a common carrier rate; items 63(i) and 63(ii), 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.

In this decision, and for the same reasons given above for raising the six original below-cost fees, the Board raises five out of the six 2002 New Fee sub-item fees from \$200 to \$250. Sub-fee item 56(iii) remains at \$150 because it has only been in effect for about a year and a half. The Board adjusts the remaining 13 items established in 2002 New Fees to account for the 2009 salary increase and changes to the Board's overhead costs. These items are included in the Schedule of Filing Fees in **APPENDIX B**.

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<sup>9</sup> Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2002 New Fees, Ex Parte No. 542 (Sub-No. 4) (STB served Aug. 29, 2002).

**4. Fee Items Pertaining to Solid-Waste Rail Transfer Facilities:**

The STB’s January 14, 2009 decision, Solid Waste Rail Transfer Facilities, Ex Parte No. 684 (Solid Waste), served as both a Notice of Proposed Rulemaking and an Adoption of Interim Rules. This rulemaking was based on the October 16, 2008 Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (Clean Railroads Act or CRA), which revised 49 U.S.C. 10501(c)(2) to remove regulation of solid-waste rail transfer facilities from the Board’s jurisdiction, except as provided in that Act. The CRA limited the Board’s authority to regulate solid-waste rail transfer facilities to the issuance of land-use-exemption permits. The Adoption of Interim Rules decision, at page 15, established two new fees for the Board’s current master Schedule of Filing Fees, which are:

(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.

Because these Interim Rules have been in effect for only about three months, the Board holds these two items at their current fee levels.

**RESULTS FROM THE 2009 UPDATE**

The Board’s current master Schedule of Filing Fees contains 125 fee or sub-fee items. Based on the various direct-labor and overhead changes instituted in the 2009 Fee Update decision, we find the following: (1) legislation holds fees for two of these 125 items at \$350; (2) fees for 106 items (about 85%) are either unchanged (56 items) or increased by \$100 or less (50 items); (3) of the 19 fees with increases over \$100, 11 are increased by less than \$2,000; and (4) all eight of the items increased by \$2,100 or more, pertain to major or significant financial transactions.<sup>10</sup>

Many fees had small or no increases because, while the combined 2009 wage increase was nearly 5%, all three overhead factors for the Board have decreased. Fee or sub-fee items that do not require a Federal Register notice show a net change in full cost for 2009 of only about 1.6% over the 2008 Fee Update full cost. The table below depicts the breakdown of user-fee changes for this proceeding.

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<sup>10</sup> These are covered under fee items 38 through 41.

**SUMMARY OF USER-FEE CHANGES FOR 2009**

<b>Fee Item Change Category:</b>	<b>Number of User Fees</b>	<b>Percent of Total User Fee Schedule</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
<b>1. No Increase</b>	56	44.80%
<b>2. Increases from \$0 - \$50</b>	21	16.80%
<b>3. Increases of \$100</b>	29	23.20%
<b>4. Increases of \$200 - \$900</b>	8	6.40%
<b>5. Increases of \$1,000 - \$2,000</b>	3	2.40%
<b>6. Increases of \$2,100 - \$5,000</b>	4	3.20%
<b>7. Increases greater than \$5,000</b>	4	3.20%
<b>TOTAL</b>	<b>125</b>	<b>100.00%</b>

**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 Service—1987 Update, 4 I.C.C.2d 137 (1987). This decision does not contain any new proposed fee or sub-fee items, although it does contain two fees established in Ex Parte No. 684 and explained above. Therefore, 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 fee changes 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 indicated in **APPENDIX B**. Notice of the final rules adopted here will be transmitted to Congress pursuant to Pub. L. 104-121 (Mar. 29, 1996).

2. These rules are effective June 4, 2009.

By the Board, Acting Chairman Mulvey and Vice Chairman Nottingham.

Anne K. Quinlan  
Acting Secretary

## APPENDIX A

<b>FEE</b>	<b>2008 DIRECT LABOR</b>	<b>2009 DIRECT LABOR UPDATE (4.78% INCR.)</b>	<b>(56.25%) GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(19.01%) OPERATIONS OVERHEAD</b>	<b>(28.18%) OFFICE G&amp;A</b>	<b>(11.93%) BOARD G&amp;A</b>	<b>PUBLICATION COSTS</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
1	\$1,615.81	\$1,693.05	\$952.34	\$2,645.38	\$502.79	\$887.19	\$481.61	\$4.00	\$4,520.97
2i	681.21	713.77	401.50	1115.27	211.97	374.03	203.04	193.89	2098.20
2ii	1056.96	1107.48	622.96	1730.44	328.89	580.34	315.04	349.54	3304.26
2iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2729.67 <sup>11</sup>
3	10015.77	10494.52	5903.17	16397.69	3116.58	5499.32	2985.34	193.89	28192.83
4i	1615.81	1693.05	952.34	2645.38	502.79	887.19	481.61	193.89	4710.86
4ii	38.83	40.69	22.89	63.57	12.08	21.32	11.57	0.00	108.55
5	182.24	190.95	107.41	298.36	56.71	100.06	54.32	5.00	514.45
6	521.51	546.44	307.37	853.81	162.28	286.34	155.44	280.16	1738.03
11i	2597.91	2722.09	1531.18	4253.27	808.39	1426.43	774.34	163.00	7425.42
11ii	556.29	582.88	327.87	910.75	173.10	305.44	165.81	298.84	1853.94
11iii	4523.58	4739.81	2666.14	7405.95	1407.59	2483.75	1348.32	193.89	12839.49
12i	27148.59	28446.29	16001.04	44447.33	8447.77	14906.38	8092.02	209.57	76103.07
12ii	556.29	582.88	327.87	910.75	173.10	305.44	165.81	298.84	1853.94
12iii	27148.59	28446.29	16001.04	44447.33	8447.77	14906.38	8092.02	209.57	76103.07
12iv	5393.00	5650.79	3178.57	8829.35	1678.13	2961.12	1607.46	0.00	15076.05

<sup>11</sup> There are several fee items, such as 2iii, which list a total sum in column 9 without broken-out costs in columns 1 through 8. The full costs for these items were not computed through a time-and-motion study. Instead, they were estimated in a prior fee update or in specific decisions, based either on a comparable fee item (e.g., the cost for non-rail-related petitions to revoke were based upon the cost for rail-related petitions to revoke) or through a special calculation intended to lower the user fee far below actual full costs (e.g., complaints for small rate cases—Three Benchmark).

APPENDIX A									
FEE	2008 DIRECT LABOR	2009 DIRECT LABOR UPDATE (4.78% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.01%) OPERATIONS OVERHEAD	(28.18%) OFFICE G&A	(11.93%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
13	8338.67	8737.26	4914.71	13651.97	2594.73	4578.49	2485.46	190.17	23500.80
14i	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	193.89	6341.81
14ii	556.29	582.88	327.87	910.75	173.10	305.44	165.81	298.84	1853.94
14iii	2345.39	2457.50	1382.34	3839.84	729.81	1287.78	699.08	213.95	6770.45
15	561.56	588.40	330.98	919.38	174.74	308.33	167.38	166.71	1736.54
16	2130.66	2226.33	1256.76	3483.09	731.60	1234.23	677.70	237.61	6364.22
17	7687.89	8033.08	4534.67	12567.75	2639.78	4453.36	2445.28	163.00	22269.17
21i	8033.08	8417.06	4734.60	13151.66	2499.64	4410.70	2394.37	163.00	22619.36
21ii	1199.17	1256.49	706.78	1963.27	373.14	658.42	357.43	413.69	3765.95
21iii	2226.33	2332.75	1312.17	3644.92	692.76	1222.40	663.59	237.61	6461.28
22	173.73	182.03	102.39	284.43	54.06	95.39	51.78	0.00	485.66
23	693.18	726.31	408.55	1134.87	215.70	380.60	206.61	0.00	1937.77
24	663.31	695.02	390.95	1085.96	206.40	364.20	197.71	0.00	1854.27
25	570.56	597.83	336.28	934.11	177.54	313.28	170.06	0.00	1594.99
26	8267.74	8662.94	4872.90	13535.84	2572.65	4539.54	2464.32	0.00	23112.35
27i	427.77	448.22	252.12	700.34	133.11	234.87	127.50	0.00	1195.82
27ii	167.76	175.78	98.88	274.65	52.20	92.11	50.00	0.00	468.97
36	6848.31	7175.66	4036.31	11211.97	2130.97	3760.18	2041.23	193.89	19338.24
37	3667.59	3842.90	2161.63	6004.53	1141.24	2013.75	1093.18	193.89	10446.59
38i	541811.65	567710.25	319337.01	887047.26	168594.30	297490.68	161494.53	5990.36	1520617.14
38ii	108364.51	113544.33	63868.69	177413.02	33719.54	59499.33	32299.56	1198.06	304129.51
38iii	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57

<b>FEE</b>	<b>2008 DIRECT LABOR</b>	<b>2009 DIRECT LABOR UPDATE (4.78% INCR.)</b>	<b>(56.25%) GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(19.01%) OPERATIONS OVERHEAD</b>	<b>(28.18%) OFFICE G&amp;A</b>	<b>(11.93%) BOARD G&amp;A</b>	<b>PUBLICATION COSTS</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
38iv	521.51	546.44	307.37	853.81	162.28	286.34	155.44	280.16	1738.03
38v	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57
38vi	3357.02	3517.49	1978.59	5496.07	1044.60	1843.23	1000.61	193.89	9578.39
38vii	2019.84	2116.39	1190.47	3306.86	628.51	1109.03	602.04	0.00	5646.43
39i	541811.65	567710.25	319337.01	887047.26	168594.30	297490.68	161494.53	5990.36	1520617.14
39ii	108364.51	113544.33	63868.69	177413.02	33719.54	59499.33	32299.56	1198.06	304129.51
39iii	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57
39iv	378.53	396.62	223.10	619.72	117.79	207.84	112.83	301.55	1359.73
39v	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57
39vi	3357.02	3517.49	1978.59	5496.07	1044.60	1843.23	1000.61	193.89	9578.39
39vii	2019.84	2116.39	1190.47	3306.86	628.51	1109.03	602.04	0.00	5646.43
40i	541811.65	567710.25	319337.01	887047.26	168594.30	297490.68	161494.53	5990.36	1520617.14
40ii	108364.51	113544.33	63868.69	177413.02	33719.54	59499.33	32299.56	1198.06	304129.51
40iii	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57
40iv	350.60	367.36	206.64	574.00	109.10	192.50	104.50	246.56	1226.66
40v	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57
40vi	3357.02	3517.49	1978.59	5496.07	1044.60	1843.23	1000.61	193.89	9578.39
40vii	2019.84	2116.39	1190.47	3306.86	628.51	1109.03	602.04	0.00	5646.43
41i	541811.65	567710.25	319337.01	887047.26	168594.30	297490.68	161494.53	5990.36	1520617.14
41ii	108364.51	113544.33	63868.69	177413.02	33719.54	59499.33	32299.56	1198.06	304129.51
41iii	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57
41iv	416.85	436.78	245.69	682.46	129.71	228.88	124.25	279.43	1444.73
41v	2199.23	2304.35	1296.20	3600.55	684.33	1207.52	655.51	1531.65	7679.57

<b>FEE</b>	<b>2008 DIRECT LABOR</b>	<b>2009 DIRECT LABOR UPDATE (4.78% INCR.)</b>	<b>(56.25%) GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(19.01%) OPERATIONS OVERHEAD</b>	<b>(28.18%) OFFICE G&amp;A</b>	<b>(11.93%) BOARD G&amp;A</b>	<b>PUBLICATION COSTS</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
41vi	2345.39	2457.50	1382.34	3839.84	729.81	1287.78	699.08	213.95	6770.45
41vii	2019.84	2116.39	1190.47	3306.86	628.51	1109.03	602.04	0.00	5646.43
42	752.79	788.77	443.69	1232.46	234.24	413.33	224.38	353.17	2457.58
43	25406.06	26620.47	14974.01	41594.48	7905.55	13949.62	7572.63	193.89	71216.17
44i	4654.49	4876.97	2743.30	7620.27	1448.33	2555.62	1387.34	193.89	13205.45
44ii	38.83	40.69	22.89	63.57	12.08	21.32	11.57	0.00	108.55
45	289.09	302.91	170.39	473.29	89.96	158.73	86.17	0.00	808.15
46	2856.87	2993.43	1683.80	4677.23	888.97	1568.61	851.53	193.89	8180.23
47	54949.16	57575.73	32386.35	89962.08	17098.41	30170.75	16378.36	0.00	153609.60
48	66647.48	69833.23	39281.19	109114.42	20738.55	36593.90	19865.21	0.00	186312.08
56i	152163.91	159437.34	89683.51	249120.85	47348.50	83548.12	45354.58	0.00	425372.05
56ii	15097.23	15818.88	8898.12	24717.00	4697.77	8289.38	4499.94	0.00	42204.09
56iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56iv	15097.23	15818.88	8898.12	24717.00	4697.77	8289.38	4499.94	0.00	42204.09
56v	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56vi	18817.26	19716.73	11090.66	30807.38	5855.32	10331.93	5608.75	0.00	52603.38
57	3238.15	3392.93	1908.53	5301.46	1007.61	1777.96	965.18	0.00	9052.20
58i	3042.04	3187.45	1792.94	4980.39	946.58	1670.28	906.72	611.26	9115.24
58ii	2407.03	2522.09	1418.67	3940.76	748.99	1321.62	717.45	163.00	6891.82
59	2502.37	2621.98	1474.87	4096.85	778.66	1373.97	745.87	193.89	7189.23
60	4958.57	5195.59	2922.52	8118.11	1542.95	2722.59	1477.97	0.00	13861.61
61i	2417.38	2532.93	1424.77	3957.70	752.21	1327.30	720.53	0.00	6757.75

<b>FEE</b>	<b>2008 DIRECT LABOR</b>	<b>2009 DIRECT LABOR UPDATE (4.78% INCR.)</b>	<b>(56.25%) GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(19.01%) OPERATIONS OVERHEAD</b>	<b>(28.18%) OFFICE G&amp;A</b>	<b>(11.93%) BOARD G&amp;A</b>	<b>PUBLICATION COSTS</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
61ii	137.93	144.52	81.29	225.82	42.92	75.73	41.11	0.00	385.58
62	3829.77	4012.83	2257.22	6270.05	1191.70	2102.80	1141.52	0.00	10706.07
63i	6799.51	7124.53	4007.55	11132.07	2115.79	3733.38	2026.69	0.00	19007.93
63ii	7579.69	7942.00	4467.37	12409.37	2358.55	4161.75	2259.23	0.00	21188.92
64	218.19	228.62	128.60	357.22	67.89	119.80	65.03	0.00	609.95
76	453.23	474.89	267.13	742.02	141.03	248.85	135.09	2.00	1269.00
77	47.94	50.23	28.26	78.49	14.92	26.32	14.29	0.00	134.02
78	9.02	9.45	5.32	14.77	2.81	4.95	2.69	0.00	25.22
79i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
79ii	57.12	59.85	33.67	93.52	17.77	31.36	17.03	0.00	159.68
80	223.57	234.26	131.77	366.03	69.57	122.75	66.64	0.00	624.99
81i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
81ii	57.12	59.85	33.67	93.52	17.77	31.36	17.03	0.00	159.68
82	90.77	95.11	53.50	148.61	28.24	49.84	27.06	0.00	253.75
83	15.00	15.72	8.84	24.56	4.67	8.24	4.47	0.00	41.93
84	97.24	101.89	57.31	159.20	30.26	53.39	28.98	0.00	271.83
85	417.98	437.96	246.35	684.31	130.06	229.50	124.58	0.00	1168.46
86i	544.60	570.63	320.98	891.61	169.46	299.02	162.33	0.00	1522.42
86ii	1870.41	1959.82	1102.40	3062.21	582.01	1026.98	557.50	0.00	5228.70
86iii	191.47	200.62	112.85	313.47	59.58	105.13	57.07	0.00	535.25
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

<b>FEE</b>	<b>2008 DIRECT LABOR</b>	<b>2009 DIRECT LABOR UPDATE (4.78% INCR.)</b>	<b>(56.25%) GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(19.01%) OPERATIONS OVERHEAD</b>	<b>(28.18%) OFFICE G&amp;A</b>	<b>(11.93%) BOARD G&amp;A</b>	<b>PUBLICATION COSTS</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
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	208.73	218.71	123.02	341.73	64.95	114.61	62.21	0.00	583.50
96	11.73	12.29	6.91	19.20	3.65	6.44	3.50	0.00	32.79
97	8.92	9.35	5.26	14.60	2.78	4.90	2.66	0.00	24.94
98ia	59.43	62.27	35.03	97.30	18.49	32.63	17.71	0.00	166.14
98ib	17.23	18.05	10.16	28.21	5.36	9.46	5.14	0.00	48.17
98iia	93.89	98.38	55.34	153.72	29.22	51.55	27.99	163.00	425.47
98iib	17.23	18.05	10.16	28.21	5.36	9.46	5.14	0.00	48.17
99i	69.77	73.11	41.12	114.23	21.71	38.31	20.80	0.00	195.04
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	250.00
100ii	66.99	70.19	39.48	109.68	20.85	36.78	19.97	0.00	187.27
102	6.21	6.51	3.66	10.17	1.93	3.41	1.85	0.00	17.36
103	38.49	40.33	22.69	63.02	11.98	21.13	11.47	0.00	107.60
104	26.64	27.91	15.70	43.61	8.29	14.63	7.94	0.00	74.47
105	0.87	0.91	0.51	1.42	0.27	0.48	0.26	0.00	2.43
106	66.99	70.19	39.48	109.68	20.85	36.78	19.97	0.00	187.27

**APPENDIX B**

For 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.

\* \* \* \* \*

(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.

\* \* \* \* \*

(g) \* \* \*

(6) \* \* \*

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

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

\* \* \* \* \*

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

§ 1002.2 Filing fees.

(a) \* \* \*

(f) Schedule of filing fees.

Type of Proceeding	Fee
<b>PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:</b>	
(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]	

<b>PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:</b>	
(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]	

<b>PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:</b>	
(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) 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]	

<b>PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:</b>	
(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:	
(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]	

<b>PART V: Formal Proceedings:</b>	
(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]	

<b>PART VI: Informal Proceedings:</b>	
(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.
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(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.....	\$250.
(89)-(95) [Reserved]	

<b>PART VII: Services:</b>	
(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 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 Carload Waybill requests to the Board.....	\$109 per hour.

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