

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

DECISION

Docket No. EP 542 (Sub-No. 17)

REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES–2010 UPDATE

Decided: July 22, 2010

The Board adopts the 2010 User Fee Update.

BACKGROUND

The Surface Transportation Board is required by regulation at 49 C.F.R. § 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–2009 Update, EP 542 (Sub-No. 16) (STB served May 5, 2009) (2009 Fee Update), and became effective June 4, 2009. This decision updates our fees based on the cost study formula set forth at 49 C.F.R. § 1002.3(d) and other factors relevant to Board fee policy.¹

In this decision, we decrease many of the Board's user fees. This decrease is primarily a result of our application of the 2010 update factors, described below. In general, a Government-wide salary increase and a slight increase in overhead operation costs are offset by decreases in the Board's general and administrative expenses. As a result, most of the Board's user fees either decrease or remain unchanged in 2010.

2010 UPDATE FACTORS

For the 2010 update, direct-labor cost data reflect the combined 2010 Government-wide general and locality salary increase of 2.42%² that took effect in January 2010. However, user fees in this decision have generally either decreased or remained unchanged from those in the

¹ The current master fee schedule includes 125 fee or sub-fee items, as it did in the 2009 Fee Update.

² The combined increase is composed of a general schedule increase of 1.50% and a locality payment increase of 0.92%, for a total of 2.42%.

2009 Fee Update. These decreased and unchanged fees are due mainly to various Board overhead cost changes. Specifically, the Government Fringe Benefit Cost Factor used in the current update formula is applied at the same rate as last year's decision – 56.25%.³ Based on fiscal year (FY) 2009 actual budget data, the Board's Office General and Administrative Expense Factor decreased from 28.18% to 24.04%, while the Operations Overhead Factor, developed from FY 2009 payroll cost data, increased slightly from 19.01% to 19.23%. Lastly, the Board's General and Administrative Expense Factor decreased from 11.93% to 10.45%. The 2010 full cost for each fee or sub-fee item developed from these factors is set forth in column 9 of **APPENDIX A**.⁴

Due to the pay increase of 2.42%, coupled with 2 of the Board's 3 overhead cost factors decreasing by a combined total of approximately 5.60%, the 2010 full costs have dropped by about 2.0% when compared to the 2009 Fee Update full cost levels.

FEDERAL REGISTER COST

There are no changes from the 2009 Fee Update decision to publication costs. The United States Government Printing Office (GPO) has informed the Board that changes 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:

In Simplified Standards for Rail Rate Cases, EP 646 (Sub-No. 1) (STB served Sept. 5, 2007), the Board modified its rules at 49 C.F.R. § 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, § 1002.2(f)(56) read as follows:

³ No updates have been instituted with regard to the Government Fringe Benefit Cost Factor. Therefore, 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: the Standard Civilian Retirement Benefit remains at 26.10%; the Insurance and Health Benefit remains at 7.00%; the Medicare Benefit remains at 1.45%; the Miscellaneous Fringe Benefit remains at 1.70%; and the Leave and Holiday Benefit remains at 20.00%.

⁴ The exact overhead factors utilized in **APPENDIX A** are as follows: Operations Overhead Factor = 0.19226390; Office Overhead Factor = 0.24036813; and Board Overhead Factor = 0.10452673.

(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 for Rail Rate Cases. On December 26, 2007, the Consolidated Appropriations Act, Pub. L. 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 2 of the 6 sub-fee items in 49 C.F.R. § 1002.2(f)(56) of its User Fee schedule. Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2007 Update, EP No. 542 (Sub-No. 14) (STB served Jan. 25, 2008). Specifically, the fees for both a formal complaint filed under the coal rate guidelines and a complaint 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. § 1914.⁵ Because Congress mandated continuation of the \$350 filing-fee limit in the Omnibus Appropriations for FY 2009,⁶ and again mandated it with the same language in the Omnibus Appropriations for FY 2010, in

⁵ The Board’s full costs of processing these complaints is substantial, approximately \$416,768 for coal rate guidelines complaints and \$41,350 for Simplified-SAC cases.

⁶ 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.

this decision the Board continues to hold those 2 rate-case fees at that \$350 level.⁷ 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 complaints)–sub-item 56(iv)–was not affected by the above referenced Appropriation legislation.⁸ Thus, in this proceeding, we set the fee for this sub-item at \$20,600, which reflects a \$500 decrease from the 2009 sub-fee item amount and which takes into account the 2010 cost and overhead changes.⁹

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

Historically, certain fees have been held to levels well below the full cost level. The Board capped these fees out of a concern that higher fees would have a chilling effect on some complaints or petitions, or because certain types of actions were deemed to benefit the general public. Capped fees are occasionally adjusted, and the Board continues to monitor them. Such fees include: trail 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 Related Services–2002 New Fees, 7 S.T.B. 511 (2004) (2002 New Fees).

In the 2009 Fee Update, the Board raised these 6 fee and sub-fee items to \$250. The \$250 fees were predicated on a measurement of the full cost level changes between March 2004 and March 2009. Because these fee and sub-fee items represent greatly reduced fee amounts, the Board is holding the 6 items constant at the \$250 level in this decision.

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 because they also represent greatly reduced fee amounts.

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 of those items 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.¹⁰ Those

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

⁸ The Board will seek public comment on the appropriate level of fees for all complaint filings in a subsequent proceeding.

⁹ The fee is set at 50% of the full 2010 costs (\$41,350.40), with a rounding adjustment.

¹⁰ Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2002 New Fees, EP 542 (Sub-No. 4) (STB served Aug. 29, 2002).

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, the Board also holds the fees for 5 out of the 6 2002 New Fee sub-item fees at the \$250 level. The 6th capped sub-fee item—item 56(iii)—will be held at \$150 because it has only been in effect for approximately 2½ years. The Board adjusts the remaining 13 items established in 2002 New Fees to account for the 2010 salary increase and changes to the Board’s overhead costs. These items are included in the Schedule of Filing Fees in **APPENDIX B**.

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

On January 14, 2009, the Board served both a Notice of Proposed Rulemaking and an Adoption of Interim Rules in Solid Waste Rail Transfer Facilities, EP 684. This rulemaking was based on the October 16, 2008 Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (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. In adopting Interim Rules, the Board established 2 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 \$22,200.¹¹

However, because these Interim Rules now have been in effect for over 1 year, the Board will apply the current update formula to these 2 items, adjusting them as it does for other non-capped user fee or sub-fee items in the schedule. Application of the formula results in 2010 fees of \$6,000 and \$21,100 for items (16) and (17), respectively (reductions from the 2009 Fee Update decision of \$300 and \$1,100, respectively).

¹¹ Solid Waste Rail Transfer Facilities, EP 684, slip op. at 15 (STB served Jan. 14, 2009).

RESULTS FROM THE 2010 UPDATE

The Board's current master Schedule of Filing Fees, like last year, contains 125 fee or sub-fee items. Based on the various direct-labor and overhead changes instituted in this decision, we find the following: (1) legislation holds fees for 2 of these 125 items at \$350; (2) 4 sub-fee items out of the 125 in the master schedule show fee increases that range from \$1 to \$3; (3) fees for 95 items (76% of the Board's fee schedule) are either unchanged (63 items) or decreased by \$100 or less (32 items); (4) of the 26 fees with decreases greater than \$100, 18 are decreased by less than \$2,000; and (5) all 8 of the items that decreased by \$2,100 or more pertain to major or significant financial transactions.¹²

Many fees had either small decreases or no decreases, because the combined 2010 wage increase of 2.42% was offset by 2 of the 3 overhead factors, which decreased by greater percentages (approximately 5.60% combined). Fee or sub-fee items that do not require a Federal Register notice show a net drop in full cost of about 2.0% for 2010 from the 2009 Fee Update. The following table depicts the breakdown of user-fee changes for this proceeding.

SUMMARY OF USER-FEE CHANGES FOR 2010

Fee Item Change Category:	Number of User Fees	Percent of Total User Fee Schedule
(1)	(2)	(3)
1. Increases of \$1 - \$3	4	3.20%
2. No Fee Change	63	50.40%
3. Decreases of \$1 - \$50	6	4.80%
4. Decreases of \$100	26	20.80%
5. Decreases of \$200 - \$900	14	11.20%
6. Decreases of \$1,000 - \$2,000	4	3.20%
7. Decreases of \$2,100 - \$31,000	8	6.40%
TOTAL	125	100.00%

NOTICE AND COMMENT REQUIREMENT

The fee changes adopted here generally are a product of the mechanical application of the current update formula at 49 C.F.R. § 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

¹² These are covered under fee items 38 through 41.

contain 2 fees that were established last year in Solid Waste Rail Transfer Facilities, as described 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 Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 601-612, generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. In drafting a rule an agency is required to: (1) assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation’s impact; and (3) make the analysis available for public comment. 5 U.S.C. §§ 601-604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, 5 U.S.C. § 603(a), or certify that the proposed rule will not have a “significant impact on a substantial number of small entities,” 5 U.S.C. § 605(b). The impact must be a direct impact on small entities “whose conduct is circumscribed or mandated” by the proposed rule. White Eagle Coop. Ass’n v. Conner, 553 F.3d 467, 480 (7th Cir. 2009).

Though these rules may have some impact on a small entity because a small entity may be subject to a filing fee, the rules provide a waiver provision of filing fees for those entities that can make the required showing of financial hardship. Therefore, if any small entity would incur a significant economic impact from paying one of the fees, they could make such a showing and have that fee waived. Accordingly, pursuant to 5 U.S.C. § 605(b), the Board certifies that the regulations proposed herein would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

It is ordered:

1. 49 C.F.R. 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 on August 27, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

APPENDIX A

FEE	2009 DIRECT LABOR	2010 DIRECT LABOR UPDATE (2.42% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.23%) OPERATIONS OVERHEAD	(24.04%) OFFICE G&A	(10.45%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
1	\$1,693.05	\$1734.02	\$975.39	\$2,709.41	\$520.92	\$776.47	\$418.82	\$4.00	\$4,429.62
2i	713.77	731.04	411.21	1142.26	219.61	327.35	176.57	193.89	2059.68
2ii	1107.48	1134.28	638.03	1772.31	340.75	507.91	273.96	349.54	3244.48
2iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2678.98 ¹³
3	10494.52	10748.49	6046.02	16794.51	3228.98	4813.01	2596.08	193.89	27626.47
4i	1693.05	1734.02	975.39	2709.41	520.92	776.47	418.82	193.89	4619.51
4ii	40.69	41.67	23.44	65.12	12.52	18.66	10.07	0.00	106.36
5	190.95	195.57	110.01	305.58	58.75	87.57	47.24	5.00	504.14
6	546.44	559.66	314.81	874.47	168.13	250.61	135.18	280.16	1708.55
11i	2722.09	2787.96	1568.23	4356.19	837.54	1248.41	673.38	163.00	7278.52
11ii	582.88	596.99	335.80	932.79	179.34	267.32	144.19	298.84	1822.48
11iii	4739.81	4854.51	2730.66	7585.18	1458.36	2173.78	1172.51	193.89	12583.71
12i	28446.29	29134.69	16388.26	45522.95	8752.42	13046.07	7036.89	209.57	74567.90
12ii	582.88	596.99	335.80	932.79	179.34	267.32	144.19	298.84	1822.48
12iii	28446.29	29134.69	16388.26	45522.95	8752.42	13046.07	7036.89	209.57	74567.90
12iv	5650.79	5787.54	3255.49	9043.03	1738.65	2591.57	1397.86	0.00	14771.11

¹³ 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	2009 DIRECT LABOR	2010 DIRECT LABOR UPDATE (2.42% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.23%) OPERATIONS OVERHEAD	(24.04%) OFFICE G&A	(10.45%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
13	8737.26	8948.70	5033.64	13982.35	2688.30	4007.09	2161.38	190.17	23029.29
14i	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	193.89	6217.44
14ii	582.88	596.99	335.80	932.79	179.34	267.32	144.19	298.84	1822.48
14iii	2457.50	2516.97	1415.80	3932.77	756.13	1127.06	607.92	213.95	6637.83
15	588.40	602.64	338.98	941.62	181.04	269.85	145.56	166.71	1704.78
16	2226.33	2280.21	1287.18	3567.38	685.88	1022.35	551.44	237.61	6064.66
17	8033.08	8227.48	4627.96	12855.44	2471.64	3684.14	1987.18	163.00	21161.40
21i	8417.06	8620.75	4849.17	13469.93	2589.78	3860.24	2082.17	163.00	22165.12
21ii	1256.49	1286.90	723.88	2010.78	386.60	576.25	310.82	413.69	3698.14
21iii	2332.75	2389.20	1343.93	3733.13	717.75	1069.85	577.06	237.61	6335.40
22	182.03	186.44	104.87	291.30	56.01	83.48	45.03	0.00	475.82
23	726.31	743.89	418.44	1162.32	223.47	333.10	179.67	0.00	1898.57
24	695.02	711.84	400.41	1112.25	213.85	318.75	171.93	0.00	1816.78
25	597.83	612.30	344.42	956.71	183.94	274.18	147.89	0.00	1562.72
26	8662.94	8872.58	4990.83	13863.41	2665.43	3973.01	2142.99	0.00	22644.84
27i	448.22	459.07	258.23	717.29	137.91	205.56	110.88	0.00	1171.64
27ii	175.78	180.03	101.27	281.30	54.08	80.62	43.48	0.00	459.49
36	7175.66	7349.31	4133.99	11483.30	2207.82	3290.91	1775.08	193.89	18951.00
37	3842.90	3935.90	2213.94	6149.84	1182.39	1762.44	950.64	193.89	10239.19
38i	567710.25	581448.84	327064.97	908513.81	174674.41	260363.93	140437.11	5990.36	1489979.62
38ii	113544.33	116292.10	65414.31	181706.41	34935.58	52073.83	28087.99	1198.06	298001.87
38iii	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20

FEE	2009 DIRECT LABOR	2010 DIRECT LABOR UPDATE (2.42% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.23%) OPERATIONS OVERHEAD	(24.04%) OFFICE G&A	(10.45%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
38iv	546.44	559.66	314.81	874.47	168.13	250.61	135.18	280.16	1708.55
38v	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20
38vi	3517.49	3602.61	2026.47	5629.08	1082.27	1613.20	870.14	193.89	9388.58
38vii	2116.39	2167.61	1219.28	3386.89	651.18	970.62	523.54	0.00	5532.22
39i	567710.25	581448.84	327064.97	908513.81	174674.41	260363.93	140437.11	5990.36	1489979.62
39ii	113544.33	116292.10	65414.31	181706.41	34935.58	52073.83	28087.99	1198.06	298001.87
39iii	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20
39iv	396.62	406.22	228.50	634.72	122.03	181.90	98.11	301.55	1338.31
39v	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20
39vi	3517.49	3602.61	2026.47	5629.08	1082.27	1613.20	870.14	193.89	9388.58
39vii	2116.39	2167.61	1219.28	3386.89	651.18	970.62	523.54	0.00	5532.22
40i	567710.25	581448.84	327064.97	908513.81	174674.41	260363.93	140437.11	5990.36	1489979.62
40ii	113544.33	116292.10	65414.31	181706.41	34935.58	52073.83	28087.99	1198.06	298001.87
40iii	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20
40iv	367.36	376.25	211.64	587.89	113.03	168.48	90.88	246.56	1206.84
40v	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20
40vi	3517.49	3602.61	2026.47	5629.08	1082.27	1613.20	870.14	193.89	9388.58
40vii	2116.39	2167.61	1219.98	3386.89	651.18	970.62	523.54	0.00	5532.22
41i	567710.25	581448.84	327064.97	908513.81	174674.41	260363.93	140437.11	5990.36	1489979.62
41ii	113544.33	116292.10	65414.31	181706.41	34935.58	52073.83	28087.99	1198.06	298001.87
41iii	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20
41iv	436.78	447.35	251.63	698.98	134.39	200.32	108.05	279.43	1421.17
41v	2304.35	2360.12	1327.56	3687.68	709.01	1056.82	570.04	1531.65	7555.20

FEE	2009 DIRECT LABOR	2010 DIRECT LABOR UPDATE (2.42% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.23%) OPERATIONS OVERHEAD	(24.04%) OFFICE G&A	(10.45%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
41vi	2457.50	2516.97	1415.80	3932.77	756.13	1127.06	607.92	213.95	6637.83
41vii	2116.39	2167.61	1219.28	3386.89	651.18	970.62	523.54	0.00	5532.22
42	788.77	807.86	454.42	1262.28	242.69	361.75	195.12	353.17	2415.01
43	26620.47	27264.69	15336.39	42601.07	8190.65	12208.71	6585.23	193.89	69779.55
44i	4876.97	4994.99	2809.68	7804.68	1500.56	2236.68	1206.44	193.89	12942.24
44ii	40.69	41.67	23.44	65.12	12.52	18.66	10.07	0.00	106.36
45	302.91	310.24	174.51	484.75	93.20	138.92	74.93	0.00	791.80
46	2993.43	3065.87	1724.55	4790.42	921.03	1372.85	740.50	193.89	8018.69
47	57575.73	58969.06	33170.10	92139.16	17715.03	26405.45	14242.77	0.00	150505.42
48	69833.23	71523.19	40231.80	111754.99	21486.45	32027.00	17274.97	0.00	182543.41
56i	159437.34	163295.72	91853.84	255149.57	49056.05	73121.34	39440.75	0.00	416767.71
56ii	15818.88	16201.70	9113.45	25315.15	4867.19	7254.87	3913.19	0.00	41350.40
56iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56iv	15818.88	16201.70	9113.45	25315.15	4867.19	7254.87	3913.19	0.00	41350.40
56v	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56vi	19716.73	20193.87	11359.05	31552.93	6066.49	9042.51	4877.42	0.00	51539.35
57	3392.93	3475.04	1954.71	5429.75	1043.94	1556.07	839.32	0.00	8869.09
58i	3187.45	3264.59	1836.33	5100.92	980.72	1461.83	788.49	611.26	8943.22
58ii	2522.09	2583.12	1453.01	4036.13	776.00	1156.68	623.90	163.00	6755.72
59	2621.98	2685.43	1510.56	4195.99	806.74	1202.50	648.61	193.89	7047.72
60	5195.59	5321.32	2993.24	8314.57	1598.59	2382.81	1285.26	0.00	13581.22
61i	2532.93	2594.23	1459.25	4053.48	779.34	1161.66	626.58	0.00	6621.06

FEE	2009 DIRECT LABOR	2010 DIRECT LABOR UPDATE (2.42% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.23%) OPERATIONS OVERHEAD	(24.04%) OFFICE G&A	(10.45%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
61ii	144.52	148.02	83.26	231.28	44.47	66.28	35.75	0.00	377.77
62	4012.83	4109.94	2311.84	6421.78	1234.68	1840.37	992.67	0.00	10489.50
63i	7124.53	7296.94	4104.53	11401.47	2192.09	3267.46	1762.43	0.00	18623.45
63ii	7942.00	8134.20	4575.49	12709.68	2443.61	3642.37	1964.65	0.00	20760.31
64	228.62	234.15	131.71	365.86	70.34	104.85	56.55	0.00	597.61
76	474.89	486.38	273.59	759.97	146.12	217.79	117.48	2.00	1243.36
77	50.23	51.45	28.94	80.38	15.45	23.04	12.43	0.00	131.30
78	9.45	9.68	5.44	15.12	2.91	4.33	2.34	0.00	24.70
79i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
79ii	59.85	61.30	34.48	95.78	18.41	27.45	14.81	0.00	156.45
80	234.26	239.93	134.96	374.89	72.08	107.44	57.95	0.00	612.35
81i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
81ii	59.85	61.30	34.48	95.78	18.41	27.45	14.81	0.00	156.45
82	95.11	97.41	54.79	152.21	29.26	43.62	23.53	0.00	248.62
83	15.72	16.10	9.06	25.16	4.84	7.21	3.89	0.00	41.09
84	101.89	104.36	58.70	163.06	31.35	46.73	25.21	0.00	266.34
85	437.96	448.56	252.31	700.87	134.75	200.86	108.34	0.00	1144.82
86i	570.63	584.44	328.75	913.19	175.57	261.70	141.16	0.00	1491.62
86ii	1959.82	2007.25	1129.08	3136.32	603.00	898.81	484.81	0.00	5122.95
86iii	200.62	205.48	115.58	321.05	61.73	92.01	49.63	0.00	524.42
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

FEE	2009 DIRECT LABOR	2010 DIRECT LABOR UPDATE (2.42% INCR.)	(56.25%) GOVT. FRINGES	TOTAL 2+3	(19.23%) OPERATIONS OVERHEAD	(24.04%) OFFICE G&A	(10.45%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	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	218.71	224.00	126.00	350.00	67.29	100.31	54.10	0.00	571.71
96	12.29	12.59	7.08	19.67	3.78	5.64	3.04	0.00	32.13
97	9.35	9.58	5.39	14.96	2.88	4.29	2.31	0.00	24.44
98ia	62.27	63.78	35.87	99.65	19.16	28.56	15.40	0.00	162.77
98ib	18.05	18.49	10.40	28.89	5.55	8.28	4.47	0.00	47.18
98iia	98.38	100.76	56.68	157.44	30.27	45.12	24.34	163.00	420.16
98iib	18.05	18.49	10.40	28.89	5.55	8.28	4.47	0.00	47.18
99i	73.11	74.88	42.12	117.00	22.49	33.53	18.09	0.00	191.11
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	70.19	71.89	40.44	112.33	21.60	32.19	17.36	0.00	183.48
102	6.51	6.67	3.75	10.42	2.00	2.99	1.61	0.00	17.02
103	40.33	41.31	23.23	64.54	12.41	18.50	9.98	0.00	105.42
104	27.91	28.59	16.08	44.66	8.59	12.80	6.90	0.00	72.96
105	0.91	0.93	0.52	1.46	0.28	0.42	0.23	0.00	2.38
106	70.19	71.89	40.44	112.33	21.60	32.19	17.36	0.00	183.48

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) and (c); paragraph (f)(1); and the table in paragraph (g)(6); 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 \$41.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., identical thereto, at the rate of \$28.00 per hour.

* * * * *

(f) * * *

(1) A fee of \$71.00 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	\$12.01	GS-9	\$28.04
GS-2	13.07	GS-10	30.88
GS-3	14.73	GS-11	33.92
GS-4	16.54	GS-12	40.66
GS-5	18.50	GS-13	48.35
GS-6	20.63	GS-14	57.13
GS-7	22.92	GS-15 and	67.21
GS-8	25.38	over	

* * * * *

3. 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.....	\$4,400.
(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	\$3,200.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	\$2,600.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	\$27,600.
(4) An application for approval of an amendment to a non-rail rate association agreement:	

(i) Significant amendment.....	\$4,600.
(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]	

PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	\$7,200.
(ii) Notice of exemption under 49 CFR 1150.31-1150.35.....	\$1,800.
(iii) Petition for exemption under 49 U.S.C. 10502	\$12,500.
(12) (i) An application involving the construction of a rail line-	\$74,500.
(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	\$74,500.
(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.	\$6,200.

(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	\$6,600.
(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	\$6,000.
(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	\$21,100.
(18)-(20) [Reserved]	

PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21) (i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97-35], bankrupt railroads, or exempt abandonments)	\$22,100.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50.....	\$3,600.
(iii) A petition for exemption under 49 U.S.C. 10502	\$6,300.
(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.....	\$1,800.
(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.....	\$22,600.
(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]	

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	\$18,900.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322.....	\$10,200.
(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	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction.....	\$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).....	\$1,700.
(v) Responsive application.....	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502.....	\$9,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).....	\$5,500.
(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	\$1,489,900.

(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,300.
(v) Responsive application.....	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502.....	\$9,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).....	\$5,500.
(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	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,200.
(v) Responsive application.....	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502.....	\$9,300.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).....	\$5,500.
(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	\$1,489,900.
(ii) Significant transaction	\$298,000.
(iii) Minor transaction	\$7,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,400.

(v) Responsive application.....	\$7,500.
(vi) Petition for exemption under 49 U.S.C. 10502.....	\$6,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).....	\$5,500.
(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	\$69,700.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment.....	\$12,900.
(ii) Minor amendment	\$100.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328.....	\$750.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.....	\$8,000.
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562.....	\$250.
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.....	\$250.
(49)-(55) [Reserved]	

PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	\$350.

(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology	\$350.
(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology	\$150.
(iv) All other formal complaints (except competitive access complaints)	\$20,600.
(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	\$8,800.
(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).....	\$7,000.
(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).....	\$550.
(65)-(75) [Reserved]	

PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706	\$1,200.
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	\$100.
(78) The filing of tariffs, including supplements, or contract summaries	\$1 per page. (\$24 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).....	\$200.
(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.....	\$1,400.
(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).....	\$5,100.

(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered.....	\$500.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint.....	\$75.
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration.....	\$75.
(iii) Third Party Complaint	\$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award.....	\$150.
(88) Basic fee for STB adjudicatory services not otherwise covered.....	\$250.
(89)-(95) [Reserved]	

PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent.....	\$32 per delivery.
(97) Request for service or pleading list for proceedings.....	\$24 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Board or State proceeding that:	
(i) Does not require a Federal Register notice:	
(a) Set cost portion.....	\$150.
(b) Sliding cost portion	\$47 per party.
(ii) Does require a Federal Register notice:	

(a) Set cost portion.....	\$400.
(b) Sliding cost portion	\$47 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.....	\$112 per hour.

* * * * *