

Surface Transportation Board, DOT

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§1104.4 Attestation and verification.

(a) *Signature of attorney or practitioner.* If a party is represented by a practitioner or an attorney, the original of each paper filed should be signed in ink by the practitioner or attorney, whose address should be stated. The signature of a practitioner or attorney constitutes a certification that the representative:

- (1) Has read the pleading, document or paper;
- (2) Is authorized to file it;
- (3) Believes that there is good ground for the document;
- (4) Has not interposed the document for delay;

A pleading, document or paper thus signed need not be verified or accompanied by affidavit unless required elsewhere in these rules.

(b) *Signature by one not authorized to represent others before the Board.* The original of each document not signed by a practitioner or attorney must be:

- (1) Signed in ink;
- (2) Accompanied by the signer's address; and
- (3) Verified, if it contains allegations of fact, under oath by the person, in whose behalf it is filed, or by a duly authorized officer of the corporation in whose behalf it is filed. If the pleading is a complaint, at least one complainant must sign and verify the pleading.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.5 Affirmation or declarations under penalty of perjury in accordance with 18 U.S.C. 1621 in lieu of oath.

(a) An affirmation will be accepted in lieu of an oath.

(b) Whenever any rule of this Board requires or permits matter to be supported, evidenced, established, or proved by sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, oath of office, or an oath required to be taken before a special official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proven by the unsworn declaration, certificate, verification, or statement, in writing of such person

which is subscribed by him, as true under penalty of perjury and dated, in the following form:

I _____, declare (certify, verify, or state) under penalty of perjury ("under the laws of the United States," if executed outside of the United States) that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this (specify type of document). Executed on (date).

Signature

(c) Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621 which provides for fines up to \$2,000 or imprisonment up to 5 years for each offense.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.6 Timely filing required.

Documents must be received for filing at the Board's offices in Washington, DC within the time limits set for filing. The date of receipt at the Board, and not the date of deposit in the mail, determines the timeliness of filing. However, if a document is mailed by United States express mail, postmarked at least one day prior to the due date, it will be accepted as timely. Other express mail, received by the private express mail carrier at least one day prior to the due date, also will be accepted as timely filed. The term express mail means that the carrier or delivery service offers next day delivery to Washington, DC.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.7 Computation and extension of time.

(a) *Computation.* In computing any period of time, the day of the act, event, or default upon which the designated period of time begins to run is not included. The last day of the period is included unless it is Saturday, Sunday, or a legal holiday in the District of Columbia, in which event the period

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runs until the end of the next day which is not a Saturday, Sunday or holiday. This rule applies to forward and backward measurement of time.

(b) *Extensions.* Any time period, except those provided by law or specified in these rules respecting informal complaints seeking damage may be extended by the Board in its discretion, upon request and for good cause. Requests for extensions must be served on all parties of record at the same time and by the same means as service is made on the Board, except if service is made on the Board in person and personal service on other parties is not feasible, service on other parties should be made by first class or express mail. A request for an extension must be filed not less than 10 days before the due date. Only the original of the request and certificate of service need be filed with the Board. If granted, the party making the request should promptly notify all parties to the proceeding of the extension and so certify to the Board, except that this notification is not required in rulemaking proceedings.

(c) *Exception to time computation rules.* See 49 CFR part 1152 for special abandonment rules.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.8 Objectionable matter.

The Board may order that any redundant, irrelevant, immaterial, impertinent, or scandalous matter be stricken from any document.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.9 [Reserved]

§1104.10 Rejection of a deficient document.

(a) The Board may reject a document, submitted for filing if the Board finds that the document does not comply with the rules.

(b) The Board may either return the material unfiled or tentatively accept the material for filing and advise the person tendering it of the deficiency

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and require that the deficiency be corrected.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.11 Amendments.

Leave to amend any document is a matter of the Board's discretion.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

§1104.12 Service of pleadings and papers.

(a) *Generally.* Every document filed with the Board should include a certificate showing simultaneous service upon all parties to the proceeding. Service on the parties should be by the same method and class of service used in serving the Board, with charges, if any, prepaid. One copy should be served on each party. If service is made on the Board in person, and personal service on other parties is not feasible, service should be made by first-class or express mail. When a party is represented by a practitioner or attorney, service upon the practitioner is deemed to be service upon the party.

(b) *Exceptions.* Copies of letters to the Board relating to oral argument under part 1116, and subpoenas under §1113.2, need not be served on other parties of the proceeding. Service of comments in rulemaking proceedings is not required, unless specifically directed by the Board.

(c) *Sample Certificate of Service.*

I certify that I have this day served copies of document upon all parties of record in this proceeding, by (here state the method of making service which must be consistent with this part).

Signature Date
(49 U.S.C. 10321, 5 U.S.C. 553)

[47 FR 49554, Nov. 1, 1982, as amended at 48 FR 44827, Sept. 30, 1983; 61 FR 52711, Oct. 8, 1996]

§1104.13 Replies and motions.

(a) *Time.* A party may file a reply or motion addressed to any pleading within 20 days after the pleading is filed with the Board, unless otherwise provided.