

## Office of the Secretary, DOT

## § 389.24

Board, except as provided in §§ 389.23 and 389.27.

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-27A, 33 FR 3633, Mar. 1, 1968; OR-50, 35 FR 15986, Oct. 10, 1970; 48 FR 642, Jan. 6, 1983; Amdt. 389-37, 54 FR 2099, Jan. 19, 1989]

### § 389.22 Failure to make proper payment.

(a)(1) Except as provided in § 389.23, documents (except tariff publications) which are not accompanied by filing fees shall be returned to the filing party, and such documents shall not be considered as filed by the Board.

(2) Except as provided in § 389.23, records which are not accompanied by the appropriate filing fees shall be retained and considered filed with the Department. The Department will notify the filer concerning the non-payment or underpayment of the filing fees, and will also notify the filer that the records will not be processed until the fees are paid.

(b) The filing fee tendered by a filing party shall be accepted by the Board office to whom payment is made, subject to post audit by the Chief of the Board's Finance Division and notification to the filing party within 30 days of any additional amount due. Not more than 5 days after receipt of the notification, the determination of the Chief, Finance Division, may be appealed to the Managing Director of the Board, who has been delegated authority by the Board to decide such appeals in § 385.12 of this chapter. The filing party may submit to the Board a petition for review of the Managing Director's decision pursuant to § 385.50 of this chapter, and proceedings thereon will be governed by part 385, subpart C, of this chapter.

(c) The amount found due by the Chief, Finance Division, shall be paid within 10 days of notification except that (1) if that decision is appealed to the Managing Director, the amount due shall be paid within 10 days after the Managing Director notifies the filing party that he has affirmed or modified the decision of the Chief, Finance Division; and (2) if the decision of the Managing Director is appealed to the Board, the amount due shall be paid within 10 days after the Board notifies the filing party that it has affirmed or

modified the staff decision. If the amount due is not paid, the document (except a tariff publication) shall be returned to the filing party along with the fee tendered, and such document shall be deemed to have been dismissed or withdrawn.

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-96, 40 FR 20613, May 12, 1975; Amdt. 389-37, 54 FR 2099, Jan. 19, 1989]

### § 389.23 Application for waiver or modification of fees.

(a) Applications may be filed asking for waiver or modification of any fee paid under this subpart. Each applicant shall set forth the reasons why a waiver or modification should be granted, and by what legal authority.

(b) Applications asking for a waiver or modification of fees shall be sent to the Managing Director of the Board, and shall accompany the document filed. Applicants may appeal the decision of the Managing Director to the Board under § 385.50 of this chapter. When no petition for review is filed with the Board, or when the Board reviews the Managing Director's decision, if the amount found due is not paid within 10 days after receipt of notification of the final determination, the document shall be returned to the filing party.

(Approved by the Office of Management and Budget under control number 3024-0071)

[48 FR 642, Jan. 6, 1983, as amended by OR-215, 49 FR 6884, Feb. 24, 1984]

### § 389.24 Foreign air carriers.

A foreign air carrier, or such carriers, if from the same country, acting jointly, may apply for a waiver of the requirements of this part based on reciprocity for U.S. air carriers contained in the requirement of their home governments, or as provided in a treaty or agreement with the United States. To apply for a waiver under this section, foreign air carriers shall send waiver requests to the Director, Bureau of International Aviation. The request should include applicable official government rules, decisions, statements of policy, or comparable evidence concerning filing fees for U.S. air carriers, or for all carriers serving that country. Once a waiver has been granted for a

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specific country, no further waiver applications need be filed for that country.

(Approved by the Office of Management and Budget under control number 3024-0071)

[OR-209, 48 FR 10628, Mar. 14, 1983, as amended by OR-215, 49 FR 6884, Feb. 24, 1984]

**§ 389.25 Schedule of processing fees.**

(a) *Document-filing fees.*

| Code | Document  |     |
|------|---|-----|
|      | Interstate and Overseas Air Transportation Certificate of Public Convenience and Necessity: |     |
|      | Application under sec. 401:   |     |
| 1    | Charter .....   | 850 |
| 2    | Scheduled Service .....   | 850 |
| 3    | Dormant Authority .....   | 290 |
| 4    | All-Cargo under sec. 418 .....  | 670 |
| 5    | Transfer .....  | 290 |
| 6    | Air Taxi Registration .....   | 8   |
| 7    | Commuter Air Carrier Authorization .....  | 670 |
| 8    | Change of Name (registration of trade name or reissuance of certificate) .....              | 56  |
| 9    | Exemption Request (General):  |     |
| 10   | Section 403 .....   | 53  |
| 11   | Section 401 (domestic) .....  | 280 |
| 12   | Section 419 .....   | 120 |
| 13   | Service Mail Rate Petition .....  | 420 |
|      | FOREIGN AIR TRANSPORTATION (U.S. AND AIR CARRIERS)  |     |
|      | Certificate of Public Convenience and Necessity (sec. 401):                                 |     |
| 14   | Scheduled Service .....   | 900 |
| 15   | Amendment to application .....  | 425 |
| 16   | Charter Service .....   | 600 |
| 17   | Amendment to application .....  | 200 |
| 18   | Transfer .....  | 255 |
| 19   | Change of Name (registration of trade name or reissuance of certificate) .....              | 56  |
|      | Foreign Air Carrier Permit (sec. 402):  |     |
| 20   | Initial .....   | 760 |
| 21   | Amendment/Renewal of permit .....   | 475 |
| 22   | Amendment to application for a permit .....   | 215 |
|      | Exemption:  |     |
| 23   | Section 403 .....   | 53  |
|      | Section 401/402:  |     |
| 24   | 10 or fewer flights .....   | 77  |
| 25   | More than 10 flights .....  | 360 |
| 26   | Filed less than 10 days before effective date requested .....                               | 117 |
| 27   | Other (U.S. and foreign air carriers) .....   | 360 |
| 28   | Emergency cabotage (sec. 416(b)(7)) .....   | 360 |
| 29   | Relief for U.S. (sec. 101) and foreign (sec. 416) indirect air carriers .....               | 370 |
|      | Undocketed Items:   |     |
| 30   | Canadian Charter Air Taxi Registration .....  | 30  |
| 31   | Foreign Freight Forwarder Registration .....  | 11  |
| 32   | Foreign Tour Operator Registration .....  | 10  |
| 33   | Foreign Aircraft Permit (part 375) .....  | 25  |
| 34   | Special Authorization (part 375) .....  | 12  |
| 35   | Charter Statement of Authorization .....  | 8   |
| 36   | Intermodal Statement of Authorization .....   | 10  |
| 37   | Special Authority (part 216) .....  | 37  |
| 38   | Items 33-37 if filed less than time required before effective date .....                    | 111 |
| 39   | IATA resolutions .....  | 61  |
|      | OTHER (U.S. AND FOREIGN AIR CARRIERS)   |     |
|      | Charters:   |     |
| 40   | Public Charter Prospectus .....   | 39  |
| 41   | OMPC Operation Authorization .....  | 665 |

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| Code | Document   |      |
|------|--|------|
| 42   | Waiver of Charter Regulations .....                        | 39   |
|      | Tariffs:   |      |
| 43   | Pages .....  | 2    |
| 44   | Special Tariff Permission .....                            | 12   |
| 45   | Waiver of Tariff Regulations .....                         | 12   |
| 46   | Approval of Interlocking Relationships .....               | 415  |
| 47   | Merger or Acquisition of Control .....                     | 1080 |
| 47a  | Exemption request .....                                    | 371  |
|      | Agreements filed under section 412:                        |      |
| 48   | Prior Approval (docketed) .....                            | 1080 |
| 49   | Routine (nondocketed) .....                                | 64   |
| 50   | Application for free and reduced-rate transportation ..... | 16   |

<sup>1</sup> Additional.

(b) *Electronic Tariff Filing Fees.* The filing fee for one (1) or more transactions proposed in any existing record, or for any new or canceled records, shall be 5 cents per record; *Provided:* That no fee shall be assessed for those records submitted to the Department pursuant to §221.500(b)(1) of this subpart.

[48 FR 643, Jan. 6, 1983, as amended by OR-206, 48 FR 1941, Jan. 17, 1983; OR-210, 48 FR 15615, Apr. 12, 1983; 53 FR 17924, May 19, 1988; Amdt. 389-37, 54 FR 2099, Jan. 19, 1989; 70 FR 25773, May 16, 2005]

**§ 389.26 Special rules for tariff page filings.**

(a) *Tariffs issued by carriers.* The filing fee for tariff pages filed by U.S. air carriers will be charged even if the tariff includes matters involving participating foreign air carriers. It will also be charged if the tariff is issued by a foreign air carrier and includes matters involving participating U.S. air carriers, unless the foreign air carrier has obtained a waiver under §389.24. The fee will not be charged for a blank looseleaf page unless it cancels matter in the preceding issue of the page.

(b) *Tariffs issued by publishing agents.*  
 (1) If the tariff is issued for one or more air carriers exclusively, the fee will be charged for each page.

(2) If the tariff is issued for one or more air carriers and one or more foreign air carriers, the fee will be charged for each page, except for those pages that the issuing agent states contain only:

(i) Matters pertaining exclusively to foreign air carriers that have been granted a waiver, or

(ii) Changes in matters pertaining to foreign air carriers that have been granted a waiver and that are included