

served on the applicant. Petitions shall also be served on any persons who have served documents on the petitioner at the staff action level; and on such other persons as may be directed by the Department or the staff member who took the action to be reviewed.

(e) *Answers.* The applicant and such other persons as disclose a substantial interest which would be adversely affected by the relief sought in the petition may, within seven (7) days after filing the petition, file an answer thereto. A different period for the filing of answers may be fixed in the staff action. Such answers shall comply with the form and filing requirements applicable to petitions and shall be served on the applicant and any other person who has theretofore served a document in the matter on such respondent.

[Docket No. T-1, 49 FR 50985, Dec. 31, 1984. Redesignated and amended by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996; 65 FR 6457, Feb. 9, 2000]

#### § 385.32 Effective date of staff action.

Unless, within the time provided by or pursuant to this regulation, a petition for review is filed or the Department gives notice that it will review on its own motion, staff action shall, without further proceedings, be effective and become the action of the Department upon the expiration of such period. A timely petition for review filed in accordance with the provisions of this section, or notice given by the Department of review on its own motion, shall stay the staff action pending disposition by the Department, unless the Department determines otherwise or unless the staff action provides otherwise in accordance with subpart A of this part. However, in cases where the Department's regulations provide that permissions or approvals are granted, or that other legal effects result, within a stated period from the filing with the Department of a prescribed document, unless the Department gives notice to the contrary or takes other action within said period, such notice given or action taken by a staff member under delegated authority shall toll the running of such period. A timely petition for review of staff action which is not stayed by its filing which is received after or not acted upon be-

fore the effective date of the action shall be entertained and disposed of on its merits as a petition for reconsideration.

[Docket No. T-1, 49 FR 50985, Dec. 31, 1984. Redesignated by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996]

#### § 385.33 Review by the staff.

Where a petition for review is duly filed, the staff member may, upon consideration of all documents properly filed, reverse his or her decision. Except in the case of Administrative Law Judges, action taken by a staff member other than an office head or Assistant General Counsel may be reversed by the respective office head or Assistant General Counsel who is in the supervisory chain of command with respect to the staff member who took the initial action. If the initial action is reversed, the petition for review will not be submitted to the Reviewing Official. Staff action reversing the initial action shall be subject to petition for Department review as any other staff action.

[Docket No. T-1, 49 FR 50985, Dec. 31, 1984. Redesignated by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996]

#### § 385.34 Decision by the Reviewing Official.

(a) *Decline of right to review.* If the Reviewing Official declines the right to exercise discretionary review, the staff action stayed by the petition for review shall become effective on the second business day following the date of service of the order, unless the order provides otherwise.

(b) *Exercise of right to review.* The Reviewing Official will exercise his or her discretionary right of review either upon petition or on his or her own motion. The Reviewing official may by order provide for interlocutory relief pending his or her decision on the merits and may limit the issues on review. The Reviewing Official may affirm, modify or set aside the staff action, may order the matter remanded, or may order further submittals or other proceedings before making a decision on the merits. In case the Reviewing Official affirms the staff action, staff action stayed by the petition for review shall become effective on the second

business day following the date of service of the Reviewing Official's order, unless the order provides otherwise. Decisions by the Reviewing Official under this part are final and are not subject to petitions for reconsideration.

[Doc. T-1, 49 FR 50985, Dec. 31, 1984; Amdt. 1, 50 FR 7170, Feb. 21, 1985. Redesignated by Doc. No. OST-96-1268, 61 FR 19171, May 1, 1996]

## PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

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- 389.27 Refund of fee.

AUTHORITY: Sec. 204, 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 268; 31 U.S.C. 483a.

SOURCE: OR-27, 33 FR 70, Jan. 4, 1968, unless otherwise noted.

### Subpart A—General Provisions

#### § 389.1 Policy and scope.

Pursuant to the provisions of Title V of the Independent Offices Appropriation Act of 1952 (5 U.S.C. 140) as implemented by Bureau of Budget Circular A-25, dated September 23, 1959, the Board sets forth in this regulation the special services made available by the

Board and prescribes the fees to be paid for these and various other services.

### Subpart B—Fees for Special Services

#### § 389.10 Applicability of subpart.

This subpart describes certain special services made available by the Board and prescribes the fees and charges for these services.

#### § 389.11 Services available.

Upon request and payment of fees as provided in subsequent sections, there are available, with respect to documents subject to inspection, services as follows:

- (a) Locating and copying records and documents.
- (b) Certification of copies of documents under seal of the Board.
- (c) Subscriptions to publications of the Board.
- (d) Transcripts of hearings.

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-94, 40 FR 7242, Feb. 19, 1975]

#### § 389.12 Payment of fees and charges.

The fees charged for special services may be paid by check, draft, or postal money order, payable to the Civil Aeronautics Board, except for charges for reporting services which are performed under competitive bid contracts with non-Government firms. Fees for reporting are payable to the firms providing the services.

#### § 389.13 Fees for services.

Except for photocopy work, the basic fees set forth below provide for documents to be mailed with ordinary first class postage prepaid. If copy is to be transmitted by registered, certified, air, or special delivery mail, postal fees therefor will be added to the basic fee. Also, if special handling or packaging is required, costs therefor will be added to the basic fee. For photocopy work, postage will be in addition to the fee for copying.

#### § 389.14 Locating and copying records and documents.

Public records and documents on file with the Civil Aeronautics Board will