The proposed amendment provides that the rating board has sole authority to determine the competency of beneficiaries, but that if the VSO develops new information bearing on the issue of the beneficiary's competency, the rating board will consider that evidence together with all other evidence of record to determine whether the prior determination of incompetency should remain in effect. Paragraph (b)(2) provides that the Adjudication Officer will authorize disbursement to an incompetent beneficiary as directed by the VSO (e.g., supervised direct payment, payment to a fiduciary, or payment to the beneficiary's spouse). Additional nonsubstantive changes would be made in the wording and format of § 3.353(b) for the sake of clarity.

The Secretary hereby certifies that these regulatory amendments would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The amendments would not directly affect any small entities. Only VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of section 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: April 11, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.353 is amended by revising paragraph (b) to read as follows:

§ 3.353 Determinations of incompetency and competency.

* * * * *

(b) *Authority.* (1) Rating agencies have sole authority to make official determinations of competency and incompetency for the purpose of existing laws, Department of Veterans Affairs regulations and Department of Veterans Affairs instructions. Such determinations are final and binding on field stations for purposes of: insurance (38 U.S.C. 1922), the discontinuance and payment of amounts withheld because of an estate in excess of $1,500 (§ 3.557(b)), and, subject to § 13.56 of this chapter, disbursement of benefits.

(2) Where the beneficiary is rated incompetent, the Adjudication Officer will inform the Veterans Services Officer of jurisdiction of that fact. The Veterans Services Officer will develop information as to the beneficiary's social, economic and industrial adjustment and appoint (or recommend appointment of) a fiduciary as provided in § 13.55 of this chapter, select a method of disbursing payment as provided in § 13.56 of this chapter, or in the case of a married beneficiary, appoint the beneficiary's spouse to receive payments as provided in § 13.57 of this chapter. The Adjudication Officer will authorize disbursement of the benefit in the manner selected by the Veterans Services Officer.

(3) If in the course of fulfilling the responsibilities assigned in paragraph (b)(2) the Veterans Services Officer develops evidence indicating that the beneficiary may be capable of administering the funds payable without limitation, he or she will refer that evidence to the rating agency with a statement as to his or her findings. The rating agency will consider this evidence, together with all other evidence of record, to determine whether its prior determination of incompetency should remain in effect. Reexamination may be requested as provided in § 3.327(a) if necessary to properly evaluate the beneficiary's mental capacity to contract or manage his or her own affairs.

* * * * *

[FR Doc. 95–10936 Filed 5–3–95; 8:45 am]

BILLING CODE 8320–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM95–4]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is soliciting comments on a Postal Service petition, including proposed rules for initiation of a rulemaking on procedural changes intended to foster expedition, flexibility and innovation in seven aspects of ratemaking and classification. Proposed rules accompanied the petition. The changes are based in part on recommendations in a joint Postal Service/Postal Rate Commission task force report on improvements in the ratemaking process. The proposed rules generally provide for a lesser amount of initial supporting documentation in Postal Service requests for certain rate and classification changes and a specific, limited period for public comments and Commission review of those requests.

DATES: Comments must be submitted on or before July 5, 1995.

ADDRESSES: Comments and correspondence should be sent to Margaret Crenshaw, Secretary of the Commission, 1333 H Street NW, Suite 300, Washington, DC 20068–0001 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street NW, Suite 300, Washington, DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: On April 13, 1995, the Postal Service filed with the Commission a petition for initiation of a rulemaking involving changes in, or additions to, procedural mechanisms for handling certain rate and classification matters. In support thereof, the petition asserts a keen interest on the part of postal management and the Governors in improving approaches to general rate changes. The petition also acknowledges the influence of certain recommendations of the Joint Task Force on Postal Ratemaking (June 1, 1992). The petition, the Joint Task Force's report, and other reports referred to in the Service's petition are on file in the Commission's Docket Room. A summary of the proposed changes, a number of additional related topics for consideration. The text of the rule changes proposed by the Postal Service may be obtained from the Secretary of the Commission upon request.

"Limited Scope" Rate Cases

Citing the Joint Task Force's acknowledgement that certain circumstances might call for limited adjustments to rates outside the context of an omnibus rate proceeding, the Postal Service proposes rules that would allow expedited, limited rate changes between rate cases. Petition at 7 (internal citation omitted). The Service says the rules are intended to permit extensive reliance on the most recent

general rate case, and to keep the inquiry narrowly focused on areas related to the limited nature of the change and the effects on revenues and costs. The rules would require the Commission to issue a recommended decision on requests that are not challenged within 60 days. If the request is challenged, a 90-day period for issuance of a Commission decision would apply. Ibid.

Rate Bands

The Service indicates that its proposal for rate bands for competitive services adopts the Joint Task Force's framework of establishing a range within a general rate proceeding, but differs in several other respects. Id. at 8. For example, instead of a written notice procedure, the proposed rules create a mechanism in general rate cases for establishing a band of rates for competitive services based on a range of markups over attributable costs, and an aggregate institutional cost contribution for each product or service classified as competitive. The band and contribution thereby established would serve as the criteria for recommending rates in each general rate case and for changing rates within the bands between cases. Provisions in the Domestic Mail Classification Schedule (DMCS) would identify certain categories of mail as eligible to benefit from rate band flexibility. Between general rate cases, the Service would submit to the Commission a request for a recommended decision on whether to adjust prices within the pre-established bands. The Commission would be required to issue a decision within 30 days if the request is not challenged, and within 60 days if challenged. The Service says it believes that a classification proceeding under existing rules would be adequate to create the necessary DMCS provision to implement the rate band mechanism.

Expedited Minor Classification Cases

The Service also proposes rules that would allow expedited treatment for certain narrowly focused, limited classification changes, such as those affecting mailing requirements, eligibility standards, and categories of service with low aggregate costs and revenues. Initial filing requirements would be less demanding than those applicable to more complex classification cases, and findings from the last omnibus rate case would not be relitigated. The Commission would be required to issue a recommended decision within 60 days if the Service's request is not challenged, and within 90 days if it is challenged.

Market Tests

The Postal Service asserts that its rules for market tests attempt to track elements of a procedure outlined in the Joint Task Force Report. Id. at 11. The proposed rules would allow consideration of proposals to obtain data from actual market testing of mail classification or rate changes. There would be limits on the scope, scale and duration of the test. Initially, only information available to support the experimental proposal and a description of the test and the plan for collecting the necessary additional data would need to be filed. Information obtained from the test could be considered in a later portion of the proceeding to determine whether the change should be made permanent. The scope of inquiry in the initial phase would be limited to issues of general legality, the design and necessity of the test, and the nature of any adverse effect on competitors or discrimination among mailers. The Commission would either recommend or not recommend the service as proposed, without modification. However, if the Commission made suggestions for modifications, the Service could incorporate those suggestions in a new request. The petition notes that the rules would embody a presumption in favor of innovation.

Provisional Services

The Service also proposes a mechanism for implementing the Joint Task Force's concept of new services with provisional status. The proposed rules would allow fast-track consideration of proposals to introduce a new service. The type of service eligible for this treatment, in line with the Joint Task Force's recommendation, would be one which supplements existing rates and classifications without changing any of them. The service would be approved initially for only a limited period, and subsequent review would be expected. This provisional status would justify an expedited, more limited degree of review. Although the service could affect future overall revenue requirements, it would not be tied to the rates for any existing class or category. The scope of inquiry would be limited to whether the proposal would have a material adverse effect on revenue or costs, or pose unnecessary or unreasonable harm for competitors. Commission approval or disapproval would be required within 90 days. As with the market test rules, the Postal Service could incorporate Commission modifications in a new request. In the absence of a showing of adverse effect or unreasonable harm to competitors, the rules contemplate that the Commission would recommend the provisional service.

Multi-Year Test Periods for New Services

The Service proposes rules authorizing the use of multi-year test periods for potential new services that are not expected to generate sufficient volumes and revenues to cover costs in their first year or two of existence, but which are expected to generate an appropriate contribution to institutional costs when they mature. Currently, the Commission recommends rates based on a comparison of costs and revenues over a one-year period soon after the implementation of a new service. The Service claims that the proposed rules would encourage innovation by examining costs and revenues for a new service over a multi-year period.

Negotiated Service Agreements

The petition notes that the proposed rules contemplate authorization for the Service to negotiate agreements with mailers. The Service would agree to provide mail services not currently included within the DMCS, at rates attractive to the mailer and beneficial to the Postal Service. The petition indicates that implementation of this proposal would involve two steps. One is introducing DMCS language enabling the Service to provide service in the context of a Negotiated Service Agreement (NSA). The other is establishing procedural rules to govern the actions undertaken by the Commission to allow such agreements to be placed into effect. Under the proposed DMCS provisions, only mailers who meet specified standards and who are willing to submit mailings within closely defined parameters would be eligible to enter NSAs. The negotiated rate must contribute a reasonable amount towards the recovery of institutional costs, with a minimum markup level identified as presumptively reasonable. Similarly situated mailers would be able to apply to receive the same service at the same rate. In addition to providing the text of the NSA, the Service would be required to demonstrate that the NSA would be beneficial to the Postal Service. The Commission would either approve or reject the tentative NSA as submitted. Furthermore, when the effective markup equals or exceeds the percentage amount previously specified as reasonable in the DMCS, the Commission could avoid further debate as to whether that markup is

appropriate. The Commission would be required to issue a recommendation within 60 days.

Request for Comments

The Commission invites interested parties to submit their views on the subject matters addressed in the Service's petition, and on its substantive and procedural proposals. In particular, the Commission invites comments on the following topics.

1. The Service's petition acknowledges the influence of the Joint Task Force's recommendations on the development of its proposals. Does that report offer other recommendations not included in the Service's petition that warrant consideration?

2. The petition states, without further elaboration, that existing Commission and judicial precedent create impediments to accommodating many promising ideas for carrying out the Joint Task Force's recommendations. Id. at 4. The Postal Service is requested to specify to what judicial precedents the petition refers, and how the proposed rules accommodate these precedents.

3. Any commenter which considers one or more of these proposals to violate current law as judicially interpreted is requested to explain why that proposal might be considered unlawful. Comments addressing whether the proposals are consistent with the Administrative Procedure Act, 5 U.S.C. 556, 557, are requested to specify adequate time periods for various procedural steps.

4. The petition indicates that the proposed rules for market tests and provisional services include certain presumptions that would apply in evaluating Postal Service proposals. Id. at 11 and 13. Is inclusion of these presumptions an appropriate approach to Commission review of Service requests? Should these presumptions be specified in the rules?

5. The petition indicates that the Service and Governors believe that improvements in the ratemaking process may require direct legislative change or an explicit clarification that flexibilities already exist in the current law. Moreover, the petition states that certain fundamental changes in the law seem advisable in any event, particularly in basic structural matters and in substantive areas that have been the most controversial in the past. Petition at 3–4. The Postal Service is requested to explain what legislative changes it believes would be needed to foster further expedition and flexibility if the Commission were to adopt the proposed rules.

6. The petition acknowledges the Commission's workload, but nonetheless urges that a rulemaking docket be opened to consider the proposed changes. Petition at 5–6. Should the Commission consider all seven of these proposed changes at this time, or should part or all of the rulemaking be postponed? If some, but not all, of the proposals are considered at this time, which ones should be reviewed first, and which should be deferred? Why?

Issued by the Commission on April 24, 1995.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 95–10944 Filed 5–3–95; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201–23 and 201–24

Amendment of FIRMR Provisions Relating to GSA's Role in Screening Excess and Exchange/Sale Federal Information Processing (FIP) Equipment

AGENCY: Information Technology Service, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Federal Information Resources Management Regulation (FIRMR) to allow Federal agencies to screen and transfer excess and exchange/sale FIP equipment.

DATES: Comments are due: July 3, 1995.

ADDRESSES: Comments may be mailed to GSA/KAR, 18th and F Streets NW., Room 3224, Washington, DC 20405, Attn: R. Stewart Randall, or delivered to that address between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, GSA, Office of Information Technology (IT) Policy and Leadership, Regulations Analysis Division (KAR), 18th and F Streets NW., Room 3224, Washington, DC 20405, telephone FTS/Commercial (202) 501–4469 (v) or (202) 501–4469 (tdd).

SUPPLEMENTARY INFORMATION: (1) Part 201–23 is being amended to delegate authority and responsibility to agencies regarding the screening and transfer of excess FIP equipment. Currently, the FIRMR requires Federal agencies to request GSA to interagency screen and transfer excess FIP equipment that is not outdated and has an original acquisition cost (OAC) per component of $1 million or more. It is not necessary for GSA to continue to operate this program on a centralized basis. Accordingly, the requirement for GSA to be directly involved in interagency screening and transfer of excess FIP equipment will be removed from the FIRMR.

(2) Explanation of the changes being made in this issuance are shown below:

(a) Section 201–23.000 ''Scope of part'' is revised by removing paragraphs (b), (c), and (d) to more succinctly describe the entire contents of this revised part.

(b) Section 201–23.001 paragraph (a)(2) is revised and paragraph (a)(4) is deleted to remove the references to the GSA Excess FIP Equipment Program. Agencies will no longer be required to submit to GSA information about their excess FIP equipment with the OAC above $1 million for GSA to do interagency screening.

(c) Section 201–23.001 paragraph (b) is deleted. Section 201–23.001 paragraph (c) is redesignated as paragraph (b).

(d) Section 201–23.002 paragraph (c) the sentence ''Agencies may interagency screen and transfer excess FIP equipment without GSA approval'' is added at the end of the paragraph.

(e) Paragraph (b) of section 201–23.003 is redesignated as (c) and a new paragraph (b) is added. In the newly designated section 201–23.003 paragraph (c)(1), the work ''internal'' will be removed because it is redundant in this context. The words ''within the agency'' are added at the end of the paragraph to distinguish these procedures for interagency screening from those GSA will require.

(f) Section 201–23.003(c) is redesignated as paragraph (d) and is completely revised to remove the mandatory reporting requirement for agencies to submit equipment with an OAC of $1 million or more to GSA for interagency screening purposes. The section will now show that agencies must offer to other Federal agencies excess FIP equipment with an OAC of $1 million or more in accordance with guidelines in FIRMR Bulletin C–2.

(g) Section 201–23.003(d) is redesignated as paragraph (e) and is revised to remove words indicating GSA's former role in interagency screening of agencies' excess FIP equipment.

(h) Paragraph (h) is added to § 201–23.003 to show that an agency may request GSA to review another agency's decision to transfer excess FIP equipment.

(i) Section 201–24.202 referencing the GSA Excess FIP Program as a mandatory for consideration program will be removed because changes to part 201–