



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1002, 1012, 1104, 1110, 1111, 1113, 1130, 1132, 1150, 1152, 1155, 1182, 1244, 1312, and 1313

[Docket No. EP 747]

Payment, Filing, and Service Procedures

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Surface Transportation Board (Board) proposes to modify its rules pertaining to certain payment, filing, and service procedures. Many of these rules are outdated and do not reflect current technology. As explained in this notice of proposed rulemaking (NPRM), the Board proposes updating its regulations relating to methods of payment, filing procedures, electronic service of Board decisions, and fees for copying, printing, and related services. The proposed updates are intended to promote increased use of electronic filing and payment systems and result in cost savings to both the Board and the public, while enhancing the accessibility of information relating to proceedings and functions of the Board.

DATES: Comments are due by September 24, 2018.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's website at "www.stb.gov" at the "E-FILING" link. Any person submitting a filing in paper format should send an original and 10 paper

copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 747, 395 E Street, S.W., Washington, DC 20423-0001. Written comments and replies will be posted on the Board's website and can also be obtained by contacting the Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) at RCPA@stb.gov or (202) 245-0238.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher, (202) 245-0355.

Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The Board proposes to modify and update its rules pertaining to certain payment, filing, and service procedures. The Board proposes to update these rules pursuant to a recommendation of its Regulatory Reform Task Force (RRTF), which was established to comply with the spirit of Executive Order 13,777. The RRTF's mission is to identify Board rules and practices that are burdensome, unnecessary, or outdated and to recommend how they should be addressed. See Regulatory Reform Task Force, EP 738 (STB served June 20, 2017). In a status report issued in May 2017, the RRTF identified the Board's payment and filing procedures as a potential area for reform and, following stakeholder input, recommended in its November 2017 status report that the Board update procedural and filing rules that are in need of modernization.<sup>1</sup> As explained further below, the Board proposes changes relating to methods of payment, filing procedures, electronic service of Board decisions, and fees for copying, printing, and related services.

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<sup>1</sup> These status reports can both be accessed on the Board's website at <https://www.stb.gov/stb/about/RRTF.html>.

## Methods of Payment.

### *a. Filing Fees (Generally Applicable)*

Currently, the Board's generally applicable regulation on filing fees provides that fees may be paid in one of the following manners: by billing account, check, money order, or credit card. 49 CFR 1002.2(a). That regulation further provides that, except as specified in section 1002.2, all filing fees are payable at the time and place that the document is tendered for filing. 49 CFR 1002.2(a)(1).

The Board proposes two modifications to its generally applicable filing fee regulation at 49 CFR 1002.2. First, the Board proposes to add an electronic payment option at 49 CFR 1002.2(a). The electronic payment option would be a convenient and quick method for the payment of fees to the Board and would facilitate increased use of electronic filing (e-filing) as described below in the discussion of filing procedures.

The Board would implement electronic payment through Pay.gov, a website operated by the Department of Treasury and used by many federal agencies.<sup>2</sup> The Pay.gov service is a "fast way to make secure electronic payments" to various federal agencies.<sup>3</sup> Pay.gov currently allows payment through the following four methods, all of which the Board would accept: bank accounts, credit cards, debit cards with a MasterCard or Visa logo, and digital wallet.<sup>4</sup> As discussed below in the section on filing

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<sup>2</sup> The Board may revise its electronic payment processing system in the future as new payment methods become available.

<sup>3</sup> Pay.gov, <https://www.pay.gov/public/home> (last visited May 2, 2018.)

<sup>4</sup> For more information on Pay.gov's methods of payment and limits on the maximum dollar amounts allowed for each method of payment, see <https://www.pay.gov/WebHelp/HTML/about.html>, and click on "About Payments."

procedures, parties filing pleadings electronically would be required to submit payments electronically, and all other filers would be encouraged to do so. A link to Pay.gov would be available on the Board's website. In addition, the Pay.gov website would have a page for the Board, with links to make user fee payments.<sup>5</sup> Once filers access the Board's page on the Pay.gov website, specific instructions for processing payments would be provided.

Second, the Board proposes to eliminate the options of using billing accounts and making payments by credit card directly to the Board, although, as noted, parties will still be able to make credit card payments using Pay.gov.<sup>6</sup> Given the availability of electronic payments, billing accounts and payment by credit card directly to the Board are no longer necessary or efficient. These proposed changes would provide filers with a modern, efficient payment option, and, as described below, facilitate the increased use of electronic filing. In addition, the changes would ensure more timely payments of the Board's various fees, would provide a more secure method of payment, and would simplify the Board's accounting procedures. Under the proposed rules, those that have previously used accounts or paid by credit card directly to the Board would have the option of using the Board's electronic payment option (described above) or any of the Board's remaining payment methods (check or money order).

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<sup>5</sup> The Pay.gov website lists all agencies that accept payments on Pay.gov and provides a link for forms to make various payments.

<sup>6</sup> The Board's regulations at 49 CFR 1002.1(h) state that the Board also accepts "currency . . . in accordance with 49 CFR 1002.2(a)(3)." However, § 1002.2(a)(3) provides that fees are to be paid by check or money order "payable in United States currency." Therefore, to resolve this inconsistency, the Board proposes to remove "currency" from § 1002.1 to conform to § 1002.2(a).

*b. Filing Fees for Recordations*

The Board currently accepts payments associated with recordations of security interests<sup>7</sup> in the same manner as noted above: by billing account, check, money order, or credit card. See 49 CFR 1002.2(a) (filing fees for documents submitted for recording may be charged to accounts); see also 49 CFR 1177.3. The Board proposes to modify this practice and the language at section 1002.2(a) to be consistent with the proposed changes described above. Although recordations can already be submitted to the Board through e-filing, these proposed changes are necessary for the Board to eliminate entirely the options of billing accounts and credit cards in order to simplify the Board's accounting procedures. As discussed below in the section on filing procedures, parties filing recordations electronically would be required to submit payments electronically; parties filing recordations in paper form would be encouraged to submit payments electronically as well.

*c. Filing Fees for Water Carrier Tariffs and Contract Summaries*

The Board's regulations also establish the method of payment for filing water carrier tariffs and contract summaries. Specifically, the tariff or contract summary must be accompanied by the filing fee, the account number to be billed, or the credit card to be charged. 49 CFR 1312.4(a)(2)(iii), section 1313.4(a)(3)(iii); see also 49 CFR 1002.2(a) (filing fees for tariffs and contract summaries may be charged to accounts);

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<sup>7</sup> See 49 U.S.C. 11301(a) (requiring a security interest in "vessels, railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), intended for a use related to interstate commerce" to be filed with the Board to perfect the security interest).

section 1002.2(b) (providing that the Board may reject a tariff filing filed without the fee if the filer repeatedly fails to submit the appropriate fee).

The Board proposes to make changes to these regulations to correspond to the changes described above that are being proposed for section 1002.2. The proposed regulations would eliminate the option of and references to billing accounts and payment by credit card directly to the Board, and would add an option of electronic billing through Pay.gov.<sup>8</sup> Although both water carrier tariffs and contract summaries are often already submitted electronically to the Board,<sup>9</sup> these changes are necessary for the Board to eliminate entirely the options of billing accounts and credit cards in order to simplify the Board's accounting procedures.

#### Filing Procedures.

##### *a. E-Filing*

The Board is also proposing changes to increase the use of e-filing. The Board's current filing procedures for pleadings, found at 49 CFR 1104.1 and described in more detail on the Board's website,<sup>10</sup> prohibit e-filing in three circumstances: (1) initial filings

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<sup>8</sup> The Board would also update an obsolete address at 49 CFR 1312.4, as well as an obsolete address and telephone number at 49 CFR 1012.2(a) and § 1012.3(b)(5). The Board also proposes to remove obsolete language in 49 CFR 1132.1.

<sup>9</sup> This decision does not propose to change how water carrier tariffs and contract summaries are currently submitted to the Board; rather, it would change only the available methods of payment. Persons who wish to pay the relevant fee using Pay.gov would, under this proposal, provide the transaction number (as described below in the section E-Filing) with their submission.

<sup>10</sup> Procedures regarding filing and payment can be found on the Board's website at [www.stb.gov](http://www.stb.gov) under the tab "E-Filing," and also under the tab "Public Information" and then "Resources." Under this proposal, the Board's website would continue to contain relevant filing and payment information.

in a proceeding; (2) any filings (except recordations)<sup>11</sup> with associated fees; and (3) large filings in excess of 100 megabytes. If paper filings are submitted, the original and 10 copies must generally be submitted to the Board,<sup>12</sup> along with any required payment in the manner prescribed by 49 CFR 1002.2. The first and second of these limitations exist to allow the Board to confirm payment before it accepts a filing, while the third limitation exists due to file size limitations in the Board's e-filing program.

Under the proposal, e-filing would be permitted for all pleadings and recordations (100 megabytes or less). The proposed rules at section 1002.2(a) would require that any fees associated with e-filings be paid electronically, allowing the Board to confirm payment via its electronic payment processor when it receives an e-filing. These modifications would eliminate the need to require paper filings for initial pleadings and fee-related pleadings that are e-filed. The proposed rules at section 1104.1 would also be revised to reflect that change, and would direct filers to the Board's website for details regarding permissible formats, acceptable signature formats, and other information. However, the Board would continue to require that large filings in excess of 100 megabytes be filed in paper form at this time. The Board may also require alternative filing procedures in particular cases.

To utilize e-filing, a filer would first pay any required fee via electronic payment on the Pay.gov website. Once the payment has been submitted, a confirmation

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<sup>11</sup> In addition to pleadings, recordations are currently submitted via e-filing. See 49 CFR 1177.2 (documents to be recorded may be submitted "via the Board's website").

<sup>12</sup> The Board's regulations at 49 CFR 1104.3(a) require 10 copies, unless otherwise specifically directed by another Board regulation or notice in an individual proceeding.

email from Pay.gov would be sent containing a unique transaction number. The filer then would go to the Board's e-filing website to submit a filing. Once the filer has logged in, there would be a field for the filer to enter the transaction number received from Pay.gov and, if applicable, note that a fee waiver is being requested.<sup>13</sup> This transaction number would ensure that the Board can match the payment with the e-filing. If no payment is associated with the filing, the filer would check a box to indicate either that no fee is required or that a fee waiver has been requested. The filer must either enter the transaction number or check the box to complete submission of a filing. After the transaction number has been entered or the box has been checked, the filer would complete the form and attach the document for e-filing. Once the filing is submitted, a confirmation email would be sent to the filer, as is currently done.

E-filing would not be mandatory, but parties making paper filings would be encouraged to also use the Board's electronic payment processor. Paper filers using the electronic payment processing option should note the transaction number they receive from Pay.gov and provide it to the Board with their paper filing or when communicating with Board staff regarding payment of fees.

Although many practitioners already make use of the Board's e-filing system, these proposed changes are intended to promote increased use of e-filing and result in cost savings to both practitioners and the Board.

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<sup>13</sup> The Board also proposes to clarify its regulations regarding fee waivers at 49 CFR 1002.2(b), with the following language: If a filer requests a fee waiver but does not submit the appropriate fee, the filing is held for processing until a determination has been made on the fee waiver request. If the filer requests a fee waiver and submits the appropriate fee, the filing is accepted and the Board refunds the fee or a portion thereof if the fee waiver is ultimately granted.

*b. Paper Filing*

Because the paper filing option would still be available, the Board also proposes to modify its requirements for paper filers to reduce the burden on those filers. The Board's general provision on copies, found at 49 CFR 1104.3(a), requires 10 copies of paper filings, unless otherwise specifically directed by another Board regulation. Various other provisions of the regulations require a different number of copies.<sup>14</sup> The Board proposes to harmonize its rules by eliminating the requirements to file extra copies of paper filings. Instead, paper filers generally would be required to file only the original paper filing. However, the Board would reserve the right to direct filers (including those who e-file) to provide paper copies of filings when necessary. Because of the voluminous nature of filings in merger proceedings, the Board would keep the current requirement regarding the number of paper copies in those regulations (49 CFR 1180.4).

The Board also proposes to modify its regulations at 49 CFR 1104.3(b) which governs electronic submissions accompanying paper filings. First, the Board proposes to modify the regulations to eliminate the requirement that electronic versions of pleadings that are 20 or more pages be submitted on compact discs or 3.5-inch floppy diskettes. See 49 CFR 1104.3(b)(1), (b)(3), (b)(4). Instead, the proposed regulations would require such filings to be accompanied by electronic versions, and would direct filers to the

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<sup>14</sup> See 49 C.F.R. 1012.6(a); 1110.2; 1110.6; 1111.3; 1111.4(c); 1113.7(e); 1113.13; 1130.1; 1130.2(f); 1132.1(d); 1150.10; 1150.16; 1152.21; 1152.22(i); 1152.24(a); 1152.25; 1155.23(c)(1)-(3); 1182.7(e)(2); 1182.8(b); 1244.9(d)(3)(ii), (e)(2), (g)(3); 1312.4; 1313.4; and 1313.10(a)(7), (a)(8)(v).

Board's website for information on how to provide those electronic versions.<sup>15</sup> Such a change would allow the Board to more easily keep filing requirements consistent with evolving technology and software. For the same reason, the Board proposes to revise the outdated requirements at 49 CFR 1104.3(b)(2) regarding the submission of evidence or workpapers consisting of mathematical computations by directing filers to the Board's website or the procedural orders in the case for instructions on the proper formatting for such evidence.

Electronic service (E-service) of Board decisions.

With the same objective of updating and streamlining Board procedures, the Board also proposes new procedures regarding service of decisions.<sup>16</sup> Currently, the Board mails paper copies of its decisions to parties on the service list for each case, incurring costs for mailing and associated resources, and also delaying what could otherwise be more immediate notification to service list participants. Under the proposal, Board decisions would be served by email to those who consent to e-service, thereby streamlining the current process. It is anticipated that the Board would serve decisions by email immediately following posting of decisions on the Board's website, allowing participants to receive more expeditious notification of decisions than with paper service. As discussed below, paper service of Board decisions would still be used for those parties who do not consent to e-service.

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<sup>15</sup> At this time, electronic versions would be accepted by email, compact disc, or USB flash drive.

<sup>16</sup> The new procedures would not affect the Board's rules regarding parties' service of their filings on other parties.

Under this proposal, parties that provide an email address to the Board when making a filing would be deemed to have consented to e-service of decisions in one of two ways. First, a party making an e-filing in a proceeding would also be consenting to e-service in that proceeding. The email address(es) provided in the required field in the e-filing form would be included on the service list on behalf of that party for the proceeding. This field in the e-filing form would allow an e-filer to enter multiple email addresses on behalf of that party as e-service recipients. Second, a party who makes a paper filing and includes an email address(es) on such filings would also be deemed to consent to e-service in the proceeding in which the filing was made unless the party opts out. The Board would send such paper filers a letter informing them that the email address(es) on the filing would be used on the service list unless the filer opts out, and verifying that the email address(es) provided is correct.

The email addresses used by the Board for e-service would be listed on the public service list for each proceeding. Filers should be aware, however, that, at this time, consent for e-service would be proceeding-specific and not filer-specific. Thus, the inclusion of an email address on one service list would not mean that the email address will automatically appear on a service list for a different proceeding in which they are participating.

The Board would continue to send paper copies of Board decisions as a backup to e-service during the early stages of e-service implementation. The Board expects that

this transitional dual service period would last for up to three months after the effective date of any final rule.

The Board would treat proceedings that are open at the time the rule becomes effective as follows. Email addresses that were previously provided by service list participants when filing (including when e-filing) would not automatically be used for e-service. However, consistent with the procedures explained above, after the effective date of this rule, a party's email address would be added to the e-service list if the party: (1) utilizes e-filing, or (2) does not opt out of e-service after making a paper filing that includes an email address.

Fees for copying, printing, and related services.

The Board is proposing to update and clarify its fees for copying, printing, and related services found at 49 CFR 1002.1. These changes would reduce costs to the public, simplify the fees and associated accounting of such fees, and update obsolete or incorrect references.

The proposed regulations would reduce the charge for copying and printing tariffs, reports, and other public documents at 49 CFR 1002.1(d) from \$1.50 per letter or legal size exposure with a \$7.50 minimum to \$0.25 per letter or legal size exposure. There would be no charge for the first 100 pages of copying or printing, which would be consistent with current Freedom of Information Act (FOIA) regulations at section 1002.1(g) that exclude charges for the first 100 pages for certain categories of

users.<sup>17</sup> The same reduced charge of \$0.25 per page would also apply to copying and printing documents not considered public under FOIA at current 49 CFR 1002.1(g)(7).

In addition, the Board is proposing to eliminate current 49 CFR 1002.1(f) and (g)(8), governing search and copying services requiring computer processing, which are obsolete and outdated.

#### Administrative Procedure Act and Regulatory Flexibility Act

Because these proposed revisions relate to rules of agency organization, procedure, or practice, they are not subject to the provisions of the Administrative Procedure Act (APA) requiring notice and opportunity for public comment. See 5 U.S.C. 553(b)(3)(A). Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601-612, do not apply. Nevertheless, the Board has determined that it would be useful to publish these proposed rule changes for notice and comment before adoption.

#### It is ordered:

1. Comments are due by September 24, 2018.
2. Notice of this decision will be published in the Federal Register.
3. This decision is effective on its date of service.

#### **List of Subjects**

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<sup>17</sup> The proposed exclusion for the first 100 pages under section 1002.1(d) would apply to all users.

**49 CFR Part 1002**

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

**49 CFR Part 1012**

Sunshine Act.

**49 CFR Part 1104**

Administrative practice and procedure.

**49 CFR Part 1110**

Administrative practice and procedure.

**49 CFR Part 1111**

Administrative practice and procedure, Investigations.

**49 CFR Part 1113**

Administrative practice and procedure.

**49 CFR Part 1130**

Administrative practice and procedure.

**49 CFR Part 1132**

Administrative practice and procedure.

**49 CFR Part 1150**

Administrative practice and procedure, Railroads.

**49 CFR Part 1152**

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

**49 CFR Part 1155**

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

**49 CFR Part 1182**

Administrative practice and procedure, Motor carriers.

**49 CFR Part 1244**

Freight, Railroads, Reporting and recordkeeping requirements.

**49 CFR Part 1312**

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

**49 CFR Part 1313**

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

Decided: August 20, 2018.

By the Board, Board Member Begeman and Miller.

Marline Simeon

Clearance Clerk

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

**PART 1002—FEES**

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

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

2. Amend § 1002.1 as follows:

- a. Revise paragraph (d);
- b. Amend paragraph (e) by removing the words “Room 1200,”;
- c. Remove paragraph (f), redesignate paragraphs (g) through (i) as paragraphs (f) through (h);
- d. Revise newly redesignated paragraph (f)(7);
- e. Remove newly redesignated paragraph (f)(8), redesignate paragraphs (f)(9) through (f)(14) as (f)(8) through (f)(13); and
- f. Revise newly redesignated paragraph (g);

The revisions read as follows:

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

\* \* \* \* \*

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

(f) \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

3. Amend § 1002.2 as follows:

- a. Amend paragraph (a)(1) by removing the last sentence;
- b. Remove paragraph (a)(2);
- c. Redesignate paragraph (a)(3) as paragraph (a)(2);
- d. Revise newly redesignated paragraph (a)(2); and
- e. Revise paragraph (b);

The revisions read as follows:

**§ 1002.2 Filing fees.**

\* \* \* \* \*

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

States or foreign bank or other financial institution, money order payable in United States currency.

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

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**PART 1012—MEETINGS OF THE BOARD**

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

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

**§ 1012.2 [Amended]**

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

**§ 1012.3 [Amended]**

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

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

**§ 1012.6 Petitions seeking to open or close a meeting.**

(a) The Board will entertain petitions requesting either the opening of a meeting proposed to be closed to the public or the closing of a meeting proposed to be open to the public. In the case of a meeting of the Board, or a Division or committee of the Board, a petition shall be filed.

\* \* \* \* \*

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

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

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

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

**§ 1104.1 Address, identification, and electronic filing option.**

\* \* \* \* \*

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

etc.). Persons are not required to e-file and may continue to use the Board's processes for filing paper copies.

10. Revise § 1104.3 to read as follows:

**§ 1104.3 Paper filings, electronic submissions, and copies.**

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

(b) The Board may, at its discretion, request paper copies of a pleading, document, or paper filed or e-filed with the Board. Any such copies must be clear and legible.

Appropriate notes or other indications shall be used so that matters shown in color on the original, but in black and white on the copies, will be accurately identified on all copies.

**PART 1110—PROCEDURES GOVERNING INFORMAL RULEMAKING  
PROCEEDINGS**

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

49 U.S.C. 1321.

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

**§ 1110.2 Opening of proceeding.**

\* \* \* \* \*

(c) \* \* \*

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

\* \* \* \* \*

§ 1110.6 [Amended]

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

**PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES**

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

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

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

**§ 1111.4 [Amended]**

\* \* \* The complaint should be filed with the Board together with an acknowledgment of service by the persons served or proof of service in the form of a statement of the date and manner of service, of the names of the persons served, and of the addresses to which the papers were mailed or at which they were delivered, certified by the person who made service.

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

**§ 1111.5 Answers and cross complaints.**

\* \* \* \* \*

(c) *Time for filing; copies; service.* An answer must be filed with the Board within 20 days after the service of the complaint or within such additional time as the Board may

provide. The defendant must serve copies of the answer upon the complainant and any other defendants.

\* \* \* \* \*

**PART 1113—ORAL HEARING**

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

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

18. Amend § 1113.7 by revising the first two sentences of paragraph (e) to read as follows:

**§ 1113.7 [Amended]**

\* \* \* \* \*

(e) *Copies; service; replies.* When a petition for leave to intervene is tendered at the hearing, sufficient copies of the petition must be provided for distribution to the parties represented at the hearing. When a petition for leave to intervene is not tendered at the hearing, the petition should be submitted to the Board together with a certificate that service has been made by petitioner. \* \* \*

\* \* \* \* \*

**§ 1113.13 [Amended]**

19. Amend § 1113.13 as follows:

- a. Revise the section heading; and
- b. Remove the last sentence of the paragraph;

The revisions read as follows:

**§ 1113.13 Filing evidence subsequent to hearing.**

\* \* \* \* \*

## **PART 1130—INFORMAL COMPLAINTS**

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

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

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

### **§ 1130.1 When no damages sought.**

(a) *Form and content.* Informal complaint may be by letter or other writing filed with the Board and will be serially numbered as filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1111.1(a) and may embrace supporting papers.

\* \* \* \* \*

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

### **§ 1130.2 When damages sought.**

\* \* \* \* \*

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

\* \* \* \* \*

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

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

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

24. Amend § 1132.1 as follows:

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

The revisions read as follows:

**§ 1132.1 Protest against collective rate-making actions.**

\* \* \* \* \*

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

\* \* \* \* \*

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

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

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

**§ 1150.10 [Amended]**

26. In § 1150.10:

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

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

**§ 1150.16 [Amended]**

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

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

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

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

**§ 1152.21 [Amended]**

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

**§ 1152.22 [Amended]**

30. In § 1152.22(i), in the paragraph beginning with, “Written comments and protests,  
including all requests...”, remove the words “The original and 10 copies of all  
comments or protests” and add in their place “Every comment or protest”.

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

**§ 1152.24 Filing and service of application.**

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

If the applicant carrier is in bankruptcy, the application shall also be filed on the bankruptcy court.

\* \* \* \* \*

32. Amend § 1152.25 as follows:

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

The revisions read as follows:

**§ 1152.25 Participation in abandonment or discontinuance proceedings.**

(c) \* \* \*

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

(e) \* \* \*

(1) \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

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

(7) \* \* \*

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

\* \* \* \* \*

## **PART 1155—SOLID WASTE RAIL TRANSFER FACILITIES**

33. The authority citation for part 1155 continues to read as follows:  
49 U.S.C. 1321(a), 10908, 10909, 10910.

### **§ 1155.23 [Amended]**

34. In § 1155.23:  
a. In paragraph (c)(1), remove the sentence “An original and 10 copies of each comment shall be filed with the Board.”;

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

**PART 1182—PURCHASE, MERGER, AND CONTROL OF MOTOR**

**PASSENGER CARRIERS**

35. The authority citation for part 1182 continues to read as follows:  
5 U.S.C. 559; 21 U.S.C. 862; and 49 U.S.C. 13501, 13541(a), 13902(c), and 14303.

**§ 1182.7 [Amended]**

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

**§ 1182.8 [Amended]**

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

**PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—**

**RAILROADS**

38. The authority citation for part 1244 continues to read as follows:  
49 U.S.C. 1321, 10707, 11144, 11145.

**§ 1244.9 [Amended]**

- 39. In § 1244.9:
  - a. In paragraph (d)(3):

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

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

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

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

**§ 1312.4 [Amended]**

41. In § 1312.4:

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

d. Remove paragraph (a)(2)(v).

**PART 1313—RAILROAD CONTRACTS FOR THE TRANSPORTATION OF  
AGRICULTURAL PRODUCTS**

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

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

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

**§ 1313.4 Filing procedures and formats for contract summaries.**

(a) \* \* \*

(3) \* \* \*

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

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

\* \* \* \* \*

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

**§ 1313.10 Procedures for complaints and discovery.**

(a) \* \* \*

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

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