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WHO: Sponsored by the Office of the Federal Register.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN: January 9, 1996 at 9:00 am and January 23, 1996 at 9:00 am

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Contents

Federal Register

Vol. 60, No. 246

Friday, December 22, 1995

Agriculture Department
See Food Safety and Inspection Service
RULES
National Environmental Policy Act; Federal regulatory review, 66479–66482

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
Malibu-Newton Canyon, CA, 66535–66538
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 66576–66578

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Kimberly-Clark Corp. and Scott Paper Co., 66557–66565

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
Americans with Disabilities Act; implementation:
Accessibility guidelines—
Buildings and facilities; play facilities regulatory negotiation committee; establishment, 66538–66540

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Meetings:
Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 66552–66553

Commerce Department
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 66541–66542

Comptroller of the Currency
PROPOSED RULES
Securities transactions; recordkeeping and confirmation requirements, 66517–66527

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 66565–66566

Energy Department
See Federal Energy Regulatory Commission
RULES
Acquisition regulations:
Laboratories and weapon production facilities management and operating contractors; technology transfer activities, 66510–66516
NOTICES
Environmental statements; availability, etc.:
Medical isotopes production, 66542–66543

Environmental Protection Agency
NOTICES
Self-policing incentives; discovery, disclosure, correction, and prevention of violations; policy statement, 66706–66712

Federal Aviation Administration
RULES
Airworthiness directives:
Cessna, 66484–66485
Jetstream, 66485–66487
Robinson Helicopter Co., 66487–66490
Class E airspace, 66490–66491
PROPOSED RULES
Airworthiness directives:
Beech, 66527–66529
Class D and Class E airspace, 66529–66530

Federal Deposit Insurance Corporation
RULES
Resolution Trust Corporation regulations; effectiveness after agency termination, 66483
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 66549–66550
Meetings; Sunshine Act, 66579

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
EcoElectrica, L.P., 66543
Georgia Power Co., 66543
Wisconsin Public Service Corp. et al., 66543
Hydroelectric applications, 66544
Applications, hearings, determinations, etc.:
Aroostook Valley Electric Co., 66544
Colstrip Energy L.P., 66544
Columbia Gas Transmission Corp., 66544–66545
Columbia Gas Transmission Corp. et al., 66545
Jersey Central Power & Light Co. et al., 66545–66546
Multi-Energies U.S.A. Inc., 66546
National Gas & Electric L.P., 66546
Northern Border Pipeline Co., 66546–66547
Northwest Alaskan Pipeline Co., 66547
Northwest Pipeline Corp., 66547
Southern Company Services, Inc., 66548
Texaco Refining & Marketing Inc. et al., 66548
Transcontinental Gas Pipe Line Corp., 66548
Trunkline Gas Co., 66548–66549
Viking Gas Transmission Co., 66549

Federal Housing Finance Board
NOTICES
Meetings; Sunshine Act, 66579

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Central Bancorporation, Inc., et al., 66550–66551
Durden Bankshares, Inc., et al., 66551
Regions Financial Corp. et al., 66551
Smithhisler, John, 66551–66552

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
A.L. Pharma, Inc., 66496
Zoalene, 66495–66496
Food for human consumption:
Bottled water—
Identity standards; correction, 66495
PROPOSED RULES
Human subjects, protection; informed consent, 66530–66531
NOTICES
Federal regulatory review:
Grassroots regulatory partnership meetings, 66553
Human drugs:
Export applications—
SURGISCREEN 0.8 percent, reagent red blood cells, 66553–66554

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Bob veal calf residue testing program; fast antimicrobial screen test, 66482–66483
Potassium hydroxide as hog scald agent, etc., 66483

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 66552

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 66554

Interior Department
See Reclamation Bureau

Internal Revenue Service
RULES
Income taxes:
Rental real estate activities, 66496–66502
Research and experimental expenditures; allocation and apportionment; income from United States and foreign sources, 66502–66510
PROPOSED RULES
Income taxes:
Accrued benefits between employer and employee contributions; allocation, 66532–66535

Interstate Commerce Commission
NOTICES
Environmental statements; availability, etc.:
Boston & Maine Corp. et al., 66555
Railroad operation, acquisition, construction, etc.:
Clinton Terminal Railroad Co., 66555–66556
Lancaaster Northern Railway, 66556
Nolan, John C., 66556
Norfolk Southern Railway Co. et al., 66556–66557
Norfolk Southern Railway Co., 66557
North Carolina Ports Railway Commission, 66557

Justice Department
See Antitrust Division

Labor Department
See Employment Standards Administration

National Highway Traffic Safety Administration
NOTICES
Motor vehicle theft prevention standard; exemption petitions, etc.:
Porsche Cars North America, Inc., 66575–66576

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 66516
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 66541

National Telecommunications and Information Administration
RULES
Public telecommunications facilities program et al.; policy statement, 66491–66495

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Commonwealth Edison Co., 66566–66567
Duke Power Co. et al., 66567–66568
Portland General Electric Co., 66568–66569
Applications, hearings, determinations, etc.:
Portland General Electric Co., 66569–66570

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Mail classification reform; implementation standards, 66582–66703

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Santa Barbara County, CA; Cachuma Project contract renewal, 66554–66555

Resolution Trust Corporation
RULES
Regulations effectiveness after agency termination, 66483–66484

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 66579
Self-regulatory organizations; proposed rule changes:
Government Securities Clearing Corp., 66570–66571
Municipal Securities Rulemaking Board, 66571–66573

Social Security Administration
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 66573
Meetings:
Representative Payment Advisory Committee, 66573–66575

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Comptroller of the Currency
See Internal Revenue Service

Separate Parts In This Issue

Part II
Postal Service, 66582

Part III
Environmental Protection Agency, 66706–66712

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

New Feature in the Reader Aids!

Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the Federal Register called ‘‘Reminders’’. The Reminders will have two sections: ‘‘Rules Going Into Effect Today’’ and ‘‘Comments Due Next Week’’. Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect ‘‘today’’. Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the Federal Register will be eligible for inclusion in the Reminders.

The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.

The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

Electronic Bulletin Board

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1......................................66479
1b....................................66479

9 CFR
310..................................66482
318..................................66483

12 CFR
Ch. III 66483
Ch. XVI 66483

Proposed Rules:
12....................................66517

14 CFR
39 (4 documents) 66484, 66485, 66487, 66488
71....................................66490

Proposed Rules:
39....................................66527
71....................................66529

15 CFR
2301................................66491

21 CFR
165..................................66495
558 (2 documents) 66495, 66496

Proposed Rules:
50....................................66530
312..................................66530

26 CFR
1 (2 documents) 66496, 66502

Proposed Rules:
1......................................66532

27 CFR

Proposed Rules:
9......................................66535

36 CFR

Proposed Rules:
1190................................66538
1191................................66538

39 CFR

Proposed Rules:
111..................................66582

48 CFR
970..................................66510

50 CFR
675..................................66516

Rules and Regulations

Federal Register
Vol. 60, No. 246
Friday, December 22, 1995

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 1 and 1b

Departmental Proceedings, Judicial Proceedings, and NEPA Policy

AGENCY: Office of the Secretary of Agriculture, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Administrative Regulations—Departmental Proceedings, the Administrative Regulations—Judicial Proceedings, and the National Environmental Policy Act regulations as part of the United States Department of Agriculture's (USDA) regulatory reinvention initiative to improve its regulations. This final rule updates and corrects references to statutes, regulations, USDA agencies, and USDA officials; removes gender specific references; removes unnecessary regulations; and makes minor nonsubstantive changes for clarity.

EFFECTIVE DATE: This final rule is effective January 22, 1996.

FOR FURTHER INFORMATION CONTACT: William Jenson, Senior Counsel, Regulatory Division, Office of the General Counsel, USDA, room 2422, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, (202) 720–2453.

SUPPLEMENTARY INFORMATION:

Background

The President directed the heads of all departments and agencies to review all regulations and eliminate or revise those that are outdated or otherwise in need of reform. The Department completed its review and submitted a report on the review to the Office of Management and Budget on June 1, 1995. The review included USDA's Administrative Regulations—Departmental Proceedings (7 CFR, part 1, subpart B); Administrative Regulations—Judicial Proceedings (7 CFR, part 1, subpart C); and National Environmental Policy Act regulations (7 CFR, part 1b). The Department found that these regulations contain outdated and incorrect references to statutes, regulations, USDA agencies, and USDA officials; unnecessary provisions; gender specific references; and provisions that could be clarified by making minor nonsubstantive changes. This final rule updates and corrects references to statutes, regulations, USDA agencies, and USDA officials; removes gender specific references; removes unnecessary regulations; and makes minor nonsubstantive changes for clarity.

7 CFR, Part 1, Subpart B

This final rule amends 7 CFR, part 1, subpart B, by adding a citation to the statutory authority for the subpart. This final rule also amends §§ 1.26, 1.27, 1.28, and 1.29 in 7 CFR, part 1, subpart B.

Section 1.26(c) provides that ''[c]hapter 11 of title 18, United States Code prohibits employees and former employees from representing others under certain circumstances. See § 0.735–41 of this subtitle for illustrations.'' Section 1.26(c) is unnecessary and has no effect and is therefore removed. In addition, this final rule makes minor nonsubstantive amendments to 7 CFR 1.26 (a), (b)(2), and (b)(3) for clarity and to remove gender specific references.

Section 1.27 sets forth the Department policy with respect to the availability of written submissions in response to certain notices published by the Department. Sections 1.27 (a) through (d) appear by their terms to apply only to written submissions in response to notices of proposed rulemaking published by the Department. However, § 1.27(e) provides that, despite the limiting language in § 1.27 (a) through (d), the policy annunciated in § 1.27 applies to written submissions in response to any published notice which solicits, or affords interested members of the public an opportunity to submit, written views with respect to any proposed action relating to any program administered by the Department regardless of the fact that the issuance of a rule may not be contemplated.

Further, this final rule amends the provisions regarding the confidentiality of written submissions. Sections 1.27 (c) and (d) provide for confidentiality if making the submission public would have an adverse effect on the submitter by reason of: (1) Disclosing trade secrets, processes, operations, style of work or apparatus; (2) disclosing the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures; or (3) exposing the submitter to substantial disadvantage in business or employment. This confidentiality provision was written before the enactment of the Freedom of Information Act. The confidentiality provision in § 1.27 (c) and (d) includes agency records that the Department may not be able to withhold under the Freedom of Information Act. Therefore, § 1.27 is amended to provide that confidentiality may be given to written submissions only if they may be withheld under the Freedom of Information Act.

Further still, this final rule amends § 1.27 by setting forth the scope of the Department policy at the beginning of § 1.27, eliminating the inaccurate limiting language currently found in § 1.27 (a) through (d), and making other minor nonsubstantive changes for clarity.

Section 1.28 contains an inaccurate reference to a provision of the Administrative Procedure Act. This final rule amends § 1.28 to correct that inaccurate reference.

Section 1.29(a) provides that the ''Administrator, Agricultural Marketing Service may delegate the authority to issue subpoenas in connection with investigations being conducted under the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. 181–229), to the Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.'' Since § 1.29(a) was issued, the Department has been reorganized and the references to Department officials in § 1.29(a) are no longer accurate. This final rule amends this provision within § 1.29(a) to correct the references to Department officials.

In addition, this final rule amends other provisions in § 1.29(a), and §§ 1.29(b)(1)(iii), (b)(2), and (b)(3) for clarity and to remove gender-specific references and surplusage.

7 CFR, Part 1, Subpart C

This final rule amends 7 CFR, part 1, subpart C, by adding a citation to the statutory authority for the subpart. This final rule also amends § 1.41 in 7 CFR, part 1, subpart C, to remove a gender-specific reference and to remove a provision that requires service of process to be made upon the General Counsel to enforce child support or alimony payments owed by employees of the Department. This provision is removed because the regulations related to service of legal process for the enforcement of child support and alimony owed by Department employees are set forth in 5 CFR, part 581.

7 CFR, Part 1b

This final rule amends the authority citation for 7 CFR, part 1b, to remove inaccurate references to the Federal Register.

Section 1b.1 contains inaccurate references to regulations and an inaccurate reference to the Council on Environmental Quality. This final rule corrects those inaccuracies.

Section 1b.2(a) describes the purposes of some of the Department's programs and the methods by which some of these programs are conducted. Section 1b.2(a) is unnecessary and has no effect and is therefore removed. In addition, this final rule makes minor nonsubstantive amendments to 7 CFR 1b.2 paragraphs (c), (d), and (e) for clarity; to remove inaccurate references to regulations, the Under Secretary, Natural Resources and Environment, and the Agricultural Council on Environmental Quality; and to remove surplusage.

Section 1b.3(c) is amended to correct a cross reference.

Section 1b.4 lists agencies that are excluded from the requirement to prepare procedures to implement the National Environmental Policy Act and categorically excluded from the preparation of environmental assessments and environmental impact statements unless the agency head determines that an action may have a significant environmental effect. Since § 1b.4 was published, the Department has been reorganized and some of the listed agencies no longer exist. This final rule corrects the list of Department agencies in § 1b.4 and makes minor nonsubstantive changes for clarity.

Notice and Comment

This rule makes only minor nonsubstantive amendments to the regulations in order to update and correct incorrect references, remove gender-specific references, remove unnecessary provisions, and clarify existing regulations. The rule will not have any effect on the public and no public participation is expected. Therefore, notice and public procedure with respect to this rule are unnecessary, and there is good cause under 5 U.S.C. 553 to make this rule effective without opportunity for public participation.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This final rule updates and corrects references to statutes, regulations, USDA agencies, and USDA officials; removes gender-specific references; removes unnecessary provisions; and makes minor nonsubstantive changes for clarity. This final rule will not have any economic impact.

Under these circumstances, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all state and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

7 CFR Part 1b

Environmental policy statements.

Accordingly, 7 CFR parts 1 and 1b are amended as follows:

PART 1—ADMINISTRATIVE REGULATIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301, unless otherwise noted.

§ 1.26 [Amended]

2–3. Section 1.26 is amended as follows:

a. In paragraph (a), by removing the words ''The provisions of this section apply'' and by adding the words ''This section applies'' in their place; and by removing the words ''such provisions, or any part thereof'' and by adding the words ''this section, or any part of this section'' in their place.

b. In paragraph (b)(2), by removing the word ''he'' and adding the words ''the Secretary'' in its place each time it appears; and by removing the word ''him'' and adding the words ''the person'' in its place.

c. In paragraph (b)(3), by removing the words ''his employment he'' and adding the words ''employment with the Department the employee or former employee'' in their place; and by removing the word ''him'' and adding the words ''the employee or former employee'' in its place.

d. By removing paragraph (c).

§ 1.27 [Amended]

4. Section 1.27 is revised to read as follows:

§ 1.27 Rulemaking and other notice procedures.

(a) This section shall apply to:

(1) Notices of proposed rulemaking;

(2) Interim final rules;

(3) Advance notices of proposed rulemaking; and

(4) Any other published notice that solicits, or affords interested members of the public an opportunity to submit, written views with respect to any proposed action relating to any program administered in the Department regardless of the fact that the issuance of a rule may not be contemplated.

(b) Each notice identified in paragraph (a) of this section shall indicate the procedure to be followed with respect to the notice, unless the procedure is prescribed by statute or by published rule of the Department. Each notice shall contain a statement that advises the public of the policy regarding the availability of written submissions by indicating whether paragraph (c), (d), or (e) of this section is applicable to written submissions made pursuant to the notice.

(c) All written submissions made pursuant to the notice shall be made available for public inspection at times and places and in a manner convenient to the public business.

(d)(1) Any written submission, pursuant to a notice, may be held confidential if the person making the submission requests that the submission be held confidential, the person making the submission has shown that the written submission may be withheld under the Freedom of Information Act, and the Department official authorized to issue the notice determines that the submission may be withheld under the Freedom of Information Act.

(2) If a request is made in accordance with paragraph (d)(1) of this section for confidential treatment of a written submission, the person making the request shall be informed promptly in the event the request is denied and afforded an opportunity to withdraw the submission.

(3) If a determination is made to grant a request for confidential treatment under paragraph (d)(1) of this section, a statement of the specific basis for the determination that will not be susceptible of identifying the person making the request will be made available for public inspection.

(e) If the subject of the notice is such that meaningful submissions cannot be expected unless they disclose information that may be withheld under the Freedom of Information Act, the notice shall so indicate and contain a statement that written submissions pursuant to the notice will be treated as confidential and withheld under the Freedom of Information Act. *Provided,* That the policy regarding availability of written submissions set forth in this paragraph may only be used with the prior approval of the Secretary, or the Under Secretary or Assistant Secretary that administers the program that is the subject of the notice.

§ 1.28 [Amended]

5. Section 1.28 is amended by removing the phrase ''the provisions of section 4(d) of the Administrative Procedure Act (60 Stat. 239; 5 U.S.C. 1003(d))'' and adding the reference ''5 U.S.C. 553(e)'' in its place.

§ 1.29 [Amended]

6. Section 1.29 is amended as follows:

a. By revising paragraph (a) to read as set forth below.

b. In paragraph (b)(1)(iii), by adding the word '', her,'' immediately after the word ''his''.

c. In paragraph (b)(2), by adding the words ''or she'' immediately after the word ''he''; and by removing the word ''therein'' and adding the words ''in the subpoena'' in its place.

d. In paragraph (b)(3), by removing the reference ''(5 U.S.C. 301).''.

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* (1) When the Secretary is authorized by statute to issue a subpoena in connection with an investigation being conducted by the Department, the attendance of a witness and the production of evidence relating to the investigation may be required by subpoena at any designated place, including the witness' place of business. Upon request of any representative of the Secretary involved in connection with the investigation, the subpoena may be issued by the Secretary, the Inspector General, or any Department official authorized pursuant to part 2 of this title to administer the program to which the subpoena relates, if the official who is to issue the subpoena is satisfied as to the reasonableness of the grounds, necessity, and scope of the subpoena. Except as provided in paragraph (a)(2) of this section, the authority to issue subpoenas may not be delegated or redelegated by the head of an agency.

(2) The Administrator, Grain Inspection, Packers and Stockyards Administration, may delegate the authority to issue subpoenas in connection with investigations being conducted under the Packers and Stockyards Act (7 U.S.C. 181–229), to the Deputy Administrator, Packers and Stockyards Programs.

* * * * *

§ 1.41 [Amended]

7–8. Section 1.41 is amended as follows:

a. In the third sentence, by removing the word ''he'' and adding the words ''the officer'' in its place.

b. By removing the last sentence.

PART 1b—NATIONAL ENVIRONMENTAL POLICY ACT

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

Authority: 5 U.S.C. 301; 42 U.S.C. 4321 *et seq.*; E.O. 11514, 3 CFR, 1966–1970 Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1978 Comp., p. 123; E.O. 12114, 3 CFR, 1980 Comp., p. 356; 40 CFR 1507.3.

§ 1b.1 [Amended]

10. Section 1b.1 is amended as follows:

a. In paragraph (a), by removing the words ''This subpart'' and adding the words ''This part'' in their place; by removing the words ''Council of'' and adding the words ''Council on'' in their place; and by removing the words ''The subpart'' and adding the words ''This part'' in their place.

b. In paragraph (b), by removing the word ''subpart'' and adding the word ''part'' in its place.

§ 1b.2 [Amended]

11. Section 1b.2 is amended as follows:

a. By removing paragraph (a).

b. In paragraph (c), by removing the words ''the provisions of this subpart'' and adding the words ''this part'' in their place; and by removing the words ''the provisions of NEPA'' and adding the word ''NEPA'' in their place.

c. In paragraph (d), the first sentence, by removing the word ''Assistant'' and adding the word ''Under'' in its place; and by removing the reference ''(7 CFR 2.19(b))''.

d. In paragraph (d), the second sentence, by removing the words ''Assistant Secretary, through the USDA Natural Resources and Environment Committee'' and adding the words ''Under Secretary, NR&E, through the Agricultural Council on Environmental Quality'' in their place.

e. In paragraph (e), the first sentence, by removing the word ''subpart'' and adding the word ''part'' in its place.

f. In paragraph (e), the third sentence, by removing the word ''Assistant'' and adding the word ''Under'' in its place.

g. By redesignating paragraphs (b), (c), (d), and (e) as paragraphs (a), (b), (c), and (d), respectively.

§ 1b.3 [Amended]

12. In § 1b.3, paragraph (c) is amended by removing the words ''above and in'' and adding the words ''in paragraphs (a) of this section and'' in their place.

13. Section 1b.4 is revised to read as follows:

§ 1b.4 Exclusion of agencies.

(a) The USDA agencies and agency units listed in paragraph (b) of this section conduct programs and activities that have been found to have no individual or cumulative effect on the human environment. The USDA agencies and agency units listed in paragraph (b) of this section are excluded from the requirements of preparing procedures to implement NEPA. Actions of USDA agencies and agency units listed in paragraph (b) of this section are categorically excluded from the preparation of an EA or EIS unless the agency head determines that an action may have a significant environmental effect.

(b)(1) Agricultural Marketing Service

(2) Economic Research Service
(3) Extension Service
(4) Federal Corp Insurance Corporation
(5) Food and Consumer Service
(6) Food Safety and Inspection Service
(7) Foreign Agricultural Service
(8) Grain Inspection, Packers and Stockyards Administration
(9) National Agricultural Library
(10) National Agricultural Statistics Service
(11) Office of the General Counsel
(12) Office of the Inspector General

Done in Washington, DC, this 8th day of December, 1995.

Dan Glickman,

Secretary of Agriculture.

FR Doc. 95–30674 Filed 12–21–95; 8:45 am]

BILLING CODE 3410–01–M

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. 95–048DF]

RIN 0583–AC03

Use of the Fast Antimicrobial Screen Test for Bob Veal Calves

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to permit the use of the Fast Antimicrobial Screen Test (FAST) in its bob veal calf residue testing program. Under FSIS' residue testing program, carcasses of bob veal calves are subject to specific regulatory requirements for residue testing by FSIS inspectors to assure that adulterated meat does not enter human food channels. Until recently, the Calf Antibiotic and Sulfonamide Test (CAST) was the only official test authorized for use in the bob veal calf residue testing program. FSIS has now developed FAST, which is an enhanced and equally effective version of CAST that provides results after 6 hours of incubation, compared to 18–24 hours of incubation for CAST. This action will permit the use of FAST in lieu of CAST under FSIS' bob veal calf residue testing program.

DATES: This rule will be effective on February 20, 1996, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before January 22, 1996. If FSIS receives adverse comments or notice of intent to submit adverse comments, FSIS will withdraw this rule and publish a proposed rule for public comment.

ADDRESSES: Send an original and two copies of written comments to: FSIS Docket Clerk, Docket #95–048DF, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

SUPPLEMENTARY INFORMATION:

Background

In June 1984, as a result of findings of increased levels of sulfonamide and antibiotic residues in young calves, FSIS promulgated an interim rule (49 FR 23602; affirmed 50 FR 32162) that amended the Federal meat inspection regulations (9 CFR parts 309, 310 and 318) by establishing an intensified residue testing program for bob veal calves (calves up to 3 weeks in age or 150 pounds in weight). FSIS was concerned with findings of increased levels of sulfonamide and antibiotic residues in young calves, and undertook an emergency rulemaking to decrease the likelihood that adulterated meat would enter into human food channels. FSIS determined that carcasses and parts thereof from bob veal calves are adulterated under the Federal Meat Inspection Act if they bear or contain sulfonamide or antibiotic residues other than in accordance with tolerances established by the Food and Drug Administration.

In the interim rule, FSIS stated that CAST, a swab bioassay test, would be the official test used to screen carcasses of bob veal calves. In trial testing, FSIS had found CAST to be extremely reliable in detecting violative levels of antibiotics and sulfonamides in animal tissues.

FSIS has recently developed a new test that, like CAST, is designed to detect the presence of sulfonamide and antibiotic residues in animal tissues. FAST is similar to and is performed in a similar manner to CAST. The major advantage of FAST is that test results can be obtained in 6 hours, instead of the 18–24 hour period required for CAST. FSIS' in-plant trial testing of FAST has shown that FAST is equivalent to CAST in detecting sulfonamide and antibiotic residues in animal tissues.[1]

Therefore, FSIS is amending § 310.21 to add FAST as an alternative to CAST for use by inspectors in testing carcasses and parts of bob veal calves for sulfonamide and antibiotic residues.

[1] Results of the in-plant trial for FAST are available for review in the Office of the FSIS Docket Clerk, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Effective Date

This rule is being published without a prior proposal because this action is viewed as noncontroversial, and FSIS does not anticipate any adverse public comments will be received. This rule will be effective 60 days after the date of publication in the Federal Register unless FSIS receives written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the Federal Register.

If FSIS receives adverse comments or notice of intent to submit adverse comments, FSIS will withdraw this rule and publish a proposed rule for public comment.

If no adverse comments are received, FSIS will publish a notice in the Federal Register confirming that the rule is effective on the date indicated.

Executive Order 12866

This rule is considered not significant and therefore has not been reviewed by the Office of Management and Budget.

Effect on Small Entities

The Administrator, FSIS, has determined that this rule will not have a significant impact on a substantial number of small entities. The rule permits the use of an alternate test, which can provide results in less than half the time than the original test. Carcasses that test negative could be released on the day of slaughter, which will modestly benefit the meat industry.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule (1) preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

List of Subjects in 9 CFR part 310

Meat inspection, Residue testing.

For the reasons discussed in the preamble, FSIS is amending part 310 of the Federal meat inspection regulations (9 CFR Part 310) as follows:

PART 310—[AMENDED]

1. The authority citation for part 310 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. The introductory text and footnote to paragraph (c) of § 310.21 are revised to read as follows:

§ 310.21 Carcasses suspected of containing sulfa and antibiotic residues; sampling frequency; disposition of affected carcasses and parts.

* * * * *

(c) * * * The inspector shall perform a swab bioassay test[1] on:

* * * * *

Done at Washington, DC, on: December 14, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–31017 Filed 12–21–95; 8:45 am]

BILLING CODE 3410–DM–P

[1] The procedures for performing the swab bioassay test are set forth in one of two self-instructional guides: ''Performing the CAST'' or ''Fast Antimicrobial Screen Test.'' These guides are available for review in the office of the FSIS Docket Clerk, Room 4352 South, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

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9 CFR Part 318

[Docket No. 95–035F]

RIN 0583–AB96

Potassium Hydroxide as a Hog Scald Agent

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Affirmation of effective date.

SUMMARY: On October 23, 1995, the Food Safety and Inspection Service (FSIS) published a direct final rule, ''Potassium Hydroxide as a Hog Scald Agent.'' This direct final rule allows the use of potassium hydroxide in hog scald and hair removal processes. No adverse comments were received in response to the direct final rule. Therefore, this rule is effective on December 22, 1995.

EFFECTIVE DATES: December 22, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–7164.

SUPPLEMENTARY INFORMATION: This notice affirms the effective date of the direct final rule, ''Potassium Hydroxide as a Hog Scald Agent,'' that was published on October 23, 1995, at 60 FR 54295. This direct final rule allows the use of potassium hydroxide in hog scald and hair removal processes. FSIS did not receive any written adverse comments or written notice of intent to submit adverse comments in response to this rule. Therefore, the effective date of the rule is December 22, 1995.

Done at Washington, DC, on: December 14, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–31018 Filed 12–21–95; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

RESOLUTION TRUST CORPORATION

12 CFR Chapter XVI

Effectiveness of RTC Regulations After RTC Termination

AGENCIES: Federal Deposit Insurance Corporation and Resolution Trust Corporation.

ACTION: Joint notification of status of regulations.

SUMMARY: The Resolution Trust Corporation (RTC) and the Federal Deposit Insurance Corporation (FDIC) are issuing this joint document to inform the public regarding the effectiveness of the RTC's regulations after RTC termination. In accordance with the Federal Home Loan Bank Act, the RTC will terminate on December 31, 1995, and the FDIC will succeed the RTC as receiver for any remaining RTC receiverships and will be responsible for managing any remaining assets and liabilities of the RTC transferred to the FSLIC Resolution Fund. Congress did not include any provision transferring the RTC's regulations to the FDIC. The two corporations have considered these issues and are publishing this document to inform the public that, when the FDIC assumes responsibility for the RTC's functions at termination, the RTC's regulations generally will not govern the FDIC's performance of these functions for occurrences that arise post-termination, and that the FDIC's regulatory scheme generally will govern former RTC activities on a prospective basis.

EFFECTIVE DATE: December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Jamey Basham, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, (202) 898–7265, or Karen L. Main, Senior Attorney, Legal Division, Resolution Trust Corporation, 1717 H Street NW., Washington, DC 20006, (202) 736–3096.

SUPPLEMENTARY INFORMATION:

A. General Rule

Section 21A(m)(1) of the Federal Home Loan Bank Act (FHLBA), 12 U.S.C. 1441a(m)(1), provides that the RTC will terminate on December 31, 1995. At that time, the FDIC shall succeed the RTC as receiver of any remaining RTC receiverships. *Id*. In addition, the FDIC will be responsible for managing any remaining RTC assets and liabilities, all of which are transferred to the FSLIC Resolution Fund. Section 21A(m)(2) of the FHLBA, 12 U.S.C. 1441a(m)(2). However, Congress did not include provisions transferring the RTC's regulations, 12 CFR Chapter XVI, to the FDIC. In similar situations when Congress has intended an agency's rules to survive transfer of its functions to a successor, Congress expressly so provided by statute. Therefore, after the RTC terminates on December 31, 1995 and its functions are transferred to the FDIC, the RTC's regulations generally will not govern the FDIC's performance of such functions in dealing with occurrences that arise post-termination. When the FDIC assumes responsibility from the RTC for such functions, the FDIC's regulations generally will govern matters arising on a prospective basis.

However, the termination of the RTC in and of itself does not affect rights or obligations of the RTC or third parties that have arisen under the RTC's regulations as a result of factual occurrences prior to the RTC's termination. The legal consequences of pre-termination conduct governed by the RTC's regulations will continue to be determined under such regulations.

B. The RTC's Affordable Housing Disposition Program

In contrast, the RTC's affordable housing disposition program (AHDP) regulations at 12 CFR part 1609 will continue to govern the sale of the remaining RTC AHDP inventory and other related responsibilities assumed by the FDIC even after the RTC termination date. Since Congress has directed the FDIC to carry out such functions under the provisions of the RTC AHDP statute, section 21A(c) of the FHLBA, 12 U.S.C. 1441a(c),[1] the RTC's AHDP regulations which refine and

[1] Section 21A(c)(17)(C) of the FHLBA provides, *inter alia*, that the FDIC shall carry out any remaining authority and responsibilities of the RTC ''under this subsection.'' 12 U.S.C. 1441a(c)(17)(C). Moreover, section 40(n)(4) of the Federal Deposit Insurance Act provides that the FDIC shall carry out the remaining responsibilities and authority of the RTC as set forth in section 1441a(c) of title 12. 12 U.S.C. 1831q(n)(4).

implement this authority will continue to govern these functions.

By order of the Deputy and Acting Chief Executive Officer.

Dated at Washington, D.C., this 15th day of December, 1995.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

By order of the Board of Directors.

Dated at Washington, D.C., this 15th day of December, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

Editorial note: The Federal Home Loan Bank Act, as codified at 12 U.S.C. 1441a(m)(1), provides that the Resolution Trust Corporation (RTC) will terminate on December 31, 1995. Accordingly, the RTC's regulations in chapter XVI of title 12 of the Code of Federal Regulations will be removed and the chapter vacated as of January 1, 1996 pursuant to the authority of the Office of the Federal Register to establish and maintain an orderly system of codification (44 U.S.C. 1510 and 1 CFR part 8).

[FR Doc. 95–31120 Filed 12–21–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–56–AD; Amendment 39–9456; AD 95–25–10]

Airworthiness Directives; Cessna Model 441, 500, 550, and 560 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Cessna Model 441, 500, 550, and 560 series airplanes, that requires replacement of outflow/safety valves with serviceable valves. This amendment is prompted by a report of cracking and subsequent failure of outflow safety valves in the pressurization system. The actions specified by this AD are intended to prevent such cracking and subsequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane.

DATES: Effective January 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Allied Signal, Inc., Controls and Accessories, 1110 North Oracle Road, Tucson, Arizona 85737–9588. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Cessna Model 441, 500, 550, and 560 series airplanes was published in the Federal Register on August 18, 1995 (60 FR 43089). That action proposed to require replacement of certain discrepant outflow/safety valves with serviceable valves.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 150 Model 441, 500, 550, and 560 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 120 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $86,400, or $720 per airplane. However, the manufacturer has advised that it will provide replacement parts at no cost to the operator and will reimburse operators for the labor costs of the required removal and replacement.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–25–10 Cessna Aircraft Company: Amendment 39–9456. Docket 95–NM–56–AD.

Applicability: Model 441, 500, 550, and 560 series airplanes; equipped with Allied Signal outflow/safety valves; as identified in Allied Signal Aerospace Service Bulletins 103576–21–4054, 103576–21–4056, and 103648–21–4055, all dated January 30, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking and subsequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the outflow/safety valve in accordance with Allied Signal Aerospace Service Bulletin 103576–21–4054 (for Model 441 series airplanes), 103576–21–4056 (for Model 500 and 550 series airplanes), or 103648–21–4055 (for Model 560 series airplanes), all dated January 30, 1995, as applicable.

(b) As of the effective date of this AD, no person shall install an outflow/safety valve, having a part number and serial number identified in Allied Signal Aerospace Service Bulletin 103576–21–4054 (for Model 441 series airplanes), 103576–21–4056 (for Model 500 and 550 series airplanes), or 103648–21–4055 (for Model 560 series airplanes), all dated January 30, 1995, on any airplane unless that valve is considered to be serviceable in accordance with the applicable service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The replacement shall be done in accordance with Allied Signal Aerospace Service Bulletin 103576–21–4054, dated January 30, 1995; Allied Signal Aerospace Service Bulletin 103576–21–4056, dated January 30, 1995; or Allied Signal Aerospace Service Bulletin 103648–21–4055, dated January 30, 1995, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Allied Signal Inc., Controls and Accessories, 1110 North Oracle Road, Tucson, Arizona 85737–9588. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 22, 1996.

Issued in Renton, Washington, on December 5, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–31151 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–CE–27–AD; Amendment 39–9443; AD 95–24–13]

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes.

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Jetstream Aircraft Limited (JAL) HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes. This action requires inspecting (one-time) the threaded portion of the aileron mounting spigots for cracks, replacing any cracked spigots, and replacing the securing nut assemblies with newly designed special nut assemblies and new split pins. Reports of cracked aileron mounting spigots caused by stress corrosion prompted this action. The actions specified by this AD are intended to prevent damage to the aileron control systems, which if not detected and corrected, could cause loss of lateral control and eventual loss of control of the airplane.

DATES: Effective January 17, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 17, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Jetstream Aircraft Limited, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, D.C. 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–27–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 508.2715; facsimile (322) 230.6899; or Mr. Sam Lovell, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64105; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to JAL HP 137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes was published in the Federal Register on July 25, 1995 (60 FR 37966). The action proposed to require inspecting (one-time) the threaded portion of the aileron mounting spigots for cracks, replacing any cracked spigots, and replacing the securing nut assemblies with newly designed special nut assemblies and new split pins. Accomplishment of the proposed action would be in accordance with Jetstream Service Bulletin (SB) 57–JA 921140, which incorporates the following pages and revision levels:

Pages	Revision level	Date
4, 5, 8, 9, 10, 12, 13 and 14	Original Issue	Feb. 24, 1993.
1, 2, 3, 6 7, and 11	Revision 1	Feb. 3, 1994.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 160 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 22 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the owners/operators. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $211,200 or $1,320 per airplane. This figure is based on the assumption that no owner/operator has accomplished the proposed inspection and modification and it does not account for repetitive inspections. The FAA has no way of determining the number of repetitive inspections an owner/operator may incur.

The compliance time of this AD is presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time compliance is the most desirable method because the unsafe condition described by this AD is caused by stress corrosion. Stress corrosion initiates as a result of airplane operation, but can continue to develop regardless of whether the airplane is in service or in storage. Therefore, to ensure that the above-referenced condition is detected and corrected on all airplanes within a reasonable period of time without inadvertently grounding any airplanes, a compliance schedule based upon calendar time instead of hours TIS is required.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

AD No. 95–24–13 JETSTREAM AIRCRAFT LIMITED: Amendment 39–9443; Docket No. 95–CE–27–AD.

Applicability: Model HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 6 calendar months after the effective date of this AD, unless already accomplished.

To prevent damage to the aileron control systems, which, if not detected and corrected, could cause loss of lateral control and eventual loss of control of the airplane, accomplish the following:

(a) Inspect the mounting spigots for cracks using both visual and fluorescent dye penetrant methods in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Service Bulletin (SB) 57–JA 921140, which incorporates the following pages and revision levels:

Pages	Revision level	Date
4, 5, 8, 9, 10, 12, 13 and 14	Original Issue	February 24, 1993.
1, 2, 3, 6 7, and 11	Revision 1	February 3, 1994.

(1) Prior to further flight, replace any cracked spigots with applicable parts specified in the Parts Table in paragraph 5 of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 57–JA 921140.

(2) Prior to further flight, replace the securing nut assemblies and split pins with new special nut assemblies (Part No. SL45022 (Qty. 2)), and new split pins (Part No. SP90–C8 and SP90–C6), in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream SB 57–JA 921140. This replacement is required regardless of the results of the inspection required in paragraph (a) of this AD.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium or the Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64105. The request shall be forwarded through an appropriate

FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Office.

(d) The inspections and replacements required by this AD shall be done in accordance with Jetstream SB 57–JA 921140 Revision 1, dated February 24, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft Limited, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, D.C. 20041–6029. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(e) This amendment (39–9443) becomes effective on January 17, 1996.

Issued in Kansas City, Missouri, on November 17, 1995.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–31201 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–SW–29–AD; Amendment 39–9462; AD 95–26–04]

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Robinson Helicopter Company (RHC) Model R22 helicopters, that currently requires revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R22 Rotorcraft Flight Manual, revised February 4, 1993. These revisions limit operations in high winds and turbulence; provide information about main rotor (M/R) stall and mast bumping; and provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. This action would require similar revisions to the Limitations, Normal Procedures and Emergency Procedures sections required by the existing AD, but the revision to the Limitations section would prohibit only pilots without a certain level of experience and training from operating in the flight conditions specified. This action is prompted by data that indicates pilots who possess a certain level of experience and training are more able to recognize and react to the adverse meteorological conditions specified in the AD. The actions specified by this AD are intended to prevent M/R stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system and subsequent loss of control of the helicopter.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Southwest Region, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–04–14, Amendment 39–9166, which superseded Priority Letter AD 95–02–03, issued January 12, 1995, which is applicable to RHC Model R22 helicopters, was published in the Federal Register on October 12, 1995 (60 FR 53148). That action proposed to require revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R22 Rotorcraft Flight Manual, revised February 4, 1993. These revisions limit operations in high winds and turbulence; provide information about M/R stalls and mast bumping; and provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. This supersedure will reduce limitations for pilots who have the flight experience specified by the AD and who have completed the SFAR No. 73 training.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received. The sole commenter agrees with the FAA's proposal that the FAA's exemption of those pilots with sufficient training and experience from limitations that might in some cases substantially restrict their Model R22 flight operations is justified.

After careful review of the available data, including the comment, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 800 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately one-half work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $24,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9166, and by adding a new airworthiness directive (AD), Amendment 39–9462, to read as follows:

AD 95–26–04 Robinson Helicopter Company: Amendment 39–9462. Docket No. 95–SW–29–AD. Supersedes AD 95–04–14, Amendment 39–9166.

Applicability: Model R22 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required before further flight, unless accomplished previously.

Note 2: Regardless of the experience level of the pilot manipulating the controls or the amount or quality of the awareness training received by the pilot manipulating the controls, these changes to the flight manual are in no way intended to authorize flight in any condition(s) or under any circumstance(s) that are otherwise contrary to other Federal Aviation Regulations.

To prevent main rotor (M/R) stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Insert the following information into the Model R22 Rotorcraft Flight Manual. Compliance with the Limitations section is mandatory. The Normal Procedures and Emergency Procedures sections are informational.

Limitations Section

The following limitations (1–3) are to be observed unless the pilot manipulating the controls has logged 200 or more flight hours in helicopters, at least 50 of which must be in the RHC Model R22 helicopter, and has completed the awareness training specified in Special Federal Aviation Regulation (SFAR) No. 73, issued February 27, 1995.

(1) Flight when surface winds exceed 25 knots, including gusts, is prohibited.

(2) Flight when surface wind gust spreads exceed 15 knots is prohibited.

(3) Continued flight in moderate, severe, or extreme turbulence is prohibited.

Adjust forward airspeed to between 60 knots indicated airspeed (KIAS) and 0.7 V_{ne}, but no lower than 57 KIAS, upon inadvertently encountering moderate, severe, or extreme turbulence.

Note: Moderate turbulence is turbulence that causes: (1) changes in altitude or attitude; (2) variations in indicated airspeed; and (3) aircraft occupants to feel definite strains against seat belts.

Normal Procedures Section

Note

Until the FAA completes its research into the conditions and aircraft characteristics that lead to main rotor blade/fuselage contact accidents, and corrective type design changes and operating limitations are identified, Model R22 pilots are strongly urged to become familiar with the following information and comply with these recommended procedures.

Main Rotor Stall: Many factors may contribute to main rotor stall and pilots should be familiar with them. Any flight condition that creates excessive angle of attack on the main rotor blades can produce a stall. Low main rotor RPM, aggressive maneuvering, high collective angle (often the result of high-density altitude, over-pitching [exceeding power available] during climb, or high forward airspeed) and slow response to the low main rotor RPM warning horn and light may result in main rotor stall. The effect of these conditions can be amplified in turbulence. Main rotor stall can ultimately result in contact between the main rotor and airframe. Additional information on main rotor stall is provided in the Robinson Helicopter Company Safety Notices SN–10, SN–15, SN–20, SN–24, SN–27, and SN–29.

Mast Bumping: Mast bumping may occur with a teetering rotor system when excessive main rotor flapping results from low ‘‘G’’ (load factor below 1.0) or abrupt control input. A low ‘‘G’’ flight condition can result from an abrupt cyclic pushover in forward flight. High forward airspeed, turbulence, and excessive sideslip can accentuate the adverse effects of these control movements. The excessive flapping results in the main rotor hub assembly striking the main rotor mast with subsequent main rotor system separation from the helicopter.

To avoid these conditions, pilots are strongly urged to follow these recommendations:

(1) Maintain cruise airspeeds between 60 KIAS and less than 0.9 V_{ne}, but no lower than 57 KIAS.

(2) Use maximum ‘‘power-on’’ RPM at all times during powered flight.

(3) Avoid sideslip during flight. Maintain in-trim flight at all times.

(4) Avoid large, rapid forward cyclic inputs in forward flight, and abrupt control inputs in turbulence.

Emergency Procedures Section

(1) RIGHT ROLL IN LOW ‘‘G’’ CONDITION

Gradually apply aft cyclic to restore positive ‘‘G’’ forces and main rotor thrust. Do not apply lateral cyclic until positive ‘‘G’’ forces have been established.

(2) UNCOMMANDED PITCH, ROLL, OR YAW RESULTING FROM FLIGHT IN TURBULENCE.

Gradually apply controls to maintain rotor RPM, positive ‘‘G’’ forces, and to eliminate sideslip. Minimize cyclic control inputs in turbulence; do not overcontrol.

(3) INADVERTENT ENCOUNTER WITH MODERATE, SEVERE, OR EXTREME TURBULENCE.

If the area of turbulence is isolated, depart the area; otherwise, land the helicopter as soon as practical.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits, pursuant to sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), will not be issued.

(d) This amendment becomes effective on January 26, 1996.

Issued in Fort Worth, Texas, on December 11, 1995.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–31140 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–SW–30–AD; Amendment 39–9463; AD 95–26–05]

Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Robinson Helicopter Company (RHC) Model R44 helicopters, that currently requires revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R44 Rotorcraft Flight Manual, revised September 6, 1994. These revisions limit operations in high winds and turbulence; provide information about main rotor (M/R) stall and mast bumping; and provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. This action would require similar revisions to the Limitations, Normal Procedures and Emergency Procedures sections required by the existing AD, but the revision to the Limitations section would prohibit only pilots without a certain level of experience and training from operating in the flight conditions specified. This action is prompted by data that indicates pilots who possess a certain level of experience and training are more able to recognize and react to the adverse meteorological conditions specified in the AD. The actions

specified by this AD are intended to prevent M/R stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system and subsequent loss of control of the helicopter.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Southwest Region, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–04–13, Amendment 39–9165, which superseded Priority Letter AD 95–02–04, issued January 12, 1995, which is applicable to RHC Model R44 helicopters, was published in the Federal Register on October 12, 1995 (60 FR 53150). That action proposed to require revisions to the Limitations section, the Normal Procedures section, and the Emergency Procedures section of the R44 Rotorcraft Flight Manual, revised September 6, 1994. These revisions limit operations in high winds and turbulence; provide information about M/R stalls and mast bumping; and provide recommendations for avoiding these situations. Additionally, emergency procedures are provided for use should certain conditions be encountered. This supersedure will reduce limitations for pilots who have the flight experience specified by the AD and who have completed the SFAR No. 73 training.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received. The sole commenter agrees with the FAA's proposal that the FAA's exemption of those pilots with sufficient training and experience from limitations that might in some cases substantially restrict their Model R44 flight operations is justified.

After careful review of the available data, including the comment, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that three helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately one-half work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $90.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ‘‘significant regulatory action’’ under Executive Order 12866; (2) is not a ‘‘significant rule’’ under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39— AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9165, and by adding a new airworthiness directive (AD), Amendment 39–9463, to read as follows:

AD 95–26–05 Robinson Helicopter Company: Amendment 39–9463. Docket No. 95–SW–30–AD. Supersedes AD 95–04–13, Amendment 39–9165.

Applicability: Model R44 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required before further flight, unless accomplished previously.

Note 2: Regardless of the experience level of the pilot manipulating the controls or the amount or quality of the awareness training received by the pilot manipulating the controls, these changes to the flight manual are in no way intended to authorize flight in any condition(s) or under any circumstance(s) that are otherwise contrary to other Federal Aviation Regulations.

To prevent main rotor (M/R) stall or mast bumping, which could result in the M/R blades contacting the fuselage causing failure of the M/R system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Insert the following information into the Model R44 Rotorcraft Flight Manual. Compliance with the Limitations section is mandatory. The Normal Procedures and Emergency Procedures sections are informational.

Limitations Section

The following limitations (1–3) are to be observed unless the pilot manipulating the controls has logged 200 or more flight hours in helicopters, at least 50 of which must be in the RHC Model R44 helicopter, and has completed the awareness training specified in Special Federal Aviation Regulation (SFAR) No. 73, issued February 27, 1995.

(1) Flight when surface winds exceed 25 knots, including gusts, is prohibited.

(2) Flight when surface wind gust spreads exceed 15 knots is prohibited.

(3) Continued flight in moderate, severe, or extreme turbulence is prohibited.

Adjust forward airspeed to between 60 knots indicated airspeed (KIAS) and 0.7 V_{ne}, but no lower than 60 KIAS, upon inadvertently encountering moderate, severe, or extreme turbulence.

Note: Moderate turbulence is turbulence that causes: (1) changes in altitude or attitude; (2) variations in indicated airspeed; and (3) aircraft occupants to feel definite strains against seat belts.

Normal Procedures Section

Note

Until the FAA completes its research into the conditions and aircraft characteristics that lead to main rotor blade/fuselage contact accidents, and corrective type design changes and operating limitations are identified, Model R44 pilots are strongly urged to become familiar with the following information and comply with these recommended procedures.

Main Rotor Stall: Many factors may contribute to main rotor stall and pilots should be familiar with them. Any flight condition that creates excessive angle of attack on the main rotor blades can produce a stall. Low main rotor RPM, aggressive maneuvering, high collective angle (often the result of high-density altitude, over-pitching [exceeding power available] during climb, or high forward airspeed) and slow response to the low main rotor RPM warning horn and light may result in main rotor stall. The effect of these conditions can be amplified in turbulence. Main rotor stall can ultimately result in contact between the main rotor and airframe. Additional information on main rotor stall is provided in the Robinson Helicopter Company Safety Notices SN–10, SN–15, SN–20, SN–24, SN–27, and SN–29.

Mast Bumping: Mast bumping may occur with a teetering rotor system when excessive main rotor flapping results from low ''G'' (load factor below 1.0) or abrupt control input. A low ''G'' flight condition can result from an abrupt cyclic pushover in forward flight. High forward airspeed, turbulence, and excessive sideslip can accentuate the adverse effects of these control movements. The excessive flapping results in the main rotor hub assembly striking the main rotor mast with subsequent main rotor system separation from the helicopter.

To avoid these conditions, pilots are strongly urged to follow these recommendations:

(1) Maintain cruise airspeeds greater than 60 KIAS and less than 0.9 V_{ne}.

(2) Use maximum ''power-on'' RPM at all times during powered flight.

(3) Avoid sideslip during flight. Maintain in-trim flight at all times.

(4) Avoid large, rapid forward cyclic inputs in forward flight, and abrupt control inputs in turbulence.

Emergency Procedures Section

(1) RIGHT ROLL IN LOW ''G'' CONDITION Gradually apply aft cyclic to restore positive ''G'' forces and main rotor thrust. Do not apply lateral cyclic until positive ''G'' forces have been established.

(2) UNCOMMANDED PITCH, ROLL, OR YAW RESULTING FROM FLIGHT IN TURBULENCE.

Gradually apply controls to maintain rotor RPM, positive ''G'' forces, and to eliminate sideslip. Minimize cyclic control inputs in turbulence; do not overcontrol.

(3) INADVERTENT ENCOUNTER WITH MODERATE, SEVERE, OR EXTREME TURBULENCE.

If the area of turbulence is isolated, depart the area; otherwise, land the helicopter as soon as practical.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits, pursuant to sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), will not be issued.

(d) This amendment becomes effective on January 26, 1996.

Issued in Fort Worth, Texas, on December 11, 1995.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–31139 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 95–ANM–17]

Establishment of Class E Airspace; Wray, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Wray, Colorado, Class E airspace. This action is necessary to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Wray Municipal Airport, Wray, Colorado.

EFFECTIVE DATE: 0901 UTC, February 29, 1996.

FOR FURTHER INFORMATION CONTACT: James C. Frala, System Management Branch, ANM–535/A, Federal Aviation Administration, Docket No. 95–ANM–17, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

History

On October 20, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Wray, Colorado, to accommodate a new GPS SIAP at Wray Municipal Airport (60 FR 54206). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1 The Class E airspace listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations establishes Class E airspace at Wray, Colorado. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since there is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Wray, CO [New]

Wray Municipal Airport, CO
(Lat. 40°06′00″N, long. 102°14′27″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Wray Municipal Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 40°12′00″N, long. 102°30′00″W; to lat. 40°16′00″N, long. 102°03′00″W; to lat. 39°45′00″N, long. 102°03′00″W; to lat. 39°45′00″N, long. 102°14′00″W; to lat. 40°00′00″N, long. 102°30′00″W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on November 29, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–31203 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

[Docket Number 950613151–5304–02]

RIN 0660–XX02

Public Telecommunications Facilities Program (PTFP), National Endowment for Children's Educational Television (NECET), Telecommunications and Information Infrastructure Assistance Program (TIIAP)

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Final Policy Statement and Conforming Rule Amendments.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, is publishing a Final Policy Statement modifying the interpretation of its policy on the use of NTIA-funded equipment and materials in connection with sectarian activities and making conforming rule amendments.

EFFECTIVE DATE: December 22, 1995.

FOR FURTHER INFORMATION CONTACT: Jana Gagner, (202) 482–1816.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 20, 1995, the National Telecommunications and Information Administration, U.S. Department of Commerce (NTIA), published a notice in the Federal Register proposing to modify NTIA's interpretation of its policy regarding the use of Federal grant funds awarded by NTIA in connection with sectarian activities.[1] Eight parties filed comments in response to the Notice.[2] Based on these comments and current jurisprudence, NTIA is hereby modifying its prior interpretation of its rules, which prohibited the use of NTIA-funded equipment, facilities, and materials in connection with any sectarian activities, no matter how incidental.

Under its new interpretation, NTIA will retain its present requirement that grant funds not be used for purposes the ''essential thrust of which are sectarian,''[3] but will modify its interpretation of this requirement as follows. No more than an attenuated or incidental benefit may inure to a sectarian interest if a grantee uses NTIA-funded facilities in connection with a sectarian activity. In addition, the use must fall within the broad scope of a grant program's statutory purposes. A grantee cannot, however, use NTIA grant funds primarily to support sectarian interests.

For the reasons discussed below, NTIA believes that this approach is consistent with current jurisprudence.[4] We also discuss below in greater detail the issues raised in the June Notice regarding NTIA's policy on sectarian activities,[5] NTIA's interpretation of its prior policy, comments received by NTIA in response to the Notice, and the application of NTIA's new policy to each of its grant programs. Our discussion is informed by relevant First Amendment jurisprudence, including the recent Supreme Court holding in *Rosenberger* v. *Rector and Visitors of the University of Virginia,* 115 S.Ct. 2510 (1995).

II. Background

NTIA's Prior Policy. In 1979, the Public Telecommunications Facilities Program (PTFP) of the NTIA adopted a rule prohibiting funding for any equipment, facilities, and other materials that would be used for any purposes the essential thrust of which is sectarian.[6] NTIA's interpretation of this rule has prohibited use of NTIA-funded facilities and materials in connection with any sectarian activity.[7] In implementing this ''bright-line'' policy interpretation, NTIA relied upon *Lemon* v. *Kurtzman*.[8]

NTIA's policy interpretation did, however, permit the ''presentation in an educational or cultural context of music or art with a religious theme [or] of programs about religion. It [also did] not preclude distribution of instructional programming of a secular nature to church-related educational institutions.''[9] In addition, sectarian-affiliated organizations could generally apply for grant funds,[10] subject, of course, to the prohibition on the use of NTIA-funded equipment, facilities, and materials for purposes the essential thrust of which is sectarian. NTIA's two newer grant programs, the National Endowment for Children's Educational Television (NECET) and the Telecommunications and Information Infrastructure Assistance Program (TIIAP), also adopted the same policy and interpretation.[11]

In enforcing this policy over the years, NTIA required grant applicants to certify that they would comply with its policy by signing an assurance to that effect.[12] By relying upon this assurance, NTIA avoided evaluating programming schedules for sectarian content as a routine practice. Such evaluation occurred only if information contained in the application itself suggested that the applicant would violate NTIA's policy, a complaint was filed with NTIA, or NTIA otherwise became aware of information that suggested that its policy was being or would be violated. By not routinely evaluating program content and information transmitted using NTIA-funded equipment and materials, NTIA avoided excessive Government entanglement with religion,

[1] 60 FR 32,142 (1995).

[2] The following eight parties filed comments in response to the Notice: Representative Richard Burr, the Corporation for Public Broadcasting, Fordham University, National Public Radio, North Carolina Public Radio Association, Lisa Owens, Southern Public Radio, and Wake Forest University.

[3] 15 CFR 2301.22(d). ''Sectarian'' is defined at 15 CFR 2301.1 as ''that which has the purpose or function of advancing or propagating a religious belief.'' The PTFP regulation at 15 CFR § 2301.22(d) provides, ''During the period in which the grantee possesses or uses the Federally funded facilities (whether or not this period extends beyond the Federal interest period), the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian.'' NTIA considers these phrases to mean the same thing.

[4] See *Rosenberger* v. *Rector and Visitors of the University of Virginia*, 115 S.Ct. 2510 (1995); *Zobrest* v. *Catalina Foothills Sch. Dist. (Zobrest),* 113 S.Ct. 2462 (1993); *Witters* v. *Washington Dep't of Services for the Blind*, 474 U.S. 481, 487 (1986); *Mueller* v. *Allen*, 463 U.S. 388 (1983).

[5] Notice, *supra* note 1.

[6] See 44 FR 30898 (1979) for explanation of NTIA's previous policy. PTFP's regulation regarding sectarian programming appears at 15 CFR 2301.22(d).

[7] This interpretation stems from policy statement, *infra* fn. 11 and was applied in the Fordham case.

[8] 403 U.S. 602 (1971). The constitutional test set forth in *Lemon*—and the consistency between NTIA's new policy interpretation and that test—are described in section III.A. of this policy statement, *infra*.

[9] Public Telecommunications Facilities Program; Report and Order, 44 FR 30898, 30902 (1979) (Report and Order).

[10] *Id.* at 30,900–30,901. Previously, organizations organized for primarily religious purposes were ineligible to apply for a PTFP planning grant, although their affiliates were eligible to apply. See 15 CFR 2301.4(b)(2). We are revising this rule to be consistent with the new policy adopted herein, such that applicant eligibility will be the same for both construction and planning grants. See the conforming amendments to § 2301.4 (a) and (b).

[11] 60 FR 15636 (1995); 60 FR 8156 (1995).

[12] The applicant ''will not use or allow the use of the facilities for essentially sectarian purposes for as long as the Applicant possesses or uses the facilities . . . .'' Public Telecommunications Facilities Program, Grant Application, Assurances, no. 30, at 9.

as proscribed by the Supreme Court in *Lemon* v. *Kurtzman*.[13]

The Challenge by Fordham University. In 1993, Fordham University sued the Department of Commerce, alleging that NTIA's policy on sectarian broadcasting violated its right to free exercise of religion and its freedom of speech rights under the First Amendment of the Constitution. In *Fordham University* v. *Brown,* the court upheld NTIA's bright-line approach with respect to the PTFP as consistent with the First Amendment.[14] In *dicta,* however, the court noted that it did not consider whether there were other acceptable interpretations of the Establishment Clause.[15]

Since the *Fordham* decision, NTIA has become aware that some public broadcast stations include in their schedules programs that might constitute impermissible sectarian programming, which could make them ineligible for PTFP grants. This was highlighted, in fact, following the *Fordham* decision, when NTIA received several requests to modify its policy.

Issuance of the Notice. As a result, NTIA sought comment on whether it should modify its policy regarding sectarian programming and information. Specifically the Notice sought comment on: (1) Whether the current prohibition on using NTIA grant funds in connection with any sectarian activities should be continued, or whether there are alternative approaches that would also be consistent with the First Amendment; (2) the underlying policy rationale for a given approach; (3) how such policy would, as practical and constitutional matters, be implemented and enforced; (4) whether the same policy could and should be applied to all three NTIA grant programs (PTFP, TIIAP, and NECET) and, if not, what policy should pertain to each grant program; and (5) whether the current definition of ''sectarian'' would continue to be supportable if NTIA's current policy were modified.

The Rosenberger Decision. Subsequent to the issuance of NTIA's Notice, the Supreme Court decided *Rosenberger* v. *Rector and Visitors of the University of Virginia,*[16] which further supports NTIA's announced policy interpretation change. The Supreme Court held in *Rosenberger* that a state university had erred in relying on the First Amendment's Establishment Clause to deny grant funding to a student group publisher of a Christian magazine, when that student group otherwise satisfied neutral funding criteria applied by the university in making financial grants to other student organizations. As discussed in more detail below, this decision serves as a basis, in part, for the new policy approach adopted by NTIA.

Comments Filed in Response to the Notice. All but one of the eight commenters supported a change in NTIA's policy interpretation. The one commenter favoring retention of NTIA's long-term policy objected to a religious organization receiving any benefit, however incidental, from NTIA's grant programs.[17] A majority of the supporting commenters, however, relied upon the recent Supreme Court case, *Rosenberger,* in arguing that a policy change was warranted. Most agreed that *Rosenberger* requires that the Federal government behave in a neutral manner toward religion. Two commenters recommended that NTIA adopt a specified or maximum percentage for the amount of permissible sectarian programming.[18] Other commenters recommended allowing a ''reasonable minimal amount of sectarian programming.'' [19] Two other commenters expressed some concern that the proposed change in policy could result in excessive government entanglement with religion.[20]

As noted above, we solicited comments on whether the definition of ''sectarian'' needed to be altered in light of a possible policy change. Most commenters agreed that no change in the definition of ''sectarian'' was required to allow NTIA to modify its policy interpretation. One commenter contended, however, that the definition of ''public telecommunications services'' had to be redefined because it provides that public telecommunications services ''[do] not include essentially sectarian programming.'' [21] This commenter also maintained that NTIA's prior policy should be changed because it burdened individuals' free exercise of religion in violation of the Religious Freedom Restoration Act.[22]

III. Application of the Modified Policy To NTIA'S Grant Programs

As indicated, NTIA's new policy will retain the requirement that grant funds not be used for purposes the essential thrust of which is sectarian. The interpretation of that requirement will be modified, however, such that as long as the grant funds are used to fulfill the statutory purposes of the grant programs, attenuated or incidental benefits to sectarian interests will be permissible.

A. Constitutional Basis for Modified Policy

We believe the alternative approach we are now adopting passes constitutional muster under First Amendment case law. Having analyzed our new approach in light of *Lemon v. Kurtzman,*[23] we conclude that our new policy is consistent with *Lemon* and other Supreme Court jurisprudence. *Lemon* established a three-prong test to determine whether government action would have the ''primary effect'' of establishing religion in violation of the Establishment Clause. Under *Lemon,* the constitutionality of a statute, regulation, or funding policy depends on whether: (1) it has a secular legislative purpose; (2) its principal or primary effect is one that neither advances nor inhibits religion; and (3) it avoids ''an excessive government entanglement with religion.'' [24] If any one of these three questions is answered in the negative, government action is deemed unconstitutional.

Each of NTIA's grant programs has a secular purpose, which remains unchanged under the new policy, and thus NTIA's change in policy interpretation passes the first prong of the *Lemon* test. PTFP promotes public broadcasting, NECET supports development of children's programming, and TIIAP promotes new telecommunications technologies. Each grant award will be reviewed to ensure it meets the appropriate statutory purpose.

NTIA's new policy interpretation also satisfies the second prong of the *Lemon* test as NTIA grant funds still may not be used primarily to advance or inhibit religion. As recently underscored by the *Rosenberger* court, programs that neutrally extend benefits to recipients pass Establishment Clause muster, if religious interests are only incidentally served:

[13] For a discussion of this point, see Section III.A. of this policy statement.

[14] 856 F. Supp. 684 (D.D.C. 1994), appeal docketed, No. 94–5229 (D.C. Cir. Aug. 22, 1994).

[15] *Id.* at 697–698.

[16] 115 S.Ct. 2510 (1995).

[17] Comments of Lisa Owens.

[18] Comments of National Public Radio at 2,5; Comments of Wake Forest at 2–3.

[19] Comments of North Carolina Public Radio Association at 1; Comments of Honorable Richard Burr at 1; Comments of Southern Public Radio at 1.

[20] Comments of Corporation for Public Broadcasting at 3; Comments of National Public Radio at 3.

[21] Comments of Fordham University at 16–17.

[22] Comments of Fordham University at 9.

[23] 403 U.S. 602 (1971).

[24] *Id.* at 612–613.

[T]he [constitutional] guarantee of neutrality [toward religion] is respected, not offended, when the government, following neutral criteria and evenhanded policies, extends benefits to recipients whose ideologies and viewpoints, *including religious ones*, are broad and diverse. . . . More than once have we rejected the position that the Establishment Clause even justifies, much less requires, a refusal to extend free speech rights to *religious speakers* who participate in broad-reaching government programs neutral in design. 115 S.Ct. at 2521–22 (emphasis added).

NTIA's new policy interpretation will ensure both that the program funds are neutrally provided and that any benefit to religion will be attenuated or incidental. NTIA will behave neutrally toward all grant applicants. All grant applicants (including sectarian organizations) will be eligible for funding (assuming they meet NTIA's other eligibility requirements), provided they comply with the policy that NTIA grant funds will not be used for purposes the essential thrust of which is sectarian.[25] If, as we discuss further below, questions arise regarding compliance, however, NTIA will determine whether the recipients' use of grant funds has the primary, and thus impermissible, effect of advancing or inhibiting religion. Where some benefit appears to inure to a sectarian interest, further analysis of the potential benefit will be undertaken to determine whether it is merely incidential or attenuated and thus permissible.

With regard to the third prong of the *Lemon* test—avoiding excessive entanglement of goverment with religion—NTIA's administrative procedures will remain esssentially the same as before. NTIA will avoid analyzing individual programs unless a compliance problem comes to NTIA's attention. Thus, under the new policy, excessive government entanglement with religion will continue to be avoided as under our prior policy.

B. Application of New Interpretation to Particular NTIA Programs

Specific application of this new interpretation to each of the three NTIA grant programs is discussed below.

1. The Public Telecommunications Facilities Program (PTFP).

Under the PTFP rules, a sectarian organization is eligible to apply as long as it meets the general PTFP eligibility requirements.[26] The purpose of PTFP is to make public telecommunications services available to U.S. citizens. PTFP funds the construction and planning of public telecommunications services,[27] subject to the eligibility requirements for applicants.[28]

To determine whether a grant would have the primary effect of establishing religion, NTIA will apply the *Lemon* test. To determine eligibility and the overall purpose of the planning and construction of public telecommunications facilities, NTIA will examine the applicant's proposal and its organizational purposes, as required by the statutory criteria. This approach ensures that grant awards will neither advance nor inhibit religion.

To avoid Government entanglement in religion and programming decisions, NTIA will continue its policy of reviewing the project narrative and supporting documents, while also relying on the applicants' assurances that they comply with NTIA's policy on sectarian activities. General monitoring of grantees' activities will continue under the normal administrative process pertaining to Federal assistance programs.

Accordingly, as under our prior policy, submission of broadcast schedules and program listings will not generally be required. We will not review the content of all programs or activities for sectarian content unless NTIA receives a complaint or otherwise becomes aware that an applicant or grantee may be using NTIA-funded equipment or materials in connection with a project the essential thrust of which is sectarian. For example, under the prior approach, a single sectarian program in a broadcast schedule would have rendered the project ineligible for funding. Under our new approach, a single program with sectarian aspects will not necessarily render the project ineligible.[29] In such instances, NTIA will examine the overall purpose of the project to determine if it is consistent with the PTFP's statutory purposes. Further inquiry may be made as necessary to ensure that any benefit to a sectarian interest is merely attenuated or incidental as permitted under current jurisprudence.

To implement this new approach, we do not need to revise the language in the PTFP regulation, assurance or definition of ''sectarian'' as it pertains to our policy on sectarian activities.[30] We shall, however, revise the definition of ''public telecommunications services'' to delete the last sentence which provides, ''It does not include essentially sectarian programming.''[31]

2. National Endowment for Children's Educational Television (NECET)

Pursuant to NECET's enabling legislation,[32] in order to be eligible to apply for a grant, an applicant must be one of the following: an individual, corporation (for-profit or not-for-profit), partnership, association, joint stock company, trust, or state or local governmental entity.[33] A sectarian organization is eligible to apply, as long as it meets these eligibility requirements. NECET funds are available ''to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.''[34] Presently, in making a NECET grant, NTIA must, as a part of its evaluation and review process, review program proposals and

[25] The PTFP regulation at 15 C.F.R. § 2301.22(d) provides: ''During the period in which the grantee possesses or uses the Federally funded facilities (whether or not this period extends beyond the Federal interest period), the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian.'' The assurance contained in the PTFP application kit provides that the applicant certify that he/she ''will not use or allow the use of the facilities for essentially sectarian purposes for as long as the Applicant possesses or uses the facilities, whether or not this period extends beyond the ten-year Federal interest period following completion of this project.'' NTIA considers these phrases to mean the same thing. See also n. 3, supra.

[26] To be eligible for a construction or planning grant, an applicant must be one of the following: a public broadcast station; a noncommercial telecommunications entity; a system of public telecommunications entities; a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or a state or local government (or any agency thereof), or a political or special purpose subdivision of a state. See 15 CFR § 2301.4(a), (b).

[27] 47 U.S.C. 390–393; 15 CFR Part 2301 *et seq.*

[28] For definitions of eligible organizations and projects, see 15 CFR 2301.4.

[29] While this example uses one program, we wish to emphasize that we are not setting any percentage or hourly maximum on the amount of sectarian programming that would be considered allowable.

[30] See 15 CFR 2301.1; 15 CFR 2301.5(d)(2)(xvi); 15 CFR 2301.22(d). The PTFP regulation at 15 CFR 2301.22(d) provides: ''During the period in which the grantee possesses or uses the Federally funded facilities (whether or not this period extends beyond the Federal interest period), the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian.'' The assurance contained in the PTFP application kit provides that the applicant certify that he/she ''will not use or allow the use of the facilities for essentially sectarian purposes for as long as the Applicant possesses or uses the facilities, whether or not this period extends beyond the ten-year Federal interest period following completion of this project.'' NTIA considers these phrases to mean the same thing.

[31] 15 CFR 2301.1.

[32] 47 U.S.C. 394.

[33] 47 U.S.C. 394(i)(2).

[34] 47 U.S.C. 394 (a).

content to determine whether it would meet these requirements.

Accordingly, review under our new policy interpretation will be essentially the same as before. The policy will be applied to each individual program for which a grant is sought, and the grantee must comply with the policy that NTIA grant funds will not be used for purposes the essential thrust of which is sectarian.[35] If the essential purpose of a program is to advance or inhibit religion, its funding would not be permissible. We do not believe the likelihood of entanglement is any greater than it was under our prior policy.

Under our prior policy interpretation, if, for example, part of a program encompassed a Catholic mass, the entire project would have been considered ineligible for funding. In contrast, under the new approach, we will make a determination on eligibility based on the test that any benefit to a sectarian interest resulting from the receipt of NTIA funds must be attenuated or incidental.

3. Telecommunications and Information Infrastructure Assistance Program (TIIAP)

To be eligible for a TIIAP grant, an applicant must be one of the following: a state or local government, an accredited college or university, or a non-profit entity. Individuals and for-profit organizations are not eligible to apply. A sectarian organization is eligible to apply, as long as the organization meets these requirements. TIIAP funds are provided for the ''planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.'' [36]

In contrast to PTFP, however, where the broadcaster maintains editorial control, a TIIAP grantee may sometimes, but not always, exercise editorial control over the content of its communications network. For example, a network may involve a bulletin board where the operator does not have control of messages sent among individuals. In some cases, therefore, it could be difficult for a TIIAP applicant to certify that facilities will not be used for essentially sectarian purposes. Accordingly, TIIAP awards will be subject to the policy which requires that the NTIA-funded facilities will not be used for essentially sectarian purposes to the extent that the applicant controls the content of network communications.[37]

To avoid excessive entanglement in religion, we will not review the content of information transmitted over TIIAP-funded networks unless NTIA receives a complaint or otherwise becomes aware that an applicant or grantee is using NTIA funded equipment or materials in connection with sectarian activities. In such instances, rather than examining only the questioned activity, NTIA will examine the overall purpose of the project to determine whether NTIA funding provides an attenuated or incidental benefit to the sectarian interest and thus whether it is permissible.

For example, TIIAP might provide funding to a local organization to establish a public computer bulletin board. As part of this bulletin board, a church-affiliated youth group might post information regarding meetings and meeting times, which includes a meeting time for a worship service. Under NTIA's prior policy, this project might have been ineligible for funding because the information regarding the sectarian meetings and meeting times would have appeared on the network. Applying NTIA's new policy interpretation, we would examine the overall purpose of the project to determine whether it fell within the TIIAP's statutorily authorized purposes and whether any benefit to religion was merely incidental or attenuated. If the answer to both questions was yes, such a grant would be permissible under the new policy interpretation.

IV. Conclusion

NTIA's modified policy interpretation appropriately harmonizes the First Amendment's Free Exercise and Establishment Clauses, consistent with current jurisprudence. The new interpretation of our policy concerning use of NTIA grant funds in connection with sectarian activities will provide grant applicants greater flexibility, while continuing to avoid unwarranted government entanglement with religion.

Rulemaking Requirements

1. It has been determined that this rule is not significant for purposes of Executive Order 12866.

2. Because this rule relates to public property, loans, grants, benefits, or contracts, it is exempt from the notice and comment and delayed effective date requirements of the Administrative Procedure Act (APA).

3. Because a notice of proposed rulemaking is not required by the APA or any other law, a Regulatory Flexibility Analysis is not required and was not prepared.

4. This rule contains information collection requirements subject to the provisions of the Paperwork Reduction Act. This collection has clearance from the Office of Management and Budget under OMB Approval No. 0660–0003.

5. This policy does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 15 CFR Part 2301

Administrative procedure, Grant programs—communications, Reporting and recordkeeping requirements, Telecommunications.

(Catalog of Federal Domestic Assistance No. 11.550)

Dated: December 15, 1995.

Larry Irving,

Assistant Secretary of Communications and Information.

For the reasons set out in the preamble, 15 CFR part 2301 is amended as follows:

PART 2301—PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

1. The authority for part 2301 continues to read as follows:

Authority: Public Telecommunications Financing Act of 1978, Pub. L. 95–567, 92 Stat. 2405, codified at 47 U.S.C. 390–394, 397–399b; the Public Broadcasting Amendments Act of 1981, Pub. L. 97–35, 95 Stat. 725; the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, section 5001, 100 Stat. 117; and the Public Telecommunications Act of 1988, Pub. L. 100–626, 102 Stat. 3207.

2. Section 2301.1 is amended by revising the definition of public telecommunications services to read as follows:

§ 2301.1 Definitions.

* * * * *

[35] Each award will contain a special award condition which requires that: ''The grantee will neither use nor allow the NTIA-funded equipment, facilities or programming to be used for purposes the essential thrust of which is sectarian.'' There are often special award conditions attached to each award which provide conditions on the Federal funds in addition to those required by OMB Circulars. As noted above in n. 30, supra, NTIA considers this language to mean the same thing as not allowing the NTIA-funded equipment, facilities or programming to be used for essentially sectarian purposes.

[36] Pub. L. No. 103–317, 1994 U.S.C.C.A.N. (108 Stat.) 1724, 1747; 47 U.S.C. § 390–393.

[37] The special award condition for the TIIAP awards will read as follows: ''During the Federal interest period, to the extent that the grantee maintains control over network transmissions, the grantee will neither use nor allow the NTIA-funded network to be used for purposes the essential thrust of which is sectarian.'' As noted in fn. 35, supra, NTIA considers this language to mean the same thing as not allowing the NTIA-funded network to be used for essentially sectarian purposes.

Public telecommunications services means noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material that may be transmitted by means of electronic communications.

* * * * *

3. Section 2301.4(a) is revised to read as follows:

§ 2301.4 Eligible organizations and scope of projects.

(a) Eligible applicants (Construction and Planning Grants). In order to apply for and receive a PTFP Construction or Planning Grant, an applicant must be:

(1) A public or noncommercial educational broadcast station;

(2) A noncommercial telecommunications entity;

(3) A system of public telecommunications entities;

(4) A nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or

(5) A state or local government (or agency thereof), or a political or special purpose subdivision of a state.

* * * * *

4. Section 2301.4 is further amended by removing paragraph (b), redesignating paragraph (c) as (b), and revising the newly designated paragraph (b) to read as follows:

* * * * *

(b) Scope of projects. An applicant that is eligible under paragraph (a) of this section may file an application with the agency for a planning or construction grant to achieve the following:

(1) The provision of new public telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

(2) The expansion of the service areas of existing public telecommunications entities;

(3) The establishment of new public telecommunications entities serving areas currently receiving public telecommunications services; or

(4) The improvement of the capabilities of existing licensed public broadcast stations to provide public telecommunications services.

* * * * *

5. Paragraphs (d) through (f) of § 2301.4 are redesignated paragraphs (c) through (e) respectively.

[FR Doc. 95–31089 Filed 12–21–95; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 165

[Docket No. 88P–0030]

RIN 0910–AA11

Beverages: Bottled Water; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of November 13, 1995 (60 FR 57076). The document established a standard of identity for bottled water; recodified the standard of quality for bottled water; revised the definition of bottled water to include mineral water and ingredient uses of this product; and defined ‘‘artesian water,’’ ‘‘ground water,’’ ‘‘mineral water,’’ ‘‘purified water,’’ ‘‘sparkling bottled water,’’ ‘‘spring water,’’ ‘‘sterile water,’’ and ‘‘well water.’’ The document was published with some errors. This document corrects those errors.

EFFECTIVE DATE: May 13, 1996.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204,202–205–4681.

In FR Doc. 95–27798, appearing on page 57076 in the Federal Register of Monday, November 13, 1995, the following corrections are made in § 165.110 *Bottled water*:

§ 165.110 [Corrected]

1. On page 57124, in the third column, in paragraph (a)(2)(v), in the fourth line, the phrase ‘‘amount of carbon dioxide that’’ is corrected to read ‘‘amount of carbon dioxide from the source that’’.

2. On page 57126, in the first column, in paragraph (b)(4)(i)(C)(*4*), beginning in the third line, ‘‘Method 501.2’’ is removed.

Dated: December 15, 1995.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 95–31200 Filed 12–21–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Zoalene

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by A. L. Pharma, Inc. The supplemental NADA provides for wider assay limits for zoalene Type A medicated articles. FDA is amending the regulation concerning medicated feed applications to reflect the approval.

EFFECTIVE DATE: December 22, 1995.

FOR FURTHER INFORMATION CONTACT: William G. Marnane, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2701.

SUPPLEMENTARY INFORMATION: A. L. Pharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed supplemental NADA 11–116, which provides for widening the current assay limits for zoalene Type A medicated articles. FDA reviewed the data and information submitted and is amending 21 CFR 558.4 to provide for an assay range of 92 to 104 percent for zoalene Type A medicated articles.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d) in the ‘‘Category I’’ table in the entry for ‘‘Zoalene’’ in the second column by removing ‘‘98–104’’ and adding in its place ‘‘92–104’’.

Dated: December 14. 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–31199 Filed 12–21–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for two new animal drug applications (NADA's) from Farmland Industries, Inc., to A. L. Pharma, Inc.

EFFECTIVE DATE: December 22, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Farmland Industries, Inc., Kansas City, MS 64116, has informed FDA that it has transferred the ownership of, and all rights and interests in, approved NADA's 46–415 (Tylosin Premixes) and 91–749 (Tylosin-Sulfa Premixes) to A. L. Pharma, Inc., One Executive Dr., Fort Lee, NJ 07024. Accordingly, the agency is amending the regulations in 21 CFR 558.625 and 558.630.

List of Subject in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.625 [Amended]

2. Section 558.625 *Tylosin* is amended in paragraph (b)(83) by removing ''021676'' and adding in its place ''046573''.

§ 558.630 [Amended]

3. Section 558.630 *Tylosin and sulfamethazine* is amended in paragraph (b)(10) by removing ''021676'' and by adding ''046573'' in numerical order.

Dated: December 14, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–31198 Filed 12–21–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8645]

RIN 1545–AS38

Rules for Certain Rental Real Estate Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing rules for rental real estate activities of taxpayers engaged in certain real property trades or businesses. The regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1993, and affect taxpayers subject to the limitations on passive activity losses and passive activity credits.

DATES: These regulations are effective on January 1, 1995. See § 1.469–11 for applicability.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (TD 8645), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8:00 a.m. and 5:00 p.m. to: CC:DOM:CORP:T:R (TD 8645), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William M. Kostak at (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–AS38. The estimated annual burden per respondent varies from 0.10 hours to 0.25 hours, depending on individual circumstances, with an estimated average of 0.15 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

This document amends 26 CFR part 1 to provide rules relating to the treatment of rental real estate activities of certain taxpayers under the passive activity loss and credit limitations of section 469. Section 469 disallows losses from passive activities to the extent they exceed income from passive activities and similarly disallows credits from passive activities to the extent they exceed tax liability allocable to passive activities. In general, passive activities are activities in which the taxpayer does not materially participate. In addition, until the enactment of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993), all rental activities (including those in which a taxpayer materially participated) were passive.

OBRA 1993 added section 469(c)(7), which provides that rental real estate activities of qualifying taxpayers are not subject to the rule that treats all rental activities as passive. Thus, a rental real estate activity of a qualifying taxpayer is not passive if the taxpayer materially participates in the activity. Further, section 469(c)(7) provides that each of a qualifying taxpayer's interests in rental real estate is treated as a separate activity unless the taxpayer elects to treat all interests in rental real estate as a single activity.

On January 10, 1995, the IRS published in the Federal Register a notice of proposed rulemaking (60 FR 2557) to provide guidance regarding section 469(c)(7). A number of public comments were received concerning the proposed regulations, and a public hearing was held on May 11, 1995. After consideration of the comments received, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

I. General Background

The proposed regulations provide rules for determining whether a taxpayer qualifies for treatment under section 469(c)(7). The proposed regulations also provide rules for determining the rental real estate activities of qualifying taxpayers for purposes of section 469. Except for modifications in response to comments received on the proposed regulations, the final regulations generally adopt the rules contained in the proposed regulations.

II. Public Comments

Several comments requested that the Service reconsider the rule in the proposed regulations prohibiting qualifying taxpayers from grouping rental real estate activities with other activities in determining whether the taxpayers materially participate in the rental real estate activities. After careful consideration, the final regulations adopt the rule in the proposed regulations because that position is consistent with the statutory language and the legislative history.

Several comments suggested that the rule in the proposed regulations prohibiting the grouping of rental real estate activities with other activities be modified to allow qualifying taxpayers to group the activities of development or construction of rental real estate with rental real estate activities. The final regulations do not adopt this modification because in most cases development and construction activities are separate and distinct from rental activities. In addition, this modification would introduce significant administrative difficulties in determining which development activities or construction activities qualify. However, the IRS and Treasury Department invite comments concerning whether the material participation tests in § 1.469–5T(a) should be amended to include a look-back material participation test for taxpayers significantly involved in the development or construction of their rental real estate interests.

Several comments requested clarification regarding whether a qualifying taxpayer's participation in a management activity may count towards material participation in a rental real estate activity if the management activity includes the management of rental real estate owned by the taxpayer. The final regulations clarify that a qualifying taxpayer may participate in a rental real estate activity through participation in a management activity. In determining whether the taxpayer materially participates in the rental real estate activity, however, work the taxpayer performs in the management activity is taken into account only to the extent it is performed in managing the taxpayer's own rental real estate. The final regulations also clarify that a qualifying taxpayer who owns rental real estate through an entity, including a C corporation that is subject to section 469, may count work performed by the taxpayer in managing the rental real estate of the entity in establishing material participation in the taxpayer's rental real estate activities. Thus, if a qualifying taxpayer owns some interests in rental real estate through a closely held C corporation and makes the election to treat all interests in rental real estate as a single activity, the aggregate rental real estate activity will include those interests held through the closely held C corporation for purposes of material participation.

One comment requested that the regulations modify the definition of trade or business to clarify that a taxpayer's real property trades or businesses are determined without regard to the taxpayer's grouping of activities under § 1.469–4. The final regulations clarify that a taxpayer's grouping of activities under § 1.469–4 does not control the determination of the taxpayer's real property trades or businesses for purposes of this section.

Several comments requested that the regulations provide a detailed definition of real property trades or businesses beyond the cross-reference to section 469(c)(7)(C). However, to avoid complex and mechanical rules, the final regulations do not adopt a detailed definition of real property trades or businesses. Instead, the regulations provide that taxpayers may use any reasonable method for determining their real property trades or businesses.

Several comments requested that the final regulations modify the rule in the proposed regulations providing that only employees who are five-percent owners of their employer at all times during the taxable year may treat personal services performed as an employee as services performed in a real property trade or business. The comments suggested that the regulations should take into account personal services performed by employees that are five-percent owners for a significant portion of a taxable year. In response to these comments, the final regulations are modified to provide that an employee may count services performed in a real property trade or business during the portion of the taxable year that the employee is a five-percent owner in the employer.

Several comments requested clarification concerning whether a qualifying taxpayer that makes an election to treat all interests in rental real estate as a single activity will be treated as having a single rental real estate activity for purposes of the former passive activity rule under section 469 (f). In addition, comments requested that the regulations be modified to provide that qualifying taxpayers that make the aggregation election will be treated as having separate activities for purposes of the disposition rules under section 469(g) and § 1.469–4(g). In response to these comments, the final regulations clarify that a qualifying taxpayer that makes the election to treat all interests in rental real estate as a single rental real estate activity will be treated as having a single activity for all purposes of section 469, including sections 469(f) and (g). The statutory language and the legislative history do not support a rule allowing a qualifying taxpayer to treat all interests in rental real estate as a single activity for purposes of material participation and section 469(f), but as separate activities for purposes of section 469(g).

In addition, in response to comments, the final regulations provide an example illustrating the operation of the former passive activity rule for qualifying taxpayers that make the election to treat all interests in rental real estate as a single activity. This example illustrates that qualifying taxpayers that make the aggregation election may use current net income from the aggregate rental real estate activity to offset the prior-year disallowed passive losses of the aggregate rental real estate activity, regardless of which rental real estate interests within that activity produced the income or prior-year losses.

Some comments requested that the regulations permit qualifying taxpayers to make or revoke the aggregation election on an amended income tax return. After careful consideration of this issue, the final regulations adopt the rule in the proposed regulations that aggregation elections must be made or revoked on an original return. The final regulations provide, however, that the election may be revoked in any year in which the facts are materially changed from those in the taxable year for which the election was made.

In addition, one comment requested clarification as to what constitutes a material change in the facts and circumstances that would allow a taxpayer to revoke an aggregation election. However, the final regulations do not provide an example or bright-line rule for determining when a material change in the facts and circumstances has occurred, because this determination is intended to be a broad factual inquiry. Providing an example or bright-line rule may inappropriately restrict the scope of that inquiry.

One comment requested the modification of the rule in the proposed regulations that the aggregation election has no effect in years the taxpayer is not a qualifying taxpayer. Instead, the comment suggested that, for ease of administration and compliance, the aggregation election should be binding and irrevocable for all future years, including years in which the taxpayer is not a qualifying taxpayer. However, the final regulations adopt the rule in the proposed regulations because the position advocated by the comment would be unfavorable to many taxpayers and would not significantly improve administration.

Several comments requested that the regulations modify the rule in the proposed regulations treating each rental real estate interest of a passthrough entity as a separate interest of a person owning a fifty-percent or greater interest in the capital, gain, loss, income, deduction, or credit of the entity at any time during a taxable year. A commentator stated that this rule is burdensome on many passthrough entities and should be eliminated or modified. The final regulations modify this rule so that it applies only when a qualifying taxpayer owns a fifty-percent or greater interest in the capital, profits, or losses of a passthrough entity for a taxable year. Accordingly, this rule will not apply if a qualifying taxpayer owns a fifty-percent or greater interest in a single item of income or deduction but does not own a fifty-percent or greater interest in the overall capital, profits, or losses of the passthrough entity.

In response to one comment, the final regulations also clarify the application of the fifty-percent ownership rule to tiered passthrough entities. The final regulations provide that if a passthrough entity owns a fifty-percent or greater interest in the capital, profits, or losses of another passthrough entity for a taxable year, each interest in rental real estate of the lower-tier entity will be a separate interest in rental real estate of the upper-tier entity.

In response to another comment, the final regulations clarify that section 469(i) applies after the rules of section 469(c)(7) are applied. Accordingly, the $25,000 offset will be applied only against passive losses from rental real estate activities, and not against losses that are allowable as a result of section 469(c)(7). In addition, the final regulations clarify that adjusted gross income for purposes of section 469(i) is not reduced by any losses from rental real estate that are allowable as a result of section 469(c)(7).

Several comments requested a modification to the effective date provision, to provide that aggregation elections made for taxable years beginning before January 1, 1995, are not binding for future years. Because taxpayers had sufficient notice of the rules of section 469(c)(7) and these regulations, this modification is unnecessary and would add administrative complexity. Accordingly, the final regulations adopt the effective date provision of the proposed regulations.

Finally, in response to a comment, the activity regrouping rule of § 1.469–4(e)(2) is clarified to provide that a taxpayer may not regroup activities unless the taxpayer's original grouping was clearly inappropriate or there has been a material change in the facts and circumstances that makes the original grouping clearly inappropriate.

III. Effective Dates

In general, section 469(c)(7) applies for taxable years beginning after December 31, 1993. These regulations are effective for taxable years beginning on or after January 1, 1995. These regulations are also effective for elections under section 469(c)(7)(A) and paragraph (g) of these regulations that are made with returns filed on or after January 1, 1995.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is William M. Kostak, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *

Section 1.469–9 also issued under 26 U.S.C. 469(c)(6), (h)(2), and (l)(1).

Par. 2. Section 1.469–0 is amended by:

1. Revising the entry for § 1.469–4(h).
2. Revising the heading for § 1.469–9 and adding entries for paragraphs (a) through (j) of § 1.469–9.
3. Revising the entry for § 1.469–11(b)(2) and removing the entries for § 1.469–11(b)(2)(i) and (ii).
4. Revising the entry for § 1.469–11(b)(3).
5. Adding an entry for § 1.469–11(b)(4).
6. The revisions and additions read as follows:

§ 1.469–0 Table of contents.

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§ 1.469–4 Definition of Activity.

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(h) Rules for grouping rental real estate activities for taxpayers qualifying under section 469(c)(7).

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§ 1.469–9 Rules for certain rental real estate activities.

(a) Scope and purpose.
(b) Definitions.
(1) Trade or business.
(2) Real property trade or business.
(3) Rental real estate.
(4) Personal services.
(5) Material participation.
(6) Qualifying taxpayer.
(c) Requirements for qualifying taxpayers.
(1) In general.
(2) Closely held C corporations.
(3) Requirement of material participation in the real property trades or businesses.
(4) Treatment of spouses.
(5) Employees in real property trades or businesses.
(d) General rule for determining real property trades or businesses.
(1) Facts and circumstances.
(2) Consistency requirement.
(e) Treatment of rental real estate activities of a qualifying taxpayer.
(1) In general.
(2) Treatment as a former passive activity.
(3) Grouping rental real estate activities with other activities.
(i) In general.
(ii) Special rule for certain management activities.
(4) Example.
(f) Limited partnership interests in rental real estate activities.
(1) In general.
(2) De minimis exception.
(g) Election to treat all interests in rental real estate as a single rental real estate activity.
(1) In general.
(2) Certain changes not material.
(3) Filing a statement to make or revoke the election.
(h) Interests in rental real estate held by certain passthrough entities.

(1) General rule.
(2) Special rule if a qualifying taxpayer holds a fifty-percent or greater interest in a passthrough entity.
(3) Special rule for interests held in tiered passthrough entities.
(i) [Reserved].
(j) $25,000 offset for rental real estate activities of qualifying taxpayers.
(1) In general.
(2) Example.

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§ 1.469–11 Effective date and transition rules.

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(b) * * *
(2) Additional transition rule for 1992 amendments.
(3) Fresh starts under consistency rules.
(i) Regrouping when tax liability is first determined under Project PS–1–89.
(ii) Regrouping when tax liability is first determined under § 1.469–4.
(iii) Regrouping when taxpayer is first subject to section 469(c)(7).
(4) Certain investment credit property.

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Par. 3. Section 1.469–4 is amended by revising paragraphs (e) (1) and (2) and (h). The revisions read as follows:

§ 1.469–4 Definition of Activity.

* * * * *

(e) * * *

(1) *Original groupings.* Except as provided in paragraph (e)(2) of this section and § 1.469–11, once a taxpayer has grouped activities under this section, the taxpayer may not regroup those activities in subsequent taxable years. Taxpayers must comply with disclosure requirements that the Commissioner may prescribe with respect to both their original groupings and the addition and disposition of specific activities within those chosen groupings in subsequent taxable years.

(2) *Regroupings.* If it is determined that a taxpayer's original grouping was clearly inappropriate or a material change in the facts and circumstances has occurred that makes the original grouping clearly inappropriate, the taxpayer must regroup the activities and must comply with disclosure requirements that the Commissioner may prescribe.

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(h) *Rules for grouping rental real estate activities for taxpayers qualifying under section 469(c)(7).* See § 1.469–9 for rules for certain rental real estate activities.

Par. 4. Section 1.469–9 is revised to read as follows:

§ 1.469–9 Rules for certain rental real estate activities.

(a) *Scope and purpose.* This section provides guidance to taxpayers engaged in certain real property trades or businesses on applying section 469(c)(7) to their rental real estate activities.

(b) *Definitions.* The following definitions apply for purposes of this section:

(1) *Trade or business.* A *trade or business* is any trade or business determined by treating the types of activities in § 1.469–4(b)(1) as if they involved the conduct of a trade or business, and any interest in rental real estate, including any interest in rental real estate that gives rise to deductions under section 212.

(2) *Real property trade or business. Real property trade or business* is defined in section 469(c)(7)(C).

(3) *Rental real estate. Rental real estate* is any real property used by customers or held for use by customers in a rental activity within the meaning of § 1.469–1T(e)(3). However, any rental real estate that the taxpayer grouped with a trade or business activity under § 1.469–4(d)(1)(i)(A) or (C) is not an interest in rental real estate for purposes of this section.

(4) *Personal services. Personal services* means any work performed by an individual in connection with a trade or business. However, personal services do not include any work performed by an individual in the individual's capacity as an investor as described in § 1.469–5T(f)(2)(ii).

(5) *Material participation. Material participation* has the same meaning as under § 1.469–5T. Paragraph (f) of this section contains rules applicable to limited partnership interests in rental real estate that a qualifying taxpayer elects to aggregate with other interests in rental real estate of that taxpayer.

(6) *Qualifying taxpayer.* A *qualifying taxpayer* is a taxpayer that owns at least one interest in rental real estate and meets the requirements of paragraph (c) of this section.

(c) *Requirements for qualifying taxpayers*—(1) *In general.* A qualifying taxpayer must meet the requirements of section 469(c)(7)(B).

(2) *Closely held C corporations.* A closely held C corporation meets the requirements of paragraph (c)(1) of this section by satisfying the requirements of section 469(c)(7)(D)(i). For purposes of section 469(c)(7)(D)(i), gross receipts do not include items of portfolio income within the meaning of § 1.469–2T(c)(3).

(3) *Requirement of material participation in the real property trades or businesses.* A taxpayer must materially participate in a real property trade or business in order for the personal services provided by the taxpayer in that real property trade or business to count towards meeting the requirements of paragraph (c)(1) of this section.

(4) *Treatment of spouses.* Spouses filing a joint return are qualifying taxpayers only if one spouse separately satisfies both requirements of section 469(c)(7)(B). In determining the real property trades or businesses in which a married taxpayer materially participates (but not for any other purpose under this paragraph (c)), work performed by the taxpayer's spouse in a trade or business is treated as work performed by the taxpayer under § 1.469–5T(f)(3), regardless of whether the spouses file a joint return for the year.

(5) *Employees in real property trades or businesses.* For purposes of paragraph (c)(1) of this section, personal services performed during a taxable year as an employee generally will be treated as performed in a trade or business but will not be treated as performed in a real property trade or business, unless the taxpayer is a five-percent owner (within the meaning of section 416(i)(1)(B)) in the employer. If an employee is not a five-percent owner in the employer at all times during the taxable year, only the personal services performed by the employee during the period the employee is a five-percent owner in the employer will be treated as performed in a real property trade or business.

(d) *General rule for determining real property trades or businesses*—(1) *Facts and circumstances.* The determination of a taxpayer's real property trades or businesses for purposes of paragraph (c) of this section is based on all of the relevant facts and circumstances. A taxpayer may use any reasonable method of applying the facts and circumstances in determining the real property trades or businesses in which the taxpayer provides personal services. Depending on the facts and circumstances, a real property trade or business consists either of one or more than one trade or business specifically described in section 469(c)(7)(C). A taxpayer's grouping of activities under § 1.469–4 does not control the determination of the taxpayer's real property trades or businesses under this paragraph (d).

(2) *Consistency requirement.* Once a taxpayer determines the real property trades or businesses in which personal services are provided for purposes of paragraph (c) of this section, the taxpayer may not redetermine those real property trades or businesses in subsequent taxable years unless the original determination was clearly inappropriate or there has been a material change in the facts and

circumstances that makes the original determination clearly inappropriate.

(e) *Treatment of rental real estate activities of a qualifying taxpayer*—(1) *In general.* Section 469(c)(2) does not apply to any rental real estate activity of a taxpayer for a taxable year in which the taxpayer is a qualifying taxpayer under paragraph (c) of this section. Instead, a rental real estate activity of a qualifying taxpayer is a passive activity under section 469 for the taxable year unless the taxpayer materially participates in the activity. Each interest in rental real estate of a qualifying taxpayer will be treated as a separate rental real estate activity, unless the taxpayer makes an election under paragraph (g) of this section to treat all interests in rental real estate as a single rental real estate activity. Each separate rental real estate activity, or the single combined rental real estate activity if the taxpayer makes an election under paragraph (g), will be an activity of the taxpayer for all purposes of section 469, including the former passive activity rules under section 469(f) and the disposition rules under section 469(g). However, section 469 will continue to be applied separately with respect to each publicly traded partnership, as required under section 469(k), notwithstanding the rules of this section.

(2) *Treatment as a former passive activity.* For any taxable year in which a qualifying taxpayer materially participates in a rental real estate activity, that rental real estate activity will be treated as a former passive activity under section 469(f) if disallowed deductions or credits are allocated to the activity under § 1.469–1(f)(4).

(3) *Grouping rental real estate activities with other activities*—(i) *In general.* For purposes of this section, a qualifying taxpayer may not group a rental real estate activity with any other activity of the taxpayer. For example, if a qualifying taxpayer develops real property, constructs buildings, and owns an interest in rental real estate, the taxpayer's interest in rental real estate may not be grouped with the taxpayer's development activity or construction activity. Thus, only the participation of the taxpayer with respect to the rental real estate may be used to determine if the taxpayer materially participates in the rental real estate activity under § 1.469–5T.

(ii) *Special rule for certain management activities.* A qualifying taxpayer may participate in a rental real estate activity through participation, within the meaning of §§ 1.469–5(f) and 5T(f), in an activity involving the management of rental real estate (even if this management activity is conducted through a separate entity). In determining whether the taxpayer materially participates in the rental real estate activity, however, work the taxpayer performs in the management activity is taken into account only to the extent it is performed in managing the taxpayer's own rental real estate interests.

(4) *Example.* The following example illustrates the application of this paragraph (e).

Example. (i) Taxpayer *B* owns interests in three rental buildings, *U, V* and *W*. In 1995, *B* has $30,000 of disallowed passive losses allocable to Building *U* and $10,000 of disallowed passive losses allocable to Building *V* under § 1.469–1(f)(4). In 1996, *B* has $5,000 of net income from Building *U*, $5,000 of net losses from Building *V*, and $10,000 of net income from Building *W*. Also in 1996, *B* is a qualifying taxpayer within the meaning of paragraph (c) of this section. Each building is treated as a separate activity of *B* under paragraph (e)(1) of this section, unless *B* makes the election under paragraph (g) to treat the three buildings as a single rental real estate activity. If the buildings are treated as separate activities, material participation is determined separately with respect to each building. If *B* makes the election under paragraph (g) to treat the buildings as a single activity, all participation relating to the buildings is aggregated in determining whether *B* materially participates in the combined activity.

(ii) Effective beginning in 1996, *B* makes the election under paragraph (g) to treat the three buildings as a single rental real estate activity. *B* works full-time managing the three buildings and thus materially participates in the combined activity in 1996 (even if *B* conducts this management function through a separate entity, including a closely held C corporation). Accordingly, the combined activity is not a passive activity of *B* in 1996. Moreover, as a result of the election under paragraph (g), disallowed passive losses of $40,000 ($30,000+$10,000) are allocated to the combined activity. B's net income from the activity for 1996 is $10,000 ($5,000 − $5,000+$10,000). This net income is nonpassive income for purposes of section 469. However, under section 469(f), the net income from a former passive activity may be offset with the disallowed passive losses from the same activity. Because Buildings *U, V* and *W* are treated as one activity for all purposes of section 469 due to the election under paragraph (g), and this activity is a former passive activity under section 469(f), *B* may offset the $10,000 of net income from the buildings with an equal amount of disallowed passive losses allocable to the buildings, regardless of which buildings produced the income or losses. As a result, *B* has $30,000 ($40,000 − $10,000) of disallowed passive losses remaining from the buildings after 1996.

(f) *Limited partnership interests in rental real estate activities*—(1) *In general.* If a taxpayer elects under paragraph (g) of this section to treat all interests in rental real estate as a single rental real estate activity, and at least one interest in rental real estate is held by the taxpayer as a limited partnership interest (within the meaning of § 1.469–5T(e)(3)), the combined rental real estate activity will be treated as a limited partnership interest of the taxpayer for purposes of determining material participation. Accordingly, the taxpayer will not be treated under this section as materially participating in the combined rental real estate activity unless the taxpayer materially participates in the activity under the tests listed in § 1.469–5T(e)(2) (dealing with the tests for determining the material participation of a limited partner).

(2) *De minimis exception.* If a qualifying taxpayer elects under paragraph (g) of this section to treat all interests in rental real estate as a single rental real estate activity, and the taxpayer's share of gross rental income from all of the taxpayer's limited partnership interests in rental real estate is less than ten percent of the taxpayer's share of gross rental income from all of the taxpayer's interests in rental real estate for the taxable year, paragraph (f)(1) of this section does not apply. Thus the taxpayer may determine material participation under any of the tests listed in § 1.469–5T(a) that apply to rental real estate activities.

(g) *Election to treat all interests in rental real estate as a single rental real estate activity*—(1) *In general.* A qualifying taxpayer may make an election to treat all of the taxpayer's interests in rental real estate as a single rental real estate activity. This election is binding for the taxable year in which it is made and for all future years in which the taxpayer is a qualifying taxpayer under paragraph (c) of this section, even if there are intervening years in which the taxpayer is not a qualifying taxpayer. The election may be made in any year in which the taxpayer is a qualifying taxpayer, and the failure to make the election in one year does not preclude the taxpayer from making the election in a subsequent year. In years in which the taxpayer is not a qualifying taxpayer, the election will not have effect and the taxpayer's activities will be those determined under § 1.469–4. If there is a material change in the taxpayer's facts and circumstances, the taxpayer may revoke the election using the procedure described in paragraph (g)(3) of this section.

(2) *Certain changes not material.* The fact that an election is less advantageous to the taxpayer in a particular taxable year is not, of itself, a material change

in the taxpayer's facts and circumstances. Similarly, a break in the taxpayer's status as a qualifying taxpayer is not, of itself, a material change in the taxpayer's facts and circumstances.

(3) *Filing a statement to make or revoke the election.* A qualifying taxpayer makes the election to treat all interests in rental real estate as a single rental real estate activity by filing a statement with the taxpayer's original income tax return for the taxable year. This statement must contain a declaration that the taxpayer is a qualifying taxpayer for the taxable year and is making the election pursuant to section 469(c)(7)(A). The taxpayer may make this election for any taxable year in which section 469(c)(7) is applicable. A taxpayer may revoke the election only in the taxable year in which a material change in the taxpayer's facts and circumstances occurs or in a subsequent year in which the facts and circumstances remain materially changed from those in the taxable year for which the election was made. To revoke the election, the taxpayer must file a statement with the taxpayer's original income tax return for the year of revocation. This statement must contain a declaration that the taxpayer is revoking the election under section 469(c)(7)(A) and an explanation of the nature of the material change.

(h) *Interests in rental real estate held by certain passthrough entities*—(1) *General rule.* Except as provided in paragraph (h)(2) of this section, a qualifying taxpayer's interest in rental real estate held by a partnership or an S corporation (passthrough entity) is treated as a single interest in rental real estate if the passthrough entity grouped its rental real estate as one rental activity under § 1.469–4(d)(5). If the passthrough entity grouped its rental real estate into separate rental activities under § 1.469–4(d)(5), each rental real estate activity of the passthrough entity will be treated as a separate interest in rental real estate of the qualifying taxpayer. However, the qualifying taxpayer may elect under paragraph (g) of this section to treat all interests in rental real estate, including the rental real estate interests held through passthrough entities, as a single rental real estate activity.

(2) *Special rule if a qualifying taxpayer holds a fifty-percent or greater interest in a passthrough entity.* If a qualifying taxpayer owns, directly or indirectly, a fifty-percent or greater interest in the capital, profits, or losses of a passthrough entity for a taxable year, each interest in rental real estate held by the passthrough entity will be treated as a separate interest in rental real estate of the qualifying taxpayer, regardless of the passthrough entity's grouping of activities under § 1.469–4(d)(5). However, the qualifying taxpayer may elect under paragraph (g) of this section to treat all interests in rental real estate, including the rental real estate interests held through passthrough entities, as a single rental real estate activity.

(3) *Special rule for interests held in tiered passthrough entities.* If a passthrough entity owns a fifty-percent or greater interest in the capital, profits, or losses of another passthrough entity for a taxable year, each interest in rental real estate held by the lower-tier entity will be treated as a separate interest in rental real estate of the upper-tier entity, regardless of the lower-tier entity's grouping of activities under § 1.469–4(d)(5).

(i) [Reserved].

(j) *$25,000 offset for rental real estate activities of qualifying taxpayers*—(1) *In general.* A qualifying taxpayer's passive losses and credits from rental real estate activities (including prior-year disallowed passive activity losses and credits from rental real estate activities in which the taxpayer materially participates) are allowed to the extent permitted under section 469(i). The amount of losses or credits allowable under section 469(i) is determined after the rules of this section are applied. However, losses allowable by reason of this section are not taken into account in determining adjusted gross income for purposes of section 469(i)(3).

(2) *Example.* The following example illustrates the application of this paragraph (j).

Example. (i) Taxpayer *A* owns building *X* and building *Y*, both interests in rental real estate. In 1995, *A* is a qualifying taxpayer within the meaning of paragraph (c) of this section. *A* does not elect to treat *X* and *Y* as one activity under section 469(c)(7)(A) and paragraph (g) of this section. As a result, *X* and *Y* are treated as separate activities pursuant to section 469(c)(7)(A)(ii). *A* materially participates in *X* which has $100,000 of passive losses disallowed from prior years and produces $20,000 of losses in 1995. *A* does not materially participate in *Y* which produces $40,000 of income in 1995. *A* also has $50,000 of income from other nonpassive sources in 1995. *A* otherwise meets the requirements of section 469(i).

(ii) Because *X* is not a passive activity in 1995, the $20,000 of losses produced by *X* in 1995 are nonpassive losses that may be used by *A* to offset part of the $50,000 of nonpassive income. Accordingly, *A* is left with $30,000 ($50,000–$20,000) of nonpassive income. In addition, A may use the prior year disallowed passive losses of *X* to offset any income from *X* and passive income from other sources. Therefore, *A* may offset the $40,000 of passive income from *Y* with $40,000 of passive losses from *X*.

(iii) Because *A* has $60,000 ($100,000–$40,000) of passive losses remaining from *X* and meets all of the requirements of section 469(i), *A* may offset up to $25,000 of nonpassive income with passive losses from *X* pursuant to section 469(i). As a result, *A* has $5,000 ($30,000–$25,000) of nonpassive income remaining and disallowed passive losses from *X* of $35,000 ($60,000–$25,000) in 1995.

Par. 5. Section 1.469–11 is amended as follows:

1. Paragraph (a)(2) is amended by removing ''; and'' and adding '';'' in its place.
2. Paragraph (a)(3) is redesignated as paragraph (a)(4) and a new paragraph (a)(3) is added.
3. Paragraph (b)(1) is revised.
4. The heading for paragraph (b)(2) is revised; the headings for paragraphs (b)(2)(i) and (b)(2)(ii) are removed; paragraph (b)(2)(ii) is removed, and paragraph (b)(2)(i) is redesignated as paragraph (b)(2).
5. Paragraph (b)(3) is redesignated as paragraph (b)(4).
6. A new paragraph (b)(3) is added.

The added and revised provisions read as follows:

§ 1.469–11 Effective date and transition rules.

(a) * * *

(3) The rules contained in § 1.469–9 apply for taxable years beginning on or after January 1, 1995, and to elections made under § 1.469–9(g) with returns filed on or after January 1, 1995; and

* * * * *

(b) * * * (1) *Application of 1992 amendments for taxable years beginning before October 4, 1994.* Except as provided in paragraph (b)(2) of this section, for taxable years that end after May 10, 1992, and begin before October 4, 1994, a taxpayer may determine tax liability in accordance with Project PS–1–89 published at 1992–1 C.B. 1219 (see § 601.601(d)(2)(ii)(b) of this chapter).

(2) *Additional transition rule for 1992 amendments.* * * *

(3) *Fresh starts under consistency rules*—(i) *Regrouping when tax liability is first determined under Project PS–1–89.* For the first taxable year in which a taxpayer determines its tax liability under Project PS–1–89, the taxpayer may regroup its activities without regard to the manner in which the activities were grouped in the preceding taxable year and must regroup its activities if the grouping in the preceding taxable year is inconsistent with the rules of Project PS–1–89.

(ii) *Regrouping when tax liability is first determined under § 1.469–4.* For the first taxable year in which a taxpayer determines its tax liability under § 1.469–4, rather than under the rules of Project PS–1–89, the taxpayer may regroup its activities without regard to the manner in which the activities were grouped in the preceding taxable year and must regroup its activities if the grouping in the preceding taxable year is inconsistent with the rules of § 1.469–4.

(iii) *Regrouping when taxpayer is first subject to section 469(c)(7).* For the first taxable year beginning after December 31, 1993, a taxpayer may regroup its activities to the extent necessary or appropriate to avail itself of the provisions of section 469(c)(7) and without regard to the manner in which the activities were grouped in the preceding taxable year.

* * * * *

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 12, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury (Tax Policy).

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26 CFR Part 1

[TD 8646]

RIN 1545–AT49

Allocation and Apportionment of Research and Experimental Expenditures

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document provides guidance concerning the allocation and apportionment of research and experimental expenditures for purposes of determining taxable income from sources within and without the United States. This document affects taxpayers that have income from United States and foreign sources and that have made expenditures for research and experimentation that the taxpayer deducts under section 174 of the Internal Revenue Code of 1986.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Carl Cooper at (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On May 24, 1995, the IRS published a notice of proposed rulemaking and notice of public hearing in the Federal Register (60 FR 27453) proposing amendments to the Income Tax Regulations (26 CFR part 1) under section 861 of the Internal Revenue Code of 1986. Section 1.861–8(e)(3) of the Income Tax Regulations provides rules regarding the allocation and apportionment of research and experimental expenditures for purposes of determining taxable income from sources inside and outside the United States.

The notice of proposed rulemaking proposed three principal changes to the existing regulations. First, allocation of research and experimental expenditures to three-digit SIC code product categories of gross income would be permitted. Second, the percentage of research and experimental expenditures that may be exclusively apportioned to United States source income under the sales method of apportionment under § 1.861–8(e)(3)(ii) would be increased from 30 percent to 50 percent. Third, use of the optional gross income methods of apportionment would constitute a binding election to use such methods in subsequent years. The election would not be revocable without the prior consent of the Commissioner. The three changes were proposed in part on the basis of an economic study performed by the Treasury Department pursuant to Rev. Proc. 92–56 (1992–2 C.B. 409), ''The Relationship Between U.S. Research and Development and Foreign Income,'' which was published by the Treasury Department simultaneously with the proposed regulations.

Written comments responding to the notice were received, and a public hearing was held on September 8, 1995.

Regarding the determination of product categories under § 1.861–8(e)(3)(i)(B) of the proposed regulations, commenters suggested that the rule requiring a taxpayer to determine relevant product categories by reference to the three-digit classification of the Standard Industrial Classification Manual should be modified to allow determinations by reference to the five-digit classifications of the Manual. This suggestion was not adopted, because such a rule would too narrowly restrict the necessarily broad scope of the deduction. The IRS continues to believe that research and experimentation is an inherently speculative activity, that findings may contribute unexpected benefits, and that gross income derived from successful research and experimentation must bear the cost of unsuccessful research and experimentation.

Commenters suggested that the regulations permit taxpayers to determine product categories by reference to two- or three-digit categories at the annual election of the taxpayer. This suggestion was not adopted. The regulations provide that a taxpayer may determine product categories by reference to two- or three-digit categories. A taxpayer may aggregate, disaggregate or change a previously selected SIC code category if the taxpayer establishes to the satisfaction of the Commissioner that, due to changes in the relevant facts, a change in product category is appropriate. This rule provides a simple and workable format for balancing the need for consistency with the desire for flexibility.

Referring to current § 1.861–8(g) *Example 6* (which has been redesignated *§ 1.861–17(h) Example 4*), commenters suggested that the regulations allow the use of the Wholesale Trade SIC code category with respect to sales from any other category. The current § 1.861–8(g) *Example 6* was not correct on this point and does not override the rule stated parenthetically in the list of two digit SIC code categories in present § 1.861–8(e)(3)(i)(A) that wholesale trade may not be combined with other product categories. The final regulations include this rule along with *Example 6* corrected to conform to the rule.

Regarding the exclusive place of performance apportionment rule under § 1.861–8(e)(3)(ii)(A) of the proposed regulations, commenters suggested adding a rule providing that if the ratio of foreign research and experimental expenditures in a three digit SIC code category of all foreign affiliates of a United States consolidated group over foreign affiliate sales in that SIC code category exceed fifty percent of the ratio of United States consolidated group research and experimental expenditures in that SIC code category over United States consolidated group sales in that SIC code category, then the United States consolidated group research and experimental expenditures should be exclusively apportioned to United States source gross income. This suggestion has not been adopted. Although a foreign affiliate may incur substantial research and experimental expenditures in a given product category, the foreign affiliate may still benefit from the research and experimental expenditures of the United States consolidated group. See *Perkin-Elmer Corporation* v. *Commissioner,* 103 T.C. 464 (1994).

Regarding the optional gross income methods of apportionment under § 1.861–8(e)(3)(iii) of the proposed regulations, commenters suggested that the final regulations include a fifty percent exclusive place of performance apportionment under the optional gross income methods to be parallel with § 1.861–8(e)(3)(ii)(A). This suggestion has been adopted in part. Section (b)(1)(ii) of the final regulations includes a twenty-five percent exclusive place of performance apportionment under the optional gross income methods. This twenty-five percent exclusive apportionment ensures that taxpayers electing to use one of the optional gross income methods also obtain results comparable to those obtained by taxpayers electing to use the sales method, *i.e.*, an overall allocation that is twenty-five percent lower on average than the allocation to foreign source income resulting from the current regulations. The Treasury Department study does not support a greater exclusive apportionment.

Commenters suggested that the proposed regulations should be modified to reduce the floor on the amount of research and experimental expenditures that must be apportioned to foreign source income under the optional gross income methods from fifty percent to thirty percent of the amount that would have been apportioned under the sales method. This suggestion has not been adopted. The adoption of this suggested rule in addition to the twenty-five percent exclusive apportionment rule is not supported by the Treasury Department study.

Commenters suggested the elimination of the binding election to use the optional gross income methods under § 1.861–8(e)(3)(iii)(C) of the proposed regulations. Commenters also suggested that the binding election rule should be modified to provide for a change of method without the prior consent of the Commissioner after five years' use of one method. This suggestion, which recognizes the need for consistency while reducing the administrative burden on taxpayers, has been adopted.

Commenters suggested that the effective date election under § 1.861–8(e)(3)(vi) of the proposed regulations permit election by fiscal year taxpayers whose taxable years begin after August 1, 1994, but before January 1, 1995. This suggestion has been adopted.

Finally, these provisions, which were previously published as § 1.861–8(e)(3), have been renumbered and will now be published as § 1.861–17. This change has been made solely for the purpose of achieving greater clarity in formatting and is not intended to result in any additional substantive changes.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these final regulations has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Carl Cooper, Office of the Associate Chief Counsel (International). However, other personnel from IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.861–8 is amended by:

1. Revising paragraph (e)(3) to read as set forth below.

2. Removing and reserving paragraph (g), *Examples 3* through *16* and *23*.

§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(e) * * *

(3) *Research and experimental expenditures.* For rules regarding the allocation and apportionment of research and experimental expenditures, see § 1.861–17.

* * * * *

Par. 3. Section 1.861–17 is added to read as follows:

§ 1.861–17 Allocation and apportionment of research and experimental expenditures.

(a) *Allocation*—(1) *In general.* The methods of allocation and apportionment of research and experimental expenditures set forth in this section recognize that research and experimentation is an inherently speculative activity, that findings may contribute unexpected benefits, and that the gross income derived from successful research and experimentation must bear the cost of unsuccessful research and experimentation. Expenditures for research and experimentation that a taxpayer deducts under section 174 ordinarily shall be considered deductions that are definitely related to all income reasonably connected with the relevant broad product category (or categories) of the taxpayer and therefore allocable to all items of gross income as a class (including income from sales, royalties, and dividends) related to such product category (or categories). For purposes of this allocation, the product category (or categories) that a taxpayer may be considered to have shall be determined in accordance with the provisions of paragraph (a)(2) of this section.

(2) *Product categories*—(i) *Allocation based on product categories.* Ordinarily, a taxpayer's research and experimental expenditures may be divided between the relevant product categories. Where research and experimentation is conducted with respect to more than one product category, the taxpayer may aggregate the categories for purposes of allocation and apportionment; however, the taxpayer may not subdivide the categories. Where research and experimentation is not clearly identified with any product category (or categories), it will be considered conducted with respect to all the taxpayer's product categories.

(ii) *Use of three digit standard industrial classification codes.* A taxpayer shall determine the relevant product categories by reference to the three digit classification of the Standard Industrial Classification Manual (SIC code). A copy may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. The individual products included within each category are enumerated in Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual, 1987 (or later edition, as available).

(iii) *Consistency.* Once a taxpayer selects a product category for the first taxable year for which this section is effective with respect to the taxpayer, it must continue to use that product category in following years, unless the taxpayer establishes to the satisfaction of the Commissioner that, due to changes in the relevant facts, a change in the product category is appropriate. For this purpose, a change in the taxpayer's selection of a product category shall include a change from a three digit SIC code category to a two digit SIC code category, a change from a two digit SIC code category to a three digit SIC code category, or any other aggregation, disaggregation or change of a previously selected SIC code category.

(iv) *Wholesale trade category.* The two digit SIC code category ''Wholesale trade'' is not applicable with respect to sales by the taxpayer of goods and services from any other of the taxpayer's product categories and is not applicable with respect to a domestic international sales corporation (DISC) or foreign sales corporation (FSC) for which the taxpayer is a related supplier of goods and services from any of the taxpayer's product categories.

(v) *Retail trade category.* The two digit SIC code category ''Retail trade'' is not applicable with respect to sales by the taxpayer of goods and services from any other of the taxpayer's product categories, except wholesale trade, and is not applicable with respect to a DISC or FSC for which the taxpayer is a related supplier of goods and services from any other of the taxpayer's product categories, except wholesale trade.

(3) *Affiliated Groups*—(i) *In general.* Except as provided in paragraph (a)(3)(ii) of this section, the allocation and apportionment required by this section shall be determined as if all members of the affiliated group (as defined in § 1.861–14T(d)) were a single corporation. See § 1.861–14T.

(ii) *Possessions corporations.* (A) For purposes of the allocation and apportionment required by this section, sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E)), and dividends from an electing corporation, shall not be taken into account, except that this paragraph (a)(3)(ii) shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) is not in effect.

(B) The research and experimental expenditures taken into account for purposes of this section shall be reduced by the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)).

(4) *Legally mandated research and experimentation.* Where research and experimentation is undertaken solely to meet legal requirements imposed by a political entity with respect to improvement or marketing of specific products or processes, and the results cannot reasonably be expected to generate amounts of gross income (beyond de minimis amounts) outside a single geographic source, the deduction for such research and experimentation shall be considered definitely related and therefore allocable only to the grouping (or groupings) of gross income within that geographic source as a class (and apportioned, if necessary, between such groupings as set forth in paragraphs (c) and (d) of this section). For example, where a taxpayer performs tests on a product in response to a requirement imposed by the U.S. Food and Drug Administration, and the test results cannot reasonably be expected to generate amounts of gross income (beyond de minimis amounts) outside the United States, the costs of testing shall be allocated solely to gross income from sources within the United States.

(b) *Exclusive apportionment*—(1) *In general.* An exclusive apportionment shall be made under this paragraph (b), where an apportionment based upon geographic sources of income of a deduction for research and experimentation is necessary (after applying the exception in paragraph (a)(4) of this section).

(i) *Exclusive apportionment under the sales method.* If the taxpayer apportions on the sales method under paragraph (c) of this section, an amount equal to fifty percent of such deduction for research and experimentation shall be apportioned exclusively to the statutory grouping of gross income or the residual grouping of gross income, as the case may be, arising from the geographic source where the research and experimental activities which account for more than fifty percent of the amount of such deduction were performed.

(ii) *Exclusive apportionment under the optional gross income methods.* If the taxpayer apportions on the optional gross income methods under paragraph (d) of this section, an amount equal to twenty-five percent of such deduction for research and experimentation shall be apportioned exclusively to the statutory grouping or the residual grouping of gross income, as the case may be, arising from the geographic source where the research and experimental activities which account for more than fifty percent of the amount of such deduction were performed.

(iii) *Exception.* If the applicable fifty percent geographic source test of the preceding paragraph (b)(1)(i) or (ii) is not met, then no part of the deduction shall be apportioned under this paragraph (b)(1).

(2) *Facts and circumstances supporting an increased exclusive apportionment*—(i) *In general.* The exclusive apportionment provided for in paragraph (b)(1) of this section reflects the view that research and experimentation is often most valuable in the country where it is performed, for two reasons. First, research and experimentation often benefits a broad product category, consisting of many individual products, all of which may be sold in the nearest market but only some of which may be sold in foreign markets. Second, research and experimentation often is utilized in the nearest market before it is used in other markets, and in such cases, has a lower value per unit of sales when used in foreign markets. The taxpayer may establish to the satisfaction of the Commissioner that, in its case, one or both of the conditions mentioned in the preceding sentences warrant a significantly greater exclusive allocation percentage than allowed by paragraph (b)(1) of this section because the research and experimentation is reasonably expected to have very limited or long delayed application outside the geographic source where it was performed. Past experience with research and experimentation may be considered in determining reasonable expectations.

(ii) *Not all products sold in foreign markets.* For purposes of establishing that only some products within the product category (or categories) are sold in foreign markets, the taxpayer shall compare the commercial production of individual products in domestic and foreign markets made by itself, by uncontrolled parties (as defined under paragraph (c)(2)(i) of this section) of products involving intangible property which was licensed or sold by the taxpayer, and by those controlled corporations (as defined under paragraph (c)(3)(ii) of this section) that can reasonably be expected to benefit directly or indirectly from any of the taxpayer's research expense connected with the product category (or categories). The individual products compared for this purpose shall be limited, for nonmanufactured categories, solely to those enumerated in Executive Office of the President, Office of Management and Budget Standard Industrial Classification Manual, 1987 (or later edition, as available), and, for manufactured categories, solely to those enumerated at a 7-digit level in the U.S. Bureau of the Census, Census of Manufacturers: 1992, Numerical List of Manufactured Products, 1993, (or later edition, as available). Copies of both of these documents may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

(iii) *Delayed application of research findings abroad.* For purposes of establishing the delayed application of research findings abroad, the taxpayer shall compare the commercial introduction of its own particular products and processes (not limited by those listed in the Standard Industrial Classification Manual or the Numerical List of Manufactured Products) in the United States and foreign markets, made by itself, by uncontrolled parties (as defined under paragraph (c)(2)(i) of this section) of products involving intangible property that was licensed or sold by the taxpayer, and by those controlled corporations (as defined under paragraph (c)(3)(i) of this section) that can reasonably be expected to benefit, directly or indirectly, from the taxpayer's research expense. For purposes of evaluating the delay in the application of research findings in foreign markets, the taxpayer shall use a safe haven discount rate of 10 percent per year of delay unless he is able to establish to the satisfaction of the Commissioner, by reference to the cost of money and the number of years during which economic benefit can be directly attributable to the results of the taxpayer's research, that another discount rate is more appropriate.

(c) *Sales method*—(1) *In general.* The amount equal to the remaining portion of such deduction for research and experimentation, not apportioned under paragraph (a)(4) or (b)(1)(i) of this section, shall be apportioned between the statutory grouping (or among the statutory groupings) within the class of gross income and the residual grouping within such class in the same proportions that the amount of sales from the product category (or categories) that resulted in such gross income within the statutory grouping (or statutory groupings) and in the residual grouping bear, respectively, to the total amount of sales from the product category (or categories).

(i) *Apportionment in excess of gross income.* Amounts apportioned under this section may exceed the amount of gross income related to the product category within the statutory grouping. In such case, the excess shall be applied against other gross income within the statutory grouping. See § 1.861–8(d)(1) for instances where the apportionment leads to an excess of deductions over gross income within the statutory grouping.

(ii) *Leased property.* For purposes of this paragraph (c), amounts received from the lease of equipment during a taxable year shall be regarded as sales receipts for such taxable year.

(2) *Sales of uncontrolled parties.* For purposes of the apportionment under paragraph (c)(1) of this section, the sales from the product category (or categories) by each party uncontrolled by the taxpayer, of particular products involving intangible property that was licensed or sold by the taxpayer to such uncontrolled party shall be taken fully into account both for determining the taxpayer's apportionment and for determining the apportionment of any other member of a controlled group of corporations to which the taxpayer belongs if the uncontrolled party can reasonably be expected to benefit directly or indirectly (through any member of the controlled group of corporations to which the taxpayer belongs) from the research expense connected with the product category (or categories) of such other member. An uncontrolled party can reasonably be expected to benefit from the research expense of a member of a controlled group of corporations to which the taxpayer belongs if such member can reasonably be expected to license, sell, or transfer intangible property to that uncontrolled party or transfer secret processes to that uncontrolled party, directly or indirectly through a member of the controlled group of corporations to which the taxpayer belongs. Past experience with research and experimentation shall be considered in determining reasonable expectations.

(i) *Definition of uncontrolled party.* For purposes of this paragraph (c)(2) the term *uncontrolled party* means a party that is not a person with a relationship to the taxpayer specified in section 267(b), or is not a member of a controlled group of corporations to which the taxpayer belongs (within the meaning of section 993(a)(3) or 927(d)(4)).

(ii) *Licensed products.* In the case of licensed products, if the amount of sales of such products is unknown (for example, where the licensed product is a component of a large machine), a reasonable estimate based on the principles of section 482 should be made.

(iii) *Sales of intangible property.* In the case of sales of intangible property, regardless of whether the consideration received in exchange for the intangible is a fixed amount or is contingent on the productivity, use, or disposition of the intangible, if the amount of sales of products utilizing the intangible property is unknown, a reasonable estimate of sales shall be made annually. If necessary, appropriate economic analyses shall be used to estimate sales.

(3) *Sales of controlled parties.* For purposes of the apportionment under paragraph (c)(1) of this section, the sales from the product category (or categories) of the taxpayer shall be taken fully into account and the sales from the product category (or categories) of a corporation controlled by the taxpayer shall be taken into account to the extent provided in this paragraph (c)(3) for determining the taxpayer's apportionment, if such corporation can reasonably be expected to benefit directly or indirectly (through another member of the controlled group of corporations to which the taxpayer belongs) from the taxpayer's research expense connected with the product category (or categories). A corporation controlled by the taxpayer can reasonably be expected to benefit from the taxpayer's research expense if the taxpayer can be expected to license, sell, or transfer intangible property to that corporation or transfer secret processes to that corporation, either directly or indirectly through a member of the controlled group of corporations to which the taxpayer belongs. Past experience with research and experimentation shall be considered in determining reasonable expectations.

(i) *Definition of a corporation controlled by the taxpayer.* For purposes of this paragraph (c)(3), the term *a corporation controlled by the taxpayer* means any corporation that has a relationship to the taxpayer specified in section 267(b) or is a member of a controlled group of corporations to which the taxpayer belongs (within the meaning of section 993(a)(3) or 927(d)(4).

(ii) *Sales to be taken into account.* The sales from the product category (or categories) of a corporation controlled by the taxpayer taken into account shall be equal to the amount of sales that bear the same proportion to the total sales of the controlled corporation as the total value of all classes of the stock of such corporation owned directly or indirectly by the taxpayer, within the meaning of section 1563, bears to the total value of all classes of stock of such corporation.

(iii) *Sales not to be taken into account more than once.* Sales from the product category (or categories) between or among such controlled corporations or the taxpayer shall not be taken into account more than once; in such a situation, the amount sold by the selling corporation to the buying corporation shall be subtracted from the sales of the buying corporation.

(iv) *Effect of cost-sharing arrangements.* If the corporation controlled by the taxpayer has entered into a bona fide cost-sharing arrangement, in accordance with the provisions of § 1.482–7, with the taxpayer for the purpose of developing intangible property, then that corporation shall not reasonably be expected to benefit from the taxpayer's share of the research expense.

(d) *Gross income methods*—(1)(i) *In general*. In lieu of applying the sales method of paragraph (c) of this section, the remaining amount of the deduction for research and experimentation, not apportioned under paragraph (a)(4) or (b)(1)(ii) of this section, shall be apportioned as prescribed in paragraphs (d)(2) and (3) of this section, between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping of gross income.

(ii) *Optional methods to be applied to all research and experimental expenditures*. These optional methods must be applied to the taxpayer's entire deduction for research and experimental expense remaining after applying the exception in paragraph (a)(4) of this section, and may not be applied on a product category basis. Thus, after the allocation of the taxpayer's entire deduction for research and experimental expense under paragraph (a)(2) of this section (by attribution to SIC code categories), the taxpayer must then apportion as necessary the entire deduction as allocated by separate amounts to various product categories, using only the sales method under paragraph (c) of this section or only the optional gross income methods under this paragraph (d). The taxpayer may not use the sales method for a portion of the deduction and optional gross income methods for the remainder of the deduction separately allocated.

(2) *Option one*. The taxpayer may apportion its research and experimental expenditures ratably on the basis of gross income between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping of gross income in the same proportions that the amount of gross income in the statutory grouping (or groupings) and the amount of gross income in the residual grouping bear, respectively, to the total amount of gross income, if the conditions described in paragraph (d)(2)(i) and (ii) of this section are both met.

(i) The amount of research and experimental expense ratably apportioned to the statutory grouping (or groupings in the aggregate) is not less than fifty percent of the amount that would have been so apportioned if the taxpayer had used the method described in paragraph (c) of this section; and

(ii) The amount of research and experimental expense ratably apportioned to the residual grouping is not less than fifty percent of the amount that would have been so apportioned if the taxpayer had used the method described in paragraph (c) of this section.

(3) *Option two*. If, when the amount of research and experimental expense is apportioned ratably on the basis of gross income, either of the conditions described in paragraph (d)(2)(i) or (ii) of this section is not met, the taxpayer may either—

(i) Where the condition of paragraph (d)(2)(i) of this section is not met, apportion fifty percent of the amount of research and experimental expense that would have been apportioned to the statutory grouping (or groupings in the aggregate) under paragraph (c) of this section to such statutory grouping (or to such statutory groupings in the aggregate and then among such groupings on the basis of gross income within each grouping), and apportion the balance of the amount of research and experimental expenses to the residual grouping; or

(ii) Where the condition of paragraph (d)(2)(ii) of this section is not met, apportion fifty percent of the amount of research and experimental expense that would have been apportioned to the residual grouping under paragraph (c) of this section to such residual grouping, and apportion the balance of the amount of research and experimental expenses to the statutory grouping (or to the statutory groupings in the aggregate and then among such groupings ratably on the basis of gross income within each grouping).

(e) *Binding election*—(1) *In general*. A taxpayer may choose to use either the sales method under paragraph (c) of this section or the optional gross income methods under paragraph (d) of this section for its original return for its first taxable year to which this section applies. The taxpayer's use of either the sales method or the optional gross income methods for its return filed for its first taxable year to which this section applies shall constitute a binding election to use the method chosen for that year and for four taxable years thereafter.

(2) *Change of method*. The taxpayer's election of a method may not be revoked during the period referred to in paragraph (e)(1) of this section without the prior consent of the Commissioner. After the expiration of that period, the taxpayer may change methods without the prior consent of the Commissioner. However, the taxpayer's use of the new method shall constitute a binding election to use the new method for its return filed for the first year for which the taxpayer uses the new method and for four taxable years thereafter. The taxpayer's election of the new method may not be revoked during that period without the prior consent of the Commissioner.

(i) *Short taxable years*. For purposes of this paragraph (e), the term *taxable year* includes a taxable year of less than twelve months.

(ii) *Affiliated groups*. In the case of an affiliated group, the period referred to in paragraph (e)(1) of this section shall commence as of the latest taxable year in which any member of the group has changed methods.

(f) *Special rules for partnerships*—(1) *Research and experimental expenditures*. For purposes of applying this section, if research and experimental expenditures are incurred by a partnership in which the taxpayer is a partner, the taxpayer's research and experimental expenditures shall include the taxpayer's distributive share of the partnership's research and experimental expenditures.

(2) *Purpose and location of expenditures*. In applying the exception for expenditures undertaken to meet legal requirements under paragraph (a)(4) of this section and the exclusive apportionment for the sales method and the optional gross income methods under paragraph (b) of this section, a partner's distributive share of research and experimental expenditures incurred by a partnership shall be treated as incurred by the partner for the same purpose and in the same location as incurred by the partnership.

(3) *Apportionment under the sales method*. In applying the remaining apportionment for the sales method under paragraph (c) of this section, a taxpayer's sales from a product category shall include the taxpayer's share of any sales from the product category of any partnership in which the taxpayer is a partner. For purposes of the preceding sentence, a taxpayer's share of sales shall be proportionate to the taxpayer's distributive share of the partnership's gross income in the product category.

(g) *Effective date*. This section applies to taxable years beginning after December 31, 1995. However, a taxpayer may at his or her option, apply this section in its entirety to all taxable years beginning after August 1, 1994.

(h) *Examples*. The following examples illustrate the application of this section:

Example 1—(i) *Facts*. X, a domestic corporation, is a manufacturer and distributor of small gasoline engines for lawn mowers. Gasoline engines are a product within the category, Engines and Turbines

(SIC Industry Group 351). Y, a wholly owned foreign subsidiary of X, also manufactures and sells these engines abroad. During 1996, X incurred expenditures of $60,000 on research and experimentation, which it deducts as a current expense, to invent and patent a new and improved gasoline engine. All of the research and experimentation was performed in the United States. In 1996, the domestic sales by X of the new engine total $500,000 and foreign sales by Y total $300,000. X provides technology for the manufacture of engines to Y via a license that requires the payment of an arm's length royalty. In 1996, X's gross income is $160,000, of which $140,000 is U.S. source income from domestic sales of gasoline engines and $10,000 is foreign source royalties from Y, and $10,000 is U.S. source interest income.

(ii) *Allocation.* The research and experimental expenditures were incurred in connection with small gasoline engines and they are definitely related to the items of gross income to which the research gives rise, namely gross income from the sale of small gasoline engines in the United States and royalties received from subsidiary Y, a foreign manufacturer of gasoline engines. Accordingly, the expenses are allocable to this class of gross income. The U.S. source interest income is not within this class of gross income and, therefore, is not taken into account.

(iii) *Apportionment.* (A) For purposes of applying the foreign tax credit limitation, the statutory grouping is general limitation gross income from sources without the United States and the residual grouping is gross income from sources within the United States. Since the related class of gross income derived from the use of engine technology consists of both gross income from sources without the United States (royalties from Y) and gross income from sources within the United States (gross income from engine sales), X's deduction of $60,000 for its research and experimental expenditure must be apportioned between the statutory and residual grouping before the foreign tax credit limitation may be determined. Because more than 50 percent of X's research and experimental activity was performed in the United States, 50 percent of that deduction can be apportioned exclusively to the residual grouping of gross income, gross income from sources within the United States. The remaining 50 percent of the deduction can then be apportioned between the residual and statutory groupings on the basis of sales of small gasoline engines by X and Y. Alternatively, X's deduction for research and experimentation can be apportioned under the optional gross income method. The apportionment for 1996 is as follows:

(*1*) *Tentative Apportionment on the Basis of Sales*

(*i*) Research and experimental expense to be apportioned between residual and statutory groupings of gross income:	$60,000
(*ii*) Less: Exclusive apportionment of research and experimental expense to the residual grouping of gross income ($60,000×50 percent):	$30,000
(*iii*) Research and experimental expense to be apportioned between residual and statutory groupings of gross income on the basis of sales:	$30,000
(*iv*) Apportionment of research and experimental expense to the residual grouping of gross income ($30,000×$500,000/($500,000+$300,000)):	$18,750
(*v*) Apportionment of research and experimental expense to the statutory grouping of gross income ($30,000×$300,000/($500,000+$300,000)):	$11,250
(*vi*) Total apportioned deduction for research and experimentation:	$60,000
(*vii*) Amount apportioned to the residual grouping ($30,000+$18,750):	$48,750
(*viii*) Amount apportioned to the statutory grouping:	$11,250

(*2*) *Tentative Apportionment on the Basis of Gross Income.*

(*i*) Exclusive apportionment of research and experimental expense to the residual grouping of gross income ($60,000×25 percent):	$15,000
(*ii*) Research and experimental expense apportioned to sources within the United States (residual grouping) ($45,000×$140,000/($140,000+$10,000)):	$42,000
(*iii*) Research and experimental expense apportioned to sources within country Y (statutory grouping) ($45,000×$10,000/($140,000+$10,000)):	$3,000
(*iv*) Amount apportioned to the residual grouping:	$57,000
(*v*) Amount apportioned to the statutory grouping:	$3,000

(B) The total research and experimental expense apportioned to the statutory grouping ($3,000) under the gross income method is approximately 26 percent of the amount apportioned to the statutory grouping under the sales method. Thus, X may use option two of the gross income method (paragraph (d)(3) of this section) and apportion to the statutory grouping fifty percent (50%) of the $11,250 apportioned to that grouping under the sales method. Thus, X apportions $5,625 of research and experimental expense to the statutory grouping. X's use of the optional gross income methods will constitute a binding election to use the optional gross income methods for 1996 and four taxable years thereafter.

Example 2—(i) *Facts.* Assume the same facts as in *Example 1* except that X also spends $30,000 in 1996 for research on steam turbines, all of which is performed in the United States, and X has steam turbine sales in the United States of $400,000. X's foreign subsidiary Y neither manufactures nor sells steam turbines. The steam turbine research is in addition to the $60,000 in research which X does on gasoline engines for lawnmowers. X thus has a deduction of $90,000 for its research activity. X's gross income is $200,000, of which $140,000 is U.S. source income from domestic sales of gasoline engines, $50,000 is U.S. source income from domestic sales of steam turbines, and $10,000 is foreign source royalties from Y.

(ii) *Allocation.* X's research expenses generate income from sales of small gasoline engines and steam turbines. Both of these products are in the same three digit SIC code category, Engines and Turbines (SIC Industry Group 351). Therefore, the deduction is definitely related to this product category and allocable to all items of income attributable to it. These items of X's income are gross income from the sale of small gasoline engines and steam turbines in the United States and royalties from foreign subsidiary Y, a foreign manufacturer and seller of small gasoline engines.

(iii) *Apportionment.* (A) For purposes of applying the foreign tax credit limitation, the statutory grouping is general limitation gross income from sources outside the United States and the residual grouping is gross income from sources within the United States. X's deduction of $90,000 must be apportioned between the statutory and residual groupings. Because more than 50 percent of X's research and experimental activity was performed in the United States, 50 percent of that deduction can be apportioned exclusively to the residual grouping, gross income from sources within the United States. The remaining 50 percent of the deduction can then be apportioned between the residual and statutory groupings on the basis of total sales of small gasoline engines and steam turbines by X and Y. Alternatively, X's deduction for research and experimentation can be apportioned under the optional gross income methods. The apportionment for 1996 is as follows:

(*1*) *Tentative Apportionment on the Basis of Sales*

(*i*) Research and experimental expense to be apportioned between residual and statutory groupings of gross income:	$90,000
(*ii*) Less: Exclusive apportionment of the research and experimental expense to the residual grouping of gross income ($90,000×50 percent):	$45,000
(*iii*) Research and experimental expense to be apportioned between the residual and statutory groupings of gross income on the basis of sales:	$45,000
(*iv*) Apportionment of research and experimental expense to the residual grouping of gross income ($45,000×($500,000+$400,000)/($500,000+$400,000+$300,000)):	$33,750

(*v*) Apportionment of research and experimental expense to the statutory grouping of gross income ($45,000×$300,000/($500,000+$400,000+$300,000)):	$11,250
(*vi*) Total apportioned deduction for research and experimentation:	$90,000
(*vii*) Amount apportioned to the residual grouping ($45,000+$33,750):	$78,750
(*viii*) Amount apportioned to the statutory grouping:	$11,250

(2) Tentative Apportionment on the Basis of Gross Income

(*i*) Exclusive apportionment of research and experimental expense to the residual grouping of gross income ($90,000×25 percent):	$22,500
(*ii*) Research and experimental expense apportioned to sources within the United States (residual grouping) ($67,500×$190,000/($140,000+$50,000+$10,000)):	$64,125
(*iii*) Research and experimental expense apportioned to sources within country Y (statutory grouping) ($67,500×$10,000/($140,000+$50,000+$10,000)):	$3,375
(*iv*) Amount apportioned to the residual grouping:	$86,625
(*v*) Amount apportioned to the statutory grouping:	$3,375

(B) The total research and experimental expense apportioned to the statutory grouping ($3,375) under the gross income method is 30 percent of the amount apportioned to the statutory grouping under the sales method. Thus, X may use option two of the gross income method (paragraph (d)(3) of this section) and apportion to the statutory grouping fifty percent (50%) of the $11,250 apportioned to that grouping under the sales method. Thus, X apportions $5,625 of research and experimental expense to the statutory grouping. X's use of the optional gross income methods will constitute a binding election to use the optional gross income methods for 1996 and four taxable years thereafter.

Example 3—(i) *Facts*. Assume the same facts as in *Example 1* except that in 1997 X continues its sales of the new engines, with sales of $600,000 in the United States and $400,000 abroad by subsidiary Y. X also acquires a 60 percent (by value) ownership interest in foreign corporation Z and a 100 percent ownership interest in foreign corporation C. X transfers its engine technology to Z for a royalty equal to 5 percent of sales, and X enters into an arm's length cost-sharing arrangement with C to share the funding of all of X's research activity. In 1997, corporation Z has sales in country Z equal to $1,000,000. X incurs expense of $80,000 on research and experimentation in 1997, and in addition, X performs $15,000 of research on gasoline engines which was funded by the cost-sharing arrangement with C. All of Z's sales are from the product category, Engines and Turbines (SIC Industry Group 351). X performs all of its research in the United States and $20,000 of its expenditure of $80,000 is made solely to meet pollution standards mandated by law. X establishes, to the satisfaction of the Commissioner, that the expenditure in response to pollution standards is not expected to generate gross income (beyond *de minimis* amounts) outside the United States.

(ii) *Allocation*. The $20,000 of research expense which X incurred in connection with pollution standards is definitely related and thus allocable to the residual grouping, gross income from sources within the United States. The remaining $60,000 in research and experimental expenditure incurred by X is definitely related to all gasoline engines and is therefore allocable to the class of gross income to which the engines give rise, gross income from sales of gasoline engines in the United States, royalties from country Y, and royalties from country Z. No part of the $60,000 research expense is allocable to dividends from country C, because corporation C has already paid, through its cost-sharing arrangement, for research activity performed by X which may benefit C.

(iii) *Apportionment*. For purposes of applying the foreign tax credit limitation, the statutory grouping is general limitation gross income from sources without the United States, and the residual grouping is gross income from sources within the United States. X's deduction of $60,000 for its research and experimental expenditure must be apportioned between these groupings. Because more than 50 percent of the research and experimentation was performed in the United States, 50 percent of the $60,000 deduction can be apportioned exclusively to the residual grouping. The remaining 50 percent of the deduction can then be apportioned between the residual and the statutory grouping on the basis of sales of gasoline engines by X, Y, and Z. (If X utilized the optional gross income methods in 1996, then its use of such methods constituted a binding election to use the optional gross income methods in 1996 and for four taxable years thereafter. If X utilized the sales method in 1996, then its use of such method constituted a binding election to use the sales method in 1996 and for four taxable years thereafter.) The optional gross income methods are not illustrated in this *Example 3* (see instead *Examples 1* and *2*). Since X has only a 60 percent ownership interest in corporation Z, only 60 percent of Z's sales (60% of $1,000,000, or $600,000) are included for purposes of apportionment. The allocation and apportionment for 1997 is as follows:

(A) X's total research expense:	$80,000
(B) Less: Legally mandated research directly allocated to the residual grouping of gross income:	$20,000
(C) Tentative apportionment on the basis of sales.	
(*1*) Research and experimental expense to be apportioned between residual and statutory groupings of gross income:	$60,000
(*2*) Less: Exclusive apportionment of research and experimental expense to the residual grouping of gross income ($60,000×50 percent):	$30,000
(*3*) Research and experimental expense to be apportioned between the residual and the statutory groupings on the basis of sales:	$30,000
(*4*) Apportionment of research and experimental expense to gross income from sources within the United States (residual grouping) ($30,000×$600,000/($600,000+$400,000+$600,000)):	$11,250
(*5*) Apportionment of research and experimental expense to general limitation gross income from countries Y and Z (statutory grouping) ($30,000×$400,000+$600,000/($600,000+$400,000+$600,000)):	$18,750
(*6*) Total apportioned deduction for research and experimentation ($30,000+$30,000):	$60,000
(*7*) Amount apportioned to the residual grouping ($30,000+$11,250):	$41,250
(*8*) Amount apportioned to the statutory grouping of gross income from sources within countries Y and Z:	$18,750

Example 4—Research and Experimentation—(i) *Facts*. X, a domestic corporation, manufactures and sells forklift trucks and other types of materials handling equipment in the United States. The manufacture and sale of forklift trucks and other materials handling equipment belongs to the product category, Construction, Mining, and Materials Handling Machinery and Equipment (SIC Industry Group 353). X also sells its forklift trucks to a wholesaling subsidiary located in foreign country Y (but title passes in the United States), and X manufactures forklift trucks in foreign country Z. The wholesaling of forklift trucks to country Y also belongs to X's product category Transportation equipment and, therefore, may not belong to the product

category, Wholesale trade (SIC Major Group 50 and 51). In 1997, X sold $7,000,000 of forklift trucks to purchasers in the United States, $3,000,000 of forklift trucks to the wholesaling subsidiary in Y, and transferred forklift truck components with an FOB export value of $2,000,000 to its branch in Z. The branch's sales of finished forklift trucks were $5,000,000. In response to legally mandated emission control requirements, X's United States research department has been engaged in a research project to improve the performance and quality of engine exhaust systems used on its products in the United States. It incurs expenses of $100,000 for this purpose in 1997. In the past, X has customarily adapted the product improvements developed originally for the domestic market to its forklift trucks manufactured abroad. During the taxable year 1997, development of an improved engine exhaust system is completed and X begins installing the new system during the latter part of the taxable year in products manufactured and sold in the United States. X continues to manufacture and sell forklift trucks in foreign countries without the improved engine exhaust systems.

(ii) *Allocation*. X's deduction for its research expense is definitely related to the income to which it gives rise, namely income from the manufacture and sale of forklift trucks within the United States and in country Z. Although the research is undertaken in response to a legal mandate, it can reasonably be expected to generate gross income from the manufacture and sale of trucks by the branch in Z. Therefore, the deduction is not allocable solely to income from X's domestic sales of forklift trucks. It is allocable to income from such sales and income from the sales of X's branch in Z.

(iii) *Apportionment*. For the method of apportionment on the basis of either sales or gross income, see *Example 3*. However, in determining the amount of research apportioned to income from foreign and domestic sources, the net sales of the branch in Z are $3,000,000 ($5,000,000 less $2,000,000) and the sales within the United States are $12,000,000 ($7,000,000 plus $3,000,000 plus $2,000,000). See § 1.861–17(c)(3)(iii).

Example 5—(i) *Facts*. X, a domestic corporation, is a drug company that manufactures a wide variety of pharmaceutical products for sale in the United States. Pharmaceutical products belong to the product category, Drugs (SIC Industry Group 283). X exports its pharmaceutical products through a foreign sales corporation (FSC). X's wholly owned foreign subsidiary Y also manufactures pharmaceutical products. In 1997, X has domestic sales of pharmaceutical products of $10,000,000, the FSC has sales of pharmaceutical products of $3,000,000, and Y has sales of pharmaceutical products of $5,000,000. In that same year, 1997, X incurs expense of $200,000 on research to test a product in response to requirements imposed by the United States Food and Drug Administration (FDA). X is able to show that, even though country Y imposes certain testing requirements on pharmaceutical products, the research performed in the United States is not accepted by country Y for purposes of its own licensing requirements, and the research has minimal use abroad. X is further able to show that FSC sells goods to countries that do not accept or do not require research performed in the United States for purposes of their own licensing standards.

(ii) *Allocation*. Since X's research expense of $200,000 is undertaken to meet the requirements of the United States Food and Drug Administration, and since it is reasonable to expect that the expenditure will not generate gross income (beyond *de minimis* amounts) outside the United States, the deduction is definitely related and thus allocable to the residual grouping.

(iii) *Apportionment*. No apportionment is necessary since the entire expense is allocated to the residual grouping, gross income from sales within the United States.

Example 6—(i) *Facts*. X, a domestic corporation, is engaged in continuous research and experimentation to improve the quality of the products that it manufactures and sells, which are floodlights, flashlights, fuse boxes, and solderless connectors. X incurs and deducts $100,000 of expenditure for research and experimentation in 1997 that was performed exclusively in the United States. As a result of this research activity, X acquires patents that it uses in its own manufacturing activity. X licenses its floodlight patent to Y and Z, uncontrolled foreign corporations, for use in their own territories, countries Y and Z, respectively. Corporation Y pays X an arm's length royalty of $3,000 plus $0.20 for each floodlight sold. Sales of floodlights by Y for the taxable year are $135,000 (at $4.50 per unit) or 30,000 units, and the royalty is $9,000 ($3,000 + $0.20 x 30,000). Y has sales of other products of $500,000. Z pays X an arm's length royalty of $3,000 plus $0.30 for each unit sold. Z manufactures 30,000 floodlights in the taxable year, and the royalty is $12,000 ($3,000 + $0.30 x 30,000). The dollar value of Z's floodlight sales is not known and cannot be reasonably estimated because, in this case, the floodlights are not sold separately by Z but are instead used as a component in Z's manufacture of lighting equipment for theaters. The sales of all Z's products, including the lighting equipment for theaters, are $1,000,000. Y and Z each sell the floodlights exclusively within their respective countries. X's sales of floodlights for the taxable year are $500,000 and its sales of its other products, flashlights, fuse boxes, and solderless connectors, are $400,000. X has gross income of $500,000, consisting of gross income from domestic sources from sales of floodlights, flashlights, fuse boxes, and solderless connectors of $479,000, and royalty income of $9,000 and $12,000 from foreign corporations Y and Z respectively. X utilized the optional gross income methods of apportionment for its return filed for its first taxable year to which this section applies.

(ii) *Allocation*. X's research and experimental expenses are definitely related to all of the products that it produces, which are floodlights, flashlights, fuse boxes, and solderless connectors. All of these products are in the same three digit SIC Code category, Electric Lighting and Wiring Equipment (SIC Industry Group 364). Thus, X's research and experimental expenses are allocable to all items of income attributable to this product category, domestic sales income and royalty income from the foreign countries in which corporations Y and Z operate.

(iii) *Apportionment*. (A) The statutory grouping of gross income is general limitation income from sources without the United States. The residual grouping is gross income from sources within the United States. X's deduction of $100,000 for its research expenditures must be apportioned between the groupings. For apportionment on the basis of sales in accordance with paragraph (c) of this section, X is entitled to an exclusive apportionment of 50 percent of its research and experimental expense to the residual grouping, gross income from sources within the United States, since more than 50 percent of the research activity was performed in the United States. The remaining 50 percent of the deduction can then be apportioned between the residual and statutory groupings on the basis of sales. Since Y and Z are unrelated licensees of X, only their sales of the licensed product, floodlights, are included for purposes of apportionment. Floodlight sales of Z are unknown, but are estimated at ten times royalties from Z, or $120,000. All of X's sales from the entire product category are included for purposes of apportionment on the basis of sales. Alternatively, X may apportion its deduction on the basis of gross income, in accordance with paragraph (d) of this section. The apportionment is as follows:

(1) Tentative Apportionment on the Basis of Sales

(*i*) Research and experimental expense to be apportioned between statutory and residual groupings of gross income:	$100,000
(*ii*) Less: Exclusive apportionment of research and experimental expense to the residual groupings of gross income ($100,000×50 percent):	$50,000
(*iii*) Research and experimental expense to be apportioned between the statutory and residual groupings of gross income on the basis of sales:	$50,000
(*iv*) Apportionment of research and experimental expense to the residual groupings of gross income ($50,000×$900,000/($900,000+$135,000+$120,000)):	$38,961
(*v*) Apportionment of research and experimental expense to the statutory grouping, royalty income from countries Y and Z ($50,000×$135,000+$120,000/($900,000+$135,000+$120,000)):	$11,039

(*vi*) Total apportioned deduction for research and experimentation:	$100,000
(*vii*) Amount apportioned to the residual grouping ($50,000+$38,961):	$88,961
(*viii*) Amount apportioned to the statutory grouping of sources within countries Y and Z:	$11,039
(2) Tentative Apportionment on Gross Income Basis	
(*i*) Exclusive apportionment of research and experimental expense to the residual grouping of gross income ($100,000×25 percent):	$25,000
(*ii*) Apportionment of research and experimental expense to the residual grouping of gross income ($75,000×$479,000/$500,000):	$71,850
(*iii*) Apportionment of research and experimental expense to the statutory grouping of gross income ($75,000×$9,000+$12,000/$500,000):	$3,150
(*iv*) Amount apportioned to the residual grouping:	$96,850
(*v*) Amount apportioned to the statutory grouping of general limitation income from sources without the United States:	$3,150

(B) Since X has elected to use the optional gross income methods of apportionment and its apportionment on the basis of gross income to the statutory grouping, $3,150, is less than 50 percent of its apportionment on the basis of sales to the statutory grouping, $11,039, it must use Option two of paragraph (d)(3) of this section and apportion $5,520 (50 percent of $11,039) to the statutory grouping.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 13, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

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DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991–AA63

Acquisition Regulation; Technology Transfer Activities of Department of Energy (DOE) Management and Operating Contractors

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends the Department of Energy Acquisiton Regulation (DEAR) to codify DOE's implementation of its technology transfer mission for DOE laboratories (including weapon production facilities) operated by management and operating contractors.

EFFECTIVE DATE: January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Howard K. Mitchell, Policy Analyst, Office of Policy (HR–51), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Washington, D.C., 20585, (202) 586–8190.

SUPPLEMENTARY INFORMATION:

I. Background
II. Disposition of comments
III. Procedural Requirements
A. Regulatory Review Under Executive Order 12866
B. Review Under Executive Order 12612
C. Review Under Executive Order 12778
D. Review Under the Regulatory Flexibility Act
E. Review Under the Paperwork Reduction Act
F. Review Under the National Environmental Policy Act (NEPA)

I. Background

The proposed rule was published on May 22, 1995, at 60 FR 27069 (1995). It was intended to amend the Department of Energy Acquisition Regulation (DEAR) to codify DOE's implementation of its technology transfer mission for DOE laboratories and weapon production facilities operated by management and operating contractors. This mission was established by The National Competitiveness Technology Transfer Act of 1989, as amended by Sections 3134 and 3160 of the National Defense Authorization Act for Fiscal Year 1994.

II. Disposition of Comments

DOE received formal comments from only one entity. This commenter is a current Departmental non-profit Management and Operating Laboratory contractor. The commenter noted the need for inclusion in the proposed definition of bailment the term, Laboratory Tangible Research Product. This term would encompass tangible material results of research which (i) are provided to permit replication, reproduction, evaluation or confirmation of the research effort, or to evaluate its potential commercial utility, (ii) are not materials generally commercially available, and (iii) were made under the contract by Laboratory employees or through the use of Laboratory research facilities. The definition of bailment has been modified to incorporate this new term. The commenter also expressed concern that the current definition of allowable costs only encompassed costs ''through an ORTA'', with the implication that the activities and costs associated with autonomous Laboratory organizations such as finance, procurement, legal and other offices involved in technology transfer would be excluded. DOE agrees that such Laboratory organizations may be ''appropriate organizational elements consistent with the requirements for an Office of Research and Technology Applications'' and that the costs associated with supporting technology transfer at these Laboratory organizations would be allowable subject to other provisions of the M&O contract. One of the organizational examples cited by the commenter, however, falls under the definition of a home or corporate office general and administrative (G&A) expense. DEAR 970.3102–1 indicates that, in its fee allowance, DOE provides appropriate compensation for home office G&A expense. DOE policy also recognizes that the circumstances and the need for such home office involvement vary considerably from site to site. Therefore, home office G&A (including technology transfer related expenses) would normally be considered in the individual negotiation of the fee for the contract. When the fee amount is believed to be insufficient to cover the extent of such offsite involvement, however, DEAR 970.3102–1 also permits separate treatment of such a home office expense. Therefore, no change in the language of the rule is believed necessary.

The commenter further suggested adding language under Conflicts of Interest to reflect that other persons working at the Laboratory participating in Laboratory research or technology transfer activities should also be considered when implementing procedures to avoid conflicts of interest. Such other persons would most likely be long term visitors, job-shop subcontractors, guest scientists, no-pay appointees, post doctoral fellows, industrial exchange participants, academic sabbaticals and other non-Laboratory personnel. DOE agrees and appropriate language to address this comment has been included under Conflicts of Interest—Technology Transfer. The commenter also recommended deleting the requirement under (d)(10) which requires contractors to notify DOE prior to evaluating a proposal by a third party or DOE when the subject matter of the proposal involves an elected or waived subject invention or one in which the Contractor intends to elect to retain title. The commenter believes that (d)(10) is burdensome for Contractors that manage and operate several private and DOE facilities because it requires Contractors to search for inventions unrelated to the contract. DOE has inserted language under (d)(10) to clarify that the notification requirement applies when the subject matter of the proposal involves an elected or waived subject invention under the contract or one in which the Contractor intends to elect to retain title under the contract.

The commenter recommended adding language to indicate that the U.S. Industrial Competitiveness requirements apply to intellectual property where the Laboratory obtains rights during the period the Contractor is operating the Laboratory and would not apply to intellectual property owned by the parent organization/company. Language was added to reflect that the U.S. Industrial Competitiveness requirements solely apply in licensing and assignment decisions involving Laboratory intellectual property where the Laboratory obtains rights during the course of the Contractor's operation of the Laboratory under the contract. The U.S. Industrial Competitiveness requirements would not apply in licensing and assignment decisions involving the Contractor's other intellectual property.

Three comments were made objecting to three separate provisions of the Indemnity-Product Liability paragraph which might, in the commenter's view, result in the contractor being subjected to undue financial/legal risks and administrative burden. Specifically, the commenter objected to language that limited the indemnification in licensing to only personal injury or property injury and which also excluded from the indemnity protection any liability based upon negligence of the Contractor. The Indemnity—Product Liability provisions as written are minimally acceptable to DOE and therefore, no change is being made to the language. However, the Department emphasizes that the Contractor is permitted to negotiate language that is deemed more beneficial to both the Contractor and the Department. With respect to the commenter's objection to the requirement to identify and obtain the approval of the Contracting Officer for any proposed exceptions to the Participant providing indemnification, the Department believes that overall, this requirement is beneficial to the Contractor. This requirement provides a mechanism by which the Contractor is able to obtain exceptions to the indemnification provision and, therefore, no change is believed necessary.

In the Disposition of Income provisions, the commenter made three suggestions. Under subparagraph (h)(1), the first suggestion was to modify the language to reflect that the amount of royalties or other income earned or retained by the Contractor was to be that amount remaining after payment of patenting costs, licensing costs, payments to inventors and other expenses incidental to the administration of Subject Inventions. This language parallels that which appears in 35 U.S.C. 202(c)(7)(E)(i) and has been adopted.

The second comment submitted regarding the Disposition of Income provision was to add the text of 35 U.S.C. 202 (c)(7)(E)(ii) which would allow the licensing of Subject Inventions to be administered by Contractor employees on location at the facility. This suggestion was not adopted in that 35 U.S.C. 202 (c)(7)(E)(ii) is already contained in the patent clause of the M&O contract. The third comment objected to the proposed coverage on inventor award and royalty sharing being subject to the approval of the Contracting Officer. Changing the requirement to obtain Contracting Officer approval with respect to policies for inventor award and royalty sharing, as proposed in this comment, would result in a major change to a long standing Departmental policy and has not been adopted.

Under the Transfer to Successor Contractor provision, the commentor requested that additional assurance be provided in requiring a successor contractor to accept transfer of title and accounts subject to the rights and obligations which the previous operator had to its inventors, its licensees and to its parent organization/company. No change is believed necessary because the intent of the suggestion is implicit in the current language.

In the Technology Transfer Through Cooperative Research and Development Agreements, Withholding of Data provision, the commenter suggests that the likelihood of obtaining commercially reasonable patent protection be included as a standard in determining whether a patent application has to be filed. As provided in the M&O contract's patent clause, if the Contractor does not file a patent application on an invention disclosed to the Government as a subject invention, the Government may file. Disclosure of subject inventions and the Government's right to file is a statutory requirement.

III. Procedural Requirements

A. Regulatory Review Under Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under Executive Order 12612

Executive Order 12612 (52 FR 41285, October 30, 1987) requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's final rule will revise certain policy and procedural requirements. However, DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of the States.

C. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. Therefore, DOE certifies that this final rule meets the requirements of sections 2(a) and (b) of Executive Order 12778.

D. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This final rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates. DOE certifies that this final rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

E. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this final rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

F. Review Under the National Environmental Policy Act (NEPA)

DOE has concluded that promulgation of this rule falls into a class of actions (categorical exclusion A5) that are categorically excluded from NEPA review because they would not individually or cumulatively have significant impact on the human environment, as determined by the Department's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331–4335, 4341–4347 (1976)). Therefore, this rule does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

List of Subjects in 48 CFR Part 970

Government procurement.

Issued in Washington, DC on December 15, 1995.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

PART 970–DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for Part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254).

2. Section 970.5204–40, Technology Transfer Mission, is added to read as follows:

970.5204–40 Technology transfer mission.

As prescribed in 48 CFR 970.73, insert the following clause:

Technology Transfer Mission (Jan. 1996)

This clause has as its purpose implementation of the National Competitiveness Technology Transfer Act of 1989 (Sections 3131, 3132, 3133, and 3157 of Pub. L. 101–189 and as amended by Pub. L. 103–160, Sections 3134 and 3160). The Contractor shall conduct technology transfer activities with a purpose of providing benefit from Federal research to U.S. industrial competitiveness.

(a) *Authority*.

(1) In order to ensure the full use of the results of research and development efforts of, and the capabilities of, the Laboratory, technology transfer, including Cooperative Research and Development Agreements (CRADAs), is established as a mission of the Laboratory consistent with the policy, principles and purposes of Sections 11(a)(1) and 12(g) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a); Section 3132(b) of Pub. L. 101–189, Sections 3134 and 3160 of P.L. 103–160, and of Chapter 38 of the Patent Laws (35 U.S.C. 200 et seq.); Section 152 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2182); Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908); and Executive Order 12591 of April 10, 1987.

(2) In pursuing the technology transfer mission, the Contractor is authorized to conduct activities including but not limited to: identifying and protecting Intellectual Property made, created or acquired at or by the Laboratory; negotiating licensing agreements and assignments for Intellectual Property made, created or acquired at or by the Laboratory that the Contractor controls or owns; bailments; negotiating all aspects of and entering into CRADAs; providing technical consulting and personnel exchanges; conducting science education activities and reimbursable Work for Others (WFO); providing information exchanges; and making available laboratory or weapon production user facilities. It is fully expected that the Contractor shall use all of the mechanisms available to it to accomplish this technology transfer mission, including, but not limited to, CRADAs, user facilities, WFO, science education activities, consulting, personnel, assignments, and licensing in accordance with this clause.

(b) *Definitions*.

(1) *Contractor's Laboratory Director* means the individual who has supervision over all or substantially all of the Contractor's operations at the Laboratory.

(2) *Intellectual Property* means patents, trademarks, copyrights, mask works, protected CRADA information, and other forms of comparable property rights protected by Federal Law and other foreign counterparts.

(3) *Cooperative Research and Development Agreement (CRADA)* means any agreement entered into between the Contractor as operator of the Laboratory, and one or more parties including at least one non-Federal party under which the Government, through its laboratory, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the Laboratory; except that such term does not include a procurement contract, grant, or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of Title 31 of the United States Code.

(4) *Joint Work Statement (JWS)* means a proposal for a CRADA prepared by the Contractor, signed by the Contractor's Laboratory Director or designee which describes the following:

(i) Purpose;

(ii) Scope of Work which delineates the rights and responsibilities of the Government, the Contractor and Third Parties, one of which must be a non-Federal party;

(iii) Schedule for the work; and

(iv) Cost and resource contributions of the parties associated with the work and the schedule.

(5) *Assignment* means any agreement by which the Contractor transfers ownership of Laboratory Intellectual Property, subject to the Government's retained rights.

(6) *Laboratory Biological Materials* means biological materials capable of replication or reproduction, such as plasmids, deoxyribonucleic acid molecules, ribonucleic acid molecules, living organisms of any sort and their progeny, including viruses, prokaryote and eukaryote cell lines, transgenic plants and animals, and any derivatives or modifications thereof or products produced through their use or associated biological products, made under this contract by Laboratory employees or through the use of Laboratory research facilities.

(7) *Laboratory Tangible Research Product* means tangible material results of research which

(i) are provided to permit replication, reproduction, evaluation or confirmation of the research effort, or to evaluate its potential commercial utility;

(ii) are not materials generally commercially available; and

(iii) were made under this contract by Laboratory employees or through the use of Laboratory research facilities.

(8) *Bailment* means any agreement in which the Contractor permits the commercial or non- commercial transfer of custody, access or use of Laboratory Biological Materials or Laboratory Tangible Research Product for a specified purpose of technology transfer or research and development, including without limitation evaluation, and without transferring ownership to the bailee.

(c) *Allowable Costs.*

(1) The Contractor shall establish and carry out its technology transfer efforts through appropriate organizational elements consistent with the requirements for an Office of Research and Technology Applications (ORTA) pursuant to paragraphs (b) and (c) of Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710). The costs associated with the conduct of technology transfer through the ORTA including activities associated with obtaining, maintaining, licensing, and assigning Intellectual Property rights, increasing the potential for the transfer of technology, and the widespread notice of technology transfer opportunities, shall be deemed allowable provided that such costs meet the other requirements of the allowable costs provisions of this Contract. In addition to any separately designated funds, these costs in any fiscal year shall not exceed an amount equal to 0.5 percent of the operating funds included in the Federal research and development budget (including Work For Others) of the Laboratory for that fiscal year without written approval of the Contracting Officer.

(2) The Contractor's participation in litigation to enforce or defend Intellectual Property claims incurred in its technology transfer efforts shall be as provided in the clause entitled ''Litigation and Claims'' of this Contract.

(d) *Conflicts of Interest—Technology Transfer.* The Contractor shall have implementing procedures that seek to avoid employee and organizational conflicts of interest, or the appearance of conflicts of interest, in the conduct of its technology transfer activities. These procedures shall apply to other persons participating in Laboratory research or related technology transfer activities. Such implementing procedures shall be provided to the Contracting Officer for review and approval within sixty (60) days after execution of this contract. The Contracting Officer shall have thirty (30) days thereafter to approve or require specific changes to such procedures. Such implementing procedures shall include procedures to:

(1) Inform employees of and require conformance with standards of conduct and integrity in connection with the CRADA activity in accordance with the provisions of paragraph (n)(5) of this clause;

(2) Review and approve employee activities so as to avoid conflicts of interest arising from commercial utilization activities relating to Contractor-developed Intellectual Property;

(3) Conduct work performed using royalties so as to avoid interference with or adverse effects on ongoing DOE projects and programs;

(4) Conduct activities relating to commercial utilization of Contractor-developed Intellectual Property so as to avoid interference with or adverse effects on user facility or WFO activities of the Contractor;

(5) Conduct DOE-funded projects and programs so as to avoid the appearance of conflicts of interest or actual conflicts of interest with non-Government funded work;

(6) Notify the Contracting Officer with respect to any new work to be performed or proposed to be performed under the Contract for DOE or other Federal agencies where the new work or proposal involves Intellectual Property in which the Contractor has obtained or intends to request or elect title;

(7) Except as provided elsewhere in this Contract, obtain the approval of the Contracting Officer for any licensing of or assignment of title to Intellectual Property rights by the Contractor to any business or corporate affiliate of the Contractor;

(8) Obtain the approval of the Contracting Officer prior to any assignment, exclusive licensing, or option for exclusive licensing, of Intellectual Property to any person who has been a Laboratory employee within the previous two years or to the company in which he or she is a principal; and

(9) Notify non-Federal sponsors of WFO activities, or non-Federal users of user facilities, of any relevant Intellectual Property interest of the Contractor prior to execution of WFOs or user agreements.

(10) Notify DOE prior to evaluating a proposal by a third party or DOE, when the subject matter of the proposal involves an elected or waived subject invention under this contract or one in which the Contractor intends to elect to retain title under this contract.

(e) *Fairness of Opportunity.* In conducting its technology transfer activities, the Contractor shall prepare procedures and take all reasonable measures to ensure widespread notice of availability of technologies suited for transfer and opportunities for exclusive licensing and joint research arrangements. The requirement to widely disseminate the availability of technology transfer opportunities does not apply to a specific application originated outside of the Laboratory and by entities other than the Contractor.

(f) *U.S. Industrial Competitiveness.*

(1) In the interest of enhancing U.S. Industrial Competitiveness, the Contractor shall, in its licensing and assignments of Intellectual Property, give preference in such a manner as to enhance the accrual of economic and technological benefits to the U.S. domestic economy. The Contractor shall consider the following factors in all of its licensing and assignment decisions involving Laboratory intellectual property where the Laboratory obtains rights during the course of the Contractor's operation of the Laboratory under this contract:

(i) whether any resulting design and development will be performed in the United States and whether resulting products, embodying parts, including components thereof, will be substantially manufactured in the United States; or

(ii) (A) whether the proposed licensee or assignee has a business unit located in the United States and whether significant economic and technical benefits will flow to the United States as a result of the license or assignment agreement; and

(B) in licensing any entity subject to the control of a foreign company or government, whether such foreign government permits United States agencies, organizations or other persons to enter into cooperative research and development agreements and licensing agreements, and has policies to protect United States Intellectual Property rights.

(2) If the Contractor determines that neither of the conditions in paragraphs (f)(1)(i) or (ii) of this clause are likely to be fulfilled, the Contractor, prior to entering into such an agreement, must obtain the approval of the Contracting Officer. The Contracting Officer shall act on any such requests for approval within thirty (30) days.

(3) The Contractor agrees to be bound by the provisions of 35 U.S.C. 204 (Preference for United States industry).

(g) *Indemnity—Product Liability.* In entering into written technology transfer agreements, including but not limited to, research and development agreements, licenses, assignments and CRADAs, the Contractor agrees to include in such agreements a requirement that the U.S. Government and the Contractor, except for any negligent acts or omissions of the Contractor, be indemnified for all damages, costs, and expenses, including attorneys' fees, arising from personal injury or property damage occurring as a result of the making, using or selling of a product, process or service by or on behalf of the Participant, its assignees or licensees which was derived from the work performed under the agreement. The Contractor shall identify and obtain the approval of the Contracting Officer for any proposed exceptions to this requirement such as where State or local law expressly prohibit the Participant from providing indemnification or where the research results will be placed in the public domain.

(h) *Disposition of Income.*

(1) Royalties or other income earned or retained by the Contractor as a result of performance of authorized technology transfer activities herein shall be used by the Contractor for scientific research, development, technology transfer, and education at the Laboratory, consistent with the research and development mission and objectives of the Laboratory and subject to Section 12(b)(5) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a(b)(5)) and Chapter 38 of the Patent Laws (35 U.S.C. 200 et seq.) as amended through the effective date of this contract award or modification. If the net amounts of such royalties and income received from patent licensing after payment of patenting costs, licensing costs, payments to inventors and other expenses incidental to the administration of Subject Inventions during any fiscal year exceed 5 percent of the

Laboratory's budget for that fiscal year, 75 percent of such excess amounts shall be paid to the Treasury of the United States, and the remaining amount of such excess shall be used by the Contractor for the purposes as described above in this paragraph. Any inventions arising out of such scientific research and development activities shall be deemed to be Subject Inventions under the Contract.

(2) The Contractor shall include as a part of its annual Laboratory Institutional Plan or other such annual document a plan setting out those uses to which royalties and other income received as a result of performance of authorized technology transfer activities herein will be applied at the Laboratory, and at the end of the year, provide a separate accounting for how the funds were actually used. Under no circumstances shall these royalties and income be used for an illegal augmentation of funds furnished by the U.S. Government.

(3) The Contractor shall establish subject to the approval of the Contracting Officer a policy for making awards or sharing of royalties with Contractor employees, other coinventors and coauthors, including Federal employee coinventors when deemed appropriate by the Contracting Officer.

(i) *Transfer to Successor Contractor.* In the event of termination or upon the expiration of this Contract, any unexpended balance of income received for use at the Laboratory shall be transferred, at the Contracting Officer's request, to a successor contractor, or in the absence of a successor contractor, to such other entity as designated by the Contracting Officer. The Contractor shall transfer title, as one package, to the extent the Contractor retains title, in all patents and patent applications, licenses, accounts containing royalty revenues from such license agreements, including equity positions in third party entities, and other Intellectual Property rights which arose at the Laboratory, to the successor contractor or to the Government as directed by the Contracting Officer.

(j) *Technology Transfer Affecting the National Security.*

(1) The Contractor shall notify and obtain the approval of the Contracting Officer, prior to entering into any technology transfer arrangement, when such technology or any part of such technology is classified or sensitive under Section 148 of the Atomic Energy Act (42 U.S.C. 2168). Such notification shall include sufficient information to enable DOE to determine the extent that commercialization of such technology would enhance or diminish security interests of the United States, or diminish communications within DOE's nuclear weapon production complex. DOE shall use its best efforts to complete its determination within sixty (60) days of the Contractor's notification, and provision of any supporting information, and DOE shall promptly notify the Contractor as to whether the technology is transferable.

(2) The Contractor shall include in all of its technology transfer agreements with third parties, including, but not limited to, CRADAs, licensing agreements and assignments, notice to such third parties that the export of goods and/or Technical Data from the United States may require some form of export control license or other authority from the U.S. Government and that failure to obtain such export control license may result in criminal liability under U.S. laws.

(3) For other than fundamental research as defined in National Security Decision Directive 189, the Contractor is responsible to conduct internal export control reviews and assure that technology is transferred in accordance with applicable law.

(k) *Records.* The Contractor shall maintain records of its technology transfer activities in a manner and to the extent satisfactory to the DOE and specifically including, but not limited to, the licensing agreements, assignments and the records required to implement the requirements of paragraphs (e), (f), and (h) of this clause and shall provide reports to the Contracting Officer to enable DOE to maintain the reporting requirements of Section 12(c)(6) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a(c)(6)). Such reports shall be made annually in a format to be agreed upon between the Contractor and DOE and in such a format which will serve to adequately inform DOE of the Contractor's technology transfer activities while protecting any data not subject to disclosure under the Rights in Technical Data clause and paragraph (n) of this clause. Such records shall be made available in accordance with the clauses of this Contract pertaining to inspection, audit and examination of records.

(l) *Reports to Congress.* To facilitate DOE's reporting to Congress, the Contractor is required to submit annually to DOE a technology transfer plan for conducting its technology transfer function for the upcoming year, including plans for securing Intellectual Property rights in Laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry. This plan shall be provided to the Contracting Officer on or before October 1st of each year.

(m) *Oversight and Appraisal.* The Contractor is responsible for developing and implementing effective internal controls for all technology transfer activities consistent with the audit and record requirements of this Contract. Laboratory Contractor performance in implementing the technology transfer mission and the effectiveness of the Contractor's procedures will be evaluated by the Contracting Officer as part of the annual appraisal process, with input from the cognizant Secretarial Officer or program office.

(n) *Technology Transfer Through Cooperative Research and Development Agreements.* Upon approval of the Contracting Officer and as provided in a DOE approved Joint Work Statement (JWS), the Laboratory Director or his designee may enter into CRADAs on behalf of the DOE subject to the requirements set forth in this paragraph.

(1) *Review and Approval of CRADAs*

(i) Except as otherwise directed in writing by the Contracting Officer, each JWS shall be submitted to the Contracting Officer for approval. The Contractor's Laboratory Director or designee shall provide a program mission impact statement and shall include an impact statement regarding related Intellectual Property rights known by the Contractor to be owned by the Government to assist the Contracting Officer in his approval determination.

(ii) The Contractor shall also include (specific to the proposed CRADA), a statement of compliance with the Fairness of Opportunity requirements of paragraph (e) of this clause.

(iii) Within ninety (90) days after submission of a JWS, the Contracting Officer shall approve, disapprove or request modification to the JWS. If a modification is required, the Contracting Officer shall approve or disapprove any resubmission of the JWS within thirty (30) days of its resubmission, or ninety (90) days from the date of the original submission, whichever is later. The Contracting Officer shall provide a written explanation to the Contractor's Laboratory Director or designee of any disapproval or requirement for modification of a JWS.

(iv) Upon approval of a JWS, the Contractor's Laboratory Director or designee may submit a CRADA, based upon the approved JWS, to the Contracting Officer. The Contracting Officer, within thirty (30) days of receipt of the CRADA, shall approve or request modification of the CRADA. If the Contracting Officer requests a modification of the CRADA, an explanation of such request shall be provided to the Laboratory Director or designee.

(v) Except as otherwise directed in writing by the Contracting Officer, the Contractor shall not enter into, or begin work under, a CRADA until approval of the CRADA has been granted by the Contracting Officer. The Contractor may submit its proposed CRADA to the Contracting Officer at the time of submitting its proposed JWS or any time thereafter. However, the Contracting Officer is not obligated to respond under paragraph (n)(1)(iv) of this clause until within thirty (30) days after approval of the JWS or thirty (30) days after submittal of the CRADA, whichever is later.

(2) *Selection of Participants* The Contractor's Laboratory Director or designee in deciding what CRADA to enter into shall:

(i) Give special consideration to small business firms, and consortia involving small business firms;

(ii) Give preference to business units located in the United States which agree that products or processes embodying Intellectual Property will be substantially manufactured or practiced in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements;

(iii) Provide Fairness of Opportunity in accordance with the requirements of paragraph (e) of this clause; and

(iv) Give consideration to the Conflicts of Interest requirements of paragraph (d) of this clause.

(3) *Withholding of Data*

(i) Data that is first produced as a result of research and development activities conducted under a CRADA and that would be a trade secret or commercial or financial data that would be privileged or confidential, if such data had been obtained from a non-Federal third party, may be protected from disclosure under the Freedom of Information Act as provided in the Stevenson- Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a(c)(7)) for a period as agreed in the CRADA of up to five (5) years from the time the data is first produced. The DOE shall cooperate with the Contractor in protecting such data.

(ii) Unless otherwise expressly approved by the Contracting Officer in advance for a specific CRADA, the Contractor agrees, at the request of the Contracting Officer, to transmit such data to other DOE facilities for use by DOE or its Contractors by or on behalf of the Government. When data protected pursuant to paragraph (n)(3)(i) of this clause is so transferred, the Contractor shall clearly mark the data with a legend setting out the restrictions against private use and further dissemination, along with the expiration date of such restrictions.

(iii) In addition to its authority to license Intellectual Property, the Contractor may enter into licensing agreements with third parties for data developed by the Contractor under a CRADA subject to other provisions of this Contract. However, the Contractor shall neither use the protection against dissemination nor the licensing of data as an alternative to the submittal of invention disclosures which include data protected pursuant to paragraph (n)(3)(i) of this clause.

(4) *Work For Others and User Facility Programs*

(i) WFO and User Facility Agreements (UFAs) are not CRADAs and will be available for use by the Contractor in addition to CRADAs for achieving utilization of employee expertise and unique facilities for maximizing technology transfer. The Contractor agrees to inform prospective CRADA participants, which are intending to substantially pay full cost recovery for the effort under a proposed CRADA, of the availability of alternative forms of agreements, i.e., WFO and UFA, and of the Class Patent Waiver provisions associated therewith.

(ii) Where the Contractor believes that the transfer of technology to the U. S. domestic economy will benefit from, or other equity considerations dictate, an arrangement other than the Class Waiver of patent rights to the sponsor in WFO and UFAs, a request may be made to the Contracting Officer for an exception to the Class Waivers.

(iii) Rights to inventions made under agreements other than funding agreements with third parties shall be governed by the appropriate provisions incorporated, with DOE approval, in such agreements, and the provisions in such agreements take precedence over any disposition of rights contained in this Contract. Disposition of rights under any such agreement shall be in accordance with any DOE class waiver (including Work for Others and User Class Waivers) or individually negotiated waiver which applies to the agreement.

(5) *Conflicts of Interest*

(i) Except as provided in paragraph (n)(5)(iii) of this clause, the Contractor shall assure that no employee of the Contractor shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA, if, to such employee's knowledge:

(A) Such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the Contractor) in which such employee serves as an officer, director, trustee, partner, or employee—

(*1*) holds financial interest in any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA;

(*2*) receives a gift or gratuity from any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA; or

(B) A financial interest in any entity, other than the Contractor, that has a substantial interest in the preparation, negotiation, or approval of the CRADA, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment.

(ii) The Contractor shall require that each employee of the Contractor who has a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA certify through the Contractor to the Contracting Officer that the circumstances described in paragraph (n)(5)(i) of this clause do not apply to that employee.

(iii) The requirements of paragraphs (n)(5)(i) and (n)(5)(ii) of this clause shall not apply in a case where the Contracting Officer is advised by the Contractor in advance of the participation of an employee described in those paragraphs in the preparation, negotiation or approval of a CRADA of the nature of and extent of any financial interest described in paragraph (n)(5)(i) of this clause, and the Contracting Officer determines that such financial interest is not so substantial as to be considered likely to affect the integrity of the Contractor employee's participation in the process of preparing, negotiating, or approving the CRADA.

(o) *Technology Transfer in Other Cost-Sharing Agreements.* In conducting research and development activities in cost-shared agreements not covered by paragraph (n) of this clause, the Contractor, with prior written permission of the Contracting Officer, may provide for the withholding of data produced thereunder in accordance with the applicable provisions of paragraph (n)(3) of this clause.

(End of clause)

Alternate I (Jan 1996). As prescribed in 970.7330(b), add the following definition under paragraph (b) and new paragraph (p):

(b)(8) *Privately funded technology transfer* means the prosecuting, maintaining, licensing, and marketing of inventions which are not owned by the Government (and not related to CRADAs) when such activities are conducted entirely without the use of Government funds.

(p) Nothing in paragraphs (c) Allowable Costs, (e) Fairness of Opportunity, (f) U.S. Industrial Competitiveness, (g) Indemnity - Product Liability, (h) Disposition of Income, and (i) Transfer to Successor Contractor of this clause are intended to apply to the contractor's privately funded technology transfer activities if such privately funded activities are addressed elsewhere in the contract.

Alternate II (Jan 1996). As prescribed in 970.7330(c), the phrase ''weapon production facility'' may be substituted wherever the word ''laboratory'' appears in the clause.

3. A new subpart 970.73, Technology Transfer, consisting of sections 970.7310, 970.7320, and 970.7330, is added to read as follows:

Subpart 970.73 Technology Transfer

Secs.

970.7310 General.
970.7320 Policy.
970.7330 Contract Clause.

Subpart 970.73–Technology Transfer

970.7310 General.

This subpart prescribes policies and procedures for implementing the National Competitiveness Technology Transfer Act of 1989. The Act required that technology transfer be established as a mission of each Government-owned laboratory operated under contract by a non-Federal entity. The National Defense Authorization Act for Fiscal Year 1994 expanded the definition of laboratory to include weapon production facilities that are operated for national security purposes and are engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components.

970.7320 Policy.

All new awards for or extensions of existing DOE laboratory or weapon production facility management and operating contracts shall have technology transfer, including authorization to award Cooperative Research and Development Agreements (CRADAs), as a laboratory or facility mission under Section 11(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended. A management and operating contractor for a facility not deemed to be a laboratory or weapon production facility may be authorized on a case-by-case basis to support the DOE technology transfer mission including, but not limited to, participating in CRADAs awarded by DOE laboratories and weapon production facilities.

970.7330 Contract clause.

(a) The contracting officer shall insert the clause at 970.5204–40, Technology transfer mission, in each solicitation for a new or an extension of an existing laboratory or weapon production facility management and operating contract.

(b) If the contractor is a nonprofit organization or small business eligible under 35 U.S.C. 200 et seq., to receive title to any inventions under the contract and proposes to fund at private expense the maintaining, licensing, and marketing of the inventions, the contracting officer shall use the basic clause with its Alternate I.

(c) The contracting officer may substitute the Alternate II phrase ''weapon production facility'' wherever the word ''laboratory'' appears in the clause where the facility is operated for national security purposes and engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components.

[FR Doc. 95–31187 Filed 12–21–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[I.D. 121295B]

Groundfish of the Bering Sea and Aleutian Islands Area; Approval of Community Development Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Allocation of Community Development Quota of pollock for 1996–98.

SUMMARY: NMFS announces the approval of recommendations made by the Governor of the State of Alaska (Governor) for Community Development Plans (CDPs) during the calendar years 1996–98 under authority of the Community Development Quota (CDQ) program. This action announces the decision of NMFS to approve the Governor's recommended CDPs, including the pollock CDQs for each subarea or district, and the availability of findings underlying the decision.

EFFECTIVE DATE: Effective January 1, 1996.

ADDRESSES: Copies of the findings made by NMFS in approving the Governor's recommendations may be obtained from the Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: David C. Ham, 907–586–7228.

SUPPLEMENTARY INFORMATION: The pollock CDQ program originally was developed by the North Pacific Fishery Management Council (Council) and submitted as part of Amendment 18 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, which was approved in part by the Secretary of Commerce (57 FR 23321, June 3, 1992). Initial Federal regulations implementing the CDQ program became effective on November 18, 1992 (57 FR 54936, November 23, 1992) and expire on December 31, 1995. The Council proposed re-authorizing the CDQ program for an additional 3 years as part of Amendment 38 to the FMP. NMFS approved this amendment on November 28, 1995. Regulations implementing the pollock CDQ program for 1996, 1997, and 1998, were published on December 12, 1995 (60 FR 63654), and will be effective on January 1, 1996.

Eligible western Alaska communities submitted six proposed CDPs requesting CDQs to the Governor under § 675.27. The State of Alaska conducted a public hearing on September 23, 1995, in Seattle, WA, during which all interested persons had an opportunity to be heard. The hearing covered the substance and content of the proposed CDPs in such a manner that the general public, and particularly the affected parties, had a reasonable opportunity to understand the impact of each proposed CDP. The Governor made available for public review all State of Alaska materials pertinent to the hearing at the time the hearing was announced. The public hearing held by the State of Alaska satisfied the requirements of § 675.27(a).

The Governor consulted the Council concerning the proposed CDPs during the Council's September 1995 meeting. The Council reviewed copies of the CDP executive summaries, summary sheets, and the Governor's recommended allocations and unanimously concurred in the Governor's recommendations.

Upon receiving the Governor's recommendations on November 1, 1995, NMFS commenced a review of the record to determine whether the community eligibility criteria and the evaluation criteria set forth in regulations implementing the CDQ program have been met. NMFS has found that the Governor's recommendations for approval of proposed CDPs are consistent with the community eligibility conditions and evaluation criteria and other applicable provisions of the regulations.

As required by § 675.27(c)(1), NMFS publishes this announcement of approval of the Governor's recommendations, including the CDQ allocated to each CDP (see table below) and the availability of the findings regarding this decision (see **ADDRESSES**).

CDQ recipient	CDQ for 1996, 1997, and 1998 (percent)
Aleutian Pribilof Island Community Development Association	16
Bristol Bay Economic Development Corporation	20
Central Bering Sea Fishermen's Association	04
Coastal Villages Fishing Cooperative	25
Norton Sound Economic Development Corporation	22
Yukon Delta Fisheries Development Corporation	13

Authority: This action is taken under 50 CFR 675.27.

Dated: December 14, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–31182 Filed 12–21–95; 8:45 am]

BILLING CODE 3510–22–W

Proposed Rules

Federal Register
Vol. 60, No. 246
Friday, December 22, 1995

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 12

[Docket No. 95–30]

RIN 1557–AB42

Recordkeeping and Confirmation Requirements for Securities Transactions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to revise its rules that prescribe recordkeeping and confirmation requirements for securities transactions. This proposal is another part of the OCC's Regulation Review Program to update and streamline OCC regulations and reduce unnecessary regulatory costs and other burdens. The proposal reorganizes the OCC's regulation by placing related subjects together, clarifying areas where the rules are unclear or confusing, incorporating significant OCC interpretations, and updating various provisions to address market developments and regulatory changes by other regulators that affect requirements for recordkeeping and confirmation of securities transactions by national banks.

DATES: Comments must be received by February 20, 1996.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. Attention: Docket No. 95–30. In addition, comments may be sent by fax to 202–874–5274 or by electronic mail to REG.COMMENTS@OCC.TREAS.GOV. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Suzette H. Greco, Senior Attorney, Securities and Corporate Practices Division (202–874–5210); Joseph W. Malott, National Bank Examiner, Capital Markets Division (202–874–5070); William L. Granovsky, National Bank Examiner, Compliance (202–874–4861).

SUPPLEMENTARY INFORMATION:

Background

OCC Regulation Review Program

The OCC is proposing revisions to 12 CFR part 12 as part of its Regulation Review Program. Pursuant to this Program, the OCC is reviewing all its rules. Rules that are not necessary to protect against unacceptable risks, that do not support equitable access to banking services for all consumers, or that are not needed to accomplish other statutory responsibilities of the OCC will be revised or eliminated.

Where risks are meaningful and regulation is appropriate, the OCC will examine its rules to determine if they achieve their purpose most efficiently. In this regard, the OCC recognizes that one source of regulatory cost is the failure of regulations to provide clear guidance because they are difficult to follow and understand. Therefore, an important component of the Regulation Review Program is to revise regulations, where appropriate, to improve clarity and better communicate the standards that the rules are intended to convey.

Revisions to 12 CFR part 12 present particular challenges in several regards because the part implements requirements from different statutory sources, addresses transactions of a specialized and often technical nature, and currently is out of date in certain respects.

Recordkeeping and Confirmation Requirements for Securities Transactions

The OCC adopted part 12 on July 24, 1979 (44 FR 43252), to establish requirements applicable to national banks effecting securities transactions for customers, including recordkeeping and confirmation requirements. The OCC amended part 12 on December 31, 1979 (44 FR 77137) to include additional suggestions recommended by commenters, and the part became effective on January 1, 1980. The OCC has not significantly changed part 12 since then.[1]

Since that time, there have been significant changes in securities regulation and market practices. For example, Congress enacted the Government Securities Act of 1986, 15 U.S.C. 78o-5, requiring the registration of government securities brokers and dealers, including financial institutions, and regulating transactions in government securities. Recently, the Securities and Exchange Commission (SEC) adopted amendments to its confirmation rule requiring additional disclosures and restructuring the rule. *See* Securities Exchange Act of 1934 Rule 10b-10, 17 CFR 240.10b-10 (SEC Rule 10b–10).

Under SEC Rule 10b-10, the SEC requires a broker/dealer to send a customer notification of a securities transaction at or before the completion of the transaction. The SEC defines ''completion of the transaction'' generally to be the time of payment or partial payment and/or delivery of the security. *See* 17 CFR 240.10b-10(d)(2). The SEC also has shortened the standard settlement period for broker/dealer trades from five to three days (T+3 Settlement) effective on June 7, 1995. *See* Securities Exchange Act Release No. 33023, 58 FR 52891 (Oct. 13, 1993). In addition, for trades in government securities, next day settlement is industry practice. Currently, part 12 generally requires a national bank to send a customer notification of a securities transaction within five business days from the date of the transaction.

Proposal

The proposal modernizes the rules in part 12 and reduces unnecessary regulatory burdens, where possible. In

[1] In 1979, the Board of Governors of the Federal Reserve System (FRB) and the Federal Deposit Insurance Corporation (FDIC) adopted regulations similar to part 12. *See* 12 CFR 208.8(k), 44 FR 43258 (July 24, 1979) (FRB regulation); 12 CFR part 344, 44 FR 43261 (July 24, 1979) (FDIC regulation). Since that time, neither of these agencies has significantly changed these regulations, although recently the FDIC adopted a regulation concerning authority to waive certain requirements of part 344, similar to the authority in § 12.7(d) of part 12. *See* 60 FR 7111 (Feb. 7, 1995). Consequently, the current regulations for all three Federal banking agencies are very similar. The OCC and the other Federal banking agencies have been meeting and discussing changes to the FRB's and the FDIC's rules substantively similar to those proposed today by the OCC.

order to make part 12 more accessible and easier to use, the proposal also restructures many sections and updates others by incorporating significant OCC interpretive positions and reflecting regulatory changes by other agencies. The following discussion identifies and explains proposed changes. A Derivation Table identifying the proposed changes and keying them to the current rule appears at the end of this preamble.

The OCC requests comments on all aspects of the proposal, as well as specific comments on changes in the rule.

Authority, Purpose, and Scope (§ 12.1)

The proposal revises the scope section (§ 12.1) to clarify the securities transactions to which part 12 applies and identify the types of transactions that are subject to other regulatory schemes. Paragraph (c)(1) provides the rules of general applicability and paragraph (c)(2) sets forth exemptions. Generally, any national bank effecting a securities transaction for a customer is subject to the requirements of part 12, unless the transaction specifically is exempted.

For example, the part 12 requirements apply to transactions in mutual funds as well as other securities. While investment companies, commonly referred to as mutual funds, must register with the SEC under the Investment Company Act of 1940 (Investment Company Act), 15 U.S.C. 80a–1 *et seq.*, and are subject to numerous legal requirements,[2] the requirements of part 12 govern national banks effecting trades for customers in mutual fund shares. Some requirements of the Investment Company Act and its regulations also may apply to national banks providing services to an investment company or acting as the investment company's investment adviser. *See e.g.*, 15 U.S.C. 80a–17; 15 U.S.C. 80a–30; 17 CFR 270.17j–1; 17 CFR 270.31a–1.

The OCC recognizes that national banks may enter into various arrangements with registered broker/dealers that permit the broker/dealers to operate on the bank's premises. Part 12 generally does not apply to securities transactions effected by these broker/dealers for their customers. As registered broker/dealers, they already are subject to the SEC's recordkeeping and confirmation rules. If, however, the bank is using this broker/dealer to clear securities transactions effected by the bank for the bank's own customers, then the requirements of part 12 would apply to the bank.

Government Securities Transactions

National banks conducting government securities transactions for their customers also are within the scope of part 12. Government securities are defined in section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)), and include but are not limited to United States Treasury securities and securities issued or guaranteed by Federal government agencies and government-sponsored enterprises.

The Department of the Treasury, under its authority pursuant to the Government Securities Act of 1986 (GSA), 15 U.S.C. 78o–5, has issued regulations in 17 CFR parts 400 through 405, 449, and 450, applicable to many government securities transactions by national banks (GSA regulations). The GSA regulations define the terms "government securities broker" and "government securities dealer" to include financial institutions. *See* 17 CFR 400.3 (k) and (l). Part 404 of the GSA regulations provides specific recordkeeping requirements for government securities brokers and dealers that are financial institutions. *See* 17 CFR 404.4.

National banks, because they are subject to part 12 recordkeeping requirements, are not required to follow the recordkeeping requirements of the GSA regulations at 17 CFR 404.2 and 404.3. *See* 17 CFR 404.4(a). National banks, however, must follow other recordkeeping requirements under the GSA regulations. *See* 17 CFR 404.4(a)(3), (b), and 450.4(c), (d), and (f). Part 12 *confirmation* requirements apply to all government securities transactions by national banks.

Consistent with the GSA regulations, proposed § 12.1(c)(2)(ii) exempts a national bank that conducts fewer than 500 government securities *brokerage* transactions per year from complying with the recordkeeping requirements under proposed (and current) § 12.3. *See* 17 CFR 401.3(a)(2)(i) and 404.4(a). This exemption does not apply to government securities *dealer* transactions by national banks, however. Staff at the Bureau of the Public Debt, which is the organization within the Department of the Treasury that is responsible for administering 17 CFR 404.4(a), has advised us that they are considering amending this regulation to clarify any ambiguity resulting from the interplay of the regulation and current § 12.7(a) (proposed § 12.1(c)(2)(i)), with respect to recordkeeping requirements for financial institutions that conduct government securities dealer transactions.

Municipal Securities Transactions

The proposed "scope" section (§ 12.1(c)(1)) also clarifies that a national bank's transactions in municipal securities that are *not* subject to the Municipal Securities Rulemaking Board's (MSRB) rules, *are* subject to part 12. The MSRB adopts rules with respect to transactions in "municipal securities" effected by brokers, dealers, and "municipal securities dealers." *See* 15 U.S.C. 78o-4; Rules of the MSRB, MSRB Manual (CCH) ¶ 3501 *et seq.* Municipal securities are defined in section 3(a)(29) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(29)) (Exchange Act), and include but are not limited to debt obligations of a state of the United States or a political subdivision, such as a county, city, town, village, or municipal authority, and revenue bonds. As defined in the Exchange Act, a "municipal securities dealer" includes a bank, as well as a "separately identifiable department or division of a bank," that is engaged in the business of buying and selling municipal securities for its own account through a broker or otherwise. *See* 15 U.S.C. 78c(a)(30). Under the SEC's regulatory scheme, however, a bank need not register as a "municipal securities broker." *See* 15 U.S.C. 78c(a)(4) and (31).

Thus, under proposed § 12.1(c)(2)(iii), transactions in municipal securities conducted by a national bank registered with the SEC as a "municipal securities dealer" are exempt from part 12. However, municipal securities brokerage transactions by a national bank not registered as a municipal securities dealer are subject to part 12 requirements.

Other Transactions and Exemptions

The "scope" section further provides that both 12 CFR parts 9 and 12 apply to a national bank's securities transactions effected as a fiduciary, including transactions effected for a collective investment fund (§ 12.1(c)(1)). Finally, the proposed "scope" section, in the exemptions paragraph (§ 12.1(c)(2)), includes the current rule's exception from certain requirements of part 12 for banks with an average of

[2] The Investment Company Act and its implementing regulations contain various provisions relating to the formation and operation of an investment company, including provisions on the distribution and pricing of shares, fiduciary duties of directors, transactions with affiliates, permissible capital structures, disclosure and reporting requirements, and other requirements. *See* 15 U.S.C. 80a–1 *et seq.*; 17 CFR part 270. Investment companies also may need to register their shares under the Securities Act of 1933. *See* 15 U.S.C. 77a *et seq.*

fewer than 200 securities transactions per year for customers, over the prior three calendar year period, not including transactions in government securities. The exemptions paragraph also restates the current rule's exemption from part 12 requirements for activities of a foreign branch of a national bank.

Safe and Sound Operations

Under proposed § 12.1(c)(3), the proposal clarifies that notwithstanding the exemptions from part 12, the OCC expects a national bank conducting securities transactions for its customers to maintain effective systems of records and controls to ensure safe and sound operations. Since national banks already are obligated to conduct their operations in a safe and sound manner, this addition does not impose any new requirements; rather, it emphasizes the importance of effective systems with respect to all securities transactions.

Definitions (§ 12.2)

The proposal clarifies and modernizes § 12.2, the definitions section, by adding several definitions and modifying several others. The proposal defines ''crossing of buy and sell orders,'' a term used in proposed § 12.7(a)(3) (current § 12.6(c)). It also adds a new definition of ''completion of the transaction,'' a term used in proposed § 12.4 (a) and (b). The proposed definition is based on that used in SEC Rule 10b–10, the SEC's rule for confirmation of transactions by broker/dealers. *See* 17 CFR 240.10b–10(d)(2), citing Securities Exchange Act of 1934 Rule 15c1–1, 17 CFR 240.15c1–1(b). The proposal clarifies the definition of ''customer'' (§ 12.2(e)) by removing the term ''dealer bank'' and inserting that a ''bank acting as a broker or dealer'' is not a customer.

For purposes of § 12.4(b) (8) and (9), the proposal adds a definition of ''debt security'' consistent with the SEC's definition under Rule 10b–10, 17 CFR 240.10b–10. The proposal also adds a definition of ''asset-backed security,'' which is the same as that in the SEC's Rule 10b–10, 17 CFR 240.10b–10.

The proposal also adds definitions of ''government security'' and ''municipal security'' which are intended to have the same meaning as those terms have under the Securities Exchange Act of 1934. *See* 15 U.S.C. 78c(a)(42) and (a)(29). In addition, the proposed definition of ''security'' more closely tracks the definition of security in the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(10), with an exception for certain instruments, such as foreign currency and various bank instruments. However, the proposal makes clear that the OCC may determine whether an instrument is a security for purposes of part 12.

Recordkeeping (§ 12.3)

The proposed recordkeeping provision in § 12.3 is similar to current § 12.3. A bank effecting securities transactions for customers must maintain, for at least three years, chronological records of original entry containing an itemized daily record of all purchases and sales of securities, account records for customers, and the written notifications to customers required by proposed (and current) § 12.4. The proposal also clarifies that a bank must maintain a copy of any alternative form of written notification that it uses pursuant to proposed § 12.5.

The proposal retains the current provision permitting a bank to maintain the required records in any manner, if the records clearly and accurately reflect the information required and provide an adequate basis for auditing the information (§ 12.3(b)).

The OCC seeks comments as to whether and in what manner banks rely upon this provision (proposed § 12.3(b)) and whether it serves a useful purpose.

Form and Time of Customer Notification (§ 12.4); Alternative Forms and Times of Customer Notification (§ 12.5)

The proposal reorganizes current §§ 12.4 and 12.5. Under the proposed sections, a bank has several alternatives from which it may choose to provide the required written notification to a customer for whom the bank has effected a securities transaction.

As under current part 12, a bank may elect to provide notification through: (1) A copy of a broker/dealer confirmation and statement regarding the source and amount of remuneration that the customer or any other source is to provide the bank (§ 12.4(a)); (2) a written notification that includes information such as the date of execution of the transaction, the price and number of shares or units purchased or sold, the capacity in which the bank is acting (as agent, principal, or otherwise), and the amount of remuneration received by the bank and by any broker/dealer in connection with the transaction (§ 12.4(b)); or (3) an alternative form of notification permitted for a specific type of customer transaction or account, for example, a transaction where the bank exercises investment discretion in an agency capacity or effects a transaction for a periodic plan (§ 12.5(a) through (d)). The proposal moves current § 12.5(a) regarding notification for a transaction where the bank does not exercise investment discretion to § 12.4(c).

The proposal provides that if a bank opts to fulfill its customer notification requirement through compliance with either of these first two means (§ 12.4(a) and (b)), the bank must give or send the notification at or before the completion of the transaction. Proposed § 12.2(c) defines the term ''completion of the transaction,'' which generally means the payment of funds and delivery of securities, i.e. the settlement of the securities transaction. Sending the notification at or before completion of the transaction is consistent with the SEC's confirmation rule, SEC Rule 10b-10. *See* 17 CFR 240.10b-10(a). The SEC similarly defines ''completion of the transaction.'' *See* 17 CFR 240.10b-10(d)(2).

Currently, § 12.5 requires a national bank that effects a securities transaction to send written notification to its customer within five business days from the date of the transaction or within five business days from receipt by the bank of a broker/dealer's confirmation (unless the bank uses a notification permitted for a specific type of customer transaction or account). When the OCC first adopted part 12, this five day period was consistent with the generally recognized industry practice of having the settlement of a securities transaction on the fifth business day after the trade day, (T+5). On October 13, 1993, however, the SEC published a securities settlement rule, effective June 7, 1995, requiring the payment of funds and delivery of most securities by the third business day after the date of the contract (T+3). *See* Securities and Exchange Act of 1934 Rule 15c6–1, 17 CFR 240.15c6–1, 58 FR 52891. Thus, the current § 12.5 five day period is inconsistent with the new T+3 settlement cycle. Since settlement will occur within three days, the OCC, by adopting the ''at or before completion of the transaction'' timeframe, reflects current securities industry practice. Consistent with the SEC, the OCC also is adopting a T+3 securities settlement rule as discussed subsequently under § 12.9.

The OCC welcomes comments on whether providing written notification ''at or before completion of the transaction'' is an appropriate requirement for a national bank in proposed § 12.4(a) and (b).

The OCC also specifically requests comments on the need for additional time by banks opting to provide notification by using a copy of the broker/dealer's confirmation, as is currently permitted in § 12.5 (five business days from receipt).

Proposed § 12.4(c) retains the current § 12.5(a) option for the bank and the customer to agree in writing to a different time and form of notification for a securities transaction where the national bank does not exercise investment discretion. This paragraph, captioned ''notification by agreement,'' also provides that the arrangement must specify the customer's right to receive the written notification as provided in § 12.4(a) or (b) at no additional cost.

The form of the notification required under proposed § 12.4(a) is similar to current § 12.4(a). Both require the bank to provide a copy of the broker/dealer confirmation and a statement regarding remuneration that the customer or any other source is to provide the bank. Alternatively, the bank may choose to provide its customer a written notification as described in proposed § 12.4(b) (current § 12.4(b)). The proposed § 12.4(b) form of notification requires the bank to notify the customer about the amount of any remuneration the customer or any other source is to provide the bank, and any remuneration from the customer to any broker/dealer in connection with the transaction. As with current § 12.4(b), the notification under proposed § 12.4(b) also must include other information regarding the securities involved in the transaction, the capacity in which the bank is acting (as agent, principal, or otherwise), and the use of any broker/dealer. By providing the notification, the bank gives its customers an opportunity to verify the terms of their transactions and evaluate the accuracy of the bank's execution.

Under proposed § 12.4(b)(6), the bank may choose not to disclose the source and amount of any *other* remuneration to the bank, if the written notification contains the following two statements: first, whether the bank has received or will receive any other remuneration; and, second, that the bank will furnish the source and amount of the other remuneration upon the customer's written request. A bank may not use this option if, in the case of a purchase, the bank is participating in a distribution of the security, or in the case of a sale, the bank is participating in a tender offer. This proposed option is new and reflects the option concerning disclosure of other remuneration contained in SEC Rule 10b-10, 17 CFR 240.10b-10(a)(2)(i)(D).

The OCC seeks specific comments on inclusion of this proposed modification concerning the disclosure of other remuneration.

The SEC, on November 17, 1994, published a final rule adopting amendments to SEC Rule 10b-10 requiring the disclosure of additional information on the broker/dealer confirmation. *See* Securities Exchange Act Release No. 34962, 59 FR 59612. Among other items, SEC Rule 10b-10 now requires disclosure concerning a debt security that has not been rated by a nationally recognized statistical rating organization and the fluctuation of yield with respect to certain asset-backed securities. *See* 17 CFR 240.10b-10(a)(7) and (8). The SEC also expanded the range of debt securities where yield need not be disclosed to include any asset-backed security subject to continuous prepayment. *See* 17 CFR 240.10b-10(a)(5) and (6). The OCC recognizes that this type of information may be important to bank customers evaluating the merits of investing in various debt securities.

Consistent with SEC Rule 10b-10, the proposal adds § 12.4(b)(8), (9), (10), and (11), requiring disclosure of yield information on debt securities. The proposal also adds § 12.4(b)(12) requiring disclosure that a debt security that has not been rated by a nationally recognized statistical rating organization. While the proposal incorporates these additional disclosures, the OCC is interested in commenters' views on the applicability of these disclosures to national banks' securities activities. The OCC may revise its proposal.

The OCC seeks comments on whether banks engage in transactions in unrated securities and the need for requiring disclosure of information in the written notification to customers regarding unrated securities and yield information on debt securities, similar to the SEC requirements under SEC Rule 10b-10.

The OCC also seeks comments on whether it should require the disclosure of any other information describing the security in the written notification to customers.

SEC Rule 10b-10(c) also contains a provision requiring broker/dealers to furnish to customers requested information within five business days of the receipt of the request, or within 15 business days if the broker/dealer effected the transaction more than 30 days before the receipt of the request. *See* 17 CFR 240.10b-10(c). Part 12 currently does not contain a similar provision.

The OCC requests comments on whether it should include a provision similar to SEC Rule 10b-10(c) stating the required period of time for a bank to furnish information pursuant to a customer's request.

In addition to § 12.4, the proposal also authorizes alternative forms and times of notification under § 12.5(a) through (d) for certain specific types of transactions. These are: (1) Transactions in which the bank exercises investment discretion in other than an agency capacity (except for collective investment funds); (2) transactions in which the bank exercises investment discretion in an agency capacity; (3) transactions for a collective investment fund; and (4) transactions for a periodic plan.

Proposed § 12.5 includes captions generally characterizing the transactions covered under each paragraph. For example, § 12.5(a), captioned ''trust transactions,'' concerns transactions for an account in which the bank exercises investment discretion other than in an agency capacity, e.g. a bank providing traditional trust services as directed by a will or a trust. Under § 12.5(b), captioned ''agency transactions,'' the bank exercises investment discretion in an agency capacity and may provide fiduciary services; however, the bank is not named as trustee, e.g. the bank acting as a managing agent. The captions are intended to provide practical assistance and are not precise terms.

In a change from current § 12.5, the availability of the first two alternative forms of notification (§ 12.5(a) and (b)) depends on the capacity in which the bank effects the securities transaction for its customer, and not on the form of the account. Thus, this change clarifies that the transaction triggers the part 12 requirements and dictates the permissible form and time of notification.

The OCC invites comments about any effects of the proposed change regarding alternative forms of notification based upon types of transactions instead of accounts. The OCC also specifically requests comments on the continuing need for the different forms of alternative notification provided in proposed § 12.5.

Consequently, under the proposal, if a bank effects a securities transaction for a fiduciary account where the customer has the right to direct the transaction and does so, the forms of notification available for use by the bank are the same as for transactions where the bank does not exercise investment discretion (except for periodic plans), in other words, § 12.4(a), (b), or (c). Hence, as an alternative to § 12.4(a) or (b), the bank could provide the notification under § 12.4(c). However, the bank could not provide notification in the same manner as for a fiduciary account transaction that the customer did not direct, as in § 12.5(a). Therefore, the bank does not have the option of providing notification as in § 12.5(a) only upon the request of the person having the power to terminate the account, or, if there is no such person, upon the request of any person holding a vested beneficial interest in the account.

The OCC seeks specific comments regarding whether this result clarifies the existing part 12 requirements and is the appropriate form of notification for securities transactions in a fiduciary account where the customer directs the transaction.

With respect to transactions for a periodic plan (§ 12.5(d)), the proposal changes the time for notification. Currently part 12 requires a national bank to furnish a written statement ''as promptly as possible'' after each transaction for a periodic plan (§ 12.5(e)). Instead, proposed § 12.5(d) requires the bank to furnish the written statement not less than once every three months. This change is consistent with similar provisions under the securities laws. Otherwise, the notification requirements for periodic plan transactions remain the same.

The OCC request comments on the proposed change in notification to not less than once every three months for periodic plan transactions under § 12.5(d) rather than notification as promptly as possible after each transaction.

Fees (§ 12.6)

The proposal places the provisions regarding fees (§§ 12.4 and 12.5) into § 12.6. It does not change the substance of these provisions.

Securities trading policies and procedures (§ 12.7)

The proposal retains the current requirement that a bank establish written policies and procedures for trading practices, but places new emphasis on following these written policies and procedures. The proposal also relocates these provisions from § 12.6 to § 12.7.

With respect to proposed § 12.7(a)(4), the proposal clarifies that bank officers and employees must provide a report to the bank containing specific information on certain trades, and the bank must establish written policies and procedures requiring these reports. While current § 12.6(d) states that the report must ''identify'' the securities purchased and sold, proposed § 12.7(b) clarifies the information necessary for banks to identify the securities, including the title and number of shares, the principal amount of each security involved, and the price at which the transaction was effected.

The OCC seeks comments as to whether enumeration of the information required in these reports will assist banks, and officers and employees, in complying with this requirement.

The proposal also revises one of the exceptions to the reporting requirements for securities transactions for the benefit of certain bank officers or employees to make clear that the reporting exception applies only if the transactions involve an aggregate amount of purchases and sales per officer or employee of $10,000 or less during a calendar quarter.

The proposal also clarifies that a national bank acting as an investment adviser to an investment company is subject to section 17 of the Investment Company Act, 15 U.S.C. 80a–17, and, in particular, the requirements of Rule 17j–1 of the Investment Company Act, 17 CFR 270.17j–1 (SEC Rule 17j–1). Generally, SEC Rule 17j–1 requires that an investment adviser to a registered investment company adopt a written code of ethics, and that certain defined ''access persons'' of the investment adviser, including directors, officers, and certain employees, report personal securities transactions to the investment adviser. *See* 17 CFR 270.17j–1(e)(1).

The requirement under proposed § 12.7(a)(4) concerning the reporting by bank officers and employees of securities transactions in which they have a beneficial interest is in addition to the applicable requirements under the Investment Company Act and SEC Rule 17j–1. Banks should recognize that the part 12 requirements, in some respects, are broader than those under the Investment Company Act because they apply to investment advisory activities by national banks whether the bank provides the advice to an investment company or to another type of customer.

The OCC welcomes any comments on this proposed addition to the regulation.

Waivers (§ 12.8)

The proposal makes no substantive changes in the waiver provision currently in § 12.7(d). It relocates the provision to § 12.8. As is the current practice, the proposal makes clear that the procedure for requesting a waiver is to submit a request in writing. The proposal also clarifies that the OCC may grant a waiver from the requirements of part 12 to any national bank, or any class of national banks, with regard to specific transactions or specific classes of transactions.

Settlement of Securities Transactions (§ 12.9)

The proposal adds § 12.9 to establish a securities settlement timeframe for national banks effecting or entering into contracts for the purchase or sale of securities for customers. The OCC intends this rule to parallel the SEC's adoption of the ''T+3'' securities settlement timeframe. In October 1993, the SEC adopted for the first time a securities settlement rule, effective June 7, 1995, requiring the payment of funds and delivery of most securities by the third business day after the date of the contract (T+3). *See* Securities Exchange Act of 1934 Rule 15c6–1, 17 CFR 240.15c6–1 (SEC Rule 15c6–1); 58 FR 52891 (Oct. 13, 1993); 60 FR 26604 (May 17, 1995) (amendments to the rule). SEC Rule 15c6–1 is a separate securities settlement requirement and is not part of the SEC's confirmation rule, SEC Rule 10b-10, 17 CFR 240.10b–10. The OCC believes that most national banks effecting customer securities transactions use a clearing broker that would be subject to the SEC's T+3 rule and national banks' securities transactions thereby routinely would settle within three days. However, some national banks may clear and settle their securities trades directly. For this reason, the OCC proposes to revise part 12 to include a separate T+3 settlement requirement that tracks the language of the SEC's securities settlement rule. *See* 17 CFR 240.15c6–1.

As with SEC Rule 15c6–1, the OCC's rule does not apply to an exempted security as defined in 15 U.S.C. 78c(a)(12), government security, municipal security, commercial paper, bankers' acceptance, or commercial bill. Proposed § 12.9 also contains an identical override provision to SEC Rule 15c6–1 permitting national banks to agree that settlement will take place in more than three business days when the agreement is express and reached at the time of the transaction. Nonetheless, the OCC, similar to the intent expressed by the SEC, intends the override provision to apply to unusual transactions and not merely to permit national banks to specify before execution of specific trades that a group of trades will settle in a timeframe other than T+3. *See* Securities Exchange Act Release No. 33023, 58 FR 52891, 52901 (Oct. 13, 1993).

While proposed § 12.9 conforms to the language of the SEC's T+3 settlement rule, the OCC notes there are alternatives to adopting the language of the SEC's rule. For example, one possibility is not having a separate OCC settlement rule and, instead, using three days as the timeframe for sending the confirmation under part 12 rather than following the SEC's ''completion of the transaction'' timeframe. Another possibility is cross-referencing the language of SEC Rule 15c6–1 instead of incorporating the actual language of the rule.

The OCC seeks comments on the need for and the effect of proposed § 12.9 adopting the T+3 securities settlement requirement for national banks.

The OCC also specifically invites comments on the feasibility and appropriateness of alternative approaches to implement the T+3 securities settlement cycle.

Interpretations (§§ 12.101 and 12.102)

The proposal adds two interpretative rulings at the end of part 12. The first interpretation (§ 12.101) relates to the disclosure of remuneration for mutual fund transactions. The interpretation reflects the view taken by the OCC in various letters granting a waiver from compliance with part 12 remuneration disclosure requirements. In particular, the OCC has allowed a bank to fulfill its disclosure requirement of the source and amount of remuneration required by current § 12.4(a)(2) and (b) (proposed § 12.4(a)(2) and (b)) for mutual fund transactions by providing this information to the customer in a current prospectus, at or before completion of the securities transaction. The OCC's view is predicated on the SEC's position as provided in a no-action letter dated March 19, 1979, and permits national banks to use the same option for disclosure of remuneration as is permitted for nonbank broker/dealers with respect to transactions in mutual funds. *See* Letter to the Investment Company Institute, [1979 Transfer Binder] Fed. Sec. L. Rep. (CCH) 82041 (Mar. 19, 1979). The OCC would reconsider its position upon any change in the SEC's practice.

The second interpretive ruling (§ 12.102) discusses the use of electronic communications to satisfy part 12's customer notification requirements. In appropriate situations, the OCC will allow a national bank to satisfy the ''written'' notification requirement under §§ 12.4 and 12.5 through electronic communications. Where a customer has a facsimile machine, a national bank may fulfill its notification delivery requirement by sending the notification by facsimile transmission. Similarly, a bank may satisfy the notification delivery requirement by other electronic communications when: (1) The parties agree to use electronic instead of hard-copy notifications; (2) the parties have the ability to print or download the notification; (3) the recipient affirms or rejects the trade through electronic notification; (4) the system cannot automatically delete the electronic notification; and (5) both parties have the capacity to receive electronic messages. The SEC has taken a comparable approach to the use of electronic means to deliver a confirmation under SEC Rule 10b-10, 17 CFR 240.10b–10. *See e.g.*, Letter regarding Thompson Financial Services, Inc. (Oct. 8, 1993). The OCC would consider the permissibility of other situations using electronic notifications on a case-by-case basis.

DERIVATION TABLE

[Only substantive modifications, additions and changes are indicated.]

Revised provision	Original provision	Comments
§ 12.1(a)	§ 12.1(a)	
§ 12.1(b)	§ 12.1(a)	
§ 12.1(c)(1)		Added.
§ 12.1(c)(2)(i)	§ 12.7(a)	
§ 12.1(c)(2)(ii)		Added.
§ 12.1(c)(2)(iii)	§ 12.7(b)	Modified.
§ 12.1(c)(2)(iv)	§ 12.7(c)	
§ 12.1(c)(3)		Added.
§ 12.1(d)	§ 12.1(b)	
§ 12.2(a)		Added.
§ 12.2(b)	§ 12.2(a)	
§ 12.2(c)		Added.
§ 12.2(d)		Added.
§ 12.2(e)	§ 12.2(b)	Modified.
§ 12.2(f)		Added.
§ 12.2(g)		Added.
§ 12.2(h)	§ 12.2(c)	
§ 12.2(i)		Added.
§ 12.2(j)	§ 12.2(d)	
§ 12.2(k)	§ 12.2(e)	Modified.
§ 12.3	§ 12.3	
§ 12.4	§§ 12.4, 12.5	Modified.
§ 12.5	§§ 12.4, 12.5	Modified.
§ 12.6	§§ 12.4, 12.5	
§ 12.7(a)	§ 12.6(a), (b), (c), and (d)	
§ 12.7(b)	§ 12.6(d)	Modified.
§ 12.7(c)	§ 12.6(d)	Modified.
§ 12.7(d)		Added.
§ 12.8	§ 12.7(d)	
§ 12.9		Added.
§ 12.101		Added.
§ 12.102		Added.

Regulatory Flexibility Act

It is hereby certified that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This proposal will have minimal economic impact on national banks, regardless of size, since it makes no material changes to existing regulatory requirements.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, March 22, 1995, 109 Stat. 48 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. Because the OCC has determined that the proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of more than $100 million in any one year, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. Nevertheless, as discussed in the preamble, the rule has the effect of reducing unnecessary regulatory costs and other burdens, where possible.

Paperwork Reduction Act of 1995

The OCC invites comments on:

(1) Whether the proposed collection of information contained in this notice of proposed rulemaking is necessary for the proper performance of the agency's functions, including whether the information has practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed information collection;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Respondents/recordkeepers are not required to respond to this collection of information unless it displays a currently valid OMB control number.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project 1557–0142, Washington DC 20503, with copies to the Legislative and Regulatory Activities Division (1557–0142), Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

The collection of information requirements in this proposed rule are found in §§ 12.3 through 12.8. This information is required by the OCC to establish an audit trail. That audit trail is used by the OCC in its regulatory examinations as a tool to evaluate a bank's compliance with banking and securities laws and regulations, such as the anti-fraud provisions of the Federal securities laws. Further, the records provide a basis for adequate disclosure to customers who effect securities transactions through national banks. Other records provide a basis for the OCC to waive some or all of the recordkeeping and confirmation requirements of 12 CFR part 12. The recordkeepers are national banks.

Estimated total annual recordkeeping burden: 56,019 hours.

The estimated annual burden per recordkeeper varies from 2 hours to more than 700 hours, depending on individual circumstances, with an estimated average of 53.3 hours.

Estimated number of recordkeepers: 1,047.

List of Subjects in 12 CFR Part 12

National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set out in the preamble, part 12 of chapter I of title 12 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Sec.

12.1 Authority, purpose, scope, and OMB control number.
12.2 Definitions.
12.3 Recordkeeping.
12.4 Form and time of customer notification.
12.5 Alternative forms and times of customer notification.
12.6 Fees.
12.7 Securities trading policies and procedures.
12.8 Waivers.
12.9 Settlement of securities transactions.

Interpretations

12.101 National bank disclosure of remuneration for mutual fund transactions.
12.102 National bank use of electronic communications as customer notifications.

Authority: 12 U.S.C. 24, 92a, and 93a.

§ 12.1 Authority, purpose, scope, and OMB control number.

(a) *Authority.* This part is issued pursuant to 12 U.S.C. 24, 12 U.S.C. 92a, and 12 U.S.C. 93a.

(b) *Purpose.* This part establishes rules, policies, and procedures applicable to recordkeeping and confirmation requirements for certain securities transactions effected by national banks for customers.

(c) *Scope*—(1) *General.* Any security transaction effected for a customer by a national bank is subject to this part unless exempted by paragraph (c)(2) of this section. A national bank effecting transactions in government securities is subject to the confirmation, recordkeeping, and policies and procedures requirements of this part. This part also applies to municipal securities transactions by a national bank that is not registered as a ''municipal securities dealer'' with the Securities and Exchange Commission. *See* 15 U.S.C. 78c(a)(30) and 78o–4. This part, as well as 12 CFR part 9, applies to a national bank's securities transactions effected as a fiduciary.

(2) *Exemptions*—(i) *Small number of transactions.* The requirements of §§ 12.3(a)(2) through (4) and 12.7(a)(1) through (3) do not apply to a national bank having an average of fewer than 200 securities transactions per year for customers over the prior three calendar year period. The calculation of this average does not include transactions in government securities.

(ii) *Government securities.* The recordkeeping requirements of § 12.3 do not apply to national banks effecting fewer than 500 government securities brokerage transactions per year. This exemption does not apply to government securities dealer transactions by national banks.

(iii) *Municipal securities.* This part does not apply to transactions in municipal securities conducted by a national bank registered with the Securities and Exchange Commission as a ''municipal securities dealer'' as defined in title 15 U.S.C. 78c(a)(30). *See* 15 U.S.C. 78o–4.

(iv) *Foreign branches.* This part does not apply to securities transactions conducted by a foreign branch of a national bank.

(3) *Safe and Sound Operations.* Notwithstanding paragraph (c)(2) of this section, every national bank conducting securities transactions for customers shall maintain effective systems of records and controls regarding their customer securities transactions to ensure safe and sound operations. The systems maintained must clearly and accurately reflect appropriate information and provide an adequate basis for an audit.

(d) *OMB control number.* The collection of information requirements in this part were approved by the Office and Management and Budget under OMB control number 1557–0142.

§ 12.2 Definitions.

(a) *Asset-backed security* means a security that is primarily serviced by the cashflows of a discrete pool of receivables or other financial assets, either fixed or revolving that by their terms convert into cash within a finite time period plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to the security holders.

(b) *Collective investment fund* means any funds held by a national bank as fiduciary and invested collectively in a ''collective investment'' as described in 12 CFR 9.18(a).

(c) *Completion of the transaction* means:

(1) In the case of a customer who purchases a security through or from a national bank, except as provided in paragraph (c)(2) of this section, the time when the customer pays the bank any part of the purchase price, or, if payment is made by a bookkeeping entry, the time when the bank makes the bookkeeping entry for any part of the purchase price;

(2) In the case of a customer who purchases a security through or from a national bank and who makes payment for the security prior to the time when payment is requested or notification is given that payment is due, the time when the bank delivers the security to or into the account of the customer;

(3) In the case of a customer who sells a security through or to a national bank except as provided in paragraph (c)(4) of this section, if the security is not in the custody of the bank at the time of sale, the time when the security is delivered to the bank, and if the security is in the custody of the bank at the time of sale, the time when the bank transfers the security from the account of the customer;

(4) In the case of a customer who sells a security through or to a national bank and who delivers the security to the bank prior to the time when delivery is requested or notification is given that delivery is due, the time when the bank makes payment to or into the account of the customer.

(d) *Crossing of buy and sell orders* means a security transaction in which the same bank acts as agent for both the buyer and the seller.

(e) *Customer* means any person or account, including any agency, trust, estate, guardianship, committee, or other fiduciary account for which a national bank makes or participates in making the purchase or sale of securities, but does not include a broker, dealer, bank acting as a broker or dealer, or issuer of the securities that are the subject of the transaction.

(f) *Debt security* as used in § 12.4(b)(8) and (9) only, means any security, such as a bond, debenture, note, or any other similar instrument which evidences a liability of the issuer (including any security of this type that is convertible into stock or a similar security) and fractional or participation interests in one or more of any of the foregoing; provided, however, that securities issued by an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a–1 *et seq.*, shall not be included in this definition.

(g) *Government security* means:

(1) A security which is a direct obligation of, or obligation guaranteed as to principal and interest by, the United States;

(2) A security which is issued or guaranteed by a corporation in which the United States has a direct or indirect interest and which is designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

(3) A security issued or guaranteed as to principal and interest by any corporation whose securities are designated, by statute specifically naming the corporation, to constitute exempt securities within the meaning of the laws administered by the Securities and Exchange Commission; or

(4) Any put, call, straddle, option, or privilege on a security as described in paragraph (g) (1), (2), or (3) of this section, other than a put, call, straddle, option, or privilege:

(i) That is traded on one or more national securities exchanges; or

(ii) For which quotations are disseminated through an automated quotation system operated by a registered securities association.

(h) *Investment discretion* means that, with respect to an account, a bank directly or indirectly:

(1) Is authorized to determine what securities or other property shall be purchased or sold by or for the account; or

(2) Makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for these investment decisions.

(i) *Municipal security* means:

(1) A security which is a direct obligation of, or an obligation guaranteed as to principal or interest by, a State or any political subdivision, or any agency or instrumentality of a State or any political subdivision;

(2) A security which is a direct obligation of, or an obligation guaranteed as to principal or interest by, any municipal corporate instrumentality of one or more States; or

(3) A security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(c)(2) (1970)) (Code)) the interest on which is excludable from gross income under section 103(a)(1) of the Code (26 U.S.C. 103(a)(1)) if, by reason of the application of paragraph (4) or (6) of section 103(c) of the Code (26 U.S.C. 103(c)) (determined as if paragraphs (4)(A), (5), and (7) were not included in section 103(c) (26 U.S.C. 103(c)), paragraph (1) of section 103(c) (26 U.S.C. 103(c)) does not apply to the security.

(j) *Periodic plan* (including dividend reinvestment plans, automatic investment plans and employee stock purchase plans) means a written authorization for a national bank to act as agent to purchase or sell for a customer a specific security or securities, in a specific amount (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals, and setting forth the commission or charges to be paid by the customer or the manner of calculating them.

(k) *Security:* (1) Means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, for a security, any put, call, straddle, option, or privilege on any security, or group or index of securities (including any interest therein or based on the value thereof), or, in general, any instrument commonly known as a ''security''; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing;

(2) Does not mean currency; any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited; a deposit or share account in a Federal or State chartered depository institution; a loan participation; units of a collective investment fund; interests in a variable amount note as defined in 12 CFR 9.18(c)(2)(ii); U.S. Savings Bonds; or any other instrument the OCC determines does not constitute a security for purposes of this part.

§ 12.3 Recordkeeping.

(a) *General rule.* A national bank effecting securities transactions for customers shall maintain the following records for at least three years:

(1) *Chronological records.* A chronological record of each original entry containing an itemized daily record of each purchase and sale of securities, including:

(i) Account or customer name for which each transaction was effected;

(ii) Description of the securities;

(iii) Unit and aggregate purchase or sale price (if any);

(iv) Trade date; and

(v) Name or other designation of the broker/dealer or other person from whom the securities were purchased or to whom the securities were sold;

(2) *Account records.* Account records for each customer, reflecting:

(i) Purchases and sales of securities;

(ii) Receipts and deliveries of securities;

(iii) Receipts and disbursements of cash with respect to transactions in securities for each account; and

(iv) Other debits and credits pertaining to transactions in securities;

(3) *Memorandum order.* A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), including:

(i) Account or customer name for which the transaction was effected;

(ii) Type of order (market order, limit order, or subject to special instructions);

(iii) Time the trader or other bank employee responsible for effecting the transaction received the order;

(iv) Time the trader placed the order with the broker/dealer, or if there was no broker/dealer, time the order was executed or cancelled;

(v) Price at which the order was executed; and

(vi) Name of the broker/dealer utilized;

(4) *Record of broker/dealers.* A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each broker during the calendar year; and

(5) *Notifications.* A copy of the written notification required by §§ 12.4 and 12.5.

(b) *Manner of maintenance.* The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information.

§ 12.4 Form and time of customer notification.

A national bank effecting a securities transaction for its customer shall give or send to the customer a notification. This section and § 12.5 describe the form and time of permissible types of notifications. A bank may elect to provide notification through a copy of a broker/dealer confirmation and statement regarding remuneration as provided in § 12.4(a), written notification as provided in § 12.4(b), notification by agreement as provided in § 12.4(c), or an alternative form of notification applicable to a specific type of transaction as provided in § 12.5.

(a) *Confirmation of a broker/dealer.* A national bank effecting a securities transaction for a customer shall give or send to its customer at or before the completion of the transaction a written notification that includes:

(1) A copy of the confirmation of a broker/dealer relating to the securities transaction; and

(2) If the customer or any other source will provide remuneration to the bank in connection with the transaction, and a written agreement between the bank and the customer does not determine the remuneration, a statement of the source and amount of any remuneration that the customer or any other source is to provide the bank.

(b) *Written notification.* A national bank effecting a securities transaction for its customer that does not provide notification pursuant to paragraph (a) of this section, shall give or send to its customer at or before the completion of the transaction a written notification that includes:

(1) Name of the bank;

(2) Name of the customer;

(3) Capacity in which the bank acts (as agent for the customer, as agent for both the customer and some other person, as principal for its own account, or in any other capacity);

(4) Date of execution, a statement that the bank will furnish the time of execution within a reasonable time upon written request of the customer, and the identity, price, and number of shares or units (or principal amount in the case of debt securities) of the security purchased or sold by the customer;

(5) Amount of any remuneration that the customer has provided or is to provide any broker/dealer, directly or indirectly, in connection with the transaction;

(6) Amount of any remuneration that the bank has received or will receive from the customer, and the source and amount of any other remuneration that the bank has received or will receive in connection with the transaction;

(i) A bank need not provide the information in paragraph (b)(6) of this section if:

(A) The bank and its customer have determined remuneration pursuant to a written agreement; or

(B) In the case of government securities and municipal securities, the bank received the remuneration in other than an agency transaction;

(ii) Unless the bank follows paragraph (b)(6) of this section, the written notification must state whether the bank has received or will receive any other remuneration and that the bank will furnish the source and amount of the other remuneration upon written request of the customer. A bank may not follow this paragraph (b)(6)(ii), if, in the case of a purchase, the bank was participating in a distribution, or, in the case of a sale, the bank was participating in a tender offer;

(7) Name of the broker/dealer utilized; or where there is no broker/dealer, the name of the person from whom the security was purchased or to whom the security was sold, or a statement that the bank will furnish this information upon written request from the customer. The bank shall furnish this information within a reasonable time after receipt of a written request;

(8) In the case of any transaction in a debt security subject to redemption before maturity, a statement to the effect that the debt security may be redeemed in whole or in part before maturity, that the redemption could affect the yield represented and the fact that additional information is available upon request;

(9) In the case of a transaction in a debt security effected exclusively on the basis of a dollar price:

(i) The dollar price at which the transaction was effected, and

(ii) The yield to maturity calculated from the dollar price: Provided, however, that this paragraph (b)(9)(ii) shall not apply to a transaction in a debt security that either:

(A) Has a maturity date that may be extended by the issuer thereof, with a variable interest payable thereon; or

(B) Is an asset-backed security, that represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment;

(10) In the case of a transaction in a debt security effected on the basis of yield:

(i) The yield at which the transaction was effected, including the percentage amount and its characterization (e.g. current yield, yield to maturity, or yield to call) and if effected at yield to call, the type of call, the call date and call price; and

(ii) The dollar price calculated from the yield at which the transaction was effected; and

(iii) If effected on a basis other than yield to maturity and the yield to maturity is lower than the represented yield, the yield to maturity as well as the represented yield; Provided, however, that this paragraph (b)(10)(iii) shall not apply to a transaction in a debt security that either:

(A) Has a maturity date that may be extended by the issuer thereof, with a variable interest rate payable thereon; or

(B) Is an asset-backed security, that represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment;

(11) In the case of a transaction in a debt security that is an asset-backed security, which represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment, a statement indicating that the actual yield of the asset-backed security may vary according to the rate at which the underlying receivables or other financial assets are prepaid and a statement of the fact that information concerning the factors that affect yield (including at a minimum estimated yield, weighted average life, and the prepayment assumptions underlying yield) will be furnished upon written request of the customer; and

(12) In the case of a transaction in a debt security, other than a government security, that the security is unrated by a nationally recognized statistical rating organization, if that is the case.

(c) *Notification by agreement.* Unless the bank follows paragraphs (a) or (b) of this section, a national bank effecting a securities transaction for an account in which the bank does not exercise investment discretion (except for periodic plans) shall give or send the notification at the time and in the form agreed to in writing by the bank and customer, provided that the agreement makes clear the customer's right to receive the written notification pursuant to paragraphs (a) or (b) of this section at no additional cost to the customer.

§ 12.5 Alternative forms and times of customer notification.

(a) *Trust transactions.* Unless the bank follows § 12.4(a) or (b), a national bank effecting a securities transaction for an account in which the bank exercises investment discretion other than in an agency capacity (except for collective investment funds) shall give or send the notification within a reasonable time if a person having the power to terminate the account, or, if there is no such person, any person holding a vested beneficial interest in the account, requests written notification pursuant to § 12.4(a) or (b). Otherwise, notification is not required.

(b) *Agency transactions.* (1) Unless the bank follows § 12.4(a) or (b), a national bank effecting a securities transaction for an account in which the bank exercises investment discretion in an agency capacity shall give or send, not less than once every three months, an itemized statement to each customer that specifies the funds and securities in the custody or possession of the bank at the end of the period and all debits, credits and transactions in the customer's account during the period; and

(2) If requested by the customer, the bank shall give or send written notification to the customer pursuant to § 12.4(a) or (b) within a reasonable time.

(c) *Collective investment fund transactions.* Unless the bank follows § 12.4(a) or (b), a national bank effecting a securities transaction for a collective investment fund shall follow 12 CFR 9.18(b)(5).

(d) *Periodic plan transactions.* (1) Unless the bank follows § 12.4 (a) or (b), a national bank effecting a securities transaction for a periodic plan shall give or send to its customer not less than once every three months a written statement showing:

(i) The customer's funds and securities in the custody or possession of the bank;

(ii) All service charges and commissions paid by the customer in connection with the transaction; and

(iii) All other debits and credits of the customer's account involved in the transaction.

(2) Upon written request of the customer, the bank shall give or send the information described in § 12.4 (a) or (b), except that the bank need not provide to the customer any information relating to remuneration paid in connection with the transaction when the remuneration is paid by a source other than the customer.

§ 12.6 Fees.

(a) *Permissible fees.* A national bank may charge a reasonable fee for providing notification pursuant to § 12.5 (a), (b), and (d).

(b) *Impermissible fees.* A national bank may not charge a fee for providing notification pursuant to § 12.4 (a), (b), and (c), and § 12.5(c).

§ 12.7 Securities trading policies and procedures.

(a) *Policies and procedures; reports of securities trading.* A national bank effecting securities transactions for customers shall maintain and adhere to policies and procedures that:

(1) Assign responsibility for supervision of all officers or employees who:

(i) Transmit orders to or place orders with broker/dealers; or

(ii) Execute transactions in securities for customers;

(2) Provide for the fair and equitable allocation of securities and prices to accounts when the bank receives orders for the same security at approximately the same time and places the orders for execution either individually or in combination;

(3) Provide for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction, where applicable, and where permissible under local law; and

(4) Require bank officers and employees to report to the bank, within ten days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest, if the officers and employees:

(i) Make investment recommendations or decisions for the accounts of customers;

(ii) Participate in the determination of the recommendations or decisions; or

(iii) In connection with their duties, obtain information concerning which securities are purchased, sold, or recommended for purchase or sale.

(b) *Report required.* A bank officer or employee shall file a report, as referenced in paragraph (a)(4) of this section, that contains the following information:

(1) The date of the transaction, the title and number of shares, and the principal amount of each security involved;

(2) The nature of the transaction (i.e., purchase, sale, or other type of acquisition or disposition);

(3) The price at which the transaction was effected; and

(4) The name of the broker, dealer, or bank with or through whom the transaction was effected.

(c) *Report not required.* Paragraph (b) of this section does not require a bank officer or employee to report transactions for the benefit of the officer or employee if:

(1) The officer or employee has no direct or indirect influence or control over the transaction;

(2) The transaction is in mutual fund shares;

(3) The transaction is in government securities; or

(4) The transactions involve an aggregate amount of purchases and sales per officer or employee of $10,000 or less during the calendar quarter.

(d) *Additional reporting requirement.* A national bank that acts as an investment adviser to an investment company is subject to the requirements of Securities and Exchange Commission (SEC) Rule 17j–1 (17 CFR 270.17j–1) of the Investment Company Act of 1940. SEC Rule 17j–1 requires certain personal securities transactions by "access persons" of the investment adviser, including directors, officers, and certain employees, to be reported to the Securities and Exchange Commission. The reporting requirement under paragraph (a)(4) of this section is in addition to any applicable requirements under SEC Rule 17j–1.

§ 12.8 Waivers.

A national bank may file a written request with the OCC for waiver of one or more of the requirements set forth in §§ 12.2 through 12.7, either in whole or in part. The OCC may grant a waiver from the requirements of this part to any national bank, or any class of national banks, with regard to specific transactions or specific classes of transactions.

§ 12.9 Settlement of securities transactions.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a national bank shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security as defined in 15 U.S.C. 78c(a)(12), government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

(b) Paragraphs (a) and (c) of this section shall not apply to contracts:

(1) For the purchase or sale of limited partnership interests that are not listed on an exchange or for which quotations are not disseminated through an automated quotation system of a registered securities association;

(2) For the purchase or sale of securities that the Securities and Exchange Commission (SEC) may from

time to time, taking into account then existing market practices, exempt by order from the requirements of paragraph (a) of SEC Rule 15c6–1, 17 CFR 240.15c6–1, either unconditionally or on specified terms and conditions, if the SEC determines that an exemption is consistent with the public interest and the protection of investors.

(c) Paragraph (a) of this section shall not apply to contracts for the sale for cash of securities that are priced after 4:30 p.m. Eastern time on the date the securities are priced and that are sold by an issuer to an underwriter pursuant to a firm commitment underwritten offering registered under the Securities Act of 1933, 15 U.S.C. 77a *et seq.*, or sold to an initial purchaser by a national bank participating in the offering provided that a national bank shall not effect or enter into a contract for the purchase or sale of the securities that provides for payment of funds and delivery of securities later than the fourth business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

(d) For purposes of paragraphs (a) and (c) of this section, the parties to a contract shall be deemed to have expressly agreed to an alternate date for payment of funds and delivery of securities at the time of the transaction for a contract for the sale for cash of securities pursuant to a firm commitment offering if the managing underwriter and the issuer have agreed to the date for all securities sold pursuant to the offering and the parties to the contract have not expressly agreed to another date for payment of funds and delivery of securities at the time of the transaction.

Interpretations

§ 12.101 National bank disclosure of remuneration for mutual fund transactions.

A national bank may fulfill its obligation to disclose information on the source and amount of remuneration, required by § 12.4(a)(2) and (b), for mutual fund transactions by providing this information to the customer in a current prospectus, at or before completion of the securities transaction. The OCC's view is consistent with the position of the Securities and Exchange Commission (SEC) as provided in a no-action letter dated March 19, 1979, which permits confirmations for mutual funds merely to refer to the sales load disclosed in the prospectus. *See* Letter to the Investment Company Institute, (1979 Transfer Binder) Fed. Sec. L. Rep. (CCH) 82041 (Mar. 19, 1979). The OCC would reconsider its position upon any change in the SEC's practice.

§ 12.102 National bank use of electronic communications as customer notifications.

(a) In appropriate situations, a national bank may satisfy the ''written'' notification requirement under §§ 12.4 and 12.5 through electronic communications. Where a customer has a facsimile machine, a national bank may fulfill its notification delivery requirement by sending the notification by facsimile transmission. Similarly, a bank may satisfy the notification delivery requirement by other electronic communications when:

(1) The parties agree to use electronic instead of hard-copy notifications;

(2) The parties have the ability to print or download the notification;

(3) The recipient affirms or rejects the trade through electronic notification;

(4) The system cannot automatically delete the electronic notification; and

(5) Both parties have the capacity to receive electronic messages.

(b) The OCC would consider the permissibility of other situations using electronic notifications on a case-by-case basis.

Dated: December 7, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 95–30970 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–142–AD]

Airworthiness Directives; Beech (Raytheon) Model BAe 125–800A and Hawker 800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech (Raytheon) Model BAe 125–800A and Hawker 800 series airplanes. This proposal would require a detailed visual inspection of the fuel feed hose assemblies of the auxiliary power unit (APU) to detect overheating, degradation, proper routing, and adequate clearance; and the correction of any discrepancies found. This proposal is prompted by reports of heat damage to the fuel feed hose assembly of the APU due to contact between the hose assembly and hot surfaces. The actions specified by the proposed AD are intended to prevent such heat damage, which could lead to a possible fire/smoke hazard when failure of the hose assembly occurs and subsequent fuel mist or spray is emitted into the rear equipment bay.

DATES: Comments must be received by January 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–142–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Manger Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–142–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–142–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Beech (Raytheon) Model BAe 125–800A and Hawker 800 series airplanes. The CAA advises that it has received reports of heat damage to the fuel feed hose assembly of the auxiliary power unit (APU). The cause of such heat damage has been attributed to contact between the hose assembly and hot surfaces. This condition, if not corrected, could lead to a possible fire/smoke hazard if failure of the hose assembly occurs and fuel mist or spray is subsequently emitted into the rear equipment bay.

The manufacturer has issued Service Bulletin SB. 49–45, dated May 15, 1995. The service bulletin describes procedures for a detailed visual inspection to detect overheating or degradation of the hose assemblies; to verify proper routing of fuel feed hose assembly of the APU; and to verify if adequate clearance (0.5 inch) exists between the hose assembly and the left-hand mixer valve/main air valve assemblies and associated hot air ducting. The service bulletin also provides procedures for the correction of any discrepancies found during the inspection. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require a detailed visual inspection to detect overheating or degradation of the hose assemblies; to verify proper routing of fuel feed hose assembly of the APU; and to verify if adequate clearance (0.5 inch) exists between the hose assembly and the left-hand mixer valve/main air valve assemblies and associated hot air ducting. It also would require the correction of any discrepancies prior to further flight. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 70 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,400, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ''ADDRESSES.''

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Beech Aircraft Company (Raytheon Aircraft Company): Docket 95–NM–142–AD.

Applicability: Model BAe 125–800A (including military variants C–29A and U–125) and Hawker 800 series airplanes, constructor's numbers 8091 and subsequent; equipped with Turbomach auxiliary power unit (APU) (Modification 259404B); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent heat damage to the fuel feed hose assemblies of the auxiliary power unit (APU), which could lead to a possible fire/smoke hazard if failure of the hose assembly occurs and fuel mist or spray is subsequently emitted into the rear equipment bay, accomplish the following:

(a) Within 75 days after the effective date of this AD, perform a detailed visual inspection to detect overheating or degradation of the hose assemblies; to verify proper routing of fuel feed hose assembly of the auxiliary power unit (APU); and to verify if adequate clearance (0.5 inch) exists between the hose assembly (outlet from the fuel pump box of the APU) and the left-hand mixer valve/main air valve assemblies and associated hot air ducting; in accordance with Hawker Service Bulletin SB. 49–45, dated May 15, 1995.

(1) If no discrepancy is detected, no further action is required by this AD.

(2) If any overheating or degradation is detected, prior to further flight, replace the hose assembly with a new assembly, ensuring proper clearance and routing exists, in accordance with the service bulletin.

(3) If any hose assembly is improperly routed, prior to further flight, re-route the assembly maintaining proper clearance, in accordance with the service bulletin.

(4) If the clearance of the hose assembly is inadequate and the hose assembly is properly routed, prior to further flight, adjust the hose assembly to achieve the 0.5-inch clearance, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 18, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–31189 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 95–AWP–38]

Proposed Establishment of Class D and E Airspace Areas; Saipan Island, CQ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class D and E airspace areas at Saipan Island, CQ. The Class D airspace area would be established because an airport traffic control tower (ATCT) at Saipan International Airport, Saipan Island, CQ, has been commissioned. The FAA is proposing to establish the Class E airspace area to provide adequate controlled airspace for aircraft executing instrument approach operations at Saipan International Airport.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP–500, Docket No. 95–AWP–38, Federal Aviation Administration, P. O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ‘‘Comments to Airspace Docket No. 95–AWP–38.’’ The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D and E airspace areas at Saipan Island, CQ. The Class D airspace area would be established because an ATCT at Saipan International Airport, Saipan Island, CQ, has been commissioned. The FAA is proposing to establish the Class E airspace area to provide adequate controlled airspace for aircraft executing instrument approach operations at Saipan International Airport. Class D and E airspace designations are published in paragraphs 5000 and 6004, respectively, of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ‘‘significant regulatory action’’ under Executive Order 12866; (2) is not a ‘‘significant rule’’ under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Rules and Procedures Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil aircraft operations on international air routes are carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000—Class D Airspace

* * * * *

AWP CQ D Saipan Island, CQ [New]

Saipan International Airport, CQ
(Lat. 15°07′08″N, long. 145°43′46″E)
Saipan RBN (lat. 15°06′41″N, long. 145°42′37″E)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Saipan International Airport. This Class D airspace area is effective during the specific dates and times established in advanced by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory, Pacific Chart Supplement.

* * * * *

Paragraph 6004—Class E airspace areas designated as an extension to a Class D surface area

* * * * *

AWP CQ E4 Saipan Island, CQ [New]

Saipan International Airport, CQ
(Lat. 15°07′08″N, long. 145°43′46″E)
Saipan RBN (lat. 15°06′41″N, long. 145°42′37″E)

That airspace extending upward from the surface within a 4.3-mile radius of Saipan International Airport and within 2.6 miles each side of the Saipan RBN 264° bearing, extending from the 4.3-mile radius to 7.4 miles west of the Saipan RBN and within 1.8 miles each side of the Saipan RBN 248° radial, extending from the 4.3-mile radius to 7.4 miles west of the Saipan RBN and within 1.8 miles each side of the Saipan RBN 068° radial, extending from the 4.3-mile radius to 6.5 miles east of the Saipan International Airport. This Class E airspace area is effective during the specific dates and times established in advanced by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory, Pacific Chart Supplement.

* * * * *

Issued in Washington, DC, on December 12, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–31202 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 50 and 312

[Docket No. 95N–0359]

Protection of Human Subjects; Informed Consent

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its current informed consent regulations to require that the written consent form signed by the subject or the subject's legally authorized representative, be dated by the subject or the subject's legally authorized representative at the time consent is given. FDA is proposing this requirement because the agency has had problems on occasion verifying that informed consent was obtained from a research subject prior to participation in a study because the consent document was not dated. The agency believes that by explicitly requiring that the consent form be dated at the time it is signed, the agency will be able to help ensure that informed consent was, in fact, obtained prior to entry into the study as required by FDA regulations. FDA is also proposing to amend its regulation on case histories to clarify what adequate case histories include.

DATES: Written comments by March 21, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glen D. Drew, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed Rule

Except as provided in FDA regulations, no investigator may involve a human being as a subject in research covered by part 50 (21 CFR part 50) unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. Section 50.20 requires the investigator to seek informed consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. In past audits of clinical investigations, FDA has had problems on occasion verifying that consent was obtained prior to participation in the study because a number of the consent documents were not dated. By explicitly requiring that the consent form be dated at the time it is signed, the agency will be able to help ensure that informed consent was obtained prior to entry into the study and will be able to verify that the investigator has fulfilled his or her obligation. Thus, FDA is proposing to amend § 50.27(a) to explicitly require that the consent form be dated by the subject or the subject's legally authorized representative at the time that it is signed.

II. Request for Comments

Interested persons may, on or before March 21, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This rule simply adds a requirement that consent forms be dated at the time that they are signed in order to permit the agency to verify that informed consent is obtained prior to an individual's entry into a research study. Because the majority of consent forms are currently dated at the time that they are signed, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

V. Clarifying Amendments

Along with this proposal to require that consent forms be dated at the time they are signed, FDA believes that a number of related changes to the regulations for human drugs and biologics are warranted. FDA is proposing to revise § 312.53(c)(1)(vi)(*d*) (21 CFR 312.53(c)(1)(vi)(*d*)) to expressly recognize that the informed consent referred to be in accordance with 21 CFR part 50 and that institutional review board review and approval referred to be in accordance with 21 CFR part 56. Also, FDA is proposing to revise § 312.62(b) (21 CFR 312.62(b)) to clarify that adequate case history records include the case report forms and supporting data, including, for example, signed and dated consent forms and medical records.

List of Subjects

21 CFR Part 50

Human research subjects, Informed consent, Prisoners, Reporting and recordkeeping requirements, Safety.

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 50 and 312 be amended as follows:

PART 50—PROTECTION OF HUMAN SUBJECTS

1. The authority citation for 21 CFR part 50 continues to read as follows:

Authority: Secs. 201, 406, 408, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 701, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 379e, 381); secs. 215, 301, 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263b–263n).

2. Section 50.27 is amended by revising paragraph (a) to read as follows:

§ 50.27 Documentation of informed consent.

(a) Except as provided in § 56.109(c), informed consent shall be documented by the use of a written consent form approved by the IRB and signed and dated by the subject or the subject's legally authorized representative at the time of consent. A copy shall be given to the person signing the form.

* * * * *

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

3. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

4. Section 312.53 is amended by revising paragraph (c)(1)(vi)(*d*) to read as follows:

§ 312.53 Selecting investigators and monitors.

* * * * *

(c) * * *

(1) * * *

(vi) * * *

(*d*) Will inform any patients, or any persons used as controls, that the drugs are being used for investigational purposes and will ensure that the requirements relating to obtaining informed consent (21 CFR part 50) and institutional review board review and approval (21 CFR part 56) are met;

* * * * *

5. Section 312.62 is amended by revising paragraph (b) to read as follows:

§ 312.62 Investigator recordkeeping and record retention.

* * * * *

(b) *Case histories*. An investigator is required to prepare and maintain adequate and accurate case histories that record all observations and other data pertinent to the investigation on each individual treated with the investigational drug or employed as a control in the investigation. Case histories include the case report forms and supporting data including, for example, signed and dated consent forms and medical records.

* * * * *

Dated: December 12, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–31154 Filed 12–21–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–35–95]

RIN 1545–AT82

Allocation of Accrued Benefits Between Employer and Employee Contributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance on calculation of an employee's accrued benefit derived from the employee's contributions to a qualified defined benefit pension plan. These regulations are issued to reflect changes to the applicable law made by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) and the Omnibus Budget Reconciliation Act of 1989 (OBRA '89). OBRA '87 and OBRA '89 amended the law to change the accumulation of employee contributions and the conversion of those accumulated contributions to employee-derived accrued benefits.

DATES: Written comments and requests for a public hearing must be received by March 21, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (EE–35–95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (EE–35–95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Janet A. Laufer, (202) 622–4606, concerning submissions, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to regulations containing rules for computing an employee's accrued benefit derived from the employee's contributions to a qualified defined benefit pension plan. The proposed amendments reflect changes made to section 411(c)(2) by the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203 (OBRA '87), and the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239 (OBRA '89). OBRA '87 and OBRA '89 changed the interest rates used to accumulate an employee's contributions to normal retirement age. OBRA '89 also changed the manner in which the accumulated contributions are converted to an annual benefit payable at normal retirement age, and removed a limitation on the employee-derived accrued benefit contained in prior law.

Section 411(c)(1) provides that an employee's accrued benefit derived from employer contributions as of any applicable date is the excess, if any, of the accrued benefit for the employee as of that date over the accrued benefit derived from contributions made by the employee as of that date. Section 411(c)(2)(B) provides that in the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's contributions accumulated to normal retirement age using the interest rate(s) specified in section 411(c)(2)(C), expressed as an actuarially equivalent annual benefit commencing at normal retirement age using an interest rate which would be used by the plan under section 417(e)(3), as of the determination date. If the employee-derived accrued benefit is determined with respect to a benefit other than an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, section 411(c)(3) requires that the employee-derived accrued benefit be the actuarial equivalent of the benefit determined under section 411(c)(2).

Under section 411(c)(2)(C)(iii)(I), effective for plan years beginning after December 31, 1987, the interest rate used to accumulate an employee's contributions until the determination date is 120 percent of the Federal mid-term rate under section 1274 of the Internal Revenue Code (Code). For the period between the determination date and normal retirement age, section 411(c)(2)(C)(iii)(II) provides that the interest rate used to accumulate an employee's contributions is the interest rate which would be used under the plan under section 417(e)(3) as of the determination date. As noted above, section 411(c)(2)(B) provides that the interest rate which would be used under the plan under section 417(e)(3) as of the determination date also applies for purposes of converting the accumulated contributions to an annual benefit commencing at normal retirement age. The Retirement Protection Act of 1994, Public Law 103–465 (RPA '94) amended section 417(e) to change the applicable interest rate under section 417(e)(3) and to specify the applicable mortality table under that section. Examples contained in § 1.411(c)-1(c)(6) of these proposed regulations reflect a plan that has been amended to comply with the interest rate and mortality table specifications enacted in RPA '94.

Explanation of Provisions

1. Conversion Calculation

Prior to OBRA '89, section 411(c)(2)(B) specified that the conversion factor to be used for purposes of computing the employee-derived accrued benefit was 10 percent for a straight life annuity commencing at normal retirement age of 65 (i.e., multiply the accumulated contributions by .10), and that for other normal retirement ages the conversion factor was to be determined in accordance with regulations prescribed by the Secretary. Section 1.411(c)-1(c)(2) of the existing regulations provides that for normal retirement ages other than age 65, the conversion factor shall be the factor as determined by the Commissioner.

Rev. Rul. 76–47 (1976–1 C.B. 109) sets forth in tabular form the conversion factors to be used for determining the accrued benefit derived from employee contributions when the normal retirement age under the plan is other than age 65 or when the normal form of benefit is other than a single life annuity (without ancillary benefits). Rev. Rul 76–47 further provides that where no standard factor is available, a conversion factor must be determined using an interest rate of 5 percent and the UP–1984 mortality table (without age setback).

OBRA '89 deleted the ten percent conversion factor in section 411(c)(2)(B) and replaced it with the requirement that the accumulated contributions at normal retirement age be expressed as an annual benefit commencing at normal retirement age using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date). This change was effective retroactively to the effective date of the OBRA '87 provision relating to section 411(c)(2)(C) (the first day of the first plan year beginning after December 31, 1987).

To reflect the OBRA '89 amendments, these proposed regulations define appropriate conversion factor with respect to an accrued benefit expressed in the form of an annual benefit that is nondecreasing for the life of the participant as the present value of an annuity in the form of that annual benefit commencing at normal retirement age at a rate of $1 per year. This amount is to be computed using the interest rate and mortality table which would be used under the plan under section 417(e)(3) and § 1.417(e)-1T. To reflect the post-OBRA ’89 conversion factor definition and to conform to common actuarial practice, these proposed regulations would change the multiplied by language in § 1.411(c)-1(c)(1) to divided by.

2. Accumulated Contributions

As added by the Employee Retirement Income Security Act of 1974 (ERISA), section 411(c)(2)(C) provided that employee contributions were to be accumulated using a standard interest rate of 5 percent for years beginning on or after the effective date of that section. OBRA ’87 changed the interest rate under section 411(c)(2)(C) to 120 percent of the applicable Federal mid-term rate under section 1274 for plan years after 1987. OBRA ’89 again amended section 411(c)(2)(C) to provide that 120 percent of the applicable Federal mid-term rate under section 1274 is to be used for accumulating contributions only up to the determination date. For the period from the determination date to normal retirement age, the interest rate which would be used under the plan under section 417(e)(3) (as of the determination date) must be used for accumulating contributions for the period from the determination date to normal retirement age. Accordingly, these proposed regulations would amend paragraph (3) of § 1.411(c)-1(c) to reflect those rates. As stated above, RPA ’94 amended section 417(e)(3) to change the applicable interest rate. See § 1.417(e)-1T.

3. Determination Date

Section 1.411(c)-1(c)(5)(i) defines the term determination date for purposes of section 411(c)(2)(C)(iii), in a case in which a participant will receive his or her entire accrued benefit derived from employee contributions in any one of the following forms (described in paragraph (c)(5)(ii)): an annuity that is substantially nonincreasing, substantially nonincreasing installment payments for a fixed number of years, or a single sum distribution. In such a case, the term determination date means the date on which distribution of such benefit commences. For this purpose, an annuity that is nonincreasing except for automatic increases to reflect increases in the consumer price index is considered to be an annuity that is substantially nonincreasing.

Thus, for example, for purposes of section 411(c)(2)(C)(iii), in the case of a distribution of the employee’s entire accrued benefit (or the employee’s entire employee-derived accrued benefit) in the form of a nonincreasing single life annuity payable commencing either at normal retirement age or at early retirement age, the determination date is the date the annuity commences. Similarly, in the case of a single sum distribution of accumulated employee contributions (i.e., employee contributions plus interest computed at or above the section 411(c) required rates) upon termination of employment with a deferred annuity benefit derived solely from employer contributions, the determination date is the date of distribution of the single sum of accumulated employee contributions.

Alternatively, the plan may provide that the determination date is the annuity starting date, as defined in § 1.401(a)–20, Q&A–10.

Under § 1.411(c)–1(c)(5)(iii) of these regulations, where a participant will receive a distribution that is not described in paragraph (c)(5)(i), the determination date will be as provided by the Commissioner.

4. Elimination of Limitation on Employee-derived Accrued Benefit

Prior to OBRA ’89, section 411(c)(2)(E) of the Code limited the accrued benefit derived from employee contributions to the greater of (1) the employee’s accrued benefit under the plan, or (2) the sum of the employee’s mandatory contributions, without interest. Section 7881(m)(1)(C) of OBRA ’89 deleted that provision. Section 7881(m)(1)(D) of OBRA ’89 added section 411(a)(7)(D) to the Code, which provides that the accrued benefit of an employee shall not be less than the amount determined under section 411(c)(2)(B) with respect to the employee’s accumulated contributions. Accordingly, these proposed regulations delete the rule included in § 1.411(c)–1(d) of the existing regulations, which reflects the pre-OBRA ’89 rule.

5. Delegation of Authority

Section 1.411(c)–1(d) of these proposed regulations provides that the Commissioner may prescribe additional guidance on calculating the accrued benefit derived from employer or employee contributions under a defined benefit plan.

Effective Date

These amendments are proposed to be effective for plan years beginning on or after January 1, 1997. For example, assume that under a plan the employee’s date of termination of employment is treated as the determination date, and distribution of the employee’s entire employee-derived accrued benefit (as determined under the terms of the plan then in effect) occurs or commences prior to the first day of the plan year beginning in 1997. In that case, with respect to interest credits under section 411(c)(2)(C)(iii) for plan years beginning after 1987, the Service will not treat the plan as having failed to satisfy the requirements of section 411(c), nor will it require that additional amounts be credited in the calculation of the employee-derived accrued benefit in order to satisfy the requirements of section 411(c) after final regulations become effective, merely because the date the employee’s employment terminated was treated as the determination date, provided that interest is credited in accordance with section 411(c)(2)(C)(iii)(I) for the period before the date the employee terminated employment and in accordance with section 411(c)(2)(C)(iii)(II) thereafter.

Once amendments to the regulations under § 1.411(c)–1 are adopted in final form, the Service will obsolete or modify Rev. Rul. 76–47, Rev. Rul. 78–202 (1978–2 C.B. 124) and Rev. Rul. 89–60 (1989–1 C.B. 113) as necessary or appropriate.

Taxpayers may rely on these proposed regulations for guidance pending the issuance of final regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Janet A. Laufer, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.411(c)–1 is amended by:

1. Revising paragraphs (c)(1), (c)(2), and (c)(3), and by adding paragraphs (c)(5) and (c)(6).
2. Revising paragraph (d).
3. Adding paragraph (g).

The additions and revisions read as follows:

§ 1.411(c)–1 Allocation of accrued benefits between employer and employee contributions.

* * * * *

(c) *Accrued benefit derived from mandatory employee contributions to a defined benefit plan*—(1) *General Rule.* In the case of a defined benefit plan (as defined in section 414(j)), the accrued benefit derived from contributions made by an employee under the plan as of any applicable date in the form of an annual benefit commencing at normal retirement age and nondecreasing for the life of the participant is equal to the amount of the employee's accumulated contributions (determined under paragraph (c)(3) of this section) divided by the appropriate conversion factor with respect to that form of benefit (determined under paragraph (c)(2) of this section). Paragraph (e) of this section provides rules for actuarial adjustments where the benefit is to be determined in a form other than the form described in this paragraph (c)(1).

(2) *Appropriate conversion factor.* For purposes of this paragraph, with respect to a form of annual benefit commencing at normal retirement age described in paragraph (c)(1), the term *appropriate conversion factor* means the present value of an annuity in the form of that annual benefit commencing at normal retirement age at a rate of $1 per year, computed using an interest rate and mortality table which would be used under the plan under section 417(e)(3) and § 1.417(e)–1T (as of the determination date).

(3) *Accumulated contributions.* For purposes of section 411(c) and this section, the term *accumulated contributions* means the total of—

(i) All mandatory contributions made by the employee (determined under paragraph (c)(4) of this section);

(ii) Interest (if any) on such contributions, computed at the rate provided by the plan to the end of the last plan year to which section 411(a)(2) does not apply (by reason of the applicable effective dates);

(iii) Interest on the sum of the amounts determined under paragraphs (c)(3)(i) and (ii) of this section compounded annually at the rate of 5 percent per annum from the beginning of the first plan year to which section 411(a)(2) applies (by reason of the applicable effective date) to the beginning of the first plan year beginning after December 31, 1987;

(iv) Interest on the sum of the amounts determined under paragraphs (c)(3)(i) through (iii) of this section compounded annually at 120 percent of the Federal mid-term rate(s) (as in effect under section 1274(d) of the Internal Revenue Code for the first month of a plan year) for the period beginning with the first plan year beginning after December 31, 1987 and ending on the determination date; and

(v) Interest on the sum of the amounts determined under paragraphs (c)(3)(i) through (iv) of this section compounded annually, using an interest rate which would be used under the plan under section 417(e)(3) and § 1.417(e)–1T (as of the determination date), from the determination date to the date on which the employee would attain normal retirement age.

* * * * *

(5) *Determination date*—(i) For purposes of section 411(c) and this section, in a case in which a participant will receive his or her entire accrued benefit derived from employee contributions in any one of the forms described in paragraph (c)(5)(ii), the term *determination date* means the date on which distribution of such benefit commences. Alternatively, in such a case, the plan may provide that the determination date is the annuity starting date with respect to that benefit, as defined in § 1.401(a)–20, Q&A–10.

(ii) Paragraph (c)(5)(i) applies to the following forms: an annuity that is substantially nonincreasing (e.g., an annuity that is nonincreasing except for automatic increases to reflect increases in the consumer price index), substantially nonincreasing installment payments for a fixed number of years, or a single sum distribution.

(iii) In a case in which a participant will receive a distribution that is not described in paragraph (c)(5)(i), the determination date will be as provided by the Commissioner.

(6) *Examples.*

(i) *Facts.* (A) In the following examples, Employer X maintains a qualified defined benefit plan that required mandatory employee contributions for 1987 and prior years, but not for years after 1987. The plan year is the calendar year. The plan provides for a normal retirement age of 65 and for 100 percent vesting in the employer-derived portion of a participant's accrued benefit after 5 years of service.

(B) The terms of the plan provide that the normal form of benefit is a level monthly amount commencing at normal retirement age and payable for the life of the participant. A plan participant who elects not to receive benefits in the form of the qualified joint and survivor annuity provided by the plan may elect to receive a single-sum distribution of the present value of his or her accrued benefit upon termination of employment.

(C) As of January 1, 1995, the plan was amended to provide that, for purposes of computing actuarially equivalent benefits, the single sum is calculated using the unisex version of the 1983 GAM mortality table (as provided in Revenue Ruling 95–6 (1995–1 C.B. 80)), and interest at the rate equal to the annual rate of interest on 30-year Treasury securities for the first calendar month preceding the first day of the plan year during which the annuity starting date occurs.

(D) Under the plan, employee contributions are accumulated at 3 percent interest for plan years beginning before 1976, 5 percent interest for plan years beginning after 1975 and before 1988, and interest at 120 percent of the Federal mid-term rate (as in effect under section 1274(d) for the first month of the plan year) for plan years beginning after 1987 until the determination date. Under the plan, the determination date is defined as the annuity starting date. For the period from the determination date until the date on which the employee attains normal retirement age, interest is credited at the interest rate which would be used under the plan under section 417(e)(3) as of the determination date.

(E) A, an unmarried participant, terminates employment with X on January 1, 1997 at age 56 with 15 years of service. As of December 31, 1987, A's total accumulated mandatory employee contributions to the plan, including interest compounded annually at 5 percent for plan years beginning after 1975 and before 1988, equaled $3,021. A receives his or her accrued benefit in the form of an annual single life annuity commencing at normal retirement age. A's annuity starting date is January 1, 2006, and therefore the determination date is January 1, 2006.

(ii) *Annuity at Normal Retirement Age—Determination of Employee-Derived and Total Plan Vested Accrued Benefit.*

Example 1.

For purposes of this example, it is assumed that A's total accrued benefit under the plan in the normal form of benefit commencing at normal retirement age is $2,949 per year. A's benefit, as of January 1, 2006, would be determined as follows:

(1) Determine A's total accrued benefit in the form of an annual single life annuity commencing at normal retirement age under the plan's formula ($2,949 per year payable at age 65).

(2) Determine A's accumulated contributions with interest to January 1, 1997. As of December 31, 1987, A's accumulated contributions with interest under the plan provisions were $3,021. A's employee contributions are accumulated from December 31, 1987 to January 1, 1997 using 120 percent of the Federal mid-term rate under section 1274(d). This rate is 10.61 percent for 1988, 11.11 percent for 1989, 9.57 percent for 1990, 9.78 percent for 1991, 8.10 percent for 1992, 7.63 percent for 1993, 6.40 percent for 1994, and 9.54 percent for 1995. It is assumed for purposes of this example that 120 percent of the Federal mid-term rate is 7.00 percent for each year between 1996 and 2006, and that the 30-year Treasury rate for December 2005 is 8.00 percent. Thus, A's contributions accumulated to January 1, 1997, equal $6,480.

(3) Determine A's accumulated contributions with interest to normal retirement age (January 1, 2006) using, for the 1996 plan year and for years until normal retirement age, 120 percent of the Federal mid-term rate under section 1274(d), which is assumed to be 7.00 percent ($11,913).

(4) Determine the accrued annual annuity benefit derived from A's contributions by dividing A's accumulated contributions determined in paragraph (3) of this *Example 1* by the plan's appropriate conversion factor. The plan's appropriate conversion factor at age 65 is 9.196, and the accrued benefit derived from A's contributions would be $\$11,913 - 9.196 = \$1,295$.

(5) Determine the accrued benefit derived from employer contributions as the excess, if any, of the employee's accrued benefit under the plan over the accrued benefit derived from employee contributions ($\$2,949 - \$1,295 = \$1,654$ per year).

(6) Determine the vested percentage of the accrued benefit derived from employer contributions under the plan's vesting schedule (100 percent).

(7) Determine the vested accrued benefit derived from employer contributions by multiplying the accrued benefit derived from employer contributions by the vested percentage ($\$1,654 \times 100$ percent = $1,654 per year).

(8) Determine A's vested accrued benefit in the form of an annual single life annuity commencing at normal retirement age by adding the accrued benefit derived from employee contributions and the vested accrued benefit derived from employer contributions, the sum of paragraphs (4) and (7) of this *Example 1* ($1,295 + $1,654 = $2,949 per year).

Example 2.

This example assumes the same facts as *Example 1* except that A's total accrued benefit under the plan in the normal form of benefit commencing at normal retirement age is $1,000 per year. A's benefit, as of January 1, 2006, would be determined as follows:

(1) Determine A's total accrued benefit in the form of an annual single life annuity commencing at normal retirement age under the plan's formula ($1,000 per year payable at age 65).

(2) Determine A's accumulated contributions with interest to January 1, 1997 ($6,480 from paragraph 2 of *Example 1*).

(3) Determine A's accumulated contributions with interest to normal retirement age (January 1, 2006) ($11,913 from paragraph 3 of *Example 1*).

(4) Determine the accrued annual annuity benefit derived from A's contributions by dividing A's accumulated contributions determined in paragraph (3) of this *Example 2* by the plan's appropriate conversion factor ($1,295 from paragraph 4 of *Example 1*).

(5) Determine the accrued benefit derived from employer contributions as the excess, if any, of the employee's accrued benefit under the plan over the accrued benefit derived from employee contributions. Because the accrued benefit derived from employee contributions ($1,295) is greater than the employee's accrued benefit under the plan ($1,000), the accrued benefit derived from employer contributions is zero, and A's vested accrued benefit in the form of an annual single life annuity commencing at normal retirement age is $1,295 per year.

(d) *Delegation to Commissioner.* The Commissioner may prescribe additional guidance on calculating the accrued benefit derived from employee contributions under a defined benefit plan through publication in the Internal Revenue Bulletin of revenue rulings, notices, or other documents (see § 601.601(d)(2) of this chapter).

* * * * *

(g) *Effective date.* Paragraphs (c)(1), (c)(2), (c)(3), (c)(5), (c)(6) and (d) of this section are effective for plan years beginning on or after January 1, 1997.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–31006 Filed 12–21–95; 8:45 am]

BILLING CODE 4830–01–U

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

RIN 1512–AA07

[Notice No. 817]

The Malibu-Newton Canyon Viticultural Area (95R–014P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a petition proposing the establishment of a viticultural area in the State of California to be known as ''Malibu-Newton Canyon.'' This proposal is the result of a petition submitted by Mr. George Rosenthal, President of Rancho Escondido, Inc.

ATF believes that the establishment of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

DATES: Written comments must be received by February 20, 1996.

ADDRESSES: Send written comments to: Chief, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 817). Copies of the petition, the proposed regulations, the appropriate maps, and any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Brokaw, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF has received a petition from Mr. George Rosenthal, President of Rancho Escondido, Inc., proposing to establish a new viticultural appellation in the Malibu area of Los Angeles County, California, to be known as ''Malibu-Newton Canyon.'' The viticultural area, comprising approximately 850 acres, is located within Newton Canyon which is a bowl shaped valley located on the south facing side of the Santa Monica Mountains. Vineyards currently within the proposed viticultural area are located on the Rancho Escondido Estate. Rancho Escondido is comprised of approximately 157 acres, all of which lies within the proposed ''Malibu-Newton Canyon'' viticultural area. Approximately, 14 of these acres are planted with premium wine producing vineyards. Varietals include Cabernet Savignon, Merlot, Cabernet Franc, Chardonnay and Petite Verdot. Currently, there are no wineries located within the proposed ''Malibu-Newton Canyon'' area. The petition provides the following information as evidence that the proposed area meets the regulatory requirements discussed previously.

Evidence That the Name of the Area Is Locally or Nationally Known

According to the petitioner, the origin of the name Malibu comes from the ancient Chumash Indian word MALA I BOO, meaning ''Place on the Cliff,'' and was the name of an Indian village just beyond Malibu Beach. After the Spaniards took control of southern California, the encompassing Chumash ranchera UMALIBO became known as the Malibu Rancho. A Spanish settler, Jose Bartolome Tapia gained control of the rancho and was later granted the land by the Governor of the Californias. The present day spelling appears on the name of the Topanga Malibu Sequit grant dated July 12, 1805. It originally totalled 13,315 acres, one of the largest southern California Ranchos at that time.

The petitioner further states that throughout the 19th century, Rancho Malibu changed hands many times but remained intact. Until the construction of the Pacific Coast Highway in the 1930's, the privacy of Rancho Malibu had not been invaded. With the burgeoning economy of southern California, conditions greatly changed. This historic rancho was finally subdivided during the same decade. Following soon after, the famous Malibu Beach Colony was established where movie stars and industry moguls began constructing their homes. The Malibu area then quickly developed into the highly recognized community of Los Angeles as it is known today.

Throughout this region there exists topography in the form of roads, a creek, a lake, a canyon, a beach, hiking trails, parks, vistas, etc. which denote the name ''Malibu.'' The region lying roughly from the ridge line of the Santa Monica Mountains to the ocean, and from Topanga Canyon to the Ventura County line is commonly known as Malibu, according to the petitioner. While the city of Malibu was incorporated in 1992, the entire surrounding area described above continues to be recognized as Malibu. ''Malibu'' could be applied to any of the hills/mountains which drain toward the ocean through the city of Malibu, including Newton Canyon, the location of the proposed viticultural area.

The petitioner provided a 1:250,000 scale Topopgraphic-Bathymetric map of Los Angeles to document the use of the name, ''Malibu.'' An article in the October 15, 1994, issue of the ''Wine Spectator,'' entitled ''A Vineyard Grows in Malibu Canyon,'' refers to the area around ''The Malibu Estate'' (Rancho Escondido, Inc.) as ''Malibu Hills.'' Also, included as an exhibit was a copy of an article from, ''The Underground Wine Journal,'' 1994, entitled, ''Distinctive New Wines.'' This article refers to ''The Malibu Estate'' as being located ''in the hills above Malibu.''

According to the petitioner, the name ''Newton Canyon'' is generally known as describing the specific area in which the proposed viticultural area is located. This is evidenced by the name of the main street running through the proposed viticultural area—''Newton Canyon Road.'' In addition, maps of the area, including the U.S.G.S. map referenced and shown within the petition, label the area as, ''Newton Canyon.'' The petitioner states that, ''`Newton Canyon alone is not descriptive enough to describe the general location of the proposed viticultural area, and further, might possibly cause public confusion in relation to Newton Vineyards, located in the Napa Valley.'' Therefore, the petitioner proposed the name, ''Malibu-Newton Canyon.''

Historical or Current Evidence That the Boundaries of the Proposed Viticultural Area Are as Specified in the Petition

The boundaries of the proposed ''Malibu-Newton Canyon'' viticultural area follow the natural ridge lines which define Newton Canyon and are delineated on the U.S.G.S. Point Dume, California, quadrangle map.

Newton Canyon is a bowl shaped valley located on the south facing side of the Santa Monica Mountains, in the Malibu area of Los Angeles County. The canyon is oriented along an east-west axis. The valley floor lies at an elevation of approximately 1,400 feet. The surrounding ridgeline ranges in elevation from 1,800–2,100 feet on the southern ocean side of the canyon, continuing to 2,100–2,800 feet on the high side of the canyon to the north.

According to the petitioner, the elevation of the southern rim of the canyon is low enough to allow evening fog to sift into the valley, but high enough to keep out the marine layer that shrouds much of the coastline throughout the daytime. The northern rim of the canyon joins the crest of the Santa Monica Mountains that divides oceanside from leeside. Lying at the eastern most side of the canyon, Castro Peak is another distinguishing feature which marks one of the highest points in the Santa Monica Mountains at 2,824 feet.

The petitioner further states that approximately two-thirds of the surrounding Malibu area contains slopes greater than 25 percent, with only one-fifth having relatively level terrain. Throughout the past several decades, most of the usable land in the Malibu area has been developed. Because of increasingly high land prices, very little of the land in the general Malibu area is still used for agriculture. The Santa Monica Mountains also have thousands of acres dedicated to State and national parks, with more acreage being aggressively acquired by public conservation agencies.

Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, etc.) Which Distinguish the Viticultural Features of the Proposed Area From Surrounding Areas

Climate

Based upon a 1994 climate study completed by Fox Weather, Oxnard, California, the petitioner asserts the following: The general climate of the Malibu area is typical of southern California with mild rainy winters, and warm dry summers. However, there are several climatological factors which distinguish the proposed ''Malibu-Newton Canyon'' viticultural area from the surrounding region.

While summer temperatures often exceed 80 degrees in the afternoon, cooling ocean breezes flow into the valley in the evening, according to the petitioner. Moreover, during the evening and early morning a light fog often filters into the valley and settles along the slopes, creating a unique microclimate which is significantly cooler than the surrounding inland areas. Typically, the morning sun shines through the fog, which in turn is swept out by warm winds and high daytime temperatures. The valley enjoys southern exposure to the sun throughout the afternoon. According to the petitioner, these conditions are ideal for premium grape growing.

Because of its high elevation and orientation, the proposed viticultural area does not experience the constantly overcast skies and cooler temperatures of the coastal region immediately below.

Newton Canyon, within which the proposed viticultural area is located, is a unique pocket protected from marine influence. The coastline near sea level is a more temperate climate controlled by marine stratus with uniformly cold temperatures, fog and low clouds. This cooler and more humid coastal environment, mainly affecting areas below the 1,300 foot level, can create grape rot and delay maturation.

The petitioner claims that the proposed ''Malibu-Newton Canyon'' viticultural area is, in the daytime, a sunny warm oasis for a coastal location. The proposed area is located at an elevation which lies just at the bottom of the inversion layer and just at the top of the marine layer. Typically, the marine layer ceiling is approximately 1,400 feet on average. The southern or bottom rim of the canyon acts as a barrier to the marine layer, preventing the bulk of the coastal fog and low clouds from penetrating the valley for extended periods of time. This allows the ''Malibu-Newton Canyon'' area to enjoy favorable cooling effects of the Pacific ocean and have the warm sunny daytime temperatures found in the adjacent interior valleys.

Nearby inland areas experience uniformly hot summer temperatures similar to those experienced in the upper elevations on the oceanside of the Santa Monica Mountains. However, these inland areas receive little or no fog and much less precipitation than the oceanside regime, according to the petitioner.

An additional distinctive aspect is an increasing amount of precipitation with increasing elevation. The petitioner states that upland weather stations report practically twice the mean precipitation of the nearby lowland stations. Furthermore, the greatest monthly precipitation during the rainy season is from 1.5 to 3.0 times as great as that for the lowland stations. Precipitation is concentrated in the winter months. The average annual rainfall is about 24 inches, with approximately 12 percent occurring from the months of April to October.

The proposed area experiences typical low temperatures in the winter time, just above freezing temperatures. Infrequent winter freezes have been known to occur during the dormant winter growing cycle.

In summary, the petitioner states that the proposed viticultural area is characterized by an isolated microclimate that captures the favorable climatic conditions necessary for premium wine grape growing. In contrast, the petitioner states that the surrounding areas found on the oceanside of the Santa Monica Mountains (i.e, Malibu, Oxnard, Santa Monica) are uniformly cool and overcast. Surrounding inland areas found on the leeside of the Santa Monica Mountains (i.e, Thousand Oaks, Agoura, Woodland Hills) are uniformly hot and dry. The petitioner provided a diagram illustrating the ''Malibu-Newton Canyon'' microclimate and a November 29, 1994, ''CLIMATOLOGICAL SURVEY FOR RANCHO ESCONDIDO VINEYARDS,'' by Alan D. Fox of Fox Weather.

Physical Features

According to the petitioner, the primary distinction of the proposed viticultural area is its unique combination of shape, elevation, orientation and relative location to the marine influences of the Pacific Ocean. The proposed area lies within a clearly defined valley with a ''bowl'' shape resting high on the oceanside of the Santa Monica Mountains. These physical features create a pocket which harbors the distinct microclimate described above. The petitioner provided aerial photos to illustrate these physical features.

Drainage

All of the proposed viticultural area drains into Newton Canyon Creek, continuing to Zuma Creek which then drains into the Pacific Ocean at Point Dume's westward beach, according to the petitioner.

Soils

As evidence of soil types, the petitioner provided a 1994 soils study completed by Soil & Plant Laboratory, Inc., Orange, California, in addition to ''Soils of the Malibu Area California'' published by the Soil Conservation Service, United States Department of Agriculture.

According to this information, major soils within the proposed viticultural area range from loam to clay loam in texture. Subsoil texture ranges from clay loam to clay. Current plantings are mainly on Castaic and Rincon silty clay loams and Malibu loam which are lower elevation terrace soils that are moderately deep, with favorable Capability Class ratings of II to IV. Steeper hillside soils (mostly above the 1,700 foot contour line) are shallower with Capability Class ratings ranging from IV to VIII.

Soils in the proposed viticultural area have moderate to high inherent fertility. Soil reaction in surface soils ranges from moderately acid to slightly alkaline. Subsoil ph varies with type and several areas are calcareous.

According to the petitioner, soil tests performed prior to the planting of vineyards in 1988 revealed that the topsoil found in much of lower Newton Canyon contained crushed rock, as a result of the construction of the nearby Kanan Dume Road tunnel, which is ideal for good drainage.

The surrounding areas are mainly steep hillsides and mountainous uplands with poor soil capability. These soils are usually shallower than those found in the proposed viticultural area, and are subject to erosion.

Proposed Boundary

The boundary of the proposed ''Malibu-Newton Canyon'' viticultural area may be found on one United States Geological Survey map, entitled Point Dume Quadrangle, California, 7.5 minute series, with a scale of 1:24,000.

Public Participation—Written Comments

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so. However, assurance of consideration can only be given to comments received on or before the closing date.

ATF will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927–8602, provided the comments: (1) are legible; (2) are 8½ x 11'' in size, (3) contain a written signature, and (4) are 3 pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

During the comment period, any person who desires an opportunity to comment orally at a public hearing on the proposed regulation should submit his or her request, in writing, to the Director within the 60-day comment period. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to describe more accurately the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from that area.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. No. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is David Brokaw, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.152 to read as follows:

*   *   *   *   *

§ 9.152 Malibu-Newton Canyon.

(a) *Name.* The name of the viticultural area described in this petition is ''Malibu-Newton Canyon.''

(b) *Approved maps.* The appropriate map for determining the boundary of the Malibu-Newton Canyon viticultural area is the U.S.G.S. map, ''Point Dume Quadrangle, California'' (7.5 Minute Series 1:24,000 Topographic map, photorevised 1981).

(c) *Boundary.* The Malibu-Newton Canyon viticultural area is located in Los Angeles County, California. The boundary is as follows:

(1) Beginning at the intersection of the Newton Canyon creek (lowest elevation) and an unnamed medium duty road referred to by the petitioner as Kanan Dume Road at the boundary of section 13 and 18 on the U.S.G.S. map ''Point Dume Quadrangle.''

(2) Then south along Kanan Dume Road to the point where an unnamed, unimproved dirt road referred to by the petitioner as Ramerez Mountain Way crosses over Kanan Dume Road at the tunnel in the northwest corner of section 19.

(3) Then east along Ramerez Mountain Way, following the southern ridgeline of Newton Canyon, to Latigo Canyon Road in the southwest corner of section 17.

(4) Then south along Latigo Canyon Road to an unnamed, unimproved dirt road referred to by the petitioner as Newton Mountain Way at the southern boundary of section 17.

(5) Then northeast along Newton Mountain Way, following the southeastern ridgeline of Newton Canyon, to an unnamed, unimproved dirt road referred to by the petitioner as Castro Mountain Way in section 16.

(6) Then west along Castro Mountain Way, past Castro Peak, following the northern ridgeline of Newton Canyon to Latigo Canyon Road in section 18.

(7) Then southwest along the natural ridgeline of Newton Canyon to the intersection of Kanan Dume Road and the 1,600 foot contour line in the southeastern portion of section 13.

(8) Then southeasterly along Kanan Dume Road to the beginning point.

Signed: December 11, 1995.

Daniel R. Black,

Acting Director.

[FR Doc. 95–31169 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Play Facilities

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to form a regulatory negotiation committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) proposes to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly

constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. The regulatory negotiation committee will be composed of organizations who represent the interests affected by the accessibility guidelines for play facilities. The Access Board invites comments on the proposal to establish the regulatory negotiation committee and the proposed committee membership.

DATES: Comments should be received by January 22, 1996.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, D.C. 20004–1111. Fax number (202) 272–5447.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, D.C. 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines under the Americans with Disabilities Act and the Architectural Barriers Act to ensure that new construction and alterations of facilities covered by the laws are readily accessible to and usable by individuals with disabilities.[1] In July 1993, the Access Board established the Recreation Access Advisory Committee to examine various types of recreation facilities and make recommendations for accessibility guidelines for the facilities. The committee presented its recommendations in July 1994 covering six types of recreation facilities: sports facilities; places of amusement; play facilities; golf facilities; boating and fishing facilities; and outdoor developed areas. The Access Board issued an advance notice of proposed rulemaking (ANPRM) in September 1994 inviting public comment on the committee's recommendations. 59 FR 48542 (September 21, 1994). Comments received in response to the ANPRM generally supported the committee's recommendations. However, the comments revealed that there is not presently consensus on some major issues regarding play facilities and outdoor developed area among interests that potentially would be affected by accessibility guidelines for those facilities.

The Access Board proposes to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for play facilities. Regulatory negotiation is a supplement to the traditional rulemaking process that allows for face-to-face negotiations among representatives of affected interests, including the agency, with a goal of arriving at a consensus decision on the text of a proposed rule. The proposed rule is then published in the Federal Register and the public has an opportunity to comment.

Play facilities are commonly found in schools, parks, day care centers, and other settings designed for children. Play facilities include equipment such as slides, swings and ladders; areas designed for play activities such as sand play areas; and soft contained play structures. Among the issues to be considered in developing the accessibility guidelines are providing an accessible route within play facilities and providing access to elevated play equipment and structures.

The following interests are likely to be significantly affected by accessibility guidelines for play facilities:

- Manufactures and designers;
- State and local governments;
- Schools, parks, and day care centers;
- Individuals with disabilities;
- Voluntary standard groups; and
- Federal government.

The Access Board proposes to appoint the following organizations to represent the interests identified above on the regulatory negotiation committee:

Playground Equipment Manufacturers Association
American Society of Landscape Architects
International City/County Management Association
National Association of Counties
National League of Cities
National Association of Elementary School Principals
National Recreation and Park Association
National Child Care Association
National Council on Independent Living
National Easter Seal Society
TASH[2]
Spina Bifida Association of America
The Council for Exceptional Children
United Cerebral Palsy Association
ASTM[3] Public Playground Committee (F 15.29)
ASTM[3] Soft Contained Play Committee (F 15.36)
Access Board

Comments are invited on the proposal to establish the regulatory negotiation committee and the proposed membership of the committee. Persons who will be significantly affected by the accessibility guidelines for play facilities and who believe that their interests will not be adequately represented by the above organizations may apply for, or nominate another person for, membership on the regulatory negotiation committee. Applications or nominations should include the following information: (i) The name of the applicant or nominee and the interest that the person proposes to represent; (ii) evidence that the applicant or nominee is authorized to represent an organization or other parties having interests similar to the interests the person proposes to represent; (iii) a written commitment that the applicant or nominee would participate in good faith; and (iv) the reasons that the organizations specified in this notice do not adequately represent the interests that applicant or nominee proposes to represent.

For regulatory negotiation to be effective, the size of the committee will be limited. Each person or organization affected by accessibility guidelines for play facilities need not have its own representative on the regulatory negotiation committee. Rather, each interest must be adequately represented and the membership must be fairly balanced. Meetings of the regulatory negotiation committee will be announced in the Federal Register. The meeting will be open to the public and anyone may attend the meetings and confer with or provide their views to members of the regulatory negotiation committee.

[1] The Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) is a comprehensive civil rights law which prohibits discrimination on the basis of disability and requires, among other things, that newly constructed and altered State and local government facilities, places of public accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities.

The Architectural Barriers Act (42 U.S.C. 4151 et seq.) requires that certain federally financed facilities be readily accessible to and usable by individuals with disabilities.

The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The Departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; General Services Administration; and United States Postal Services.

[2] The Association for Persons with Severe Handicaps.

[3] American Society for Testing and Materials.

The Access Board has arranged for the Federal Mediation and Conciliation Service to provide facilitators for the regulatory negotiation committee. Staff support would be provided by the Access Board. Members of the regulatory negotiation committee will not be compensated for their service. The Access Board may pay travel expenses for a limited number of persons who would otherwise be unable to serve on the regulatory negotiation committee. Members of the regulatory negotiation committee will not be considered special government employees since they will serve as representatives of their organizations and will not be required to file confidential financial disclosure reports.

After reviewing the comments received in response to this notice, the Access Board will issue a notice in the Federal Register announcing the establishment of the regulatory negotiation committee and the committee membership, unless it is determined based on the comments that regulatory negotiation would be inappropriate.

The first meeting of the regulatory negotiation committee is tentatively scheduled for March 5, 6 and 7, 1996 in Washington, D.C.

The Access Board expects that the regulatory negotiation committee will develop a proposed rule on accessibility guidelines for play facilities within nine months of the first meeting. However, if unforseen delays occur, the Chairman of the Access Board may agree to an extension of that time if a consensus of the regulatory negotiation committee believes that additional time will result in agreement.

After the regulatory negotiation committee develops a proposed rule on accessibility guidelines for play facilities, the Access Board will issue a notice of proposed rulemaking (NPRM) inviting public comment on the proposed rule. The NPRM will also include proposed rules on accessibility guidelines for sports facilities, places of amusement, golf facilities, and boating and fishing facilities based upon the recommendations of the Recreation Access Advisory Committee and the comments received on those recommendations. The Access Board intends to establish another regulatory negotiation committee to develop a proposed rule on accessibility guidelines for outdoor developed areas after the proposed rule on accessibility guidelines for play facilities is developed. A separate notice will be issued in a future edition of the Federal Register inviting comment on the establishment of a regulatory negotiation committee to develop a proposed rule on assessibility guidelines for outdoor developed areas and that committee membership.

Issued on December 18, 1995.

John H. Catlin,

Chairman, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 95–31192 Filed 12–21–95; 8:45 am]

BILLING CODE 8150–01–P

Notices

Federal Register
Vol. 60, No. 246
Friday, December 22, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121295A]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: These meetings will be held January 8–12, 1996, January 15–19, 1996, and January 22–26, 1996, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meetings on January 8–12, 1996, and January 15–19, 1996, will be held at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, LA; telephone: 504–469–5000. The meeting on January 22–26, 1996, will be held at the Corpus Christi Marriott Bayfront Hotel, 900 North Shoreline Boulevard, Corpus Christi, TX; telephone: 512–887–1600.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Red Snapper Individual Transferable Quota (ITQ) Appeals Board established by the Council will meet at each site (see **ADDRESSES**) to review appeals of commercial red snapper fishermen who dispute landings and other information used to assign to them ITQ shares of the commercial red snapper quota.

Owners and operators of permitted reef fish vessels have been notified by NMFS of the appeals processes and the requirement to submit a written appeal setting forth the nature of the dispute and attaching copies of relevant records. NMFS also provided each owner and/or operator with an estimate of his or her ITQ share and the 1990–91 landings records upon which the share was based, and relevant records for ''historical captain'' status that would entitle that person to a share. Persons filing written appeals with NMFS by December 27, 1995, will be offered an opportunity to testify before the appeals board and will be notified by the Council of the times and places of reviews of their appeals.

A copy of each written appeal and the appended information will be provided to each member of the appeals board and summarized by Council/NMFS staffs. The board members will then discuss the case, hear testimony from persons making the appeals, and individually fill out forms recommending (1) approval of an appeal, (2) denial of the appeal, or (3) abstention on the issue. The completed forms will be provided by the Council representative daily by mail to the Director, Southeast Region, in St. Petersburg, FL for final decisions on granting the appeals.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 29, 1995.

Dated: December 18, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–31180 Filed 12–21–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Additions to the procurement list

SUMMARY: This action adds to the Procurement List commodities, military resale commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 22, 1996

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 6, 13, 20, 30, November 3 and 13, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 F.R. 52388, 53338, 55243, 5421, 55835 and 56987) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, military resale commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities, military resale commodities and services to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities, military resale commodities and services.
3. The action will result in authorizing small entities to furnish the commodities, military resale commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities,

military resale commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities, military resale commodities and services are hereby added to the Procurement List:

Commodities

Carrying Cover, Arch
8340–00–556–9674

Military Resale Commodities

Pillow, Fiber Fill
M.R. 764
M.R. 765
M.R. 766

Services

Data Entry/Data Base Management, General Services Administration, Federal Supply Service Bureau, Washington, DC

Grounds Maintenance
Defense Finance and Accounting Service, Building 951, 1111 East Mill Street, San Bernadino, California

Grounds Maintenance
Marine Corps Support Activity, Richards-Gebaur Memorial Airport, Kansas City, Missouri

Janitorial/Custodial for the following Springfield, Illinois locations:

Paul Findley Federal Building, 600 E. Monroe Street
Sarah Cook House, 508 S. 8th Street
Henson Robinson House, 520 S. 8th Street

Janitorial/Custodial for the following Albuquerque, New Mexico locations:

Petroglyph National Monument Headquarters, 6001 Unser Boulevard NW, Petroglyph National Monument Visitor Center and Ranger Station, 4735 Unser Boulevard

Janitorial/Custodial
Letterkenny Army Depot, Chambersburg, Pennsylvania

Laundry Service
Naval Air Station, North Island, Bachelor Enlisted Quarters and Bachelor Officer Quarters, San Diego, California

Recycling Service
Westover Air Reserve Base, Chicopee, Massachusetts

Recycling Service
McGuire Air Force Base, New Jersey

Storage/Distribution of Clothing & Other Items
Corporation for National Service, Americorps, Washington, DC

Switchboard Operation
Samuel S. Stratton Veterans Affairs Medical Center, Albany, New York

Toner Cartridge Remanufacturing, Naval Training Center, Great Lakes, Ilinois

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–31171 Filed 12–21–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF ENERGY

Medical Isotopes Production Project: Molybdenum-99 and Related Isotopes Availability of Draft Environmental Impact Statement and Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The Department of Energy (DOE) announces the availability of the Medical Isotopes Production Project: Molybdenum-99 and Related Isotopes Draft Environmental Impact Statement (Draft EIS), DOE/EIS–0249D, for public review and comment. DOE also announces the dates, times, and locations for public hearings on the Draft EIS. The alternative facilities for the proposed project that are analyzed in the Draft EIS are located at the Idaho National Engineering Laboratory near Idaho Falls, Idaho; Sandia National Laboratories/New Mexico in Albuquerque, New Mexico; Los Alamos National Laboratory in Los Alamos, New Mexico; and Oak Ridge National Laboratory in Oak Ridge, Tennessee.

DATES: DOE filed the Draft EIS with the U.S. Environmental Protection Agency on December 15, 1995, with an expected Federal Register publication date for the notice of availability of December 22, 1995. Written comments on the Draft EIS are invited from the public. Comments must be postmarked by February 9, 1996, to ensure consideration; comments postmarked after that date will be considered to the extent practicable. The DOE will use the comments received to help prepare the final version of the EIS. Public hearings on the Draft EIS will be held as follows:

Idaho National Engineering Laboratory—January 17, 1996, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, ID 83402
Oak Ridge National Laboratory—January 25, 1996, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Pollard Auditorium, 210 Badger Avenue, Oak Ridge, TN 37830
Sandia National Laboratories/New Mexico—January 30, 1996, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Indian Pueblo Cultural Center, Main Auditorium, 2401 12th Street, Albuquerque, NM, 87104
Los Alamos National Laboratory—February 1, 1996, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., Fuller Lodge, Pajarito Room, 2132 Central Avenue, Los Alamos, NM 87544.

The meetings will provide opportunities for information exchange and discussion as well as for the submittal of prepared statements.

ADDRESSES: Requests for copies of the Draft EIS, written comments on the Draft EIS, or other matters regarding this environmental review should be addressed to: Mr. Wade Carroll, EIS Project Manager, NE–70, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Mr. Carroll may be contacted by telephone at (301) 903–7731, facsimile (301) 903–5434.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, D.C. 20585. Ms. Borgstrom may be contacted by leaving a message at (800) 472–2756 or by calling (202) 586–4600. For general information on the DOE isotope production program, please contact: Mr. Owen W. Lowe, Associate Director, Office of Isotope Production and Distribution, NE–70, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Mr. Lowe may be contacted by calling (301) 903–5161.

SUPPLEMENTARY INFORMATION: The Draft EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 et seq.], the Council on Environmental Quality's NEPA regulations [40 CFR Parts 1500–1508] and the DOE NEPA regulations [10 CFR Part 1021].

The Department proposes to establish a medical isotope production project that would ensure a reliable domestic supply of molybdenum-99 (Mo-99) and related medical isotopes (iodine-125, iodine-131, and xenon-133). Mo-99 decays to form technetium-99m (Tc-99m), an important medical isotope. Radioactive isotopes are used in more than 38,000 diagnostic medical procedures each day in the United States. Tc-99m is used in over 80 percent of these procedures.

The United States medical community now relies on a single small nuclear reactor in Canada for its entire supply of Mo-99. The near term goal of

DOE is to provide a backup capability to supply a baseline production level of 10 to 30 percent of current United States demand for Mo-99. The near term goal also includes establishing the capability to supply 100 percent of the United States demand for Mo-99 should the existing Canadian source be unavailable. The baseline capability would maintain the capabilities of the facilities and staff needed to respond on short notice to supply the entire United States demand if necessary.

It is the Department's position that, in the long-term, the domestic production of Mo-99 should be conducted by the private sector. The Department encourages the development of private sources in the United States for the production of Mo-99, and would phase out production if a private source begins to produce Mo-99 reliably. The long-term domestic production of Mo-99 by private sources is not within the scope of this EIS.

The Draft EIS analyzes the environmental consequences of alternative ways to accomplish the proposed action. The Department's preferred alternative would be to modify and operate the Annular Core Research Reactor and associated hot cell facility at Sandia National Laboratories/New Mexico and the Chemistry and Metallurgy Research facility at Los Alamos National Laboratory to produce Mo-99 and related medical isotopes. The Draft EIS also analyzes the environmental impacts of producing Mo-99 using the Omega West reactor at Los Alamos National Laboratory, the Power Burst Facility at Idaho National Engineering Laboratory, and the Oak Ridge Research Reactor at Oak Ridge National Laboratory, as well as the impacts of not establishing a Mo-99 production source (the No Action alternative).

DOE has distributed copies of the Draft EIS to appropriate Congressional members and committees, the States of Idaho, New Mexico, and Tennessee, American Indian tribal governments, local county governments, other federal agencies, and other interested parties. Additional copies are available as indicated above.

Signed in Washington, D.C., this 18th day of December, 1995, for the United States Department of Energy.

Ray A. Hunter,

Deputy Director, Office of Nuclear Energy, Science and Technology.

[FR Doc. 95–31186 Filed 12–21–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission and the Puerto Rico Planning Board

EcoEléctrica, L.P.; Notice of Comment Period Extension

December 15, 1995.

Due to comments received on the Draft Environmental Impact Statement/ Preliminary Environmental Impact Statement for the proposed EcoEléctrica LNG Import Terminal and Cogeneration Project in Guayanilla, Puerto Rico, the comment period is extended from December 26, 1995 to January 23, 1996.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–31123 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2413–026 Georgia]

Georgia Power Company; Notice of Availability of Environmental Assessment

December 18, 1995.

An environmental assessment (EA) is available for public review. The EA is for an application to amend the license for the Wallace Project. The application is to exchange approximately 500 acres of project lands for approximately 500 acres of non-project lands located on the shores of Lake Oconee. The EA finds that approval of the application would not constitute a major Federal action significantly affecting the quality of the human environment. The Wallace Project is located on the Oconee River in Greene and Putnam Counties, Georgia.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for review at the Commission's Reference and Information Center, Room 2–A, 888 First Street, NE., Washington, DC 20426. Copies can also be obtained by calling the project manager listed below.

Please submit any comments within 20 days of the date of this notice. Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please affix the project number to all comments. For further information, please contact the project manager, Jon Cofrancesco at (202) 219–0079.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31190 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2433–004–MI/WI, 2357–003–MI/WI, 2394–006–MI/WI, 2536–009–MI/WI]

Wisconsin Public Service Corporation, et al.; Notice of Intent to Hold Public Meetings in Marinette, Wisconsin to Discuss the Draft Environmental Impact Statement (DEIS) for the Proposed Relicensing of the Grand Rapids, Chalk Hill, White Rapids, and Little Quinnesec Hydroelectric Projects

December 18, 1995.

On November 22, 1995, the Commission staff mailed the DEIS to the Environmental Protection Agency, resource and land management agencies, and interested organizations and individuals. This document evaluates the environmental consequences of the proposed relicensing of the Grand Rapids, White Rapids, Chalk Hill, and Little Quinnesec Hydroelectric Projects. The projects are located on the lower Menominee River in Menominee and Dickinson Counties, Michigan and Marinette County, Wisconsin.

Two public meetings will be recorded by a court reporter and are scheduled to be held at 1 p.m. and 7 p.m. on Thursday, January 4, 1996, at the Best Western Riverfront Inn, 1821 Riverside Avenue, Marinette, Wisconsin. You are invited to attend either or both public meetings.

At the meetings, Commission Staff will summarize major DEIS findings and recommendations. Resource agency personnel and other interested persons will have an opportunity to submit oral and written comments on the DEIS for the Commission's public record. Written comments on the DEIS may also be sent to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Comments must be received on or before January 16, 1995. All correspondence should include the project name and number on the first page of the correspondence.

The DEIS considers recommendations of government agencies, nongovernmental organizations, affected Indian tribes, the public, the license applicants, and the Commission's staff. It evaluates natural and social resource benefits, the economic costs, and the project-specific and cumulative environmental impacts associated with relicensing the projects.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31132 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Tendered for Filing With the Commission

December 18, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Major License.

b. Project No.: 11282–001.

c. Date Filed: November 21, 1995.

d. Applicant: Summit Hydropower.

e. Name of Project: Gainer Dam.

f. Location: On the North Branch Pawtuxet River, Town of Scituate, Providence County, Rhode Island.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Duncan S. Broatch, 92 Rocky Hill Road, Woodstock, CT 06281, (203) 974–1620.

i. FERC Contact: Charles T. Raabe (dt) (202) 219–2811.

j. Deadline Date: Within 60 days of the date filed shown in paragraph (c).

k. Description of Project: The existing inoperative project would consist of: (1) a 3,500-foot-long, 109-foot-high earthen dam having a 450-foot-long, overflow-type spillway at its right (southwest) abutment; (2) a reservoir, known as the Scituate Reservoir, having a 3,400-acre surface area and a 112,270 acre-foot gross storage capacity at spillway crest elevation 283 feet MSL; (3) an intake structure; (4) a powerhouse containing a rehabilitated 1,500-kW generating unit operated at an 82-foot-net head and at a flow of 300 cfs and a new 70–kW generating unit operated at an 82-foot-net head and at a flow of 14 cfs; (5) a 400-foot-long tailrace tunnel and a 700-foot-long excavated tailrace; (6) a 500-foot-long underground, 2.3–kV transmission line; (7) a 2.3/23.-kV substation (8) a 1.5-mile-long 23.–kV transmission line; and (5) appurtenant facilities.

The primary purpose for the existing facilities, owned by the Providence Water Supply Board (PWSB), is water supply for the City of Providence. Applicant estimates that the project average annual generation would be 2,968,000 kWh.

1.With this notice, we are initiating consultation with the *State Historic Preservation Officer (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 880.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's Regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, SHPO, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31133 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES96–15–000]

Aroostook Valley Electric Company; Notice of Application

December 18, 1995.

Take notice that on December 7, 1995, Aroostook Valley Electric Company, filed an application, under 204 of the Federal Power Act, seeking authorization to issue and renew on or before December 31, 1997 short-term notes, pursuant to bank lines of credit and individual negotiated bank offers of short-term funds, in each case maturing one year or less after the date of issuance, in an aggregate principal amount not to exceed $5 million outstanding at any one time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 5, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31128 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF84–377–006]

Colstrip Energy Limited Partnership; Notice of Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

December 18, 1995.

On December 11, 1995, Colstrip Energy Limited Partnership (Applicant), of 1087 W. River Street, Suite 200, Boise, Idaho 83702, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. The instant request for recertification is due to the use of an additional type of waste coal. No determination has been made that the submittal constitutes a complete filing.

According to Applicant, the small power production facility, which is located approximately 7 miles North of the city of Colstrip in Rosebud County, Montana, was previously recertified as a qualifying cogeneration facility, *AEM CORP.—Colstrip Energy Limited Partnership,* 44 FERC ¶ 62,275 (1988).

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the Federal Register and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestantS parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31134 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–408–000 and RP95–408–001]

Columbia Gas Transmission Corp.; Notice of Informal Settlement Conference

December 18, 1995.

Take notice than an informal settlement conference will be convened in this proceeding on Tuesday, January 9, 1996, and Wednesday, January 10, 1996, at 10:00 a.m., respectively, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the

Commission's Regulations (18 CFR 385.214).

For additional information, contact Thomas J. Burgess at 208–2058, David R. Cain at 208–0917 or Anja M. Clark at 208–2034.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31135 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–90–000]

Columbia Gas Transmission Corp., CNG Transmission Corp., Texas Eastern Transmission Corp.; Notice of Application

December 15, 1995.

Take notice that on December 1, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston,West Virginia 25314–1599, CNG Transmission Corporation (CNGT), 445 West Main Street, Clarksburg, West Virginia 26301, and Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, jointly filed an application in Docket No. CP96–90–000 pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon the service rendered pursuant to an agreement to purchase and exchange gas of certain production properties and facilities and local purchases of gas owned by Columbia in the Benezette Field in Cameron, Clearfield, and Elk Counties, Pennsylvania, with certain production properties and facilities and local purchases of gas in the Artemas Field in Bedford County, Pennsylvania, owned by CNGT, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Columbia and CNGT exchanged the properties, facilities, and gas purchase agreements related to the fields to enable Columbia to activate and operate the Artemas Storage Field, and to enable CNGT to acquire property interests in the Benezette Production Field for its storage development. Columbia's Rate Schedule X–34, CNGT's Rate Schedule X–8, and Texas Eastern's Rate Schedule X–60 provided for the exchange of the remaining recoverable gas reserves underlying Columbia's and CNGT's respective gas purchase agreements, with Texas Eastern delivering Columbia's volumes in Texas Eastern's Zone C in Pennsylvania or at other points interconnection between Columbia and Texas Eastern. Texas Eastern deducted equivalent volumes from its scheduled delivery to CNGT at established delivery points in Zone C.

It is also stated that the specific reserve volumes involved in the March 31, 1971, Agreement were 2,082,000 Mcf from Columbia to CNGT and 214,000 Mcf from CNGT to Columbia. CNGT resold and transported the difference in reserves transferred to Columbia for the costs incurred by CNGT in measuring, transporting, and compressing the gas into CNGT's transmission system. An existing exchange between Columbia and CNGT in the Benezette, Nolo, and Rockton Fields, was modified so that gas purchased in the Nolo Field, Indiana county, Pennsylvania, could be delivered to Columbia in exchange for gas purchased by Columbia in the Rockton Field, Clearfield County, Pennsylvania. The rate schedules for which abandonment authority is sought are as follows:

Docket No.		Company
Rate schedule:		
CP72–173	Columbia	X–34
CP72–173	CNGT	X–8
CP72–173	Texas Eastern	X–60

Any person desiring to be heard or to make any protest with reference to said application should on or before January 5, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–31124 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–398–000]

Jersey Central Power & Light Co., Metropolitan Edison Co., Pennsylvania Electric Co.; Notice of Filing

December 18, 1995.

Take notice that on November 20, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Companies), filed a Service Agreement between GPU and Enron Power Marketing, Inc. (Enron) dated November 13, 1995. This Service Agreement specifies that Enron has agreed to the rates, terms and conditions of the GPU Companies' Energy Transmission Service Tariff accepted by the Commission on September 28, 1995 in Docket No. ER95–791–000 and designated as FERC Electric Tariff, Original Volume No. 3.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 13, 1995 for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and on Enron.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 29, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31127 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–203–000]

Multi-Energies U.S.A. Inc.; Notice of Issuance of Order

December 15, 1995.

On October 31, 1995, Multi-Energies U.S.A. Inc. (MEI) submitted for filing a rate schedule under which MEI will engage in wholesale electric power and energy transactions as a marketer. MEI also requested waiver of various Commission regulations. In particular, MEI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by MEI.

On December 8, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by MEI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, MEI is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of MEI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 8, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31191 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER90–168–024]

National Gas & Electric L.P.; Notice of Succession

December 18, 1995.

On October 31, 1995, National Gas & Electric L.P., submitted for filing a notice of succession, changing its name from National Electric Associates L.P. to National Gas & Electric L.P., pursuant to 18 CFR 35.16 and 131.51 of the Commission's Regulations.

Any person desiring to be heard or objecting to this submittal should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by December 22, 1995, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31125 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP78–124–020]

Northern Border Pipeline Company; Notice of Petition To Further Amend Order

December 15, 1995

Take notice that on December 6, 1995, Northern Border Pipeline Company (Northern Border), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP78–124–202, a Petition to Further Amend Order (Petition) pursuant to Rule 202 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure [1] requesting authority to add receipt and delivery points on the Northern Border system as secondary receipt and delivery points under the U.S. Shippers Service Agreement dated October 6, 1989 (1989 Service Agreement), as amended, between Northern Border and Pan-Alberta Gas (U.S.) Inc. (PAG–US), all as more fully set forth in the Petition which is on file with the Commission and open to public inspection.

Northern Border states that by Commission order issued on December 21, 1989 in Docket No. CP78–123, *et al.*, it was authorized, among other things, to transport, on a firm basis, an annual average daily volume of 450,000 Mcf of natural gas on behalf of PAG–US in accordance with the 1989 Service Agreement. By Commission order issued on December 22, 1992 in Docket No. CP78–124–019, Northern Border was authorized, among other things, to add certain secondary receipt and delivery points to the 1989 Service Agreement.

Northern Border requests in this proceeding to add additional secondary receipt and delivery points as set forth in the Amended Exhibit A dated November 30, 1995 (November 30th Exhibit A) to the 1989 Service Agreement, a copy of which is attached to the Petition as Exhibit P. Northern Border states that all of the receipt and delivery points downstream of Port of Morgan, Montana and upstream of Ventura, Iowa previously not included under the 1989 Service Agreement are now included on the November 30th Exhibit A. Northern Border further states that the allocation of costs by Northern Border pursuant to its tariff will not be impacted by virtue of the addition of secondary points, as the Port of Morgan and Ventura are the primary receipt and delivery points under the 1989 Service Agreement.

Northern Border states that it has been advised by PAG–US that the primary purpose of requesting to add the proposed secondary receipt and delivery points is to enhance its operational flexibility in order to meet the needs of the local distribution customers served by PAG–US. Northern Border also states that as part of the Northern Natural Gas Company's (Northern) settlement filed in Docket No. RS92–8, *et al.*, and approved on July 16, 1993 by the Commission, a reverse auction procedure was conducted by Northern that resulted in the transfer to PAG–US of Northern's Alaska Natural Gas Transportation System (ANGTS) prebuild-related supplies and its related Northern Border transportation capacity. By a Commission order issued on November 3, 1993 in Docket No. CP94–22, *et al.*, Northern Border was

[1] Even though Northern Border filed this petition under Rule 202, the Commission is treating this petition as an amendment under Section 7(c) of the Natural Gas Act (NGA).

authorized, among other things, to abandon the firm transportation of 200,000 Mcf per day (Mcf/d) of ANGTS prebuild-related gas for Northern and provide the equivalent firm transportation for PAG–US pursuant to a U.S. Shipper Service Agreement dated October 1, 1993 (1993 Service Agreement). Northern Border further states that the supply of 200,000 Mcf/d together with an additional 100,000 Mcf/d of ANGTS prebuild-related gas associated with the 1989 Service Agreement which Northern was entitled to purchase from PAG–US, was made available for purchase by the LDCs from PAG–US through the reverse auction. PAG–US now sells 300,000 Mcf/d of ANGTS prebuild-related gas to 18 LDCs in the midwest and utilizes both the 1989 and 1993 Service Agreements to deliver these volumes to the LDCs at points of interconnection between the facilities of Northern Border and Northern.

Any person desiring to be heard or to make any protest with reference to said Petition should on or before January 6, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–31122 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–79–000]

Northwest Alaskan Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1995.

Take notice that on December 8, 1995, Northwest Alaskan Pipeline Company (Northwest Alaskan) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets, to become effective January 1, 1996:

Second Revised Sheet No. 1
Fourth Revised Sheet No. 400
Fourth Revised Sheet No. 401
Second Revised Sheet No. 456M
Second Revised Sheet No. 456N
Original Sheet No. 456N.01
Original Sheet No. 456N.02
Original Sheet No. 456N.03

Northwest Alaskan states that the proposed Rate Schedule X–4 tariff revisions reflect a redetermination in accordance with the existing contract and tariff of the Index Price from which transportation and administrative costs are subtracted to arrive at the Tier I Commodity Charge and provide, in summary, as follows:

(1) A change in the Index Price, from 100 per cent of the average spot gas prices for quantities from the San Juan Basin delivered into interstate pipeline facilities of El Paso Natural Gas Company (the ''San Juan Basin Price'') to a combination of 95 percent of the San Juan Basin Price and 5 percent of the average spot gas prices for quantities from the Permian Basin delivered into interstate pipeline facilities of El Paso Natural Gas Company (the ''Permian Basin Price'').

(2) The payment of an Adjustment Amount which reflects the difference in price paid using the existing Index Price (*i.e.*, 100% San Juan Basin Price) and the price which would have been paid using the redetermined Index Price (*i.e.*, San Juan Basin Price and 5% Permian Basin Price) for the period from November 1, 1995, to the effective time of the tariff change.

Northwest Alaskan states that it served the filing on Pacific Interstate Transmission Company, Pan-Alberta Gas (U.S.), Inc., Pan-Alberta Gas Ltd. and the California Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to § 154.210 of the Commission's regulations, all such motions or protests must be filed not later than 12 days after the date of the filing noted above. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31136 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–2–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1995.

Take notice that on December 12, 1995, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective January 12, 1996:

Fourth Revised Sheet No. 239
Third Revised Sheet No. 297

Northwest states that the purpose of this filing is to update its tariff in compliance with the directives of the Commission in 18 CFR 250.16(b)(1), which requires an interstate natural gas pipeline to report any changes which occur to the list of operating personnel and facilities shared by the interstate natural gas pipeline and its marketing or brokering affiliates.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to § 154.210 of the Commission's Regulations, all such motions or protests must be filed not later than 12 days after the date of the filing noted above. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31130 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–339–000]

Southern Company Services, Inc.; Notice of Filing

December 18, 1995.

Take notice that on December 6, 1995, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Collectively referSouthern Companies), tendered for filing a supplement to its filing under section 205 of the Federal Power Act. The Supplemented Filing involves the Interchange Service Contract between Southern Companies and Koch Power Services, Inc. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 29, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31126 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR96–2–000]

Texaco Refining and Marketing Inc. v. SFPP, L.P.; Notice of Complaint

December 18, 1995.

Take notice that on December 1, 1995, Texaco Refining and Marketing Inc. (Texaco) filed a complaint pursuant to sections 8, 9, 13(1), and 15(1) of the Interstate Commerce Act (ICA) and Rule 206 of the Commission's Rules of Practice and Procedure against SFPP, L.P. (SFPP) in the above captioned docket.

The complaint alleges that SFPP has violated and continues to violate the ICA, including but not limited to Sections 1(5)(a), 2, 3(1), 6 and 8 by transporting refined petroleum products in interstate commerce without having a tariff on file with the FERC, by charging an unjust and unreasonable rate for the transportation of refined petroleum products, by granting an undue discrimination and preference to other shippers, and by charging more than the maximum filed rate for transportation in interstate commerce from California origins to destinations in California and Arizona. Texaco requests that the Commission order such refunds as are deemed appropriate, and establish lawful rates, terms and conditions for the transportation of refined petroleum products in interstate commerce. Texaco further requests such damages as the Commission finds appropriate, and interest and attorney's fees.

Any person desiring to be heard or to protest the instant complaint should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 17, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint are due on or before January 17, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31131 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–6–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1995.

Take notice that on December 8, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective as indicated on Appendix A.

Transco states that the purpose of the instant filing is to track rate and fuel changes attributable to storage service purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2. The tracking filing is being made pursuant to Section 26 of the General Terms and Conditions of Transco's Volume No. 1 Tariff.

Included in Appendix B attached to the filing is an explanation of the rate change and details regarding the computation of the revised Rate Schedule S–2 rates.

Also included therein for filing is a substitute tariff sheet which incorporates the Rate Schedule S–2 changes proposed therein into Transco's November 15, 1995 filing in Docket No. RP96–44–000 which is currently pending Commission acceptance to become effective December 15, 1995.

Transco states that copies of the filing are being mailed to each of its S–2 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to § 154.210 of the Commission's regulations, all such motions or protests noted above. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

FR Doc. 95–31138 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–39–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1995.

Take notice that on December 11, 1995, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 revised tariff sheets, as listed on Appendix A attached to the filing, proposed to be effective April 1, June 1, July 1, September 1, October 1, and November 1, 1995.

Trunkline states the revised tariff sheets reflect updates to the Index of Firm Customers.

Trunkline states that copies of this filing are being mailed to affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. Pursuant to § 154.210 of the Commission's Regulations, all such motions or protests must be filed not later than 12 days after the date of the filing noted above. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31129 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–80–000]

Viking Gas Transmission Company; Notice of Filing

December 18, 1995.

Take notice that on December 11, 1995, Viking Gas Transmission Company (Viking) filed a report of interruptible throughput and revenues for the period November 1, 1994 through October 31, 1995. Viking also stated that Viking did not have sufficient net interruptible revenues during that period to trigger an obligation, under Article 5, Section 5 of Viking's Rate Schedule IT, to credit net interruptible revenues to Viking's firm shippers.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. Pursuant to § 154.210 of the Commission's regulations, all such motions or protests must be filed not later than 12 days after the date of the filing noted above. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–31137 Filed 12–21–95; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

BACKGROUND: A proposed renewal of the following currently approved collection of information is hereby published for comment. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments are invite on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 20, 1996.

ADDRESSES: Interested parties are invited to submit written comments to Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. All comments should refer to the OMB control number 3064–0114. Comments may be hand-delivered to Room F–400, 1776 F Street NW, Washington, DC 20429, on business days between 8:30 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address; comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Steven F. Hanft, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposed To Revise the Following Currently Approved Collections of Information

Title: Activities of State-Licensed, Insured Branches of Foreign Banks.

Form Number: None.

OMB Number: 3064–0114.

Frequency of Response: On occasion.

Affected Public: State-licensed branches of insured banks.

Estimated Number of Respondents: 32.

Estimated Time per Response: 8 burden hours.

Estimated Total Annual Burden: 256 burden hours.

General Description of Collection: Section 202 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) imposes restrictions on the permissible activities of state-licensed branches of foreign banks. The statute provides that after December 19, 1992, a state-licensed branch of a foreign bank may not engage in any activity which is not permissible for a federal branch of a foreign bank unless (1) (the Board of Governors of the Federal Reserve has determined that the activity is consistent with safe and sound banking practice, and (2) the FDIC has determined that the activity would pose no risk to the deposit insurance fund. The collection of information consists of procedures to apply for permission to engage in, or continue to engage in, an activity which is not permissible for a federal branch of a foreign bank, and the submission of a plan to discontinue those activities that are deemed to pose significant risk to the deposit insurance fund. This collection is contained in the FDIC's regulations at 12 CFR part 346.

Request for Comment

Comments submitted in response to this Notice will be summarized or included in the FDIC's request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated at Washington, DC, this 18th day of December 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–31142 Filed 12–21–95; 8:45 am]

BILLING CODE 6714–01–M

Proposed Agency Information Collection Activities; Comment

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

BACKGROUND: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. A proposed revision of the following currently approved collection of information is hereby published for comment. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 20, 1996.

ADDRESSES: Interested parties are invited to submit written comments to Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. All comments should refer to the OMB control number 3064–0072. Comments may be hand-delivered to Room F–400, 1776F Street NW, Washington, DC 20429, on business days between 8:30 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Steven F. Hanft, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal to revise the following currently approved collection of information.

Title: Contract and Procurement Information Requirements.

Form Number: FDIC 3320/11, 12, 13, 14, and 19; FDIC 6371/01.

OMB Number: 3064–0072

Frequency of Response: On occasion.

Affected Public: Vendors and contractors wishing to do business with the FDIC.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 0.35 hours

Estimated Total Annual Burden: 350 burden hours.

General Description of Collection: The collection involves the submission of information on various forms by contractors and vendors who wish to do business with the FDIC. The information is used to for offerors to submit quotes and amend proposals, to permit the evaluation of bids from offerors, to award contracts, and to make purchases of goods and services. The revisions consist of the deletion of two forms: the 3320/11 (Solicitation, Offer, and Award), and the 3320/13 (Award, Contract); and the addition of fitness and integrity certifications for contractors.

Request for Comment

Comments submitted in response to this Notice will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated at Washington D.C., this 18th day of December 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–31141 Filed 12–21–95; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Central Bancorporation, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 10, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Central Bancorporation, Inc., Fort Worth, Texas, and Central Bancorporation of Delaware, Wilmington, Delaware; to acquire First American Savings Bank, S.S.B., Bedford, Texas, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. The georgraphic scope for this activity will be Bedford, Texas; Irving, Texas; North Richland Hills, Texas; and Southlake, Texas.

Board of Governors of the Federal Reserve System, December 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–31147 Filed 12–21–95; 8:45 am]

BILLING CODE 6210–01–F

Durden Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 19, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Durden Bankshares, Inc., Twin City, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Durden Banking Company, Inc., Twin City, Georgia.

2. First Commerce Corporation, New Orleans, Louisiana; to acquire 13.51 percent of the voting shares of Louisiana Independent Bankshares, Inc., Baton Rouge, Louisiana, and thereby indirectly acquire First National Bankers Bank, Baton Rouge, Louisiana.

Board of Governors of the Federal Reserve System, December 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–31148 Filed 12–21–95; 8:45 am]

BILLING CODE 6210–01–F

Regions Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company also has given notice under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal to acquire the non-banking subsidiaries can ‘‘reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.’’ Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 19, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Regions Financial Corporation, Birmingham, Alabama, and Regions Merger Subsidiary, Inc., Gainesville, Georgia; to acquire 100 percent of the voting shares of First National Bancorp, Gainesville, Georgia, and thereby indirectly acquire The First National Bank of Gainesville, Gainesville, Georgia; First National Bank of Habersham, Cornelia, Georgia; Granite City Bank, Elberton, Georgia; Bank of Clayton, Clayton, Georgia; First National Bank of White County; Cleveland, Georgia; The Citizens Bank, Toccoa, Georgia; Bank of Banks County, Homer, Georgia; First National Bank of Gilmer County, Ellijay, Georgia; The Peoples Bank of Forsyth County, Cumming, Georgia; Pickens County Bank, Jasper, Georgia; The First National Bank of Paulding County, Dallas, Georgia; Citizens Bank, Ball Ground, Georgia; Bank of Villa Rica, Villa Rica, Georgia; The Community Bank of Carrollton, Carrollton, Georgia; The Commercial Bank, Douglasville, Georgia; Barrow Bank & Trust Company, Winder, Georgia; and The Key Bank of Florida, Tampa, Florida.

In addition to this application, Regions Merger Subsidiary, Inc., Gainesville, Georgia, has applied to become a bank holding company, by merging with First National Bancorp, Gainesville, Georgia.

In connection these applications, Applicants also have applied to acquire FF Bancorp, Inc., New Smyrna Beach, Flordia, and thereby indirectly acquire First Federal Savings Bank of New Smyrna, New Smyrna Beach, Florida, and First Federal Savings Bank of Citrus County, Inverness, Florida, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–31149 Filed 12–21–95; 8:45 am]

BILLING CODE 6210–01–F

John Smithhisler; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank

Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than January 10, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. John Smithhisler, Las Cruces, New Mexico; to acquire an additional 2.2 percent, for a total of 11.8 percent of the voting shares of Las Cruces B.R.G., Inc., Las Cruces, New Mexico, and thereby indirectly acquire Bank of the Rio Grande, N.A., Las Cruces, New Mexico.

Board of Governors of the Federal Reserve System, December 18, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–31150 Filed 12–21–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration of Children and Families

Agency Information Collection Under OMB Review

Title: National Study of Outcomes for Children Placed in Foster Care with Relatives.

OMB No.: New.

Description: This is a series of interview forms for use with state administrators, case workers, and foster parents in seven states selected for the study. State administrators are the Chief Child Welfare Administrator, the fiscal administrator, and management information system specialist in each state. The National Study of Outcomes for Children Placed in Foster Care with Relatives will be used to describe policies, practices and characteristics regarding placement of children in foster care with relatives; to describe outcomes of children placed in foster care with relatives compared to children placed in non-relative foster care; and to examine the associated costs of relative foster care compared to non-relative foster care.

Under a contract from the Administration on Children, Youth and Families (ACYF), researchers from TransAmerica Systems, Inc., will conduct the National Study of Outcomes for Children Placed in Foster Care with Relatives. The study is in three phases. Phase I was an initial on-site survey of nine States which make extensive use of relative roster care, which have sufficient and accessible data, and which are willing to participate in the survey. During Phase II, a national study was designed based on results from the nine State survey, with the assistance of a Technical Advisory Panel, consisting of nationally recognized foster care experts; a thorough literature review; and input from organizations with interest in foster children, a national study is designed during Phase II. Phase III will be conducting the national study, analyzing the data, and preparing a final report. This will include in-depth site visits to seven States, purposively sampled from the 34 States that are able to identify whether children are placed with relatives or with non-relatives. State child welfare administrators and workers and foster parents will be selected for in-depth interviews. Additionally, the research team will also extract information form case records and gather demographic data and fiscal information from the States visited.

Respondents: 441 (280 foster parents; 161 staff).

Title	Number of respondents	Number of responses per respondent	Average burden per response	Burden hours
Administrator Interview	7	1	2	14
Caseworker Interview	140	1	1	140
Foster Parent Interview	280	1	1	280
Demographic Information Report	7	1	1	7
Fiscal Information Report	7	1	1	7
Total	441			448

Estimated Total Annual Burden Hours: 448.

Additional Information: Copies of the proposed collection may be obtained by writing to: Reports Clearance Officer, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: December 14, 1995.

Arnold Jacobson,

Acting ACT Reports Clearance Officer.

[FR Doc. 95–31184 Filed 12–21–95; 8:45 am]

BILLING CODE 4148–01–M

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites, Savannah River Site Health Effects Subcommittee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and

Research at DOE Sites: Savannah River Site Health Effect Subcommittee (SRS).

Times and Dates: 9 a.m.–5 p.m., January 11, 1996; 9 a.m.–12 noon, January 12, 1996.

Place: Hilton—The De Soto, 15 East Liberty Street, Savannah, Georgia 31401, telephone 912/232–9000, FAX 912/232–6018.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This Subcommittee is charged with providing advice and recommendations to the Director, CDC and the Administrator, ATSDR, regarding community American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at respective DOE sites. Activities shall focus on providing a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: This Subcommittee will listen to presentations from the Radiological Assessments Corporation, Medical University of South Carolina Cancer Registry, as well as updates on the Savannah River Site Phase II Dose Reconstruction Project findings and implications. Additional agenda items will include: the National Center for Environmental Health (NCEH) activities, the National Institute for Occupational Safety and Health and ATSDR presentations on the progress of current studies, and issues regarding the Committee selection process.

Agenda items are subject to change as priorities dictate.

Contact Persons for More Information: Paul G. Renard or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: December 18, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 95–31152 Filed 12–21–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Grassroots Regulatory Partnership Meeting; Southwest Region; Importing Commodities

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of a public meeting.

SUMMARY: The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Office of the Southwest Region, and Office of External Affairs) is announcing a free public meeting to discuss ways FDA could regulate imported commodities more efficiently, improve levels of communication with industries and individuals associated with the importation of FDA-regulated commodities, and provide improved levels of consumer protection in connection with imported commodities being shipped into the United States across the United States-Mexico border. This meeting is intended to identify and evaluate opportunities for implementing the President's initiative for a partnership approach between the agency and the people affected by the work of this agency.

DATES: The public meeting will be held on Wednesday, January 31, 1996, from 9 a.m. to 12 m.

ADDRESSES: The public meeting will be held at the Concourse Clarion Hotel, Oxford Room A and B, 6789 Boeing, El Paso, TX 79926.

FOR FURTHER INFORMATION CONTACT: Barbara A. Cain, Food and Drug Administration, 300 East Eight St., rm. B123, Austin, TX 78701, 512–482–5736, or Robert G. Rast, Food and Drug Administration, 9777 Via De La Amistad, rm. 128, San Diego, CA 92173, 619–661–3273.

SUPPLEMENTARY INFORMATION: There is no registration fee for this meeting. However, due to space limitations, early registration is recommended. This meeting is intended to assist importers, brokers, and others associated with a wide variety of products being shipped through the southwest and west coast (FDA Southwest and Pacific Regions).

Dated: December 15, 1995.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 95–31195 Filed 12–21–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0403]

Drug Export; SURGISCREEN® 0.8 Percent, Reagent Red Blood Cells

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc., has filed an application requesting approval for the export of the human biological product SURGISCREEN® 0.8 percent, Reagent Red Blood Cells to Australia, Austria, Belgium, Canada, Denmark, The Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Cathy E. Conn, Center for Biologics Evaluation and Research (HFM–610), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–2006.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of human biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems, Inc., 1001 U.S. Highway 202, Raritan, NJ 08869–0606, has filed an application requesting approval for the export of the human biological product SURGISCREEN® 0.8 percent, Reagent Red Blood Cells to Australia, Austria, Belgium, Canada, Denmark, The Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. The SURGISCREEN® 0.8 percent, Reagent Red Blood Cells, is an in vitro diagnostic test kit for the detection of unexpected blood group antibodies in test methods requiring a 0.8 percent red cell suspension in a low ionic strength diluent. The application was received and filed in the Center for Biologics Evaluation and Research on November 24, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by (*insert date 10 days after date of publication in the* Federal Register), and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: December 4, 1995.

James C. Simmons,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 95–31153 Filed 12–21–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–67]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized,underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: December 22, 1995.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing-and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 15, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 95–31078 Filed 12–21–95; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES–95–40]

Cachuma Project Contract Renewal, Santa Barbara County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability on the final environmental impact statement/final environmental impact report.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation), the Cachuma Project Authority (Authority) and the Santa Barbara County Water Agency (Agency) have prepared a joint final environmental impact statement/final environmental impact report (FEIS/FEIR) for the Cachuma Project contract renewal. The proposed action of the lead agencies is the continuation of the member units' entitlement to water from the Cachuma Project by means of a renewed water service contract. The proposed action exercises the provisions of several Federal laws as applicable to Reclamation.

ADDRESSES: Copies of the FEIS/FEIR are available for public inspection and review at the following locations:

- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW., Washington, DC 20240; telephone: (202) 208–4662.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225; telephone: (303) 236–6963.
- Bureau of Reclamation, Regional Director, Attention: MP–152, 2800 Cottage Way, Sacramento CA 95825–1898; telephone: (916) 979–5129.
- Bureau of Reclamation, South-Central California Area Office, Attention: SCC–412, 2666 N. Grove Industrial Drive, Suite 106, Fresno CA 93727–1551; telephone: (209) 487–5137.
- Cachuma Project Authority, 3301 Laurel Canyon Road, Santa Barbara CA 93105–2017; telephone: (805) 569–1391.
- Santa Barbara County Water Agency, 123 E. Anapamu Street, Santa Barbara CA 93101–2058; telephone: (805) 568–3542.

Libraries: Copies will also be available for inspection at public libraries located in Carpinteria, Montecito, Santa Barbara, Goleta, Solvang, Buellton, Vandenberg Village, Lompoc, and Santa Maria, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert May, Program Manager, SCC–412, Bureau of Reclamation, 2666 N. Grove Industrial Drive, Suite 106, Fresno CA 93727–1551; telephone: (209) 487–5137; or Mr. Chris Dahlstrom, Project Coordinator, Cachuma Project Authority, 3301 Laurel Canyon Road, Santa Barbara CA 93105–2017; telephone: (805) 569–1391; or Mr. Robert Almy, Santa Barbara County Water Agency, 123 E. Anapamu Street, Santa Barbara CA 93101–2058; telephone: (805) 568–3542.

SUPPLEMENTARY INFORMATION: The FEIS/FEIR considers the effects of renewing the Cachuma Project Contract under which water service has been provided to the member units. The original Cachuma Project Contract (No. I75r–1802) was executed on September 12, 1949, for irrigation, and municipal and industrial purposes under the provisions of section 9(c)(2) and 9(e) of the 1939 Reclamation Project Act. The authority for contract renewal is pursuant to the Act of July 2, 1956, 70 Stat. 483, and the Act of June 21, 1963, 77 Stat. 68, requiring the Secretary of the Department of the Interior, upon request, to renew long-term contracts.

The Cachuma Project has been the principal water supply for the majority of the member units since initial deliveries began in 1955. These member units include the City of Santa Barbara, Goleta Water District, Montecito Water District, Summerland Water District, Carpinteria County Water District, and the Santa Ynez River Water Conservation District, Improvement District No. 1. The original Cachuma Project Contract had a term of 40 years and expired on May 14, 1995.

A Phase I Renewal Contract was executed on April 25, 1995, for purposes of continuing the rights and obligations under the original Contract until April 15, 1996, to allow the contract renewal negotiation process to be completed. A proposed Cachuma Project Long-Term Renewal Contract was made available to the public for a 60-day review period beginning November 14, 1995.

The proposed Cachuma Project Long-term Renewal Contract is a water service contract with a term of 25 years. It will be retroactively effective to extend from May 15, 1995, through September 30, 2020, even though the contract requires repayment of the remaining Cachuma Project capital costs within 20 years.

The FEIS/FEIR evaluates several alternatives, including the no action alternative, and also describes the existing environment and environmental consequences of contract renewal. The FEIS/FEIR considers the following issues: environmental improvement and restoration with respect to biological resources, including fisheries, wildlife, and riparian vegetation, surface water hydrology, groundwater hydrology, flood control, water supply and demand, water pricing and delivery practices, increased operational efficiency, increased conservation, conjunctive use, water exchanges and transfers, recreational enhancement and land use policies, agriculture, socioeconomic conditions, cultural resources, and Indian Trust Assets.

The terms and conditions of the proposed Cachuma Long Term Renewal Contract represents the lead agencies' preferred alternative. It combines features of the original Contract with higher water rates and a ''renewal fund'' that may be used for various environmental restoration purposes. Relative to the ''no action'' alternative, there are no significant environmental, socioeconomic, or agricultural impacts under the proposed contract/preferred alternative, and current operations of the Cachuma Project are unchanged. In addition, there will be opportunities to restore riparian and other habitats along the Santa Ynez River using the renewal fund. Therefore, no mitigation measures are required for renewal of the Cachuma Project Contract.

The Santa Ynez Indian Reservation, the Southern California Area Office of the Bureau of Indian Affairs (BIA), and the Sacramento Area Office of the BIA have been contacted by Reclamation regarding Indian Trust Assets (ITAs) that may be affected by the proposed action. No potentially affected ITAs have been identified by the BIA.

The Draft EIS/EIR (DEIS/DEIR) was issued November 16, 1994. Responses to comments received from interested organizations and individuals on the DEIS/DEIR are addressed in the FEIS/FEIR. No decision will be made on the proposed action until 30 days after the release of the FEIS/FEIR. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

Dated: December 8, 1995.

Franklin E. Dimick,

Acting Regional Director.

[FR Doc. 95–31027 Filed 12–21–95; 8:45 am]

BILLING CODE 4310–94–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203.

Comments on the following assessment are due 15 days after the date of availability:

AB–32 (Sub-No. 70X), Boston and Maine Corporation—Abandonment and Discontinuance of Service—Middlesex County, Massachusetts. EA available 12/11/95.

AB–364 (Sub-No. 2X), Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Discontinuance of Service Exemption—in Lamar and Red River Counties, Texas; and

AB–3 (Sub-No. 125X), Missouri Pacific Railroad Company—Abandonment Exemption—in Lamar and Red River Counties, Texas. EA available 12/15/95.

AB–448 (Sub-No. 1X), SF&L Railway, Inc.—Abandonment Exemption—In Ellis and Hill Counties, TX. EA available 12/15/95.

Comments on the following assessment are due 30 days after the date of availability:

None.

Vernon A. Williams,

Secretary.

[FR Doc. 95–31174 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32806]

Clinton Industrial Switching District, Inc., d/b/a Clinton Terminal Railroad Company—Operation Exemption—Lines of Clinton Switching District, Inc.

Clinton Industrial Switching District, Inc., d/b/a Clinton Terminal Railroad Company (Clinton), a noncarrier, has filed a verified notice under 49 CFR part 1150, Subpart D—*Exempt Transactions* to operate a line of railroad owned by the Clinton Industrial Switching District, Inc., between milepost 199.0 at Moltonville, NC to milepost 202.5 at Clinton, NC. Clinton's operation of the line is expected to begin soon after the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32806, must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission,[1] 1201 Constitution

[1] Legislation to sunset the Commission on December 31, 1995, and transfer remaining

Continued

Avenue NW., Washington, DC 20423. In addition, a copy of each pleading must be served on Peter A. Greene, Thompson, Hine and Flory, 920 N Street NW., Washington, DC 20035.

Decided: December 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–31081 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32822]

Lancaster Northern Railway—Acquisition and Operation Exemption—Line of Consolidated Rail Corporation

Lancaster Northern Railway (LANO), a noncarrier, has filed a notice of exemption to acquire and operate approximately 12.90 miles of rail line owned by Consolidated Rail Corporation (Conrail), known as the Akron Secondary Track LC 20–0337, between the connection with Conrail at approximately milepost 0.05 at Sinking Spring, Berks County, PA, and the end of the track at Stevens, approximately milepost 12.94, in Lancaster County, PA. The proposed transaction was expected to be consummated on November 30, 1995.

This proceeding is related to Finance Docket No. 32823, *John C. Nolan—Continuance in Control Exemption—Lancaster Northern Railway*, wherein John C. Nolan has concurrently filed a notice of exemption to continue in control of LANO when LANO becomes a rail carrier upon consummation of the transaction described in this notice.

Any comments must be filed with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. A copy of any pleading filed with the Commission should be sent to applicant's representative: John K. Fiorilla, 390 George St., P.O. Box 1185, New Brunswick, NJ 08903.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[1] The filing of a petition to revoke will not automatically stay the transaction.

Decided: December 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–31083 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32823]

John C. Nolan—Continuance in Control Exemption—Lancaster Northern Railway

John C. Nolan (Nolan) has filed a notice of exemption to continue in control of Lancaster Northern Railway (LANO), upon LANO becoming a class III rail carrier.

LANO, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32822, *Lancaster Northern Railway—Acquisition and Operation Exemption—Line of Consolidated Rail Corporation,* in which LANO seeks to acquire and operate approximately 12.90 miles of rail line owned by Consolidated Rail Corporation (Conrail), known as the Akron Secondary Track LC 20–0337, between the connection with Conrail at approximately milepost 0.05 at Sinking Spring, Berks County, PA, and the end of the track at Stevens at approximately milepost 12.94, in Lancaster County, PA. The parties intended to consummate the proposed transaction on November 30, 1995.

Nolan also controls, through stock ownership, two other nonconnecting class III rail carriers that operate in Pennsylvania: East Penn Railways, Inc., and Bristol Industrial Terminal Railway. Nolan states that: (1) The railroads do not connect with each other nor do they belong to any family of lines to which they connect; (2) the involved transaction is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad within its corporate family; and (3) the transaction does not involve a class I carrier. The transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Interstate Commerce Commission, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW, Washington, DC 20423[1] and served on: John K. Fiorilla, 390 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Decided: December 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–31084 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32785]

Norfolk Southern Railway Company—Corporate Family Exemption—Georgia Midland Railway Company

Norfolk Southern Railway Company (NSR) or its predecessors have leased a portion of track in Georgia from Georgia Midland Railway Company (GMRC),[1] pursuant to a lease dated June 18, 1896. The term of the lease expired on October 2, 1995. The railroads have agreed to extend the lease for successive one-year terms to commence October 2, 1995, until terminated by agreement of the parties or operation of law. It is expected that GMRC will eventually be liquidated or merged into NSR. Accordingly, the purpose of this exemption is to extend the lease until such time as this occurs.

This notice is filed under 49 CFR 1180.2(d)(3)[2] which exempts transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Any comments must be filed with the Commission[3] and served on: Greg E.

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functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address.

[1] Legislation to sunset the Commission on December 31, 1995, and transfer remaining functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address.

[1] Legislation to sunset the Commission on December 31, 1995, and transfer remaining functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address.

[1] NSR is a class I railroad controlled by Norfolk Southern Corporation, and the owner of the common stock of GMRC.

[2] Originally this transaction was also filed under 49 CFR 1180.2(d)(4), which exempts the renewal of leases. However, by a pleading filed December 4, 1995, NSR amended the transaction.

[3] Legislation to sunset the Commission on December 31, 1995, and transfer remaining functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address: Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423.

Summy, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

As a condition to use of this exemption, any employees affected by the transaction will be protected pursuant to the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Decided: December 15, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary .

[FR Doc. 95–31085 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32820]

Norfolk Southern Railway Company and Atlantic and East Carolina Railway Company—Lease and Operation Exemption—North Carolina Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 11343–45 the renewal of a lease to allow Norfolk Southern Railway Company and Atlantic and East Carolina Railway Company to continue to lease and operate approximately 317 miles of North Carolina Railroad Company's rail line, between Charlotte and Morehead City, NC, subject to standard employee protective conditions.

DATES: This exemption is effective on December 22, 1995. Petitions to reopen must be filed by January 11, 1996.

ADDRESSES: Send pleadings referring to Finance Docket No. 32820 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423;[1] (2) Robert J. Cooney, Norfolk Southern Railway, 3 Commercial Place, Norfolk, VA 23510; (3) Scott M. Saylor, North Carolina Railroad Company, 234 Fayetteville Street Mall, Raleigh, NC 27602; and (4) Betty Jo Christian, Steptoe & Johnson, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: December 13, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioner Simmons.

Vernon A. Williams,

Secretary

[FR Doc. 95–31176 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Legislation to sunset the Commission on December 31, 1995, and transfer remaining functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address.

[Finance Docket No. 32735]

North Carolina Ports Railway Commission—Acquisition of Control Exemption—Beaufort & Morehead Railway, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 11343–45 the acquisition of control by North Carolina Ports Railway Commission (NCPRC) of Beaufort & Morehead Railway, Inc. (BMRI). NCPRC, a noncarrier, currently controls the Beaufort & Morehead Railroad Company. To avoid unlawful control by NCPRC, BMRI is being held in an independent voting trust pending Commission approval or exemption of this control transaction. The exemption is subject to standard labor protective conditions.

DATES: This exemption will be effective on January 21, 1996. Petitions for stay must be filed by January 2, 1996. Petitions to reopen must be filed by January 11, 1996.

ADDRESSES: Send pleadings referring to Finance Docket No. 32735 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission,[1] 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative: Fritz R. Kahn, 1100 New York Avenue, N.W., Suite 750 West, Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: December 13, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioner Simmons.

Vernon A. Williams,

Secretary.

[FR Doc. 95–31175 Filed 12–21–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Legislation to sunset the Commission on December 31, 1995, and transfer remaining functions is now under consideration in Congress. Until further notice, parties submitting pleadings should continue to use the current name and address.

DEPARTMENT OF JUSTICE

Antitrust Division

United States and State of Texas v. Kimberly-Clark Corporation and Scott Paper Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Texas, Dallas Division in *United States and State of Texas* v. *Kimberly-Clark Corporation and Scott Paper Company*, Civil No. 3:95 CV 3055–P, as to both defendants.

On December 12, 1995, the United States and the State of Texas filed a Complaint alleging that the proposed merger of Kimberly-Clark Corporation (''Kimberly-Clark'') and Scott Paper Company (''Scott'') would violate Section 7 of the Clayton Act, 15 U.S.C. Section 18. The Complaint further alleges that the merger of Kimberly-Clark and Scott would lessen competition substantially and tend to create a monopoly in the sale of consumer facial tissue and baby wipes in the United States. The proposed Final Judgment, filed the same time as the Complaint, requires Kimberly-Clark to divest the Scott baby wipes brands, Baby Fresh and Wash A Bye Baby and the Scott facial tissue brand, Scotties, along with certain tangible and intangible assets.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Anthony V. Nanni, Chief, Litigation I Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530 (telephone: 202/307–6694).

Constance K. Robinson,

Director of Operations.

United States District Court, Northern District of Texas, Dallas Division

United States of America and State of Texas, Plaintiffs, v. *Kimberly-Clark Corporation and Scott Paper Company,* Defendants. Civil Action No.: 3:95 CV 3055–P. Filed: December 12, 1995.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Northern District of Texas.

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h)), and without further notice to any party or other proceedings, provided that either plaintiff has not withdrawn its consent, which either or both may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. The parties shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions of the Final Judgment as though they were in full force and effect as an order of the Court.

4. In the event either plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: December 12, 1995.

For Plaintiff United States:

Anne K. Bingaman

Assistant Attorney General, District of Columbia #369900.

Lawrence R. Fullerton,

Deputy Asst. Attorney General, District of Columbia #251264.

Constance K. Robinson,

Director of Operations, District of Columbia #244800.

Charles E. Biggio, Sr. Counsel,

State of New York (no bar no. assigned)

Anthony V. Nanni, Chief,

Litigation I Section State of New York (no bar number assigned).

Anthony E. Harris, Attorney,

State of Illinois #01133713, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530, (202) 307–6583.

For Plaintiff State of Texas:

Dan Morales,

Attorney General of Texas

Jorge Vega,

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Laquita A. Hamilton,

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Mark Tobey,

Assistant Attorney General, Antitrust Section, State of Texas #22082960, P.O. Box 12548, Austin TX 78711–2548, (512) 463–2185.

For Defendant Kimberly-Clark Corp.:

William O. Fifield, Esquire,

State of Illinois #0080332, Sidley & Austin, One First National Plaza, Chicago, Illinois 60603, (312) 853–7474

For Defendant Scott Paper Company:

Michael L. Weiner, Esquire,

State of New York (no bar number assigned) Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022–3897, (212) 735–2632

Executed on: December 11, 1995.

United States District Court, Northern District of Texas, Dallas Division

United States of American and State of Texas. Plaintiffs, v. *Kimberly-Clark Corporation and Scott Paper Company,* Defendants. Civil No.: 3:95 CF 3055–P. Filed: December 12, 1995.

Final Judgment

Whereas, plaintiffs, the United States of American and the State of Texas, having filed their Complaint herein on December 12, 1995, and plaintiffs and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, prompt and certain divestiture of certain rights and assets to assure that competition is not substantially lessened are the essence of this agreement;

And whereas, plaintiffs require defendants to make certain divestitures for the purpose of establishing viable competitors in the sale of baby wipes and facial tissue;

And whereas, defendants have represented to plaintiffs that the divestitures required below can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

New, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered, Adjudged, and Decreed as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''Kimberly-Clark'' means defendant Kimberly-Clark Corporation, a Delaware corporation with its headquarters in Dallas, Texas, and includes its successors and assigns, and its subsidiaries, directors, officers, managers, agents, and employees.

B. ''Scott'' means defendant Scott Paper Company, a Pennsylvania corporation with its headquarters in Boca Raton, Florida, and includes its successors and assigns, and its subsidiaries, directors, officers, managers, agents, and employees.

C. ''Relevant Wet Wipes Assets'' means:

(1) The Dover, Delaware plant of Scott, including all tangible assets used by Scott in connection with its business of researching, developing, making, having made, packaging, distributing, or selling products of the Dover plant, including but not limited to: the manufacturing plant and associated web making, converting, packaging and distributing equipment and facilities, inventory, real property, and any other interests, or tangible assets or

improvements, associated with the Dover plant;

(2) A twenty-five year, exclusive, royalty-free and assignable license, perpetually renewable at the licensee's option, to make, have made, use or sell in the United States any label of any baby wipes product currently produced at the Dover, Delaware plant, including but not limited to the Baby Fresh, Wash-a-Bye Baby, Baby Fresh Gentle Touch, and Kid Fresh labels, and any improvement to or line extension of those labels; and

(3) All intangible assets, wherever located, that relate in any way to the tangible assets and labels described above (including but not limited to: manufacturing, converting, packaging and distribution know-how); exclusive, assignable rights to all patents, proprietary technology, supply contracts, and business information solely dedicated to the tangible assets or the labels described above; rights in real and personal property; and nonexclusive, assignable rights to all related patents, proprietary technology and business information used in connection with, but not solely dedicated to the tangible assets or the labels described above.

D. ''Relevant Facial Tissue Assets'' means:

(1) A twenty-five year, exclusive, royalty-free and assignable license, perpetually renewable at the licensee's option, to make, have made, use or sell in the United States any facial tissue under the Scotties label, and a covenant that defendants shall not make, have made, use or sell in the United States any facial tissue under the Scott or Scotties label;

(2) Any two of the following four tissue mills: the Scott tissue mill in Marinette, Wisconsin; the Scott tissue mill in Ft. Edward, New York; the Kimberly-Clark Lakeview tissue mill in Neenah, Wisconsin; and the Kimberly-Clark Badger-Globe tissue mill in Neenah, Wisconsin; provided, however, that in the event a purchaser elects to purchase the Marinette, WI tissue mill of Scott, defendants shall not be required to divest the DRC tissue machine and associated converting assets, located in an adjacent facility on the Marinette tissue mill site and not currently used for making facial tissue, in which case defendants shall, at the option of the purchaser, enter into an arrangement with respect to the measures necessary to separate the DRC tissue machine from the rest of the Marinette tissue mill, including but not limited to a long-term agreement to provide, on a nondiscriminatory basis, shared utilities, such as water, electric, steam, and treatment of waste or effluent;

(3) At the purchaser's option. (a) a commitment by defendants to enter into up to a three-year agreement to sell to purchaser, at such rates as to which purchaser and defendants may agree, as much as 25,000 metric tons/year of tissue parent rolls; and (b) a commitment by defendants to enter into up to a three-year agreement to buy from the purchaser, at such rates as to which purchaser and defendants may agree, as much as 25,000 metric tons/year of tissue parent rolls;

(4) All tangible assets used solely in connection with the business of making, having made, using, converting, packaging, distributing, or selling any product from any of the tissue mills identified in Section II(D)(2), including but not limited to: the tissue mill and associated papermaking, converting, packaging and distribution equipment and facilities; real property; or tangible assets or improvements, associated with the tissue mill; and

(5) All intangible assets, not otherwise addressed above, wherever located, that relate in any way solely to the tangible assets described above or the Scotties label (including but not limited to: papermaking, converting, packaging and distributing know-how); exclusive, assignable rights to all patents, proprietary technology, supply contracts, and business information and rights in real and personal property solely dedicated to the tangible assets or the Scotties label; and nonexclusive, assignable rights to all related patents, proprietary technology and business information used in connection with, but not solely dedicated to the tangible assets or the Scotties label.

E. ''Label'' means all legal rights associated with a brand's trademarks, trade names, copyrights, designs, and trade dress (and any improvements, extensions or modifications); the brand's trade secrets; know-how or other proprietary information for making, having made, using and selling the brand, including, but not limited to, packaging, sales, marketing and distribution know-how and documentation, such as customer lists.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets, that the purchaser or purchasers agree to be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are hereby ordered and directed, within 150 days after filing of the Final Judgment, to divest to a purchaser the Relevant Wet Wipes Assets, in accordance with the procedures specified in this Final Judgment.

Defendants are ordered and directed, within 180 days after filing of the Final Judgment, to divest to one or more purchasers the Relevant Facial Tissue Assets, in accordance with the procedures specified in this Final Judgment.

B. Defendants agree to take all reasonable steps to accomplish the divestitures as expeditiously and timely as possible. Plaintiffs may, in their sole discretion, extend the time period for any divestiture for an additional period of time not to exceed two months.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets. Defendants shall provided any person making an inquiry regarding a possible purchase with a copy of the Final Judgment. Defendants shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all reasonably necessary information regarding the Relevant Wet Wipes Assets and the Relevant Facial Tissue Assets, except such information subject to attorney-client privilege or attorney work product privilege. Defendants shall make available such information to plaintiffs at the same time that such information is made available to any other person. Defendants shall permit prospective purchasers of the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets to have access to personnel and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the divestitures required by this Final Judgment.

D. Unless plaintiffs otherwise consent in writing, divestitures under Section IV(A), or by the trustee appointed pursuant to Section V, shall include the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets and be accomplished in such a way as to satisfy plaintiffs, in their sole discretion, that the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets can and will be used by the purchaser or purchasers as part of viable, ongoing businesses engaged in the selling of baby wipes and facial tissue at wholesale to retail stores. Each divestiture shall be made to a purchaser or purchasers for whom it is demonstrated to plaintiffs' satisfaction that (1) the purchase or purchases are for the purpose of competing effectively in making and selling branded baby wipes and/or facial tissue at wholesale to retail stores and other customers; and (2) the purchaser or purchasers have or soon will have the managerial, operational, and financial capability to compete effectively in making and selling branded baby wipes and/or facial tissue at wholesale to retail stores; and (3) none of the terms of any agreement between the purchaser or purchasers and defendants give defendants the ability artificially to raise the purchaser's or purchasers' costs, lower the purchaser's or purchasers' efficiency, or otherwise interfere in the ability of the purchaser or purchasers to compete effectively. Although Sections II(D)(2) and IV(A) require a sale of any two of four tissue mills, plaintiffs can, in their sole discretion, approve a divestiture involving a sale of less than two tissue mills listed in Section II(D), if convinced that such divestiture is sufficient to satisfy their competitive concerns.

E. Defendants shall exercise any residual right in any label licensed pursuant to this Final Judgment solely for the purpose of protecting their lawful intellectual property rights. Defendants shall not, in any circumstance, exercise any such right to impair or inhibit in any way a licensee's ability to compete, and they shall not exercise such right, directly or indirectly, to obtain competitively-sensitive information pertaining to any licensee.

V. Appointment of Trustee

A. If defendants have not accomplished any divestiture required by Section IV within the time specified therein, defendants shall notify plaintiffs of that fact in writing. Within ten (10) calendar days of their receipt of such written notice, plaintiffs shall provide defendants with written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. Defendants shall notify plaintiffs within five (5) calendar days thereafter whether either or both of such nominees are acceptable. If either or both of such nominees are acceptable to defendants, plaintiffs shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither nominee is acceptable to defendants, they shall furnish to plaintiffs, within ten (10) calendar days after plaintiffs provide the names of their nominees, written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. If either or both of such nominees are acceptable to plaintiffs, plaintiffs shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither nominee is acceptable to plaintiffs, plaintiffs shall furnish the Court the names and qualifications of its and defendants' proposed nominees. The Court may hear the parties as to the nominees' qualifications and shall appoint one of the nominees as the trustee.

B. If defendants have not accomplished either of the divestitures required by Section IV of this Final Judgment at the expiration of the time period specified therein, subject to the selection process described in Section V(A), the appointment by the Court of the trustee shall become effective. The trustee shall then take steps to effect the divestiture(s) specified in Section IV(A).

C. After the trustee's appointment has become effective, only the trustee shall have the right to sell the Relevant Wet Wipes Assets or Relevant Facial Tissue Assets. The trustee shall have the power and authority to accomplish the divestiture(s) to a purchaser acceptable to plaintiffs at such price and on such terms as are then obtainable upon the best reasonable effort by the trustee, subject to the provisions of Section IV of this Final Judgment, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to the sale of the Relevant Wet Wipes Assets or Relevant Facial Tissue Assets by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendants must be conveyed in writing to plaintiffs and the trustee no later than fifteen (15) calendar days after the trustee has notified defendants of the proposed licensing and sale in accordance with Section VI of this Final Judgment.

D. The trustee shall serve at the cost and expense of defendants, shall receive compensation based on a fee arrangement which provides an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, and shall serve on such other terms and conditions as the Court may prescribe; provided however, that the trustee shall receive no compensation, nor incur any costs or expenses (other than related to the selection process), prior to the effective date of his or her appointment. The trustee shall account for all monies derived. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to defendants and the trust shall then be terminated.

E. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestiture of the Relevant Wet Wipes Assets or Relevant Facial Tissue Assets and shall use its best efforts to assist the trustee in accomplishing the required divestiture. Subject to a customary confidentiality agreement, the trustee shall have full and complete access to the personnel, books, records, and facilities related to the Relevant Wet Wipes Assets or the Relevant Facial Tissue Assets, and defendants shall develop such financial or other information necessary to the divestiture of the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets.

F. After its appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture of the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets as contemplated under this Final Judgment; provided however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest these operations.

G. Within six (6) months after its appointment has become effective, if the trustee has not accomplished the divestiture required by Section IV of this Final Judgment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such reports to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which shall, if necessary, include augmenting the assets to be divested, and extending the trust and term of the trustee's appointment.

VI. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestiture pursuant to Sections IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiffs of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in the assets that are the subject of the finding contract, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiffs of such notice, plaintiffs may request additional information concerning the proposed divestiture and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested within twenty (20) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiffs have been provided the additional information requested (including any additional information requested of persons other than defendants or the trustee), whichever is later, plaintiffs shall proved written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiffs provided written notice to defendants and the trustee that it does not object, then the divestiture may be consummated, subject only to defendant's limited right to object to the sale under the provisions in Section V(C). Absent written notice that the plaintiffs do not object to the proposed purchaser, a divestiture proposed under Section IV shall not be consummated. Upon objection by either plaintiff, a divestiture proposed under Section IV shall not be consummated. Upon objection by either plaintiff, or by defendants under the proviso in Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Affidavits

Within ten (10) calendar days of the filing of this Final Judgment and every thirty (30) calendar days thereafter until the divestiture has been completed or authority to effect divestiture passes to the trustee pursuant to Section V of this Final Judgment, defendants shall deliver to plaintiffs an affidavit as to the fact and manner of compliance with Section IV and V of this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Relevant Wet Wipes Assets or Relevant Facial Tissue Assets, and shall describe in detail each contact with any such person during that period. Defendants shall maintain full records of all efforts made to divest these operations.

VIII. Financing

With prior written consent of the plaintiffs, defendants may finance all or any part of any purchase made pursuant to Sections IV or V of this Final Judgment.

IX. Preservation of Assets

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall take all steps necessary to ensure that the Relevant Wet Wipes Assets will be maintained as an independent, ongoing, economically viable and active competitor in the sale of baby wipes in the United States, with proprietary technology, management operations, books, records and competitively-sensitive sales, marketing and pricing information and decision-making kept separate and apart from, and not influenced by, that of Kimberly-Clark's Huggies baby wipes business.

B. Defendants shall operate the Relevant Facial Tissue Assets to ensure a distinct and economically viable product line, which actively competes in the sale of facial tissue in the United States, with competitively-sensitive sales, marketing and pricing information and decision-making kept separate and apart from, and not influenced by, that of Kimberly-Clark's Kleenex facial tissue business.

C. Defendants shall use all reasonable efforts to maintain and increase sales of baby wipes under any label required to be divested pursuant to Sections II(C) and IV(A) and facial tissue under the Scotties label, and they shall maintain at 1995 or previously approved levels, whichever is higher, promotional, advertising, marketing and merchandising support for baby wipes under labels in the Relevant Wet Wipes Assets and facial tissue under the Scotties label.

D. Defendants shall take all steps necessary to ensure that the Relevant Wet Wipes Assets and Relevant Facial Tissue Assets are fully maintained inoperable condition at their current capacity configurations, and shall maintain and adhere to normal repair and maintenance schedules for such assets.

E. Defendants shall not, except as part of a divestiture approved by plaintiffs, sell any Relevant Wet Wipes Assets or Relevant Facial Tissue Assets, other than in the ordinary course of business.

F. Defendants shall take no action that would jeopardize the sale or license of the Relevant Wet Wipes Assets or the Relevant Facial Tissue Assets. Within 21 days after filing of the Final Judgment, defendants shall discontinue making and selling facial tissue under the Scott label and make and sell facial tissue under the Scotties label; provided, however, that defendants may sell inventory of facial tissue produced under the Scott Label until such inventory is depleted.

X. Compliance Inspection

Only for the purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege from time to time.

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of the Attorney General of the State of Texas, and on reasonable notice to defendants made to their principal offices, shall be permitted:

(1) Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to enforcement of this Final Judgment; and

(2) Subject to the reasonable convenience of defendants and without

restraint or interference from them, to interview officers, employees, and agents of defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of the Attorney General of the State of Texas, made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to enforcement of this Final Judgment.

C. No information or documents obtained by the means provided in this Section X shall be divulged by a representative of either plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States or of the State of Texas, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiffs, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: ______________________

____
United States District Judge

United States District Court, Northern District of Texas, Dallas Division

United States of America and State of Texas, Plaintiffs, v. *Kimberly-Clark Corporation and Scott Paper Company,* Defendants. Civil No. 3:95 CV 3055–P. Filed December 12, 1995.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States and the State of Texas filed a civil antitrust Complaint on December 12, 1995, which alleges that Kimberly-Clark Corporation's proposed acquisition of Scott Paper Company ("Scott") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. Kimberly-Clark and Scott are the nation's first and third leading sellers of facial tissue, and its leading sellers of baby wipes.

The Complaint alleges that the combination of these rivals would substantially lessen competition in production and distribution, and raise prices to consumers in retail sale, of facial tissue and baby wipes in the United States. The prayer for relief seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction preventing Kimberly-Clark from acquiring control of Scott's facial tissue and baby wipes businesses or otherwise combining them with its own business in the United States.

At the time the suit was filed, the United States and State of Texas also filed a proposed settlement that would permit Kimberly-Clark to complete its acquisition of Scott's other assets, but require divestitures of baby wipes and facial tissue assets in a way that will preserve competition in the markets. This settlement consists of a Stipulation and a proposed Final Judgment.

The proposed Final Judgment orders defendants to divest to one or more purchasers Scott's Scotties® facial tissue label, any two or four United States tissue mills currently operated by Kimberly-Clark or Scott, all of Scott's baby wipes labels, and Scott's wet wipes plant used to produce baby wipes and other products. Certain tangible and intangible assets that relate to these assets and labels must also be divested. Defendants must complete the divestiture of the Scott facial tissue business within 180 days, and the divestiture of the wet wipes business within 150 days, after December 12, 1995, in accordance with the procedures specified in the proposed Final Judgment.

The Stipulation and Final Judgment require Kimberly-Clark to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, Scott's facial tissue and baby wipes businesses and associated assets will be held separate from, and operated independently of, other, competing Kimberly-Clark facial tissue and baby wipes businesses. Kimberly-Clark must preserve and maintain these assets as saleable and economically viable, ongoing concerns, with competitively-sensitive business information and decision-making divorced from that of competing Kimberly-Clark businesses.

The United States, the State of Texas, Kimberly-Clark, and Scott have also stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Kimberly-Clark, based in Dallas, Texas, is a leading producer of consumer paper products, including disposable diapers, feminine care products, facial tissue and baby wipes. In 1994, Kimberly-Clark reported total sales of $7.3 billion. Kimberly-Clark makes Kleenex® facial tissue and Huggies® brand baby wipes.

Scott, based in Boca Raton, Florida, is also a leading producer of consumer paper products, including bath tissue, facial tissue and baby wipes. In 1994, Scott reported total sales of $3.5 billion. Among its other brands, Scott makes and sells Scotties® facial tissue (recently renamed Scott® and Baby Fresh® and Wash A Bye Baby® baby wipes.

On July 16, 1995, Kimberly-Clark agreed to acquire Scott for cash and stock in a transaction that would create a firm with global sales of about $12 billion. This transaction, which would combine leading competitors in two major markets, precipitated the governments' suit.

B. The Transaction's Effects in the Facial Tissue Industry

Facial tissue is a soft, thin, pliable and absorbent sheet of paper, typically folded and packed in a box. It is primarily used to catch a sneeze, blow a nose, or remove make-up. There are no good substitutes for facial tissue.

For all practical purposes, the retail facial tissue market is dominated by three major firms—Kimberly-Clark, Scott and Procter & Gamble—which together account for nearly 90 percent of sales of facial tissue, a $1.34 billion dollar market. Kimberly-Clark's popular Kleenex® is by far the leading brand of facial tissue sold, commanding 48.5 percent of all sales.

Scott's Scotties® facial tissue, a value brand offering consumers more product for the money, has a 7 percent share of sales, but significantly greater presence and consumer acceptance in the Northeast, where the brand was first introduced. Procter & Gamble, the only other significant firm, makes Puffs®, which has about a 30 percent market share.[1]

Scott's market share, however, understates its competitive significance. As a value brand, Scotties® has, in the past, imposed a significant constraint on Kimberly-Clark's prices for facial tissue. Kimberly-Clark's Kleenex® likewise has been a significant constraint on prices of Scotties® facial tissue.

The Complaint alleges that Kimberly-Clark's acquisition of Scott would remove these constraints, and provide Kimberly-Clark both the power and the incentive to increase unilaterally and profitably the price of either, or both, brands of facial tissue. Kimberly-Clark's acquisition of Scott would also increase the likelihood of cooperative increases in the price of consumer facial tissue, since the merger would leave Kimberly-Clark with a single significant rival, Procter & Gamble's Puffs®, in the facial tissue market.

Because entry into the facial tissue market is difficult, requiring a significant investment in plant equipment and brand building, successful new entry or repositioning after the merger is unlikely to restore the competition lost through Kimberly-Clark's removal of Scott from the marketplace.

C. The Transaction's Effect in the Baby Wipes Industry

Baby wipes are soft, moist and absorbent sheets of paper substrate, about the size of a wash cloth, that are packaged in a plastic tub or canister. Consumer use baby wipes to clean babies, especially during a diaper change. Stronger, softer and more convenient or sanitary than any alternative product, baby wipes are a popular staple of families with babies, and are bought by 95 percent of such households. There are no good substitutes for baby wipes.

Kimberly-Clark and Scott are the nation's two largest and most significant manufacturers of baby wipes. Scott's Baby Fresh® and Wash A Bye Baby® baby wipes account for about 31 percent of all baby wipes sold, while Kimberly-Clark's Huggies® baby wipes command nearly 25 percent of all sales. They are each other's primary competitor and most significant constraint on prices for baby wipes. Kimberly-Clark and Scott aggressively compete in pricing, promotion, and product innovation.

Following its acquisition of Scott, Kimberly-Clark would control nearly 60 percent of all baby wipes sold,[2] and leave it seven times larger than its next largest competitor in a market with $500 million in annual sales. By eliminating Scott, the Complaint alleges, Kimberly-Clark would acquire market power that would enable it unilaterally to increase prices to consumers of either, or both, Huggies®, Baby Fresh® and Wash A Bye Baby® wipes. New market entry is difficult, time-consuming and unlikely, and hence cannot be expected to constrain the unlawful effects of Kimberly-Clark's acquisition of Scott.

D. Harm to Competition as a Consequence of the Acquisition

The Complaint alleges that the transaction would have the following effects, among others: competition generally in the facial tissue and baby wipes markets will be substantially lessened; actual and potential competition between Kimberly-Clark and Scott in the market for facial tissue and baby wipes will be eliminated in the United States; prices for facial tissue and baby wipes in the United States are likely to increase; and product innovation in facial tissue and baby wipes in the United States will suffer.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in production and retail sale of branded baby wipes and facial tissue in the United States. Within 150 days after filing the proposed Final Judgment, defendants must divest Scott's wet wipes plant in Dover, Delaware; grant a 25-five year, royalty-free, exclusive and assignable, perpetually renewable license for the baby wipes labels produced at that plant; and divest other associated assets—sell, in essence, the entire Scott baby wipes business and brands. Within 180 days after filing the proposed Final Judgment, defendants must similarly divest Scott's Scotties® brand facial tissue business, grant a 25-year, royalty-free, exclusive and assignable, perpetually renewable license for the Scotties® facial tissue label, and divest any two of four tissue mills specified in the Final Judgment and associated assets. These businesses must be sold to a purchaser or purchasers who demonstrate to the sole satisfaction of the United States and the State of Texas that they will be an economically viable and effective competitor, capable of maintaining or surpassing Scott's market performance in the sale of branded baby wipes and consumer facial tissue in the United States.

Until the ordered divestitures take place, defendants must take all reasonable steps necessary to accomplish the divestitures, and cooperate with any prospective purchaser. If defendants do not accomplish the ordered divestitures within the specified 150 and 180 day time periods, the Final Judgment provides for procedures by which the Court shall appoint a trustee to complete the divestitures. Defendants must cooperate fully with the trustee.

If a trustee is appointed, the proposed Final Judgment provides that Kimberly-Clark will pay all costs and expenses of the trustee. The trustee's compensation will be structured so as to provide an incentive for the trustee to obtain the highest price for the assets to be divested, and to accomplish the divestiture as quickly as possible. After the effective date of his or her appointment, the trustee shall serve under such other conditions as the Court may prescribe. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee shall promptly file with the Court a report setting forth the trustee's efforts to accomplish the divestiture, explaining why the divestiture has not been accomplished, and making recommendations. The trustee's report will be furnished to the parties and shall

[1] The approximate post-merger Herfindahl-Hirschman Index (''HHI'') for the facial tissue market, based on 1994 dollar sales, would be 4031, with an increase in the HHI as a result of the merger of 705 points.

[2] The approximate post-merger HHI for the relevant market based on 1994 dollar sales would be over 3137, with a change in the HHI concentration index resulting from the merger of 1501 points.

be filed in the public docket, except to the extent the report contains information the trustee deems confidential. The parties will each have the right to make additional recommendations to the Court. The Court shall enter such orders as it deems appropriate to carry out the purpose of the trust.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants. The proposed Final Judgment provides that nothing therein contained shall be construed to provide any rights to any third party.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Anthony V. Nanni, Chief, Litigation I Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against defendants Kimberly-Clark and Scott. The United States is satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in the production and sale of facial tissue and baby wipes that would otherwise be adversely affected by the acquisition. Thus, the proposed Final Judgment would achieve the relief the governments would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the governments' Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court *may* consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the DC Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 1995–1 Trade Cas. (CCH) ¶71,027, at ____ (Slip op. 26) (DC Cir. June 16, 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." [3] Rather,

> absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 1995–1 Trade Cas. at ____ (Slip. op. 22). Precedent requires that

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[4]

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[3] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless if believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[4] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also Microsoft*, 1995–1 Trade Cas. at ____ (Slip op. 23) (whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' ") (citations omitted).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted).'' [5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: December 12, 1995.

Respectfully submitted,

Anthony E. Harris,

Attorney, State of Illinois # 01133713, Antitrust Division, U.S. Department of Justice, 1401 H. Street NW., suite 4000, Washington, DC 20530, (202) 307–6583.

[FR Doc. 95–31054 Filed 12–21–95; 8:45 am]

BILLING CODE 4410–01–M

[5] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983) *quoting United States* v. *Gillette Co., supra*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky 1985).

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division;

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. MD950050 and MD950053 dated February 10, 1994.

Agencies with construction projects pending, to which this Wage Decision would have been applicable, should utilize Wage Decision MD950047. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume II

Virginia
VA950040 (Dec. 22, 1995)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

New York
NY950009 (Feb. 10, 1995)
NY950010 (Feb. 10, 1995)
NY950041 (Feb. 10, 1995)

Volume II

Maryland
MD950047 (Feb. 10, 1995)
Pennsylvania
PA950004 (Feb. 10, 1995)
PA950023 (Feb. 10, 1995)
PA950065 (Feb. 10, 1995)
Virginia
VA950004 (Feb. 10, 1995)
VA950014 (Feb. 10, 1995)
VA950015 (Feb. 10, 1995)
VA950049 (Feb. 10, 1995)
VA950064 (Feb. 10, 1995)

Volume III

None

Volume IV

Michigan
MI950007 (Feb. 10, 1995)

Volume V

None

Volume VI

California
CA950001 (Feb. 10, 1995)
Nevada
NV950001 (Feb. 10, 1995)
NV950001 (Feb. 10, 1995)
NV950002 (Feb. 10, 1995)
NV950005 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 15th day of December 1995.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 95–30947 Filed 12–21–95; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co; Zion Nuclear Power Station, Units 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (ComEd, the licensee), for operation of the Zion Nuclear Power Station, Units 1 and 2, located in Lake County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action is in accordance with the licensee's application for and exemption from certain requirements of 10 CFR 73.55, ''Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage.'' The requested exemption would allow the implementation of a hand geometry biometric system of site access control in conjunction with photograph identification badges, and would allow the badges to be taken off site.

The Need for the Proposed Action

Pursuant to 10 CFR 73.55(a), the licensee is required to establish and maintain an onsite physical protection system and security organization.

In 10 CFR 73.55(d), ''Access Requirements,'' it specifies in part that ''The licensee shall control all points of personnel and vehicle access into a protected area.'' In 10 CFR 73.55(d)(5), it specifies in part that ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.'' It further indicates that an individual not employed by the licensee (e.g., contractors) may be authorized access to protected areas without an escort provided the individual, ''receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area.''

Currently, unescorted access for both employee and contractor personnel into the Zion Station, Units 1 and 2, is controlled through the use of picture badges. Positive identification of personnel who are authorized and request access into a the protected area is established by security personnel making a visual comparison of the individual requesting access and that individual's picture badge. The picture badges are issued, stored, and retrieved at the entrance/exit location to the protected area. In accordance with 10 CFR 73.55(d)(5), contractor personnel are not allowed to take their picture badges off site. In addition, in accordance with the plant's physical security plan, the licensee's employees are also not allowed to take their picture badges off site. The licensee proposes to implement an alterative unescorted access control system which would eliminate the need to issue and retrieve picture badges at the entrance/exit location to the protected area. The proposal would also allow contractors who have unescorted access to keep their picture badges in their possession when departing the Zion site. In addition, the site security plans will be revised to allow implementation of the hand geometry system and to allow employees and contractors with unescorted access to keep their picture badges in their possession when leaving the Zion site.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action. In addition to their picture badges, all individuals with authorized unescorted access will have the physical characteristics of their hand (hand geometry) registered with their picture badge number in a computerized access control system. Therefore, all authorized individuals must not only have their picture badges to gain access into the protected area, but must also have their hand geometry confirmed.

All other access process, including search function capability and access revocation, will remain the same. A security officer responsible for access control will continue to be positioned within a bullet-resistant structure. The proposed system is only for individuals with authorized unescorted access and will not be used for individuals requiring escorts.

The underlying purpose for requiring that individuals not employed by the licensee must receive and return their picture badges at the entrance/exit is to provide reasonable assurance that the access badges could not be compromised or stolen with a resulting risk that an unauthorized individual could potentially enter the protected area. Although the proposed exemption will allow individuals to take their picture badges off site, the proposed measures require not only that the picture badge be provided for access to the protected area, but also that verification of the hand geometry registered with the badge be performed as discussed above. Thus, the proposed system provides an identity verification process that is equivalent to the existing process.

Accordingly, the Commission concludes that the exemption to allow individuals not employed by the licensee to take their picture badges off site will not result in an increase in the risk that an unauthorized individual could potentially enter the protected area. Consequently, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

The proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the proposed action would be to deny the requested action. Denial of the requested action would not significantly enhance the environment in that the proposed action will result in a process that is equivalent to the existing identification verification process.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated December 1972, related to the operation of the Zion Nuclear Power Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on November 15, 1995, the NRC staff consulted with the Illinois State official, Mr. Frank Niziolek; Head, Reactor Safety Section; Division of Engineering; Illinois Department of Nuclear Safety; regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this, see the licensee's letter dated October 25, 1995, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 13th day of December 1995.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–31157 Filed 12–21–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–413 and 50–414]

Duke Power Co. et al.; Catawba Nuclear Station, Unit Nos. 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–35 and NPF–52, issued to Duke Power Company, et al. (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

By letter dated September 5, 1995, Duke Power Company submitted a proposal for amendments of the Facility Operating Licenses that would allow the Catawba Units 1 and 2 Containment Airborne Particulate Radiation Monitors (CAPRMs, 1/2 EMF38(L)) to be reclassified in the Updated Final Safety Analysis Report (UFSAR) as non-seismic Category I.

The Catawba operating license Safety Evaluation Report (SER, NUREG–0954), Section 5.2.5, states that the CAPRMs are designed to seismic Category I requirements. The basis for this determination was Section 5.2.5 of the Catawba UFSAR, which currently states that the CAPRMs would remain functional during and following a safe shutdown earthquake (SSE) as recommended in Position C.6 of Regulatory Guide (RG) 1.45 ''Reactor Coolant Pressure Boundary Leakage Detection Systems.''

By letter dated September 8, 1994, the licensee informed the staff that sufficient documentation did not exist to show that the subject monitors were seismically qualified to withstand the SSE. By letter dated September 5, 1995, the licensee stated that the matter involved an unreviewed safety question and requested amendments to its Facility Operating Licenses including proposed changes to the UFSAR, which would clarify that the CAPRMs are not designed to remain functional following the SSE. The licensee has proposed an alternative to Position C.6 of RG 1.45 by showing that adequate instrumentation and procedures will be available to assess conditions inside containment following a seismic event comparable to an SSE and that, accordingly, the seismic qualification requirement for the CAPRMs may be deleted from the UFSAR.

The proposed action is in accordance with the licensee's application for amendments dated September 5, 1995.

The Need for the Proposed Action

The proposed action is needed so that the appropriate seismic qualification for the CAPRMs can be reflected in the UFSAR.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the UFSAR. The proposed revisions would permit the Containment Airborne Particulate Radiation Monitors (1/2EMF38(L)) at Catawba Units 1 and 2 to be classified as non-seismic Category I. The safety considerations associated with this re-classification have been evaluated by the NRC staff. The staff has concluded that the licensee has demonstrated an acceptable alternative to Position C.6 of RG 1.45 by showing that adequate instrumentation and procedures will be available to assess conditions inside containment following a seismic event comparable to an SSE. The proposed changes have no adverse effect on the probability of any accident. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact.

Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the requested amendments. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the ''Final Environmental Statement Related to the Operation of Catawba Nuclear Station Units 1 and 2,'' dated January 1983.

Agencies and Persons Consulted

In accordance with its stated policy, on November 30, 1995, the NRC staff consulted with the South Carolina State official, Mr. V. Autrey of the Bureau of Radiological Health, Department of Health and Environmental Controls, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

For further details with respect to this action, see the licensee's letter dated September 5, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this 18th day of December 1995.

For The Nuclear Regulatory Commission.

Leonard A. Wiens, Acting Director,

Project Directorate II–2, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–31158 Filed 12–21–95; 8:45 am]

BILLING CODE 7590–01–P

Docket No. 50–344

Portland General Electric Company; Trojan Nuclear Plant; Notice of Issuance of Environmental Assessment and Final Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering approving a Portland General Electric (PGE) proposed decommissioning plan for the Trojan Nuclear Plant (TNP) and issuing an order authorizing decommissioning of the facility.

Description of the Proposed Action

On January 27, 1993, PGE notified the NRC of their decision to permanently cease power operations after approximately 17 years of operation. The fuel was transferred to the spent fuel pool, and on May 5, 1993, the NRC amended the TNP Facility Operating License (NFP–1) to a Possession Only License, which allows the licensee to maintain but not operate the facility. On January 26, 1995, the licensee submitted an application to terminate the TNP Possession Only License. The application for termination of the TNP license included a proposed decommissioning plan and an supplement to the environmental report. The licensee proposes to decommission the TNP using a dismantlement (DECON) approach as defined in the ''Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities'' NUREG–0586, dated August 1988 (GEIS).

The licensee plans to precede the DECON radiological decontamination and dismantlement period with a five-year transition period. Transition period activities include the removal and disposal of selected large components, licensing and construction of an Independent Spent Fuel Storage Installation (ISFSI), and transfer of the fuel to the ISFSI. Assessment of the environmental impact associated with the construction and operation of the Trojan ISFSI will be conducted during the licensing of the ISFSI. Radioactive structures, systems, and components that are removed from the facility during decommissioning will be shipped to a licensed burial site for permanent disposal.

Summary of the Environmental Assessment

The purpose of decommissioning a nuclear facility is to remove the facility safely from service, and to reduce residual radioactivity at the site to levels that permit the release of the property for unrestricted use. Once this state is reached the license granted by the NRC may be terminated.

The NRC staff has reviewed the PGE decommissioning plan, and supplemental environmental report prepared in accordance with 10 CFR 51.53(b). To document its review, the staff has prepared an environmental assessment (EA) consistent with 10 CFR 51.95(b), which examined decommissioning alternatives, non-radiological and radiological impacts of decommissioning, and effects of postulated radiological accidents during decommissioning. The alternatives available for decommissioning—DECON, ENTOMB, SAFSTOR, and No Action—are evaluated and discussed in the GEIS. Based on its review of the proposed PGE decommissioning plan, the staff has determined that the environmental impacts associated with the decommissioning of TNP in accordance with the plan are either bounded by the impacts evaluated by the GEIS or in the NRC Final Environmental Statement related to Operation of Trojan Nuclear Plant dated August 1973. The staff also finds that the proposed decommissioning of TNP is in compliance with 10 CFR Part 50, Appendix I annual design objectives for offsite releases or 10 CFR Part 20.

Final Finding of No Significant Impact

The staff has reviewed the proposed decommissioning plan and supplement to the environmental report in accordance with the requirements of 10 CFR Part 51. The staff has concluded that there are no significant environmental impacts associated with the proposed action and that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement.

For further details with respect to this action, see the licensee application for termination of license, dated January 26, 1995 and updated November 13, 1995, and the NRC staff Environmental Assessment and Safety Evaluation Report. These documents are available for public inspection at the NRC Public Document Room, Gelman Building, 2120 L Street, NW, Washington, DC. 20555, and at the Local Public Document Room for TNP at the Branford Price Millar Library, Portland State University, Portland, Oregon 97207. Single copies of the NRC staff Environmental Assessment and Safety Evaluation may be obtained from Dr. Michael T. Masnik, Senior Project Manager, Office of Nuclear Reactor

Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Rockville, Maryland, this December 18, 1995.

For the Nuclear Regulatory Commission.

Singh S. Bajwa,

Acting Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 95–31156 Filed 12–21–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–344]

Portland General Electric Company; Trojan Nuclear Power Station; Consideration of Issuance of an Order Authorizing Decommissioning a Facility and Opportunity for a Hearing

A. Introduction

Pursuant to 10 CFR 2.105(a)(9), the U.S. Nuclear Regulatory Commission (''the Commission'') hereby gives notice that it is considering issuance of an order under 10 CFR 50.82(e) to the Portland General Electric Company (''PGE,'' the licensee), for the Trojan Nuclear Power Station (''Trojan NPS''), located near Ranier, Oregon. The order would involve approval of the Trojan NPS decommissioning plan as it relates to the decommissioning of the remaining portions of the Trojan NPS.

On October 12, 1995, the Commission issued a Memorandum and Order, CLI–95–13, in which it announced that it would issue a Notice of Opportunity for a Hearing on the licensee's decommissioning plan and the application of that plan to the completion of the decommissioning of the Trojan NPS. The Commission also announced in CLI–95–13 that it would ''direct an expedited hearing process in this case.''

The licensee is the holder of facility Possession Only License No. NPF–1, which was issued on May 5, 1993. All spent fuel has been removed from the reactor and placed in the plant's spent fuel pool. In addition, the pressurizer and the four steam generators have been removed from the reactor containment and shipped to a low level waste disposal facility.

By issuance of this order, the licensee would be authorized to complete the decommissioning of the Trojan NPS facility in accordance with its proposed decommissioning plan, submitted on January 25, 1995, as supplemented. Under that plan, PGE intends to dismantle the Trojan facility using the DECON decommissioning alternative as defined in NUREG–0586, ''Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities,'' (1988).

The licensee has proposed to precede the DECON decommissioning and dismantlement period with a five-year transition period. Proposed activities during the transition period, which began with the permanent shutdown of the facility in January 1993, include the removal and disposal of selected components, the licensing and construction of an Independent Spent Fuel Storage Installation (ISFSI), and the transfer of the spent fuel, currently in the spent fuel pool, to the ISFSI. Licensing of the ISFSI will be the subject of a separate Notice of Opportunity for a Hearing and will not be a part of the proceeding to approve the Decommissioning Plan.

Once the spent fuel has been transferred to the ISFSI the DECON phase will begin. The DECON phase will consist of the major disassembly and dismantlement of structures systems and components that are radioactive. Low level radioactive waste resulting from decommissioning activities will be shipped to a licensed waste disposal site for burial. The DECON phase will end with the site, except for the ISFSI, being released for unrestricted use.

B. Requests for Hearing and Petitions for Leave To Intervene

By January 22, 1996, the licensee may file a request for a hearing with respect to issuance of the order to the subject facility. During that same period, any other person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file both a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2, and the special instructions provided in this notice.

This notice provides a brief overview of the requirements in 10 CFR 2.714. However, the fact that a requirement is not addressed in this notice does not excuse compliance with that requirement. Each person seeking to participate in this proceeding is responsible for complying with all applicable requirements. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW. (Lower Level), Washington, DC 20555, or the NRC Local Public Document Room, located at the Bandford Price Millar Library, Portland State University, 934 S.W. Harrison Street (P.O. Box 1151), Portland Oregon 97207.

If a request for hearing or a petition for leave to intervene is filed by the above date, either the Commission or an Atomic Safety and Licensing Board, designated by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and either the Secretary of the Commission or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, both a request for hearing and a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of that proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene.

C. Filing of Contentions

The Commission has determined to take several steps to expedite this proceeding. The first step toward expediting this proceeding is to require that all contentions be filed at the same time as petitions for leave to intervene. Accordingly, any person who files a request for hearing and a petition for leave to intervene shall, at the same time, submit a supplement to the petition for leave to intervene which must include a list of contentions which are sought to be litigated in the proceeding. The Commission will issue additional directions to expedite this proceeding where appropriate in the future.

Potential petitioners should not be prejudiced by this requirement because the documents which would give rise to potential disputes are already in existence and in the public domain. For example, the most important document for consideration in the formation of contentions is the licensee's proposed decommissioning plan, which has been in the public domain since January 25, 1995. The NRC Staff has now prepared both an Environmental Assessment (''EA'') of the plan and a Safety Evaluation Report (''SER'') reviewing the plan and those documents are available for public review as described below.

Pursuant to 10 CFR 2.714(b)(2), each contention must consist of a specific statement of the issue of law or fact to be raised or controverted, including any alleged omission by the licensee or the Staff in any action taken or in any document issued relating to this matter. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must also provide sufficient information to show that a genuine dispute exists with the licensee on a material issue of law or fact. Under the circumstances of this case, the Commission will consider a valid contention to satisfy the aspect requirement noted above.

If a hearing is held, the issue shall be whether an order approving the decommissioning plan should be issued. Thus, contentions shall be limited to matter relevant to the order under consideration. The contention must be one which, if proven, would entitle petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene.

D. Filing Instructions

A request for hearing and/or petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC, 20555–0001; Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC by the above date. If a request for hearing or a petition for leave to intervene is filed within the last five (5) calendar days of this period, the filing party should not only file the documents by U.S. Mail, but should also fax them to the Secretary of the Commission. The fax number for the Office of the Secretary is (301) 415–1672.

A copy of all filings should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Attention: Assistant General Counsel for Hearings and Enforcement, and to Douglas R. Nichols, Assistant General Counsel, Portland General Electric Company, 121 S.W. Salmon Street, Suite 1300, Portland, Oregon 97204, attorney for the licensee.

Non-timely filings of (1) petitions for leave to intervene, (2) amended petitions, (3) supplemental petitions and/or (4) requests for hearing will not be entertained absent a determination by the Commission or the designated Atomic Safety and Licensing Board that the non-timely filing should be accepted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 10 CFR 2.714(d). Notwithstanding the provisions of 10 CFR 2.714(a)(3), the participants will not be allowed to amend their pleadings without leave of the Commission or of the designated Board. Under that provision, amendment of pleadings without leave is tied to the submission of contentions which has been expedited in this case. Answers to any request for hearing or petition for leave to intervene should be filed in accordance with 10 CFR 2.714(c).

For further details with respect to this action, see (1) the application for decommissioning, including the decommissioning plan, dated January 25, 1995, as supplemented on November 13, 1995; (2) the NRC Staff's Environmental Assessment, dated December 18, 1995, and (3) the NRC Staff's Safety Evaluation Report, dated December 15, 1995. These documents are available for public inspection at both the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW. (Lower Level), Washington, DC, and at the NRC Local Public Document Room at the Brandford Price Millar Library, Portland State University, 934 S.W. Harrison Street (P.O. Box 1151), Portland, Oregon 97207. In addition, single copies of the Environmental Assessment or the Safety Evaluation Report may be requested in writing from Dr. Michael T. Masnik, Senior Project Manager, OWFN MS:11–B–20, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 18th day of December, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–31155 Filed 12–21–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36597; File No. SR–GSCC–95–03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Authorizing the Release of Clearing Data Relating to Participants

December 15, 1995.

On August 28, 1995, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–95–03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On September 13, 1995, GSCC filed an amendment to the proposed rule change.[2] Notice of the proposal as amended was published in the Federal Register on November 2, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

The purpose of the proposed rule change is to modify GSCC's rules to authorize the release of clearing data relating to GSCC's participants to the National Securities Clearing Corporation's (''NSCC'') Collateral Management Service (''CMS'')[4] and to other parties. GSCC Rule 1 (''Definitions'') is amended to include the term ''CFTC-Recognized Clearing Organization'' and to define it as ''a clearing organization that is affiliated with, or designed by, a contracts market or markets trading specific futures products, and is under the oversight of the Commodity Futures Trading

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Peter R. Geraghty, Division of Market Regulation, Commission (September 13, 1995).

[3] Securities Exchange Act Release No. 36430 (October 27, 1995), 60 FR 55748.

[4] Generally, NSCC's CMS will provide participating participants and clearing agencies with access to information regarding participating participants' clearing fund, margin, and other similar requirements and deposits at participating clearing agencies. For a complete description of CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR–NSCC–95–06] (order approving NSCC's CMS).

Commission.'' The term ''Collateral Management Service'' also is added to Rule 1 and defined as ''the collateral management information-sharing service operated by the National Securities Clearing Corporation.''

Section 2 of Rule 29 (''Release of Clearing Data'') is amended to permit GSCC to release clearing data to CFTC-Recognized Clearing Organizations and to NSCC solely in connection with NSCC providing CMS.[5] Section 4 of Rule 29 is amended to clarify that the term ''Clearing Data'' includes, in addition to transaction data, other data that is received by GSCC in the clearance and/or settlement process.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[6] As discussed below, the Commission believes the proposed rule change is consistent with GSCC's obligation under Section 17A(b)(3)(F) because the proposal sets forth GSCC's responsibilities and obligations with regard to releasing participants' clearing data and facilitates GSCC's participation in NSCC's CMS by enabling GSCC to provide information regarding GSCC's participants to NSCC for its CMS. GSCC's and its participants' participation in NSCC's CMS should help GSCC and other clearing agencies to better monitor clearing fund, margin, and other similar required deposits that protect a clearing agency against loss should a member default on its obligations to the clearing agency.[7]

[5] Section 2(a) of Rule 29 already permits GSCC to release clearing data to other self-regulatory organizations such as NSCC that have regulatory authority over a GSCC member. The purpose of new Section 2(b) is to make explicit GSCC's authority to release clearing data to NSCC for its CMS.

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[7] Although GSCC currently does not have any cross-guarantee agreements or arrangements with other clearing agencies, NSCC's CMS will be especially beneficial to those participating clearing entities that have executed cross-guaranty agreements or have other cross-guarantee arrangements. The Commission supports the use of cross-guaranty agreements and other similar arrangements among clearing agencies as a method of reducing clearing agencies' risk of loss due to a common participant's default and encourages GSCC to explore such agreements or arrangements.

Currently, The Depository Trust Company (''DTC'') and NSCC are the only clearing agencies registered with the Commission that have executed a cross-guaranty agreement. The agreement provides that in the event of a default of a common member, any resources remaining after the failed common member's obligations to the guaranteeing clearing agency have been satisfied will be made available to the other clearing agency. The guaranty is not absolute but rather is limited to the extent of the resources relative to the failed member remaining at the guaranteeing clearing agency. The principal resources will be the failed members's settlement net credit balances and deposits to the clearing agencies' clearing funds. For a complete description of DTC's and NSCC's agreement, refer to Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 [File Nos. SR–DTC–93–08 and SR–NSCC–93–07].

The Midwest Securities Trust Company (''MSTC'') and Midwest Clearing Corporation (''MCC'') and the Philadelphia Depository Trust Company (''Philadep'') and the Stock Clearing Corporation of Philadelphia (''SCCP'') each have cross-guarantee arrangements with their related affiliate. Pursuant to Section 3, Rule 2, Article VI of MSTC's Rules, a defaulting participant's obligations at MSTC or MCC will be discharged by application of that participant's deposits at either clearing agency if that participant is a common member to both clearing agencies. MCC's Rules contain a similar provision. Similarly, pursuant to Section 4, Rule 4 of SCCP's Rules, SCCP will make available any portion of a defaulting participant's contribution to its participants fund to offset a loss suffered by Philadep by reason of that participant's default. Philadep's Rules contain an identical provision.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–95–03) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–31179 Filed 12–21–95; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36596; File No. SR–MSRB–95–18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Customer Confirmations

December 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, notice is hereby given that on November 28, 1995, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (SR–MSRB–95–18) as described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing herewith a proposed rule change to rule G–15(a) on customer confirmations (hereafter referred to as the ''proposed rule change''). On July 11, 1995, the Commission approved an amendment to rule G–15(a) which completely revised the test and incorporated many interpretations that had been issued over the years. The proposed rule change makes several clarifying and technical changes to the text. In order to simplify compliance for dealers, the Board requests that the provision in rule G–15(a)(i)(A)(6)(h) regarding disclosure of the ''premium paid over accreted value'' be withdrawn, effective upon filing. The Board requests that the proposed rule change be made operative 90 days after filing, pursuant to Section 19(b)(3)(A) of the Act. The text of proposed rule change is as follows. (Additions are italicized; deletions are bracketed.) Rule G–15(a). Customer Confirmations.

(i)(A)(1)–(5) No change.

(6) Final Monies. The following information relating to the calculation and display of final monies shall be shown:

(a)–(g) No change.

(h) for callable zero coupon securities, [any premium paid over the accreted value of the securities] *if applicable, the percentage of the purchase price at risk due to the lowest possible call, which shall be calculated based upon the ratio between (i) the difference between the price paid by the customer and the lowest possible call price, and (ii) the price paid by the customer.*

(7)–(8) No change.

(B) No change.

(C) Securities descriptive information. The confirmation shall include descriptive information about the securities which includes, at a minimum:

(1) Credit backing. The following information, if applicable, regarding the credit backing of the security:

(a) Revenue securities. For revenue securities, a notation of that fact, [regardless of whether such designation appears in the formal title of the security,] and a notation of the primary source of revenue (*e.g.,* project name). *This subparagraph will be satisfied if these designations appear on the confirmation in the formal title of the security or elsewhere in the securities description.*

(b) No change.

(2)–(3) No change.

(4) Tax information. The following information that may be related to the tax treatment of the security:

(a)–(b) No change.

(c) Original issue discount securities. If the securities pay periodic interest and are sold by the underwriter as original issue discount securities a designation that they are ''original issue discount'' securities and a statement of the initial public offering price of the securities, *expressed as a dollar price.*

(D) Disclosure statements:

(1) The confirmation for zero coupon securities shall include a statement to the effect that ''No periodic payments,'' *and, if applicable,* ''callable below maturity value without notice by mail to holder unless registered.''

(2) No change.

(E) No change.

(ii) Separate confirmation for each transaction. Each broker, dealer or municipal securities dealer for each transaction in municipal securities shall give or send to the customer a separate written confirmation in accordance with the requirements of (i) above. *Multiple confirmations may be printed on one page, provided that each transaction is clearly segregated and the information provided for each transaction complies with the requirements of (i) above; provided, however, that if multiple confirmations are printed in a continuous manner within a single document, it is permissible for the name and address of the broker, dealer, or municipal securities dealer and the customer to appear once at the beginning of the document, rather than being included in the confirmation information for each transaction.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On July 11, 1995, the Commission approved the Board's recent amendment to rule G–15(a), on customer confirmations, which became effective on November 15, 1995.[1] This amendment constituted a major revision of the rule, which not only revised and reorganized the rule, but incorporated many interpretations that had been issued over the years.

The Board has identified a need for several technical amendments to clarify certain provisions of the rule. First, the proposed rule change would clarify that the requirement in rule G–15(a)(i)(D)(1) to provide a disclosure statement relating to call features of zero coupon bonds is necessary on confirmations only if the bonds are callable. Therefore, the proposed rule change adds the language ''if applicable'' before the disclosure statement for call provisions. Second, rule G–15(a)(ii) requires dealers to provide a separate written confirmation for each transaction. The proposed rule change would clarify that separate confirmations may be printed as part of one document, as long as the information unique to each trade (*e.g.*, securities description, yield, call information) is segregated and complies with the requirements of the rule.

Third, rule G–15(a)(i)(C)(1)(a) states that revenue bonds must be so identified, regardless of whether such designation appears in the title of the bond. In some cases, this provision leads to the revenue designation being stated twice on the confirmation, one in the title, and again in a separate information block. The proposed rule change makes clear that, if the bond is identified as a revenue bond on the title, there is no need to make an additional disclosure that the bond is a revenue bond. Fourth, dealers are required to disclose the initial public offering price of original issue discount securities in rule G–15(a)(i)(C)(4)(c). The proposed rule change would make clear that the initial public offering price would be expressed as a dollar price, rather than a yield.

Finally, rule G–15(a)(i)(A)(6)(h) states that the confirmation shall disclose any premium paid over the ''accreted value'' for callable zero coupon bonds. The rationale behind this provision is that customers purchasing callable zero coupon bonds in the secondary market can include a premium over the price at which all or some of the bonds may be called. This portion of the customer's investment is at risk to call.[2] The Board believes that the most important information for the customer in this situation is the amount of the purchase price at risk to a call at the lowest price at which all or some of the customer's bonds can be called. While the current language of rule G–15(a)(i)(A)(6)(h) stated this information in terms of ''premium over accreted value,'' it is not entirely accurate because a cusomter's bonds are not always callable at accreted value. For example, a call may be possible at a price that is a percentage of accreted value.

Accordingly, the text of the proposed rule change states simply that the amount to be disclosed is the percentage of the purchase price at risk due to the lowest possible call price that might be experienced by the customer. It further clarifies that the percentage must be calculated as the ratio between (i) the difference between the price paid by the customer and the lowest possible call price, and (ii) the price paid by the customer. It also makes clear that such an at-risk percentage must be disclosed only if it is applicable to the transaction. The Board believes that the proposed rule change more clearly reflects the rationale behind the provision than the current language.

In order to simplify compliance for dealers, the Board requests that the language in rule G–15(a)(i)(A)(6)(h) regarding disclosure of the premium paid over accreted value be withdrawn, effective upon filing. However, in order to allow dealers an opportunity to revise their confirmation procedures to accommodate the proposed rule change, the Board requests that the proposed rule change be made operative 90 days after filing with the Commission under Section 19(b)(3)(A) of the Act.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[3]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any

[1] *See* Securities Exchange Act Release No. 35953 (July 11, 1995), 60 FR 36843.

[2] In contrast, the Board believes that a customer purchasing a normal coupon bond at a price above par in the secondary market usually understands that, if any of the bonds are called at par, the premium paid in the market may be lost.

[3] Section 15B(b)(2)(C) states in pertinent part that the rules of the Board ''shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and in general, to protect investors in the public interest.''

significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for ninety (90) days from the date of its filing on November 28, 1995, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposed rule change qualifies as a ''non-controversial filing'' in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition, and because it makes technical and clarifying changes to an existing MSRB rule. At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–95–18 and should be submitted by January 12, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–31178 Filed 12–21–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, as amended (Pub. L. 104–13 effective October 1, 1995), The Paperwork Reduction Act. Since the last list was published in the Federal Register on December 8, 1995, the information collection listed below will require extension of the current OMB approval.

(Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to the SSA Reports Clearance Officer at the address listed after the information collections)

Application for U.S. Benefits Under the Canada-U.S. International Agreement—0960–0371. The information collected on form SSA–1294 is used to determine entitlement to benefits. The respondents are individuals who live in Canada and file for U.S. Social Security Benefits.

Number of Respondents: 1000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 250 hours.

Written comments and recommendations regarding this information collection should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: December 15, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 95–31162 Filed 12–21–95; 8:45 am]

BILLING CODE 4190–29–P

Notice of Meeting of the Representative Payment Advisory Committee

Date and Time: February 15, 1996, 9 a.m.–9 p.m.; February 16, 1996, 9 a.m.–5 p.m.

Place: Environmental Protection Agency Classrooms, 75 Hawthorne Street, First Floor, San Francisco, CA 94105.

Type of Meeting: The meeting is open to the public.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces the fourth meeting of the Representative Payment Advisory Committee. The Committee will discuss issues related to payee selection, payee recruitment and retention, standards for payee performance and payee oversight. The Committee will focus its discussion on use/misuse of benefits and accountability. The Committee is also interested in the value of automated accounting systems to track expenditures on behalf of beneficiaries as well as funds conserved for future use.

Current guidelines on the use of benefits clearly distinguish acceptable uses of benefits from misuse. However, SSA is interested in learning if additional guidance on choosing the most appropriate among several acceptable uses of benefits is necessary or appropriate. Increasingly, SSA is being asked to resolve disputes concerning use of benefits, especially in balancing current maintenance costs and needs against possible future needs.

Payee accountability also is an area in which SSA would be helped by external views. For some years, SSA has required an annual accounting by all payees except certain State custodial institutions which are subject to an onsite review process. The form used for this accounting elicits information from the payee about how benefits were used during the 12-month report period (including any savings or investments); whether any changes occurred in the beneficiary's living arrangement or custody which could affect entitlement or benefit amount; and other information related to the payee's continued suitability. The process is expensive, currently costing about $60 million yearly and has been criticized as cumbersome for the agency and payees alike.

The representative payment program is so critical to the well being of SSA's most vulnerable beneficiaries that its continuous improvement is of compelling national interest. One in six

Americans receives benefits from SSA, and about one in eight of those has a representative payee. Among supplemental security income beneficiaries, one in three has payee. The appropriate use and management of benefits is important in helping beneficiaries, especially younger disabled persons, to gain or regain their independence and productivity, and it is essential to ensure that all beneficiaries live with the security and dignity that the benefits are meant to provide.

Agenda: The Committee will meet commencing at 9 a.m. to 9 p.m. on Thursday, February 15, 1996 with a break for dinner, and from 9 a.m. to 5 p.m. on Friday, February 16, 1996. Agenda items for both days will include, but not be limited to, a discussion concerning payees' use of benefits, standards for payee performance and payee oversight. Oral statements on these issues or any issue concerning representative payment policy are sought from the public for presentation on February 16. Presentations will be limited to 5 minutes per public speaker.

Persons interested in presenting oral statements may call the Advisory Committee staff at (410) 966–4688 to schedule a presentation time or they may submit a written request, along with a copy of their statement, to the Representative Payment Advisory Committee, 2–N–24 Operations Building, P.O. Box 17763, Baltimore, MD 21203–7763. Requests should contain the name, address, telephone number and any business or professional affiliation of the person desiring to make an oral statement. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Representative Payment Advisory Committee will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not make a written or oral request for presentation in advance, but desire to make an oral statement, may sign up at the meeting site before noon on February 16. These persons will be allowed to present their oral statements as time permits. The Committee also welcomes written comments. They may be sent to the Representative Payment Advisory Committee at 2–N–24 Operations Building, P.O. Box 17763, Baltimore, MD 21203–7763.

Records are being kept of all Committee proceedings, and are available for public inspection at the office of the Representative Payment Advisory Committee, Room 2–N–24, Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 between the hours of 9 a.m. and 4 p.m. on regular business days. Anyone requiring information regarding the Committee should contact the Representative Payment Advisory Committee at P.O. Box 17763, Baltimore, MD 21203–7763; Telephone: (410) 966–4688; FAX: (410) 966–0980; Internet: adcom@ssa.gov.

Dated: December 14, 1995.

Reba Andrew,

Staff Director, Representative Payment Advisory Committee.

[FR Doc. 95–31161 Filed 12–21–95; 8:45 am]

BILLING CODE 4190–29–P

Notice of Meeting of the Representative Payment Advisory Committee

Date and Time: January 22, 1996, 9:00 a.m.–9:00 p.m.; January 23, 1996, 9:00 a.m.–5:00 p.m.

Place: Urban Life Center Auditorium, Georgia State University, Decatur and Piedmont Streets, Atlanta, GA 30303–3083.

Type of Meeting: The meeting is open to the public.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces the third meeting of the Representative Payment Advisory Committee. The Committee will discuss issues related to payee recruitment and retention, standards for payee performance, use/ misuse of benefits, payee accountability and payee oversight. The Committee will focus its discussion on the investigation and selection of payees.

SSA investigates all payee applicants. The application form requires the individual to disclose certain information, including his/her relationship to the beneficiary and his/ her own source(s) of income. After the applicant has provided positive identification, SSA uses its own records to verify the applicant's social security number and work history. SSA screens the applicant against a listing of persons who have been convicted of social security or supplemental security income fraud. Such persons may not be appointed as payees under any circumstances. There are other factors which may result in the nonselection of a payee applicant also.

SSA has built a data base of representative payee information which is readily accessible to all social security offices. The data base includes information concerning any prior performance as a representative payee.

SSA selects the best payee from among the applicants who are willing to serve. If none is immediately available, SSA continues developing leads until a satisfactory applicant is located. Unless direct payment is legally prohibited, benefits generally continue to be paid to a beneficiary while SSA seeks a qualified payee.

Advance notification of the payee selection is provided to the beneficiary (or his or her legal representative or guardian) before payment is certified and the beneficiary is given the opportunity to appeal the payee selection.

Agenda: The Committee will meet commencing at 9:00 a.m. to 9:00 p.m. on Monday, January 22, 1996, with a break for dinner, and from 9:00 a.m. to 5:00 p.m. on Tuesday, January 23, 1996. Agenda items for both days will include, but not be limited to, a discussion concerning the investigation and selection of the payee applicant. Oral statements on these issues or any issue concerning representative payment policy are sought from the public for presentation on January 23. Presentations will be limited to 5 minutes per public speaker.

Persons interested in presenting an oral statement may call the Advisory Committee staff at (410) 966–4688 to schedule a presentation time or they may submit a written request, along with a copy of their statement, to the Representative Payment Advisory Committee, 2–N–24 Operations Building, P.O. Box 17763, Baltimore, MD 21203–7763. Requests should contain the name, address, telephone number and any business or professional affiliation of the person desiring to make an oral statement. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Representative Payment Advisory Committee will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not make a written or oral request for presentation in advance, but desire to make an oral statement, may sign up at the meeting site before noon on January 23. These persons will be allowed to present their oral statements as time permits. The Committee also encourages written comments. They may be sent to the Representative Payment Advisory Committee at 2–N–24 Operations Building, P.O. Box 17763, Baltimore, MD 21203–7763.

Records are being kept of all Committee proceedings, and are available for public inspection at the office of the Social Security Administration, Representative Payment Advisory Committee, Room 2–N–24, Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 between the hours of 9:00 a.m. and 4:00 p.m. on regular business days. Anyone requiring information regarding the Committee should contact the Representative Payment Advisory Committee at P.O. Box 17763, Baltimore, MD 21203–7763; Telephone: (410) 966–4688; FAX: (410) 966–0980; Internet: adcom@ssa.gov.

Dated: December 14, 1995.

Reba Andrew,

Staff Director, Representative Payment Advisory Committee.

[FR Doc. 95–31160 Filed 12–21–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard Porsche

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Porsche Cars North America, Inc., on behalf of Dr. Ing. h.c.F. Porsche AG, (Porsche) for an exemption of a high-theft car line, (nameplate and model year are confidential), from the parts-marking requirements of the Federal motor vehicle theft prevention standard. Porsche requested and was granted on July 14, 1995, confidential treatment for this vehicle line's nameplate. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with the (confidential) model year.

FOR FURTHER INFORMATION CONTACT: Ms Barbara Gray, Office of Market Incentives, NHTSA, 400 Seventh St, SW., Washington, D.C. 20590. Ms Gray's telephone number is (202) 366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTAL INFORMATION: In a petition dated September 26, 1995, Porsche Cars North America, Inc., requested on behalf of Dr. Ing. h.c.F. Porsche AG, an exemption from the parts-marking requirements of the Theft Prevention Standard for a motor vehicle line. The submittal requested an exemption from the parts-marking requirements pursuant to 49 CFR Part 543, Exemption From Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line.

Porsche's September 26 letter and supplemental letter of October 24, together constitute a complete petition, as required by 49 CFR Part 543.7, in that it met the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, Porsche provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an engine starter-interrupt function, a central locking system, and an optional alarm function. The antitheft device is activated by removing the ignition key and locking the doors with it. The optional alarm is operated by a remote control and monitors the doors, hood, rear decklid, glove compartment or radio contact switches and will sound horn and lights if breached.

In order to ensure the reliability and durability of the device, Porsche stated that it conducted tests, based on its own specified standards. Porsche provided a listing of the tests conducted. Porsche stated that the antitheft system also utilizes a built-in self test which constantly checks for system failures. If a failure is detected, the operator is signaled.

Porsche compared the device proposed for its new line with devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of 49 CFR Part 541, and has concluded that the antitheft device proposed for this new line is no less effective than those devices.

Porsche has concluded that the antitheft device proposed for its new line is no less effective than those devices in the lines for which NHTSA has already granted exemptions from the parts-marking requirements. Porsche based its belief on reduced theft rates of the General Motors Corporation (GM) Chevrolet Camaro, Chevrolet Corvette, and Pontiac Firebird. Porsche stated that the GM Chevrolet Camaro has been equipped with the antitheft device since model year (MY) 1990. The theft rate of the Camaro continues to decrease, from (MY) 1988 with a theft rated of 25.7394 (55 FR 18794) to 2.7243 in MY 1993 (60 FR 47429). This represents a decrease of 89 percent. The Chevrolet Corvette and Pontiac Firebird equipped with the same antitheft device, have also shown a decrease in theft rates. Since the vehicle line that is the subject of this petition will be equipped with a system similar to that in the Camaro, Porsche expects that the antitheft device on the vehicle line for which it now seeks an exemption will be as effective as the Camaro's system in reducing and deterring theft.

Based on the evidence submitted by Porsche, the agency believes that the antitheft device for the new Porsche line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

The agency believes that the device will provide the types of performance listed in 49 CFR Part 543.6(a)(3): promoting activation, preventing defeat of circumvention of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants, and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a) (4) and (5), the agency finds that Porsche has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Porsche provided about its device.

For the foregoing reasons, the agency hereby grants in full Porsche's petition for exemption for the (nameplate is confidential) line from the parts-marking requirements of 49 CFR Part 541.

If Porsche decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, mark the line according to the requirements of 49 CFR Parts 541.5 and 541.6.

NHTSA notes that if Porsche wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.'' The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself.

The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult with the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: December 19, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–31177 Filed 12–21–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report of Firearms Transaction.

DATES: Written comments should be received on or before February 20, 1996 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Mosley, Chief, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Report of Firearms Transaction.

OMB Number: 1512–0178.

Form Number: ATF F 4483 (5300.5).

Abstract: This form is used to evaluate firearms transactions by licensee when the Regional Director (Regulatory) determines the need to do so. It is prepared from existing records and submitted to the official.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 250.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: December 15, 1995.

John W. Magaw,

Director.

[FR Doc. 95–31167 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Licensed Firearms Manufactures Records of Production, Disposition, and Supporting Data.

DATES: Written comments should be received on or before February 20, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Mosley, Chief, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

OMB Number: 1512–0369.

Recordkeeping Requirement ID Number: ATF REC 5300/1.

Abstract: Firearms manufacturers records are permanent records of all firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire into the disposition of any firearm in the course of a criminal investigation.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,380.

Estimated Time Per Respondent: 3 minutes per line item.

Estimated Total Annual Burden Hours: 72,023.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dates: December 15, 1995.

John W. Magaw,

Director.

[FR Doc. 95–31168 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Claim—Alcohol, Tobacco and Firearm Taxes.

DATES: Written comments should be received on or before February 20, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Wanda Williams Burggraff, Tax Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Claim—Alcohol, Tobacco and Firearms Taxes.

OMB Number: 1512–0141.

Form Number: ATF F 2635 (5620.8).

Abstract: This form is used by taxpayers to show the basis for a credit remission and allowance of tax on a loss of taxable articles. To request a refund or abatement on taxes excessively or erroneously collected. To request a drawback of tax paid on distilled spirits used in the production of non-beverage products. This form is submitted along with supporting documents to indicate the reason a credit of Federal Tax should be made.

Current Actions: There are no new changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 10,000

Estimated Time Per Respondent: one hour

Estimated Total Annual Burden Hours: 10,000.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Date: December 15, 1995.

John W. Magaw

Director.

[FR Doc. 95–31165 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Distilled Spirits Plants Excise Taxes.

DATES: Written comments should be received on or before February 20, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Tami Light, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Distilled Spirits Plants, Excise Taxes.

OMB Number: 1512–0203.

Recordkeeping Requirement ID Number: ATF REC 5110/06.

Abstract: The collection of information is necessary to account for and verify taxable removals of distilled spirits. The data is used to audit tax payments.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 133.

Estimated Time Per Respondent: 26 hours.

Estimated Total Annual Burden Hours: 3458.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

DATED: December 15, 1995.

John W. Magaw,

Director.

[FR Doc. 95–31164 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Formula For Distilled Spirits Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before February 20, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Roberta Sanders, Product Compliance Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8116.

SUPPLEMENTARY INFORMATION:

Title: Formula For Distilled Spirits Under the Federal Alcohol Administration Act.

OMB Number: 1512–0204.

Form Number: ATF F 5110.38.

Abstract: ATF F 5110.38 is used to determine the classification of distilled spirits for labeling and for consumer protection. This form describes the person filing, type of product to be made and restrictions to labeling and manufacturing. The form is used by ATF to ensure that a product is made and labeled properly and to audit distilled spirits operations.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: one hour.

Estimated Total Annual Burden Hours: 4,000.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Date: December 15, 1995.

John W. Magaw,

Director.

[FR Doc. 95–31166 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Records of Aquisition and Disposition—Registered Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Imports List.

DATES: Written comments should be received on or before February 20, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Debbie Lee, Firearms and Explosives Imports Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Title: Records of Acquisition and Disposition—Registered Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Imports List.

OMB Number: 1512–0386.

Recordkeeping Requirement ID Number: ATF REC 7570/1.

Abstract: The records of items listed on the U.S. Munitions List are used to account for the items on the Registered Imports and this bureau in investigations to insure compliance with the Federal law.

Current Actions: There are no new changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 250.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: December 15, 1995.

John W. Magaw,

Director.

[FR Doc. 95–31163 Filed 12–21–95; 8:45 am]

BILLING CODE 4810–31–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 246
Friday, December 22, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, December 19, 1995, the Corporation's Board of Directors determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a personnel matter.

By the same majority vote, the Board further determined that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: December 20, 1995.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–31259 Filed 12–20–95; 3:28 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that a 10:55 a.m. on Tuesday, December 19, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: December 20, 1995.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Deputy Executive Secretary.

FR Doc. 95–31260 Filed 12–20–95; 3:28 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 60 FR 63573, December 11, 1995.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 A.M., December 13, 1995.

CHANGES IN THE MEETING: The following topics were withdrawn from the open portion of the meeting: Approval of AHP District Priorities; appointment of FHLBank Public Interest Directors; appointment of FHLBank Chairs; and repeal of Finance Board Regulation on Charitable Donations by the FHLBanks.

The following topic was withdrawn from the close portion of the meeting: FHLBank of San Francisco Affordable Housing Subsidies on Guaranteed Rate Advances.

The Board determined that agency business required its consideration of these matters on less than seven days notice to the public and that no earlier notice of these changes in the subject matter of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Rita I. Fair,

Managing Director.

[FR Doc. 95–31235 Filed 12–20–95; 1:02 pm]

BILLING CODE 6725–01–P

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of December 18, 1995.

A closed meeting will be held on Wednesday, December 20, 1995, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matters of the closed meeting scheduled for Wednesday, December 20, 1995, at 10:00 a.m., will be:

Institution of injunctive action
Settlement of injunctive action
Settlement of administrative proceedings of an enforcement nature
Opinions

At time, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: December 18, 1995.

Margaret H. McFarland,

Duputy Secretary.

[FR Doc. 95–31236 Filed 12–20–95; 1:04pm]

BILLING CODE 8010–01–M

federal register

Friday
December 22, 1995

Part II

Postal Service

39 CFR Part 111

Classification Reform; Implementation Standards; Proposed Rule

POSTAL SERVICE

39 CFR Part 111

Classification Reform; Implementation Standards

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This represents the third notice concerning Classification Reform published by the Postal Service for public comment. On June 29 and August 30, 1995, the Postal Service published advance notices of proposed rulemaking (60 FR 34056–34069 and 60 FR 45298–45323, respectively). Each provided information about current Postal Service proposals and decisions regarding prospective rate eligibility and mail preparation standards, and opportunities for public comment on those and other important issues related to the Postal Service's pending MC95–1 Classification Reform proposals. This notice reviews the preceding months' activity in this regard, presents extensive discussion of comments received on the second notice, detailed descriptions of proposals that are new or revised and estimates of their affect on the mailing community, overview charts to assist commenters in understanding the implementing standards set forth in the proposed rule, and the full text of the Domestic Mail Manual standards the Postal Service proposes to adopt to implement its Classification Reform proposals.

DATES: Comments on the implementation process or proposed standards must be received on or before January 22, 1996.

ADDRESSES: Mail or deliver written comments to the Manager, Customer Mail Preparation, USPS Headquarters, 475 L'Enfant Plaza SW, Room 6830, Washington DC 20260–2405. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: On March 24, 1995, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on a number of mail classification reform proposals. The PRC designated the filing as Docket No. MC95–1 and proceedings are currently under way before the PRC in accordance with 39 U.S.C. 3624 and the PRC's rules of practice under 39 CFR 3001. A notice of the filing, with a description of the Postal Service's proposals, was published on April 3, 1995, in the Federal Register by the PRC (60 FR 16888–16893).

On June 29, 1995, the Postal Service published for public comment in the Federal Register an advance notice of proposed rulemaking (60 FR 34056–34069). That notice included an overview of the Postal Service's proposals in MC95–1, the process that was used in developing them, and the instant process being used to prepare for implementation of classification reform and to begin development of the implementing standards for future use in the Domestic Mail Manual (DMM). The notice also contained detailed information about issues that had been developed for consideration as part of the implementation process, prepared in a format that paralleled the listing of requirements in the Domestic Mail Classification Schedule (DMCS) portion of the MC95–1 filing. Among the purposes for publishing the advance notice was the elicitation of comments on the proposed criteria under consideration for inclusion in DMM implementing standards, many of which had been developed with the advice of the Classification Reform Implementation Advisory Groups (IAGs) convened by the Postal Service as part of the process described in the notice. Readers who are unfamiliar with the content of the Postal Service's MC95–1 filing, or the process that is under way for implementation of MC95–1, should review the June 29 notice.

On August 30, 1995, the Postal Service published for public comment in the Federal Register a second advance notice of proposed rulemaking (60 FR 45298–45323). The second notice reported a summary of the comments received from the earlier notice and invited further comment from interested parties on updated proposed implementing standards and on the implementation process generally. Readers were advised that, following review of comments received for that notice, the Postal Service would revise its proposed implementation criteria as appropriate and use them as the basis for the DMM standards it would propose for adoption if the Classification Reform proposals requested by the Postal Service in PRC Docket No. MC95–1 are adopted. Those proposed DMM standards are set forth after the discussion of comments from the second notice.

Pursuant to 39 U.S.C. 3624, the PRC will issue a recommended decision on the Postal Service's Request to the Governors of the Postal Service. This recommendation is expected in January 1996. Pursuant to 39 U.S.C. 3625, the Governors will act on the PRC's recommendations. If the Governors determine to place the PRC's recommendations into effect, the Board of Governors will set an implementation date for the rate and classification changes to take effect. Publication of a notice announcing the Governors' decision and the issuance of final Domestic Mail Classification Schedule and Rate Schedule changes will be made immediately following the Governors' decision. After reviewing the comments received on this proposed rule in light of the PRC's recommendations and of the Governors' decision, a final rule will be published adopting appropriate DMM implementing standards for the rate and classification changes. Publication of this final rule will be either concurrent with publication of the Governors' decision or as soon thereafter as possible.

Part A of this notice summarizes major changes that have been made to or added to the proposed implementation standards since the second advance notice of proposed rulemaking. Part B provides an analysis of comments received on the second notice and the Postal Service responses. Part C provides a presort summary guide with charts for each proposed rate. Part D contains a table showing ZIP Codes ineligible for Automation Carrier Route rates. Part E summarizes proposed changes to the DMM, followed by the proposed revisions to DMM standards.

A. Major Changes and Additions Since August 30 Notice

This section identifies proposed additions and changes to the DMM mailing standards that were not specifically indicated in the summary of preparation standards presented in the August 30 advance notice of proposed rulemaking. To aid readers in identifying changes which might affect them, this information is provided in the following subject matter groups: (1) Changes to the proposed mailing standards described in the August 30 notice; (2) additional changes for the reformed subclasses of mail not included in the August 30 notice; (3) changes generally affecting all classes of mail; (4) changes reflecting planned adjustments in postal operations; (5) changes affecting address matching for all classes of mail; (6) changes affecting all third-class mail; (7) changes affecting nonprofit third-class mail; (8) changes affecting all second-class mail; (9) changes affecting preferred rate second-class mail; and (10) changes affecting all fourth-class mail. Unless otherwise stated, the Postal Service proposes to make these changes effective at the same time as the Classification Reform changes are implemented.

1. Changes to Mailings Standards Contained in August 30 Notice

a. The proposed requirement to use uniform placement of address elements within Retail Presort First-Class, Regular and Enchanted Carrier Route Standard Mail, and nonautomation-compatible Publications Service Periodicals mailings has been withdrawn.

b. The proposed minimum quantity for a package of automation-compatible Publications Service letters to qualify for carrier route rates has been revised from 10 pieces to 6 pieces. This would establish a standard 6-piece package size for all Publications Service Periodicals.

c. New sortation criteria have been added for nonautomation-compatible letters for Publications Service and Regular Periodicals. The new Publications Service sortation proposal would require preparation of packages since this mail cannot be processed on automation. The new sortation criteria for Regular Periodicals nonbarcoded letters also would require package preparation, and allows Regular Periodicals to qualify for presort rates in the same manner as today.

d. Separate sortation criteria have been added for Regular Periodicals barcoded letters and Regular Periodicals barcoded flats. As discussed in the section concerning comments on the Periodicals proposals, Publications Service does not have a separate barcoded rate and carrier route mail may be counted toward the 85% ZIP+4 or delivery point barcoded requirement. However, the Regular subclass has separate 3/5 and Basic Barcoded rates. For Postal Service processing efficiency, Regular Periodicals mailers wishing to qualify for the separate Barcoded letter and flat rates must prepare separate Barcoded rate mailings meeting a separate 85% barcoding requirement that does not include the carrier route portion of the mailing, and that does not include firm packages. These pieces are excluded because they are not processed on automation. These new Regular barcoded letter preparation proposals reflect the new tray sortation levels that will be implemented with Classification Reform. The current 10-piece 5-digit package, 50-piece 3-digit package, and 10-piece AADC package standards are retained to maintain eligibility for the 3/5 Barcoded rates. Since the proposed Regular Barcoded letter rates do not provide for a separate 5-digit Barcoded rate and a separate 3-digit Barcoded rate, but rather a combined 3/5 Barcoded rate, the preparation of all possible 5-digit packages before preparing 3-digit packages will be required.

e. Automation-compatible Publications Service letter-size mailings also have only one rate for noncarrier route sorted mail. Because there is no separate 5-digit Barcoded rate for this mail, preparation of all possible 5-digit trays will be required.

f. The presort requirements for Regular Standard Mail letters have been revised to incorporate a minimum of 150 pieces of mail for a 3-digit destination to qualify for 3/5 presort rates and to prepare 5-digit and 3-digit tray levels. This reflects a consistent application of a 150-piece criterion to qualify for 5-digit and 3-digit rates for letter mail (with the exception of barcoded Regular Periodicals). This proposal would also keep qualification levels for 3/5 rates at levels somewhat equivalent to current preparation standards.

g. Within First-Class and Standard Automation Mail, and automation-compatible Publications Service letters, a proposed requirement for a minimum of 150 pieces of mail to an AADC destination before mailers may prepare an AADC tray has been added. This proposal also reflects the Postal Service's desire to maintain a consistent 150-piece tray preparation criteria for barcoded letter mail.

h. A requirement has been added to the proposal that all letter mail be prepared in trays under the reformed subclasses, including Enhanced Carrier Route Standard Mail, and Regular and Publications Service Periodicals. This requirement is discussed in more detail below in the section on letters.

i. With certain exceptions for local mailings and some pallet levels, all letter and flat trays containing mail in the reformed subclasses would have to be sleeved and strapped. This is discussed in more detail below in the section on letters.

j. The proposed standards have been revised concerning the preparation of pieces that meet the standards for both letter-size and automation-compatible flat-size mail, and that are prepared as packages placed directly on pallets. The revision would limit the amount of Regular Standard Mail that can be palletized in this manner to 10% of the total pieces in the mailing job. This is discussed in more detail below in the section on flats.

k. Because of the differences in presort and rate eligibility criteria, the proposed option to combine letter-size mailings of Regular and Publications Service Periodicals has been removed.

l. The provision for local approval to prepare First-Class Mail in pouches has been removed from the DMM. This provision was primarily to allow pouching of flat-size pieces and parcels. Because DMM provisions have been proposed for traying flat-size pieces and sacking First-Class parcels, the provision for local approval of pouching is no longer needed.

m. The qualification criteria for Destination Delivery Unit discounts for Standard Mail and Publications Service Periodicals have been revised to require that mailers to take carrier route sorted mail to the postal facility where sequencing of the mail takes place. For Automation Standard Mail and for automation-compatible carrier route letter-size Publications Service Periodicals, this could be the facility where the carrier sequence barcode sorter (CSBCS) that sequences this mail is located, rather than the facility were the carrier is located.

n. The proposal to require that addresses in Retail Presort and Automation First-Class mailings be updated for moves within 6 months of the mailing has been clarified to indicate that it would become effective as a rate eligibility requirement beginning 6 months after Classification Reform implementation, or January 1, 1997, whichever is sooner.

2. Additional Proposed Changes for Reformed Subclasses Not Specified in August 30 Notice

a. New sack sortation standards for First-Class parcels have been added. Because, the preparation of parcels in flats trays is generally inappropriate, sack preparation criteria have been added for this processing category of First-Class Mail.

b. Clarification has been added that Publications Service mailings may include in-county pieces even though such pieces do not count toward the eligibility requirements for the Publications Service rates.

c. For all mailings under the reformed subclasses, provisions have been added requiring the preparation of a less-than-full 3-digit tray for each 3-digit ZIP Code of the SCF that serves the entry post office. This would allow small quantities of local mail to avoid being transported to and processed at an ADC or AADC, resulting in better service and expanding the opportunity for Standard Mail and Periodicals to obtain destination SCF rates.

d. The rules in this notice reflect the Postal Service's intent to allow mailers to include only pieces with postage affixed at an Automation First-Class or Standard rate in mailings presented under the value added refund (VAR) procedures in DMM P014.4. That the relationship between mailers participating in the VAR process, such as presort bureaus, and their customers is that letter-size pieces coming into their operations are intended to be incorporated into the automation mailstream. Requiring postage to be affixed at an automation rate will simplify the documentation and verification process for mailers, their customers, and the Postal Service by reducing the number of different rates for which value added computations must be made.

3. Proposed Changes That Generally Affect All Classes

a. Marking requirements that reflect the proposed new class and subclass names have been added throughout the DMM. In order to make it easier to apply the rate/subclass markings that are planned under Classification Reform, an option has also been added to allow placement of these markings on the optional endorsement line, in front of the package label information. Furthermore, the current required walk-sequence markings for Regular and Publications Service Periodicals, and for Automation, Enhanced Carrier Route, and Regular Standard Mail have been changed from ''WS'' to ''WSH'' or ''WSS'' to facilitate obtaining separate cost information for pieces mailed at the High Density and Saturation rates, respectively.

b. Appropriate labeling list information has been added for trays, sacks, and pallets. The ADC labeling list, DMM L101, proposed in this notice to apply more generally and not to First-Class Mail only, has been redesignated accordingly as DMM L004.

c. Provisions have been added to the DMM that require mailings of different subclasses to be prepared as separate mailings, to meet separate minimum quantity requirements, and to bear appropriate rate/subclass markings and appropriate postage.

d. Specific standards have been included in proposed DMM M020 and M033 about how to place mail in trays, when to package, and what packaging material is permitted.

e. Pallet preparation rules are also included in this proposal. These pallet rules reflect the standards contained in a separate, recently published final rule on pallet preparation that adopts changes pertaining to the physical characteristics of pallet loads, such as minimum/maximum height and weight limits, and provisions for triple-stacking. That final rule is expected to appear in the Federal Register on December 20, 1995. It adopts changes proposed on July 31, 1995 (60 FR 39080–39088). Although those changes are not affected by the Postal Service's Classification Reform proposal, they are included in this proposed rule for providing the entire set of rules on pallets as they would look like after Classification Reform. The pallet rules in this proposal also contain proposed DMM standards on levels of pallet sortation and requirements to prepare pallets of Standard Mail and Periodicals sorted to the finest levels, which are affected by Classification Reform. These proposals are open to further comment.

4. Proposed Changes That Reflect Adjustments in Postal Operations

The Postal Service plans to make changes in its processing networks to reflect changes that have occurred over time, and to implement improvements to the way it processes and transports mail. One change is the elimination of the current state distribution center (SDC) network for non-First-Class letters, flats, and irregular parcels. The Postal Service plans to eliminate this network and merge the mail currently processed (SDC, state, and mixed states sorted mail) into the area distribution center (ADC) network currently used for First-Class Mail. This change should enhance service for SDC and state mail, provide a finer breakdown of this mail for more precise sortation and transportation (the ADC network has more processing centers than the SDC network), and reduce the redundancies of two overlapping processing networks. With this change, all letters, flats, and irregular parcels will be processed on the same network. As a result, the Postal Service expects to improve service and reduce the handlings for processing this mail.

The Postal Service also plans to eliminate the current option for mailers to prepare mail sorted to specific multi-ZIP Coded post offices (listed in DMM L001). Due to changes in Postal Service operations, this level of sortation no longer provides additional value to the Postal Service because most of this mail is now sorted at a mail processing plant that serves such post offices. The Postal Service has itself stopped preparing most such sortations. Moreover, the implementation of letter and flat automation has reduced the need for these separations because, for this mail, it is more efficient to process larger quantities of mail made up to fewer sortation levels.

The Postal Service plans to implement the transition from the SDC network to the ADC network and to eliminate optional city preparation when it implements the rate and classification changes that result from Classification Reform. Making all these changes at the same time will have less impact on postal operations and on mailers than if they were made in stages. The Postal Service proposes to apply these changes systemwide to all affected subclasses of mail, both reformed and not, in order to obtain the maximum benefit. Preferred Rate Periodicals, however, will retain the option of being prepared in optional city packages and sacks, because eliminating them could affect qualification for the Level H rates.

A less-than-systemwide implementation of the ADC network would compel the Postal Service to maintain SDC, states, and mixed states processing and optional city preparation for only a portion of the letter, flat, and irregular parcel mailstreams. This dual system would complicate processing and would impose unwarranted costs for separate facilities, equipment, and personnel for a greatly reduced volume of SDC network mail.

Therefore, the Postal Service proposes to eliminate the optional city package and sack sortation level and to eliminate the SDC, state, and mixed states package and sack sortation levels for all current second- and third-class letters and flats and all current third- and fourth-class irregular parcels, except Preferred Rate Periodicals, which will retain the option of being prepared in optional city packages and sacks. The SDC, state, and mixed states package and sack sortation levels will be replaced by ADC and mixed ADC package and sack sortation.

Customers should note that because alignment of the Postal Service's processing and distribution networks is an ongoing process, the facilities listed as ADC/AADC destinations at the time that Classification Reform is implemented might differ from those shown in the DMM labeling lists contained in this proposal. Some ZIP ranges might change, and some facilities currently identified as ADC or AADC destinations might be realigned. The same range of ZIP Codes also might be assigned to different ADC facilities, depending on the class of mail.

5. Proposed Changes Affecting Address Matching for All Mail

The Postal Service has also been developing improvements in the product cycle and the update schedule for its Address Information System (AIS) products. In conjunction with the

Classification Reform case, the Postal Service proposed adopting a bimonthly update frequency for its AIS products. It also proposed requiring that carrier route information used in qualifying for all carrier route rates be obtained through a match to a current Carrier Route Information System (CRIS) scheme or other AIS product that contains carrier route coding information no more than 90 days before the date of the mailing. This change is necessary due to the proposed increase in the issuance cycle of AIS products and the need to standardize the time frames applicable to the use of those products. A more detailed discussion of this change is set forth below in the section on the addressing proposals in the August 30 notice. The Postal Service proposes to apply these AIS changes to carrier route mailings of all classes and subclasses. Given the frequency of route adjustments that will occur over the next few years, maintaining the old matching schedule for some carrier route mail while changing it for other mail would be confusing, costly and irrational because of overlapping required updates.

Mailers at ZIP+4 and Barcoded rates will also be required to use a current database as defined under new release date schedules when matching addresses to the ZIP+4 database. Mailings prepared under subclasses not included under the current proposals for Classification Reform would need to have their addresses matched to the ZIP+4 database using CASS- or MASS-certified address matching software once a year, whereas mailings prepared under the reformed subclasses would need to have this match performed at least once every 6 months. The frequency at which address matching software must obtain CASS/MASS certification also will not change.

6. Changes Affecting All Third-Class Mail

a. Due to the proposed adoption of the name Standard Mail as part of Classification Reform for all mail currently in third- and fourth-class mail, the Postal Service proposes to change the class abbreviations from 3C to STD for sack, tray, and pallet labels for current third-class mail (which will be known as Standard Mail (A)).

b. To make it easier to apply the rate/subclass markings that are proposed under Classification Reform, this proposal would allow Standard mailers the option of placing these markings on the optional endorsement line, in front of the package label information.

7. Proposed Changes Affecting Nonprofit Third-Class Mail

As a convenience to Nonprofit Standard mailers, the Postal Service proposes to allow an optional preparation of Nonprofit Standard Mail under the rate eligibility, presort rules, PAVE-certified presort software or standardized documentation requirements, and address quality and accuracy standards for the reformed subclasses. The current third-class nonprofit rates would apply to such mailings. For example, mailers could choose to prepare a letter-size Nonprofit 3/5 and Basic mailing under the preparation rules for the Regular Standard Mail subclass. This would mean that the addresses would have to be matched to the correct 5-digit ZIP Code no more than 1 year before the date of mailing; PAVE-certified software would have to be used to presort the mailing or standardized documentation would have to be submitted with the mailing; the pieces would have to be in groups of 150 pieces to a 3-digit area trayed to 5-digit and 3-digit destinations, with the trays sleeved and strapped. The current nonprofit third-class 3/5 rates would apply to groups of 150 pieces for a 3-digit area properly presorted under the Regular Standard Mail standards. Preparation of Nonprofit Standard Mail under the rules for Regular, Automation, or Enhanced Carrier Route Standard Mail would also enable it to be combined (comailed) with mailings of those subclasses.

8. Proposed Changes Affecting All Current Second-Class Mail

a. Due to the change in the name of second-class mail that is proposed with implementation of Classification Reform, the Postal Service proposes to change the class abbreviations from 2C or NEWS to PERIOD or NEWS, as applicable, for sack, tray, and pallet labels for all Periodicals, including Preferred Rate Periodicals. In addition, the mail processing category of the mail will be required to follow the class abbreviation on the second line of the sack or tray label, making those standards for Periodicals consistent with other classes of mail, and assist Postal Service mail processing personnel in directing containers of Periodicals to the proper operation.

b. The Periodicals imprints required as part of the identification statement would be changed from ‘‘Second-Class Postage Paid at * * *’’ and ‘‘Application to Mail at Second-Class Postage Rates is Pending at * * *’’ to ‘‘Periodicals Postage Paid at * * *’’ and ‘‘Application to Mail at Periodicals Postage Rates is Pending at * * *.’’

9. Proposed Changes Affecting Preferred Rate Second-Class Mail

As a convenience to Preferred Rate Periodicals mailers, the Postal Service proposes to allow the optional preparation of Preferred Rate Periodicals under the presort and eligibility rules for Regular Periodicals (including addressing and PAVE-certified or standardized documentation standards). The current second-class preferred rates would apply to such mailings. For example, if a mailer chose to prepare a letter-size Nonprofit Level G and H mailing under the preparation rules for the Regular Periodicals 3/5 and Basic rates, the pieces would have to be trayed, sleeved, and strapped, and optional city and optional SCF sortations could not be performed. The Level H rates would apply only to 5-digit and unique 3-digit packages properly sorted to 5-digit and 3-digit trays.

10. Proposed Changes Affecting All Current Fourth-Class Mail

Due to the change in the name of fourth-class mail that is proposed with implementation of Classification Reform, the Postal Service proposes to change the class abbreviations from 4C to STD 4C for sack labels for fourth-class mail (which will be known as Standard Mail (B)), and to change the rate markings ‘‘Special Fourth-Class’’ and ‘‘Presorted Special Fourth-Class’’ to ‘‘Special Standard Mail’’ and ‘‘Presorted Special Standard Mail’’ to agree with the revised names for these types of mail.

B. Summary of Comments From Second Notice

The Postal Service received 49 pieces of correspondence offering a total of 207 comments on the August 30 notice. Respondents included major mailer associations, individual publishers, printers, presort bureaus, mailers, and private citizens. As with the first notice, the comments do not lend themselves to easy categorization or direct association with specific provisions in the second notice. Rather, commenters tended to speak to general areas of concern, such as automation, or to common aspects of several proposed criteria, such as tray volumes for several different presort levels. Although the proposals were replicated in the second notice in the same format as in the first, comments tended to aggregate these into a single response.

The largest single area to which comments were directed in general was the preparation of automation mail (First-Class Mail and Standard Mail); approximately 70 comments discussed issues in that area. Addressing issues were the focus of 28 comments, although other comments mentioned addressing issues to a degree. Publications Service was the subject of 13 comments. Nonautomation First-Class (Retail subclass) and Standard Mail (Regular and Enhanced Carrier Route subclasses) received a total of 2 and 27 comments, respectively. Another 26 comments discussed general issues, including some (like the wisdom of classification reform) that are beyond the scope of this rulemaking. The specific points raised in the comments are presented below, organized by subject areas represented by the Implementation Advisory Groups (IAGs): letters, flats, addressing, and publications. Miscellaneous issues are reported thereafter. Readers are invited to comment on the proposed DMM provisions and to identify additional proposals or issues that warrant inclusion in Classification Reform implementation plans.

1. General Comments

a. Minimum Quantity Requirements

One commenter asked whether separate 200-piece minimums will be required for each Standard Mail subclass when the mailings are commingled on pallets. Each subclass of Standard Mail (Automation, Enhanced Carrier Route, and Regular) will be required to meet a separate 200-piece minimum quantity requirement, and each subclass of First-Class Mail (Automation and Retail) will have to meet a separate 500-piece minimum quantity requirement.

b. Definitions of Mailing and Mailing Job

One commenter requested clarification of what a mailing and a mailing job will be under Classification Reform. This commenter noted that because the Postal Service indicated that it will allow mailings of different subclasses to be claimed on the same mailing statement, that the current axiom that ‘‘a mailing statement equals a mailing’’ cannot be used. This commenter also requested a definition of a mailing job as used in the description of when pieces meeting the standards for both letter-size and barcoded flat-size pieces may be prepared as packages on pallets. He specifically asked whether there will be time limits such as a day, week, or month for a mailing job.

A mailing may include only one subclass and only one mail processing category (e.g., letter, flat) and is reported on a mailing statement. A mailing job, defined by the mailer and agreed to by the local business mail entry unit, contains the total pieces meant to be mailed to a defined set of addresses. A mailing job may contain more than one mailing (e.g. more than one subclass).

c. Presort Accuracy Validation and Evaluation (PAVE)

The Postal Service has proposed to require use of PAVE-certified software or standardized documentation when preparing mailings under any of the reformed subclasses. Nine comments were received regarding this proposal, five of which included requests for clarification of standards.

Two commenters wanted a definition of ‘‘standardized documentation’’ and examples of any required documentation along with more clearly defined requirements. One asked whether PAVE certification will be available before the implementation of Classification Reform. A commenter that uses software developed in-house asked how the requirement for PAVE certification affects in-house software developers and requested further clarification of PAVE. Another commenter expressed concerns about documenting overflow trays and requested clarification of content documentation for allowed overflow trays.

A utility company said that it would like uniform requirements for mailing documentation and a single computerized mailer file, possibly accessible by permit number, that would document Postal Service certification of software and mailing processes. A second utility company believed that CASS, which focuses on address quality, and PAVE are duplicative in nature and suggested that public utility mailers who use CASS-certified software and update customer moves within the prescribed time frame should be exempt from the requirement to use PAVE software.

PAVE and CASS are not duplicative. CASS tests the ability of address matching software to match addresses correctly to the Postal Service ZIP+4 database and to apply proper barcodes. PAVE tests the ability of presort software to sort addresses correctly according to Postal Service sortation requirements and to produce accurate presort and postage documentation and accurate mailing statement facsimiles.

The Postal Service plans to have PAVE testing available for all reformed subclasses prior to implementation of Classification Reform. PAVE certification does not remove the requirement to submit documentation with each mailing where documentation is required. This is because PAVE tests the ability of the software program to sort properly, but does not test the mailer’s proper use of it or application of proper mailing parameters to each mailing. PAVE also tests the ability to prepare properly formatted mailing statement facsimiles. The Postal Service also plans to make production of standard documentation a requirement for PAVE certification. Software that is developed in-house may be PAVE-certified. Requests for PAVE certification information and tests should be directed to: PAVE Program, National Customer Support Center, United States Postal Service, 6060 Primacy Pky Ste 101, Memphis TN 38188–0001

Mailers will have the choice of using either PAVE-certified software or standardized documentation, regardless of whether they use presort software. Therefore, mailers not using software to sort their mail will not need to meet the PAVE requirements. However, such mailers must be able to present standardized documentation for those mailings that require documentation. Standardized documentation requirements are still being developed and will be published for comment in a separate proposed rule. The Postal Service expects to publish this proposal in the Federal Register by early February 1996. Questions concerning whether overflow trays will need to be documented also will be addressed in that notice.

The request for a single computerized mailer file, possibly accessible by permit number, that would document Postal Service certification of software and mailing processes is more related to a system certification approach to mail acceptance. Although this is an idea that will be considered for the future, it will not be developed and deployed by the time of Classification Reform implementation.

2. Automation Subclasses

a. 100% Barcoding

The Postal Service has proposed that First-Class and Standard Mail Automation subclasses be composed of 100% delivery point barcoded pieces for letters and 100% ZIP+4 barcoded or delivery point barcoded pieces for flats. Fifteen commenters responded to the proposal for 100% barcoding.

Three commenters supported this proposal because it promotes higher quality addresses. Four commenters indicated that they cannot obtain 100% barcoding of their mailing lists. Six commenters expressed doubts that the goal could be achieved because current matching software is too restricted from making matches to the ZIP+4 file and because data missing from the file prevents a match.

Mailers with good quality addresses can obtain delivery point barcodes on their mailpieces. If they cannot, those pieces can be mailed at the appropriate subclass rates for nonbarcoded mail. Having identified a need for accurate barcodes to ensure proper automated sortation, the Postal Service tests and certifies address matching software to ensure that the software is producing correct barcodes. Because only correct barcodes are acceptable, software is controlled to help ensure that a barcode will not be applied if an incomplete or otherwise poor quality address inhibits reliable coding. The Postal Service is proposing reduced postage rates for mail with correct barcodes. Those rates were not designed to apply to nonbarcoded mail or to mail with incorrect barcodes. Incorrect barcodes cause misdirected mailpieces, in turn causing increased costs and reducing the Postal Service's ability to provide timely, consistent delivery service. To aid mailers with barcoding, the Postal Service already has a variety of tools for improving address quality. If the mailer cannot use CASS- or MASS-certified software to successfully barcode some of its mail (with a delivery point barcode or, for flats, a correct ZIP+4 barcode), the mailer will be required to mail those pieces at the Retail First-Class or Regular Standard rates.

One commenter wanted Address Element Correction extended to small mailers. The current limit is 10,000 address records. However, smaller lists may be acceptable. Interested mailers should call the National Customer Support Center at (800) 238–3150. The National Customer Support Center can also provide information on a variety of other address quality improvement products and services.

Four commenters indicated that improvements in address correction service are needed, one of whom stated that carriers often do not provide address corrections if they can deliver the mailpiece. Although changes to address correction service are beyond the scope of this rulemaking, the Postal Service is mindful of the need for quality address corrections, especially to addresses beyond those corrections generated by a change of address order.

One commenter wanted confirmation that the 100% delivery point barcoding requirement applies to bulk outgoing mailings and not courtesy reply, business reply, and Business Reply Mail Accounting System (BRMAS) mail. The 100% delivery point barcoding requirement for letters applies only to letter-size mailings entered as Automation First-Class Mail or Standard Mail. Under Classification Reform, BRMAS mail will continue to be required to bear a ZIP+4 barcode assigned by the Postal Service. However, as part of Classification Reform, the Postal Service does plan to implement a requirement that, by January 1, 1997, all reply letters and cards included as enclosures to Automation subclass mailings must bear a proper facing identification mark (FIM) and correct barcode. This would apply to courtesy reply mail and current non-BRMAS business reply mail. A further discussion of this requirement is in a later section of these comments.

One commenter requested that 5-digit and unique ZIP+4 codes be permitted to qualify as a delivery point barcode so as not to limit internal sorting opportunities. Another commenter wanted continued acceptance of unique 5-digit and ZIP+4 barcodes at barcoded rates, stating that software can recognize and count these barcodes as delivery point barcodes.

Currently, barcodes must be 11-digit delivery point barcodes in order to qualify for letter-size barcoded rates. Although unique 5-digit and certain ZIP+4 codes may represent the final delivery point for some mailpieces, it would not be possible to determine at the time of acceptance whether a 5-digit or ZIP+4 barcode was a unique barcode or a coding error if they were permitted in mailings. Furthermore, CASS- or MASS-certified software is capable of returning 11-digit delivery point barcodes for unique ZIP Codes and ZIP+4 codes. Accordingly, the Postal Service plans to retain the requirement that only 11-digit delivery point barcodes may qualify for Automation subclass rates for letter-size pieces. Mailers wishing to utilize internal sortation abilities by assigning their own 4-digit add-on codes to unique 5-digit ZIP Codes may do so if they have the ZIP+4 codes added to the Postal Service ZIP+4 database. To have internal ZIP+4 codes added to the ZIP+4 database, the mailer must develop rational internal addresses to be matched to a particular ZIP+4 add-on in a rational manner, and have the address configuration and +4 codes approved by the district address management office. There will be one exception to the 11-digit delivery point barcode rule: courtesy reply mail bearing a FIM and a preapplied unique 5-digit or unique ZIP+4 barcode will be considered to have a proper delivery point barcode and will not be counted as an error at acceptance. Because of the FIM, this mail can be easily identified at acceptance.

Four commenters indicated that splitting their mail lists into two separate mailstreams, one with delivery point barcodes and one without, will increase their mail preparation expenses. One of these commenters was concerned that the separate mailstreams will slow their processes, resulting in some mail having to be remetered. This commenter requested that an extra day on meter dates be given so that mailers can use encoding systems to barcode mail initially rejected from multiline optical character readers (MLOCRs). DMM P030.4.12 currently contains procedures to allow mailers to correct meter dates. This may be done either by remetering the mail with a ''.00'' meter impression in authorized locations or by using an ink jet printer to apply the correct meter date, city, state, and 3-digit ZIP Code of the office of mailing, preceded by two asterisks, above the address and below the meter impression. Because meter dates are used to measure Postal Service service performance and because mail recipients rely on them to indicate the date of mailing, an option of submitting mail with a stale meter date will not be provided.

One commenter stated that the 100% delivery point barcoding requirement should be deleted to prevent nonqualifying mail from flooding post offices at the single-piece rates. Two commenters indicated that this requirement will result in more residual mail being processed at origin. One commenter stated that the cost-effectiveness of point-of-origin MLOCR processing of nondelivery point barcoded mail is overstated because the Postal Service is still using multiposition letter sorting machines (MPLSMs). One commenter indicated that this requirement should not be implemented until the Postal Service is in a ''full-up'' environment for equipment deployment. One commenter stated that this requirement might have the effect of third-class mailers removing uncodable names from their advertising lists, resulting in decreased revenue for the mailer and the Postal Service. Two commenters requested that the 100% barcoding requirement be phased in. One commenter indicated that 90% barcoding would be a more realistic requirement and would be more in keeping with the concept of lowest combined cost.

As indicated in the comment response section of the August 30 notice, when mailers mix delivery point barcoded mail and nondelivery point barcoded mail within the 3-digit and residual portions of their barcoded rate mailings, as is currently permitted, the nondelivery point barcoded mail is rejected from barcode sorters and must be rerun on MLOCRs or MPLSMs. (Mail presorted to 5-digit packages and trays must currently be 100% delivery point barcoded.) Requiring mailers to prepare a separate mailing for nondelivery point barcoded mail eliminates these extra handlings and allows this mail to be directed properly from the start, resulting in more efficient Postal Service processing. These efficiencies are recognized in the lower Automation subclass rates proposed under Classification Reform. Furthermore, the Postal Service put mailers on notice several years ago that, in the near future, the Postal Service would require a 100% barcoded mailstream. Accordingly, the Postal Service does not believe that phasing in this requirement is appropriate.

If the 100% barcoding requirement results in more nonbarcoded mail presented for OCR processing at the origin post office, the Postal Service believes that it has the operational capacity to process this mail. Furthermore, because the origin post office will not have to OCR-process the current volume of mailer-prepared pieces without delivery point barcodes (that are rejected from that plant's barcode sorters), there should be an offsetting lessening of mail volume presented to a plant's OCRs for processing. The fact that the Postal Service is still using MPLSMs and has not deployed all its planned barcode sorting equipment does not negate the operational advantages for the majority of plants where MLOCRs and barcode sorters are in place. The processing efficiencies that the Postal Service will gain from a 100% barcoded mailstream are reflected in the lower rates proposed for the Automation subclasses. In return for the lower rates proposed for Automation subclass mail, mailers will have to perform the additional work of separating nondelivery point barcoded mail and presenting it as a separate mailing under different subclass requirements. If mailers remove uncodable names from their address lists, it is not certain that net revenue will be lost by either the mailers or the Postal Service. It is probable that many addresses for which delivery point barcodes cannot be obtained would be undeliverable. If sent as Standard Mail, these pieces would not be delivered. If sent as First-Class Mail, these pieces would add costs to the Postal Service to determine the delivery point and forward the mail to that point or return the pieces as undeliverable-as-addressed mail.

One commenter wanted to know whether 98% barcoding would be the actual requirement when tolerances for mailer errors are taken into consideration, and another commenter wanted to know the error tolerance level. In terms of tolerance for mailer error, at least initially, it is planned that Automation subclass letter mail will be subject to the current business mail entry unit acceptance procedures. If pieces in the sample selected during verification of Automation subclass mailings are found not to bear a delivery point barcode, these pieces will be counted as errors. When the acceptable tolerance for all presort errors is surpassed, the mailer will be given the same two choices currently available: (1) Take the mailing back, correct it, and resubmit it to the Postal Service; or (2) pay additional postage at the appropriate rate for the proportion of the mailing found to be in error during the verification process.

One commenter requested that the Postal Service provide delivery performance data to all mailers so that they can measure process changes. This comment is beyond the scope of this proposed rule and will not be addressed here.

b. Courtesy and BRM Barcoded Envelopes

Seven commenters had questions or cited concerns about the proposed requirement that courtesy and business reply letters or cards included in an Automation First-Class or Standard mailing must be automation-compatible and bear a FIM and a correct barcode for the address to which the piece is returned.

One commenter said that this new requirement was unneeded, reasoning that business reply mail does not pose a major problem because the Postal Service provides automation-compatible, camera-ready addresses for mailpieces and also places restrictions on how reply mail can be used. Four commenters questioned the relationship of enclosed pieces to host pieces. One questioned whether requirements for an enclosed First-Class piece are relevant to an outgoing third-class piece because the processing costs are independent. A second commenter asked why a barcoded return piece could disqualify an outgoing piece and also questioned the Postal Service's ability to administer the rule. This commenter and one other said that they were confused about the requirements concerning barcodes that appear through a window. Another felt that the requirement is content-based in nature.

Other concerns were also raised. For example, one commenter was of the opinion that the proposal penalizes the wrong party when a client has a mailing that contains ''partner'' reply pieces for which printing and return postage is paid by a third party. An owner of a lettershop said that his customers should have a choice whether to barcode reply pieces. A state agency said that it is not possible for government agencies using courtesy reply mail to stock and insert the number of different preprinted envelopes that would be required by this rule. The commenter went on to say that software would have to be developed and, if the proposal were adopted, the lead time needed before implementation would have to be long. Two commenters whose concerns pertained to the timing of the requirement agreed with the Postal Service's proposal for a phased implementation. One commenter urged the Postal Service to remove the requirement that the barcode ''match'' the address on the reply piece because the printed address plays no role in the delivery of an automation-compatible reply piece. This commenter indicated that flexibility is needed when business growth requires more than one fulfillment location for the same business entity.

The Postal Service is retaining its proposal that reply letters and cards that are included within either letter-size or flat-size mailpieces entered as Automation First-Class and Standard mailings must be automation-compatible and bear a FIM and a correct barcode for the reply address. In addition to the customer convenience of a reply vehicle, increasing the use of barcoded reply vehicles is expected to keep postage rates down by making this mail more efficient to process. Moreover, because Automation mailers have the demonstrated ability to prepare automation-compatible barcoded mailpieces, they should be able to prepare barcoded reply pieces with ease.

The Postal Service recognizes that mailers will need to work with their customers, and possibly modify their contracts with advertisers and others to ensure that this requirement is met. To allow time for this and for utilization of existing reply mail stock, the Postal Service is proposing an implementation date for this requirement of January 1, 1997. At that time, mailers of Automation First-Class and Standard

Mail will be required to certify that enclosed reply pieces are properly prepared when the mailing is presented to the post office. For this purpose, the mailer is defined as the party who presents the mail to the post office.

The barcode on reply mail must match the address. A piece with a nonconforming address could be mistakenly forwarded to the printed address rather than delivered to the address represented by the barcode. Accordingly, the mail could be misdelivered or incur additional processing and transportation costs if the barcode and address do not match.

The Postal Service will provide free of charge camera-ready positives of appropriate FIMs and correct barcodes for the production of reply mail pieces. Mailers should contact their local Postal Service account representatives or postal business centers to obtain the positives and additional information on preparation standards. Obtaining the correct barcode for mailpieces is extremely important. The Postal Service assigns ZIP+4 barcodes to BRMAS reply pieces. Publication 353, Designing Reply Mail, contains information on correctly preparing barcoded courtesy reply mail and business reply mail. DMM S922 contains additional information on business reply mail.

c. Barcoded Tray Labels

The Postal Service proposes that Automation First-Class and Standard Mail and Publications Service Periodicals must be prepared with barcoded tray or sack labels. Nine comments were received concerning this proposal.

One of the commenters expressed outright support and another said that if the Postal Service plans to provide preprinted barcoded tray labels, they have no problem with the proposal but would like to have this expressly confirmed. Five commenters wanted the requirement to use barcoded labels phased in or made optional. Two commenters indicated that they would have to buy new equipment to produce the labels.

The Postal Service plans to require the use of barcoded tray and sack labels on barcoded mailings with implementation of Classification Reform. Use of barcoded tray labels speeds the processing of First-Class Mail at the ‘‘scan where you band’’ step of the presort breakdown operation. Barcoded labels will also be used to sort trays of Standard Mail at BMCs. Finally, barcoded tray labels will be an integral part of the planned tray management system. Barcoded tray labels are currently being scanned on existing tray management systems at several plants.

The Postal Service will supply barcoded tray and sack labels. Customers must complete Form 1578–B and submit it to the business mail entry unit to order barcoded labels from the Postal Service. The labels will be delivered in approximately 6 weeks. Alternatively, mailers having a personal computer and modem can obtain free Passport software from the Postal Service to order labels directly. In addition, the Passport system allows mailers to print barcoded labels on demand if they use a Monarch 9425, Monarch 9445, or Intermac 3000 printer. The Passport system also includes free updates to the DMM labeling lists. Passport software or further information about Passport may be obtained from the National Customer Support Center at (800) 238–3150.

3. Letter Mail

a. Automation (Barcoded) Carrier Route Rates

The Postal Service is proposing to limit Carrier Route Automation rates to ZIP Codes where mail will be sequenced either manually or by a carrier sequence barcode sorter (CSBCS). Four commenters opposed the limits on eligibility for Carrier Route Automation rates. Two of these commenters believed that this requirement should be removed because it seemed to represent the inability of the Postal Service to provide necessary equipment on a national basis. One commenter was concerned that the Postal Service is penalizing mailers based on the geography of the mailings lists, something the mailer cannot change.

The limits on the availability of Carrier Route Automation letter rates are necessary for efficient Postal Service processing. For an increasing number of 5-digit ZIP Code areas, the Postal Service sorts mail to delivery point sequence (DPS), the sequence in which carriers deliver the mail, using two passes on delivery barcode sorters (DBCSs). Where this takes place, the carrier does not have to sort this mail manually into delivery or walk sequence, which saves carrier in-office time. At postal facilities where DPS processing is being performed, it is to the Postal Service’s advantage to have as much mail as possible DPS processed on the automated equipment. Currently, at 5-digit ZIP Code areas for which DPS processing on DBCSs has been implemented, all mailer-prepared carrier route and walk-sequence presorted letter mail received with barcodes is processed on DBCSs rather than directed to carriers for manual sequencing. Carrier route and walk-sequence sorted letter mail without barcodes is directed to MLOCRs for application of barcodes and subsequent DPS processing. In many cases, this process results in the Postal Service backflowing mail from a delivery unit to the place where the DBCS or MLOCR is located. Thus, there is no additional value provided to the Postal Service by mailer presortation to carrier route or walk-sequence versus a 5-digit presortation for automation-compatible letter mail at destinating DBCS sites.

Carrier route discounts are based in part on steps avoided by the Postal Service during processing. Carrier route presorted mail needs only the final step of sortation into the sequence of carrier delivery. When the Postal Service sequences mail using DBCSs at general mail facilities (GMFs), presortation by the mailer to carrier route groups is not needed. Therefore, for those 5-digit ZIP Code areas sequenced on DBCSs, presortation to carrier routes by the mailer saves no processing steps for the Postal Service and is no longer going to be either permitted or encouraged by a discount. Accordingly, even though this process means that Automation Barcoded rates will be based in part on geography, the Postal Service will not give reduced rates for mail preparation that provides the Postal Service no value. Therefore, under Classification Reform, Carrier Route Automation rates will not be provided to barcoded carrier route mail at those 5-digit ZIP Code areas where DPS sequencing is performed on DBCSs. This is not a matter of the inability of the Postal Service to provide necessary equipment on a national basis. Rather, it is at those places where the Postal Service has deployed DBCS equipment and has implemented DPS processing that carrier route rates will be restricted.

CSBCSs are smaller barcode sorting machines that also sequence mail to delivery point. However, mail must already be sorted to the carrier route level before it can be processed on a CSBCS. Therefore, it will still be useful for the Postal Service to offer carrier route discounts for barcoded mail that it sorts on CSBCSs and for mail on carrier routes that are sequenced manually.

One of the commenters indicated that matching mail to a list of places where Carrier Route Automation rates can and cannot be obtained is an additional processing step and therefore a financial burden to mailers, particularly when the Postal Service plans to revise the list periodically. Matching mailing lists with a list of ZIP Codes where Carrier Route Automation rates are not available should not be a significant burden to mailers. This list will be provided to software vendors and mailers as part of the City/State file provided with the CRIS and ZIP+4 database updates. It will be up to each mailer to make the decision whether the level of discount is worth the expense of preparing the mail in this manner.

Two commenters asked for the expected list. One requested that the list be broken down by 3-digit ZIP Code areas and the relative volume of addresses for each ZIP Code. The preliminary list available at this time, printed as part of this notice, is grouped by 3-digit ZIP Code and then in ascending numeric order by 5-digit ZIP Code. This list of ZIP Codes where the Carrier Route Automation rates are not available has also been placed on the Postal Service Rapid Information Bulletin Board System (RIBBS). Mailers will need to match their address lists against the list of ineligible ZIP Codes to determine their own levels of qualification. When doing so, however, mailers should also keep in mind that this preliminary list does not represent the list of ineligible ZIP Codes that will be in effect at the time of implementation. The list will change as barcode sorting equipment is deployed to the field and DPS processing is implemented. Information about the City/State file that contains the eligible/ineligible ZIP Code information and a printed list of these ZIP Codes will be provided in the final rule.

Two commenters were concerned with the update frequency. One commenter opposed updates as frequent as monthly and suggested that the list of 5-digit areas for which Carrier Route Automation rates are available should be provided on the CRIS files. One commenter simply wanted information on how frequent the updates will be and how the information will be provided. As indicated above, information on the ZIP Codes where these rates will/will not apply will be identified in the Postal Service City/State product. Updates to the ZIP Codes where carrier route rates are available for letters will occur with the same frequency that CRIS and ZIP+4 databases are updated. Mailers will be required to incorporate this information into their mailings no more than 90 days before the date of mailing using a current City/State file.

b. 150–Piece/Full Tray Requirement

Fourteen commenters voiced concern over the proposal to require 150 pieces per 5-digit or 3-digit ZIP Code destination to qualify for 5-digit or 3-digit Automation barcoded rates for letters.

The proposed mailing standards in this notice reflect the Postal Service's desire to maintain a consistent standard of 150 pieces per rate qualification level for 5-digit and 3-digit Automation subclass letter rates. However, the Postal Service recognizes that this might be an issue for some Standard mailers. As noted below, several commenters pointed out that some Standard mailers may experience a rate increase as a result of Classification Reform because of the higher 150-piece qualification standard and the fact that not all 5-digit ZIP Codes may qualify for carrier route rates. Other commenters have argued that pieces in a physically full tray should qualify for the rate. Although the rules in this notice reflect retention of the 150-piece qualification standard, based on the mailer comments discussed below, the Postal Service is seeking additional information on the impact of allowing a physically full tray to qualify for rates as an alternative to the 150-piece standard. The Postal Service is asking that affected mailers provide information on the thickness of various mailings that they produce and might wish to qualify under a physically full tray eligibility standard. Because of the desire not to reduce the number of pieces to a destination more than necessary, mailers would likely have to physically fill a 2-foot tray to qualify for a rate if a physically full tray rule were implemented. Also, in the interest of making it easy to verify such mailings, documentation listing each tray in the mailing along with the number of pieces contained in each tray would likely be required if such a rule were implemented. The Postal Service is asking that mailers who want a rate eligibility standard based on physically full trays provide additional information indicating how they will be affected as part of their comments to this notice. Particularly, information is sought about the usual thickness of pieces, how many can be put in a tray, whether the mailer has the ability to prepare full 2-foot trays, whether the mailer can or cannot provide overflow trays, and what type of documentation can be provided. A discussion of all the comments follows.

Nine commenters requested that the requirement be changed from 150 pieces to 150 pieces or a physically full tray. One commenter indicated that different qualification levels are needed for First-Class Mail and Standard Mail because Standard Mail is inherently thicker than First-Class Mail. One commenter indicated that accommodating MLOCR users by imposing the 150-piece rule unfairly penalized Standard mailings that can meet full tray requirements with fewer than 150 pieces. Another commenter argued that because 150 average-weight Standard Mail pieces cannot fit into a 1-foot tray, the Postal Service should adopt a ''full tray'' requirement instead of its proposed 150-piece qualification. However, this commenter did not recognize that this thicker mail does not need to be prepared in 1-foot trays because both 1- and 2-foot trays may be used to prepare letter mailings and overflow trays are permitted.

The 150-piece minimum represents the average number of letter-size pieces that can fill ¾ of a 1-foot tray. Under the proposal, the 150-piece average is applied uniformly to determine both the rate qualification and the particular sortation level of tray for presort. The requirement applies rates to tray levels and eliminates the preparation of packages within full trays. The Postal Service also desires to apply rates on an equal basis to all mailers. Accordingly, the application of the 150-piece standard allows card-size or other thin pieces to qualify for rates in the same way that thicker pieces can qualify. The application of a 150-piece standard with the use of overflow trays also makes it easier for mailers whose mailings are made up of pieces having different thicknesses, such as MLOCR users, to determine when a rate qualification level has been met, and assists such mailers to complete a mailing statement.

The 150-piece standard also facilitates acceptance and verification by applying a single standard and method of documentation to all mailings within the subclass. The Postal Service also expects to achieve efficiencies by having only one method of preparing mailings for Automation subclass letter rates for both First-Class and Standard Mail. Currently, there are three separate methods for presorting barcoded letter mail, which lead to 17 different possible tray configurations for barcoded letter mail. Having a single method of preparation that requires only four tray levels for the noncarrier route portion will simplify postal operations as well as mailer preparation requirements.

One third-class mailer association stated that the restrictions on Carrier Route Automation rate availability will cause more mail to default to the 5-digit and 3-digit sortation levels. This association further commented that because of the 150-piece minimum for the 5-digit Barcoded rate, most of this previously carrier route sorted mail will fall to 3-digit Barcoded rates, significantly increasing postage for Automation Standard mailers. This commenter was further concerned that this move from carrier route sortation to

3-digit sortation would affect the service for Standard Mail.

The rate structure for Automation subclass letters would provide significantly reduced rates for barcoded mailings. Those rates are based, in part, on more stringent preparation standards that allow more efficient Postal Service processing of that mail. Under the proposed Automation Standard Mail (A) letter rates, certain mailers could experience a minor increase in postage over what they pay today, assuming that all mail not eligible for a carrier route rate moves to the 3-digit Barcoded rate level and that there are neither Basic rate pieces in the mailing nor pieces currently qualifying for 3-digit Barcoded rates that would continue to qualify for 3-digit rates under the new standards. However, any such potential increase would be offset by savings from pieces in the mailing that could qualify for 5-digit Barcoded rates and pieces that now qualify for 3-digit Barcoded rates and would continue to do so under Classification Reform. This theoretical postage increase would also be offset by pieces that the mailer now qualifies for basic rates, because of a significant decrease in the Basic Automation rates under Classification Reform. A mailer's cost to prepare Automation mail is also expected to decline because of the elimination of package preparation in full trays.

With reference to the concern over degradation of service for pieces moving from carrier route sortation to 3-digit sortation, established postal operating plans are designed to achieve stated service commitments, regardless of the level of sortation of the mail.

Two commenters who mail both First- and third-class mail indicated that 95% of their letter mail that now qualifies for 5-digit Barcoded rates will move to 3-digit Barcoded rates. One commenter indicated that 70% of his mail now qualifying for 5-digit Barcoded rates will move to the 3-digit qualification level. One commenter indicated that the loss of presort and associated discounts could cause his company to stop offering credit cards to their customers due to the anticipated increase in postage for the credit card bills. One commenter stated the belief that if his mail could not be sorted to qualify for the 5-digit or 3-digit Barcoded rates, the 30-cent Retail Presort rate would apply to the remaining pieces.

Under the Postal Service's proposal, delivery point barcoded First-Class and Standard Mail that cannot be sorted into a group of at least 150 pieces to a 5-digit or 3-digit ZIP Code destination must be sorted to AADC and mixed AADC trays. This mail will qualify for a Basic Automation presort rate. For First-Class Mail, the rate proposed by the Postal Service for this Basic rate mail is 3.5 cents below the rate (30.5 cents) currently applied to barcoded residual pieces in a barcoded rate mailing. The proposed carrier route, 5-digit, and 3-digit rates are also significantly lower than the current corresponding rates. Thus, First-Class Mail under the scenarios presented above should receive a reduction in postage. Standard mailers having 95% of their mail move from a 5-digit qualification to a 3-digit qualification could experience a very minor increase in postage for that portion of the mailing, under the rates proposed by the Postal Service. However, that increase would be offset by savings from the lower rate applicable to Basic Automation Standard letters. Standard mailers experiencing a 70% shift in mail from 5-digit Barcoded rates to 3-digit Barcoded rates will experience a reduction in postage for this portion of the mailing, and can expect an additional reduction for the Basic rate portion.

One commenter indicated that 90% of his mail now qualifies for a presort rate but after Classification Reform only 75% will qualify, and another indicated that his presort qualification would drop from 90% to 40%. It is not clear what these mailers mean by presort. As indicated above, all pieces in Automation First-Class and Standard mailings will qualify for a reduced rate. To the extent that these mailers are describing an expected degradation from one presort level to another, the above analysis would apply to them.

Overall, the Postal Service believes that the Automation letter discount levels and preparation standards will lower postage and preparation costs for barcoded mailings for most mailers. Under current Barcoded rate mailing standards, a large percentage of mail qualifying for 5-digit and 3-digit rates is already prepared in full trays without packages. Because the proposed 150-piece requirement is based on a 1-foot tray, these mailers should be able to place even more mail in full 5-digit and 3-digit trays.

One commenter believed that if mail is barcoded and all mixed together on machines, there are no cost differences between 10 sorted pieces and 150 sorted pieces. This view is incorrect. When packages for different levels of sort are mixed together in a tray, these trays must be emptied and the packages sorted and retrayed before they can be directed to the proper barcode sorting machine. This process is not as efficient as being able to direct an entire tray without package handling. In return for the lower rates being proposed, the Postal Service expects to gain efficiencies in its operations by eliminating package sortation and retraying of mail prior to directing it to the proper barcode sorting scheme. Currently, when trays contain presort packages, the packages are often not sorted by postal personnel because it is deemed more efficient to remove the packaging material and run the pieces in the tray through the appropriate barcode sorting scheme. It is for this reason that the Postal Service proposed to eliminate rate discounts that are based on package preparation and to base Automation rates instead on the sortation level of a tray.

One commenter requested clarification as to whether 150 pieces to a tray level may still be trayed to that level even if they do not fill a 1-foot tray. Under the proposed standards published below, 150 pieces to a sortation level must be placed in that level of tray. One less-than-full tray is permitted for tray levels where the 150-piece minimums are applied. Such pieces must be prepared in rubber-banded packages to maintain their orientation in the tray during transit and handling.

One commenter requested that the definition of a full tray currently used in PAVE testing be added to the DMM language of the next proposed rule. PAVE testing currently indicates that 15¾ inches of mail (i.e., ¾ of the bottom inside length of a 2-foot tray) is the minimum amount of mail for a full tray, and that, where possible, 2-foot trays should be further filled to contain 21 inches of mail. Upon implementation of Classification Reform, PAVE testing instructions would indicate that, for 1-foot trays, 7 9/10 inches of mail would be considered the minimum amount of mail for a full tray and, where possible, trays should be further filled to contain 10½ inches of mail. Definitions of standard tray sizes are provided in the DMM language proposed in this notice and will be included in the PAVE instructions that mailers receive with PAVE testing material. It should be noted, however, that these definitions do not relate to rate qualification standards under the proposed rule.

c. Scheme Sortation

Ten commenters responded to the proposal to allow or require scheme sortation for Automation subclass (barcoded) letters. Five of these commenters had basic misunderstandings of what this scheme sortation list represents. One stated that it was not very different from the current SCF sortation and asked what it will do for his mailings. Another stated that this list looks like the DMM L802 labeling list (an SCF list used for certain ZIP+4 rate mailings) which means that 80% of his mail would end up in mixed AADC trays. Accordingly, this commenter wanted to use the current DMM L803 labeling list (an AADC list used for certain ZIP+4 rate mailings) to obtain full trays to qualify for 3-digit Barcoded rates. Two commenters indicated that there must be at least three different 3-digit ZIP Codes per scheme for mailers to be able to qualify as much mail for 3-digit rates under the 150-piece minimums as they can qualify using the current 50-piece per 3-digit package rules. These two commenters indicated that the 150-piece minimum rules should be held in abeyance until the scheme sorts are workable in this manner. One of the commenters believed that the purpose of scheme sort was to reduce the number of MLOCR or barcode sorter pockets used by the Postal Service to sort mail, and suggested that a better way to achieve this would be to scheme-sort to ADCs or AADCs.

The 3-digit scheme list is made up of 3-digit ZIP Codes that are processed on the same barcode sorter incoming primary sort plan (scheme) used to sort 3-digit mail to 5-digit ZIP Codes. The determination of which, if any, combination of 3-digit ZIP Codes can be sorted on the same barcode sort plan is based on the number of 5-digit ZIP Codes served by each 3-digit ZIP Code and the physical limitation of the number of bins on barcode sorters. Therefore, it is not possible for the Postal Service to adjust the scheme list to cause each scheme to contain at least three different 3-digit ZIP Codes. It is also not possible for the Postal Service to substitute the published 3-digit scheme list with any of the labeling lists suggested by commenters. The purpose of this scheme sortation was not to arbitrarily find a way to allow mailers to qualify as much mail for 3-digit rates under Classification Reform as they do based on the current 50-piece package minimums for 3-digit barcoded letter rates. The purpose is to allow mailers to prepare mail for processing in the same manner that the Postal Service processes it on barcode sorters (not MLOCRs) and thereby increase their potential for qualifying mail for a 3-digit automation discount. As published, the scheme sort list will allow mailers to use the total number of pieces for any or all of the 3-digit ZIP Codes that are combined on the list to qualify for 3-digit Barcoded rates. For example, ZIP Codes 068 and 069 are combined on the 3-digit scheme list and labeled to STAMFORD CT 068. This means a mailer having 75 pieces for ZIP Code 068 and 75 pieces for ZIP Code 069 could combine these pieces into a single tray to meet the 150-piece minimum. Without the scheme sort option, those pieces would not be eligible for the 3-digit Barcoded rate.

One commenter believed that the 3-digit scheme sort should be mandatory. Two commenters indicated that scheme sort should be optional. One of these indicated that use of the 3-digit scheme sort could be an insurmountable barrier to participation by Federal government mailers, and the other indicated that it should be a business decision because many mailers have a lot of volume to individual 3-digit areas or may not want to upgrade software to do these mailings. Another commenter indicated that making scheme sort mandatory for Automation subclass mailings means that the same presort software could not be used for the upgradable Retail Presort portion of the mailing since scheme sorts are not permitted for Retail Presort mailings. One commenter indicated that it only made a 1.5% difference in the qualification levels of his mailings. Another commenter indicated that it would help presort qualification. One commenter asked whether Publications Service mailers would use the same schemes as other classes of letter mail. One commenter stated that he needed the final tables for 5-digit and 3-digit sort schemes with the next notice, or at least before the implementation date, to test the software that incorporates these schemes.

Based on these comments, the Postal Service has proposed that 3-digit scheme sort be optional. Mailers may use scheme sort for only those schemes they select prior to preparing individual 3-digit trays for the remainder of the mailing. Mailers expressing concern over needing different software if they add scheme sortation are advised that they will not be able to use existing software to sort letter mail under Classification Reform anyway, because the tray levels are different from current standards, packaging is allowed only in less-than-full trays, a residual portion of the mailing is not allowed, and both 1-foot and 2-foot trays must be used. Furthermore, the sortation standards for Retail Presort First-Class and Regular Standard mailings are significantly different from the Automation subclass standards set forth in this notice. Therefore, mailers will not be able to use the same software to sort to these two subclasses.

As information, the Postal Service is currently investigating the future provision of 5-digit scheme sorts for barcoded letter mailings. However, because of the volatility of 5-digit schemes while the Postal Service is deploying new equipment over the next 3 years, 5-digit scheme sorts will not be available until some time after Classification Reform is implemented. The Postal Service is also investigating the feasibility of providing a 3-digit scheme sort for barcoded flat-size mailings. If there appears to be a benefit to scheme sort for flats, it also would not be made available until after implementation of the current Classification Reform proposals.

d. Use of Trays

Eight commenters had concerns over the standards for the use of trays for Standard letter mail. Two commenters wanted to use trays for letter-size Enhanced Carrier Route Standard Mail. One commenter wanted the option to sack nonupgradable mail to assist noncomputerized customers. This commenter also indicated that for nonautomation-compatible mail, traying makes it impossible to achieve package testing results. Five commenters expressed a desire to allow sacking for all mail except Automation subclass letters. Three of these commenters did not want to tray nonautomation subclass mail because they believe that trayed Standard Mail must be palletized. Five commenters were concerned that traying mail can cause a loss of cube in trailers with a resulting impact on their qualifying for destination entry discounts.

The August 30 notice erroneously implied that mailers could not tray letter-size Enhanced Carrier Route Standard Mail. It had been previously agreed that Enhanced Carrier Route mailers would have the option to tray letter mail. Since that time, the Postal Service has reconsidered this position. Because the Postal Service prepares letter mail in trays, it is important that all mailer-prepared letter mail be trayed. Accordingly, the proposed DMM standards set forth in this notice would require that all letter mail, including Enhanced Carrier Route and Periodicals letters, be prepared in trays. It should also be noted that, although encouraged, it is not required that Standard letters prepared in trays be palletized. Mailers will be permitted to bedload trays of letter mail. However, if a mailer wants to palletize Standard letter mail, the mail must be prepared in trays on pallets, with one exception. If, as described in the section on flat-size mail, the letter-size piece also meets the definition of an automation-compatible flat, and a portion of the mailing job is mailed at the Automation subclass rate for flats, all the pieces in the mailing job may be prepared in packages placed directly on pallets if all pieces pay the applicable rates as flats. However, the amount of Regular Standard Mail meeting the size standards for both letters and flats that can be prepared as packages on pallets is limited to 10% of the mailing job for reasons described in the section on flats. The Postal Service acknowledges that trayed mail can sometimes fill trailers more quickly than the same amount of mail prepared in sacks, and that the number of pieces that can be placed in a trailer might affect a mailer's decision whether to prepare mail for destination entry discounts. However, trays are the most efficient method of containerizing letter mail for the Postal Service. Because the Postal Service now uses trays for letter-size mail in its internal operations, it is proposing to require that mailers submit all letter-size mailings in trays for consistency and efficiency. The requirement to use both 1-foot and 2-foot trays will ensure the most efficient use of trailer space under the traying environment. The Postal Service does not understand the comment that traying would affect the ability to monitor package testing results.

e. Use of Both 1–Foot and 2–Foot Trays

The Postal Service is proposing that for all trayed letter-size mailings, a combination of full 2-foot and 1-foot trays must be used in a manner that results in the fewest possible trays. Eleven comments were received concerning this proposed requirement. Four commenters stated that this requirement will increase their handlings or cause problems in their production lines. One of these commenters indicated that this will create another mailstream, which, added to the 100% barcoding requirement for the Automation subclass, would result in four separate mailstreams. One commenter stated that he hoped this requirement could be canceled if it did not work. Another commenter stated that he did not want to handle two sizes of trays. Two commenters indicated that this requirement is not supported by current software, including software for MLOCRs. Two commenters were concerned about the availability of the appropriate size trays. One of these commenters requested clarification, for software writing purposes, of what to do if tray sizes are not available. The other commenter indicated that shortages of any type of tray will complicate processing when the mailer has software programmed to handle two sizes. One commenter indicated that he did not understand the need for this requirement. Three commenters asked how a stable pallet can be built when there is a mix of two different size trays. One commenter asked whether a 1-foot tray could be placed upside down on a pallet next to a right-side up 1-foot tray to allow the two trays to take up the same amount of space as a 2-foot tray.

The 150-piece minimum quantity to qualify for Automation subclass letter rates is based on the preparation of a 1-foot tray so that mailers may more easily qualify for those rates. That quantity per tray also is intended to yield more full trays to direct destinations, thus lessening any loss of presort to the Postal Service. In order to increase the number of direct trays to sortation destinations for all letter mailings, the proposed DMM language would require use of both 1-foot and 2-foot trays for all mailings of letter-size pieces in all reformed subclasses. However, the Postal Service does not want to increase its potential number of tray handlings by allowing a mailing to be prepared entirely in 1-foot trays, nor to increase transportation costs by shipping in more less-than-full 2-foot trays. Accordingly, the requirement to use both 1-foot and 2-foot trays where appropriate is considered necessary by the Postal Service. Under the proposed rule, mailers would be required first to fill as many 2-foot trays as possible before filling 1-foot trays.

The Postal Service recognizes that this requirement will cause mailers to make major changes to their production lines and to maintain a supply of both 1-foot and 2-foot trays. It is believed that presort software developed to accommodate the Classification Reform presort structure will include mail documentation that provides information about the tray size to be used and where tray breaks occur. If this type of software is used, it may not be necessary to create two separate production lines for the different tray sizes. The Postal Service anticipates an increased need for both sizes of trays and has purchased additional supplies while continuing to review the need to purchase still more. If local shortages develop for a particular size tray, mailers will have to use the trays provided the Postal Service. This may require working out individual mailing solutions locally.

Mailers must use their own judgment when building pallets of trays containing both sizes of trays. The elimination of the proposal to require separate layers of trays on pallets for the different subclasses should facilitate building stable pallets. The requirement to place destination delivery unit trays on the top of the pallet has also been eliminated. Accordingly, mailers may build pallets of trays solely by the weight of the trays (heavier trays must be on the bottom) and the pallet destination. Mailers will not, however, be permitted to place a 1-foot tray upside down on a pallet next to a right-side-up 1-foot tray because this could damage the mail.

f. Banding Material

(1) Automation Compatible Mailings. One commenter asked whether mail in overflow and less-than-full trays must be prepared with rubber bands. The use of rubber bands will be required for automation-compatible pieces, i.e., for Automation First-Class or Automation Standard Mail, upgradable Retail Presort First-Class and upgradable Regular Standard Mail, automation-compatible Publications Service Periodicals, and barcoded Regular Periodicals. Letter mail placed in less-than-full trays must be prepared with rubber bands or elastic strapping. In addition, because of their small size and their likely becoming unfaced even in full trays, card-size pieces in the previously named automation-compatible mailings must be prepared with rubber bands or elastic strapping in all trays. For barcoded carrier route rate mailings, separator tabs must be used to separate the carrier route groups within 5-digit carrier routes trays. If a 5-digit carrier routes tray is less-than-full, rubber bands or elastic strapping must be used. For Regular Periodicals barcoded letter mailings, separator cards must be used to delineate presort groups in all full trays. Pieces in less-than-full mixed AADC trays in any mailing must be prepared with rubber bands or elastic strapping. Plastic strapping and string will not be permitted for these automation-compatible mailings. When prepared, packages should be between 4 and 6 inches thick.

(2) Other Mailings. For Enhanced Carrier Route letter mailings, mailers may use separator cards or rubber bands or other permissible banding material to delineate carrier route groups within full 5-digit carrier routes trays. In less-than-full 5-digit carrier routes trays, separator cards will not be permitted and banding material must be used. For nonupgradable mailings, separator cards are not permitted; banding material must be used for packages in these mailings.

g. Overflow Trays

One commenter asked whether overflow trays will be required to contain a minimum number of pieces; they will not.

One commenter noted that overflow trays are allowed for AADC trays in the Automation letters subclass but not in Retail Presort mailings and asked whether this inconsistency was an error. This difference is not an error. Within the Automation subclass, AADC trays are prepared based on the 150-piece minimum standard. The Postal Service wants to apply this standard consistently for all trays of barcoded mail except the last level of tray. Allowing an overflow tray when the 150-piece standard is applied makes presort simpler and facilitates documentation and acceptance of that mail. For Retail Presort First-Class Mail, there is just one rate, and pieces at all tray levels are trayed based on filling 2-foot and 1-foot trays without regard to the 150-piece standard. To make Regular Standard Mail traying more consistent with First-Class Retail Presort preparation, the Postal Service has determined that pieces at the ADC and AADC (upgradable) tray level will also be trayed based on filling 2-foot and 1-foot trays without regard to the 150-piece standard and the need for overflow trays.

h. Request for Elimination of AADC Trays

One commenter requested that, for Automation subclass letters, the less-than-full AADC tray be replaced with mixed AADC trays. Another commenter indicated that sorting to AADC or mixed AADC destinations is difficult to do in a manual operation.

Overflow trays are provided for certain tray levels to permit mailers to qualify all mail to a sortation level, once the 150-piece minimum has been met, when rates are based on the level of tray in which a piece is placed. Overflow trays are also provided to ensure that the mail is presorted to the finest level possible. For this reason, when overflow trays are allowed at required levels of sortation, such as the 3-digit and AADC sortation levels of Automation subclass mailings, preparation of overflow trays will be required. The Postal Service recognizes that preparation of ADC packages and trays and preparation of AADC trays may be more difficult to do in a manual operation than in an automated one. However, ADCs and AADCs are the next stop for transportation and in-plant processing of pieces that are not sorted to the 3-digit destination plant level. The Postal Service believes that preparing mail to this level of sortation is necessary and appropriate to qualify for the basic presorting rates. It should also be noted that, with the exception of current Presorted First-Class and Carrier Route sorted mail, today's bulk mailings require preparation of AADC, ADC, SDC or state trays and, in some instances, corresponding packages.

i. Request for Elimination of Required Tray Sortation Levels

One commenter indicated that tray sortation levels should not be required and that the size of the mailing should determine the breakdown levels.

The proposed presort rates requested in the Classification Reform case are based on presorting mail to the finest extent possible. Accordingly, mailers will be required to prepare 3-digit trays any time there are at least 150 pieces for a 3-digit ZIP Code before preparing AADC and mixed AADC trays. It is not permissible to begin sortation at the AADC level and qualify for the proposed rates.

j. Grouping of Pieces in AADC and Mixed AADC Trays

One commenter stated that for ''piece sequencing'' requirements the Postal Service needs to have a minimum mailing in mind, such as 10,000 pieces nationwide, before it insists that the mailer breakdown a mailing, and that the cost to prepare this mail is not worth the discount. Another commenter wanted clarification as to why 3-digit groupings within AADC trays need not be in numeric order. This commenter anticipated acceptance problems.

Presort discounts are based on mailers performing presort to the finest level. For automation letter mail, presort to 3-digit level is required before preparing mail to the AADC level. In order to determine whether a 3-digit tray should be made, the mailer must first group pieces by 3-digit levels. Therefore, it should not be a burden for mailers to maintain those groupings when placing that mail in AADC trays. This grouping also helps the Postal Service verify that mail has been sorted correctly (although it is still possible to verify mail that is not grouped in numeric order). Therefore, Postal Service is not requiring that 3-digit groups be placed in ascending numeric order, although it is encouraging mailers to do so. It should also be noted that, within mixed AADC trays, in addition to grouping by 3-digit or 3-digit scheme, as applicable, the 3-digit/scheme groups must be further grouped by AADC area. Few acceptance problems are anticipated because acceptance personnel will receive training on the new sortation and acceptance procedures. The Postal Service believes that the Basic rates proposed for First-Class and Standard Mail should encourage mailers to prepare the mail in this manner. However, it is the mailer's decision to determine whether this preparation would be less expensive than mailing such pieces at single-piece rates.

k. Pallet Preparation

Four commenters requested clarification as to whether letter mail prepared on pallets for different subclasses could be combined on the same pallets with a single mailing statement and corresponding documentation as allowed for flats on pallets. It is proposed that letter mail of different subclasses prepared in trays may be presorted to the same pallets, excluding 5-digit pallets. Trays of automation-compatible letter mail (Automation Standard and upgradable Regular Standard Mail, barcoded Regular Periodicals, and automation-compatible Publications Service Periodicals) must be placed on 5-digit pallets separate from nonautomation mail in the same mailing job because it is more efficient for the Postal Service to move whole pallets directly to where the mail is processed. Pallets of automation-compatible mail may be processed at postal facilities different from facilities that process pallets of nonautomation-compatible letters. In many cases, pallets of automation-compatible mail are broken down at different locations in the same plant, or if barcoded carrier route mail, the pallets are sent directly to the postal facility where a CSBCS or DBCS is located. When trays are palletized in this manner, they may be reported on a single mailing statement with the same corresponding documentation as allowed for palletized packages of flats.

l. Carrier Route Rate Eligibility

One commenter agreed with the Postal Service's promise to consider allowing carrier route rates for routes that have fewer than 10 delivery stops. The Postal Service has decided to propose that such mail may be prepared to qualify for the Saturation Enhanced Carrier Route rates if it meets the applicable density and documentation standards.

m. Enhanced Carrier Route Traying Requirements

One commenter asked, in response to the June 29 notice, whether letter-size Enhanced Carrier Route mail would require packaging in full direct trays. The Postal Service deferred an answer to this question until completion of the DMM standards. Under the presort standards set forth in the proposed rule, Enhanced Carrier Route letter mail is prepared in full 2-foot and/or 1-foot carrier route trays. Mail that cannot be placed in full carrier route trays must be placed in 5-digit carrier routes trays, which may be less than full when necessary.

n. Machinable Addressing/Upgradable

The Postal Service has proposed optional presort requirements for Retail Presort First-Class and Regular Standard Mail that meets the Postal Service criteria of ‘‘upgradable’’ mail. (Upgradable mail is mail that can be processed on Postal Service MLOCRs.) Four commenters voiced concerns about the requirement for a machine-printed address on a mailpiece before it could be considered upgradable.

One commenter opposed the proposal, arguing that presort bureaus will have to separate their automation reject mail on the basis of physical characteristics and then prepare it under two sets of rules. This commenter requested that mailers be given an extra day to attempt to barcode the automation rejects, without redating metered mail, in order to increase the barcoded volume. By adopting this approach, according to the commenter, mailers will be positioned to benefit from soon-to-be-available technology that will make it possible to barcode more rejected mailpieces. In much the same vein, a government agency said that the requirement is too restrictive and that several federal agencies have purchased encoding systems in order to place barcodes on typewritten and handwritten mail.

The proposed DMM standards specify that preparation of mail under the provisions for upgradable mail is optional. Accordingly, First-Class and Standard mailers may prepare all their mail not qualifying for the Automation subclass under the basic preparation standards for the corresponding Retail Presort or Regular rates. Naturally, mailers are encouraged to apply delivery point barcodes to such pieces using CASS-certified encoding systems and thereby enter as many pieces as possible as Automation First-Class or Standard Mail. However, for the reasons set forth in the preceding discussion of 100% barcoding, the Postal Service cannot allow mail to be presented with stale meter dates. The current procedures for allowing mailers to print a new meter date will remain in effect for all mail, including upgradable and automation-reject pieces. The proper subclass marking must also appear on these pieces.

o. Machinability

One commenter asserted that the Postal Service will not achieve its objective of encouraging more automation-compatible mail unless it relaxes machinability standards to allow more mailers to prepare automation-compatible mail.

The Postal Service cannot spontaneously relax machinability standards. Such standards are based on the capabilities of automated mail processing systems and the type of mail that automation equipment is able to process.

p. Tray Sleeving and Strapping

The Postal Service proposed that mailings of Automation letter mail be both sleeved and strapped by the mailer, and that trayed letter mail in other reformed subclasses be sleeved by the mailer. Five commenters responded to this proposal. One commenter expressed wholehearted support on the condition that the mailer, not postal employees, perform the associated tasks. One commenter strongly recommended that where all pieces in a mailing originate and destinate in the delivery area, sleeving and banding of trayed letter mail should not be required. This commenter wants continuation of the existing provision in DMM M033.3.7 (that allows local exception to the sleeving requirement when all pieces in a mailing originate and destinate in the delivery area of the same SCF). Another commenter contended that local post offices should be able to determine when sleeving and strapping are required based on mailing destinations. A third commenter wanted a phased implementation to have time to order and install equipment needed for sleeving and strapping. A federal government agency voiced concern about requirements for stocking, storing, and using many different types of equipment.

The Postal Service plans to require sleeving and strapping of all bedloaded trayed mail under all reformed subclasses, with the exception of mail entered at a postal facility that destinates within the service area of that facility. Mail transported without first being sleeved is susceptible to spillage and damage during transportation and handling. A strap around the tray is also necessary to maintain the integrity of the tray and its contents during transportation and handling. For example, because trays of Periodicals and Standard Mail sorted in a BMC move on belts and down chutes during mechanized distribution, sleeves that are not strapped to trays could slide off and the contents of the tray could spill. Trays transported by air are handled in many different ways and also need to be strapped to maintain their integrity. Because local mail is not subject to the same type or amount of transportation as other mail, an exception may be made for the strapping and sleeving of this mail. Local mail that destinates within the service area of the postal facility where it is entered may be prepared without sleeving and strapping, if prior written approval is obtained from that facility’s manager.

For palletized mailings, sleeving will be required but strapping will be optional for mail on 5-digit, 3-digit, and SCF pallets, if those pallets are wrapped with stretchable or shrinkable plastic wrap to maintain their integrity during transportation and handling, because these pallets remain intact until reaching the destination plant or destination 5-digit delivery unit. Trays on other levels of pallet will be required to be both strapped and sleeved.

q. ACT Tagging

The Postal Service proposed that mailers apply ACT tags to trays of Automation First-Class letters. Six commenters responded to this proposal. Of these, one supported the proposal as long as mailers, not postal employees, did the work of preparing the tags. The remaining five commenters either had serious reservations or were strongly opposed to this proposal if it applied to trays of nonlocal letter- and flat-size mail. One of the five strongly opposed tagging nonlocal mail, stating that it was burdensome and difficult to comply with due to time-sensitive airline flight schedules, and that the rates proposed for the Automation subclass do not reflect this added worksharing requirement. Another commenter expressed the view that requiring ACT-tagging of all Automation subclass letter mail trays adds little value and should not be required at this time. The commenters believed that the proposal should be optional until a method can be developed and implemented so that mailers could access a database of accurate postal air contract transportation and flight data for ACT tags.

Based upon the comments, the Postal Service has determined to remove the proposed requirement for ACT-tagging of mailings. The Postal Service is also in the process of revising its internal systems to replace the ACT tags with the ‘‘Scan-Where-You-Band’’ process.

4. Flat-Size Pieces

a. General

Under Classification Reform, the large majority of flat-size pieces will be mailed as either Standard Mail or Periodicals. The discussion of comments dealing with Periodicals is contained in a separate section of this notice. Preparation of packages on pallets under the rules in DMM M040 is the preferred method of preparing flat-size pieces. The nonpalletized preparation requirements for Standard Mail flats under Classification Reform will continue to require preparation of packages placed in sacks. The package and sack levels will be 5-digit, 3-digit, ADC, and mixed ADC, except for Enhanced Carrier Route flats which will be prepared in carrier route packages of 10 or more pieces placed in carrier route or 5-digit carrier routes sacks. The current 125-piece/15-pound minimum sacking criterion will apply to flats under Classification Reform where minimum sack volumes are prescribed. The sortation for Automation flats differs from current preparation requirements in that SCF packages and sacks are eliminated, and there is no separate preparation of residual mail. For Automation flats, ADC and mixed ADC packages will be combined with 5-digit and 3-digit packages within ADC and mixed ADC sacks. The sortation for First-Class flats will require 5-digit, 3-digit, ADC, and mixed ADC sortation in both packages and flats trays.

b. Mail Meeting Standards for Both Letters and Automation-Compatible Flats

Of the 49 commenters who responded to the August 30 notice, four commented on issues related to flats. With only one exception, those commenters had questions or comments focusing on pieces whose size dimensions meet the size standards for both letters and automation-compatible flats. This type of mail is often referred to by mailers as ‘‘fletters.’’ These comments were of essentially the same nature as those submitted in response to the June 29 notice.

Two commenters wanted the Postal Service to develop options to allow mailers to prepare mailpieces that meet both the letter-size standards and the automation-compatible flats standards either in trays or in packages on pallets.

As indicated in the section on letter mail, the Postal Service handles letter mail in trays and, for operational efficiency, wants all mailer-prepared letter mail placed in trays. Therefore, mailers of such pieces always have the option of preparing them as letter-size mailings in trays or, for Standard Mail, in trays on pallets. Mailers of such pieces may choose to prepare one portion of their mailing job as letter mail and another portion of their mailing job as Automation flat mail. The Postal Service also recognizes that many mailers having pieces that meet the dimensions for both letters and automation-compatible flats, and who prepare a portion of their mailing jobs for the Automation rates for flats, would have more efficient mail preparation operations if allowed to prepare an entire mailing job in the same manner, particularly when preparing that mail as packages on pallets. Therefore, when mailers of these so-called ‘‘fletters’’ mail part of a mailing job at the Automation rates for flats and prepare that mail as packages on pallets, the Postal Service will allow the entire mailing job, which may also include Enhanced Carrier Route mail and Regular mail, to be prepared as packages on pallets if no more than 10% of the total number of pieces in the mailing job are claimed at Regular rates and if those pieces are claimed at Regular rates for nonletters, since the mailing is prepared in a manner applicable to flat-size pieces. This 10% limit on the number of Regular pieces in such a mailing is designed to permit a small part of a mailing job to be prepared in this manner while minimizing the amount of these letter-size pieces on pallets; as stated earlier, letter-size pieces are more efficiently handled by the Postal Service as trayed letter mail. If the percentage of such letters-size pieces exceeds 10% of a mailing job, it must be prepared and presented as a separate mailing under the standards for letter mail. Mailers who prepare mail in sacks or trays must prepare that mail in the manner appropriate to its processing category, as defined in DMM C050, i.e., mail meeting both letter-size and automation-compatible flats dimensions may be sacked and otherwise prepared as a flat only if mailed as part of a mailing at an Automation rate for flats.

c. Revisions to Automation-Compatible Flats Criteria

One commenter stated that the Postal Service should allow pieces that can be processed on FMS 1000 flat-sorting equipment to be eligible for barcoded rates when that equipment is retrofitted with barcode readers. This commenter further indicated that the Postal Service should allow letter-size catalogs that can be processed on FSM 1000s to be eligible for Automation rates for flats, thereby allowing mailers to avoid the tabbing requirements associated with the Automation rates for letters.

The FSM 1000 machines were not intended to replace the FSM 881s but to handle pieces that cannot be processed on them. Therefore, the FSM 881 machinability requirements, reflected in the current standards in DMM C820 for barcoded rates for flats, will continue to be the basis for barcoded rates for flats for some time, including when Classification Reform is implemented. Letter-size pieces that do not meet the current criteria for Automation-Compatible flats will be considered letters under Classification Reform and will have to be prepared under the standards for letters in DMM C810 and DMM C840 to obtain Automation letter rates.

d. Dimensions of Trays

One commenter requested that the dimensions of flat trays be provided so mailers can program how much mail can be placed in these trays. The inside bottom dimensions are 14¾ inches long by 10¾ inches wide. Their depth is 8 inches to the handhold and 11¼ inches to the top. This information will be included in both the DMM and in the instructions provided with PAVE testing material.

e. Copalletization and Commingling

No comments were received regarding this issue. The Postal Service is retaining the position set forth in the August 30 notice that, for packages prepared on pallets, packages from different Standard Mail subclasses (Automation, Enhanced Carrier Route, and Regular) may be placed on the same pallets, and no physical separation of the packages on the pallets by rate category will be required. At the pallet breakdown operation, the Postal Service will sort the packages to containers for the proper transportation or in-plant processing operation.

The Postal Service also erroneously indicated in the August 30 notice, that it would allow mailers to combine packages from different mailings in the same sack. Combining packages of different mailings in the same sack does not make operational sense for the Postal Service. Sack labels identify the type of mail contained in the sack so that the Postal Service can direct it to the proper in-plant operation. Enhanced Carrier Route sacks may be sent directly to the 5-digit ZIP Code for carrier casing, whereas barcoded flats will be sent to a barcoded flats sorting machine. Regular mail may be sent to manual distribution operations. Because combining this mail together in sacks would not allow the Postal Service to direct the mail to the proper operation, combining packages from different mailings in the same sack will not be permitted.

f. Flats Mail in Trays

No comments were received regarding this issue. The Postal Service is retaining the position set forth in the August 30 notice that First-Class flats will be prepared in flat trays and Standard Mail flats will be prepared in sacks. A commenter to the June 29 notice questioned the rationale for this policy. The Postal Service plans to initially limit the use of trays to First-Class flats to allow for a more gradual change to a future operating environment in which all nonpalletized flat mail will be prepared in trays. Currently, the Postal Service processes First-Class flats in trays. Generally, flat trays are better handled at GMFs and airmail facilities (AMFs) (where the Postal Service has tray handling systems) than sacks, which are more amenable to processing at bulk mail centers (BMCs). When barcoded flat mail is distributed on flat sorting machines using the barcode, there are instances where the flat mail is dispatched in flat trays to the next handling or destination regardless of class. Therefore, as part of the transition of all classes of flats mail to tray preparation, allowing automation-compatible (barcoded) flat mail in trays would be the likely next step, but this will not take place until after implementation of the current Classification Reform proposals.

g. Last Package Rule

A question concerning how to label a mixed ADC sack containing only a 5-digit package was asked in response to the June 29 notice. The Postal Service deferred an answer to this question until completion of the DMM standards. Under the presort standards set forth in this proposed rule, a 5-digit package left over after filling all possible 5-digit, 3-digit, and ADC sacks will be placed in a sack bearing a mixed ADC sack label.

h. 3–Digit Schemes

No comments were received regarding this issue in response to the August 30 notice. The Postal Service is retaining the position that, while a 3-digit scheme sort for flats may be investigated at a later date, it will not be implemented with Classification Reform.

5. Addressing

a. AIS Product Cycle

Concurrent with Classification Reform, the Postal Service is proposing to increase the frequency at which it updates all of its AIS Products, such as ZIP+4 and CRIS. This change would increase the frequency of required mailer updates to address matching systems. Because this change will affect all AIS products and must be applied universally, it will impact all mailers using AIS products for preparing mailings, not just those mailing in the reformed subclasses.

The proposal to increase the frequency of AIS product updates is designed to improve the currency of the data that is used during the matching process and reflects the significant advancements in list management technology that have been made since the original product cycle was developed. Now that the Postal Service is experiencing more rapid change in address information and carrier route codes, it has become critical that mailers update their data files more frequently.

Under this proposal, the frequency of AIS product releases would increase from quarterly to bimonthly. The Postal Service also proposes to eliminate inconsistencies in the implementation dates of new product releases. These currently range from 45 days with ZIP+4 products to 75 days for some CRIS products. Under this proposal, all products would have to be put into use within 45 days of the release date of the product update. There are no plans to increase the frequency with which ZIP+4 code or delivery point code matches must be reprocessed from the current ‘‘within 12 months of the mailing date’’ standard for any of the unreformed subclasses.

Because these changes are systemic and because it would be costly and confusing to maintain two different sets of product update frequencies, the Postal Service proposes to apply these changes to all affected mailings, regardless of whether that mail will also be affected by Classification Reform. For example, carrier route codes would be updated more quickly with the initiation of bimonthly CRIS releases and with the reduction in the permissible implementation period from 75 to 45 days. This would apply to both reformed and unreformed subclass mailings.

Although these changes in AIS product frequency were previously planned and could have been proposed independently, the Postal Service has chosen to propose to implement them with the implementation of Classification Reform to consolidate changes to mail preparation standards.

b. Carrier Route Updates

Eight comments were received about the Postal Service’s proposal that mailings at carrier route rates incorporate carrier route codes updated within 90 days prior to the date of mailing using certified software. One commenter suggested that the Postal Service eliminate the requirement for certified software, indicating that it limited the creativity of mailers in applying the carrier route codes to their mail. The Postal Service requires the use of certified software to verify the accuracy of the matches and to provide documentation of the time and age of the information being used to apply carrier route codes. The certification process verifies the results of address matching, not the means by which it was achieved. Thus, there are no limits to the creativity that may be applied to the matching process if the result represents the correct carrier route code for the address.

Four commenters suggested that the coding date should be increased to 120 days, whereas two other commenters approved the proposal to increase the frequency of ZIP+4 matching to 90 days. The Postal Service has no plans to increase the frequency of ZIP+4 matching at this time. Carrier route assignments are more frequently changed to accommodate the operational needs of the Postal Service to balance carriers’ workload. Thus, the Postal Service believes that the 90-day coding standard is reasonable. However, it is not the Postal Service’s intent to require mailers to update their carrier route codes if no more current source of information is available. The Postal Service believes that the most current data available should be used in assigning carrier route codes. If new data files are not available, mailers should continue to use the existing route assignments until new AIS products have been released by the Postal Service.

c. Move Updates

Seventeen comments were received concerning the proposal to require First-Class bulk mailers to update the addresses of their customers who have moved within 6 months prior to the mailing date. Several mailers seemed confused about the exact class of mail to which this standard applies; it would apply only to Retail Presort and Automation First-Class mailings.

The Postal Service believes that the methods currently available to provide customers with updated address information offer a wide range of options that can meet the needs of mailers at a reasonable cost. For example:

(1) Use of the endorsement ‘‘Address Correction Requested’’ means that the mailpiece will be returned to sender with the new address information

affixed. This service is provided at no additional charge to the mailer. The mailer can then update the address information and, if it so desires, use a new envelope to mail the piece to the new address.

(2) Use of the endorsement ''Forwarding and Address Correction Requested'' means that the mailpiece is forwarded to the new location and the Postal Service sends a hard copy notice to the mailer with the new address information. Each such notice costs $0.50 and can be used to update the mailer's addresses.

(3) Use of Address Change Service (ACS) provides the mailer with an electronic notice of new address information instead of hard copy. ACS can also be used on mailings other than First-Class to qualify those addresses in the mailing list that were used for Retail Presort and Automation First-Class mailings. Electronic notices cost $0.20 each and can be obtained on a variety of electronic media. Mailers may determine the frequency with which they use the ACS endorsement and participant code if the mailer can certify that each address in a First-Class mailing has been updated for customer moves within 6 months prior to the mailing.

(4) Use of National Change of Address (NCOA) processing service can update mailers' address lists with corrected address information prior to a mailing. Mailers determine how frequently they process their address lists.

Two commenters stated that they are unable to use the current methods, and two other commenters said that the services were too costly. None of these commenters provided specifics in support of their statements. The Postal Service incurs both costs to rehandle undeliverable-as-addressed mail and service delays when mail must be redirected to a new location. It is in the best interests of the Postal Service and mailers to improve deliverability and reduce costs. The options cited above, including the ''no fee'' Address Correction Requested endorsement, provide flexibility to mailers in meeting the proposed standard.

Six commenters asked that implementation of the requirement be postponed to allow time to adjust and obtain move updates. The Postal Service recognizes that many mailers will need to revise their addressing systems to accommodate move updating. Thus, the Postal Service will begin the move update address qualification process at the time of Classification Reform implementation, but will not condition the eligibility of First-Class bulk mailings on complete move update qualification until 6 months after Classification Reform implementation, or January 1, 1997, whichever is earlier. The Postal Service also wants to avoid creating a semiannual ''crunch'' of demand for NCOA and ACS services that might occur if move update was implemented at the same time as Classification Reform. Some mailers may need to experiment with several options for move updating, such as the impact of the two different endorsements, to determine which option makes the best business sense for their operations. Some will have to learn to use electronic update systems, and others will need to use up stocks of envelopes that do not bear an endorsement. The ''ramp-up'' period should give all concerned customers sufficient time to decide which update method to use, obtain NCOA matching services, if appropriate, implement internal system changes to accept electronic move update information, and work with their internal customers or presort customers to obtain full compliance.

Several commenters also asked that implementation of the proposed move update standard be postponed indefinitely until other methods have been approved to do move updating, such as the Multiline Forwarding System (MFS). The Postal Service does not believe that such an open-ended delay is warranted, given the wide range of current options. However, the Postal Service is encouraged by the progress currently being made toward implementation of MFS. The Postal Service has been working with vendors of commercial MLOCRs on the MFS project since June 1995. Test mail has been successfully processed by several vendors to determine the accuracy of the matching processes. The next step is testing ''live'' mail in a production environment. The project plan for MFS is on track, with operational issues now under review. As a result, the Postal Service expects that MFS will be available before the end of 1996, but that outcome is not certain at this time. The Postal Service plans to continue working on the development of MFS with MLOCR users through the Mailers Technical Advisory Committee and the Multiline Users Group. Moreover, as marketplace demands create a need, the Postal Service will also consider expanding the range of options in the existing services, for example, by additional notification options in ACS beyond those currently available.

Five commenters asked whether their in-house address correction centers, to which they have devoted significant resources, might be certified as meeting the move update standard. For those mailers who believe that their lists are up to date, the use of the ''Address Correction Requested'' endorsement should have little or no impact on their business practices because they are mailing to the most current address of their customers. The simple and straightforward use of the endorsement would meet the proposed standard with no difficulty, would need be applied to all addresses on the list only within 6 months prior to mailing, and expenditures would be limited to the costs associated with preprinting the endorsement on mailing envelopes. The current endorsement options would be an effective approach to meeting the proposed standard for lists that are well maintained by a mailer's move correction processes. In the future, the Postal Service may consider the establishment of ''move update certification'' processes for specific types of lists or businesses. The Postal Service is interested in evaluating other options that mailers suggest to meet the move update standard if unique situations exist that preclude the use of the current solutions.

Three other commenters asked whether a mailer was required to use the information provided from postal address correction processes and apply it immediately to their address lists. They asked whether the notification could serve as a trigger to the company to initiate an inquiry with the customer about correcting address information. Four commenters indicated that various state and federal government agencies believe that they are prohibited from using corrections provided by the Postal Service. In most cases, mailers are expected to update their mailing addresses promptly. However, the Postal Service recognizes that, in some industries, there are legally-mandated limits on the address that may be used in certain customer communication. For example, one commenter noted that, in a number of states, notices of shareholder meetings must be sent to the address ''in the corporation records.'' Given the concerns expressed by these mailers, the Postal Service has decided that in circumstances where clearly demonstrated legal constraints limit a mailer from using address changes provided by the Postal Service, an individually-approved alternative process will be acceptable to meet the move update standard. Alternative process approval would be granted on a case-by-case basis, and the legal limitation would need to be clearly identified. In this process, mailers would receive address change information from the Postal Service in any of the currently prescribed manners. This would be followed by a prompt mailer-initiated direct mail contact with the customer, requesting a signed verification of the address change. For example, the mailer could provide a preprinted barcoded business reply card that the customer signs and returns. Address information could then be updated in the mailer's records prior to the next mailing cycle.

d. Uniform Placement of Address Elements

During the comment period, the Postal Service decided to remove uniform placement of address elements from consideration as a proposed address quality standard. The Postal Service took this action in response to extensive mailer concerns regarding the details of the proposal and its potential adverse impact on rate eligibility.

e. Line of Travel

One commenter asked whether the line-of-travel (LOT) sequencing requirement applied only to flat-size pieces. Because LOT sequencing can be beneficial for casing of all carrier route mail, the proposed standard will apply to letters, flats, and merchandise samples prepared with detached address labels in Basic Enhanced Carrier Route mailings, and to all Publications Service pieces except for those pieces that are presented in a mailing of automation-compatible Publications Service barcoded letters.

One commenter stated that the requirement would be easy to meet, whereas two other commenters stated that it would be difficult to maintain and would be an unnecessary burden. The Postal Service has had assurance from the mailer and vendor communities that this requirement is not an onerous burden. The update of sequence information could be done through any of the established sequencing methods or through use of the newly-developed Line-of-Travel product, which has been available to the mailing industry since June 1995. Mailers who are interested in obtaining the Line-of-Travel product should contact the National Customer Support Center at (800) 238–3150 for subscription information. Continuing update of sequence information will occur with the same frequency that carrier route codes are updated.

Four commenters stated that there were many operational variables in their production lines and questioned whether exact delivery order or reverse order would be equally effective. The Postal Service will identify mailers whose mailings are frequently in the reverse order and deal with them on an exception basis.

Three other commenters asked whether LOT could apply to High Density mail. Although the Postal Service believes that LOT sequencing would accomplish most of what walk sequencing will do for High Density mail, the Classification Reform proposal specifies walk sequencing for High Density mail. Therefore, LOT is not an acceptable sequencing option to qualify for High Density rates.

f. 5–Digit ZIP Code Verification

The Postal Service proposed to require a certification by the mailer that the 5-digit ZIP Codes on addresses in a Retail Presort First-Class, Regular Standard, or nonautomation-compatible Publications Service Periodicals mailing have been checked for accuracy within 12 months prior to mailing. One commenter stated that because ZIP Code verification was quick and easy, out-of-date ZIP Codes should not be allowed access to presort rates. Another called the proposed verification costly and intrusive on business activity. The Postal Service believes that accurate ZIP Codes are vital to ensuring consistent, timely delivery service. Moreover, the use of a correct ZIP Code is currently a requirement for the affected groups of mail. Those mailers who are unwilling to verify the correctness of the ZIP Codes they apply to mailpieces will not be allowed access to postage rates that require ZIP Code presortation.

Two commenters asked what some of the approved methods of verification might be. The Postal Service has previously stated, ''A recommended checklist of possible ZIP Code verification options for address lists that are not computerized could be signed as a part of the verification process. Items to appear on the list might include manual verification using the most recent Postal Service ZIP Code directory, a survey of the addressees currently in the address list to inquire about changes to ZIP Code information, participation in the current manual list correction service (DMM A910), use of a service provider to verify ZIP Code information, and use of approved software.''

Other options might include the use of electronic look-up services such as those available on the Postal Service home page on the World Wide Web and other bulletin board look-up services using certified address matching software. Mailers will be expected to identify the method used to verify the ZIP Code information and sign a certification of verification. Mailers will have 3 months from the date of Classification Reform implementation to verify the accuracy of their 5-digit ZIP Code information. In addition, as new techniques for ZIP Code verification are developed, they will be added to the list of acceptable methods for verification.

6. Periodicals

a. Overview

Periodicals, like today's second-class mail, is designed for newspapers and other periodical publications. Under Classification Reform, all current categories of authorization would remain (general, requester, institutions and societies, foreign, and state departments of agriculture). Current subclasses would also be retained and Publications Service, a new low-cost subclass, would be added.

No substantive change to Preferred Rates Periodicals (In-County, Classroom, Nonprofit, Science-of-Agriculture zones 1–2) is proposed in the current Classification Reform case. The provision will also be retained that prescribes payment of Regular rates for advertising that exceeds the 10% limitation.

Publishers may mail at only one subclass of outside-county rates for each publication: Preferred (when applicable), Regular, or Publications Service. The publication must follow the same basic standards as today, i.e., it must be formed of printed sheets and published from a known office of publication at a regular frequency of at least four times per year. Current requirements by authorization category continue to apply. General publications must have a minimum of 50% paid circulation and contain no more than 75% advertising in one-half the issues published during a 12-month period. The publisher must maintain a list of subscribers. Likewise, requester publications must have a list of requesters/subscribers, with a minimum 50% of the circulated copies either requested or paid for by the recipient. Advertising in requester publications may not exceed 75% in any issue.

A notable change proposed for the Regular subclass pertains to the presort levels: Basic, 3/5, and Carrier Route would replace current levels A, B, and C, making the presort structure for Regular Periodicals more consistent with other classes. The new 3/5 rate replaces the current Level B3 and B5 rates. Mail presorted to all 3-digit destinations (not just to unique 3-digit destinations) will qualify for the 3/5 rates. Another minor change renames the current 125 walk-sequence rate as High Density.

Three primary criteria must be met to qualify for Publications Service: (1) at least 75% of the mailed volume must be paid (for general publications) or paid or requested (for requester circulation); (2) at least 30% of the content in each issue must be nonadvertising matter; and (3) at least 90% of each issue must be presorted in prescribed volumes to carrier route, 5-digit, or 3-digit destinations. An outside circulation audit is also required.

Each issue of a Publications Service periodical must have at least 30% nonadvertising content and at least 75% of the mailed circulation (excluding copies claimed at in-county, foreign, First-Class, Priority Mail, or Express Mail rates) must be sent to paid subscribers (or requesters, depending on the category of authorization). Publications that fail to meet the nonadvertising content requirement are assessed a 40% surcharge of the applicable postage for that issue. If a publication fails to meet the 75% paid/requester standard, its authorization to mail at Publications Service will be revoked.

The Postal Service has determined that the outside circulation audit will be used only to validate compliance with the proposed 75% paid/requested circulation requirement. The outside auditor will not be responsible for confirming the advertising/editorial ratio. To ensure compliance and reduce the amount of material reviewed before mail acceptance, the Postal Service will include on the mailing statement a certification block for the publisher's signature, validating that the publication meets the 30% nonadvertising requirement. If the Postal Service determines that an issue exceeds 70% advertising, the publisher will be given ample opportunity to demonstrate compliance with the requirement before any penalty is assessed.

At least 90% of each issue must be presorted to 3-digit, 5-digit, or carrier route destinations. Copies count toward the 90% criterion if they are part of a minimum of 24 addressed pieces for a 3-digit destination, all properly presorted to carrier route, 3-digit, or 5-digit destinations in packages of six or more addressed pieces each. Any combination of six-piece or larger packages to these destinations is acceptable (e.g., 18 pieces to a carrier route and six copies to a 5-digit, both in the same 3-digit area). Publications that fail to meet the 90% standard are assessed a 40% surcharge of the applicable postage for that issue.

For the purposes of the 90% criterion, an ''issue'' will be considered to consist of all copies in the mailed volume that are mailed within that ''window'' of time during which the main file and most supplemental mailings for a particular title are deposited with the Postal Service. The mailing ''window'' includes all copies, regardless of cover date, mailed during that period. To ensure that the entire mailed volume of a publication is considered, all mailings, including ''supplementals,'' will be counted.

Publications may be better able to meet this density requirement by comailing, including the comailing of Publications Service flats with Regular Periodicals. To administer the 90% criterion in a comailing situation, the Postal Service proposes to look at the sortation of the individual title within the comailing. The copies reported on a single mailing statement will not have to meet the 90% criterion. The qualifying pieces in the comailing are added to the qualifying pieces in the main file and any qualifying pieces in supplemental runs that were not comailed. The final qualifying percentage is derived by dividing the total number of qualifying pieces by the total number of mailed pieces.

In a comailing, the 40% penalty would apply to the publication that fails to meet the density requirements, not to all other comailed publications. While firm packages are considered a single addressed piece for presort and postage purposes, each copy in a firm package counts individually toward the 90% standard.

Carrier route, nonbarcoded, and barcoded mail may be mixed on the same pallet, and 5-digit and ZIP+4 barcoded Publications Service flats may be combined in the same package. This is discussed further in the analysis of comments on Periodicals.

In addition to the requirements for nonadvertising content, circulation to paid/requester addresses, and density, all automation-compatible Publications Service mail (except carrier route rate flats) must bear a barcode. All pieces must bear at least a 5-digit barcode and no less than 85% of the pieces must bear a ZIP+4 or delivery point barcode. If the piece is not machinable, barcoding is not required. Although the carrier route portion of the mailing will count toward the 85% criterion, it will not have to be barcoded. The 85% criterion optimizes the proportion of pieces that can be given automated processing. To the extent firm packages are amenable to such handling, it would not be relevant to the objectives of the 85% criterion if the component copies inside the firm package were barcoded. Therefore, the 85% criterion will be applied to consider the number of addressed pieces in the mailing, not the total number of copies.

Compliance with the 85% criterion will be based on the entire mailed volume of the issue, encompassing all editions from all sources. Publishers will be responsible for providing the supporting information if requested by the Postal Service.

Additional ''bundled'' requirements pertaining to such issues as addressing, sortation, and containerization are detailed in the proposed DMM standards in this notice.

To mail at Publications Service rates, a periodical must first be authorized Periodicals mailing privileges in one of the existing categories of authorization. To apply for Publications Service, the publisher must submit a separate application (and pay an additional $305 fee) and initiate an outside circulation audit. Once authorized, all outside-county copies of the publication, which are not sent as Express Mail, Priority Mail, or First-Class Mail, must be mailed at Publications Service rates exclusively, unless the publication voluntarily abandons its authorization. If the publication abandons the authorization or the Postal Service revokes it, the publisher must wait 1 year to reapply. Authorization to mail at Publications Service rates does not affect eligibility for in-county rates.

Publications currently authorized to mail at second-class rates will not be required to mail in a pending status if it can be shown to meet the 75% paid or requested criterion and an application to mail at Publications Service rates is filed. Mailings will be accepted at Publications Service rates subsequent to the application being filed. If the Postal Service denies the application or the publisher abandons it, a revenue deficiency will be assessed for the difference between the amount paid at Publications Service rates and the amount due at Regular rates.

Publications not authorized second-class mail privileges may also apply for Publications Service rates. A publisher would be required to file an application for a Periodicals authorization and pay a fee of $305. A separate application for Publication Service rates must also be filed and the publisher must pay an additional $305 fee. These applications may be filed simultaneously or separately as desired by the publisher. Under these circumstances, the publisher will be required to mail under established pending procedures (i.e., the publisher must deposit funds at the applicable third- or fourth-class rates). When the applications are approved, the publisher will be entitled to an appropriate refund.

b. Comment Analysis

A total of nine comments were received concerning the implementation standards for Periodicals described in the August 30 notice. Of that number, five comments expressed general disapproval of Classification Reform as it pertains to Periodicals and three were generally favorable; such comments are beyond the scope of this rulemaking and are not addressed here. Two of the three commenters who expressed general satisfaction with Classification Reform as it pertains to Periodicals, and two other commenters, offered specific comments concerning various issues. These comments are discussed below.

(1) Automated Processing of Flats. One commenter reiterated that the widespread availability of automation equipment capable of handling all types of second-class flats is crucial to second-class mailers. The commenter recommended that the Postal Service immediately undertake to develop a nationwide plan to increase automation capacity for flat-size mail. As explained above in the discussion on flats, although the Postal Service would like to be able to process all types of flats on automated equipment, new machines will not be purchased until the current ones have been properly positioned for optimum utilization.

(2) 75% Paid Subscriber/Requester and 30% Nonadvertising Requirements for Publications Service. Regarding the requirement that 75% of all mailed copies of Periodicals authorized to mail at Publications Service rates must be sent to paid subscribers/requesters (as appropriate), two commenters requested that all mailed newsstand copies (regardless of the number returned or destroyed) be considered paid circulation. This request has been given full consideration. Although the Postal Service believes that it is appropriate to account for newsstand copies sent through the mails, it is both inaccurate and inconsistent with past postal policy to consider all such copies paid. Rather, the Postal Service will continue to require publishers to maintain records to distinguish between sold and unsold newsstand copies. Those copies mailed to newsstands that are eventually sold will count toward the 75% paid subscriber/requester requirement.

One commenter addressed the proposal to require an outside auditor to review the proportion of mailed copies of a Publications Service periodical that are sent to paid subscribers/requesters to verify compliance with the 75% paid subscriber/requester requirement. This commenter supported the Postal Service decision not to require that an outside auditor confirm that the 30% nonadvertising minimum per issue has been met, but instead to accept a written certification by the publisher (included as part of the mailing statement prepared for each issue).

(3) Commingling of 5–Digit and ZIP+4 Barcoded Publications Service Periodicals. One commenter supported the Postal Service's decision to allow the commingling on pallets of all types of packages of both Regular and Publications Service Periodicals. Two commenters believed that the volume of 5-digit barcoded pieces is relatively small in second-class today and, therefore, warrants allowing mailers to combine 5-digit and ZIP+4 barcoded pieces in the same package.

Once a publication is authorized to be mailed at Publications Service rates, all mailed copies (except those mailed at in-county rates or as Express Mail, Priority Mail, or First-Class Mail) must be prepared according to the required sortation for this subclass. Unlike First-Class and Standard Mail where pieces not qualifying for one subclass may be mailed in another, no copies of an authorized Publications Service periodical may be mailed as Regular or outside-county Preferred Periodicals. For this reason, the Postal Service decided that setting a 100% ZIP+4 or delivery point barcoding standard for automation-compatible Publications Service periodicals would be difficult for publishers to achieve; therefore, the current ''85–15'' barcoding standard is retained.

Under today's second-class standards, which allow 15% of a nominally ZIP+4 barcoded mailing to bear a 5-digit barcode, publishers may combine ZIP+4 and 5-digit barcoded pieces in packages. The Postal Service believes that combining such mail in packages continues to be appropriate and will allow this preparation for Publications Service periodicals. However, the Postal Service will continue to study the issue and may require other packaging standards at a later date if combining ZIP+4 barcoded and 5-digit barcoded pieces in the same package has a negative operational impact as the barcoded flats mailstream expands.

(4) Presort and Comailing. The Postal Service will allow the comailing of Regular and Publications Service flat-size Periodicals. To enable publishers to comail efficiently, the Postal Service has determined (and has so stated in earlier notices) that it will align the sortation standards for Regular and Publications Service flats. This decision is reflected in the proposed DMM standards presented below. For flats, the only difference between Regular and Publications Service sortation requirements is that mail entered at a Regular Barcoded rate must be prepared as a separate mailing meeting a separate 85% barcoding standard as discussed in section A of this proposal.

Although the majority of Periodicals is flat-size mail, many publications are produced in letter-size format. The preparation standards proposed for automation-compatible letter-size Publications Service mail will mirror the proposed standards for Automation First-Class and Standard Mail letter-size pieces, with the exception that a 6-piece package minimum will be applied to Publications Service carrier route sortation rather than the 10-piece minimum applied in First-Class and Standard Mail. In addition, new sortation criteria for nonautomation-compatible letters have been added for Publications Service to require packaging and traying of pieces. Preparation of presorted packages is necessary for nonautomation-compatible mail for efficient Postal Service processing.

These two Publications Service letter-size sortations are significantly different from current letter sortation requirements for second-class mail. Because these sortation requirements affect rate eligibility, the Postal Service will not propose the alignment of standards for Regular and Publications Service letter-size mail. Consequently, comailing will not be allowed for Regular and Publications Service letter-size pieces.

New sortation criteria have been developed for barcoded letters and for nonbarcoded letters at Regular rates. These new sortation criteria reflect the new standards for preparation of all letter-size mail in trays and for tray sortation levels that will be implemented with Classification reform, while allowing such mail to continue to qualify for presort and barcoding rates under the same qualification criteria as today.

C. Presort Summary Guide

The following charts summarize the presort requirements for reformed subclasses. They do not reflect every presort requirement but are a guide to the major presort points contained in the DMM standards presented in the latter part of this notice.

BILLING CODE 7710–12–P

1. First-Class—Automation Subclass—Letters

Sort Level	*Opt./ Req.*	*Rate Qual. Min.*	*Tray Level and Sortation*[1]	*Rate Letters*[2]	*Rate Cards*
Carrier Route[3]	**Opt.**	**10 pcs./rt.**	**Carrier Route**[3] (full; no overflow trays) **5-Digit Carrier Routes** (no minimum)	**23.2¢**	**13.7¢**
5-Digit	**Opt.**	**150 pcs.**	**5-Digit** (150-pc. min.; one less-than-full tray allowed)	**23.5¢**	**14.0¢**
3-Digit/Scheme	**Req.**	**150 pcs.**	**3-Digit/Scheme**[4] (150-pc. min.; one less-than-full tray allowed)	**25.0¢**	**15.5¢**
AADC	**Req.**	**none**	**AADC**[4] (150-pc. min.; one less-than-full tray allowed, grouped by 3-digit/3-digit scheme)	**27.0¢**	**17.5¢**
Mixed AADC	**Req.**	**none**	**Mixed AADC** (no min.; grouped by AADC, within AADC, subgrouped by 3-digit/3-digit scheme)	**27.0¢**	**17.5¢**

1/ For each tray destination, fill all possible 2-foot trays before preparing 1-foot tray(s).

2/ First-ounce rate; each additional ounce 23.0¢. Additional presort discount for pieces over 2 ounces is 4.6¢. Carrier route rates based on package level; other rates, on tray level.

3/ Carrier route sortation and rates limited to 5-digit ZIP Codes where delivery point sequencing on delivery barcode sorters is not performed.

4/ All mail for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted; if less than 150 pieces each, Basic rates apply.

2. First Class—Automation Subclass—Flats

Sort Level	*Opt./ Req.*	*Pkg./Rate Qual. Min.*	*Tray Level and Sortation*[1]	*Rate*[2, 3]
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (full; no overflow trays)	**27.0¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[4] (full; no overflow trays)	**27.0¢**
ADC	**Req.**	**10 pcs.**	**ADC** (full; no overflow trays)	**29.0¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**29.0¢**

1/ A full tray is defined as a minimum of one stack of pieces lying flat that reaches bottom of handholds of tray. If there are enough pieces to destination, trays must be further filled to top of tray (in two or more stacks where possible).

2/ Rates are based on package level without regard to tray in which a package is placed.

3/ First-ounce rate; each additional ounce 23.0¢. A nonstandard surcharge of 5¢ applies to each piece weighing 1 ounce or less that falls outside standard letter dimensions. An additional presort discount of 4.6¢ applies to each piece weighing over 2 ounces.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted.

59

3. First-Class—Retail Subclass—Presort Letters

a. Basic Preparation

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation* [1]	*Rate Letters*[2]	*Rate Cards*
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (full; no overflow trays)	**30.0¢**	**19.0¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit** [3] (full; no overflow trays)	**30.0¢**	**19.0¢**
ADC	**Req.**	**10 pcs.**	**ADC** (full; no overflow trays)	**30.0¢**	**19.0¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** [4] (no minimum)	**30.0¢**	**19.0¢**

b. Optional Preparation for Upgradable Pieces

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation* [1]	*Rate Letters*[2]	*Rate Cards*
5-Digit	**Opt.**	**N/A**	**5-Digit** (full; no overflow trays)	**30.0¢**	**19.0¢**
3-Digit	**Req.**	**N/A**	**3-Digit** [3] (full; no overflow trays)	**30.0¢**	**19.0¢**
AADC	**Req.**	**N/A**	**AADC** (full; grouped by 3-digit ZIP Code, no overflow trays)	**30.0¢**	**19.0¢**
Mixed AADC	**Req.**	**N/A**	**Mixed AADC** (no minimum; grouped by AADC, within AADC, subgrouped by 3-digit)	**30.0¢**	**19.0¢**

1/ Fill all possible 2-foot trays before preparing 1-foot tray(s).

2/ First-ounce rate; each additional ounce is 23.0¢. Additional presort discount for pieces weighing more than 2 ounces 4.6¢.

3/ All 5-digit and 3-digit packages (all pieces for upgradable) remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted.

4/ Physically fill all possible 2-foot trays. Place remaining pieces in a 2-foot tray, except place them in a 1-foot tray if they do not exceed its capacity.

4. First Class—Retail Subclass—Presort Flats

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation*[1]	*Rate*[2]
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (full; no overflow trays)	**30.0¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[3] (full; no overflow trays)	**30.0¢**
ADC	**Req.**	**10 pcs.**	**ADC** (full; no overflow trays)	**30.0¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**30.0¢**

1/ A full tray is defined as a minimum of one stack of pieces lying flat that reaches bottom of handholds of tray. If there are enough pieces to destination, trays must be further filled to top of tray (in two or more stacks where possible).

2/ First-ounce rate 30¢; each additional ounce 23.0¢. Additional 4.6¢ presort discount applies to each piece weighing over 2 ounces. Nonstandard pieces weighing 1 ounce or less are subject to an additional 5¢ surcharge.

3/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted.

5. First Class—Retail Subclass—Presort Parcels

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*[1]	*Sack Level and Sortation*	*Rate*[2]
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (minimum 10 lbs.; lesser quantities not permitted)	**30.0¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[3] (minimum 10 lbs.; lesser quantities not permitted)	**30.0¢**
ADC	**Req.**	**10 pcs.**	**ADC** (minimum 10 lbs.; lesser quantities not permitted)	**30.0¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**30.0¢**

1/ Packaging is required for pieces 1/2 inch thick or less. Irregular pieces more than 1/2 inch thick need not be made up into packages if packages would be placed in a sack for same destination.

2/ First-ounce rate 30¢; each additional ounce 23.0¢. Additional 4.6¢ presort discount applies to each piece weighing over 2 ounces. Nonstandard pieces weighing 1 ounce or less are subject to an additional 5¢ surcharge.

3/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted.

61

6. Standard Mail—Automation Subclass—Letters

Sort Level	*Opt./ Req.*	*Rate Qual. Min.*	*Tray Level and Sortation*[1]	*Rate*[2]
Carrier Route[3]	**Opt.**	**10 pcs./rt.**	**Carrier Route**[3] (full; no overflow) **5-Digit Carrier Routes** (no minimum)	**14.1¢**
5-Digit	**Opt.**	**150 pcs.**	**5-Digit** (150-pc. minimum; 1 less-than-full tray allowed)	**15.0¢**
3-Digit/Scheme	**Req.**	**150 pcs.**	**3-Digit/Scheme**[4] (150-pc. minimum; 1 less-than-full tray allowed)	**16.8¢**
AADC	**Req.**	**none**	**AADC** (150-pc. minimum; 1 less-than-full tray allowed, grouped by 3-digit/3-digit scheme)	**17.5¢**
Mixed AADC	**Req.**	**none**	**Mixed AADC** (no minimum, grouped by AADC, within AADC, subgrouped by 3-digit/3-digit scheme)	**17.5¢**

1/ For each tray destination, fill all possible 2-foot trays before preparing 1-foot tray(s).
2/ Destination discounts will also be available. Carrier route rates based on package level; other rates on tray level.
3/ Carrier route sortation and rates limited to 5-digit ZIP Codes where delivery point sequencing on delivery barcode sorters is not performed.
4/ All mail for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted; if less than 150 pieces each, Basic rates apply.

7. Standard Mail—Automation Subclass—Flats

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*[1]	*Min. Per Pc. Rate*[2]
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (minimum 125 pcs. or 15 lbs.)	**19.0¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[3] (minimum 125 pcs. or 15 lbs.)	**19.0¢**
ADC	**Req.**	**10 pcs.**	**ADC** (minimum 125 pcs. or 15 lbs.)	**23.7¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**23.7¢**

1/ Palletization preferred. Pallet destinations are not same as sack levels shown.
2/ Rate is based on type of package regardless of sack in which, or pallet on which, it is placed. For pieces weighing more than 3.2941 oz., 3/5 rate is 8.5¢/pc. plus 51¢/lb.; Basic rate is 13.2¢/pc. plus 51¢/lb. Destination discounts will also be available.
3/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit sack.

8. Standard Mail—Regular Subclass—Letters

a. Basic Preparation

Sort Level	Opt./ Req.	Pkg. Level Min.	Tray Level and Sortation[1]	Rate[2]
5-Digit	**Req.**	**10 pcs.**	**5-Digit**[3] (full; no overflow trays)	**21.9¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[3, 4] (full; one less-than full tray allowed)	**21.9¢**
ADC	**Req.**	**10 pcs.**	**ADC** (full; no overflow trays)	**26.1¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC**[5] (no minimum)	**26.1¢**

b. Optional Preparation for Upgradable Pieces

Sort Level	Opt./ Req.	Pkg. Level Min.	Tray Level and Sortation[1]	Rate[2]
5-Digit	**Opt.**	**N/A**	**5-Digit**[3] (full; no overflow trays)	**21.9¢**
3-Digit	**Req.**	**N/A**	**3-Digit**[3, 4] (full; one less-than-full tray allowed)	**21.9¢**
AADC	**Req.**	**N/A**	**AADC** (full; grouped by 3-digit ZIP Code)	**26.1¢**
Mixed AADC	**Req.**	**N/A**	**Mixed AADC** (no minimum; grouped by AADC; within AADC, subgrouped by 3-digit)	**26.1¢**

1/ Fill all possible 2-foot trays before filling a 1-foot tray.

2/ Rate is based on tray level. There must be at least 150 pieces in 5-digit and 3-digit packages for a 3-digit area (150 pieces to a 3-digit area for upgradable) to claim 3/5 rates. Destination discounts will also be available.

3/ There must be at least 150 pieces of 5-digit and 3-digit packages (150 pieces for upgradable) to a 3-digit destination before 5-digit and 3-digit trays to that destination may be prepared. Begin tray preparation for groups of less than 150 pieces for a 3-digit area at ADC level (AADC level for upgradable) except under footnote 4.

4/ All 5-digit and 3-digit packages (all mail for upgradable) remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted; if less than 150 pieces each, Basic rates apply.

5/ Physically fill all possible 2-foot trays. Place remaining pieces in a 2-foot tray, except place them in a 1-foot tray if they do not exceed its capacity.

9. Standard Mail—Regular Subclass—Flats and Irregular Parcels

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation* [1]	*Min. Pc. Rate* [2, 3]
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (minimum 125 pcs. or 15 lbs.)	**23.7¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[4] (minimum 125 pcs. or 15 lbs.)	**23.7¢**
ADC	**Req.**	**10 pcs.**	**ADC** (minimum 125 pcs. or 15 lbs.)	**30.5¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**30.5¢**

1/ Palletization of flats permitted and preferred. Pallet destinations are different from sack destinations shown.

2/ Rate is based on sack level for sacked mail. For packages on pallets, rate is based on the package level.

3/ Destination discounts will also be available.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit sack. A sack containing less than minimum quantity to each of these areas is permitted, but such pieces are subject to Basic rate.

10. Standard Mail—Regular Subclass—Machinable Parcels

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*	*Min. Pc. Rate* [1]
5-Digit	**Req.** only if 3/5 rates claimed[2]	**N/A**	**5-Digit** (optional. at 10 lbs., except required for 3/5 rates, smaller volume not permitted[2])	**23.7¢**
Destination ASF	**Req.** only if DBMC rates claimed	**N/A**	**Destination ASF** (required at 10 lbs. for DBMC rate only; smaller volume not permitted)	**23.7¢** if 5-digit sacks prepared; otherwise, **30.5¢**
Destination BMC	**Req.**	**N/A**	**Destination BMC** (required at 10 lbs.; smaller volume not permitted)	**30.5¢**
Mixed BMC	**Req.**	**N/A**	**Mixed BMC** (no minimum)	**30.5¢**

1/ For pieces weighing more than 3.3071 oz., 3/5 rate is 9.5¢/pc. plus 68.7¢/lb.; Basic rate is 16.3¢/pc. plus 68.7¢/lb. Destination discounts will also be available.

2/ Sacks weighing less than 10 pounds may be prepared if machinable and irregular parcels are combined in same mailing. In such combined mailings, all possible 5-digit sacks must be prepared.

9. Standard Mail—Regular Subclass—Flats and Irregular Parcels

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation* [1]	*Min. Pc. Rate* [2, 3]
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (minimum 125 pcs. or 15 lbs.)	**23.7¢**
3-Digit	**Req.**	**10 pcs.**	**3-Digit**[4] (minimum 125 pcs. or 15 lbs.)	**23.7¢**
ADC	**Req.**	**10 pcs.**	**ADC** (minimum 125 pcs. or 15 lbs.)	**30.5¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**30.5¢**

1/ Palletization of flats permitted and preferred. Pallet destinations are different from sack destinations shown.

2/ Rate is based on sack level for sacked mail. For packages on pallets, rate is based on the package level.

3/ Destination discounts will also be available.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit sack. A sack containing less than minimum quantity to each of these areas is permitted, but such pieces are subject to Basic rate.

10. Standard Mail—Regular Subclass—Machinable Parcels

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*	*Min. Pc. Rate* [1]
5-Digit	**Req.** only if 3/5 rates claimed[2]	**N/A**	**5-Digit** (optional. at 10 lbs., except required for 3/5 rates, smaller volume not permitted[2])	**23.7¢**
Destination ASF	**Req.** only if DBMC rates claimed	**N/A**	**Destination ASF** (required at 10 lbs. for DBMC rate only; smaller volume not permitted)	**23.7¢** if 5-digit sacks prepared; otherwise, **30.5¢**
Destination BMC	**Req.**	**N/A**	**Destination BMC** (required at 10 lbs.; smaller volume not permitted)	**30.5¢**
Mixed BMC	**Req.**	**N/A**	**Mixed BMC** (no minimum)	**30.5¢**

1/ For pieces weighing more than 3.3071 oz., 3/5 rate is 9.5¢/pc. plus 68.7¢/lb.; Basic rate is 16.3¢/pc. plus 68.7¢/lb. Destination discounts will also be available.

2/ Sacks weighing less than 10 pounds may be prepared if machinable and irregular parcels are combined in same mailing. In such combined mailings, all possible 5-digit sacks must be prepared.

11. Standard Mail—Enhanced Carrier Route Subclass—Flats and Merchandise Samples Prepared With Detached Address Labels[1]

a. Saturation Walk Sequence

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*[2]	*Min. Per Pc. Rate*[3]
Carrier Route	**Req.**	90% total active residential deliveries or 75% total active all deliveries per route (100% if simplified address)	**Carrier Route** (minimum 125 pcs. or 15 lbs.)	**13.5¢**
			5-Digit Carrier Routes (no min.)	**13.5¢**

b. High Density Walk Sequence

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*[2]	*Min. Per Pc. Rate*[4]
Carrier Route	**Req.**	**125 pcs./rt.**	**Carrier Route** (minimum 125 pcs. or 15 lbs.)	**14.8¢**
			5-Digit Carrier Routes (no min.)	**14.8¢**

c. Basic Carrier Route Walk Sequence

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*[2]	*Min. Per Pc. Rate*[5]
Carrier Route	**Req.**	**10 pcs./rt.**	**Carrier Route** (minimum 125 pcs. or 15 lbs.)	**15.5¢**
			5-Digit Carrier Routes (no min.)	**15.5¢**

No Residual

1/ Maximum size for Enhanced Carrier Route rates is 14 inches long, 11.5 inches wide, and 0.75 inch thick, except that merchandise samples sent with detached address labels may exceed these dimensions.
2/ Palletization preferred for flats.
3/ For pieces weighing more than 3.2941 oz., rate is 3.0¢/pc. plus 51¢/lb. Destination entry discounts will also be available.
4/ For pieces weighing more than 3.2941 oz., rate is 4.3¢/pc. plus 51¢/lb. Destination entry discounts will also be available.
5/ For pieces weighing more than 3.2941 oz., rate is 5.0¢/pc. plus 51¢/lb. Destination entry discounts will also be available.

12. Standard Mail—Enhanced Carrier Route Subclass—Letters

a. Saturation Walk Sequence

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation*[1]	*Min. Per Pc. Rate*[2]
Carrier Route	**Req.**	90% total active residential deliveries or 75% total active all deliveries per route (100% if simplified address)	**Carrier Route** (full trays; no overflow trays)	**13.5¢**
			5-Digit Carrier Routes (no min.)	**13.5¢**

b. High Density Walk Sequence

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation*	*Min. Per Pc. Rate*[3]
Carrier Route	**Req.**	**125 pcs./rt.**	**Carrier Route** (full trays; no overflow trays)	**14.8¢**
			5-Digit Carrier Routes (no min.)	**14.8¢**

c. Basic Carrier Route Walk Sequence

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation*	*Min. Per Pc. Rate*[4]
Carrier Route	**Req.**	**10 pcs./rt.**	**Carrier Route** (full trays; no overflow trays)	**15.5¢**
			5-Digit Carrier Routes (no min.)	**15.5¢**

No Residual

1/ For each tray destination, fill all possible 2-foot trays before preparing 1-foot tray(s).
2/ For pieces weighing more than 3.2941 oz., rate is 3.0¢/pc. plus 51¢/lb. Destination entry discounts will also be available.
3/ For pieces weighing more than 3.2941 oz., rate is 4.3¢/pc. plus 51¢/lb. Destination entry discounts will also be available.
4/ For pieces weighing more than 3.2941 oz., rate is 5.0¢/pc. plus 51¢/lb. Destination entry discounts will also be available.

13. Periodicals—Publications Service
Automation-Compatible (Barcoded) Letters[1]

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation[2]*	*Per Pc. Rate[3]*
Carrier Route[4]	**Opt.**	**6 pcs./rt.**	**Carrier Route[4]** (full; no overflow trays) **5-Digit Carrier Routes** (no minimum)	**8.3¢** **8.3¢**
5-Digit	**Req.**	**N/A**	**5-Digit** (150-pc. min.; one less-than-full tray allowed)	**14.7¢**
3-Digit/Scheme	**Req.**	**N/A**	**3-Digit/Scheme[5]** (150-pc. min.; one less-than full tray allowed)	**14.7¢**
AADC	**Req.**	**N/A**	**AADC** (150-pc. min.; one less-than-full tray allowed, grouped by 3-digit/3-digit scheme)	**14.7¢**
Mixed AADC	**Req.**	**N/A**	**Mixed AADC** (no minimum; grouped by AADC; within AADC, subgrouped by 3-digit/3-digit scheme)	**14.7¢**

1/ 85% barcoding requirement applies to all portions of mailing. Carrier route portion must bear barcodes according to the 85% requirement.

2/ For each tray destination, fill all possible 2-foot trays before preparing 1-foot tray(s).

3/ DDU and SCF per piece discounts are also available. Zoned pound rates also apply.

4/ Carrier Route sortation and rates limited to 5-digit ZIP Codes where delivery point sequencing is not performed on delivery barcode sorters.

5/ All mail for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray without regard to 150-piece minimum.

14. Periodicals—Publications Service
Nonautomation-Compatible (Nonbarcoded) Letters

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation[1]*	*Per Pc. Rate[2]*
Firm	**Opt.**	**2 copies**		**8.3¢** or **14.7¢**, depending on further packaging and sacking
Carrier Route[3]	**Opt.**	**6 pcs./rt.**	**Carrier Route[3]** (full; no overflow trays) **5-Digit Carrier Routes** (no minimum)	**8.3¢** **8.3¢**
5-Digit	**Req.**	**6 pcs.**	**5-Digit** (full; no overflow trays)	**14.7¢**
3-Digit	**Req.**	**6 pcs.**	**3-Digit[4]** (full; no overflow trays)	**14.7¢**
ADC	**Req.**	**6 pcs.**	**ADC** (full; no overflow trays)	**14.7¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**14.7¢**

1/ Fill all possible 2-foot trays before preparing a full 1-foot tray. Last or only mixed ADC tray may be less than full.

2/ DDU and SCF per piece discounts are also available. Zoned pound rates also apply.

3/ Carrier Route mail must be in line-of-travel or walk sequence.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray. A less-than-full tray to each such area is permitted.

15. Periodicals—Publications Service—Flats[1]

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*	*Per Pc. Rate[2]*
Firm	**Opt.**	**2 copies**		**8.3¢** or **14.7¢,** depending on further packaging and sacking
Carrier Route[3]	**Opt.**	**6 pcs./rt.**	**Carrier Route[3]** (required at 24 pcs.; lesser quantities permitted; min. one 6-pc. pkg.)	**8.3¢**
			5-Digit Carrier Routes (no minimum)	**8.3¢**
5-Digit	**Req.**	**6 pcs.**	**5-Digit** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**14.7¢**
3-Digit	**Req.**	**6 pcs.**	**3-Digit[4]** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**14.7¢**
ADC	**Req.**	**6 pcs.**	**ADC** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**14.7¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**14.7¢**

1/ Automation-compatible flats must meet 85% ZIP+4 or delivery point barcoding requirement. This requirement includes all portions of mailing. Carrier route portion counts as ZIP+4 or delivery point barcoded mail but is not required to bear barcodes.

2/ DDU and SCF per piece discounts are also available. Zoned pound rates also apply.

3/ Carrier Route mail must be in line-of-travel or walk sequence.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit sack.

16. Periodicals—Regular Subclass—Nonbarcoded Letters

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation*	*Per Pc. Rate*[1]
Firm	**Opt.**	**2 copies**		**16.6¢**[2], **21.7¢,** or **27.2¢,** depending on further packaging and sacking
Carrier Route[2]	**Opt.**	**6 pcs./rt.**	**Carrier Route** (required at 24 pcs.; lesser quantities permitted; min. one 6-pc. pkg.)	**16.6¢**[2]
			5-Digit Carrier Routes (no minimum)	**16.6¢**[2]
5-Digit	**Req.**	**6 pcs.**	**5-Digit** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**21.7¢**[3]
3-Digit	**Req.**	**6 pcs.**	**3-Digit**[4] (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**21.7¢**[3]
ADC	**Req.**	**6 pcs.**	**ADC** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**27.2¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**27.2¢**

1/ Less nonadvertising discount of 0.066¢ for each 1% of nonadvertising content. DDU or SCF discounts may also apply. Zoned pound rates also apply to advertising portion and a pound rate of 19.4¢ applies to nonadvertising portion.

2/ High Density and Saturation discounts may also apply.

3/ 3/5 rates apply only to pieces in 5-digit and 3-digit packages of six or more addressed pieces correctly sorted to 5-digit or 3-digit trays.

4/ All mail for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray.

17. Periodicals—Regular Subclass—Barcoded Letters[1]

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Tray Level and Sortation[2]*	*Per Pc. Rate[3, 4]*
5-Digit	**Req.**	**10 pcs.**	**5-Digit** (full trays; no overflow trays)	**18.8¢**
3-Digit	**Req.**	**50 pcs.**	**3-Digit[5]** (full trays; no overflow trays)	**18.8¢**
AADC	**Req.**	**10 pcs.**	**AADC** (full trays; no overflow trays)	**18.8¢** or **22.6¢** (based on package level)
Mixed AADC	**Req.**	**No min.**	**Mixed AADC** (no minimum)	**18.8¢** or **22.6¢** (based on package level)

1/ At least 85% of pieces must bear a delivery point barcode.

2/ Both 1-foot and 2-foot trays must be used. All possible 2-foot trays must be prepared for a tray level before preparing a 1-foot tray.

3/ Less nonadvertising discount of 0.066¢ for each 1% of nonadvertising content. DDU or SCF discounts may also apply. Zoned pound rates also apply to advertising portion and a pound rate of 19.4¢ applies to nonadvertising portion.

4/ Rates are package-based rates. A package of 10 pieces to a 5-digit ZIP Code or 50 pieces to a 3-digit ZIP Code receives 3/5-digit Barcoded rate, regardless of tray placement.

5/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit tray.

18. Periodicals—Regular Subclass—Nonbarcoded Flats

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*	*Per Pc. Rate*[1]
Firm	**Opt.**	**2 copies**		**16.6¢**[2], **21.7¢**, or **27.2¢**, depending on further packaging and sacking
Carrier Route	**Opt.**	**6 pcs./rt.**	**Carrier Route** (required at 24 pcs.; lesser quantities permitted; min. one 6-pc. pkg.)	**16.6¢**[2]
			5-Digit Carrier Route (no minimum)	**16.6¢**[2]
5-Digit	**Req.**	**6 pcs.**	**5-Digit** (required at 24 pcs.; lesser quantities permitted; min. one 6-pc. package)	**21.7¢**[3]
3-Digit	**Req.**	**6 pcs.**	**3-Digit**[4] (required at 24 pcs.; lesser quantities permitted; min. one 6-pc. package)	**21.7¢**[3]
ADC	**Req.**	**6 pcs.**	**ADC** (required at 24 pcs.; lesser quantities permitted; min. one 6-pc. package)	**27.2¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**27.2¢**

1/ Less nonadvertising discount of 0.066¢ for each 1% of nonadvertising content. DDU or SCF discounts may also apply. Zoned pound rates also apply to advertising portion and a pound rate of 19.4¢ applies to nonadvertising portion.

2/ High Density and Saturation discounts may also apply.

3/ 3/5 rates apply only to pieces in 5-digit and 3-digit packages of six or more addressed pieces that are correctly sorted to 5-digit, or 3-digit sacks.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit sack.

71

19. Periodicals—Regular Subclass—Barcoded Flats[1]

Sort Level	*Opt./ Req.*	*Pkg. Level Min.*	*Sack Level and Sortation*	*Per Pc. Rate[2, 3]*
5-Digit	**Req.**	**6 pcs.**	**5-Digit** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**21.7¢**
3-Digit	**Req.**	**6 pcs.**	**3-Digit[4]** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**21.7¢**
ADC	**Req.**	**6 pcs.**	**ADC** (required at 24 pcs.; lesser quantities permitted; minimum one 6-pc. package)	**27.2¢**
Mixed ADC	**Req.**	**No min.**	**Mixed ADC** (no minimum)	**27.2¢**

1/ At least 85% of pieces must bear a ZIP+4 or delivery point barcode.

2/ Less nonadvertising discount of 0.066¢ for each 1% of nonadvertising content. DDU or SCF discounts may also apply. Zoned pound rates also apply to advertising portion and a pound rate of 19.4¢ applies to nonadvertising portion.

3/ Rates are package-based rates. 3/5 rates apply to pieces in 5-digit and 3-digit packages, regardless of sack in which they are placed.

4/ All 5-digit and 3-digit packages remaining for a 3-digit ZIP Code served by SCF of entry post office must be placed in a 3-digit sack.

BILLING CODE 7710–12–C

D. Automation Carrier Route Rates—Ineligible Zip Codes

First-Class and Standard Mail (A) Automation Carrier Route and Publications Service Carrier Route lettersize mail may *not* be prepared to the 5-digit ZIP Code destinations listed below. This list will *not* appear in the DMM but this information will be available in the City/State file. Printed information may be published periodically in the *Postal Bulletin*.

[INFORMATION IN THIS TABLE IS TENTATIVE AND SUBJECT TO CHANGE BEFORE IMPLEMENTATION OF RATES AND STANDARDS FOR MC95-1]

3-Digit ZIP Code Prefix	5-Digit ZIP Codes
010	01013, 01014, 01020, 01021, 01030, 01056, 01089, 01090, 01095
011	01104, 01109, 01129, 01151
012	01201, 01226, 01240
014	01453
015	01520, 01550, 01581
018	01801, 01803, 01810, 01821, 01822, 01824, 01826, 01830-01835, 01840-01845, 01850-01854, 01862, 01864, 01867, 01880, 01886-01888, 01890
019	01915, 01923, 01930, 01940, 01950, 01951, 01960, 01961
020	02062, 02067, 02072, 02090
021	02121, 02125, 02127, 02131, 02132, 02136, 02148, 02155, 02169-02172, 02174, 02176, 02178, 02180, 02181, 02186, 02188-02194
023	02343, 02368
024	02401, 02403
027	02719, 02738-02740, 02748, 02767, 02770, 02771, 02779, 02780
028	02806, 02809, 02852, 02854, 02886, 02888, 02889, 02893, 02895
029	02904-02911, 02915-02917, 02920, 02921
030	03031, 03038, 03045, 03051, 03053-03055, 03076, 03079, 03087
031	03102-03104, 03106, 03109, 03110
032	03246, 03247
033	03301, 03303, 03304
034	03431
037	03755, 03766, 03784
038	03801, 03820, 03824, 03833, 03839, 03842, 03857, 03865, 03867, 03868, 03878, 03885
040	04011, 04038, 04073, 04074, 04086, 04092

041	04105, 04110
044	04401, 04412
047	04769
051	05156
052	05201
053	05301, 05304
054	05401-05404, 05406, 05407, 05452
057	05701
060	06002, 06010, 06029, 06032, 06040, 06043, 06051-06053, 06062, 06074, 06082, 06095
061	06107, 06109, 06110, 06111, 06117-06119
063	06320, 06340
064	06457, 06473, 06477, 06492, 06497
065	06510, 06511
066	06604, 06606
067	06704, 06705, 06712, 06716
068	06807, 06810-06812, 06820, 06840, 06850, 06851, 06853, 06855, 06880, 06897
069	06902, 06903, 06905-06907
070	07002-07004, 07006, 07009, 07011-07016, 07026, 07031, 07032, 07035, 07036, 07039-07041, 07050, 07052, 07054, 07055, 07057, 07059-07063, 07065-07067, 07070-07075, 07078, 07079, 07081, 07083, 07094, 07095
071	07109
074	07405, 07430, 07444, 07450, 07452, 07470, 07481
075	07508, 07522
076	07603-07605, 07607, 07621, 07624, 07626-07628, 07630-07632, 07640-07642, 07645, 07649, 07652, 07656, 07657, 07661, 07662, 07666, 07670, 07675
077	07753
078	07801, 07802, 07843, 07866, 07871
079	07920, 07928, 07940
080	08002, 08003, 08005, 08010, 08012, 08016, 08021, 08028, 08030, 08031, 08033, 08034, 08043, 08046, 08051-08055, 08057, 08059, 08060, 08065, 08071, 08075, 08077, 08078, 08081, 08088, 08093, 08094, 08096, 08097
081	08102-08110
082	08201, 08203, 08221, 08225, 08226, 08232, 08244
083	08330
084	08401-08403, 08406
086	08608-08611, 08618-08620, 08628, 08629, 08638, 08648, 08690, 08691
087	08701, 08721, 08723, 08724, 08731, 08753, 08755, 08757
088	08807, 08816-08818, 08820, 08837, 08840, 08848, 08852, 08853, 08873, 08876
105	10504, 10514, 10520, 10528, 10538, 10543, 10562, 10573, 10580, 10598
108	10801-10805

74

109	10956
110	11001, 11003-11005, 11030, 11040, 11042
111	11101-11103, 11105, 11106
112	11204, 11215, 11222, 11228, 11231, 11234, 11236, 11237, 11239
113	11356-11364, 11369, 11370, 11378
114	11411, 11413, 11414, 11416-11420, 11422, 11426-11429, 11436
115	11501, 11507, 11510, 11514, 11516, 11518, 11542, 11545, 11557, 11559, 11563, 11568, 11570-11572, 11575-11577, 11590, 11596, 11598
117	11701, 11706, 11709, 11715-11718, 11721, 11722, 11724, 11725, 11729-11731, 11743, 11747, 11751-11754, 11757, 11762, 11767-11769, 11771, 11776, 11777, 11779, 11780, 11783, 11787, 11788, 11791, 11793, 11795, 11797, 11798
118	11801-11804
120	12047, 12054
121	12110, 12144, 12189
122	12205, 12206, 12208, 12211
123	12302, 12303, 12306, 12309
124	12401
125	12533, 12561, 12590
126	12601, 12603
128	12839
130	13021, 13031, 13057, 13066, 13088-13090
131	13126
132	13208, 13209, 13214, 13219
134	13413, 13421, 13440, 13442, 13492
135	13501-13505
136	13601
138	13815, 13820
139	13903, 13904
140	14020, 14021, 14043, 14048, 14051, 14052, 14063, 14072, 14075, 14086, 14092, 14094
141	14103, 14120, 14127
142	14207-14210, 14212-14225, 14227, 14231
143	14301, 14302, 14304, 14305
144	14411, 14420, 14424, 14425, 14437, 14445, 14450, 14456, 14468
145	14510, 14513, 14526, 14527, 14534, 14559, 14564, 14580
146	14601-14603, 14605-14613, 14615-14626, 14692
147	14701, 14760
148	14830, 14845, 14850
149	14901
150	15044, 15065, 15068
151	15102, 15106, 15108, 15122, 15136, 15140, 15146

152	15203-15205, 15207, 15209, 15211, 15215, 15220, 15223, 15224, 15226, 15228, 15229, 15234, 15236-15239, 15241, 15243
153	15301
158	15801
159	15905, 15906, 15963
161	16101, 16105
165	16506, 16508-16510
166	16602
170	17013, 17019, 17022, 17033, 17057, 17070, 17078
171	17102, 17109-17113
173	17325
174	17401-17404, 17406, 17407
175	17522, 17543
176	17601-17603
177	17701, 17740, 17745
180	18013, 18015, 18017, 18018, 18032, 18036, 18042, 18049, 18052, 18055, 18067, 18080
181	18101-18104, 18106
184	18411, 18447
185	18504, 18512
186	18651
187	18702
189	18940, 18954, 18966
190	19001-19004, 19006-19008, 19010, 19013-19015, 19018, 19020-19023, 19025, 19026, 19030-19032, 19034-19038, 19040, 19041, 19044, 19046, 19047, 19050, 19053-19057, 19061, 19063-19067, 19072, 19073, 19075, 19078, 19079, 19081-19083, 19085-19087, 19090, 19094-19096
191	19114-19116, 19118, 19120, 19139, 19140, 19144, 19145, 19147, 19148, 19150-19152, 19154
193	19301, 19312, 19320, 19333, 19335, 19341, 19355, 19372, 19380, 19382
194	19401, 19406, 19409, 19440, 19446, 19477
196	19601, 19604, 19605
197	19702, 19711, 19713
198	19802-19805, 19807-19810
200	20001-20003, 20008-20010, 20015-20020, 20024, 20032
201	20164-20167
206	20601-20603
207	20706, 20707, 20710, 20712, 20715, 20716, 20720, 20721, 20723, 20724, 20737, 20740, 20744, 20748, 20770, 20781-20784
208	20816, 20817, 20832, 20854, 20855, 20866, 20872, 20874, 20876-20879, 20882, 20895
209	20901-20903, 20912
210	21014, 21015, 21029, 21036, 21041-21046, 21055, 21090, 21093, 21094
211	21117, 21128, 21146, 21157, 21162

212	21206, 21207, 21215, 21218, 21221, 21222, 21225-21229, 21236, 21244, 21268, 21270
214	21401, 21403
216	21601, 21613
217	21771, 21784, 21788
220	22003, 22015, 22020-22022, 22027, 22030-22033, 22039, 22041-22044, 22046, 22090, 22091, 22094
221	22101, 22110, 22151, 22153, 22180, 22182, 22191-22193
222	22207
223	22301, 22305, 22310
229	22901, 22902, 22980
230	23058, 23060
231	23112, 23113
232	23226, 23227, 23229, 23233-23237, 23242, 23255, 23294
233	23320, 23327
234	23450, 23451, 23454, 23462
236	23602, 23606, 23609, 23612, 23661, 23669, 23670
238	23832
240	24013, 24015, 24060
241	24153
245	24502, 24503
253	25302-25304, 25309, 25312-25314
255	25526
256	25601
257	25704
262	26201, 26241
263	26330, 26354
265	26554
271	27101, 27103-27107, 27127
272	27215, 27217, 27260
273	27302, 27330, 27360
274	27408
275	27511, 27520, 27526, 27587
276	27603, 27607, 27608, 27610, 27612, 27613, 27615
278	27801, 27803, 27804, 27870, 27886, 27893
280	28012, 28081, 28082, 28086, 28092
281	28110, 28112, 28115
282	28203, 28206-28208, 28211, 28213-28216, 28226, 28227, 28262, 28269, 28270, 28277
283	28301, 28303, 28304, 28306, 28314, 28387
284	28412
285	28501, 28540, 28543, 28544, 28546, 28562

286	28603, 28613, 28658
287	28711, 28786
288	28805
290	29033, 29061, 29072, 29073
291	29169, 29170, 29172
292	29209, 29212, 29223
293	29303
294	29412, 29445, 29455, 29456, 29464, 29483, 29485
295	29501, 29506, 29512, 29532
296	29605, 29607, 29609, 29611, 29621, 29624, 29625, 29640, 29642, 29646, 29649, 29650
298	29803, 29841
300	30001, 30030, 30032-30035, 30050, 30057, 30059, 30060, 30062, 30064, 30066-30068, 30071, 30073, 30075, 30076, 30080, 30082-30084, 30087, 30088, 30092, 30093
301	30134, 30135
302	30207, 30208, 30223, 30240, 30247, 30260, 30263, 30269, 30274, 30296
303	30305-30307, 30310, 30311, 30313-30316, 30318, 30319, 30324, 30327-30329, 30331, 30337, 30338, 30341, 30342, 30344, 30345, 30350, 30354
305	30518
306	30601
307	30720, 30721
309	30901, 30904, 30909
312	31204, 31210
314	31405, 31406, 31411
320	32034, 32055, 32073, 32084, 32086, 32092, 32095
321	32114, 32117, 32119, 32124, 32127, 32176
322	32202, 32204-32211, 32216-32227, 32233, 32244, 32246, 32250, 32254, 32257, 32259, 32266
323	32301, 32303, 32308, 32311, 32312
324	32401, 32403-32405, 32407-32409, 32413, 32444
325	32501, 32503, 32504, 32514, 32534, 32561, 32562, 32566, 32579
326	32601, 32605-32607, 32609
327	32703, 32707, 32708, 32712, 32713, 32720, 32724, 32725, 32730, 32738, 32746, 32750, 32763, 32779, 32780, 32789, 32792, 32796
328	32804, 32807-32809, 32811, 32812, 32817-32822, 32824-32829, 32831-32833, 32835-32837, 32839
329	32903-32905, 32935, 32937, 32952, 32953, 32955
330	33023, 33026-33029, 33060, 33062, 33064, 33065, 33067-33069, 33071, 33073, 33076
331	33122, 33125, 33134, 33135, 33143-33146, 33150, 33155, 33157, 33158, 33165-33168, 33170, 33173-33178, 33183-33187, 33189, 33190, 33193, 33196
333	33304, 33305, 33306, 33309, 33311, 33312, 33314-33316, 33319, 33321-33323, 33325, 33326, 33328, 33330-33332, 33334, 33351

78

334	33403, 33404, 33408-33412, 33414, 33417, 33418, 33426, 33428, 33434, 33436, 33437, 33458, 33462, 33463, 33470, 33471, 33477, 33478, 33496, 33498
335	33510, 33511, 33540, 33541, 33565-33567, 33570, 33573
336	33603-33605, 33607, 33609, 33611-33619, 33624, 33629, 33634, 33635, 33637
337	33701-33716
338	33801, 33803, 33805, 33809, 33811, 33813, 33823, 33825, 33830, 33852, 33860, 33880, 33884
339	33901, 33904, 33907, 33916, 33919, 33936, 33940, 33942, 33952, 33954, 33961-33964, 33971, 33980, 33983, 33990, 33999
342	34203, 34205, 34207-34210, 34217, 34219, 34221, 34222-34224, 34228, 34229, 34231-34243, 34251, 34275, 34285, 34287, 34292, 34293
344	34470, 34471
346	34615, 34616, 34619-34625, 34630, 34635, 34640-34644, 34646-34648, 34652, 34665-34669, 34677, 34683, 34690, 34691, 34695, 34698
347	34741, 34743, 34744, 34746, 34747, 34758, 34759, 34761
349	34945, 34952, 34953, 34972, 34974, 34981-34984, 34986-34988, 34996, 34997
352	35207-35209, 35213, 35214, 35216-35218, 35221, 35223, 35224, 35228, 35242, 35243
354	35401, 35404-35406
358	35802, 35803, 35805, 35806, 35808, 35810, 35811, 35816, 35824
359	35901, 35903-35906, 35999
361	36104-36111, 36113, 36115-36117
366	36608, 36609, 36693, 36695
370	37040, 37042, 37043, 37075, 37076, 37087
371	37129, 37130, 37138
372	37204, 37205, 37207, 37209, 37211, 37214-37216, 37220, 37221
374	37402-37404, 37406, 37411, 37412, 37415, 37416, 37421
378	37801, 37804, 37830
379	37909, 37914, 37915, 37917-37921, 37923, 37931, 37938
380	38017
381	38104, 38109, 38111, 38115-38120, 38125-38128, 38133-38135, 38138, 38139, 38141
384	38401
385	38501
386	38654, 38671
388	38801
390	39042, 39056
391	39110, 39157, 39180
392	39204, 39206, 39211, 39212
394	39401, 39402
395	39520, 39525, 39532, 39564, 39565, 39576
402	40204, 40208, 40215, 40217, 40222, 40242
405	40503, 40514

79

407	40701, 40741
410	41011, 41012, 41014, 41015, 41017, 41018, 41071, 41073-41076
420	42001
421	42134
424	42420, 42431
430	43015, 43017, 43026, 43040, 43068, 43081, 43085
431	43123, 43130, 43147
432	43202, 43206, 43207, 43211, 43213, 43214, 43217, 43220-43222, 43224, 43228, 43230, 43231, 43234, 43235
433	43302
434	43402
435	43528, 43537, 43551
436	43609, 43615, 43617
440	44001, 44017, 44022, 44023, 44035, 44039, 44052-44055, 44070, 44087
441	44102, 44106, 44109, 44111, 44112, 44116, 44117, 44119, 44120, 44122, 44125, 44126, 44131, 44136, 44140, 44143, 44146
442	44223, 44236, 44260
443	44301, 44310, 44321
444	44406, 44420
445	44509
446	44685
447	44705, 44714, 44721
449	44904-44907
450	45005, 45011, 45013, 45015, 45036, 45040, 45042, 45044, 45069
451	45150
452	45203-45209, 45211-45218, 45224, 45226-45233, 45236, 45238-45249, 45251, 45252, 45255
454	45403-45406, 45408, 45409, 45414-45419, 45426, 45427, 45440, 45458, 45459
455	45501-45506
456	45601, 45662, 45663
457	45701, 45714, 45750
458	45806
460	46011-46018, 46032, 46033, 46038, 46052, 46060, 46077
461	46142, 46143
462	46201, 46205, 46214, 46217-46220, 46227, 46237, 46247, 46250, 46253, 46254, 46256, 46268, 46278
463	46304, 46307, 46312, 46324, 46356, 46368
464	46403-46405, 46410
465	46514-46517, 46526, 46530, 46580
466	46613-46615, 46635, 46637, 46660, 46680
467	46706, 46774

80

468	46804, 46805, 46807-46809, 46818, 46819, 46825, 46845, 46895, 46898, 46899
469	46901-46904, 46933, 46938, 46970, 46971
472	47201-47203, 47274
473	47302-47308, 47331, 47348, 47362
474	47401-47408, 47421
475	47501, 47512, 47542, 47546, 47553, 47567, 47586, 47591
477	47711, 47715
478	47802-47805, 47807, 47808
479	47901-47906, 47933, 47960, 47978
480	48007, 48009, 48012, 48017, 48021, 48025, 48026, 48030, 48034-48038, 48042-48046, 48066, 48075, 48076, 48080-48084, 48086, 48089, 48098, 48099
481	48101, 48104, 48108, 48111, 48116, 48120, 48122, 48124-48126, 48128, 48135, 48138, 48141, 48167, 48170, 48174, 48183, 48184, 48187, 48188, 48195, 48197, 48198
482	48201-48203, 48209-48215, 48220, 48230, 48238-48240
483	48301-48304, 48310-48318, 48320-48329, 48331-48336, 48340-48343, 48374-48377, 48383, 48386, 48390
484	48423, 48430, 48433, 48439, 48446, 48458, 48473
485	48506, 48509, 48519, 48529
486	48602-48604, 48609, 48640-48642
487	48706, 48708, 48732
488	48837, 48854, 48864
489	48906, 48910-48912, 48917
490	49080
493	49331
500	50010, 50021, 50036
501	50125
502	50265
503	50310, 50315, 50317, 50322
506	50613, 50616
507	50707
510	51012, 51031, 51041
511	51103
512	51201
513	51301, 51334, 51360
523	52302
524	52401-52410
527	52722, 52733, 52761
528	52801-52809
530	53005, 53008, 53024, 53045, 53092, 53095
531	53122, 53129, 53130, 53132, 53140, 53142-53144, 53151, 53154, 53186, 53188

532	53207, 53208, 53211, 53213, 53214, 53216, 53217, 53220-53228, 53235
534	53402, 53404-53406
535	53511, 53545, 53546, 53562, 53593
537	53704, 53705, 53711, 53714, 53716, 53717, 53719
540	54022
542	54220, 54241
543	54301-54304, 54311, 54313
544	54401, 54402, 54409, 54494
545	54501
547	54701, 54720, 54724, 54729, 54736, 54751, 54755, 54768
549	54901, 54904, 54911, 54914, 54915, 54956, 54971
550	55014, 55016, 55021, 55033, 55044, 55060, 55066, 55068, 55075-55077, 55082
551	55101-55103, 55105, 55107-55110, 55112, 55113, 55115-55117, 55124-55128
553	55303, 55304, 55311, 55313, 55316-55318, 55330, 55331, 55336, 55344-55347, 55350, 55352, 55355, 55362, 55364, 55369, 55371, 55372, 55378, 55379, 55387, 55391
554	55404, 55406-55409, 55411-55413, 55416-55421, 55423, 55425-55434, 55437, 55438, 55441-55450, 55454
556	55614, 55616
557	55719, 55720, 55731, 55744, 55746, 55792
558	55803, 55804, 55806-55808, 55811, 55812
559	55901, 55902, 55904, 55906, 55912, 55987
560	56001, 56003, 56007, 56031, 56071, 56073, 56082, 56093
561	56101, 56143, 56156, 56164, 56187
563	56301-56304, 56308, 56345, 56379, 56387
565	56560
570	57006, 57078
571	57102-57106
572	57201
573	57301, 57350
574	57401
580	58072, 58075, 58078
581	58102, 58103
585	58501, 58554
586	58601
591	59105
600	60008, 60035, 60046, 60050, 60051, 60056, 60062, 60065, 60067, 60068, 60070, 60074, 60078, 60091, 60093
601	60101-60104, 60106-60108, 60110, 60115, 60118, 60120, 60121, 60123, 60126, 60130, 60131, 60134, 60137, 60139, 60143, 60148, 60153, 60154, 60160-60165, 60172, 60174-60176, 60181, 60185, 60187, 60188, 60193-60195

602	60201-60204
603	60301-60305
604	60406, 60417, 60430, 60439-60441, 60445, 60448, 60450, 60462, 60473, 60477, 60478
605	60513, 60514, 60525, 60534, 60538, 60540, 60544, 60558, 60559, 60561, 60563-60565
606	60609, 60612, 60617, 60620, 60621, 60624, 60627-60629, 60632, 60633, 60636, 60638, 60642-60644, 60650, 60652, 60655, 60658
610	61008, 61054, 61081
611	61102
612	61201, 61204, 61244, 61265
615	61523, 61550
616	61614
617	61701, 61704, 61727, 61761, 61764
618	61821, 61832, 61833, 61866
619	61920
620	62024, 62034, 62035, 62040, 62056, 62060, 62095
622	62208, 62220-62223, 62225, 62231, 62236, 62249, 62258, 62294, 62298
625	62568
626	62629, 62650, 62656, 62664
630	63005, 63006, 63010, 63011, 63017, 63020, 63021, 63026, 63028, 63031, 63033, 63034, 63042-63045, 63049-63052, 63069, 63074, 63077, 63084, 63090
631	63105, 63107, 63109-63114, 63116-63132, 63135-63139, 63141, 63143, 63146, 63147, 63163
633	63301, 63303, 63304, 63366, 63367, 63376, 63383, 63385
637	63701, 63755, 63775
638	63841
639	63901
640	64015, 64024, 64030, 64050, 64055, 64057, 64063, 64064, 64068, 64081-64083
641	64109-64113, 64114, 64116-64120, 64123-64134, 64136-64139, 64145-64147, 64149-64156, 64161, 64163-64166
651	65101, 65109
652	65201-65203, 65270
656	65605
658	65802-65804, 65806-65810
660	66002
661	66101-66104, 66106, 66109, 66111, 66112
662	66202, 66205, 66208-66210, 66213-66215, 66219-66221, 66223, 66224, 66227
666	66603-66607, 66609, 66611, 66612, 66615, 66616, 66619
668	66801
671	67114
672	67202, 67203, 67205-67209, 67211-67215, 67217, 67218, 67220, 67226-67228, 67230, 67235, 67278

675	67501, 67502, 67505
680	68005, 68025, 68046
681	68106, 68112, 68114, 68117, 68123, 68124, 68127, 68128, 68133, 68135, 68136-68138, 68144, 68147, 68152, 68157
683	68310
685	68502-68508, 68510, 68512, 68516, 68520-68524, 68526, 68528, 68531, 68532
686	68601, 68661
687	68701, 68776, 68787
688	68801, 68803, 68849
689	68949, 68959
700	70001-70003, 70005, 70006, 70043, 70053, 70056, 70058, 70062, 70065, 70072
701	70114, 70115, 70118, 70119, 70121-70129, 70131
704	70458, 70460, 70461
705	70503, 70506-70508
708	70801, 70802, 70805-70812, 70814-70820, 70825, 70827
711	71101, 71103-71109, 71111, 71112, 71115, 71118, 71119, 71129
721	72113, 72114, 72116-72118, 72120
727	72701, 72703, 72712, 72714, 72739, 72756, 72762, 72764
730	73013, 73034, 73069, 73071, 73072, 73099
731	73103, 73106, 73107, 73109, 73110, 73115, 73118-73120, 73129, 73130, 73134, 73135, 73139, 73142, 73145, 73149, 73150, 73159, 73162, 73169, 73173, 73179
740	74011, 74012, 74014
741	74104, 74105, 74108, 74114, 74127-74129, 74133, 74134, 74136, 74137, 74145, 74146
750	75006-75008, 75010, 75023-75025, 75028, 75038-75040, 75043, 75044, 75048, 75050-75052, 75056, 75057, 75060-75063, 75067, 75074, 75075, 75081, 75082, 75093, 75094
751	75104, 75115, 75116, 75137, 75149, 75150, 75180-75182
752	75203, 75205-75207, 75209, 75211, 75212, 75214, 75216-75218, 75220, 75224, 75225, 75227-75230, 75232-75234, 75236-75238, 75244, 75248, 75249
756	75604, 75605
757	75701-75703
760	76006, 76010-76018, 76021, 76022, 76028, 76039, 76040, 76051, 76053, 76054
761	76103, 76105-76112, 76114-76120, 76123, 76126, 76131-76135, 76137, 76140, 76148, 76177, 76179, 76180
762	76201, 76205, 76207, 76208
765	76501, 76502, 76504, 76522
767	76701, 76704-76706, 76710-76712
770	77014, 77016, 77018, 77019, 77024, 77031-77033, 77035, 77036, 77038-77040, 77045, 77047, 77048, 77050, 77051, 77053, 77059, 77060, 77062, 77064-77075, 77077, 77079, 77081-77085, 77089, 77090, 77092-77096, 77099
773	77301-77304, 77338, 77346, 77373, 77379-77381, 77384-77386, 77388, 77389, 77396

774	77401, 77414 ,77429, 77433, 77437, 77449, 77450, 77459, 77469, 77477-77479, 77489, 77493, 77494
775	77502-77507, 77515, 77520, 77521, 77530, 77546, 77571, 77586, 77598
776	77619, 77627, 77630, 77632, 77640, 77642, 77651
777	77701-77703, 77705-77708
782	78201, 78203, 78208-78228, 78230-78233, 78235, 78237-78240, 78242, 78244, 78245, 78247-78261, 78263, 78264, 78266
783	78332, 78363, 78374
784	78406, 78409, 78410, 78412-78414, 78418
785	78501, 78503, 78504, 78539, 78572, 78577
787	78703, 78704, 78717, 78723-78739, 78746, 78747, 78749, 78750, 78752-78754, 78756-78759
791	79101-79104, 79106-79111, 79121, 79124
794	79401, 79407, 79410, 79415, 79416, 79423, 79424
797	79703, 79705, 79707, 79761, 79763, 79766
799	79903, 79905, 79912, 79922, 79932, 79936
800	80002-80005, 80010-80022, 80026, 80027, 80030, 80033, 80034
801	80104, 80110-80112, 80120-80127, 80134, 80155
802	80211, 80214, 80215, 80220, 80221, 80226-80228, 80232-80236, 80239, 80241, 80249
803	80301-80304, 80306-80308
804	80439
805	80521, 80524-80526, 80537-80539
806	80631, 80634
809	80903, 80905, 80906, 80908, 80909, 80919-80921, 80926, 80928-80930, 80932, 80949, 80960, 80962
820	82070
834	83401-83406, 83440
836	83605
837	83703, 83705, 83712
838	83814, 83854, 83864
840	84010, 84040, 84041, 84054, 84057, 84058, 84070, 84075, 84084, 84087, 84088, 84092-84094
841	84105-84107, 84117, 84119-84121, 84123, 84124
844	84401, 84403-84405, 84414
846	84601, 84604, 84606
850	85007, 85009, 85040, 85044
852	85201, 85203, 85205, 85207, 85213, 85251, 85254, 85255-85257, 85259, 85260, 85283, 85284
853	85301, 85302, 85345, 85375, 85380
857	85712, 85715, 85747, 85748
871	87102, 87104, 87114, 87120, 87124
890	89005, 89014, 89015, 89030, 89031
891	89104, 89110, 89115, 89121, 89122, 89134

894	89431
895	89511
900	90021, 90035, 90038, 90039, 90044, 90046, 90047
902	90230, 90232, 90266, 90274, 90280
905	90501-90505
906	90620, 90621, 90623, 90630
907	90712, 90713, 90715, 90716
908	90808
910	91006, 91007, 91024, 91040
911	91108
913	91302, 91364, 91367
917	91722-91724, 91731-91733, 91744-91746, 91748, 91760, 91765-91768
920	92007, 92009, 92014, 92026, 92027, 92040, 92057, 92075, 92083, 92084
921	92114, 92124, 92127, 92130, 92154
922	92220, 92223
923	92316, 92324, 92336, 92346, 92354
925	92501, 92502, 92509, 92519, 92555, 92557, 92562-92564
926	92640, 92641, 92643-92645, 92667, 92669, 92675, 92679, 92686, 92687, 92692
927	92701, 92703, 92705, 92707, 92714, 92715, 92720
928	92808
930	93010, 93012, 93021, 93030, 93035, 93041, 93063, 93065
931	93108-93111
932	93215, 93230, 93245, 93257, 93268, 93291, 93292
933	93306, 93308, 93312
937	93705, 93720, 93726, 93728
939	93907, 93908, 93923
940	94066, 94070, 94087, 94089
941	94124, 94127, 94134
943	94301, 94306
945	94506, 94510, 94518-94521, 94523, 94526, 94530, 94547, 94553, 94558, 94559, 94564, 94572, 94580
946	94605
948	94801, 94803
949	94928, 94930, 94931, 94960
950	95014, 95035, 95050, 95070
951	95111, 95118-95121, 95124, 95125, 95135, 95136, 95138, 95139, 95148
952	95201-95206, 95209, 95210, 95212, 95215, 95219, 95240-95242
953	95307, 95350, 95354, 95376, 95378, 95380
954	95448, 95482, 95492
956	95605, 95620, 95624, 95677, 95691

86

957	95758, 95759
958	95815-95821, 95824, 95833-95837, 95841
967	96720, 96744, 96782, 96786, 96789
968	96816, 96818, 96819, 96821, 96825
970	97027
972	97219, 97228
973	97301-97303, 97305, 97306
974	97404
980	98001-98004, 98006-98008, 98011, 98012, 98020, 98021, 98023, 98026, 98027, 98031, 98036, 98037, 98040, 98042, 98043, 98047, 98052, 98053, 98055, 98056, 98058, 98059, 98072
981	98110, 98125, 98155, 98168, 98188, 98198
982	98201, 98203-98205, 98208, 98270, 98271, 98275
983	98371-98374
985	98501-98503, 98506, 98512, 98513, 98516
989	98661, 98664, 98684
990	99037
992	99202-99209, 99212, 99216, 99218, 99223, 99228
993	99301, 99336, 99337, 99352
994	99403
995	99502

BILLING CODE 7710–12–C

E. Summary of DMM Changes

The DMM revisions shown below are based on the general proposals described in the two advance notices of proposed rulemaking published earlier this year by the Postal Service, on which comments have been received and considered accordingly. Revisions are described by module, based on the organization and content of DMM Issue 49 (September 1, 1995). This list is intended as an overview only, and should not be viewed by commenters as defining every revision that they may need to examine.

A (Addressing). Revisions in nomenclature are made throughout. A930 is revised to update the list of available AIS products, and A950 is revised to show the more frequent product cycle for address coding products.

C (Characteristics and Content). Revisions in nomenclature are made throughout. C100 is amended to reflect the proposed new size limits for pieces eligible for card rates. C300 and C400 are revised and merged into new C600 to recognize the merger of third- and fourth-class into Standard Mail. Terms used in various standards are defined in new sections added to C810, C820, and C840.

D (Deposit, Collection, and Delivery). Revisions in nomenclature are made throughout. D300 and D400 are revised and merged into new D600 to recognize the merger of third- and fourth-class into Standard Mail.

E (Eligibility). Revisions in nomenclature are made throughout. E100 is amended to reflect the reorganization of First-Class Mail (excluding Priority Mail) into the Retail and Automation subclasses (whose specific standards are detailed in E130 and E140, respectively). E200 is renamed to recognize the renaming of second-class mail as Periodicals. E210, E250, and E270 are revised minimally. E220 is added to present the standards for Publications Service. E230 is reorganized to present the presort standards for Regular and Publications Service in E231 and E232, respectively, and the standards retained for Preferred Periodicals in E239. E240 is similarly revised to present the automation standards for Regular publications in E241 and those brought forward from existing rules for Preferred publications in E249. (Standards for automation-compatible Publications Service mail are included in the basic eligibility criteria in E220; there is no separate automation rate for Publications Service.) E300 and E400 are revised and merged into new E600 to recognize the merger of third- and fourth-class into Standard Mail. E610 presents basic standards for all Standard Mail in E611, for former third-class mail, now called Standard Mail (A) in E612, and for former fourth-class mail, now called Standard Mail (B) in E613. E620 contains standards for single-piece rates: single-piece Standard Mail (A) (E621), parcel post (E622), bound printed matter (E623), Special Standard Mail (currently special fourth-class mail) (E624), and Library Mail (E625). E630 presents standards for bulk rates: Regular Basic and 3/5 (E631); Enhanced Carrier Route Basic, High Density, and Saturation (E632); basic and carrier route bulk bound printed matter (E633); 5–Digit and BMC Presorted Special Standard Mail (E634); and, consolidated but without substantive change from current standards, for all existing Nonprofit rates (E639). E640 contains standards for automation-based rates: Automation Carrier Route, 5-Digit, 3-Digit, 3/5 (for flats), and Basic (E641); and, also consolidated but essentially unchanged from current standards, for all existing Nonprofit rates (E649). E650 and E670 are revised minimally. To avoid an anomalous and confusing situation in which current weight limits for ''heavy letter'' barcoded mail would be applied in the context of proposed rules (under which different weights would actually apply), current DMM standards that are in place for the ''heavy letter'' test (59 FR 65967–71, December 22, 1994), have been revised for this rulemaking to reflect the DMM provisions that would become effective if the test changes are made permanent in the future. Use of these standards in this proposed rule does not constitute an explicit or implicit decision on the test or the acceptability of heavy letter mail under any circumstance; any announcement in that regard will be made separately.

F (Forwarding and Related Services). Revisions are confined to changes in nomenclature.

G (General Information) and I (Index Information). No revisions are made.

L (Labeling Lists). Revisions in nomenclature are made throughout. L003 is added to list 3-digit ZIP Code areas that are combined for scheme sortation (only to listed destinations) under specific new preparation standards. To reflect the wider use of the ADC network, current L101 is relocated and renumbered as L004. To reflect other revisions to distribution networks that have eliminated SDC, state, and mixed states preparation, L201–203, L701–704, L706, and L707 are deleted.

M (Mail Preparation and Sortation). Revisions in nomenclature are made throughout. Current M011 is renumbered as M012, and new M011 is added to consolidate basic definitions of terms used throughout other mail preparation instructions. M012 and M013 are also updated to include revised formats for optional endorsement lines and carrier route information lines and to allow the inclusion of rate markings in both. M020 is amended to provide more consistent package preparation standards for other-than-Nonprofit mail. M033 is revised to add consistent standards for tray preparation for letter- and flat-size mail and to offer enhanced information about sack and tray preparation. M040 is amended to incorporate revisions to pallet preparation standards set forth in a final rule expected to be published on December 20, 1995. M041 is revised to present general standards for pallets and their use. M045 reorganizes the standards in current M042, M043, and M044 as amended by the cited rulemaking, to present the revised and consolidated standards for palletized mail preparation. M050 is revised to include information about line-of-travel sequencing. M100 is reorganized, with the standards for Retail Presort located in new M130. Preparation standards for nonautomation Regular and Publications Service Periodicals are in new M210; existing standards for nonautomation Preferred Rate Periodicals are consolidated in M290. M300 and M400 are revised and merged into new M600 to recognize the merger of third- and fourth-class into Standard Mail. Regular Standard Mail (A) preparation is detailed in M610, Enhanced Carrier Route standards are in M620, and existing standards for Standard Mail (B) (current fourth-class mail) and for Nonprofit Standard Mail are contained in M630 and M690, respectively. Revised preparation standards for Automation First-Class, automation-compatible Publications Service and Barcoded rate Regular Periodicals, and Automation Standard Mail are contained in M810 (letter-size pieces) and M820 (flat-size pieces). M890 brings forward existing standards for Preferred Periodicals and Nonprofit Standard Mail. Throughout, the optional city preparation level has been eliminated (except for Preferred Periodicals); the SDC, state, and mixed states preparation levels have been replaced with ADC and mixed ADC levels; and increased citation to P012 has been made as that section is being developed as the definitive standard for basic documentation.

P (Postage and Payment Methods). Revisions in nomenclature are made throughout. P012 is amended to improve the definition of ''standardized'' documentation. P300 and P400 are revised and merged into new P600 to recognize the merger of third- and fourth-class into Standard Mail. P710 is amended to contain new abbreviations for use with manifest mailings.

R (Rates and Fees). Revisions in nomenclature are made throughout. R000 contains updated stamp and stamped stationery information. R100 and R200 are amended to reflect revised rates and rate structures. R300 and R400 are revised and merged into new R600 to recognize the merger of third- and fourth-class into Standard Mail and to show revised rates and rate structures.

S (Special Services). Revisions in nomenclature are made throughout with no other substantive changes.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as noted below:

* * * * *

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,
Chief Counsel, Legislative.

A Addressing

A000 Basic Addressing

A010 General Information

[In 1.2d, replace ''Presorted First-Class,'' ''second-class,'' and ''bulk third-class mail; fourth-class mail'' with ''Retail Presort First-Class,'' ''Periodicals,'' and ''bulk rate Standard Mail (A); Standard Mail (B),'' respectively; delete the last sentence in 1.3; in 1.6 and 7.1, replace ''First-, third-, and fourth-class mail'' with ''First-Class and Standard Mail''; in 1.6, replace ''second-class'' with ''Periodicals''; in 4.3f and 7.0 (heading), replace ''Second-[c]lass'' with ''Periodicals''; and in 4.3g, replace ''Fourth-class mail'' with ''Standard Mail (B).'']

A040 Alternative Addressing Formats

[In 1.7, 2.2, 3.1, and 3.4, replace ''second-class'' with ''Periodicals.'']

A060 Detached Address Labels

[In 1.2, replace ''[S]econd- or [T]hird-[c]lass'' with ''Periodicals or Standard Mail (A)''; in 1.3, replace ''[T]hird-[C]lass'' with ''Standard Mail (A)''; in 1.4 (heading) and 5.2b, delete ''[F]ourth-[C]lass''; in 5.2a, replace ''Second-class'' with ''Periodicals''; in 5.2b, replace ''[T]hird-class'' with ''Standard Mail (A)''; in 5.3, replace ''third- or fourth-class'' with ''Standard Mail.'']

* * * * *

A930 Other Services

* * * * *

2.0 AIS PRODUCTS

Customers should use USPS Address Information System (AIS) products to obtain correct 5-digit ZIP Codes for the addresses on their mailing lists. These products generally are more economical than mailing list services. Customers with computerized address lists may obtain the City/State file, Five-Digit ZIP Code file, Line-of-Travel (LOT) information, Z4CHANGE file, ZIP Move file, Carrier Route Information System (CRIS), and ZIP+4 tapes. Customers may also use USPS directories and microfiche products to find correct 5-digit ZIP Codes for single and multi-ZIP Coded offices. Information about ordering and using these products is available by calling 1–800–238–3150.

* * * * *

[In 3.1a, 4.2, 4.3, 4.4, and 4.6, replace ''[Q]uarterly'' with ''[B]imonthly.'']

* * * * *

A950 Coding Accuracy Support System (CASS)

* * * * *

3.0 DATE OF ADDRESS MATCHING AND CODING

3.1 Updating Standards

Unless using Z4CHANGE, all automation and carrier route mailings bearing addresses coded by any AIS product must have been coded with current CASS-certified software and the current USPS database. Coding must have been performed within 90 days of the mailing date for all carrier route mailings; within 6 months for other Automation First-Class, Automation Standard Mail, and Publications Service mailings; within 1 year for other Nonprofit Standard Mail ZIP+4 and Barcoded rate and Regular Periodicals Barcoded rate mailings. All AIS products can be used immediately upon release. New product releases must be included in address matching systems no later than 45 days following the release date. The overlap in the product use dates allows mailers adequate time to install the new data files and test their systems. Mailers are expected to update their systems with the latest data files as soon as practical and need not wait until the ''last permissible use'' date to include the new information in their address matching systems. The ''current USPS database'' product cycle is defined by this matrix:

File release	Required use	Last permissible use
Use of the file released on	Must begin no later than:	And must end no later than:
February 15	April 1	May 31.
April 15	June 1	July 31.
June 15	August 1	September 30.
August 15	October 1	November 30
October 15	December 1	January 31.
December 15	February 1	March 31.

* * * * *

5.0 DOCUMENTATION

* * * * *

5.4 Providing Required Data

* * * * *

b. Name of the list processor using the CASS-certified software to match and code the address list, the date the address list was processed, the date of the USPS database used to code the address list, the address list name or identification number, the total number of address records on the list submitted for coding, the total number of address records successfully coded to the appropriate depth of code, and the percentage of total addresses submitted for coding that were successfully coded.

* * * * *

6.0 OBTAINING CASS CERTIFICATION

6.1 Testing Arrangements

[Replace ''ZIP+4 or delivery point'' with ''carrier route, ZIP+4, or delivery point.'']

* * * * *

C Characteristics and Content

C000 General Information

C010 General Mailability Characteristics

[In 1.1, replace ''third-class'' with ''Standard Mail (A)''; in 1.7, replace ''third-class mail'' with ''Standard Mail (A)''; in 3.8, replace ''third-class'' with ''Standard Mail (A)''; no other change in text.]

* * * * *

C024 Other Restricted or Nonmailable Matter

[In 12.1, replace ''First-, third-, or fourth-class'' with ''First-Class or Standard Mail''; no other change in text.]

* * * * *

C050 Mail Processing Categories

1.0 BASIC INFORMATION

[Replace current 1.1 and 1.2 with the following:]

All mail is assigned to one of the mail processing categories listed below, based on the physical dimensions of the mailpiece, regardless of the placement (orientation) of the delivery address on the mailpiece. Unless permitted by standard, any mailing at other than the single-piece First-Class or Standard Mail rates may not contain pieces from more than one processing category.

* * * * *

3.0 FLAT-SIZE MAIL

* * * * *

3.2 Barcoded Flats

Automation-compatible flat-size mail is all mail meeting the dimensional criteria in C820.

* * * * *

C100 First-Class Mail

1.0 DIMENSIONS

[In 1.2, delete the parenthetical reference.]

* * * * *

2.0 CARDS CLAIMED AT CARD RATES

2.1 Postcard Dimensions

Each card (i.e., each postal card or postcard or each half of a double postal card or postcard) claimed at a card rate must be:

a. Rectangular.

b. Not less than 3½ inches high, 5 inches long, or 0.007 inch thick.

c. Not larger than 4–1/4 inches high, 6 inches long, or 0.016 inch thick.

* * * * *

2.8 Special Rules for Cards

Cards not mailed as Retail Presort First-Class Mail but with the characteristics noted in 2.6 or 2.7 must:

a. Be prepared in mailings of not less than 200 cards of identical size and weight.

b. Have an address that includes the correct ZIP Code or ZIP+4 code.

c. Have postage paid with permit imprints, meter stamps, or precanceled stamps.

d. Be presorted to the finest extent possible and trayed as required for Regular Basic and 3/5 rate Standard Mail.

* * * * *

C200 Periodicals

[In 1.1, 1.2, 1.3, 1.4, 1.4a, 1.4b, 1.4c, 1.6, 1.9, 1.10a, 1.10c, 2.1, 2.2, 2.3, 2.4, 2.5, 3.3, 3.7, 4.2, and 4.4, replace ''[S]econd-[C]lass'' with ''Periodicals''; in 1.3, 1.3b, 1.3c, 1.3d, and 1.10c, replace ''First- or [any] third-class'' with ''First-Class or [any] Standard Mail (A)''; in 1.3a, 1.3c, 1.3d, 1.8b, and 1.10c, replace ''[T]hird-[C]lass'' with ''Standard Mail (A)''; in 2.2c, replace ''First-, third-, or fourth-class'' with ''First-Class or Standard Mail''; in 2.4, replace ''Fourth-[C]lass'' with ''Standard Mail (B)''; no other change in text.] [Delete current C300 and C400; no change to current C500.]

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

1.1 Standard Mail (A)

These dimensional standards apply to Standard Mail (A):

a. Each piece must weigh less than 16 ounces. Lower limits apply to mail claimed at certain rates.

b. Within the standards for mailability in C010, there is no maximum size for Regular single-piece, Basic, and 3/5 rate Standard Mail (A).

c. Except for merchandise samples mailed with detached address labels (DALs), the maximum size for Enhanced Carrier Route Standard Mail is 11–3/4 inches high, 14 inches long, and 3/4 inch thick (see Exhibit 1.1c). Merchandise samples whose dimensions exceed these maximums may be sent at the carrier route rate if mailed using DALs, provided that the samples meet all other applicable standards and the DALs meet the standards in A060.

d. Minimum and maximum standards for size and weight might be different for pieces claimed at certain rates.

1.2 Standard Mail (B)

These dimensional standards apply to Standard Mail (B):

a. Each piece may not exceed 70 pounds, except matter at bound printed matter rates may not exceed 10 pounds.

b. The combined length and girth of a piece (i.e., the length of its longest side plus the distance around its thickest part) may not exceed 108 inches (see Exhibit 1.2b).

c. Two or more packages may be mailed as a single parcel, if they are about the same size or shape or if they are parts of one article, if they are securely wrapped or fastened together, and if they do not together exceed the weight or size limits.

d. Lower size or weight standards apply to mail claimed at certain rates, addressed to certain APOs and FPOs, and sent by the Department of State to U.S. Government personnel abroad.

e. Pieces might be subject to minimum weight or dimensions based on the standards for specific rates. [Redesignate current Exhibits [C300.]1.3 and [C400.]1.2 as Exhibits [C600.]1.1c and 1.2b, respectively.]

2.0 SURCHARGES

2.1 Nonstandard Mail

Single-piece rate Standard Mail (A) (other than a key or identification device) weighing 1 ounce or less is nonstandard and subject to the applicable surcharge if its thickness exceeds ¼ inch or if, based on the placement (orientation) of the address, its length exceeds 11-½ inches, its height exceeds 6-⅛ inches, or its length divided by its height is less than 1.3 or more than 2.5.

2.2 Nonmachinable Mail

Specific items mailed at the inter-BMC/ASF parcel post rates might be subject to a nonmachinable surcharge (as described in E600) unless the mailer paid the special delivery or special handling fee.

3.0 SEALING

Standard Mail is not sealed against postal inspection. Standard Mail may be prepared for automated processing but must allow easy examination.

C800 Automation-Compatible Mail

C810 Letters and Cards

1.0 BASIC STANDARDS

1.1 Standards

All pieces must meet the general and specific standards for mailability and their respective mail class. Pieces claimed at a card rate must also meet the standards in C100.

1.2 Definitions

Terms used in these standards are defined as follows:

a. A ''barcoded mailing'' is one at the Automation First-Class, Barcoded Regular and Preferred Periodicals, Publications Service Periodicals (for automation-compatible pieces only), Automation Standard Mail, or a barcoded Nonprofit Standard Mail rates.

b. An ''automation rate mailing'' or ''mailing at an automation-based rate'' is one at any of the rates in 1.2a or the ZIP+4 rates for Preferred Periodicals and Nonprofit Standard Mail.

c. ''Barcoded [cards/letters/pieces]'' refers to pieces in a barcoded mailing.

2.0 DIMENSIONS

[Renumber current 2.0 through 10.0 as 3.0 through 11.0, respectively; renumber current 1.2 and 1.3 as 2.1 and 2.2, respectively; consolidate current 1.4 and 1.5 into new 2.3; revise other text as follows:]

* * * * *

2.3 Weight

These weight limits apply to automation-compatible mail:

a. Pieces of upgradable Retail First-Class, preferred ZIP+4 rate Periodicals, upgradable Regular Standard Mail, or Nonprofit ZIP+4 rate Standard Mail must not exceed 2.5 ounces.

b. Pieces of Automation First-Class and Standard Mail, automation-compatible Publications Service and Barcoded rate Regular Periodicals mail, and Barcoded rate Nonprofit Standard Mail must not exceed 3 ounces, except that the maximum weight for pieces that meet additional barcoding standards in C840, are prepared in an envelope, and are part of a 100% delivery point barcoded mailing is 3.4383 ounces for Automation First-Class, Barcoded Regular or automation-compatible Publications Service Periodicals, and Nonprofit Standard Mail; and 3.2941 ounces for Automation Standard Mail.

3.0 PROHIBITIONS

3.1 Wraps and Closures

An automation-compatible mailpiece may not be polywrapped, polybagged, or shrinkwrapped; have clasps, string, buttons, or like materials as a closure device; or have protrusions that might impede or damage the mail or mail processing equipment.

* * * * *

[In 5.5, replace ''second-class'' with ''Periodicals.'']

* * * * *

C820 Flats

[Renumber current 2.0 through 6.0 as 3.0 through 7.0, respectively; renumber current 1.2 through 1.5 as 2.1 through 2.4, respectively; in renumbered 2.5b, 6.2, and 7.5, replace ''second-class'' with ''Periodicals''; in renumbered 2.5c, replace ''third-class'' with ''Standard Mail (A)''; revise other text as follows:]

1.0 BASIC STANDARDS

1.1 Standards

All pieces must meet the general and specific standards for mailability and the class of mail and rate claimed.

1.2 Definitions

Terms used in these standards are defined as follows:

a. A ''barcoded mailing'' is one at the Automation First-Class, Barcoded Regular and Preferred Periodicals, Publications Service Periodicals (for automation-compatible pieces only), Automation Standard Mail, or a barcoded Nonprofit Standard Mail rates.

b. An ''automation rate mailing'' or ''mailing at an automation-based rate'' is one at any of the rates in 1.2a or the ZIP+4 rates for Preferred Periodicals and Nonprofit Standard Mail.

c. ''Barcoded [flats/pieces]'' refers to pieces in a barcoded mailing.

* * * * *

C840 Barcoded Mailpieces

[Retitle 1.0, renumber current 1.1 through 1.5 as 1.2 through 1.6, and add new 1.1 as follows:]

1.0 DEFINITIONS OF TERMS AND BARCODE FORMATS

1.1 Terms

Terms used in these standards are defined as follows:

a. A ''barcoded mailing'' is one at the Automation First-Class, Barcoded Regular and Preferred Periodicals, Publications Service Periodicals (for automation-compatible pieces only), Automation Standard Mail, or a barcoded Nonprofit Standard Mail rates.

b. An ''automation rate mailing'' or ''mailing at an automation-based rate'' is one at any of the rates in 1.1a or the ZIP+4 rates for Preferred Periodicals and Nonprofit Standard Mail.

c. ''Barcoded [cards/letters/flats/pieces]'' refers to pieces in a barcoded mailing.

* * * * *

2.0 BARCODE LOCATION—LETTER-SIZE PIECES

2.1 Barcode Clear Zone

Unless it bears a DPBC in the address block, each automation-compatible Publications Service piece and each piece in a mailing at an automation-based rate must have a barcode clear zone. The barcode clear zone and all printing and material in it must meet the reflectance standards in 5.0. The barcode clear zone is a rectangular area in the lower right corner of the address side of cards and letter-size mailpieces defined by these boundaries:

a. Right: Right edge of the mailpiece.

b. Left: 4¾ inches from the right edge of the mailpiece.

c. Bottom: Bottom edge of the mailpiece.

d. Top: ⅝ inch from the bottom edge of the mailpiece.

2.2 General Standards

Barcode location is subject to these general standards:

a. ZIP+4 rate pieces may bear a DPBC within either the address block or the barcode clear zone in the lower right corner of the address side. Pieces may not bear a ZIP+4 barcode in the lower right corner. Subject to rate eligibility standards, pieces may bear a ZIP+4 barcode in the address block or a 5-digit barcode within either the address block or the barcode clear zone in the lower right corner of the address side.

b. Pieces in barcoded mailings, except those subject to 2.2c, may bear a DPBC (or, when allowed by standard, a 5-digit barcode) in either the address block or the barcode clear zone. Pieces may bear a ZIP+4 barcode (subject to rate eligibility standards) only in the address block unless the DPBC pieces in the mailing are barcoded in the barcode clear zone.

c. Pieces weighing more than 3 ounces, up to the maximum weight for barcoded pieces permitted by C810, must bear a DPBC in the address block.

2.3 Printed on Mailpiece

Except as noted in 8.2 for 5-digit barcodes, if the barcode is printed directly on the lower right corner of the piece, the entire barcode must be inside the barcode read area defined by these limits:

a. Horizontally, the leftmost bar must be between 3½ inches and 4¼ inches from the right edge of the mailpiece.

b. Vertically, the barcode must be positioned in the area between $\frac{3}{16}$ inch and $\frac{7}{16}$ inch from the bottom edge of the mailpiece; the bottom of the bars must be ¼ inch $\pm\frac{1}{16}$ inch from the bottom edge of the mailpiece.

2.4 Printed on Inserts

If the barcode is printed on an insert to appear through a window in the lower right corner of an envelope:

a. The envelope and window must meet the physical standards in 7.0.

b. The entire barcode must be inside the barcode clear zone (but need not be completely inside the barcode read area).

c. When the insert showing through the window is moved to any of its limits within the envelope, the entire barcode must remain in the barcode clear zone, and a clear space must be maintained that is at least ⅛ inch between the barcode and the left and right edges of the window, at least $\frac{1}{25}$ inch between the barcode and the top edge of the window, and at least $\frac{3}{16}$ inch between the barcode and the bottom edge of the mailpiece.

2.5 Printed in Address Block

When the barcode is placed in the address block:

a. The barcode must be placed above the address line containing the recipient''s name; below the city, state, and ZIP Code line; above or below the keyline information; or above or below the optional endorsement line.

b. The printing of the barcode anywhere between the address line containing the recipient''s name and the city, state, and ZIP Code line is prohibited.

c. The minimum clearance between the barcode and any information line above or below it within the address block must be at least $\frac{1}{25}$ inch, and the separation between the barcode and top line or bottom line of the address block must not exceed ⅝ inch.

d. If a window envelope is used, the clearance between the leftmost and rightmost bars and any printing or window edge must be at least ⅛ inch, and the clearance between the barcode and the top and bottom window edges must be at least $\frac{1}{25}$ inch. These clearances must be maintained during the insert''s range of movement in the envelope. Address block windows on heavy letter mail (as defined in 2.2c) must be covered; such windows may be covered on other mail. Covers for address block windows are subject to 7.3.

e. If an address label is used, a clear space of at least ⅛ inch must be left between the barcode and the left and right edges of the address label, and the clearance between the barcode and the top and bottom edges of the address label must be at least $\frac{1}{25}$ inch.

f. The rightmost bar must be at least ½ inch from the right edge of the mailpiece, and the leftmost bar must be less than 10½ inches from the right edge of the mailpiece and at least ½ inch from the left edge of the mailpiece; the top of each bar must be less than 4 inches from the bottom edge of the mailpiece; and the bottom line of the address block, including the barcode, must be at least ⅝ inch from the bottom of the mailpiece.

[Add new 3.0; renumber current 3.0 through 9.0 as 4.0 through 10.0, respectively, and revise as follows:]

3.0 BARCODE LOCATION—FLAT-SIZE MAIL

The barcode may be anywhere on the address side that is at least 1/8 inch from any edge of the mailpiece. That portion of the surface of the piece on which the barcode is printed must meet the reflectance standards in 5.0. The address side may bear only one POSTNET-format barcode (i.e., the correct barcode for the delivery address on the mailpiece). Other mailer-applied non-POSTNET barcodes may appear on the address side if their format is not intelligible or not confusing to automated postal equipment. Address block barcodes are subject to the standards in 2.5a through 2.5f.

* * * * *

5.0 REFLECTANCE

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5.4 Dark Fibers, Background Patterns

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c. The barcode clear zone on all nonbarcoded pieces in a letter-size barcoded mailing.

* * * * *

8.0 USE OF ZIP+4 OR 5-DIGIT BARCODES

8.1 Automation Pieces

Subject to the eligibility standards for the rate claimed, pieces may bear ZIP+4 or 5-digit barcodes if they meet the standards in 3.0 through 7.0, except that:

a. ZIP+4 barcodes may not appear in the lower right corner on pieces in Nonprofit Standard Mail or Preferred Periodicals ZIP+4 rate mailings or Nonprofit Standard Mail or Preferred Periodicals Barcoded rate mailings of pieces with address block barcodes.

b. Five-digit or ZIP+4 barcodes may not appear on Automation First-Class or Automation Standard Mail letter-size pieces, or, except as permitted by the 85% rule, on Barcoded rate or automation-compatible Publications Service Periodicals letter-size pieces.

c. Five-digit barcodes may not appear either on Automation First-Class or Automation Standard Mail flat-size pieces or on Barcoded rate or automation-compatible Publications Service Periodicals flat-size pieces except as permitted by the 85% rule.

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D Deposit, Collection, and Delivery

D000 Basic Information

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D020 Plant Loads

[In 3.1, replace ''second-, third-, and fourth-class mail'' with ''Periodicals and Standard Mail''; in 5.0, replace ''Second-Class'' with ''Periodicals.'']

* * * * *

D041 Customer Mail Receptacles

[In 2.10, replace ''second-class'' with ''Periodicals.'']

* * * * *

D072 Drop Shipment of Metered Mail

* * * * *

4.0 OPTION 2: DEPOSIT AT ANOTHER POST OFFICE

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4.4 Markings

The drop shipment endorsement placed in the ad plate area may include the marking required by the standards for the rate claimed if that marking is placed directly below the drop ship endorsement. The marking may also be provided separately, not necessarily by meter ad plate, directly below the meter stamp or imprint, if it meets the relevant size and legibility standards.

* * * * *

D100 First-Class Mail

[In 2.5, replace ‘‘carrier route First-Class, Presorted First-Class, ZIP+4, and Barcoded’’ with ‘‘First-Class Retail Presort or Automation’’; in 3.4, replace ‘‘Presorted First-Class’’ with ‘‘First-Class Retail Presort rate.’’]

D200 Periodicals

D210 Basic Information

[In 1.0, 2.1, 2.2, 3.1, 3.4, 4.0, 4.1, 4.2, and 4.4a, replace ‘‘[S]econd-[C]lass’’ with ‘‘Periodicals’’; in 2.1, replace ‘‘third- or fourth-class’’ with ‘‘Standard Mail.’’]

D230 Additional Entry

[In 1.1, replace ‘‘second-class’’ with ‘‘Periodicals’’; in 4.5, replace ‘‘second- and third-class’’ and ‘‘third-class’’ with ‘‘Periodicals and Standard Mail (A)’’ and ‘‘Standard Mail (A),’’ respectively.] [Delete current D300 and D400; no change to D500.]

* * * * *

D600 Standard Mail

1.0 SERVICE OBJECTIVES

The USPS does not guarantee the delivery of Standard Mail within a specified time. Standard Mail might receive deferred service. Local postmasters can provide more information.

2.0 MAIL DEPOSIT

2.1 Single-Piece Rates

Single-piece rate parcel post, bound printed matter, Special Standard Mail, or Library mailpieces must be deposited at a time and place specified by the postmaster at the post office of mailing. Single-piece rate Standard Mail (A) bearing regular adhesive stamps may be placed into collection boxes, mailchutes, receiving boxes, or other places where mail is accepted. Mail with meter postage must be deposited in a location under the jurisdiction of the licensing post office, except as permitted in D072. Mail with permit imprints must be presented at the post office as specified in P040 or P700. Mail with precanceled stamps must be presented at the post office as specified in P023.

2.2 Bulk Rates

Bulk (presort) rate Standard Mail must be presented at a business mail entry unit of the post office where the postage permit or license is held and the annual bulk mailing fee is paid. Mailings must be deposited at the locations and times specified by the postmaster. Plant-loaded mailings must be presented as specified by the applicable standards and the plant load agreement. Metered bulk Standard Mail may be deposited at other than the licensing post office only as permitted under D072. Nonprofit Standard Mail must be deposited only at post offices where the USPS has approved a nonprofit authorization under the relevant standards.

2.3 Zoned Rates

Unless excepted by other standards, pieces paid at zoned rates must be presented for acceptance at the post office from which the applicable zoned rate postage is computed.

2.4 Separation of Mailings

Mailings are separated according to these conditions:

a. The same mailing may include pieces mailed at an Automation, Enhanced Carrier Route, Regular, or Nonprofit rate if permitted by standard.

b. Separate mailings at Automation, Enhanced Carrier Route, and Regular rates may be reported on the same mailing statement if:

(1) All pieces from each mailing reported on the statement are presented at the same time and are part of the same mailing job.

(2) Only qualifying carrier route pieces bear the applicable endorsement.

(3) If palletized, the mixed rate level standards in M045 are met.

c. Multiple, separate Nonprofit rate mailings may be reported on the same mailing statement under the conditions in 2.4b.

d. Nonprofit 3/5 rate and Nonprofit carrier route rate pieces may not be part of the same mailing, unless the mailer is authorized to combine mixed rate level mailings under M045.

* * * * *

E Eligibility

E000 Special Eligibility Standards

E010 Overseas Military Mail

[In 1.3, replace ‘‘Third- or fourth-class mail’’ with ‘‘Standard Mail’’; in 1.4, replace ‘‘Second-[C]lass’’ with ‘‘Periodicals’’; in 1.5, replace ‘‘fourth-class’’ with ‘‘Standard Mail (B)’’; in 3.1, replace ‘‘second-, third-, or fourth-class’’ with ‘‘Periodicals or Standard Mail’’; and in 3.3, replace ‘‘second-, third-, or fourth-class mail’’ with ‘‘Periodicals or Standard Mail’’; no other change in text.]

* * * * *

E060 Official Mail (Penalty)

[Renumber Exhibit 13.4 as Exhibit 13.3; in 4.3, 5.4a, 6.1, 13.0 (heading), 13.1, 13.2, 13.3, renumbered Exhibit 13.3, 13.5, and 15.2b, replace ‘‘[S]econd-[c]lass’’ with ‘‘Periodicals’’; delete the last sentence in 7.3; delete 9.6 and renumber 9.7 through 9.9 as 9.6 through 9.8, respectively; in 12.1, replace ‘‘single-piece third-class, and single-piece fourth-class (parcel post, special-fourth-class, and bound printed matter)’’ with ‘‘and single-piece rate Standard Mail (single-piece rate Standard Mail (A), parcel post, Special Standard Mail, or bound printed matter)’’; in 12.8 and 12.9, replace ‘‘Third- or fourth-class’’ with ‘‘Standard Mail’’; in 15.2a, replace ‘‘First-, third-, and fourth-class’’ with ‘‘First-Class and Standard Mail’’; and in 15.2b, replace ‘‘second-class’’ with ‘‘Periodicals’’; no other change in text.]

E070 Mixed Classes

[In 2.1, 2.2, 2.3, 3.3, and 3.4, replace ‘‘First- or [T]hird-class’’ with ‘‘First-Class or Standard Mail (A)’’; in 2.1, replace ‘‘second-, third-, or fourth-class’’ with ‘‘Periodicals or Standard Mail (A) or (B)’’; in 2.4, 2.5, 3.1, 3.2b, 3.5, 3.6, 4.2, and 5.0, replace ‘‘third-class’’ with ‘‘Standard Mail (A)’’; in 3.0, 3.1, 3.2, 3.2a, 3.2c, and 3.2e, replace ‘‘second-class’’ with ‘‘Periodicals’’; in 4.1, replace ‘‘with third- or fourth-class mail’’ with ‘‘in pieces of Standard Mail’’; in 4.2, replace ‘‘fourth-class’’ with ‘‘Standard Mail (B)’’; in 6.1, replace ‘‘special fourth-class’’ with ‘‘Special Standard Mail’’; no other change in text.]

E100 First-Class Mail

E110 Basic Standards

1.0 CLASSIFICATION AND DESCRIPTION

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1.2 Written or Typewritten Matter

Matter wholly or partially in writing or typewriting must be mailed as First-Class Mail or Express Mail, except authorized additions to Periodicals or Standard Mail and written or typewritten matter in Library Mail and Special Standard Mail, as permitted by the corresponding standards.

* * * * *

[Delete current 4.0 and 5.0; renumber 6.0 and 7.0 as 4.0 and 5.0, respectively, and revise as follows:]

4.0 FEES

4.1 Presort Mailing Fee

A First-Class presort mailing fee must be paid once each 12-month period at each office of mailing by any person or organization entering mailings at Retail Presort First-Class, Automation First-Class, and/or Presorted Priority Mail rates. Payment of one fee allows a mailer to enter mail at all those rates.

Persons or organizations paying this fee may enter mail of their clients as well as their own mail.

* * * * *

5.0 DOCUMENTATION

A mailing statement, completed and signed by the mailer, using the correct USPS form or an approved facsimile, must be submitted with each mailing except for single-piece Retail First-Class or single-piece Priority Mail mailings in which the correct postage is affixed to each piece. Supporting documentation might be required by the standards for the rate claimed or the postage payment method used.

* * * * *

[Replace current E131 and E132 with new E130 as follows:]

E130 Retail Rates

1.0 BASIC STANDARDS

1.1 All Pieces

All pieces of Retail First-Class Mail must:

a. Meet the basic standards for First-Class Mail in E110.

b. Weigh 11 ounces or less.

c. Bear a delivery address.

d. Meet the postage payment standards in P013 and P100.

1.2 Barcodes

Any POSTNET barcode on a mailpiece in a Retail First-Class mailing must meet the standards in C840 and A950 and must be the correct barcode for the delivery address.

1.3 Nonstandard Surcharge

A nonstandard surcharge is assessed on each single-piece or Retail Presort First-Class rate piece weighing 1 ounce or less that exceeds the size limits in C100.

2.0 SINGLE-PIECE RATES

The single-piece Retail rates apply to any First-Class Mail weighing 11 ounces or less and not eligible for and claimed at the single-piece Retail card rate or at a Retail Presort or Automation First-Class rate. The single-piece Retail card rate applies to cards not eligible for and claimed at a Retail Presort or Automation First-Class rate.

3.0 PRESORT RATES

3.1 Standards

In addition to the standards in 1.0, all pieces in a Presort First-Class rate mailing must:

a. Be part of a single mailing of at least 500 pieces of Retail Presort First-Class Mail.

b. Be in the same processing category.

c. Bear a delivery address that includes the correct numeric ZIP Code or ZIP+4 code and that meets the standards for accuracy and maintenance in 3.2 and 3.3.

d. Be marked, presorted, and documented as specified in M130.

3.2 Address Quality

Effective 6 months from the date on which Classification Reform is implemented, or on January 1, 1997, whichever is sooner, addresses appearing on all pieces claimed at Retail Presort rates must have been updated within 6 months of the date of mailing by a USPS-approved address update tool (e.g., the ‘‘Address Correction Endorsement,’’ ACS, or NCOA). Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies throughout the 6-month period following its most recent update.

3.3 ZIP Code Accuracy

Effective 3 months from the date on which Classification Reform is implemented, 5-digit ZIP Codes included in addresses appearing on pieces claimed at Retail Presort rates must have been verified and corrected within 12 months of the date of mailing by a USPS-approved method. Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies throughout the 12-month period following its most recent update.

[Replace current E142, E144, E145, and E147 through E149 with new E140 as follows:]

E140 Automation Rates

1.0 BASIC STANDARDS

1.1 All Pieces

All pieces in an Automation First-Class mailing must:

a. Meet all the basic standards for First-Class Mail in E110.

b. Be part of a single mailing of at least 500 pieces of Automation First-Class Mail.

c. Be in the same processing category and meet the applicable physical standards in C810 or C820.

d. Bear a delivery address that includes the correct numeric 5-digit ZIP Code or ZIP+4 code, or the correct numeric equivalent to the delivery point barcode (DPBC).

e. Meet the address quality and coding standards in 1.2, 1.3 (if applicable), A800, and A950.

f. Be marked, presorted, and documented as specified in M810 or M820, as applicable.

g. Meet the postage payment standards in P013 and P100.

h. Bear an accurate barcode meeting the standards in C840, either the correct DPBC if a card or letter (on the piece or on an insert showing through a barcode window) or the correct ZIP+4 barcode or DPBC if a flat.

1.2 Address Quality

Effective 6 months from the date on which Classification Reform is implemented, or on January 1, 1997, whichever is sooner, addresses appearing on all pieces claimed at Automation rates must have been updated within 6 months of the date of mailing by a USPS-approved address update tool (e.g., the ‘‘Address Correction Endorsement,’’ ACS, or NCOA). Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies throughout the 6-month period following its most recent update.

1.3 Carrier Route Presort

Mailers must apply carrier route codes to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme or another AIS product containing carrier route information (see A930). Mailers must have updated carrier route information within 90 days of the mailing date. Carrier route rates for letter-size mail are available only for those 5-digit ZIP Code areas identified in the USPS AIS products used for address coding.

1.4 Enclosed Reply Envelopes and Cards

Effective January 1, 1997, all courtesy reply and business reply envelopes and cards provided to addressees as enclosures in Automation First-Class Mail must bear the correct facing identification mark (FIM) and delivery point barcode for the delivery address of the reply piece and must meet the automation compatibility standards in C810 or C820, as appropriate. Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS.

2.0 RATE APPLICATION

2.1 Letters and Cards

Automation First-Class rates apply to each piece that is correctly presorted under M810 into the corresponding qualifying groups:

a. Pieces in full carrier route trays, or in carrier route packages of 10 or more pieces each placed in 5-digit carrier routes trays, qualify for the Automation Carrier Route rate. (Preparation to qualify for the Carrier Route rate is optional and need not be performed for all carrier routes in a 5-digit area.)

b. Groups of 150 or more pieces in full or overflow 5-digit trays qualify for the Automation 5-Digit rate. (Preparation to qualify for the 5-Digit rate is optional.)

c. Groups of 150 or more pieces in full or overflow 3-digit or 3-digit scheme trays qualify for the Automation 3-Digit rate.

d. Pieces in full or overflow AADC trays and in all mixed AADC trays qualify for the Automation Basic rate.

2.2 Flats

Automation First-Class rates apply to each piece that is correctly presorted under M820 into the corresponding qualifying groups:

a. Pieces in 5-digit or 3-digit packages of 10 or more pieces each qualify for the Automation 3/5 rate.

b. Pieces in ADC or mixed ADC packages qualify for the Automation Basic rate.

E200 Periodicals

E210 Basic Standards

E211 Standards Applicable to All Periodicals Publications

[In 1.1, 1.2, 2.1, 3.0, 4.1, 5.1, 6.1, 6.2, 7.2, 7.3, 7.4, 7.5, 8.1, 8.2, 9.0, 11.1, and 12.0, replace ''second-class'' with ''Periodicals.'' In 1.1, 4.1, 5.3, 7.4, 7.5, 10.2, and 13.1a, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'' In 6.1 and 9.0, replace ''First-, third-, or fourth-class rates'' with ''First-Class or Standard Mail rates.'' Revise other text as follows:]

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10.0 IDENTIFICATION

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10.4 Bound Publication

In a bound publication (one securely bound by two or more staples, spiral binding, glue, stitching, or other permanent fastening), the identification statement must be shown conspicuously as described in 10.3 or on one of the last three editorial pages inside the back cover. If the publication is mailed with a permissible nonincidental enclosure paid with permit imprint, the identification statement must be located as specified in 10.3.

10.5 Identification Statement Content

The identification statement must contain:

* * * * *

g. The imprint ''Periodicals Postage Paid at . . .'' or, if mailed at two or more offices, ''Periodicals Postage Paid at . . . and at additional mailing offices.'' A notice of pending application is shown instead if copies are mailed while an application is pending: ''Application to Mail at Periodicals Postage Rates is Pending at. . . .''

* * * * *

13.0 FEES

13.1 Fee Required

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e. Publications Service.

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14.0 BASIC RATE ELIGIBILITY

14.1 Regular Rates

Regular rates apply to all copies of an authorized Periodicals publication mailed by a publisher or news agent, except nonrequester and nonsubscriber copies under E215, unless the publication is separately authorized Publications Service rates or a preferred rate. Mailings are also subject to the standards that apply to rates or discounts claimed. Regular rates include a per piece charge, a zone-based charge for the weight of the advertising portion of the publication, and an unzoned charge for the weight of the nonadvertising portion. Each piece rate requires specific preparation.

14.2 Preferred Rates

Preferred rates include the in-county and special (nonprofit, classroom, and science-of-agriculture) rates. Requester publications are not eligible for preferred rates. Publications Service publications may qualify only for in-county rates, subject to E270. Copies of authorized Periodicals publications mailed at any preferred rate must meet the corresponding eligibility standards. Nonsubscriber copies mailed at preferred rates are subject to the standards in E215 and E270 and those applicable to other rates or discounts claimed. Preferred rates include a per piece charge, a zone-based charge for the weight of the advertising portion of the publication, and an unzoned charge for the weight of the nonadvertising portion, except that in-county rates apply without differentiation to both the advertising and nonadvertising portions. Each piece rate requires specific preparation.

14.3 Publications Service Rates

Publications Service rates are applicable to pieces eligible under E220. Publications Service rates include a per piece charge and a zone-based charge applied to the entire weight of the publication. The Publications Service rate requires specific preparation.

14.4 Discounts and Adjustments

Postage for Periodicals publications is reduced by any applicable discounts:

a. The nonadvertising adjustment applies to the outside-county piece rate charges for Regular and Preferred Periodicals publications and is computed as described in P013.

b. Presort discounts are available for Publications Service Periodicals, subject to E220, and for Regular and Preferred Periodicals, subject to E230.

c. Automation-based discounts are available for Regular and Preferred Periodicals, subject to E240.

d. Destination entry discounts are available for copies of any Periodicals publication entered by the publisher at specific USPS facilities, subject to E250.

14.5 Copies Mailed by Public

The applicable single-piece First-Class or Standard Mail rate is charged on copies of publications mailed by the general public (i.e., other than publishers or registered news agents) and on copies returned to publishers.

E212 Additional Standards for Qualification Categories

[In 1.1, 5.1, 6.1, and 6.2, replace ''second-class'' with ''Periodicals.'' In 1.3, 2.1, 2.2, 2.3, 3.1, 5.1, and 5.2, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'' In 6.5, replace ''third- or fourth-class rates'' with ''Standard Mail rates.'']

* * * * *

7.0 PUBLICATIONS SERVICE

Publications Service is available only to those publications authorized Periodicals mailing privileges as general or requester publications that meet the additional standards in E220.

E213 Periodicals Mailing Privileges

[In 2.1, 3.5, and 3.6, replace ''second-class'' with ''Periodicals.'' In 1.1, 1.2, 1.3, 1.4, 1.5, 1.9, 2.1, 3.1, 3.4, 3.5, 4.0 (heading), 4.1, 4.2, and 4.3, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'' In 2.1, replace ''First-, third-, or fourth-class rates'' with ''First-Class or Standard Mail rates.'' In 2.2, replace ''third- or fourth-class rates'' with ''Standard Mail rates.'' Do not revise the title of 39 CFR 954 shown in 3.7 and 4.3.]

1.0 ORIGINAL ENTRY APPLICATIONS

* * * * *

1.11 Publications Service

Application for Publications Service is in addition to an application for original entry and is subject to E220. Although a publication must be authorized original entry as a Periodicals publication to be eligible for Publications Service, application for both may be made concurrently.

2.0 MAILING WHILE APPLICATION PENDING

2.1 Before Approval

[Add to the end of the section:]

Pending Publications Service publications are charged the applicable Periodicals rate if previously authorized.

* * * * *

E214 Reentry

[In 1.1, 1.2, 1.3, 2.2, 3.1, 3.3, 3.6, and 3.10, replace ''second-class'' with ''Periodicals.'' In 2.1, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'' In 3.10, replace ''third- or fourth-class postage'' with ''Standard Mail postage.'' Do not revise the title of 39 CFR 954 shown in 3.12.]

* * * * *

3.0 APPLICATIONS FOR REENTRY

* * * * *

3.9 During Appeal

During the appeal:

a. Copies of any issue of a publication denied reentry under 1.0 and found unqualified for Periodicals mailing privileges are accepted in a pending status at the applicable Standard Mail rates. For this standard, ''pending status'' begins when the appeal is filed and continues until the end of the appeal process.

b. Copies of a publication denied reentry under 2.0 are accepted at the currently applicable Periodicals rate.

c. The publisher must submit the applicable Periodicals and Standard Mail mailing statements with each mailing of the publication in a pending status. Failure to submit these statements is sufficient grounds to deny a postage refund under 3.12.

* * * * *

E215 Copies Not Paid or Requested by Addressee

[In 1.8, 2.1, 2.2, and 2.6, replace ''second-class'' with ''Periodicals.'' In 1.6, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'' In 2.6 and 2.7, replace ''First-, third-, or fourth-class rate[s]'' with ''First-Class or Standard Mail rate[s].'' In 2.7, replace ''third- or fourth-class rates'' with ''Standard Mail rates.'']

E216 Publisher Records

[Relocate current 3.0 to E231 and revise as shown below; renumber current 4.0 and 5.0 as 3.0 and 4.0, respectively; as renumbered, in 1.1, 2.1, 3.1, 3.4, 4.1, and 4.2, replace ''second-class'' with ''Periodicals,'' and in 1.1, 2.2, 3.2, and 3.3, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'']

E217 Authorization for Special Rates

[In 1.3, 2.1, 2.2, 3.4, and 3.5, replace ''second-class'' with ''Periodicals.'' In 1.2, 2.1, 2.2, replace ''second-class mail privileges'' with ''Periodicals mailing privileges.'' In 2.2, replace ''First-, third-, or fourth-class rates'' with ''First-Class or Standard Mail rates.'' In 2.2, replace ''third- or fourth-class postage'' with ''Standard Mail postage.'' In 3.4, replace ''third- or fourth-class rates'' with ''Standard Mail rates.'']

1.0 APPLICATION

1.1 Basic Information

[Add to the end of the section:]

* * * Preferred rates (except in-county rates) are not available to Publications Service publications.

* * * * *

E220 Publications Service

1.0 BASIC INFORMATION

1.1 Availability

Publications Service is available to authorized Periodicals publications that meet the applicable standards in E211 through E216 (unless specifically excepted) and the additional standards in 2.0, regardless of the category of the publication's authorization for Periodicals mailing privileges. Only the Publications Service rates in R200 are available to Publications Service publications, *except that* in-county rates may be claimed for qualifying copies. The eligibility standards for Publications Service consider only copies mailed at Publications Service rates and exclude copies claimed at in-county rates, copies mailed to addressees at Express Mail, Priority Mail, First-Class Mail, or Standard Mail rates, and copies distributed outside the mail.

1.2 Application

Publishers must apply for Publications Service in addition to the category of authorization in which Periodicals mailing privileges are sought under E213. A separate application is required for Publications Service although it may be submitted at the same time as an application for Periodicals mailing privileges. Data on the application for original entry or reentry may be used to establish compliance with the further criteria prescribed for Publications Service; additional supporting documentation must be provided as necessary. Decisions on applications for Publications Service are made by the RCSC manager in whose service area the publication is authorized original entry. Appeals of adverse decisions may be made under G020. A publication whose application to mail at Publications Service rates is withdrawn by the publisher or denied by the USPS is ineligible to reapply for authorization for 1 year from the date of the publisher's letter of withdrawal or final denial notice from the USPS.

2.0 ELIGIBILITY

2.1 Standards

Each Publications Service publication must:

a. Contain at least 30% nonadvertising in each issue (advertising is defined in E211).

b. Have a minimum of 75% circulation to a legitimate list of requesters (for requester publications) or subscribers (for other publications). A legitimate list of subscribers meeting the standards applicable to general publications is required for all but requester publications, regardless of whether such a list is otherwise required by the standards applicable to the publication's category of authorization.

c. Have at least 90% of the copies of each issue presorted to 3-digit ZIP Code areas, subject to 2.3 and 2.4.

d. Bear a delivery address that includes the correct numeric ZIP+4 or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

e. Be marked, presorted, and documented as specified in M200, M810 or M820, as applicable, and P012.

f. Meet the postage payment standards in P013 and P200.

g. Be audited by a certified public accountant or national circulation audit service approved by the USPS to verify accurate postage calculation and compliance with the applicable paid or requester circulation standards in E212 and 2.1b.

h. Use Address Change Service.

2.2 Automation-Compatible Mailpieces

Letter-size mailpieces meeting the automation compatibility standards in C810 must also meet the standards in 3.0. Flat-size mailpieces meeting the automation compatibility standards in C820 must also meet the standards in 4.0.

2.3 90% Standard

To count toward the 90% 3-digit presort standard in 2.1c, a copy must be one of 24 or more copies for the same 3-digit ZIP Code area that are prepared in firm, carrier route, 5-digit, or 3-digit packages of six or more copies each. Copies in firm packages count individually toward the 90% standard, but the firm package is considered a single piece for other presort and postage payment purposes. Firm packages may not be included in mailings of automation-compatible letter-size mailpieces.

2.4 Issue ''Window''

At the time application for Publications Service is made, the publisher must define a time period or ''window'' that begins and ends at the same relative point in the production/distribution cycle of each issue. For administering the 90% standard in 2.1c and 2.3, all copies of any issue or edition of the publication mailed during a ''window'' are considered part of the distribution of the issue whose primary distribution is then occurring, and are included in the determination of its compliance with the 90% standard.

2.5 ZIP Code Accuracy

Except for automation-compatible pieces, effective 3 months from the date on which Classification Reform is implemented, 5-digit ZIP Codes included in addresses appearing on pieces claimed at Publications Service rates must have been verified and corrected within 12 months of the date of mailing by a USPS-approved method. Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies throughout the 12-month period following its most recent update.

3.0 ADDITIONAL STANDARDS FOR AUTOMATION-COMPATIBLE LETTER-SIZE PIECES

3.1 All Letter-Size Mailpieces

All letter-size Publications Service mailpieces that meet the physical standards in C810 must:

a. Meet the address quality and coding standards of A800 and A950.

b. Be presorted and documented as specified in M810.

c. Bear the correct DPBC meeting the barcode standards in C840, subject to 3.2.

3.2 85% Rule

The correct DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950, must appear on each piece in any mailing containing heavy letters (as defined in C810) and on at least 85% of all pieces in other letter-size mailings. Remaining pieces must have a barcode clear zone in the lower right corner meeting the reflectance standards in C840, meet the 5-digit barcode standards in C840 (if applicable), and not have a window in the lower right corner. Compliance with the 85% standard is based on all copies mailed during the production/mailing ''window'' defined in 2.4.

4.0 ADDITIONAL STANDARDS FOR AUTOMATION-COMPATIBLE FLAT-SIZE PIECES

4.1 All Flat-Size Mailpieces

All flat-size Publications Service mailpieces that meet the applicable standards in C820 must:

a. Meet the address quality and coding standards of A800 and A950.

b. Be presorted and documented as specified in M820.

c. Be presorted to carrier routes, or bear the correct DPBC, ZIP+4 barcode, or 5-digit barcode meeting the barcode standards in C840, subject to 4.2.

4.2 85% Rule

At least 85% of all pieces must either be presorted to carrier routes or bear the correct ZIP+4 barcode or DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. Remaining pieces must bear the correct 5-digit barcode meeting the applicable standards in C840. Compliance with the 85% standard is based on all copies mailed during the production/mailing ''window'' defined in 2.4.

5.0 NONCOMPLIANCE

A Publications Service publication is subject to the revocation or suspension provisions of E213 if it fails to meet the applicable basic standards for Periodicals mailing privileges in E211 through E216. A Publications Service publication that fails to meet the advertising standard in 2.1a or the density standard in 2.1c is subject to a surcharge of 40% of the total postage otherwise payable for the issue (as defined in 2.4). A Publications Service publication that fails to meet the circulation standards in 2.1b is subject to revocation of authorization to mail at Publications Service rates, as determined by the RCSC manager in whose service area the publication is authorized original entry. Appeals of surcharge assessments or revocation notices may be made under G020. A publication whose authorization to mail at Publications Service rates is ended, either voluntarily by the publisher or by the USPS through a final revocation, is ineligible to reapply for authorization for 1 year from the termination date of the previous authorization.

E230 Presort Rates

E231 Regular Periodicals

1.0 GENERAL INFORMATION

1.1 Standards

The standards for presort rates are in addition to the general standards for Periodicals in E210, the standards for other rates or discounts claimed, and the applicable preparation standards in M210, M810, or M820. Not all combinations of presort level, automation, and destination entry discounts are allowed.

1.2 Palletized Mail

A correctly prepared package is the equivalent of a sack when palletized under M045. Individual pieces qualify for the presort level rate appropriate to the palletized package in which they are placed, regardless of the destination of the pallet. Eligibility for destination entry or other zoned rates remains dependent on the point of entry.

2.0 CARRIER ROUTE RATES

2.1 Carrier Route Information

Mailers must presort mail to carrier routes using the latest USPS Carrier Route Information System (CRIS) scheme (see A930). Mailers must have incorporated the CRIS changes in their mailings within 90 days before the date of mailing.

2.2 Eligibility

Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M210. Pieces may not claim both a carrier route presort rate and a barcode discount. Carrier route presort need not be performed for all carrier routes in a 5-digit area. Specific rate eligibility is subject to these standards:

a. The basic carrier route rate applies to pieces in carrier route packages of six or more pieces each that are correctly sorted to carrier route or carrier routes trays (letter-size pieces) or sacks (flat-size pieces).

b. The high density and saturation rates apply to pieces that are eligible for the basic carrier route rate, are prepared in carrier walk sequence, and meet the applicable density standards in 5.0 for the rate claimed.

3.0 3/5 RATES

Subject to M210, 3/5 rates apply to:

a. Letter-size pieces in 5-digit or 3-digit packages of six or more pieces each, either correctly placed in 5-digit or 3-digit trays containing at least 24 pieces or in an overflow 3-digit tray.

b. Flat-size pieces in 5-digit or 3-digit packages of six or more pieces each, either correctly placed in 5-digit or 3-digit sacks or palletized under M045.

4.0 BASIC RATES

Basic rates apply to pieces not eligible for or claimed at either the carrier route or 3/5 rates.

5.0 WALK-SEQUENCE DISCOUNTS—REGULAR PERIODICALS

[Insert text of current E230.7.0 and 8.0, renumbered as 5.0 and 6.0, respectively; in renumbered 5.4b and 5.4d, replace ‘‘125-piece walk-sequence rate’’ with ‘‘high density/125-piece walk-sequence rate’’; revise other text as follows:]

5.1 Eligibility

The 125-piece or saturation walk-sequence rates apply to each walk-sequenced piece in a carrier route mailing, eligible under 2.2 and prepared under M210, that also meets the corresponding addressing and density standards in 5.4. (For this standard, ‘‘carrier route’’ includes city carrier routes, rural routes, highway contract routes, and general delivery and post office box sections.)

* * * * *

E232 Publications Service Periodicals

1.0 GENERAL INFORMATION

1.1 Standards

The standards for presort rates are in addition to the general standards for Periodicals in E210, for Publications Service in E220, the standards for other rates or discounts claimed, and the applicable preparation standards in M210, M810, or M820. Not all combinations of presort level, automation, and destination entry discounts are allowed.

1.2 Palletized Mail

A correctly prepared package is the equivalent of a sack when palletized under M045. Individual pieces qualify for the presort level rate appropriate to the palletized package in which they are placed, regardless of the destination of the pallet. Eligibility for destination entry or other zoned rates remains dependent on the point of entry.

2.0 CARRIER ROUTE RATES

2.1 Carrier Route Information

Mailers must apply carrier route codes to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme or another AIS product containing carrier route information (see A930). Mailers must have updated the carrier route information within 90 days before the mailing date. Carrier route rates for automation-compatible letter-size mail are available only for those 5-digit ZIP Code areas identified in the USPS AIS products used for address coding.

2.2 Automation-Compatible Letter-Size Pieces

Where available, Carrier Route rates apply to pieces in carrier route packages of six or more pieces each that are correctly sorted to full carrier route or any 5-digit carrier routes trays. Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M210 and M810. Carrier route presort need not be performed for all carrier routes in a 5-digit area.

2.3 Other Letter-Size Pieces

Carrier Route rates apply to pieces in carrier route packages of six or more pieces each that are correctly sorted to full carrier route or any 5-digit carrier routes trays. Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M210. Carrier route presort need not be performed for all carrier routes in a 5-digit area. Carrier Route rate mail must be prepared in carrier line-of-travel (LOT) sequence, using official LOT schemes prescribed by the USPS (see M050).

2.4 Flat-Size Pieces

Carrier Route rates apply to pieces in carrier route packages of six or more pieces each that are correctly sorted to carrier route sacks containing at least 24 pieces, or to any 5-digit carrier routes sacks. Preparation to qualify eligible pieces for Carrier Route rates is optional and is subject to the applicable standards in M210 or M820. Carrier route presort need not be performed for all carrier routes in a 5-digit area. Carrier Route rate mail must be prepared in carrier walk sequence or line-of-travel (LOT) sequence, using official LOT schemes prescribed by the USPS (see M050).

3.0 BASIC RATES

Basic rates apply to pieces correctly prepared under M210 and not claimed at Carrier Route rates.

E239 Preferred Periodicals

[Copy text of current E230; renumber current 6.0 as 1.4; renumber 7.0 as 6.0; delete current 8.0; revise the remainder as follows:]

1.0 GENERAL INFORMATION

1.1 Standards

The standards for presort rates are in addition to the general standards for Periodicals in E210, the standards for other rates or discounts claimed, and the applicable preparation standards in M290 or M890. Not all combinations of presort level, automation, and destination entry discounts are allowed.

1.2 Optional Preparation

At the mailer’s option, Preferred Periodicals may be prepared under the standards for Regular Periodicals in M210, including presort. Under this option, Preferred Periodicals can claim Level I/K, Level H, or Level G/J rates, and may be combined (comailed) with Regular Periodicals in the same mailing, if all corresponding eligibility standards in E231 for Carrier Route, 3/5, and Basic, respectively, are met, except that pieces in 3-digit packages can earn the Level H rate only when prepared for the unique 3-digit ZIP Code destinations identified in L002, Column A. Presort of the combined mailing is based on the total combined volume of pieces.

1.3 Palletized Mail

A correctly prepared package is the equivalent of a sack when palletized under M045. Individual pieces qualify for the presort level rate appropriate to the palletized package in which they are placed, regardless of the destination of the pallet. Eligibility for destination entry or other zoned rates remains dependent on the point of entry.

1.4 Reporting Presort Level

Publishers must separately report copies at Levels G3 and G5, and Levels J1, J3, and J5, only when claiming a ZIP+4 or ZIP+4 Barcoded rate.

2.0 CARRIER ROUTE (LEVEL I/K) RATES

2.1 Rate Application

Level I/K rates apply as follows:

a. Level I1 or K1 rates apply to pieces in carrier route packages of six or more pieces each that are correctly sorted to carrier route or carrier routes trays or sacks.

b. Level I2 or K2 rates apply to pieces eligible for the Level I1 or K1 rates that are further prepared in carrier delivery walk sequence and in the density necessary to meet the additional standards in 6.0 for the 125-piece walk-sequence rate.

c. Level I3 or K3 rates apply to pieces eligible for the Level I1 or K1 rates that are further prepared in carrier delivery walk sequence and in the density necessary to meet the additional standards in 6.0 for the saturation walk-sequence rate.

2.2 Carrier Route Information

Mailers must presort mail to carrier routes using the latest USPS Carrier Route Information System (CRIS) scheme. Mailers must have incorporated the CRIS changes in their mailings within 90 days before the date of mailing (see A930).

3.0 3- AND 5-DIGIT (LEVEL H) RATES

3.1 H Rates

Level H rates apply to pieces in 5-digit, optional city, and unique 3-digit packages of six or more pieces each that are correctly sorted to 5-digit, optional city, or unique 3-digit sacks.

3.2 H5 Rates

Level H5 rates apply:

a. In tray-based automation-rate letter-size mailings, to pieces in 5-digit trays.

b. In package-based automation-rate letter-size mailings, to pieces in 5-digit packages of 10 or more pieces each placed in 5-digit, optional city, 3-digit, SCF, or AADC trays.

c. In ZIP+4 Barcoded rate flat-size mailings, to pieces in 5-digit packages of six or more pieces each placed in 5-digit, optional city, 3-digit, SCF, or ADC sacks or palletized under M045.

d. In other mailings, to pieces in 5-digit packages of six or more pieces each placed in 5-digit, optional city, or unique 3-digit sacks.

3.3 H3 Rates

Level H3 rates apply:

a. In tray-based automation-rate letter-size mailings, to pieces in optional city and unique 3-digit trays.

b. In package-based automation-rate letter-size mailings, to pieces in optional city and unique 3-digit packages of 50 or more pieces each placed in optional city, 3-digit, SCF, or AADC trays.

c. In ZIP+4 Barcoded rate flat-size mailings, to pieces in optional city and unique 3-digit packages of six or more pieces each placed in optional city, 3-digit, SCF, or ADC sacks or palletized under M045.

d. In other mailings, to pieces in optional city or unique 3-digit packages of six or more pieces each placed in optional city or unique 3-digit sacks.

4.0 BASIC (LEVEL G) RATES

Level G rates apply to pieces not eligible for or claimed at the rates in 2.0 or 3.0.

5.0 IN-COUNTY (LEVEL J) RATES

[In 5.2c and 5.3c, replace ‘‘SDC’’ with ‘‘ADC.’’]

6.0 WALK-SEQUENCE DISCOUNTS

[Insert text of current E230.7.0.]

E240 Automation Rates

E241 Regular Periodicals

1.0 BASIC STANDARDS FOR LETTER-SIZE PIECES

1.1 All Pieces

All pieces in a Barcoded rate letter-size mailing must:

a. Meet the basic standards for Periodicals and for the category of authorization.

b. Meet the physical standards in C810.

c. Bear a delivery address that includes the correct numeric ZIP+4 or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

d. Meet the address quality and coding standards of A800 and A950.

e. Be presorted and documented as specified in M810.

f. Meet the postage payment standards in P013 and P200.

g. Bear the correct DPBC meeting the barcode standards in C840, subject to 1.4.

1.2 Rate Application

Barcoded rates apply to each piece that meets the applicable standards in 1.3 and 1.4 and bears the correct DPBC meeting the barcode standards in C840. Subject to M810, 3/5 Barcoded rates apply to letter-size pieces in 5-digit packages of 10 or more pieces each, and in 3-digit packages of 50 or more pieces each, correctly placed in 5-digit, 3-digit, AADC, or mixed AADC trays. Basic Barcoded rates apply to other pieces correctly prepared under M810.

1.3 Barcode Window

A mailpiece weighing 3 ounces or less, meeting the standards in 1.1 and 1.2 but with a barcode window in the lower right corner, may be eligible for the Barcoded rate only if the correct DPBC appears through the window.

1.4 85% Rule

The correct DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950, must appear on each piece in any mailing containing heavy letters (as defined in C810) and on at least 85% of all pieces in other letter-size mailings. Remaining pieces must have a barcode clear zone in the lower right corner meeting the reflectance standards in C840, meet the applicable 5-digit or ZIP+4 barcode standards in C840, and not have a window in the lower right corner. Compliance with the 85% standard is based on each mailing.

1.5 Exclusions

Barcoded rate mailings may not include firm packages or pieces claimed at carrier route rates.

2.0 BASIC STANDARDS FOR FLAT-SIZE PIECES

2.1 All Pieces

All pieces in a Barcoded rate flat-size mailing must:

a. Meet the basic standards for Periodicals and for the category of authorization.

b. Meet the physical standards in C820.

c. Bear a delivery address that includes the correct numeric ZIP+4 or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

d. Meet the address quality and coding standards of A800 and A950.

e. Bear the correct 5-digit, ZIP+4, or DPBC, subject to C840.

f. Be marked, presorted, and documented as specified in M820.

g. Meet the postage payment standards in P013 and P200.

2.2 Rate Application

Barcoded rates apply to each piece that also bears the correct ZIP+4 or DPBC. Subject to M820, 3/5 Barcoded rates apply to flat-size pieces in 5-digit or 3-digit packages of six or more pieces each, either correctly placed in 5-digit, 3-digit, ADC, or mixed ADC sacks or palletized under M045. Basic Barcoded rates apply to other pieces correctly prepared under M820.

2.3 85% Rule

At least 85% of all pieces in a Barcoded rate mailing (regardless of presort or rate) must bear the correct ZIP+4 or DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. Remaining pieces must bear the correct 5-digit barcode meeting the applicable standards in C840. Compliance with the 85% standard is based on all mailed copies of an issue, excluding those claimed at carrier route rates.

E249 Discounts for Preferred Periodicals

[Text of current E242, E244, and E245, renumber as E249.1.0, 2.0, and 3.0, respectively, with subsections redesignated accordingly; no change in text except to replace ''second-class'' with ''Periodicals.'']

1.0 ZIP+4 DISCOUNTS

1.1 All Pieces

All pieces in a ZIP+4 rate mailing must:

a. Meet the basic standards for Periodicals and for the category of authorization in E211 and E212, respectively.

b. Meet the physical standards in C810.

c. Bear a delivery address that includes the correct numeric ZIP+4 or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

d. Meet the address quality and coding standards of A800 and A950.

e. Meet the standards in C830 or, for pieces with the correct DPBC, the barcode standards in C840.

f. Be marked, presorted, and documented as specified in M891 or M892.

g. Meet the postage payment standards in P013 and P200.

1.2 Rate Application

ZIP+4 rates apply to each piece that also:

a. Is correctly presorted under M810 into the qualifying groups described in 1.7 and 1.8.

b. Has an address with the correct numeric ZIP+4 code or bears the correct DPBC.

1.3 Barcode Window

A mailpiece meeting the standards in 1.1 and 1.2, but with a barcode window in the lower right corner, may be eligible for any automation rate only if the correct DPBC appears through the window.

1.4 5-Digit Barcodes

ZIP+4 rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 1.1 and 1.2 and the standards for 5-digit barcodes in C840. Such pieces qualify for ZIP+4 rates only if the barcode is printed on the piece and the address contains the correct numeric ZIP+4 code.

1.5 ZIP+4 Barcodes

ZIP+4 rate mailings may include pieces with correct ZIP+4 barcodes if the barcode is located in the address block and those pieces meet the standards in 1.1 and 1.2 and the standards for ZIP+4 barcodes in C840. Such pieces qualify for ZIP+4 rates only if, additionally, the address contains the correct numeric ZIP+4 code. Pieces that bear a ZIP+4 barcode in the lower right corner may not be included in a ZIP+4 rate mailing.

1.6 85% Rule

At least 85% of all pieces in a ZIP+4 rate mailing (regardless of presort or rate) must bear the correct numeric ZIP+4 code or DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. The 85% requirement applies to each mailing unless excepted by other standards.

1.7 Qualifying Tray-Based Presort

In tray-based presort mailings under M891:

a. In full or overflow 5-digit trays, ZIP+4 coded or DPBC pieces qualify for the Level H5/J5 ZIP+4 rates; other pieces qualify for the Level H5/J5 presort rates.

b. In full or overflow optional city and unique 3-digit trays, ZIP+4 coded or DPBC pieces qualify for the Level H3/J3 ZIP+4 rates; other pieces qualify for the Level H3/J3 presort rates.

c. In full or overflow nonunique 3-digit and SCF trays, ZIP+4 coded or DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates. One less-than-full SCF tray for the SCF serving the post office where the mailing is entered is permitted.

d. In AADC, mixed AADC, and working trays, ZIP+4 coded or DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

1.8 Qualifying Package-Based Presort

In package-based presort mailings under M892:

a. In 5-digit packages of 10 or more pieces each, ZIP+4 coded or DPBC pieces qualify for the Level H5/J5 ZIP+4 rates; other pieces qualify for the Level H5/J5 presort rates.

b. In optional city and unique 3-digit packages of 50 or more pieces each, ZIP+4 coded or DPBC pieces qualify for the Level H3/J3 ZIP+4 rates; other pieces qualify for the Level H3/J3 presort rates.

c. In nonunique 3-digit packages of 50 or more pieces each, ZIP+4 coded or DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

d. In the residual portion of the mailing, ZIP+4 coded or DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

2.0 BARCODED DISCOUNTS (LETTER-SIZE PIECES)

2.1 All Pieces

All pieces in a Barcoded rate letter-size mailing must:

a. Meet the basic standards for Periodicals and for the category of authorization in E211 and E212, respectively.

b. Meet the physical standards in C810.

c. Bear a delivery address that includes the correct numeric ZIP+4 or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

d. Meet the address quality and coding standards of A800 and A950.

e. Be marked, presorted, and documented as specified in M893, M894, or M895.

f. Meet the postage payment standards in P013 and P200.

g. Either bear the correct DPBC meeting the barcode standards in C840 or meet the applicable standards in 2.5.

2.2 Rate Application

Barcoded rates apply to each piece that also:

a. Is correctly presorted under M893, M894, or M895 into the qualifying groups described in 2.8, 2.9, and 2.10.

b. Bears the correct DPBC that meets the barcode standards in C840.

c. Meets the applicable standards in 2.3 through 2.7.

2.3 Optional Preparation

At the mailer's option, barcoded Preferred Periodicals may be prepared under the standards for Regular Periodicals in M810, including presort. Under this option, Preferred Periodicals can claim Level H or Level G/J rates, and may be combined (comailed) with Regular Periodicals in the same mailing, if all corresponding eligibility standards in E231 and E241 for 3/5 and Basic, respectively, are met, except that pieces in 3-digit packages could earn the Level H rate only when prepared for the unique 3-digit ZIP Code destinations identified in L002, Column A. Presort of the combined mailing is based on the total combined volume of pieces.

2.4 Barcode Window

A mailpiece weighing 3 ounces or less, meeting the standards in 2.1 through 2.3 but with a barcode window in the lower right corner, may be eligible for an automation rate only if the correct DPBC appears through the window.

2.5 Pieces Without DPBCs

Subject to 1.5 and 1.6, Barcoded rate mailings may also include nonbarcoded, 5-digit barcoded, or ZIP+4 barcoded pieces if each such piece (regardless of rate) meets the standards in 2.1, has a barcode clear zone in the lower right corner meeting the reflectance standards in C840, meets the applicable 5-digit or ZIP+4 barcode standards in C840, and does not have a window in the lower right corner. Additionally, to qualify for a ZIP+4 rate, subject to 2.8, 2.9, and 2.10:

a. Nonbarcoded and 5-digit barcoded pieces must bear an address with the correct ZIP+4 code and meet the standards in C830.

b. ZIP+4 barcoded pieces must have the barcode in the address block, meet the standards in C830, and bear an address with the correct ZIP+4 code.

2.6 85% Rule

Subject to 2.7, at least 85% of all pieces in a Barcoded rate mailing (regardless of presort or rate) must bear the correct DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. The 85% requirement applies to each mailing unless excepted by other standards.

2.7 100% Barcoding

Each piece must bear the correct delivery point barcode:

a. In 5-digit trays in a tray-based mailing under M893.

b. In 5-digit packages in a package-based mailing under M894 or M895.

c. In any mailing containing heavy letters (as defined in C810).

2.8 Qualifying Tray-Based Presort

In tray-based presort mailings under M893:

a. Pieces in full or overflow 5-digit trays qualify for the Level H5/J5 Barcoded rates.

b. In full or overflow optional city and unique 3-digit trays, DPBC pieces qualify for the Level H3/J3 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level H3/J3 ZIP+4 rate; other pieces qualify for the Level H3/J3 presort rates.

c. In full or overflow nonunique 3-digit and SCF trays, DPBC pieces qualify for the Level G/J1 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates. One less-than-full SCF tray for the SCF serving the post office where the mailing is entered is permitted.

d. In AADC, mixed AADC, and working trays, DPBC pieces qualify for the Level G/J1 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

2.9 Qualifying Two-Tier Package-Based Presort

In two-tier package-based presort mailings under M894:

a. Pieces in 5-digit packages of 10 or more pieces each qualify for the Level H5/J5 Barcoded rates.

b. In optional city and unique 3-digit packages of 50 or more pieces each, DPBC pieces qualify for the Level H3/J3 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level H3/J3 ZIP+4 rates; other pieces qualify for the Level H3/J3 presort rates.

c. In nonunique 3-digit packages of 50 or more pieces each, DPBC pieces qualify for the Level G/J1 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

d. In residual trays, DPBC pieces qualify for the Level G/J1 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

2.10 Qualifying Three-Tier Package-Based Presort

In three-tier package-based presort mailings under M895:

a. Pieces in 5-digit packages of 10 or more pieces each in the 5-digit presort tier qualify for the Level H5/J5 Barcoded rates.

b. In optional city and unique 3-digit packages of 50 or more pieces each in the 3-digit tier, DPBC pieces qualify for the Level H3/J3 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level H3/J3 ZIP+4 rates; other pieces qualify for the Level H3/J3 presort rates.

c. In nonunique 3-digit packages of 50 or more pieces each in the 3-digit presort tier, DPBC pieces qualify for the Level G/J1 Barcoded rate; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

d. In the residual presort tier, DPBC pieces qualify for the Level G/J1 Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Level G/J1 ZIP+4 rates; other pieces qualify for the Level G/J1 presort rates.

3.0 BARCODED DISCOUNTS (FLAT-SIZE PIECES)

3.1 All Pieces

All pieces in a Barcoded rate flat-size mailing must:

a. Meet the basic standards for Periodicals and for the category of authorization in E211 and E212, respectively.

b. Meet the physical standards in C820.

c. Bear a delivery address that includes the correct numeric ZIP+4 code, numeric 5-digit ZIP Code, or numeric equivalent to the delivery point barcode (DPBC).

d. Meet the address quality and coding standards of A800 and A950.

e. Have the correct 5-digit, ZIP+4, or DPBC, subject to C840, except for pieces in specific portions of mailings prepared under M897.

f. Be presorted and documented as specified in M897.

g. Meet the postage payment standards in P013 and P200.

3.2 Rate Application

Barcoded rates apply to each piece that also:

a. Is correctly presorted under M897 into the qualifying groups described in 3.6.

b. Bears the correct ZIP+4 or DPBC.

3.3 Optional Preparation

At the mailer's option, barcoded Preferred Periodicals may be prepared under the standards for Regular Periodicals in M820, including presort. Under this option, Preferred Periodicals can claim Level H or Level G/J rates, and may be combined (comailed) with Regular Periodicals in the same mailing, if all corresponding eligibility standards in E231 and E241 for 3/5 and Basic, respectively, are met, except that pieces in 3-digit packages could earn the Level H rate only when prepared for the unique 3-digit ZIP Code destinations identified in L002, Column A. Presort of the combined mailing is based on the total combined volume of pieces.

3.4 5–Digit Barcodes

Barcoded rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 3.1 through 3.3 and the standards for 5-digit barcodes in C840. Pieces with a 5-digit barcode could be eligible for a presort rate under 3.6.

3.5 85% Rule

At least 85% of all pieces in a Barcoded rate mailing (regardless of presort or rate) must bear the correct ZIP+4 or DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. The 85% requirement applies to each mailing unless excepted by other standards. Barcoded rate mailings not meeting the 85% rule must be prepared under corresponding standards in M897.

3.6 Qualifying Presort

Barcoded and presort rates apply as follows:

a. In 5-digit packages of six or more pieces each, ZIP+4 or DPBC pieces qualify for the Level H5/J5 Barcoded rates; 5-digit barcoded pieces (and nonbarcoded pieces where permitted) qualify for the Level H5/J5 presort rates.

b. In optional city or unique 3-digit packages of six or more pieces each, ZIP+4 or DPBC pieces qualify for the Level H3/J3 Barcoded rates; 5-digit barcoded pieces qualify for the Level H3/J3 presort rates.

c. In nonunique 3-digit and SCF packages, or in 5-digit, optional city, or unique 3-digit packages of fewer than six pieces, or in residual packages, ZIP+4 or DPBC pieces qualify for the Level G/J1 Barcoded rates; 5-digit barcoded pieces qualify for the Level G/J1 presort rates.

E250 Destination Entry

1.0 DSCF

1.1 Eligibility

Copies not eligible for in-county rates qualify for the destination SCF (DSCF) rates if:

a. For Publications Service publications, the copies are addressed for delivery in the service area of the SCF at which they are entered, and prepared in a 3-digit or finer sack or tray, or an SCF or finer pallet.

b. For other Periodicals publications, the copies are addressed for delivery in the same SCF service area as the entry post office, regardless of the type of package, pallet, sack, or tray in which they are prepared.

1.2 Rates

DSCF rates include a pound rate and a discount per piece. Pieces claimed at DSCF rates must also meet the standards for any automation or presort rate claimed and for the postage payment method used.

1.3 Authorized Entry

Publications must have an authorized entry at each post office where mail is deposited at DSCF rates. Only copies deposited according to the distribution plan authorized for that entry may be claimed at these rates. DSCF rate mail must be deposited at locations and times specified by the entry office postmaster.

1.4 Documentation

Subject to P012, the publisher must be able to show compliance with 1.1 through 1.3, e.g., by package, bundle, sack, tray, or pallet destination (as appropriate), and the number of pieces by presort level for each 5-digit ZIP Code destination eligible for DSCF rates.

2.0 DDU

2.1 Eligibility

The destination delivery unit (DDU) rate applies to pieces entered at the facility designated by the USPS where sequencing is performed for the carrier route (city carrier route, rural route, highway contract route, post office box section, or general delivery unit) serving the delivery address on the mailpiece. Copies claimed at DDU rates must be part of a carrier route package placed in a carrier route or 5-digit carrier routes sack or tray under M210, or correctly palletized under M045, and otherwise eligible for and claimed at a carrier route or Level I or K rate. Except for the standards applicable to preparing carrier route or walk-sequence rate mail, there is no additional minimum volume required for a DDU rate mailing.

2.2 Rates

DDU rates include a pound rate and a discount per piece. Pieces claimed at DDU rates must also meet the standards for any discount or rate claimed and postage payment method used. A mailing may contain copies claimed at DDU rates and other copies claimed at other rates if permitted by standard. No separation by rate is required.

2.3 Maximum Volume

Except under 2.4, the same mailer may not present for verification and acceptance more than four DDU rate mailings at the same destination postal facility (or another acting as its agent) in any 24-hour period. This limit may be waived if local conditions permit. A mailer may ask for such a waiver when scheduling deposit of the mailings. There is no maximum for plant-verified drop shipments. This standard does not apply to mailings presented to either the publication's authorized original entry post office or an authorized additional entry serving the place where the copies were prepared for mailing, if that entry post office is the destination postal facility at which the DDU rate copies must be deposited.

2.4 Authorized Entry

Publications must have an authorized entry at each post office where mail is entered at DDU rates. Only copies entered according to the distribution plan authorized for that entry may be claimed at these rates. DDU rate mail must be deposited at locations and times specified by the entry office postmaster.

2.5 Scheduling

Mailers may schedule deposit of DDU rate mailings at least 24 hours in advance by contacting the district office in whose service area the destination facility is located. Mailers must follow the scheduled deposit time provided. Mailers may request standing appointments for renewable 6-month periods by written application to the district office in whose service area the destination facility is located. Mixed loads of Periodicals and Standard Mail require advanced appointments for deposit.

2.6 Documentation

Subject to P012, the publisher must be able to show compliance with 2.1 through 2.5. If a carrier route rate is claimed, the publisher must show the number of copies and pieces for each carrier route. If a walk-sequence rate is claimed, the publisher must provide the documentation required by the corresponding standards.

E270 Preferred Rates

[In 1.1, 1.2c, 2.1, 5.1, 6.1, and 6.2, replace ''second-class'' with ''Periodicals''; in 1.3, replace ''second-class mailing privileges'' with ''Periodicals mailing privileges.'']

1.0 IN-COUNTY RATES

* * * * *

1.6 DDU Rate

Subject to E250, the DDU piece rate applies to each piece claimed in the pound rate portion at the DDU rate.

2.0 NONPROFIT RATES—1BASIC INFORMATION

* * * * *

2.4 Destination Entry Rates

Subject to E250, the DDU or DSCF piece rate applies to each piece claimed in the pound rate portion at the corresponding rate.

[Delete current 2.5.]

* * * * *

5.0 CLASSROOM RATES

* * * * *

5.5 Destination Entry Rates

Subject to E250, the DDU or DSCF piece rate applies to each piece claimed in the pound rate portion at the corresponding rate.

[Delete current 5.6.]

6.0 SCIENCE-OF-AGRICULTURE RATES

* * * * *

6.5 Destination Entry Rates

Subject to E250, the DDU or DSCF piece rate applies to each piece claimed in the pound rate portion at the corresponding rate.

[Delete current 6.6.]

[Delete current E300 and E400; no change to E500.]

* * * * *

E600 Standard Mail

E610 Basic Standards

E611 Standards Applicable to All Standard Mail

1.0 GENERAL INFORMATION

1.1 Definition

Standard Mail consists of mailable matter that is neither mailed or required to be mailed as First-Class Mail nor entered as Periodicals mail (except as permitted or required by standard). Standard Mail includes matter formerly classified as third-class and fourth-class mail. Though combined in Standard Mail, matter from each former class remains subject to separate and specific classification, eligibility, and preparation standards. Matter formerly classified as third-class mail is referred to as Standard Mail (A); matter formerly classified as fourth-class mail is referred to as Standard Mail (B). Use of the unmodified term ''Standard Mail'' indicates that the reference applies to both former third-class and former fourth-class matter.

1.2 Not Sealed

Standard Mail is not sealed against postal inspection. Regardless of physical closure, the mailing of articles at Standard Mail rates is consent by the mailer to postal inspection of the contents.

1.3 Written Additions

Markings that have the character of personal correspondence require, with certain exceptions, additional postage at the First-Class rates. These written additions and enclosures do not require additional First-Class postage and may be placed on the wrapper, on a tag or label attached to the outside of a parcel, or inside a parcel, either loose or attached to an article:

a. Marks, numbers, names, or letters describing the contents.

b. Words or phrases such as ''Please Do Not Open Until Christmas,'' ''Happy Birthday, Mother.''

c. Instructions and directions for the use of the item mailed.

d. A manuscript dedication or inscription not having the nature of personal correspondence.

e. Marks to call attention to words or passages in the text.

f. Corrections of typographical errors in printed matter.

g. Manuscripts accompanying related proof sheets and corrections of proof sheets including corrections of typographical and other errors, changes in the text, insertions of new text, marginal instructions to the printer, and corrective rewrites of parts.

h. Handstamped imprints, unless the added material is in itself personal or converts the original matter to a personal communication.

i. Matter mailable separately as Standard Mail (A) printed on the wrapper, envelope, tag, or label.

1.4 Invoice

An invoice, whether it also serves as a bill, may be enclosed or placed in an envelope (marked ''Invoice Enclosed'') attached to the outside of a Standard Mail mailpiece if it relates solely to the matter with which it is mailed. The invoice may show:

a. Names and addresses of the sender and addressee.

b. Names and quantities of the articles enclosed, descriptions of each (e.g., price, tax, style, stock number, size, and quality, and, if defective, nature of defects).

c. Order or file number, date of order, date and manner of shipment, shipping weight, postage paid, and initials or name of packer or checker.

1.5 Incidental First-Class Attachments and Enclosures

Incidental First-Class matter may be enclosed in or attached to Standard Mail (A) merchandise (including books but excluding merchandise samples) or any Standard Mail (B) mailpiece without payment of First-Class postage. An incidental First-Class attachment or enclosure must be matter that, if mailed separately, would require First-Class postage, is closely associated with but secondary to the host piece, and is prepared not to encumber postal processing. An incidental First-Class attachment or enclosure may be a bill for the product or publication, a statement of account for past products or publications, or a personal message or greeting included with a product, publication, or parcel. Postage at the Standard Mail rate applicable to the host piece is based on the combined weight of the host piece and the incidental First-Class attachment or enclosure.

1.6 Fees

The fee for manual or automated address correction service is charged per notice issued.

1.7 Addressing

Each piece of Standard Mail must bear a delivery address. Alternative address formats or detached address labels may be used, subject to A040 or A060, respectively.

1.8 Documentation

A mailing statement, completed and signed by the mailer, using the correct USPS form or an approved facsimile, must be submitted with each mailing except for single-piece rate mailings in which the correct postage is affixed to each piece. Supporting documentation might be required by the standards for the rate claimed or postage payment method used.

E612 Additional Standards Applicable to Standard Mail (A)

1.0 WEIGHT

Standard Mail (A) must weigh less than 16 ounces.

2.0 CONTENT

2.1 Circulars

Circulars, including printed letters that, according to internal evidence, are being sent in identical terms to more than one person, are Standard Mail (A). A circular does not lose its character as such when a date and the names of the addressee and sender are written therein, nor by the correction in writing of typographical errors.

2.2 Printed Matter

Printed matter weighing less than 16 ounces may be sent as Standard Mail (A). For this standard, printed matter means paper on which words, letters, characters, figures, or images, or any combination of them, not having the character of a bill or statement of account or of actual or personal correspondence, are reproduced by any process other than handwriting or typewriting.

2.3 Computer-Prepared Material

Computer-prepared material is considered printed matter. It is not considered to have the character of actual or personal correspondence merely because it contains:

a. Specific information about a product offered for sale or lease (e.g., size, color, price) or a service being offered (e.g., the name, address, and telephone number of a company representative).

b. Information relating the addressee directly to an advertised product or service.

c. Information such as the amount paid for a previous purchase, pledge, or donation, when associated with a sales promotion or solicitation for donations.

3.0 ENCLOSURES AND ATTACHMENTS

3.1 Nonincidental First-Class Enclosures

Letters or other pieces of nonincidental First-Class Mail, subject to postage at First-Class rates, may be enclosed with Standard Mail (A). Postage for the First-Class enclosure must be placed on the outside of the mailpiece. It may be affixed separately or added to the postage for the host piece. The mailer must place the endorsement ''First-Class Mail Enclosed'' on the mailpiece, below the postage and above the address.

3.2 Nonincidental First-Class Attachments

Letters or other pieces of nonincidental First-Class Mail may be placed in an envelope and securely attached to the address side of a Standard Mail (A) mailpiece or of the principal mailpiece, as applicable. Combination envelopes or containers with separate parts for the two classes of mail may be used. The names and addresses of the sender and addressee must be placed on both the principal mailpiece and the attachment. Alternatively, the sender's name and address must be placed on one part and the addressee's name and address on the other. If the mailpiece is a combination container with inseparable parts or compartments, the names and addresses may appear on only one part. The applicable Standard Mail (A) postage for the Standard Mail (A) matter must be prepaid and placed in the upper right corner of the address space. Postage at the applicable First-Class rate must be paid for and affixed to the First-Class attachment, unless other payment methods are permitted by standard.

3.3 Attachment of Other Standard Mail (A) Matter

The front cover page or the back cover page of a Standard Mail (A) mailpiece may bear an attachment that is other Standard Mail (A) matter if:

a. Each piece in the mailing bears the same attachment.

b. The material qualifies for and is mailed at bulk rates.

c. The pieces bearing the attachment are larger than 6 by 11 inches.

d. The attachment is secured so as not to interfere with processing or delivery. Folded or multipage attachments must be secured to prevent opening during handling.

e. The mailing is presorted to carrier routes.

3.4 Protective Covers

A protective cover (outsert) on a catalog or book must fully cover (to within 3/4 inch of each edge) the main body of the catalog or book, front and back, or the entire piece must be enclosed in a wrapper (a full sleeve or envelope).

4.0 BULK RATES

4.1 General Information

Bulk rates apply to mailings meeting the basic standards in E611 and the standards for presort, automation, and destination entry in E630, E640, and E650, respectively, as appropriate for the rate claimed. Nonprofit rates may be used only by organizations authorized by the USPS under E670. Bulk rate Standard Mail (A) may not use registry, insurance, special delivery, special handling, certified, return receipt for merchandise, and COD services. Not all processing categories qualify for every bulk rate.

4.2 Minimum Per Piece Rates

The minimum per piece rates (i.e., the minimum postage that must be paid for each piece) apply to Automation rate and Enhanced Carrier Route rate pieces weighing 0.2059 pound (3.2941 ounces) or less, Regular rate pieces weighing 0.2067 pound (3.3067 ounces) or less, and nonprofit rate pieces weighing 0.2149 pound (3.4383 ounces) or less. The base postage rate applies to pieces meeting minimum preparation standards (e.g., basic presort) and may be reduced if additional standards are met. For the minimum per piece rates, mail is generally categorized as either ''letters'' or ''other than letters,'' based on the letter-size standard in C050 that disregards address placement. The exception is for Automation rates, which are applied to the ''other than letters'' category, based on the standards in C820. Address placement is also used to apply the aspect ratio standard for letter-size automation rates in C810.

4.3 Piece/Pound Rates

Pieces exceeding the weight limits specified in 4.2 are subject to a two-part piece/pound rate that includes a fixed charge per piece and a variable pound charge based on weight. The base postage rate applies to pieces meeting the minimum preparation standards (e.g., basic presort) and might be reduced if additional standards are met.

4.4 Net Postage

The net postage rate that must be paid is either the minimum per piece rate or the piece/pound rate, as reduced in either case by one or more discounts for which the piece might be eligible. The net postage rate is commonly designated by the name of the primary discount (e.g., carrier route rate, Barcoded rate, DBMC rate).

4.5 Minimum Bulk Rate

Postage is computed at the applicable rates on the entire bulk mailing to be mailed at one time. Except as noted in 4.6, the total postage paid on any bulk mailing may not be lower than the amount determined by multiplying the proper minimum per piece rate (less applicable discounts) by the total number of mailpieces. If the total postage computed at pound rates, after adding any adjustment for presort level, is less than the minimum postage charge, postage must be computed at the minimum per piece rate.

4.6 Exception

When the postage computed at the bulk Standard Mail (A) rates is higher than a Standard Mail (B) rate for which the matter and the mailing could qualify except for its weight, the Standard Mail (B) rate may be paid without adding needless weight. All other standards for bulk Standard Mail (A) apply.

4.7 Annual Fees

Bulk rate Standard Mail (A) is subject to an annual fee once each 12-month period. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that in effect on the date of payment. Other standards apply, based on how postage is paid:

a. When mailings are paid with meter or precanceled stamps, each mailer who enters mailings at the regular or nonprofit bulk rates must pay an annual bulk mailing fee at each post office of mailing. Persons or organizations paying this fee may enter mail of their clients as well as their own mail.

b. When a mailing is paid with a permit imprint, the mailer whose permit imprint is on the mailpiece must put that permit number on the mailing statement and must pay the annual bulk mailing fee for that permit. This fee is separate from the fee that must be paid when applying to use permit imprints.

4.8 Merging

Generally, mailers may merge similar bulk Standard Mail (A) matter prepared for mailing at the same time into a single mailing. Differences in text, address labels, and address lists or list key numbers do not prohibit the mailer from merging and presorting mailings. Pieces with different methods of postage payment may be combined in the same mailing only if authorized by the USPS. Pieces of nonidentical weight, if merged in the same mailing, must bear the correct postage when mailed, unless otherwise authorized by the USPS. Pieces at Nonprofit, Regular, Enhanced Carrier Route, and Automation rates must be prepared as separate mailings unless specifically excepted. Only Regular, Enhanced Carrier Route, and Automation may be reported on the same mailing statement and documentation.

4.9 Preparation

Each Nonprofit, Regular, Enhanced Carrier Route, or Automation rate mailing must be prepared under these general standards:

a. All pieces in a mailing must be of the same processing category, except that irregular and machinable parcels may be commingled in 5-digit sacks or on 5-digit pallets.

b. Each mailing must contain at least 200 pieces or 50 pounds of pieces. Other volume standards can also apply, based on the rate claimed.

c. All pieces in a bulk mailing must be marked and presorted together under the standards in M600 applicable to the rate claimed.

d. Each piece must bear the addressee's name and delivery address, including the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Pieces in automation rate mailings, or pieces prepared with detached address labels, are subject to additional standards.

e. Postage must be paid under the standards in P600 with precanceled stamps, postage meter, or permit imprint.

f. Mailings must be documented under P012 and the standards for the rate claimed.

g. Each piece must meet the standards applicable to any other rate or discount claimed.

h. Any POSTNET barcode on a mailpiece must meet the standards in C840 and A950 and be the correct barcode for the delivery address.

i. Mailings must be deposited at a business mail entry unit of the post office where the postage permit or license is held and the annual bulk fee paid, unless deposit elsewhere is permitted by standard.

E613 Additional Standards Applicable to Standard Mail (B)

1.0 WEIGHT

Standard Mail (B) consists of mailable matter that (except Special or Library Mail) weighs 16 ounces or more.

2.0 ZONED RATES

2.1 Required Mailing Office

Zone-rated Standard Mail (i.e., parcel post and bound printed matter) must be mailed at the post office from which the zone rate postage was computed, except under 2.2 and 2.3.

2.2 Redirected Mailings

Mailers who present large volumes of zone-rated Standard Mail might be allowed or directed to deposit such mailings at another postal facility when processing or logistics make such an alternative desirable for the USPS, subject to these conditions:

a. Zoned postage need not be recomputed if both the original post office of mailing and the alternative facility to which the mailing is redirected use the same zone chart for computing zone-rated postage, based on the 3-digit prefix of their ZIP Codes.

b. Postage must be recomputed on pieces in mailings redirected to a postal facility that uses a different zone chart for computing zone-rated postage.

c. Postage for pieces claimed at the local zone rates must be recomputed at the applicable zone rate for the post office to which the mailing was redirected. Postage might also be recomputed for other pieces that were ineligible for the local zone rates but that could become eligible at the post office to which the mailing was redirected.

2.3 BMC Acceptance

Mailers may present zone-rated Standard Mail at a BMC for acceptance if:

a. Metered postage is paid through a postage meter licensed at the BMC parent post office, or permit imprint postage is paid through an advance deposit account at the BMC parent post office or another post office in the BMC service area, unless otherwise permitted by standard.

b. Zoned postage is computed from the BMC parent post office.

c. The BMC is authorized by Form 4410 to act as acceptance agent for the entry post office.

3.0 ADDRESSING

All Standard Mail (B) must bear the sender's return address and, except for single-piece rate parcel post, the address on each piece must include the correct ZIP Code or ZIP+4 code.

E620 Single-Piece and Nonpresort Bulk Standard Mail

E621 Single-Piece Standard Mail (A)

1.0 SINGLE-PIECE RATE

1.1 Rate Application

Single-piece rate Standard Mail (A) is Standard Mail (A) matter not prepared as required for a bulk rate. The single-piece rates are applied to each piece (or each item mailed under 1.2) based on its weight. If the computed single-piece Standard Mail (A) rate is higher than any Standard Mail (B) rate for which the mail could qualify except for weight, the lower Standard Mail (B) rate may be paid; all other standards for single-piece Standard Mail (A) apply.

1.2 Keys and Identification Devices

Keys and identification devices (identification cards or uncovered identification tags) may be mailed as single-piece Standard Mail (A) if they bear, contain, or have securely attached instructions to return to a name and complete address of a person, organization, or concern and a statement guaranteeing postage payment on delivery.

1.3 Nonstandard Surcharge

A nonstandard surcharge is assessed on each single-piece Standard Mail (A) mailpiece weighing 1 ounce or less (except for keys and identification devices) that exceeds the size limits in C600.

1.4 Preparation

Keys and identification devices must be prepared under 1.2. Each other single-piece rate Standard Mail (A) piece must have a delivery address and the endorsement ''Standard Mail.'' No minimum quantity is required unless postage is paid with a permit imprint (in which case the mailing must contain 200 pieces or 50 pounds of pieces). There are no presort standards, but five or more metered letter-size pieces and any permit imprint pieces must be ''faced'' (so that the addresses face in one direction) and bundled, boxed, or packaged.

1.5 Postage Payment and Documentation

Except for keys and identification devices, full postage must be either affixed in adhesive stamps, precanceled stamps, or meter postage or paid with permit imprint. Documentation of postage is required for mailings paid with precanceled stamps, meter postage, or permit imprint if all pieces in the mailing are not of identical weight. A mailing statement is required only if postage is paid with a permit imprint.

1.6 Place of Mailing

Pieces paid with adhesive stamps may be deposited into collection boxes or other places where mail is accepted. Pieces paid with meter postage, precanceled stamps, or permit imprint must be taken to the post office where the license or permit is held, unless the USPS authorizes otherwise.

E622 Parcel Post

1.0 BASIC STANDARDS

1.1 Description

Any Standard Mail (B) matter may be mailed at parcel post rates. Parcel post rates are based on zones, on whether a parcel is mailed and delivered within a BMC or ASF service area (as shown below), and on the weight of the piece.

* * * * *

1.3 Enclosures

Parcel post may contain any printed matter mailable as Standard Mail (A), in addition to the enclosures and additions listed in E611.

[Delete current E412.1.4; insert text of current E412.2.0 through 4.0 as E622.2.0 through 4.0, respectively; in 3.1, replace ‘‘fourth-class’’ with ‘‘Standard Mail (B)’’; no other change in text.]

E623 Bound Printed Matter

1.0 BASIC STANDARDS

1.1 Description

Bound printed matter is Standard Mail weighing at least 1 pound but not more than 10 pounds and meeting the standards in E611 and E613. Bound printed matter rates are based on zones and the weight of the piece.

1.2 Characteristics

Bound printed matter must:

a. Consist of advertising, promotional, directory, or editorial material or any combination of these.

b. Be securely bound by permanent fastenings such as staples, spiral binding, glue, or stitching. Looseleaf binders and similar fastenings are not considered permanent.

c. Consist of sheets of which at least 90% are imprinted by any process other than handwriting or typewriting with letters, characters, figures, or images, or any combination of these.

d. Not have the nature of personal correspondence.

e. Not be stationery, such as pads of blank printed forms.

1.3 Combining Pieces

A mailpiece containing two or more bound printed matter pieces, each weighing less than 1 pound but having a total weight of at least 1 pound, is mailable at the bound printed matter rates.

1.4 Enclosures

In addition to the additions and enclosures listed in E611 and E612, bound printed matter may contain:

a. Any printed matter mailable as Standard Mail (A).

b. A merchandise sample attached to a bound page or to a permissible loose enclosure, if the sample represents only an incidental portion of the bound printed matter piece and if the sample is not provided exclusively or primarily as a premium or an inducement promoting the sale of the bound printed matter piece. The sample may be identified as a ‘‘free gift’’ where it is clear that the sample is offered to the addressee to market the gift product or promote the sale of the bound printed matter.

[Delete current 1.5.]

E624 Special Standard Mail

1.0 BASIC STANDARDS

1.1 Qualification

Special Standard Mail is Standard Mail matter meeting the standards in E611, E613, and those below. Special Standard Mail rates are based on the weight of each piece without regard to zone.

1.2 Qualified Items

Only these articles may be mailed at the Special Standard Mail rates:

a. Books, including books issued to supplement other books of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising matter other than incidental announcements of books. Advertising includes paid advertising and the publishers' own advertising in display, classified, or editorial style.

b. 16-millimeter or narrower width films, which must be positive prints in final form for viewing, and catalogs of such films of 24 pages or more (at least 22 of which are printed). Films and film catalogs sent to or from commercial theaters do not qualify for the Special Standard Mail rate.

c. Printed music, whether in bound or sheet form.

d. Printed objective test materials and their accessories used by or in behalf of educational institutions to test ability, aptitude, achievement, interests, and other mental and personal qualities with or without answers, test scores, or identifying information recorded thereon in writing or by mark.

e. Sound recordings and guides or scripts prepared solely for use with such recordings. Video recordings and player piano rolls are classified as sound recordings.

f. Playscripts and manuscripts for books, periodicals, and music.

g. Printed educational reference charts designed to instruct or train individuals for improving or developing their capabilities. Each chart must be a single printed sheet of information designed for educational reference. The information on the chart, which may be printed on one or both sides of the sheet, must be conveyed primarily by graphs, diagrams, tables, or other nonnarrative matter. An educational reference chart is normally but not necessarily devoted to one subject. A chart on which the information is conveyed primarily by textual matter in a narrative form does not qualify as a printed educational reference chart for mailing at the Special Standard Mail rates even if it includes graphs, diagrams, or tables. Examples of qualifying charts include maps produced primarily for educational reference, tables of mathematical or scientific equations, noun declensions or verb conjugations used in the study of languages, periodic table of elements, botanical or zoological tables, and other tables used in the study of science.

h. Looseleaf pages and their binders consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students.

i. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

1.3 Loose Enclosures

In addition to the enclosures and additions listed in E611, any printed matter that is mailable as Standard Mail (A) may be included loose with any qualifying material mailed at the Special Standard Mail rates.

1.4 Enclosures in Books

Enclosures in books mailed at Special Standard Mail rates are subject to these additional standards:

a. Either one envelope or one addressed postcard may be bound into the pages of a book. If also serving as an order form, the envelope or card may be in addition to the order form permitted by 1.4b.

b. One order form may be bound into the pages of a book. If also serving as an envelope or postcard, the order form may be in addition to the envelope or card permitted by 1.4a.

c. Books may also contain announcements of books appearing as book pages. These announcements must be incidental, exclusively devoted to books and without extraneous advertising of book-related materials or services. Announcements may fully describe the conditions and methods of ordering books and may contain ordering instructions for use with a separate order form. No more than three of these announcements may contain as part of their format a single order form, which may also serve as a postcard. The order forms permitted with these announcements are in addition to, and not in place of, order forms that may be enclosed under 1.4a or 1.4b.

[Delete current 1.5.]

E625 Library Mail

1.0 BASIC STANDARDS

1.1 Qualification

Library Mail is Standard Mail matter that meets the standards in E611, E613, and those below. Library Mail rates are based on the weight of each piece without regard to zone.

1.2 Qualified Sender, Recipient, Content

Each piece must show in the address or return address the name of a school, college, university, public library, museum, or herbarium or the name of a nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans, or fraternal organization. For Library Mail standards, these nonprofit organizations are defined in E670. Only the articles described in 1.4 through 1.5 may be mailed at the Library Mail rate.

1.3 Preparation

When 1,000 or more pieces of identical weight are mailed at the Library Mail rates during a single day, the pieces must be prepared under M630.

1.4 Mailable Items Sent Between

The following items may be mailed at the Library Mail rate when sent between: (1) schools, colleges, universities, public libraries, museums, and herbariums and nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans, and fraternal organizations or associations; (2) any such institution, organization, or association, and an individual who has no financial interest in the sale, promotion, or distribution of the materials; or (3) any such institution, organization, or association and a publisher, if such institution, organization, or association has placed an order to buy such materials for delivery to itself:

a. Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising except for incidental announcements of books.

b. Printed music, whether in bound or sheet form.

c. Bound volumes of academic theses, whether in typewritten or duplicated form.

d. Periodicals, whether bound or unbound.

e. Sound recordings.

f. Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts.

g. Museum materials, specimens, collections, teaching aids, printed matter, and interpretive materials for informing and furthering the educational work and interests of museums and herbariums.

1.5 Mailable Items Sent ‘‘To’’ or ‘‘From’’

The following specific items may be mailed at the Library Mail rate when sent to or from schools, colleges, universities, public libraries, museums, and herbariums and to or from nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans, or fraternal organizations:

a. 16-millimeter or narrower width films, filmstrips, transparencies, slides, and microfilms. All must be positive prints in final form for viewing.

b. Sound recordings.

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretive materials intended for informing and furthering the educational work and interests of museums and herbariums.

d. Scientific or mathematical kits, instruments, or other devices.

e. Catalogs of the materials in 1.5a through 1.5d and guides or scripts prepared solely for use with such materials.

1.6 Enclosures in Books and Sound Recordings

Books and sound recordings mailed at the Library Mail rate may contain these enclosures as well as the additions and enclosures permitted under E611:

a. Either one envelope or one addressed postcard. If also serving as an order form, the envelope or card may be in addition to the order form permitted by 1.6b.

b. One order form. If also serving as an envelope or postcard, the order form may be in addition to the envelope or card permitted by 1.6a.

c. With books, announcements of books appearing in book pages or as loose enclosures. These announcements of books must be incidental and exclusively devoted to books. They may not contain extraneous advertising of book-related materials or services. Announcements may fully describe the conditions and methods of ordering books (such as by membership in book clubs) and may contain ordering instructions for use with the single order form permitted in 1.6b.

d. With sound recordings, announcements of sound recordings appearing on title labels, on protective sleeves, on the carton or wrapper, or on loose enclosures. These announcements of sound recordings must be incidental and exclusively devoted to sound recordings. They may not contain extraneous advertising of recording-related materials or services. Announcements may fully describe the conditions and methods of ordering sound recordings (such as by membership in sound recording clubs) and may contain ordering instructions for use with the single order form permitted in 1.6b.

1.7 Other Material

Material mailed at the Library Mail rate other than books and sound recordings may contain only those additions and enclosures permitted under E611.

[Delete current 1.8.]

E630 Presort Bulk Rates

E631 Regular Standard Mail

1.0 BASIC AND 3/5 RATES

Basic and 3/5 rates apply to Regular Standard Mail letters, flats, and machinable and irregular parcels, weighing less than 16 ounces, that are correctly prepared under M610. Basic rates apply to pieces that do not meet the standards for the 3/5 rates described below. Basic rate and 3/5 rate pieces may be prepared as part of the same mailing, subject to a single minimum volume standard. Pieces not presorted to qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if:

a. In quantities of 150 or more letter-size pieces for a single 3-digit area, prepared in 5-digit or 3-digit packages of 10 or more pieces each and placed in 5-digit or 3-digit trays.

b. In quantities of 150 or more upgradable letter-size pieces (as defined in M610) for a single 3-digit area and placed in 5-digit or 3-digit trays.

c. In a 5-digit or 3-digit package of 10 or more flat-size pieces and placed in a 5-digit or 3-digit sack containing at least 125 pieces or 15 pounds of pieces.

d. In a 5-digit or 3-digit package of 10 or more flat-size pieces and sorted to the appropriate level of pallet.

e. In a 5-digit, destination ASF (if required), or destination BMC sack containing at least 10 pounds of machinable parcels. (The 3/5 rates are available only if all possible 5-digit sacks are prepared.)

f. On a 5-digit, destination ASF (if required), or destination BMC pallet of machinable parcels. (The 3/5 rates are available only if all possible 5-digit pallets are prepared.)

g. In a 5-digit or 3-digit sack of irregular parcels.

2.0 ZIP CODE ACCURACY

Effective 3 months from the date on which Classification Reform is implemented, 5-digit ZIP Codes included in addresses appearing on pieces claimed at Regular Basic and 3⁄5 rates must have been verified and corrected within 12 months of the date of mailing, using a USPS-approved method. Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies throughout the 12-month period following its most recent update.

E632 Enhanced Carrier Route Standard Mail

1.0 BASIC STANDARDS

1.1 General

Enhanced Carrier Route rates apply to Enhanced Carrier Route Standard Mail letters, flats, and irregular parcels (including merchandise samples distributed using detached address labels), weighing less than 16 ounces, that are presented at one post office as part of a single mailing of at least 200 pieces or 50 pounds of pieces and correctly prepared under M620 to carrier routes (city carrier routes, rural routes, highway contract routes, post office box sections, or general delivery units). Enhanced Carrier Route rate flats may not be more than 11–3/4 inches wide, 14 inches long, or 3/4 inch thick. Merchandise samples with detached labels may exceed these dimensions if the labels meet the standards in A060.

1.2 Pieces at Different Rates

An Enhanced Carrier Route mailing may include pieces at more than one Enhanced Carrier Route rate, subject to a single minimum volume standard.

1.3 Carrier Route Information

Mailers must apply carrier route codes to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme or another AIS product containing carrier route information (see A930). Mailers must have updated the carrier route information within 90 days before the mailing date.

1.4 Sequencing

Basic Carrier Route rate mail must be prepared in carrier walk sequence or line-of-travel (LOT) sequence, using official LOT schemes prescribed by the USPS (see M050). High Density and Saturation rate mailings must be prepared in carrier walk sequence, using official schemes prescribed by the USPS.

1.5 Eligible Presort

Carrier Route rates apply to pieces as described below that are correctly presorted under M620. Basic Carrier Route rates apply unless pieces meet the additional standards in 1.6 and 1.7 to qualify for the High Density or Saturation rates. Pieces may qualify for the Carrier Route rates if:

a. In a carrier route package of 10 or more letter-size pieces placed in a full carrier route or any 5-digit carrier routes tray.

b. In a carrier route package of 10 or more flat-size pieces placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack.

c. In a carrier route package of 10 or more flat-size pieces correctly palletized under M045.

d. In a carrier route sack of irregular parcels containing 125 pieces or 15 pounds of pieces, in a carrier route carton(s) of merchandise samples prepared with detached address labels under A060 containing a total of 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. (Pieces must be in packages of 10 or more irregular parcels each if packaging is required under M610.)

1.6 Addressing—High Density and Saturation Mail

High Density and Saturation rate mail may be prepared with detached address labels, subject to A060, or with an alternative addressing format, subject to A040. High Density pieces must have a complete delivery address or an address in occupant or exceptional format. Saturation pieces addressed for delivery on a city carrier route must have a complete delivery address or an address in occupant or exceptional format, except that official mail from certain government entities may also use the simplified format. Saturation pieces for delivery on rural or highway contract routes, or through general delivery or a post office box, must have a complete delivery address or an alternative address format.

1.7 Density Standards—High Density and Saturation Mail

High Density and Saturation rate mailings are subject to these density standards:

a. There is no minimum volume per 5-digit ZIP Code delivery area. Pieces need not be sent to all carrier routes within a 5-digit delivery area.

b. For the High Density rate, at least 125 pieces must be prepared for each carrier route for which that discount is claimed, except that fewer pieces may be prepared and the High Density rate may be claimed for carrier routes of 124 or fewer possible deliveries if a piece is addressed to every possible delivery on the route. Multiple pieces per delivery address can count toward this density standard.

c. For the Saturation rate, pieces must be addressed either to 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses, whichever is less, on each carrier route receiving this mail, except that mail addressed in the simplified address format must meet the 100% coverage standard in A040. Multiple pieces per delivery address do not count toward this delivery standard. Sacks with fewer than 125 pieces and less than 15 pounds of pieces may be prepared to a carrier route when the Saturation rate is claimed for the contents and the applicable density standard is met.

E633 Bulk Bound Printed Matter

1.0 BASIC INFORMATION

1.1 Preparation

Bulk bound printed matter must meet the basic standards in E623 and the applicable preparation standards in M630. Mailings may contain nonidentical-weight pieces only if the correct postage is affixed to each piece or if the RCSC serving the office of mailing has authorized payment of postage by permit imprint. Each mailing must contain 300 or more pieces of bound printed matter. Insurance, special delivery, special handling, and COD services may be used, but selective use of these services for individual parcels must be approved by the RCSC.

1.2 Additional Standards for Carrier Route

Carrier route bulk bound printed matter is subject to these additional standards:

a. Each mailing must contain 300 or more pieces presorted under M630 into groups of at least 10 pieces, 20 pounds, or 1,000 cubic inches each for the same carrier route, rural route, highway contract route, post office box section, or general delivery unit.

b. Residual pieces (not sorted as described in 1.2a) do not count toward the minimum specified in 1.2a, are ineligible for the carrier route presort level rate, and must have postage paid at the appropriate bulk bound printed matter rate. Residual pieces may be included in a carrier route presort rate mailing and be endorsed ''Carrier Route Presort'' or ''CAR–RT SORT.'' The number of residual pieces to any single 5-digit ZIP Code area may not exceed 5% of the total qualifying presorted carrier route pieces addressed to that 5-digit area. Residual pieces must be separated from the pieces that qualify for the carrier route rate and must be correctly prepared under M630.

c. Mailers must apply carrier route codes to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme or another AIS product containing carrier route information (see A930). Mailers must have updated the carrier route information within 90 days of the mailing date.

E634 Presorted Special Standard Mail

1.0 BASIC INFORMATION

The Presorted Special Standard Mail rates apply to Special Standard Mail rate matter mailed in minimum quantities at a place and time designated by the postmaster, subject to the preparation standards in M630. The size and content of each piece in the mailing does not need to be identical. Nonidentical pieces may be merged, presorted together, and presented as a single mailing either with postage paid with a permit imprint if authorized by the RCSC serving the post office of mailing, or with the correct postage affixed to each piece in the mailing.

2.0 PRESORT RATES

2.1 Mailing Fee

A mailing fee must be paid once each 12-month period at each office of mailing by or for any person who mails at the Presorted Special Standard Mail rates. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that in effect on the date of payment.

2.2 One Presort Level

A Presorted Special Standard Mail rate mailing receives only one level of presort rate. The mailer may, however, divide a mailing into two or more mailings with separate mailing statements to use both levels of presort rates. Pieces that do not qualify for a presort rate must be presented for mailing under a separate mailing statement if postage is paid with a permit imprint.

2.3 Definitions

For this standard:

a. A ''full sack'' means either at least eight pieces or a quantity of pieces equaling at least 1,000 cubic inches of volume or weighing from 20 to 70 pounds.

b. A ''substantially full sack'' means either at least four pieces or a quantity of pieces equaling at least 1,000 cubic inches of volume or weighing from 20 to 70 pounds.

2.4 5-Digit Rate

To qualify for the Presorted Special Standard Mail 5-digit rate, a piece must be in a mailing of at least 500 pieces receiving identical service, properly prepared and presorted either under M630 to full 5-digit sacks or under M045 to 5-digit pallets. These conditions also apply:

a. Mailings of at least 500 nonmachinable outside parcels may qualify for the Presorted Special Standard Mail 5-digit rate if prepared to preserve presort by 5-digit ZIP Code as prescribed by the mailing office postmaster. The postmaster may require up to a 24-hour notice before the mailing is presented.

b. Mailings prepared as palletized bundles must consist of 5-digit bundles each containing at least eight pieces, or a quantity of pieces equaling 1,000 cubic inches of volume or weighing 20 pounds. No bundle may exceed 40 pounds. If there is more than 20 pounds of mail to a 5-digit destination, mailers must prepare the minimum number of bundles that do not exceed 40 pounds each.

2.5 BMC Rate

To qualify for the Presorted Special Standard Mail BMC rate, a piece must be in a mailing of at least 500 sacked pieces receiving identical service, properly prepared and presorted either under M630 to full or substantially full bulk mail center (BMC) sacks or under M045 to BMC pallets. Mailings of at least 500 nonmachinable outside parcels may qualify for the Presorted Special Standard Mail BMC rate if prepared to preserve presort by BMC as prescribed by the mailing office postmaster. The postmaster may require up to a 24-hour notice before the mailing is presented.

E639 Nonprofit Standard Mail

[Text of current eligibility standards in E331 and E332 is retained and renumbered for nonprofit rates only as E639.1.0; text of current eligibility standards in E333 and E334 is retained and renumbered for nonprofit rates only as E639.2.0 and 3.0, respectively.]

1.0 BASIC AND 3/5 RATES

1.1 Qualifying Pieces

Basic and 3/5 rates apply to Nonprofit Standard Mail letters, flats, and machinable and irregular parcels, weighing less than 16 ounces, that are correctly prepared under M692. Basic rates apply to pieces that do not meet the standards for the 3/5 rates described below. Basic rate and 3/5 rate pieces may be prepared as part of the same mailing, subject to a single minimum volume standard. Pieces not presorted to qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if correctly prepared:

a. In 5-digit or 3-digit packages of 10 or more pieces each, placed in 5-digit or 3-digit sacks that contain at least 125 pieces or 15 pounds of pieces.

b. In 5-digit or 3-digit packages of 10 or more pieces each, placed in 5-digit or 3-digit trays.

c. In full or overflow 5-digit, 3-digit, or SCF trays, prepared under the standards for ZIP+4 tray-based mailings in M891.

d. In 5-digit packages of 10 or more pieces each, or 3-digit packages of 50 or more pieces each, prepared under the standards for ZIP+4 package-based mailings in M892.

e. In 5-digit, 3-digit, or SCF trays, prepared under the standards for letter-size ZIP+4 Barcoded tray-based mailings in M893.

f. In 5-digit packages of 10 or more pieces each, or 3-digit packages of 50 or more pieces each, prepared under the standards for letter-size ZIP+4 Barcoded package-based mailings in M894 and M895.

g. In 5-digit or 3-digit packages of 10 or more pieces each, prepared under the standards for flat-size 3/5 ZIP+4 Barcoded rate mailings in M897.

h. In a 5-digit or 3-digit package of 10 or more pieces palletized under M045.

i. In a 5-digit, destination ASF (if required), or destination BMC sack containing at least 10 pounds of machinable parcels. (The 3/5 rates are available only if all possible 5-digit sacks are prepared.)

j. On a 5-digit or destination BMC pallet of machinable parcels. (The 3/5 rates are available only if all possible 5-digit pallets are prepared.)

k. In a 5-digit or 3-digit sack of irregular parcels.

1.2 Optional Preparation

At the mailer's option, Nonprofit Standard Mail may be prepared under the standards for Regular Standard Mail in M610, including presort. Under this option, Nonprofit Standard Mail can claim Nonprofit Basic or 3/5 rates, and may be combined (comailed) with Regular Standard Mail in the same mailing, if all corresponding eligibility standards in E631 for Regular Basic and 3/5 rates, respectively, are met. Presort of the combined mailing is based on the total combined volume of pieces.

1.3 Carrier Route Pieces

A 3/5 rate mailing may not include pieces claimed at the carrier route presort or walk-sequence rates. The 3/5 rate pieces and carrier route presort or walk-sequence rate pieces may be reported on the same mailing statement only under D600.

2.0 CARRIER ROUTE RATES

2.1 General

All pieces in a carrier route rate mailing must be presented at one post office as part of a single mailing of at least 200 pieces or 50 pounds of pieces prepared under M693 to carrier routes (city carrier routes, rural routes, highway contract routes, post office box sections, or general delivery units). Pieces may not be more than 11¾ inches wide, 14 inches long, or ¾ inch thick. Merchandise samples with detached labels may exceed these dimensions if the labels meet the standards in A060.

2.2 Optional Preparation

At the mailer's option, carrier route Nonprofit Standard Mail may be prepared under the standards for Enhanced Carrier Route Standard Mail in M620, including presort. Under this option, Nonprofit Standard Mail can claim Nonprofit carrier route rates, and may be combined (comailed) with Enhanced Carrier Route Standard Mail in the same mailing, if all corresponding eligibility standards in E632 for Enhanced Carrier Route Basic Carrier Route rate are met. Presort of the combined mailing is based on the total combined volume of pieces.

2.3 Other Rates

A carrier route rate mailing may include pieces claimed at the basic rate if the entire mailing meets the standard in 3.1. The basic rate pieces must be prepared under M692, but they do not have to meet a separate 200-piece/50-pound minimum. A carrier route rate mailing may not include pieces claimed at the 3/5 rates. The 3/5 rate and carrier route rate pieces may be reported on the same mailing statement only under D600.

2.4 Required Listing

At the time of mailing, the mailer must give the post office a list of the number of qualifying pieces to each 5-digit ZIP Code area. After the first mailing, the postmaster may authorize the mailer to keep the records and submit them on request. The mailer must keep these records for 90 days after the mailing date, or until any action pending on the recalculation of postage is resolved to USPS satisfaction.

2.5 Carrier Route Information

Mailers must presort mail to carrier routes using the current USPS Carrier Route Information System (CRIS) scheme (see A930). Mailers must have incorporated CRIS changes in their mailings within 90 days before the date of mailing.

2.6 Qualifying Presort

Each qualifying piece must be correctly prepared under M693 as part of a group of 10 or more pieces in the same carrier route package that, in turn, is placed in a carrier route, 5-digit carrier routes, or 3-digit carrier routes tray or sack. To carrier route and 5-digit carrier routes destinations, trays must be full and sacks must contain at least 125 pieces or 15 pounds of pieces. Qualifying mail also includes:

a. Carrier route packages in a 5-digit carrier routes tray that is less than full, or in a 5-digit carrier routes sack that contains fewer than 125 pieces and less than 15 pounds of pieces if that 5-digit area does not have enough residential deliveries to meet the applicable full tray or 125-piece/15-pound sack minimum at a 90% saturation level.

b. The last tray or sack to a 3-digit ZIP Code destination. The last tray may be less than full and the last sack may contain fewer than 125 pieces and less than 15 pounds of pieces.

c. Carrier route packages correctly palletized under M045.

2.7 Residual

Residual pieces are those not presorted under M693 to qualify for carrier route rates. These pieces may be included in a carrier route rate mailing and may be marked ''Carrier Route Presort,'' subject to these conditions:

a. Residual pieces do not count toward the minimum quantity for carrier route rates.

b. The number of residual pieces to any single 5-digit ZIP Code area may not exceed 5% of the total qualifying carrier route presort pieces addressed to that 5-digit ZIP Code area.

c. Residual pieces are not eligible for the carrier route rate and must have postage paid at the basic rate and must be prepared as specified in M693.

3.0 WALK-SEQUENCE RATES

3.1 General

All pieces in a walk-sequence rate mailing must be presented at one post office as part of a single mailing of at least 200 pieces or 50 pounds of pieces correctly presorted to carrier routes (city carrier routes, rural routes, highway contract routes, post office box sections, or general delivery units). Subject to compliance with these standards, the saturation walk-sequence rate may be claimed by pieces in both the ''letters'' and ''other-than-letters'' categories. The 125-piece walk-sequence rate may be claimed only by pieces in the ''other-than-letters'' category, as defined in E612.

3.2 Optional Preparation

At the mailer's option, carrier route Nonprofit Standard Mail may be prepared under the standards for Enhanced Carrier Route Standard Mail in M620, including presort. Under this option, Nonprofit Standard Mail can claim Nonprofit 125-piece walk-sequence or saturation walk-sequence rates, and may be combined (comailed) with Enhanced Carrier Route Standard Mail in the same mailing, if all corresponding eligibility standards in E632 for Enhanced Carrier Route High Density or Saturation rates are met. Presort of the combined mailing is based on the total combined volume of pieces.

3.3 Other Rates

A walk-sequence rate mailing may include pieces claimed at the carrier route and basic rates, but only the carrier route pieces count toward the standard in 3.1. The basic rate pieces must be prepared as required for residual pieces under 1.0, but they do not have to meet a separate 200-piece/ 50-pound minimum. When presented to the USPS, the trays or sacks containing the walk-sequence rate pieces must be separated from other trays or sacks. Any effective separation method may be used. A walk-sequence rate mailing may not include pieces claimed at the 3/5 rate. The 3/5 rate and walk-sequence rate pieces may be reported on the same mailing statement only under D600.

3.4 Addressing

Walk-sequence rate mail must meet these addressing standards:

a. Mailings may be prepared with detached address labels, subject to A060.

b. Pieces prepared with an alternative addressing format must meet the applicable standards in A040.

c. For the 125-piece walk-sequence discount, each piece must have a complete delivery address or an address in occupant or exceptional format.

d. For the saturation walk-sequence discount, each piece addressed for delivery on a city carrier route must have a complete delivery address or an address in occupant or exceptional format, except that official mail from certain government entities may also use the simplified format. Pieces for delivery on rural or highway contract routes, or through general delivery or a post office box, must have a complete delivery address or an alternative address format.

3.5 Density Standards

Walk-sequence rate mailings are subject to these density standards:

a. There is no minimum volume per 5-digit ZIP Code delivery area. Walk-sequence mail need not be sent to all carrier routes within a 5-digit delivery area.

b. For the 125-piece walk-sequence discount, at least 125 walk-sequenced pieces must be prepared for each carrier route for which that discount is claimed, except that for carrier routes of 124 or fewer possible deliveries, the 125-piece walk-sequence discount may be claimed if a piece is addressed to every possible delivery on the route. Multiple pieces per delivery address can count toward this density standard.

c. For the saturation walk-sequence discount, pieces must be addressed either to 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses, whichever is less, on each carrier route receiving this mail, except that mail addressed in the simplified address format must meet the coverage standard in A040. Multiple pieces per delivery address do not count toward this density standard.

d. Sacks with fewer than 125 pieces and less than 15 pounds of pieces may be prepared to a carrier route when a walk-sequence discount is claimed for the contents and the applicable density standard in 3.5b or 3.5c is met.

E640 Automation-Based Rates

E641 Automation Rates

1.0 BASIC STANDARDS

1.1 All Pieces

All pieces in an Automation Standard Mail mailing must:

a. Meet all the basic standards for Standard Mail in E611 and E612.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of Standard Mail.

c. Be in the same processing category and meet the physical standards in C810 (letters and cards) or C820 (flats).

d. Bear an address that includes the correct numeric 5-digit ZIP Code or ZIP+4 code, or the correct numeric equivalent to the delivery point barcode (DPBC).

e. Meet the address quality and coding standards in 1.2 (if applicable), A800, and A950.

f. Be marked, presorted, and documented as specified in M891 (letters and cards) or M892 (flats).

g. Meet the postage payment standards in P013 and P600.

h. Bear an accurate barcode, either the correct DPBC if a card or letter (on the piece or on an insert showing through a barcode window) or the correct ZIP+4 barcode or DPBC if a flat, that meets the barcode standards in C840. A letter-size mailpiece with a barcode window in the lower right corner must have the correct DPBC appearing through that window.

1.2 Carrier Route Information

Mailers must apply carrier route codes to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme or another AIS product containing carrier route information (see A930). Mailers must have updated the carrier route information within 90 days before the mailing date. Carrier route rates for letter-size mail are available only for those 5-digit ZIP Code areas identified in the USPS AIS products used for address coding.

1.3 Enclosed Reply Envelopes and Cards

Effective January 1, 1997, all courtesy reply and business reply envelopes and cards provided to addressees as enclosures in Automation Standard Mail must bear the correct facing identification mark (FIM) and delivery point barcode for the delivery address of the reply piece and must meet the automation compatibility standards in C810 or C820, as appropriate. Mailers must certify that this standard has been met when the corresponding mail is presented to the USPS.

2.0 RATE APPLICATION

2.1 Letters and Cards

Automation Standard Mail rates apply to each piece that is correctly presorted under M810 into the corresponding qualifying groups:

a. Pieces in full carrier route trays, or in carrier route packages of 10 or more pieces each placed in 5-digit carrier routes trays, qualify for the Automation Carrier Route rate. (Preparation to qualify for the Carrier Route rate is optional and need not be performed for all carrier routes in a 5-digit area.)

b. Groups of 150 or more pieces in 5-digit trays (and all pieces in one less-than-full overflow tray) qualify for the Automation 5–Digit rate. (Preparation to qualify for the 5–Digit rate is optional.)

c. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays (and all pieces in one less-than-full overflow tray) qualify for the Automation 3-Digit rate.

d. Pieces in full or overflow AADC trays and in all mixed AADC trays qualify for the Automation Basic rate.

2.2 Flats

Automation Standard Mail rates apply to each piece that is correctly presorted under M820 into the corresponding qualifying groups:

a. Pieces in 5-digit or 3-digit packages of 10 or more pieces each qualify for the Automation 3/5 rate.

b. Pieces in ADC or mixed ADC packages qualify for the Automation Basic rate.

E649 Nonprofit Automation Rates

[Text of current eligibility standards in E342, E344, and E345 is retained and renumbered for nonprofit rates only as E649.1.0, 2.0, and 3.0, respectively.]

1.0 ZIP+4 DISCOUNTS

1.1 All Pieces

All pieces in a Nonprofit Standard Mail ZIP+4 rate mailing must:

a. Meet the standards in E611 and E612.

b. Be presented at one post office as part of a single mailing of at least 200 pieces or 50 pounds of pieces.

c. Meet the physical standards in C810.

d. Have an delivery address with the correct numeric ZIP+4 code or the correct numeric 5-digit ZIP Code. If prepared with a delivery point barcode (DPBC), it may also bear the numeric equivalent to the DPBC.

e. Meet the address quality and coding standards of A800 and A950.

f. Meet the standards in C830 or, for pieces with the correct DPBC, the barcode standards in C840.

g. Be marked, presorted, and documented as specified in M891 or M892.

h. Meet the postage payment standards in P013 and P600.

i. Separately qualify under the standard for any other discount claimed.

1.2 Rate Application

Nonprofit ZIP+4 rates apply to each piece that also:

a. Is correctly presorted under M891 or M892 into the corresponding qualifying groups described in 1.7 and 1.8.

b. Has an address with the correct numeric ZIP+4 code or bears the correct DPBC.

1.3 Barcode Window

A mailpiece meeting the standards in 1.1 and 1.2, but with a barcode window in the lower right corner, may be eligible for any Nonprofit automation rate only if the correct DPBC appears through the window.

1.4 5-Digit Barcodes

Nonprofit ZIP+4 rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 1.1 and 1.2 and the standards for 5-digit barcodes in C840. Such pieces may qualify for the Nonprofit ZIP+4 rates only if the barcode is printed on the piece and the address contains the correct numeric ZIP+4 code.

1.5 ZIP+4 Barcodes

Nonprofit ZIP+4 rate mailings may include pieces with correct ZIP+4 barcodes if the barcode is located in the address block and those pieces meet the standards in 1.1 and 1.2 and the standards for ZIP+4 barcodes in C840. Such pieces may qualify for Nonprofit ZIP+4 rates only if, additionally, the address contains the correct numeric ZIP+4 code. Pieces that bear a ZIP+4 barcode in the lower right corner may not be included in a Nonprofit ZIP+4 rate mailing.

1.6 85% Rule

At least 85% of all pieces in a Nonprofit ZIP+4 rate mailing (regardless of presort or rate) must bear the correct numeric ZIP+4 code or DPBC for the delivery address, as defined by the address quality and coding standards in A800 and A950. The 85% requirement applies to each mailing unless excepted by other standards.

1.7 Qualifying Tray-Based Presort

In tray-based presort mailings under M891, ZIP+4 coded or DPBC pieces in full or overflow 5-digit, 3-digit, and SCF trays qualify for the Nonprofit 3/5 ZIP+4 rate; other pieces qualify for the Nonprofit 3/5 rate. One less-than-full SCF tray for the origin SCF is permitted. ZIP+4 coded or DPBC pieces in AADC, mixed AADC, or working residual trays qualify for the Nonprofit Basic ZIP+4 rate; other pieces qualify for the Nonprofit Basic rate.

1.8 Qualifying Package-Based Presort

In package-based presort mailings under M892, ZIP+4 coded or DPBC pieces in 5-digit packages of 10 or more pieces each, and 3-digit packages of 50 or more pieces each, qualify for the Nonprofit 3/5 ZIP+4 rate; other pieces in these packages qualify for the Nonprofit 3/5 rate. Residual ZIP+4 coded or DPBC pieces qualify for the Nonprofit Basic ZIP+4 rate; other pieces qualify for the Nonprofit Basic rate.

2.0 BARCODED DISCOUNTS (LETTER-SIZE PIECES)

2.1 All Pieces

All pieces in a Nonprofit Standard Mail Barcoded rate letter-size mailing must:

a. Meet the standards in E611 and E612.

b. Be presented at one post office as part of a single mailing of at least 200 pieces or 50 pounds of pieces.

c. Meet the physical standards in C810.

d. Bear a delivery address that includes the correct numeric ZIP+4 code or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

e. Meet the address quality and coding standards of A800 and A950.

f. Be marked, presorted, and documented as specified in M893, M894, or M895.

g. Meet the postage payment standards in P013 and P600.

h. Separately qualify under the standard for any other discount claimed.

i. Either bear the correct DPBC meeting the barcode standards in C840 or meet the applicable standards in 2.5.

2.2 Rate Application

Nonprofit Barcoded rates apply to each piece that also:

a. Is correctly presorted under M893, M894, or M895 into the corresponding qualifying groups described in 2.8, 2.9, and 2.10.

b. Bears the correct DPBC that meets the barcode standards in C840.

c. Meets the applicable standards in 2.3 through 2.7.

2.3 Optional Preparation

At the mailer's option, barcoded Nonprofit Standard Mail may be prepared under the standards for Automation Standard Mail in M820, including presort. Under this option, barcoded Nonprofit Standard Mail can claim Nonprofit carrier route, 5-Digit Barcoded, 3-Digit Barcoded, and Basic Barcoded rates, and may be combined (comailed) with Automation Standard Mail in the same mailing, if all corresponding eligibility standards in E631 and E641 for Automation Carrier Route, 5-Digit, 3-Digit, and Basic rates, respectively, are met. Presort of the combined mailing is based on the total combined volume of pieces.

2.4 Barcode Window

A mailpiece weighing 3 ounces or less, meeting the standards in 2.1 through 2.3 but with a barcode window in the lower right corner, may be eligible for any Nonprofit automation rate only if the correct DPBC appears through the window.

2.5 Pieces Without DPBCs

Subject to 2.5 and 2.6, Nonprofit Barcoded rate mailings may also include nonbarcoded, 5-digit barcoded, or ZIP+4 barcoded pieces if each such piece (regardless of rate) meets the standards in 2.1, has a barcode clear zone in the lower right corner meeting the reflectance standards in C840, meets the applicable 5-digit or ZIP+4 barcode standards in C840, and does not have a window in the lower right corner. Additionally, to qualify for a Nonprofit ZIP+4 rate, subject to 2.8, 2.9, and 2.10:

a. Nonbarcoded and 5-digit barcoded pieces must bear an address with the correct ZIP+4 code and meet the standards in C830.

b. ZIP+4 barcoded pieces must have the barcode in the address block, meet the standards in C830, and bear an address with the correct ZIP+4 code.

2.6 85% Rule

Subject to 2.7, at least 85% of all pieces in a Nonprofit Barcoded rate mailing (regardless of presort or rate) must bear the correct DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. The 85% requirement applies to each mailing unless excepted by other standards.

2.7 100% Barcoding

Each piece must bear the correct delivery point barcode:

a. In 5-digit trays in a tray-based mailing under M893.

b. In 5-digit packages in a package-based mailing under M894 or M895.

c. In any mailing containing heavy letters (as defined in C810).

2.8 Qualifying Tray-Based Presort

In tray-based presort mailings under M893:

a. Pieces in full or overflow 5-digit trays qualify for the 5-digit Nonprofit Barcoded rate.

b. In full or overflow 3-digit and SCF trays, DPBC pieces qualify for the 3-digit Nonprofit Barcoded rate; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Nonprofit 3/5 ZIP+4 rate; other pieces qualify for the Nonprofit 3/5 rate. One less-than-full SCF tray for the SCF serving the post office where the mailing is entered is permitted.

c. In AADC, mixed AADC, and working trays, DPBC pieces qualify for the Nonprofit Basic Barcoded rate; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Nonprofit Basic ZIP+4 rate; other pieces qualify for the Nonprofit Basic rates.

2.9 Qualifying Two-Tier Package-Based Presort

In two-tier package-based presort mailings under M894:

a. Pieces in 5-digit packages of 10 or more pieces each qualify for the Nonprofit 5-digit Barcoded rate.

b. In 3-digit packages of 50 or more pieces each, DPBC pieces qualify for the Nonprofit 3-digit Barcoded rates; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Nonprofit 3/5 ZIP+4 rate; other pieces qualify for the Nonprofit 3/5 rate.

c. In the residual portion, DPBC pieces qualify for the Nonprofit Basic Barcoded rate; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Nonprofit Basic ZIP+4 rate; other pieces qualify for Nonprofit Basic rate.

2.10 Qualifying Three-Tier Package-Based Presort

In three-tier package-based presort mailings under M895:

a. Pieces in 5-digit packages of 10 or more pieces each in the 5-digit presort tier qualify for the Nonprofit 5-digit Barcoded rate.

b. In 3-digit packages of 50 or more pieces each in the 3-digit presort tier, DPBC pieces qualify for the Nonprofit 3-digit Barcoded rate; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Nonprofit 3/5 ZIP+4 rate; other pieces qualify for the Nonprofit 3/5 rate.

c. In the residual presort tier, DPBC pieces qualify for the Nonprofit Basic Barcoded rate; subject to 2.5, ZIP+4 coded non-DPBC pieces qualify for the Nonprofit Basic ZIP+4 rate; other pieces qualify for the Nonprofit Basic rate.

3.0 ZIP+4 BARCODED DISCOUNTS (FLAT-SIZE PIECES)

3.1 All Pieces

All pieces in a Nonprofit Standard Mail ZIP+4 Barcoded rate flat-size mailing must:

a. Meet the standards in E611 and E612.

b. Be presented at one post office as part of a single mailing of at least 200 pieces or 50 pounds of pieces.

c. Meet the physical standards in C820.

d. Bear a delivery address that includes the correct numeric ZIP+4 code or 5-digit ZIP Code (or, only if prepared with a delivery point barcode (DPBC), the numeric equivalent to the DPBC).

e. Meet the address quality and coding standards of A800 and A950.

f. Bear the correct 5-digit, ZIP+4, or DPBC, subject to C840, except for pieces in specific portions of mailings prepared under M897.

g. Be marked, presorted, and documented as specified in M897.

h. Meet the postage payment standards in P013 and P600.

i. Separately qualify under the standard for any other discount claimed.

3.2 Rate Application

Nonprofit ZIP+4 Barcoded rates apply to each piece that also:

a. Is correctly presorted under M897 into the qualifying groups described in 3.6.

b. Bears the correct ZIP+4 or DPBC.

3.3 Optional Preparation

At the mailer’s option, barcoded Nonprofit Standard Mail may be prepared under the standards for Automation Standard Mail in M820, including presort. Under this option, barcoded Nonprofit Standard Mail can claim Nonprofit 3/5–Digit Barcoded and Basic Barcoded rates, and may be combined (comailed) with Automation Standard Mail in the same mailing, if all corresponding eligibility standards in E631 and E641 for Automation 3/5 and Basic rates, respectively, are met. Presort of the combined mailing is based on the total combined volume of pieces.

3.4 5–Digit Barcodes

Nonprofit ZIP+4 Barcoded rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 3.1 through 3.3 and the standards for 5-digit barcodes in C840. Pieces with a 5-digit barcode could be eligible for a presort rate under 3.6.

3.5 85% Rule

Generally, at least 85% of all pieces in a Nonprofit ZIP+4 Barcoded rate mailing (regardless of presort or rate) must bear the correct ZIP+4 or DPBC for the delivery address, as defined by the standards for address quality and coding accuracy in A800 and A950. Remaining pieces must bear the correct 5-digit barcode meeting the applicable standards in C840. The 85% requirement applies to each mailing unless excepted by other standards. Nonprofit ZIP+4 Barcoded rate mailings not meeting the 85% rule must be prepared under corresponding standards in M897.

3.6 Presort

In 5-digit or 3-digit packages of 10 or more pieces each, ZIP+4 or DPBC pieces can qualify for the Nonprofit 3/5 ZIP+4 Barcoded rate; 5-digit barcoded (and nonbarcoded pieces where permitted) pieces qualify for the Nonprofit 3/5 rate. In SCF packages of 10 or more pieces each, or in residual packages, ZIP+4 or DPBC pieces qualify for the Nonprofit Basic ZIP+4 Barcoded rate for flats; 5-digit barcoded pieces qualify for the Nonprofit Basic rate.

E650 Destination Entry Discounts

E651 Regular, Nonprofit, Enhanced Carrier Route, and Automation Standard Mail

[Text of current E350; in 1.4, replace ‘‘bulk third-class mail’’ with ‘‘bulk rate Standard Mail (A)’’; in 3.9, replace ‘‘third-class mail’’ with ‘‘Standard Mail (A)’’; revise 1.1 and 7.1 as shown below; in 5.3 and 6.2, delete ‘‘SDC’’; no other change in text.]

1.0 BASIC STANDARDS

1.1 Rate Application

Regular, Nonprofit, Enhanced Carrier Route, and Automation Standard Mail meeting the basic standards in E611 and E612 may qualify for the destination BMC, SCF, or DDU entry rates if deposited at the correct destination postal facility, subject to the general standards below and the specific standards in 5.0, 6.0, and 7.0, respectively. Only one destination reduction may be claimed for each mailpiece.

* * * * *

7.0 DELIVERY UNIT DISCOUNT

7.1 Definition

For this standard, ‘‘destination delivery unit (DDU)’’ refers to a facility designated by the USPS where sequencing is performed for the carrier route (city carrier route, rural route, highway contract route, post office box section, or general delivery unit) serving the delivery address on the mailpiece.

* * * * *

[Delete 7.3.]

E652 Parcel Post

[Text of current E450; in 1.4, replace ‘‘fourth-class’’ with ‘‘Standard Mail (B)’’; no other change in text.]

E670 Nonprofit (Special) Bulk Rates

[Text of current E370; in 1.1, 1.3, 2.1, 3.1, 3.3, 4.1, 4.2, 5.1, 5.2, 5.3, 5.4, 5.4a, 5.4b, 5.4c, 5.4d(1), 5.6a, 5.6b, 5.6b(1), 5.6b(2), 5.6b(3), 5.6e, 5.8, 5.9, 5.10, 5.11, 5.12, 6.0, 7.1, 7.3, 8.1, 8.3, 9.1, 9.2, 9.3, 9.4, 11.1, and 11.4, replace ‘‘special bulk third-class rate[s],’’ ‘‘special bulk rate[s],’’ or ‘‘special rate[s]’’ with ‘‘Nonprofit Standard Mail rate[s]’’; in 1.3, replace ‘‘for all bulk third-class mail in E311 and E312’’ with ‘‘in E611 and E612’’; in 3.3, 5.4d(2), 5.11, 9.2, and 9.3b, replace ‘‘third-class’’ with ‘‘Standard Mail (A)’’; in 5.8d, correct the reference from E211.11.0 to E211; in 5.10c, correct the reference from E370.5.0 to 5.0. No other change in text.]

F FORWARDING AND RELATED SERVICES

F000 Basic Services

F010 Basic Information

[In 3.0d, replace ‘‘fourth-class’’ and ‘‘third-class’’ with ‘‘Standard Mail (B)’’ and ‘‘Standard Mail (A),’’ respectively; in Exhibit 4.2, 5.2, 5.2a, 5.2b, 5.2e, 5.2f, 5.2g, 6.1, and 7.2, replace ‘‘second-class’’ with ‘‘Periodicals’’; in 4.6b, 5.2e, the table following 5.2g, 6.1, 7.1, and 8.1e, replace ‘‘third- or fourth-class’’ with ‘‘Standard Mail’’; in 4.6d and 6.3, replace ‘‘fourth-class’’ with ‘‘Standard Mail (B)’’; in 5.3, 5.3a, 5.3f, 5.3g, the table following 5.3g, 6.2, 8.1a, 8.1b, and 8.1e, replace ‘‘[T]hird-class’’ with ‘‘Standard Mail (A)’’; in 5.4, 5.4b, 5.4c, 5.4d, and 5.4e, replace ‘‘[F]ourth-class’’ with ‘‘Standard Mail (B)’’; in 7.1a and 7.2, replace ‘‘second-, third-, or fourth-class’’ with ‘‘Periodicals or Standard Mail’’; in 7.4, replace ‘‘special fourth-class’’ with ‘‘Special Standard Mail’’; in 8.1e, replace ‘‘third- and fourth-class’’ with ‘‘Standard Mail’’; no other change in text.]

F020 Forwarding

[In 2.3, 2.4, and 2.6, replace ‘‘First-, second-, and fourth-class mail and all single-piece rate third-class mail’’ with ‘‘First-Class, Periodicals, Standard Mail (B), and single-piece rate Standard Mail (A)’’; in 3.4, replace ‘‘Second-[C]lass’’ with ‘‘Periodicals’’; in 3.5, replace ‘‘Third-[C]lass,’’ ‘‘fourth-class,’’ and ‘‘Special Fourth-Class’’ with ‘‘Standard Mail (A),’’ ‘‘Standard Mail (B),’’ and ‘‘Special Standard Mail,’’ respectively; in 3.6, replace ‘‘[F]ourth-[C]lass’’ with ‘‘Standard Mail (B)’’; no other change in text.]

F030 Address Correction, Address Change, and Return Services

[In 1.2 and 2.3, replace ‘‘[S]econd-[C]lass’’ with ‘‘Periodicals’’; in 1.3, replace ‘‘third- and fourth-class’’ and ‘‘First-, third-, or fourth-class’’ with ‘‘Standard Mail’’ and ‘‘First-Class and Standard Mail,’’ respectively; in 3.2d, replace ‘‘third-class’’ with ‘‘Standard Mail (A)’’; in 3.2e, replace ‘‘fourth-class’’ with ‘‘Standard Mail (B)’’; no other change in text.]

G GENERAL INFORMATION

[No change in Module G.]

L Labeling Lists

L000 General Use

L001 Optional Multi-ZIP Coded Post Offices

As permitted by the standards for the rate claimed, Preferred Periodicals mailings may be sorted to the following multicoded cities.

* * * * *

L002 3-Digit Destinations and SCFs

Instructions

[Revise the fourth paragraph and footnote 1 as follows:]

* * * * *

SCFs for which mailers may claim destination SCF Standard Mail (A) rates or SCF zone Periodicals rates are the SCFs serving a single 3-digit ZIP Code area marked with three bullets in Column A, and the SCFs serving more than one 3-digit ZIP Code area in Column B. Their respective service areas are listed in Column C. Pieces for ZIP Code areas not listed in Column C may not be claimed at SCF rates.

* * * * *

1=Mail destinating in 3-digit ZIP Code area 008 must be labeled as shown in L601 for Standard Mail machinable parcels and in L004 for all other mail.

* * * * *

L003 Combined 3–Digit ZIP Code Prefix Sortation

When permitted by the standards for specific rates, pieces for the 3-digit ZIP Code prefixes shown in column A may be combined in trays labeled to the corresponding destination shown in column B. Line 2 on tray labels must include ‘‘SCHEME’’ except as shown below.

Column A 3-Digit ZIP Code Prefix Combinations	Column B Label to
006–009	SAN JUAN PR 006
010, 011, 013.	SPRINGFIELD MA 010
014, 015, 017.	WORCESTER MA 015
018, 019, 055.	MIDDLESEX-ESSEX MA 018
020, 023, 024.	BROCKTON MA 023
021, 022	BOSTON MA 021
025, 026	BUZZARDS BAY MA 025
027, 028	PROVIDENCE RI 028
035, 036, 051–053, 059.	WHITE RIVER JCT VT 051 SCHEME B
037, 050	WHITE RIVER JCT VT 050 SCHEME C
038, 039	PORTSMOUTH NH 038
043, 045	PORTLAND ME 043
054, 056	BURLINGTON VT 054
057, 058	WHITE RIVER JCT VT 057 SCHEME A
068, 069	STAMFORD CT 068
074, 076	HACKENSACK NJ 076
077, 088	KILMER NJ 088
078, 079	WEST JERSEY NJ 078
080, 081	SOUTH JERSEY NJ 080 SCHEME A
082–084	SOUTH JERSEY NJ 082 SCHEME B
085–087	TRENTON NJ 085
110, 113, 114, 116.	QUEENS NY 110
120–123	ALBANY NY 120
124, 125, 127.	MID-HUDSON NY 125
130–132	SYRACUSE NY 130
133, 134	UTICA NY 133
137–139	BINGHAMTON NY 137
140–143	BUFFALO NY 140
155, 157	JOHNSTOWN PA 155
164, 165	ERIE PA 164
169, 177	WILLIAMSPORT PA 169
180, 181, 183.	LEHIGH VALLEY PA 180
191, 192	PHILADELPHIA PA 191
193, 194	SOUTHEASTERN PA 193
197–199	WILMINGTON DE 197
202–205	WASHINGTON DC 202
208, 209	SUBURBAN MD 208
210, 211, 219.	BALTIMORE MD 210
240, 241	ROANOKE VA 240
250–252	CHARLESTON WV 250
280, 281, 297.	CHARLOTTE NC 280 SCHEME A74
293, 296	GREENVILLE SC 296
300, 301	NORTH METRO GA 300

Column A 3-Digit ZIP Code Prefix Combinations	Column B Label to
303, 311, 399.	ATLANTA GA 303
310, 312	MACON GA 310
318, 319	COLUMBUS GA 318
334, 349	W PALM BEACH FL 334
335, 346	TAMPA FL 335
369, 393	JACKSON MS 393 SCHEME B
377–379	KNOXVILLE TN 377
390, 391	JACKSON MS 390 SCHEME A
400, 401, 471.	LOUISVILLE KY 400
410, 470	CINCINNATI OH 410 SCHEME A
430, 431, 433.	COLUMBUS OH 430 SCHEME A
434–436	TOLEDO OH 434
437, 438	COLUMBUS OH 437 SCHEME B
442, 443	AKRON OH 442
444, 445	YOUNGSTOWN OH 444
446, 447	CANTON OH 446
450, 451	CINCINNATI OH 450 SCHEME B
460–462	INDIANAPOLIS IN 460
463, 464	GARY IN 463
465, 466	SOUTH BEND IN 465
467, 468	FORT WAYNE IN 467
480, 483	ROYAL OAK MI 480
484, 485	FLINT MI 484
486, 487	SAGINAW MI 486
488, 489	LANSING MI 488
490, 491	KALAMAZOO MI 490
498, 499	IRON MOUNTAIN MI 498
500–502	DES MOINES IA 500 SCHEME A
503, 509	DES MOINES IA 503 SCHEME B
515, 516, 680.	OMAHA NE 680
522, 523	CEDAR RAPIDS IA 522
527, 528, 612.	ROCK ISLAND IL 612
535, 538	MADISON WI 535
540, 550	ST PAUL MN 550
541, 542	GREEN BAY WI 541
590–593, 595, 596, 821.	BILLINGS MT 590
600, 602	PALATINE IL 600
601, 603	CAROL STREAM IL 601
610, 611	ROCKFORD IL 610
615, 616	PEORIA IL 615
618, 619	CHAMPAIGN IL 618
620, 622, 630, 633.	ST LOUIS MO 630
654, 655	SPRINGFIELD MO 654 SCHEME A
656, 657	SPRINGFIELD MO 656 SCHEME B
670, 671	WICHITA KS 670
710, 711	SHREVEPORT LA 710 SCHEME A
713, 714	SHREVEPORT LA 713 SCHEME B
752, 753	DALLAS TX 752
786, 789	AUSTIN TX 786
808, 809	COLORADO SPRINGS CO 808
840–844	SALT LAKE UT 840
894, 895, 897.	RENO NV 894
873, 877, 878, 881, 883, 884.	ALBUQUERQUE NM 873
889–891	LAS VEGAS NV 890
902–905	INGLEWOOD CA 902
906–908	LONG BEACH CA 907
913, 914	VAN NUYS CA 913
917, 918	INDUSTRY CA 917
919–921	SAN DIEGO CA 920
923–925	SAN BERNARDINO CA 923
926, 927	SANTA ANA CA 926
940, 943, 944.	SAN FRANCISCO CA 940 SCHEME A
945, 948	OAKLAND CA 945 SCHEME A
946, 947	OAKLAND CA 946 SCHEME B
952, 953	STOCKTON CA 952
956, 957	SACRAMENTO CA 956
962–966	SAN FRANCISCO CA 962 SCHEME B
967–969	HONOLULU HI 967

L004 Area Distribution Centers (ADCs)

[Text of current L101 with no change except revise footnote 2 as follows:]

* * * * *

[2] For Periodicals and Standard Mail (A) mailings of barcoded flats.

* * * * *

[Delete current L201, L202, L203, L701, L702, L703, L704, L706, and L707.]

L600 Standard Mail

L601 BMCs—Machinable Parcels

[Insert current L705 with no change in text.]

L602 BMCs—DBMC Rates

[Insert current L708 with no change in text.]

L800 Automation Rate Mailings

* * * * *

L804 AADCs—Letter-Size Mailings

[Text of current L804 with no change except revise footnote 2 as follows:]

[2] For Periodicals and Standard Mail (A) mailings.

L805 BMC/ASF Entry—Residual Periodicals and Standard Mail (A)

[Insert current L805 with no change in text.]

L806 Non-BMC/ASF Entry—Residual Periodicals and Standard Mail (A)

[Insert current L806 with no change in text.]

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpiece Preparation

[Redesignate current M011 as M012, and add new M011 as follows:]

M011 General Preparation Standards

1.0 STANDARD PREPARATION TERMS AND DEFINITIONS

1.1 Presort

Presort is the process by which a mailer prepares mail so that it is sorted to at least the finest extent required by the standards for the rate claimed. Generally, presort is performed sequentially, from the lowest (finest) level to the highest level, to those destinations specified by standard and is completed at each level before the next level is prepared. Not all presort levels are applicable in all situations.

1.2 Presort Levels

Terms used for presort levels are defined as follows:

a. Firm: all pieces for delivery at the address shown on the top piece.

b. Carrier route: all pieces for delivery to the same city carrier route, rural route, highway contract route, post office box section, or general delivery unit.

c. 5-digit: the delivery address on all pieces includes the same 5-digit ZIP Code.

d. 3-digit: the ZIP Code in the delivery address on all pieces begins with the same three digits (see L002 (Column A) or L801 as applicable).

e. 3-digit/Scheme: the ZIP Code on the delivery address on all pieces begins with one of the 3-digit prefixes processed by the USPS as a single scheme (see L003) and that, subject to standard, may be presorted together as a single group.

f. Entry SCF 3-digit(s): regardless of the volume of mail, a separation is required for each 3-digit area in the SCF service area of the entry facility.

g. SCF: the separation includes pieces for two or more 3-digit areas served by the same SCF (see L002 (Column B) or L802 as applicable), except that, where required or permitted by standard, mail for only one 3-digit area may be correctly prepared in an SCF separation when no mail for other 3-digit ZIP Code areas is available.

h. ADC/AADC/SDC: all pieces are addressed for delivery in the service area of the same ADC, or AADC (see L004, L803, or L804 as applicable).

i. ASF/BMC: all pieces are addressed for delivery in the service area of the same ASF or BMC (see L601 or L602 as applicable).

j. Mixed (BMC, AADC, etc.): the pieces are for more than one presort destination.

k. Where the terms are used, ''residual'' pieces/packages/sacks means material left over after completion of a presort sequence. Residual mail lacks the volume set by standard to require or allow package or bundle preparation to a particular destination, and usually does not qualify for a presort rate as a result. Residual mail is also referred to as ''nonqualifying'' or ''working'' mail.

1.3 Preparation Instructions

For purposes of preparing mail:

a. ''Pieces'' refers to individually addressed mailpieces. This definition also applies when ''pieces'' is used in eligibility standards. Quantities indicated for optional or required sortations always refer to pieces unless specifically excepted.

b. A ''full'' letter tray is one in which faced, upright pieces fill the tray to its capacity whenever practical, but never less than at least ¾ of its length. Each tray must be filled before filling of the next tray is begun, with the contents in multiple trays being relatively balanced. A tray with less mail can be prepared only if less-than-full or overflow trays are allowed by the standards for the rate claimed. Tray preparation is described in M033.

c. An ''overflow'' letter tray is one that is allowed by the standards for the rate claimed to be less than full and contain any quantity of pieces that could not be placed in full trays for the same destination.

d. A ''full'' flat tray is one that is physically full. A specific minimum volume is required (at least a single stack of mail lying flat on the bottom of the tray and filling the tray to the bottom of the handholds) before a tray is sufficiently filled to allow or require preparation to the corresponding presort destination. When standards require preparation of ''full'' trays, less-than-full trays that contain more than the minimum volume for preparation must be filled with additional available pieces, up to the reasonable capacity of the tray.

e. A ''full'' sack is defined in the standards for the class and rate claimed.

f. An ''entry [origin] 3-digit'' tray contains all mail (regardless of quantity) for a 3-digit ZIP Code area within the SCF service area of the facility at which a mailing is entered. If more than one 3-digit area is served, as indicated in L002, a separate tray must be prepared for each.

g. The ''required at (quantity)'' instruction means that the particular unit must be prepared for the corresponding presort level whenever the specified quantity of mail is reached or exceeded (e.g., required at 10 pieces). Packages, bundles, and containers may contain more than the minimum quantity up to the applicable maximum physical size. Subject to applicable rate eligibility standards, smaller quantities may be prepared only if permitted. In some situations as specified by standard, required preparation might apply only if the mailer chooses to qualify for the corresponding rate.

h. The ''optional at (quantity)'' instruction means that the particular unit may be prepared for the corresponding presort level whenever the specified quantity of mail is reached or exceeded. Packages, bundles, or containers may contain more than the minimum quantity up to the applicable maximum physical size. Smaller quantities may be prepared only if permitted by applicable rate eligibility standards. Standards for quantities with which preparation is optional are often followed standards for larger quantities with which preparation is required.

i. ''Entry (facility)'' (or ''origin (facility)'') refers to the USPS mail processing facility (e.g., BMC) that serves the post office at which the mail is entered by the mailer. If the post office where the mail is entered is not the one serving the mailer''s location (e.g., for plant-verified drop shipment), the post office of entry determines the ''entry'' facility. ''Entry SCF'' includes both single- and multi-3-digit SCFs. ''Entry BMC'' includes subordinate ASFs unless otherwise specified.

j. ''Smaller quantities not permitted'' or ''fewer pieces not permitted'' disallows preparation of quantities of mail smaller than that stated as the minimum required. However, as a general exception, the last of more than one package, bundle, sack, or tray for a presort destination may have less than the otherwise applicable minimum. Other exceptions to minimum quantity criteria might be provided by the standards for the rate claimed.

k. A ''package'' is a group of addressed pieces secured together as a unit. The presort process considers the total number of pieces available for the particular presort destination and assembles them into groups meeting applicable volume and size standards. When the standards applicable to the rate claimed require securing the pieces in each group together, the result is a package. The term ''package'' does not correctly apply to unsecured groups of pieces, e.g., those prepared in trays and identified by separator cards. ''Package'' labels and other ''package'' identification methods may be used for unsecured groups of pieces as permitted by standard. Package preparation is described in M020.

l. A ''bundle'' is a group of packages secured together as a unit under the standards applicable to the rate claimed.

2.0 PRESORT ACCURACY VALIDATION AND EVALUATION (PAVE)

2.1 Basic Information

The Presort Accuracy, Validation, and Evaluation (PAVE) program is a process designed in cooperation with the mailing industry to evaluate presort software and determine its accuracy in sorting address files according to DMM standards. PAVE is available only to software and hardware manufacturers (i.e., companies that actually develop presort software or manufacture presorting equipment). PAVE certification does not guarantee acceptance of customer mail that was prepared using PAVE-validated hardware/software.

2.2 Process

PAVE evaluates the accuracy of presort products by providing test address files to vendors. Vendors process the test file(s) through their presort software or hardware and return the resulting mailing statement facsimile(s) and other presort documentation to the USPS National Customer Support Center (NCSC). The NCSC evaluates the answers. Each test file is evaluated for its accuracy of presort, compliance with current DMM standards, accuracy of sack/tray/pallet tag labels, and general acceptability of computer generated facsimiles of mailing statements and other presort documentation. If the answers are accurate the vendor''s presort product is validated for a 12-month period or until the end of the current annual period.

2.3 Participation

To obtain detailed information on participation in PAVE, presort product developers may request the PAVE Program Technical Guide from the NCSC by calling 1–800–331–5746, extension 651 or 454. Participants may use the PAVE order form, included in that guide, to order PAVE test files.

M012 Endorsements and Markings

[In 1.1a, replace ''First-, third-, and fourth-class mail'' with ''First-Class or Standard Mail''; in 1.1b, replace ''second-class'' with ''Periodicals''; revise other text as follows:]

* * * * *

2.0 METHOD

2.1 Required Marking

Unless otherwise directed or allowed by standard, the required marking must be printed or produced as part of, or immediately below or to the left of, the permit imprint, meter impression or stamp, or precanceled or adhesive stamp. Alternatively, the mailer may place markings in the address area on the line immediately above the address or, preferably, two lines above the address. If the marking is in the address area, no other information may appear on the line with the rate marking except carrier route information. Markings may also be included in the optional endorsement line (under M013) or carrier route information line (under M014).

* * * * *

2.3 Precanceled Stamps

If precanceled stamps bearing the words ''Carrier Route Presort'' are used, additional markings must be provided as required by the standards for the particular rate claimed.

* * * * *

M013 Optional Endorsement Lines

[In 1.1, delete the entries for optional SDC, state, and mixed states packages; in 1.2 and 2.1, replace ''[T]hird-[C]lass'' with ''Standard Mail (A)''; in 2.6, delete ''fourth-class''; revise other text as follows:]

1.0 USE

1.1 Basic Standards

Mailers may prepare mailings without applying pressure-sensitive package labels to the top piece of packages by using a specific optional endorsement line (OEL) above the address block or on the address label on the top piece of a package as shown below. Use of OELs on bundles is subject to the standards applicable to the rate claimed.

On FIRM PACKAGES use ....FIRM 12345
On CARRIER ROUTE PACKAGES (Nonprofit Standard Mail, Regular and Preferred Periodicals) use............CAR-RT-SORT**C–001
On CARRIER ROUTE PACKAGES (Enhanced Carrier Route Standard Mail) use ECR**C–001
On CARRIER ROUTE PACKAGES (Automation First-Class and Automation Standard Mail) use AUTOCRRT**C–001
On 5–DIGIT PACKAGES use...5–DIGIT 12345
On OPTIONAL CITY PACKAGES use .... MIXED CITY 12345
(Use lowest 5-digit ZIP Code assigned to that city.)
On 3–DIGIT PACKAGES use.......3–DIGIT 771
On SCF PACKAGES use ....SCF 750
(Use correct 3-digit SCF code as shown in L002, Column B.)
On ADC PACKAGES use..........ALL FOR ADC
On MIXED ADC PACKAGES use ....MIXED ADC
On AADC PACKAGES use....ALL FOR AADC
On MIXED AADC PACKAGES use ......MIXED AADC
On RESIDUAL PACKAGES use .....WORKING

* * * * *

1.4 Rate Markings

At the mailer's option, the markings required by the standard for the class of mail and rate claimed may be included in the OEL if the OEL appears on each piece in the mailing and if it remains a single line with the basic information (required by 1.1) at the right end (e.g., on a carrier route package of Enhanced Carrier Route Saturation Standard Mail: * * * * ECRWSS**C–001; on a Nonprofit Standard Mail SCF package: * * * * NONPROFIT**SCF 750).

2.0 FORMAT

* * * * *

2.6 ZIP Code

Except for carrier route packages, ADC, AADC, mixed ADC, and mixed AADC packages and AADC and (as applicable) working residual packages, the optional endorsement line must include the appropriate ZIP Code information. Mixed ADC bundles of bound printed matter must have facing slips as specified in M630.

M014 Carrier Route Information Lines

1.0 BASIC INFORMATION

Packages made up to individual carrier routes, rural routes, highway contract routes, post office box sections, or general delivery units may be prepared without facing slips if prepared with optional endorsement lines under M013 or with carrier route information lines under 2.0. These standards apply to Automation First-Class, carrier route and Level I/K Periodicals, Automation and Enhanced Carrier Route Standard Mail, and carrier route bound printed matter mailings. Carrier route information lines may be on all pieces in a carrier route mailing regardless of their presort level.

2.0 FORMAT AND CONTENT

2.1 Route Information

Carrier route information consisting of a descriptive prefix (or its abbreviation), plus a route number or numeric code, must be on the top line of the address, either alone or with other information (e.g., addressee, account data). Alternatively, the carrier route information may appear with the applicable carrier route endorsement on the line above or two lines above the address if the carrier route rate marking is in the address area when permitted by standard (see Exhibit 2.1).

**CARRIER ROUTE 011

RESIDENT
1300 WATERFORD DR
DISTRICT HEIGHTS MD 20747

**C 011

RESIDENT
1300 WATERFORD DR
ENDICOTT NY 13760

**RURAL ROUTE 005

RESIDENT
1602 COUNTRY LN
BURKE VA 22015

*R 15005

POSTAL CUSTOMER

**C 127

CAR-RT SORT
RESIDENT
2711 ORDWAY ST NW
WASHINGTON DC 20008

**C 011

AUTOCRRT
RESIDENT
1300 WATERFORD DR
DISTRICT HEIGHTS MD 20747

2.2 Descriptive Prefix

The descriptive prefix ''carrier route,'' ''rural route,'' ''highway contract route,'' ''post office box section,'' or ''general delivery unit'' must be spelled out or abbreviated as shown below:

Carrier Route C
General Delivery Unit ....G
Highway Contract Route ....H
Post Office Box Section ....B
Rural Route ....R

2.3 Route Code

These conditions apply to route codes:

a. The one-character descriptive prefix in 2.2 must be followed by a 3-digit route or post office box section number.

b. On Periodicals and Standard Mail pieces bearing a simplified address that does not include a ZIP Code, the descriptive prefix in 2.2 must be followed by a route code that begins with the last two digits of the 5-digit ZIP Code and is followed by the route code in 2.3a.

c. The descriptive prefix and route code required for simplified address mailings in 2.3b may also be used on mailings of any class that contain a ZIP Code in the address.

2.4 Other Contents

Other elements of the carrier route information line include:

a. The carrier route information must be preceded by at least two asterisks (**) or other distinctive nonalphabetic or nonnumeric characters.

b. At least 10 spaces must be allowed for carrier route information if included with other information on the top line.

c. Carrier route information lines may also contain the markings required by standard for the class of mail and rate claimed if all the information remains on a single line with the basic information (required by 2.1) at the right end (e.g., on a carrier route package of Enhanced Carrier Route Saturation rate mail):

* * * * * * * ECRWSS**C–001

POSTAL CUSTOMER

M020 Packages and Bundles

1.0 BASIC STANDARDS

[Relocate current 1.1, 1.4, 1.5, and 1.7 to M011; renumber current 1.2, 1.3, and 1.6 as 1.1, 1.2, and 1.3, respectively; revise renumbered 1.3, and add new 1.4 as follows:]

* * * * *

1.3 Labeling

Unless excepted by standard, packages must be labeled using the pressure-sensitive package labels specified in the standards for the class and rate being prepared. On letter- and card-size mail, the label must be placed in the lower left corner of the top piece in the package. On flat-size mail, the label must be placed on the address side of the top piece in the package. Optional endorsement lines may be used in lieu of pressure-sensitive labels, subject to M013.

1.4 Palletization

Packages and bundles placed on pallets must be able to withstand normal transit and handling without breakage or injury to USPS employees. Heavy-gauge shrinkwrap over plastic banding, only shrinkwrap, or only banding material is acceptable if the package or bundle can stay together during normal processing. Packages and bundles placed on BMC and mixed BMC pallets must be shrinkwrapped and machinable on BMC parcel sorters; machinability is determined by the USPS. If used, banding material must be applied at least once around the length and once around the girth; wire and metal strapping are prohibited.

1.5 Exception

Fewer than the minimum number of pieces required by the standards for the rate claimed may be prepared as an individual package without loss of rate eligibility in that regard under either of these conditions:

a. A greater number of pieces would exceed the maximum physical size for a package *and* the total number of pieces for that presort destination meets the minimum volume standard (e.g., 30 pieces are available to meet a 10-piece minimum, but a package of 8 pieces is 6 inches thick).

b. The pieces constitute the ‘‘last package’’ for a presort destination *and* previously prepared packages met the applicable minimum volume standard (e.g., 505 pieces prepared in ten 50-piece packages and one 5-piece package).

2.0 ADDITIONAL STANDARDS—PREFERRED PERIODICALS AND NONPROFIT STANDARD MAIL (A)

2.1 Nonautomation Rate Mailings

Nonautomation rate mailings are subject to these additional standards:

a. The maximum thickness for packages of other than walk-sequence rate letter-size mail is 6 inches. The maximum thickness for packages of letter-size walk-sequence rate mail is 4 inches.

b. Packages of letter-size mail up to 1 inch thick must be secured with appropriate banding applied around the girth. Thicker packages must be secured with at least two bands, the first placed around the length and the second around the girth so that the second band crosses over the first.

c. When preparing mail bearing a simplified address, all pieces for the same post office must be tied in packages of 50 whenever possible. If packages of other quantities are produced, the actual number of pieces must be shown on the facing slip that must be attached to show distribution desired (e.g., rural route, city route, post office boxholder).

2.2 Automation Rate Mailings

Automation rate mailings are subject to these additional standards:

a. The maximum thickness for packages of letter-size mail is 6 inches.

b. Packages must be prepared for mailings consisting entirely of card-size pieces, and for mail placed in AADC trays (except for residual AADC trays) and in mixed AADC trays (package-based mailings) or overflow trays (tray-based mailings).

c. Packages must not be prepared in full trays in tray-based mailings of larger than card-size pieces except in residual AADC and mixed AADC trays and as permitted by standard for oversize pieces.

d. Packages must be secured with rubber bands, elastic strapping, flat plastic strapping, or string placed once around the girth (narrow dimension) on packages up to 1 inch thick. Thicker packages must be tied twice, with the first rubber band or elastic strap placed around the length and the second around the girth, crossing over the first. Additional ties may be used if none lies along the outer 1 inch of any package edge.

e. Elastic strapping must have a minimum strength of 15 pounds and a minimum of 150% elongation prior to break. Minimum tension, when applied to bundle, must be 50% breaking strength. Elastic strapping may not be used unless approved by USPS Engineering. A mailer wanting to have elastic strapping material tested for acceptability must provide 25 packages (five each: 6 inches, 4 inches, 2 inches, 1 inch, and 10 pieces) strapped with the tested material. The mailer must send the material with a letter of request at least 6 weeks before the planned date of mailing to USPS Engineering. The mailer is notified in writing by the USPS. If the USPS approves the material, that letter (showing a unique number) serves as evidence that the material meets USPS standards. A copy of the letter must be attached to each mailing statement provided for mailings that use the tested strapping material. The mailer must be able to show when requested that the strapping material on a mailing is the same as that tested.

f. Separator cards:

(1) May be used instead of packaging (except for card-size pieces) to identify groups of pieces in 3-digit and SCF trays in package-based mailings.

(2) May be prepared from any paper or card stock.

(3) Must be at least ¼ inch higher than the highest piece in the mailing.

(4) Must be placed in front of the corresponding groups of mail.

g. Except in package-based mailings under M895, if groups of presorted pieces are identified by separator cards, the required pressure-sensitive package label must be placed on the separator card or in the lower left-hand corner of the first piece behind it. Alternatively, the words ‘‘5-Digit’’ or ‘‘3-Digit,’’ as appropriate for the group, may appear on the separator card. The pressure-sensitive label or the descriptive words (if placed on the separator card) must be at the top of each in a position that can be easily read when the card is in a tray.

h. In three-tier package-based Barcoded rate mailings under M895, pieces in AADC overflow trays must be secured into 5-digit packages in the 5-digit presort tier, and 3-digit packages in the 3-digit presort tier. These packages require no labeling.

i. In tray-based mailings, pieces in 5-digit overflow trays must be secured into and labeled as 5-digit packages. Pieces in 3-digit overflow trays and SCF overflow trays must be secured into and labeled as 3-digit packages.

3.0 ADDITIONAL STANDARDS—FIRST-CLASS MAIL AND OTHER PERIODICALS AND STANDARD MAIL (A)

3.1 Cards and Letter-Size Pieces

Cards and letter-size pieces are subject to these specific packaging standards:

a. The maximum thickness for packages of walk-sequence rate mail is 4 inches. The maximum thickness for other packages is 6 inches.

b. Card-size pieces must always be prepared in packages.

c. Packages must be prepared in all less-than-full trays, and for nonupgradable Retail First-Class and Regular Standard Mail, and for nonautomation-compatible Publications Service and other than Barcoded rate Regular Periodicals.

d. Separator cards may be used instead of packaging for carrier route groups in full Enhanced Carrier Route 5-digit carrier routes trays. Separator cards must be used instead of packaging for carrier route groups in full trays of Automation Carrier Route First-Class and Standard Mail, and in full trays of Barcoded rate Regular Periodicals. Separator cards must be prepared from paper or card stock, must be at least ¼ inch higher than the highest piece in the mailing, and must be placed in front of the corresponding groups of mail.

e. For card-size pieces and mail in less-than-full trays, packages of letter-size pieces of Automation First-Class and Automation Standard Mail, automation-compatible Publications Service and Barcoded rate Regular Periodicals, and upgradable Retail First-Class and Regular Standard Mail must be secured with rubber bands. Other packages of letter-size pieces must be secured with rubber bands, elastic strapping, flat plastic strapping, or string. (Elastic strapping must have a minimum strength of 15 pounds and a minimum of 150% elongation prior to breaking. Minimum tension, when applied to bundle, must be 50% breaking strength. Elastic strapping may not be used unless approved by USPS Engineering. If requested, the mailer must be able to show such approval for the strapping material used for a mailing.)

3.2 Flat-Size Pieces

Flat-size pieces are subject to these specific packaging standards:

a. Though not subject to a specific thickness limit, packages of flats must be secure and stable, and are subject to specific weight limits if palletized.

b. Flat-size pieces must always be prepared in packages unless excepted by standard.

3.3 All Pieces

All pieces are subject to these standards:

a. For mail prepared using a simplified address, all pieces for the same post office must be tied in packages of 50 when possible. If packages of other quantities are produced, the actual number of pieces must be shown on the facing slip that must be attached to show distribution desired (e.g., rural route, city route, post office boxholder).

b. One package containing fewer than the otherwise applicable minimum number of pieces may be prepared when it represents the last package for a presort destination to which other packages (each containing at least the minimum volume required) were previously prepared in the same mailing.

c. Packages up to 1 inch thick must be secured with appropriate banding placed once around the girth (narrow dimension). Thicker packages must be secured with at least two bands, the first placed around the length and the second around the girth so that the second band crosses over the first. Additional ties may be used if none lies along the outer 1 inch of any package edge.

* * * * *

[Delete current 5.0 and 6.0.]

M030 Container Preparation

M031 Labels

[In 1.7 and 4.13, replace ''second-class'' in the heading and text with ''Periodicals'' and replace ''2C'' with ''PERIOD''; in 2.1a, replace ''First-, third-, and fourth-class'' with ''First-Class and Standard Mail'' and replace ''second-class'' with ''Periodicals''; in 3.2a, replace ''First- and third-class'' with ''First-Class and Standard Mail'' and replace ''second-class'' with ''Periodicals''; in 4.2, replace ''second-class'' with ''Periodicals'' and replace ''third- or fourth-class'' with ''Standard Mail''; in 4.8, insert ''(Preferred Periodicals only)'' after ''optional city,'' replace ''second-class'' with ''Periodicals,'' and replace ''third-class'' with ''Standard Mail''; in 4.14, replace ''second-class'' with ''Periodicals''; in 5.0, replace ''First- and third-class'' with ''First-Class and Standard Mail (A),'' replace ''second- or third-class'' with ''Periodicals or Standard Mail (A),'' replace ''First-, second-, and third-class'' with ''First-Class, Periodicals, and Standard Mail (A),'' replace ''third-class'' with ''Standard Mail (A),'' and replace ''[T]hird- and fourth-class'' with ''Standard Mail''; no other change in text.]

M032 Barcoded Container Labels

1.0 BARCODED TRAY LABELS

1.1 Standards

Barcoded tray labels are required for Automation First-Class, automation-compatible Publications Service Periodicals, and Automation Standard Mail mailings of letter-size pieces, and Automation First-Class mailings of flat-size pieces. Barcoded trays labels may be used on any other mailing. Mailer-produced barcoded tray labels must meet the standards below.

* * * * *

[In 1.2, replace ''First- and third-class mail'' with ''First-Class and Standard Mail (A)'' and replace ''second-class'' with ''Periodicals.'']

* * * * *

Exhibit 1.3c, Contents Identifier Codes

[Replace ''2C'' with ''PERIOD''; replace ''3C'' with ''STD A''; and replace ''4C'' with ''STD B.'']

* * * * *

2.0 BARCODED SACK LABELS

[Replace current 2.1 and 2.2 with new 2.1, below, and renumber current 2.3 through 2.5 as 2.2 through 2.4, respectively; in renumbered 2.2, replace ''First-, third-, and fourth-class mail'' with ''First-Class and Standard Mail'' and replace ''second-class'' with ''Periodicals''; in renumbered 2.4e, change the reference from 2.5d to 2.4d; in renumbered 2.4f, replace ''200 (2C)'' with ''200 (PERIOD).'']

2.1 Standards

Barcoded sack labels are required for Barcoded rate Regular and automation-compatible Publications Service Periodicals and Automation Standard Mail flat-size pieces prepared in sacks. Barcoded sack labels may be used for other Periodicals and Standard Mail prepared in sacks. Mailer-produced barcoded tray labels must meet the standards below.

* * * * *

M033 Sacks and Trays

1.0 BASIC STANDARDS

1.1 Total Weight

The total weight of any tray or sack (mail plus tray or sack tare) must not exceed 70 pounds.

1.2 Equipment

Palletization of trays or sacks, or of packages of flats outside of sacks, is subject to M040. Preparation of bedloaded bundles of flats is subject to the standards for the class and rate claimed. Other mailings must be prepared in the container appropriate for the processing category and rate of the mail:

a. First-Class, Regular and Publications Service Periodicals, and Regular, Enhanced Carrier Route, and Automation Standard Mail (A) letter-size pieces (including cards) must be prepared in USPS letter trays with sleeves. Subject to equipment availability, 1- or 2-foot regular (MM) or 2-foot extended (EMM) letter trays must be used as appropriate for the size and volume of pieces. Letter trays may be used for other letter-size mail, subject to the applicable preparation standards.

b. First-Class flat-size pieces must be prepared in USPS flat trays with covers.

c. First-Class parcels weighing less than 11 ounces must be prepared in green USPS sacks.

d. Priority Mail must be prepared in orange USPS sacks.

e. Periodicals flat-size pieces, machinable and irregular parcels, and letter-size pieces not placed in trays at the mailer's option must be prepared in brown USPS sacks.

f. Standard Mail flat-size pieces, machinable and irregular parcels, and Nonprofit Standard Mail letter-size pieces not placed in trays at the mailer's option must be prepared in white canvas USPS sacks.

1.3 Tray Sizes

Standard tray sizes to be used in applying mail preparation standards are:

a. Letter trays: Inside bottom length:

(1) 2-foot MM and EMM trays: 21 inches.

(2) 1-foot trays: 10½ inches.

b. Flat trays:

(1) Inside bottom dimensions: 14¾ inches long by 10¾ inches wide.

(2) Height: 8 inches to bottom of handhold, 11¼ to top of tray.

1.4 Presort

Presort, presort levels, and standard preparation terms are defined in M011, except for Preferred Periodicals and Nonprofit Standard Mail (A), which are covered in 3.0 and 4.0.

1.5 Sleeving and Strapping

Except under 1.6, each letter tray must be sleeved, and each flat tray must be covered by a lid, using USPS-provided sleeves or lids. All bedloaded letter trays must also be secured by a plastic strap placed tightly around the length of the tray without crushing the tray or sleeve. Flat trays must be secured by two straps placed tightly around the width of the tray (i.e., the shorter dimension).

1.6 Exception

Trays do not require sleeves/lids or strapping if their contents are emptied and processed in the facility where deposited and that facility's manager has given the mailer a written waiver of one or both requirements. Strapping is not required on trays placed on 5-digit, 3-digit, and SCF pallets.

[Renumber current 2.0 and 3.0 as 3.0 and 4.0, respectively, and revise as shown below. Insert new 2.0 as follows:]

2.0 FIRST-CLASS, REGULAR AND PUBLICATIONS SERVICE PERIODICALS, AND REGULAR, ENHANCED CARRIER ROUTE, AND AUTOMATION STANDARD MAIL

2.1 Letter Tray Preparation

Pieces must be prepared to result in the fewest practical number of packages (where required) and trays to contain the mail presorted to a destination. Letter tray preparation uses terms defined in M011 and is subject to these further standards:

a. Pieces must be ''faced'' with all addresses in the same direction and placed in trays to maintain their orientation.

b. Each tray must be filled before filling of the next tray is begun, with the contents in multiple trays being relatively balanced. A tray with less mail can be prepared only if allowed by the standards for the rate claimed, subject to 2.1c. Subject to equipment availability, 2-foot trays must be used whenever available with 1-foot trays used for lesser volume or as overflow trays under 2.1c.

c. Subject to the standards for the rate claimed, pieces left over after filling one or more trays for a presort destination are packaged and placed in a less-than-full ''overflow'' tray. Where permitted, preparation of overflow trays is required for required presort levels and optional for optional levels. Only one overflow tray per destination may be prepared in the same mailing. As a general exception, an overflow tray may be prepared where otherwise not allowed if the minimum number of pieces required by rate eligibility standards for the corresponding presort level is available but exceeds the capacity of a 2-foot tray (e.g., 150 pieces to a 5-digit destination are available to qualify for a 5-digit rate).

d. Subject to availability, standard MM trays are used for all letter-size mail, except that extended MM (EMM) trays must be used when available for letter-size mail more than 4½ inches high or 10½ inches long. When EMM trays are not available, pieces higher or wider than MM trays must be angled back and/or placed upright perpendicular to the length of the tray in row(s), as necessary, in a manner that preserves their orientation.

e. Each tray must bear the correct tray label.

f. Each tray must be sleeved and strapped under 1.4 and 1.5.

2.2 Flat Tray Preparation (First-Class Mail Only)

All flat tray preparation is subject to these standards:

a. Pieces must be ''faced'' with all addresses in the same direction and placed in trays to maintain their orientation.

b. Once the required minimum volume is reached, additional pieces must be placed in the same tray up to its capacity to minimize the number of trays used. When possible, pieces must be placed in two stacks to optimize tray use, but mail must not overfill the tray to inhibit adequate closure or covering of the contents. The total weight of a tray and its contents must not exceed 70 pounds.

c. Each tray must bear the correct tray label.

d. Each tray must be sleeved and strapped under 1.4 and 1.5.

2.3 Sack Preparation

All sack preparation is subject to these standards:

a. Each sack must bear the correct sack label.

b. The weight of a sack and its contents must not exceed 70 pounds.

3.0 NONAUTOMATION PREFERRED PERIODICALS AND NONPROFIT STANDARD MAIL

[Text of current 2.0.]

4.0 AUTOMATION RATE PREFERRED PERIODICALS AND NONPROFIT STANDARD MAIL

[Text of current 3.0.]

M040 Palletization

[M040 as shown below is revised based on a recently concluded separate rulemaking, and reorganized to consolidate and replace current M042, M043, M044, and M048 into new M045.]

M041 General Pallet Standards

1.0 PHYSICAL CHARACTERISTICS

1.1 Standards

All pallets presented to the USPS, whether USPS- or mailer-provided, must meet the standards in 1.2 through 1.4. Mail on such pallets must meet the standards applicable to the class and rate claimed.

1.2 Construction

Pallets must be made of high-quality material that can hold loads equal to a gross weight of 2,200 pounds. Pallets must measure 48 by 40 inches and must allow for four-way entry by fork trucks and two-way entry by pallet jacks.

1.3 Securing

Except for pallet boxes under 4.3, loaded pallets of mail must be secured either with at least two straps or bands or wrapped with stretchable or shrinkable plastic strong enough to retain the integrity of the pallets during transportation and handling.

1.4 Nonconforming Mailers

The USPS informs mailers or their agents who present palletized mailings, including plant-verified drop shipment (PVDS), when their pallets fail to meet basic pallet integrity and safety standards. After July 1, 1996, once notified and allowed to make changes to improve load integrity, if a mailer's methods, or those of the mailer's agent presenting PVDS mailings, do not work, the mailer is considered nonconforming. A nonconforming mailer is required to meet the specifications for nonconforming mailers for top-cap use, stacking of pallets, pallet box construction, and maximum height/tiers of trays in 2.0 through 4.0. After July 1, 1996, mailers will be suspended from the pallet program if their pallets continue to fail to meet the minimum load integrity levels.

2.0 TOP CAPS

2.1 Use

Top caps are used as follows:

a. Except under 2.1b and 2.1c, all pallets of sacks, letter mail trays, parcels, packages or bundles of mail, or pallet boxes must be top-capped if the pallets are double- or triple-stacked when presented to the USPS for acceptance.

b. The top pallet need not be top-capped if the strapping or banding securing the stacked pallets together neither damages the mail on the top pallet nor allows the stack to shift.

c. Lower pallet(s) containing either parcels or packages or bundles of mail, need not be top-capped if the top surface of each pallet load provides a sturdy, flat surface, parallel to the pallet base, that allows for safe and efficient stacking of pallets placed on top, preventing sliding of the top pallet(s), damage to pieces, and crushing of the load.

2.2 Construction

Any material may be used as a top cap if it provides a flat, level surface horizontal to the base pallet, protects the integrity of the mail below it while supporting a loaded pallet above it, and allows easy entry of a forklift to remove the upper pallet(s). Flimsy paper or fiberboard (e.g., the ends of paper rolls) or similar material is inadequate and may not be used as a top cap.

2.3 Securing

A top cap must be secured to the pallet horizontal to the plane of the base pallet, either by stretchwrap or by at least two crossed straps or bands, so that the cap stays in place to protect the mail and maintain the integrity of the pallet load.

2.4 Required Use by Nonconforming Mailers

Nonconforming mailers (see 1.4) must use top caps on all pallets of sacks, letter mail trays, parcels, or packages or bundles of mail, regardless of weight, or on pallets containing pallet boxes 60 inches or less in height. Top caps must be approximately 48 by 40 inches and meet one of these construction standards:

a. Five-wood boards, with uniform edges and nine-leg pallet contact for stacking.

b. Fiberboard box end style, with a minimum 3-inch side and wall material of at least double-wall corrugated fiberboard C and/or B flute.

c. Fiberboard honeycomb covered on both sides with heavy linerboard at least ½ inch thick.

d. Corrugated fiberboard C flute sheet covering the entire top of the load with standard pallet solid fiberboard corner edge protectors.

3.0 STACKING PALLETS

3.1 Double- or Triple-Stacking

Pallets may be double- or triple-stacked if:

a. The combined gross weight of the stacked pallets (pallets, caps, and mail) does not exceed 2,200 pounds.

b. The heaviest pallet is on the bottom and the lightest on top.

c. The pallets are secured together with at least two straps or bands of appropriate material to maintain their integrity during transportation and handling (pallets must not be secured together with stretchable or shrinkable plastic).

d. Each pallet is top-capped under 2.0.

e. The combined height of the stacked pallets and their loads does not exceed 84 inches.

3.2 Nonconforming Mailers

Nonconforming mailers (see 1.4) who stack pallets are subject to the conditions in 3.1, except that triple-stacking is allowed only for pallets of parcels and the combined height of any stacked pallets may not exceed 77 inches.

4.0 PALLET BOXES

4.1 Use

Mailers may use pallet boxes constructed of single-, double-, or triple-wall corrugated fiberboard placed on pallets to hold sacks or parcels prepared under M045. Single-wall corrugated fiberboard may be used only for light loads (such as light-weight parcels) that do not require transportation by the USPS beyond the entry office. The boxes must protect the mail and maintain the integrity of the pallet loads throughout transportation, handling, and processing. The base of the boxes must measure approximately 40 by 48 inches.

4.2 Maximum Height

The combined height of the pallet, pallet box, and mail may not exceed 77 inches, except that until July 1, 1996, the combined height may not exceed 84 inches. The contents of the box may not extend above the top rim of the box.

4.3 Securing

Pallet boxes must be secured to pallets with strapping, banding, stretchable plastic, shrinkwrap, or other material that ensures that the pallet can be safely unloaded from vehicles, transported, and processed as a single unit to the point where the contents are distributed with the load intact if:

a. The pallet and its contents are transported by the USPS from the office where the mail is accepted to another postal facility where the contents will be distributed.

b. The weight of the mail in the box is not sufficient to hold the box in place on the pallet during transportation and processing, a pallet box must be secured to the pallet base.

4.4 Nonconforming Mailers

Nonconforming mailers (see 1.4) may use pallet boxes only if constructed of triple-wall corrugated fiberboard (C and/or B flute material) with a maximum height of 77 inches.

5.0 PREPARATION

5.1 Presort

Pallet preparation and pallet sortation are subject to the specific standards in M045. Pallet sortation is intended to presort the palletized portion of a mailing to at least the finest extent required for the corresponding class of mail and method of preparation. Generally, pallet sortation is sequential from the lowest (finest) level to the highest, and must be completed at each required level before the next optional or required level is prepared. As applicable, presort levels and standard preparation terms for pallets are defined in M011 and M045. Mailers must prepare all required levels of pallets before any working pallet is prepared for a mailing or job.

5.2 Required Preparation

Pallets are prepared as follows:

a. A pallet must be prepared to a required level of sortation when there are 500 pounds of Periodicals or Standard Mail packages, sacks, or parcels or six layers of Periodicals or Standard Mail (A) letter trays.

b. Up to 10 percent of the total pallets in any mailing or job may be working pallets labeled to the BMC (Standard Mail) or ADC (Periodicals) serving the post office where mailings are accepted into the mailstream. The processing and distribution manager of that facility may issue a written authorization to the mailer to label working pallets to the post office or processing and distribution center serving the post office where mailings are entered. Working pallets contain all mail remaining after required and optional pallets are prepared.

5.3 Minimum Load

In a single mailing, the minimum load per pallet is 250 pounds of Periodicals or Standard Mail packages, parcels, and sacks (or three tiers/layers of letter trays of Periodicals or Standard Mail (A)), except that the processing and distribution manager of the facility where a mailing is entered may issue a written authorization to the mailer allowing preparation of 5- or 3-digit pallets containing less volume if the mail on those pallets is for that facility's service area.

5.4 Maximum Load

The maximum weight (mail and pallet) is 2,200 pounds. The maximum height of a single pallet (mail and pallet) is 77 inches for packages, bundles, parcels, sacks, or pallet boxes or 12 layers of letter trays.

5.5 Mail on Pallets

Pieces in trays, packages, bundles, and sacks must be prepared under the standards applicable to the class of mail and rate claimed. When two or more Periodicals or Standard Mail (A) mailings are placed together on pallets, the mailer must maintain records for each mailing as required by standard. Automation rate and upgradable letter-size pieces may not be placed on the same 5-digit pallet as pieces at other rates. Trays always may be placed on pallets ''right-side-up'' with heavier, more filled trays at the bottom of the load.

5.6 Sacked Mail

Mail that is not palletized must be prepared under the standards applicable to the rate claimed. For Periodicals, mailers must separately sack packages of each publication that are not palletized under M045 or that are excluded from palletization. Trays that are not palletized must be bedloaded. Sacks (including sacks of packages not placed on pallets) containing packages remaining after all pallets are prepared may be presented with the palletized mail (and reported on the same mailing statement) if separated from the palletized portion of the mailing.

5.7 Nonconforming Mailers

For nonconforming mailers (see 1.4) of letter-size mail in trays, the combined height of a pallet and its load must not exceed six layers of MM or EMM letter trays.

6.0 COPALLETIZED, COMBINED, OR MIXED-RATE LEVEL MAILINGS

6.1 General

Palletized mailings, including combined, copalletized, and mixed rate level mailings, must be prepared according to the standards applicable to the class of mail, subject to specific authorization by the RCSC serving the mailing post office when required.

6.2 Application

The mailer (or publisher or agent) must submit a written request to the RCSC serving the mailing post office to present the types of pallets described in 6.1. A separate request is required for each type of pallet at each location, but multiple, concurrent applications are acceptable. A mailer who cannot meet the minimum palletization standards without copalletizing, combining, or commingling mixed rate mailings might still qualify if the total copalletized, combined, or commingled mailing meets minimum pallet standards. The request must be received at least 30 days before the first mailing and include the names, addresses, and telephone numbers of the owner of the mail and of the firm or person preparing the mail; a description of the mailing (e.g., size, weight, class, rate, volume, mailing frequency, and postage payment method); the type of authorization requested; and a sample of the applicable documentation required in M045.

6.3 Periodicals Publications

To combine more than one Periodicals publication on pallets, the mailer must merge and presort copies of all the publications into common packages to achieve the finest level of presort for the mailing. To copalletize different Periodicals flat-size publications, the mailer must consolidate on pallets all independently presorted packages for each publication to achieve the finest level of presort for the mailing. Both combining and copalletizing publications must be supported by the documentation required in M045. Preferred Periodicals may not be combined with Regular or Publications Service Periodicals.

6.4 Standard Mail (A)

To combine mixed rate level Nonprofit Standard Mail (A) on pallets (i.e., 3/5 and Carrier Route), the mailer must be an authorized plant load mailer or an authorized plant-verified drop shipment (PVDS) mailer with on-site postal verification; must attach to the written request to the RCSC either a copy of an approved Form 3815 showing the mailer's authority to plant load or the USPS authorization for PVDS with on-site verification, as applicable; and must consolidate on pallets all independently prepared packages to achieve the finest level of presort for the mailing. To copalletize different Standard Mail (A) flat-size mailings, the mailer must consolidate on pallets all independently presorted packages from each mailing to achieve the finest level of presort for the mailing, and must present computer-generated listings at the time of mailing that include a summary list consolidating the copalletized multiple mailings and a list of the contents of each pallet by ZIP Code and presort level.

6.5 Cancellation

An authorization may be canceled by the USPS if the mailer does not meet the standards for pallets or the rates claimed or the mailer does not submit information on future mailings as requested by the RCSC. Mailers may appeal canceled authorizations under G020.

M045 Preparing Mail on Pallets

1.0 BASIC USES

Mailers may prepare these types of mail on pallets:

a. Letter-size mail in trays.

b. Packages or bundles not prepared in sacks.

c. Packages or parcels in sacks.

d. Machinable or irregular parcels.

e. Copalletized multiple flat-size mailings (subject to M041).

f. Combined mailings of machinable parcels (Standard Mail (A) and (B)) under M073.

g. Two or more Periodicals publications combined or copalletized (subject to M041).

h. Combined mailings of Nonprofit Standard Mail mixed rate levels (subject to M041).

i. Commingled zone-rated Standard Mail (subject to M630).

2.0 PACKAGES

2.1 Standards

Package presort and labeling must meet the applicable general standards in M010 through M030, except as noted below. The palletized portion of a mailing may not include packages sorted to foreign destinations.

2.2 Size—Periodicals

Package size: Six-piece minimum, 20-pound maximum, except that:

a. Firm packages may contain as few as two copies of a publication and do not have to be consolidated into bundles with other packages to the same 5-digit destination. A firm ‘‘package’’ may be one piece for presort (see M210 and M290).

b. All pieces for the same presort destination must be in one package if they weigh less than 10 pounds. Ten pounds or more of mail for a destination must be prepared in packages that weigh from 10 to 20 pounds each.

c. The last package to a presort destination may contain less than 10 pounds of mail.

d. All palletized packages of copalletized publications must contain at least six pieces.

2.3 Size—Standard Mail (A)

Package size: 10-piece minimum, 20-pound maximum, except that:

a. All pieces for the same presort destination must be in one package if they weigh less than 10 pounds. Ten pounds or more of mail for a destination must be prepared in packages that weigh from 10 to 20 pounds each.

b. The last package to a presort destination may contain less than 10 pounds of mail.

2.4 Size—Standard Mail (B)

Package size: 10-pound or 1,000-cubic-inch minimum (whichever occurs first), 40-pound maximum, except that:

a. All pieces for a presort destination must be in one package if they weigh less than 10 pounds. Ten pounds or more of mail for a destination must be prepared in packages that weigh from 10 to 40 pounds each.

b. The last package to a presort destination may contain less than 10 pounds of mail.

c. Packages must be prepared to carrier route sortations if the carrier route bulk bound printed matter rate is claimed. Mail at other rates must be sorted to 5- and 3-digit destinations.

d. Smaller size packages of any copies remaining may be prepared to the levels noted in 2.4c after all required volume or larger packages are prepared. These smaller packages must be properly labeled and placed on an appropriate level pallet.

2.5 Labels

When pressure-sensitive labels are used, a red Label D must appear on 5-digit packages if the copies in those packages show carrier route information.

2.6 Residual

After all required and optional packages are prepared, remaining copies may be made into a residual package, properly labeled and placed on an appropriate level pallet.

3.0 OPTIONAL BUNDLES—PERIODICALS AND STANDARD MAIL (A)

3.1 Standards

Bundle presort and labeling must meet the applicable general standards in M010 through M030, except as noted below. The palletized portion of a mailing may not include bundles sorted to foreign destinations.

3.2 Size

Bundle size: Two-package minimum, 20-pound maximum. Exception: For copalletized publications or products, bundles may contain 40 pounds of mail.

3.3 Sortation

Sortation is in the same sequence as sacks.

3.4 Labeling

Labeling of bundles is not required except for:

a. Bundles containing packages for levels of sortation finer than the bundle destination. These bundles must have a facing slip with Lines 1 and 2 prepared as required for sacks.

b. Bundles of Standard Mail (A) (other than carrier route and 5-digit bundles) placed on BMC pallets. These bundles containing packages for levels of sortation finer than the bundle destination must have a facing slip with Lines 1 and 2 prepared as required for sacks. The facing slip must completely cover the address and package label on the top piece in the bundle.

4.0 PALLET PRESORT AND LABELING

4.1 Packages, Bundles, Sacks, or Trays

Presort sequence and labeling:

a. 5-digit (required for packages, bundles, and sacks, optional for trays); use destination of contents for Line 1.

b. 3-digit (optional); use L002, Column A, for Line 1.

c. SCF (required); use L002, Column B, for Line 1.

d. As appropriate:

(1) Periodicals: ADC (required); use L004 for Line 1.

(2) Standard Mail: As appropriate, (a) Destination ASF (allowed and required only if DBMC rate is claimed for mail deposited at ASF); use L602 for Line 1; or (b) Destination BMC (required); use L601 (L602 if DBMC rate claimed) for Line 1.

e. As appropriate:

(1) Periodicals: Mixed ADC (optional); use L004 for Line 1, based on ZIP Code of entry office (in ‘‘Destination ZIP Codes’’ column) (label to plant serving entry post office if authorized by processing and distribution manager).

(2) Standard Mail: Mixed BMC (optional); use L601 for Line 1, based on ZIP Code of entry office (in ‘‘Destination ZIP Codes’’ column) (label to plant serving entry post office if authorized by processing and distribution manager).

4.2 Machinable Parcels—Standard Mail

Presort sequence and labeling:

a. 5-digit (optional, but required for Standard Mail (A) 3/5 rate and Standard Mail (B) only); use destination of parcels for Line 1.

b. ASF (allowed and required only if DBMC rate is claimed for mail deposited at ASF); use L602 for Line 1.

c. Destination BMC (required); use L601 (L602 if DBMC rate claimed) for Line 1.

d. Mixed BMC (optional); use L601 for Line 1, based on ZIP Code of entry office (in ''Destination ZIP Codes'' column).

4.3 Presorted Special Standard Mail

a. 5-digit (5-digit rate only; required); use destination of pieces or packages for Line 1.

b. Destination BMC (BMC rate only; required); use L601 for Line 1.

4.4 Line 2

Line 2, class of mail (shown below, as appropriate), processing category and mail type (e.g., LTRS BC), and any processing code required by the applicable labeling list under 4.1 through 4.3:

a. Periodicals: PERIOD or NEWS (as appropriate).

b. Standard Mail (A): STD 3C.

c. Standard Mail (B): STD 4C.

5.0 PALLETS OF PACKAGES, BUNDLES, AND TRAYS OF LETTER-SIZE MAIL

5.1 Periodicals

When two or more letter-size publications are part of a combined mailing, the mailer must keep records for each mailing (publication) as required by standard. Preferred Periodicals may be combined with Regular or Publications Service Periodicals only as permitted by standard. Pieces claimed at delivery office rates do not require separation from pieces claimed at other rates.

5.2 Standard Mail (A)

Nonprofit mail may be included in the same mailing or palletized on the same pallet as other Standard Mail (A) only as permitted by standard. Automation rate and upgradable letter-size pieces may not be placed on the same 5-digit pallet as pieces at other rates. Pieces claimed at destination delivery unit (DDU) rates do not require separation from pieces claimed at other rates.

5.3 BMC Pallets

Packages and bundles placed on BMC pallets must be machinable on BMC parcel sorting equipment. Line 2 on pallet labels must reflect the processing category of the pieces. A BMC pallet may include pieces that are eligible for the DBMC rate and others that are ineligible if the mailer provides documentation showing the pieces that qualify for the DBMC rate.

5.4 Commingled Zones

Pieces of Standard Mail (B) for different zones may be commingled only under M630.

5.5 Securing Trays

Trays must be sleeved and strapped under M033, except that strapping is not required for trays on 5-digit, 3-digit, and SCF pallets, or on pallets whose loads are secured with stretchable or shrinkable plastic wrap

6.0 PALLETS OF SACKS

All sacks remaining after all pallets are prepared may be presented with the palletized mailing (on the same mailing statement), if the sacks are segregated from the palletized portion of the mailing.

7.0 PALLETS OF COPALLETIZED PERIODICALS OR STANDARD MAIL (A) FLAT-SIZE PIECES

7.1 Basic Standards

Copalletized flat-size mailings must meet the standards in M041 and in 1.0 through 5.0, and those below. Any combination of automation rate mailings and nonautomation rate mailings is subject to the restrictions in 5.0. Packages in a copalletized mailing qualify for the appropriate presort level rate, regardless of the pallet level on which they are placed.

7.2 Periodicals

Additional standards apply to Periodicals:

a. Preferred Periodicals may be combined with Regular or Publications Service Periodicals only as permitted by standard.

b. Documentation meeting the basic standard in P012 must be provided with each mailing. Before copalletizing, the mailer must obtain the written approval of the RCSC manager. Approval is based on the mailer''s demonstrated ability to provide documentation meeting these standards:

(1) Documentation by package and by publication and edition showing the number of pieces and copies in each package and the per piece presort rate claimed for each piece in each package, or a listing by pallet showing (by presort level (rate) and destination) the number of copies and pieces of each publication and edition.

(2) Documentation showing the number of copies and pieces claimed at the intra-SCF rate.

(3) Documentation showing that packages of all publications and editions are presorted to the appropriate finest level pallet in the mailing.

(4) Documentation showing that 5-digit, optional 3-digit, SCF, and ADC pallets are prepared when the applicable minimum volume is developed in the copalletized mailing for these destinations.

(5) A listing showing the destination of pallets in the copalletized mailing.

(6) If the sacked portion of the mailing is presented with the copalletized portion, a report by sack showing the number of pieces (and copies) of each publication or edition at each presort level (rate).

7.3 Standard Mail (A)

Additional standards apply to Standard Mail (A):

a. Nonprofit Standard mailings may be copalletized with one another but not with mailings at other rates unless permitted by standard.

b. Nonidentical-weight pieces may be copalletized only if the correct postage is affixed to each piece or if otherwise authorized by the RCSC.

c. All pieces in mailings to be copalletized must be subject to the minimum per piece rate, or all subject to the per pound rate, unless otherwise authorized by the RCSC.

d. All pieces must have postage paid with permit imprint, or all pieces must have postage affixed.

e. When requested, the mailer must present pallets selected by USPS employees for verification.

f. At the time of mailing, the mailer must provide a computer-generated listing (in ZIP Code sequence and numbered to correspond to the pallets) that shows:

(1) Mailer''s name and location, owner of the mail, mailing segment, and entry post office.

(2) For each copalletized product, the number of pieces to each carrier route by 5-digit ZIP Code, to each 5- and 3-digit ZIP Code at the Basic and 3⁄5 rates, in total for these categories for each pallet and for the entire mailing. Barcoded rates must be identified, where applicable.

g. The number relating the computer-generated list to each pallet must be placed in the lower right corner of the pallet label in an easily read print size.

h. At the time of mailing, the mailer must show how packages and bundles are arranged on the pallets.

i. When preparing copalletized flat-size mailings of carrier route rate (e.g., Enhanced Carrier Route), automation rate (e.g., 3/5 Barcoded), and regular rate (e.g., Regular Basic) pieces, mailers must separately group the packages at each rate.

j. Pallets may be stretchwrapped or otherwise secured only after USPS verification.

k. When top caps are used, the mailer must write the tare weight of the top cap on the pallet label or in another prominent location.

7.4 Line 2

Line 2 on pallet labels for copalletized mailings: Class (PERIOD or NEWS, or STD, as applicable), FLTS, and contents (BC, and/or CR or ECR, and/or PRESORT, as applicable).

7.5 Mailing Statement

Separate mailing statements are required:

a. For Periodicals, a separate mailing statement is required for each publication and/or edition that is part of the copalletized mailing. Mailers must note on or in an attachment to the mailing statement the name and issue date of the publications with which each publication and/or edition was copalletized.

b. For Standard Mail (A), a separate mailing statement must be prepared for each mailing that is part of a single copalletized shipment, except that copalletized Regular, Enhanced Carrier Route, and Automation rate mailings produced as part of the same job may be reported on the same mailing statement.

8.0 MIXED RATE LEVELS ON PALLETS''NONPROFIT STANDARD MAIL (A)

8.1 Standards

Nonprofit mixed rate level mailings must meet the standards in 4.0 and those below.

8.2 Authorizations

Mailers must be authorized to commingle either Nonprofit Carrier Route, 3/5, and Basic rate mail on pallets or Nonprofit Carrier Route and Barcoded rate flats in packages. Mailers do not need authorization to commingle mixed rate level mailings when only mailings of barcoded flats are presorted on pallets. Nonidentical-weight pieces may be commingled only if the correct postage is affixed to each piece or if otherwise authorized by the RCSC.

8.3 Endorsements

Carrier route presort endorsements may appear only on pieces that qualify for that rate. Carrier route information, however, may appear on each piece in the mailing.

8.4 Documentation

At the time of mailing, the mailer must provide a computer-generated listing (in ZIP Code sequence and numbered to correspond to the pallets) that describes the contents of each pallet. The mailer must keep a copy of this listing for 90 days after the mailing is dispatched. When requested, the mailer must present pallets selected by USPS employees for verification by comparison with the listing. The listing must show:

a. Mailer''s name and location, owner of the mail, mailing segment, and entry post office.

b. Number of pieces to each carrier route by 5-digit ZIP Code, to each 5- and 3-digit ZIP Code at the Basic and 3/5 rates, in total for these categories for each pallet and for the entire mailing. Barcoded rates must be identified, where applicable.

8.5 Additional Pallet Standards

Pallets must meet these additional preparation standards:

a. The number relating the computer-generated list to each pallet must be placed in the lower right corner of the pallet label in an easily read print size.

b. At the time of mailing, the mailer must show how packages and bundles are arranged on the pallets.

c. When preparing copalletized Nonprofit Carrier Route and Barcoded rate mailings of flat-size pieces, mailers must separately group the packages at each rate.

d. Pallets may be stretchwrapped or otherwise secured only after USPS verification.

e. When top caps are used, the mailer must write the tare weight of the top cap on the pallet label or in another prominent location.

9.0 PALLETIZING MACHINABLE PARCELS

9.1 Standard Mail (A)

Pieces may be eligible for the 3/5 rate when prepared under 4.2a through 4.2c. This eligibility includes pieces correctly presorted under 4.2b and 4.2c to the service area of the *entry* ASF/BMC.

9.2 Standard Mail (B)

Mailers must sack by zone, using the applicable standards, any mail that cannot be placed on 5-digit or BMC pallets. Sacks containing mail remaining after all pallets are prepared may be presented with the palletized mailing (on the same mailing statement), if the sacks are segregated from the palletized portion of the mailing. Pieces for different zones may be commingled only under M630.

9.3 DBMC Rate

If applicable, a BMC pallet may include pieces that are eligible for the DBMC rate and others that are ineligible. The mailer must provide documentation showing the pieces that qualify for the DBMC rate.

9.4 Additional Standards

Pallets must meet these additional preparation standards:

a. Pallets may be stretchwrapped or otherwise secured only after USPS verification.

b. When top caps are used, the mailer must write the tare weight of the top cap on the pallet label or in another prominent location.

M050 Walk Sequence

* * * * *

3.0 DELIVERY SEQUENCE INFORMATION

3.1 With Simplified Addressing

Walk-sequence rate pieces prepared with a simplified address must be based on delivery stop information obtained within 6 months before the date of mailing (or within 90 days before the date of mailing for Carrier Route Publications Service Periodicals or Enhanced Carrier Route Standard Mail), either from the Delivery Statistics File or from the postmaster.

3.2 Without Simplified Addressing

Walk-sequence rate pieces prepared with other than a simplified address must be sequenced using USPS data from one of the above sources, issued within 6 months before the date of mailing (or within 90 days before the date of mailing for Carrier Route Publications Service Periodicals or Enhanced Carrier Route Standard Mail): * * *

* * * * *

3.4 Line of Travel

Line-of-travel sequence is an option for mailers who prepare carrier route mailings other than high density/125-piece or saturation mailings. Line-of-travel sequencing is required for Basic Enhanced Carrier Route Standard Mail and for Carrier Route Publications Service Periodicals (except automation-compatible letter-size pieces). Line-of-travel sequence is not an exact walk sequence but a sequence of ZIP+4 codes arranged in the order that the route is served by a carrier. (First the ZIP+4 groups are sequenced, then the addresses within each are identified as being in ascending or descending order.) The USPS Line-of-Travel (LOT) product provides a list of the ZIP+4 codes each route serves, identifies the order in which they are delivered, and provides an indicator specifying whether the addresses in each must be sorted in ascending or descending order. LOT information must be updated at the same frequency as carrier route codes, i.e., within 90 days before the date of mailing.

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4.0 DOCUMENTATION

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4.2 High Density/125–Piece

For each carrier route to which 125-piece walk-sequence or high density rate mail is addressed, the mailer must document the total number of pieces to the route. If there are fewer than 125 pieces for a route, the documentation must also show the number of possible deliveries on the route.

* * * * *

M070 Mixed Classes

M071 Basic Information

[In 1.1, 1.2, and 1.3, replace ''[T]hird-[C]lass'' with ''Standard Mail (A)''; in 1.2, replace ''second-class'' with ''Periodicals''; in 1.2c, replace ''First- or third-class'' with ''First-Class or Standard Mail (A)''; and in 1.3, replace ''third- or fourth-class'' with ''Standard Mail''; no other change in text.]

M072 Express Mail and Priority Mail Drop Shipment

[In 2.1, replace ''Presorted First-Class and carrier route presort'' with ''Retail Presort and Automation''; delete current 2.2 and renumber 2.3 as 2.2; in the heading of 3.0, replace ''Second-Class'' with ''Periodicals''; in the title of 4.0, replace ''Third-Class'' with ''Standard Mail (A)''; in the title of 5.0, replace ''Fourth-Class'' with ''Standard Mail (B)''; no other change in text.]

M073 Combined Mailings of Standard Mail Machinable Parcels

1.0 BASIC STANDARDS

1.1 Description

Subject to authorization under 2.0, a mailer authorized plant load or plant-verified drop shipment privileges may prepare a combined mailing of Regular Standard Mail (A) and Standard Mail (B) machinable parcels that have been merged and presorted together in sacks (under 3.0) or on pallets (under M045) to achieve the finest level of presort. The combined mailing must meet the standards below and those that apply to the rates claimed. Each parcel in a combined mailing is subject to the applicable Standard Mail rate, based on the corresponding standards. Required volume for bulk or presort rates is based solely on the quantity of pieces eligible for each rate at the required presort level. Pieces claimed at other rates in the same sack or on the same pallet do not count.

1.2 Postage Payment

Postage for all pieces must be paid with permit imprint at the post office serving the mailer''s plant under P710, P720, or P730. The applicable agreement must include procedures for combined mailings approved by the RCSC.

1.3 Documentation

Separate mailing statements must be prepared for the Standard Mail (A) and (B) pieces. Within each group, combined forms may be prepared where standards and the forms permit. All mailing statements must be provided at the time of mailing, accompanied by a computer-generated listing (in ZIP Code sequence and numbered to correspond to the sacks or pallets) that describes the contents of each sack or pallet. The mailer must keep a copy of this listing for 90 days after the mailing is dispatched. This listing must show the mailer's name and location, the name and owner of each product, and the entry post office. For each product, the listing must detail the number of pieces at each rate by 5-digit ZIP Code and totals for each pallet or sack and for the entire mailing. Additional documentation must be provided for all mailings of nonidentical-weight pieces or in which basic and 3/5 presort rate pieces are commingled and the mailer has not separated the sacks or pallets containing the pieces at the respective rates. Such documentation must be in one of these formats:

a. Segmented sequentially by level of sortation (e.g., 5-digit, destination BMC) and, within each, listing a unique number or Line 1 of each sack or pallet label. For each 5-digit or destination ASF/BMC entry, the number of pieces at each rate must be shown by 5-digit ZIP Code or 3-digit ZIP Code prefix, respectively. Destination ASF/BMC sacks or pallets must show a total number of pieces in the sack or on the pallet. The entries must be summarized for the whole mailing to show total pieces at each rate, total pieces, and total postage (and additional postage due, as applicable). The sacks or pallets do not have to be presented to the USPS in any particular order.

b. Segmented sequentially by level of sortation and, by 5-digit ZIP Code (for 5-digit sacks) or 3-digit ZIP Code prefix (for other sacks or pallets), the number of pieces at each rate must be listed. The entries must be totaled for the whole mailing to show total pieces at each rate, total pieces, and total postage (or additional postage due, as applicable). If different amounts of additional postage are due, the summary must further detail the number of pieces at each postage amount or at each amount of additional postage due. The sacks or pallets must be separated by level of sortation when presented for acceptance.

2.0 AUTHORIZATION

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2.3 Term

An authorization to combine Standard Mail (A) and (B) machinable parcels expires at the same time as the applicable postage payment system authorization and may not be for more than 2 years. A mailer may terminate an authorization at any time by written notice to the postmaster of the office serving the mailer's location. The USPS may terminate an authorization, by written notice to the mailer explaining the reasons for termination, if it finds that the mailer does not meet the applicable standards.

3.0 SACK PREPARATION

3.1 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. 5-digit: optional, but required for Standard Mail (A) Regular and Nonprofit 3/5 rate eligibility (10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

b. Destination ASF: allowed and required for DBMC rate only (10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use L602 for Line 1.

c. Destination BMC: required (10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use L602 if DBMC rate is claimed; otherwise, use L601 for Line 1.

d. Mixed BMC: required (no minimum); use L601 to show entry BMC for Line 1.

3.2 Line 2

Line 2:

a. 5-digit, ASF, and destination BMC sacks: STD 3C/4C MACH.

b. Mixed BMC sacks: STD 3C/4C MACH MIXED BMC.

c. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

M074 Plant Load Mailings

[In 3.3b and 3.3c, replace ''SDC'' with ''ADC''; in 3.3 and 3.7b, replace ''second-class'' with ''Periodicals''; and in 3.4 and 3.7c, replace ''[T]hird- or

[F]ourth-[C]lass [M]ail'' with ''Standard Mail''; no other change in text.]

M100 First-Class Mail

[Renumber current M101 as M120 with no change in text; replace current M102 and M103 with new M130 as follows:]

M120 Priority Mail

* * * * *

M130 Retail Presort

1.0 BASIC STANDARDS

1.1 All Pieces

All Retail Presort mailings are subject to these general standards:

a. Each mailing must meet the applicable standards in E130 and M010 through M030.

b. All pieces must be in the same processing category unless specifically excepted by standard.

c. All pieces must be presorted together and prepared under 2.0, 3.0, 4.0, or 5.0, as appropriate.

d. All pieces must be marked ''Presort'' and ''First-Class.''

e. Letter-size pieces (including cards) must be prepared in letter trays; flat-size pieces must be prepared in flat trays; parcels must be prepared in sacks.

1.2 Local Exception

Postmasters may authorize preparation of small volume mailings in nonpostal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

2.0 BASIC PREPARATION—LETTER-SIZE PIECES

2.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D, facing slip, or optional endorsement line (OEL); labeling optional.

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3, facing slip, or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A, facing slip, or OEL.

d. Mixed ADC: required (no minimum); tan Label MS, facing slip, or OEL.

2.2 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. 5-digit: required (full trays); no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (full trays); no overflow; use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); overflow allowed; use L002, Column A, for Line 1.

d. ADC: required (full trays); no overflow; use L004 for Line 1.

e. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry 3-digit facility city/state/ZIP shown in L002, Column A (use lowest ZIP in range).

2.3 Line 2

Line 2: FCM LTRS NON-OCR and, as applicable:

a. Mixed ADC trays: WKG.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

3.0 OPTIONAL PREPARATION—UPGRADABLE LETTER-SIZE PIECES

3.1 Definition

Upgradable pieces are those that meet both the physical automation compatibility standards in C810 and the standards in C830 for an OCR clear zone, for reflectance, and for paper that can accept water-based ink. Addresses on upgradable pieces must be machine printed in a nonscript font. Upgradable pieces prepared under 3.0 are not packaged.

3.2 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. 5-digit: optional (full trays); no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (full trays); no overflow; use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); overflow allowed; use L002, Column A, for Line 1.

d. AADC: required (full trays); no overflow; group pieces by 3-digit ZIP Code prefix; use L804 for Line 1.

e. Mixed AADC: required (no minimum); group pieces by AADC and, within each, by 3-digit ZIP Code prefix; for Line 1, use MXD, followed by the entry 3-digit facility city/state/ZIP shown in L002, Column A (use lowest ZIP in range).

3.3 Line 2

Line 2: FCM LTRS OCR and, as applicable:

a. Mixed AADC trays: WKG.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

4.0 PREPARATION OF FLAT-SIZE PIECES

4.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D, facing slip, or optional endorsement line (OEL).

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3, facing slip, or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A, facing slip, or OEL.

d. Mixed ADC: required (no minimum); tan Label MS, facing slip, or OEL.

4.2 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. 5-digit: required (full trays), no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (full trays), no overflow; use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

d. ADC: required (full trays), no overflow; use L004 for Line 1.

e. Mixed ADC: required (no minimum); group pieces by 3-digit ZIP Code prefix; for Line 1, use MXD, followed by the entry 3-digit facility city/state/ZIP shown in L002, Column A (use lowest ZIP in range).

4.3 Line 2

Line 2: FCM FLTS and, on mixed ADC trays, WKG.

5.0 PREPARATION OF PARCELS

5.1 Standards

First-Class parcels weighing 11 ounces or less, except Priority Mail, must be prepared under the standards below. All Priority Mail and any parcels weighing more than 11 ounces must be prepared under the applicable standards in M120.

5.2 Package Size, Presort, and Labeling

Packaging is not required for pieces ½ inch thick or larger if they are placed in a sack to the same destination as that to which they would otherwise have been packaged. Package size, presort sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D, facing slip, or optional endorsement line (OEL).
b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3, facing slip, or OEL.
c. ADC: required (10-piece minimum, fewer not permitted); pink Label A, facing slip, or OEL.
d. Mixed ADC: required (no minimum); tan Label MS, facing slip, or OEL.

5.3 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:
a. 5-digit: required (10-pound minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. 3-digit: required (10-pound minimum); use L002, Column A, for Line 1.
c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.
d. ADC: required (10-pound minimum); use L004 for Line 1.
e. Mixed ADC: required (no minimum); use MXD, followed by the entry 3-digit facility city/state/ZIP shown in L002, Column A (use lowest ZIP in range).

5.4 Line 2

Line 2: FCM IRREG and, on mixed ADC sacks, WKG.

6.0 DOCUMENTATION

Documentation meeting the standards in P012 must be submitted with each mailing statement.

M200 Periodicals

M210 Regular and Publications Service Periodicals

1.0 BASIC STANDARDS

1.1 General Preparation

All pieces in each Regular or Publications Service mailing must be in the same processing category and must be presorted together to the finest extent required. Automation-compatible Publications Service pieces and Barcoded rate Regular Periodicals must be prepared under M800; other pieces under 2.0 and 3.0, 4.0, 5.0, or 6.0, as appropriate. Letter-size pieces must be prepared in trays; flat-size pieces must be prepared in sacks. Palletization of trays, sacks, or packages is as permitted by M040. Postmasters may authorize preparation of small volume mailings in nonpostal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

1.2 Carrier Route and Walk-Sequence

Preparation for carrier route rates is optional and is subject to additional standards. Regular Periodicals for which a walk-sequence discount is claimed and Publications Service Periodicals optionally prepared in walk sequence must be prepared as a carrier route mailing under this section and the walk-sequencing standards in M050; pieces prepared with a simplified address must also meet the standards in A040.

1.3 Firm Packages

A ‘‘firm package’’ is two or more copies for the same address placed in one package. If each copy has a delivery address, each may be claimed as a separate piece for presort and on the mailing statement. The firm package may be claimed as one piece for presort and on the mailing statement. If the copies are unaddressed, the firm package is considered one piece. A firm package presorted and claimed as one piece must be accompanied by (but must be physically separate from) five other pieces packaged to the same destination to satisfy a six-piece package requirement when applicable, regardless of the number of copies in the firm package.

2.0 PACKAGE PREPARATION

2.1 General

Packaging preparation is subject to M020 and the specific standards below.

2.2 Carrier Route Packages

Mailers may choose to prepare carrier route packages at a higher level of route saturation (e.g., only if there are at least 15 pieces per route). Under this option, smaller packages of six or more pieces per carrier route not prepared for carrier route rates must be prepared for and paid at another applicable rate.

2.3 Regular Periodicals

In addition to labeling under 2.4b, each package of Regular Periodicals walk-sequence mail (or optionally prepared Publications Service walk sequence mail) must be labeled to show that the mail is walk sequenced. A facing slip with the phrase ‘‘HIGH DENSITY WALK-SEQUENCED CARRIER ROUTE MAIL’’ or ‘‘SATURATION WALK-SEQUENCED CARRIER ROUTE MAIL’’ (as applicable) may be placed on the top of each package of walk-sequence mail. It may be an address label with the required information placed on a sample mailpiece that is the top piece in the package, or a separate piece of paper affixed to the top of the package. If packages are prepared without facing slips, an optional endorsement line or carrier route information line must be placed on each piece in the package to provide the equivalent information.

2.4 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. Firm: optional (two-piece minimum), blue Label F or optional endorsement line (OEL).
b. Carrier route: optional but required for rate eligibility (six-piece minimum, fewer not permitted); labeling required only if placed in a 5-digit carrier routes tray or sack (purple Label CR, facing slip, OEL, or CR information line).
c. 5-digit: required (six-piece minimum, fewer not permitted); red Label D or OEL.
d. 3-digit: required (six-piece minimum, fewer not permitted); green Label 3 or OEL.
e. ADC: required (six-piece minimum, fewer not permitted); pink Label A or OEL.
f. Mixed ADC: required (no minimum); tan Label MS or OEL.

3.0 SACK PREPARATION (FLATS)—REGULAR PERIODICALS

3.1 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:
a. Carrier route: required for rate eligibility at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. 5-digit carrier routes (carrier route packages only): required for rate eligibility (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
c. 5-digit: required at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
d. 3-digit: required at 24 pieces, optional with one six-piece package minimum; use L002, Column A, for Line 1.
e. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.
f. ADC: required at 24 pieces, optional with one six-piece package minimum; use L004 for Line 1.
g. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

3.2 Line 2

Line 2: PERIOD or NEWS (as applicable), FLTS or IRREG (as applicable), and:

a. Basic Carrier Route sacks: route type and number.

b. High Density sacks: WSH, route type and number.

c. Saturation sacks: WSS, route type and number.

d. 5-digit carrier routes sacks: CR–RTS.

e. Mixed ADC sacks: WKG.

f. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

4.0 SACK PREPARATION (FLATS)—PUBLICATIONS SERVICE

4.1 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. Carrier route: required for rate eligibility at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes (carrier route packages only): required for rate eligibility (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

c. 5-digit: required at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

d. 3-digit: required at 24 pieces, optional with one six-piece package minimum; use L002, Column A, for Line 1.

e. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

f. ADC: required at 24 pieces, optional with one six-piece package minimum; use L004 for Line 1.

g. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

4.2 Line 2

Line 2: PERIOD or NEWS (as applicable), FLTS or IRREG (as applicable), and:

a. Carrier Route sacks: LOT (or WSH or WSS if applicable), route type and number.

b. 5-digit carrier routes sacks: CR–RTS.

c. Mixed ADC sacks: WKG.

d. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

5.0 TRAY PREPARATION (LETTER-SIZE PIECES)—REGULAR PERIODICALS

5.1 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. Carrier route: required for rate eligibility at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes (carrier route packages only): required for rate eligibility (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

c. 5-digit: required at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

d. 3-digit: required at 24 pieces, optional with one six-piece package minimum; use L002, Column A, for Line 1.

e. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

f. ADC: required at 24 pieces, optional with one six-piece package minimum; use L004 for Line 1.

g. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

5.2 Line 2

Line 2: PERIOD or NEWS (as applicable), LTRS and:

a. Basic Carrier Route trays: route type and number.

b. High Density trays: WSH, route type and number.

c. Saturation trays: WSS, route type and number.

d. 5-digit carrier routes trays: CR–RTS.

e. Mixed ADC trays: WKG.

f. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

6.0 TRAY PREPARATION (LETTER-SIZE PIECES)—PUBLICATIONS SERVICE

6.1 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. Carrier route: optional, but required for rate eligibility if full tray; no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes (carrier route packages only): required for rate eligibility (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

c. 5-digit: required (full trays); no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

d. 3-digit: required (full trays); no overflow; use L002, Column A, for Line 1.

e. Entry SCF 3-digit(s): required (no minimum); overflow allowed; use L002, Column A, for Line 1.

f. ADC: required (full trays); no overflow; use L004 for Line 1.

g. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

6.2 Line 2

Line 2: PERIOD or NEWS (as applicable), LTRS and:

a. Carrier route trays: LOT (or WSH or WSS if applicable), route type and number.

b. 5-digit carrier routes trays: CR–RTS.

c. Mixed ADC trays: WKG.

d. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

7.0 BEDLOADED BUNDLES (FLATS)

7.1. Authorization

The RCSC manager serving the post office where the mailing is to be made may authorize preparation of flat-size Periodicals in bundles outside of sacks, subject to these standards:

a. This preparation must benefit the USPS. Generally, authorization is approved only when the number of bundles is not more than the number of sacks that would otherwise be used in a mailing.

b. The publisher or agent must submit an application for each publication, showing the name of the publication, the frequency of mailing, the post offices to which shipments are to be made, and the approximate numbers of copies and bundles to be deposited at each office.

c. The RCSC manager rules on the application and informs the applicant in writing. If an authorization is approved, the publisher or agent must be prepared to provide information similar to that required on the original application for future issues of the publication, if requested by the RCSC manager. Authorization is approved for a specific period, not to exceed 2 years.

d. Authorization to bundle instead of sack may be revoked when it is determined that the preparation method no longer benefits the USPS.

7.2 Package Preparation

Packages must be presorted and labeled under 2.0 and meet the applicable basic standards in M020 and these conditions:

a. Packages must contain at least six pieces but no more than 20 pounds of mail.

b. Firm packages may contain as few as two copies of a publication and do not have to be consolidated into bundles with other packages to the same 5-digit destination.

c. All pieces must be in one package if they weigh less than 10 pounds. Ten pounds or more of mail for a destination must be prepared in packages weighing from 10 to 20 pounds each.

d. The last package to a destination may contain less than 10 pounds of mail.

e. All palletized packages of copalletized publications must contain at least six pieces.

7.3 Bundle Preparation

Bundles must be presorted under 3.0 or 4.0 (as appropriate) and meet the applicable standards in M020 and these conditions:

a. Bundle size for all required presort levels: required (20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted).

b. Bundle size for all optional presort levels: optional (20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted).

c. Bundles other than carrier route and 5-digit bundles must be labeled with facing slips that have similar information to that required for sack labels. A facing slip is not required on carrier route bundles. Five-digit bundles must contain pieces with the correct optional endorsement line or have a red Label D.

7.4 Physical Characteristics

Bundles must be machinable on USPS sack-sorting equipment, unless they consist of publications for entry and delivery in the same SCF service area. Machinability can be improved by cross-strapping and using heavy-gauge shrinkwrap or stretchwrap on each bundle. Bundles entered and delivered in the same SCF service area must be securely bound to withstand normal handling without breakage or injury to USPS employees or damage to mechanized sorting systems. Binding material must be applied at least once around both the length and girth. Wire and metal strapping are prohibited.

8.0 COMBINING MULTIPLE PUBLICATIONS OR EDITIONS

8.1 Basic Information

A combined mailing is a mailing in which individually addressed copies of two or more Periodicals publications or editions are merged into a single mailstream, during production or after finished copies are produced, and all copies are presorted together to achieve the finest presort possible for the combined mailing. This process is also known as comailing. More than one publication, or edition of a publication, may be combined to meet the volume standard per tray, sack, or bundle, applicable to the presort rate claimed. Each piece must meet all applicable standards for the specific rate claimed. Nonprofit and classroom publications may be combined with Regular or Publications Service publications only as permitted by standard. Letter-size pieces of Regular and Publications Service mail may not be combined.

8.2 Mailing Statements

A separate mailing statement must be prepared for the postage computations for each publication or edition that is part of the combined mailing. The name and issue date of the publications with which each publication or edition was combined must be noted on, or attached to, the mailing statements. To report postage for firm packages for any combination not exclusively of Publications Service publications, the per piece postage computation (and nonadvertising adjustment, if applicable) for all copies included in firm packages must be on the mailing statement for the publication (having copies in those packages) that contains the higher (or highest) amount of advertising.

9.0 DOCUMENTATION

The publisher must be prepared to support information on mailing statements required with a Periodicals publication (e.g., the number of pieces or weight of copies addressed or sorted to specific destinations or zones, prepared at specific levels of presort, or prepared to qualify for a particular rate or discount). Except for mailings containing pieces at an automation rate, a destination entry rate, or a walk-sequence rate, the publisher may meet this standard at the time of mailing by separating sacks into groups based on the presort level for which their contents qualify. In other situations, the publisher must have available documentation meeting the standards in P012 that describes the mailing in sufficient detail to allow verification of the accompanying mailing's compliance with applicable preparation and eligibility standards.

M290 Preferred Periodicals

[Text of current M201, M202, M203, and M205; M201.1.0, M202.1.0, and M203.1.0 are combined into M290.1.0; the remainder of M201, M202, and M203, and all of M205, are redesignated as M290.2.0, 3.0, 4.0, and 5.0, respectively, with subsections renumbered accordingly; no changes in text except to use correct class and rate names.]

1.0 BASIC STANDARDS

1.1 Presort

All pieces in a Preferred Periodicals mailing must be presorted. All pieces must be in the same processing category unless specifically excepted by standard. Except for automation rate mailings, presort must at a minimum meet the standards in 2.0. Additional preparation might qualify pieces for other presort rates or discounts. Automation rate mailings must meet the presort standards in M800.

1.2 Single-Piece

Subject to the applicable presort standards, if presorting results in a single piece remaining that cannot be included in a package already prepared, that single piece may be sorted to a tray, sack, or pallet, as appropriate, without being prepared as a ''package.''

1.3 Loose Packing

District managers may authorize loose packing of faced, unpackaged flat-size mail if there are enough pieces to fill a No. 3 sack for the same 5-digit ZIP Code destination.

1.4 Firm Packages

A ''firm package'' is two or more copies for the same address placed in one package. If each copy has a delivery address, each may be claimed as a separate piece for presort and on the mailing statement. The firm package may be claimed as one piece for presort and on the mailing statement. If the copies are unaddressed, the firm package is considered one piece. A firm package presorted and claimed as one piece must be accompanied by (but must be physically separate from) five other pieces packaged to the same destination to satisfy a six-piece package requirement when applicable, regardless of the number of copies in the firm package.

1.5 Nonpostal Containers

Postmasters may authorize preparation of small volume mailings in nonpostal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and are cost effective.

2.0 PREPARATION FOR LEVEL G/J RATES

2.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. Firm: optional with at least two pieces; blue Label F or optional endorsement line (OEL).
b. 5-digit: required at six pieces; smaller packages permitted; red Label D or OEL; labeling optional.
c. City: optional with at least six pieces; yellow label C or OEL.
d. 3-digit: required at six pieces; smaller packages permitted; green Label 3 or OEL.
e. SCF: optional at six pieces; smaller packages permitted; green Label 3 or OEL.
f. ADC: required with at least six pieces; pink Label A or OEL.
g. Mixed ADC: required with no minimum; tan Label MS or OEL.

2.2 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:
a. 5-digit: required at four packages; fewer packages permitted; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. City: optional with no minimum except as required for rate eligibility; use lowest ZIP Code for destination from L001 for Line 1.
c. 3-digit: required at four packages; fewer packages permitted; use L002, Column A, for Line 1.
d. SCF: optional with no minimum; use L002, Column B, for Line 1.
e. ADC: required at four packages; fewer packages permitted; use L004 for Line 1.
f. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

2.3 Line 2

Line 2: PERIOD or NEWS (as applicable), processing category, and:
a. City sacks: CITY, right-justified under the ZIP Code on Line 1.
b. Mixed ADC sacks: WKG.
c. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

3.0 PREPARATION FOR LEVEL H RATES

3.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. Firm: optional with at least two pieces, subject to 1.5; blue Label F or optional endorsement line (OEL).
b. 5-digit: required at six pieces; smaller packages not permitted; red Label D or OEL; labeling optional.
c. City: optional with at least six pieces; yellow Label C or OEL.
d. Unique 3-digit: required at six pieces; smaller packages not permitted; green Label 3 or OEL.

3.2 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:
a. 5-digit: required at four packages; fewer packages permitted; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. City: optional at one six-piece package, as required for rate eligibility; use lowest ZIP Code for destination from L001 for Line 1.
c. 3-digit: required at four packages; fewer packages permitted; use L002, Column A (cities identified with two bullets), for Line 1.

3.3 Line 2

Line 2: PERIOD or NEWS (as applicable) and processing category (and, on city sacks, CITY right-justified under the ZIP Code on Line 1).

4.0 PREPARATION FOR LEVEL I/K RATES

4.1 Carrier Route

''Carrier route'' includes city carrier routes, rural routes, highway contract routes, post office box sections, and general delivery units.

4.2 Trays

Mailings of letter-size pieces may be prepared in letter trays rather than sacks, subject to 3.1. Rate eligibility remains subject to the applicable standards. Letter-size pieces prepared in trays must be packaged under 2.0, except that packages are not required when there is enough mail to fill a tray for the same carrier route.

4.3 Walk-Sequence Mail

Pieces for which a walk-sequence discount is claimed must be prepared as a carrier route mailing under this section and the walk-sequencing standards in M050. Pieces prepared with a simplified address must also meet the corresponding standards. Walk-sequence letter- and flat-size pieces must be prepared in packages. In addition to labeling under 4.4 and 4.5, each package of walk-sequence mail must be labeled to show that the mail is walk sequenced. A facing slip with the phrase ''WALK-SEQUENCED CARRIER ROUTE MAIL'' may be placed on the top of each package of walk-sequence mail. It may be an address label with the required information placed on a sample mailpiece that is the top piece in the package, or a separate piece of paper affixed to the top of the package. If packages are prepared without facing slips, ''WS'' must immediately precede the carrier route information on a carrier route information line on each piece in the package.

4.4 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. Firm: optional with at least two pieces, subject to 1.5; blue Label F or optional endorsement line (OEL).
b. Carrier route: required at six pieces, subject to 4.6; smaller packages not permitted; label under 4.5.

4.5 Package Labels

Carrier route packages labels are based on the level of sack in which placed:
a. No label is required if the package is placed in a correctly labeled carrier route sack.
b. Packages in 5-digit carrier routes sacks must have a facing slip unless the pieces in the package show a carrier route information line.
c. Optional endorsement lines may be used instead of carrier information lines or facing slips.

4.6 Higher Level

Mailers may choose to prepare carrier route packages at a higher level of route saturation than required in 4.4b (e.g., only when there are at least 15 pieces per route). Under this option, smaller packages (but with six or more pieces per carrier route) not prepared as required for carrier route rates must be claimed at another rate and prepared accordingly.

4.7 Tray or Sack Size, Presort, and Labeling

Tray presort is in the same sequence as for sacks; a tray must be prepared for a required presort destination when the corresponding pieces (or packages of pieces) fill a tray. Minimum volume per tray is the same as for a comparable sack. The information placed on tray labels is the same as on sack labels. Tray or sack size, presort sequence, and labeling:

a. Carrier route: optional at one six-piece package minimum, required for rate eligibility; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. Carrier routes: optional at minimum of one six-piece package each for two different routes in the same 5-digit ZIP Code area; required for rate eligibility; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

4.8 Line 2

Line 2: PERIOD or NEWS (as applicable), processing category, and:

a. Walk-sequence carrier route trays or sacks: WS, and route type and number.

b. Carrier route trays or sacks: route type and number.

c. 5-digit carrier routes trays or sacks: CARRIER ROUTES.

5.0 BEDLOADED BUNDLES (FLATS)

5.1. Authorization

The RCSC manager serving the post office where the mailing is to be made may authorize preparation of flat-size Periodicals in bundles outside sacks, subject to these standards:

a. This preparation must benefit the USPS. Generally, authorization is approved only when the number of bundles is not more than the number of sacks that would otherwise be used in a mailing.

b. The publisher or agent must submit an application for each publication, showing the name of the publication; the frequency of mailing, the post offices to which shipments are to be made, and the approximate numbers of copies and bundles to be deposited at each office.

c. The RCSC manager rules on the application and informs the applicant in writing. If an authorization is approved, the publisher or agent must be prepared to provide information similar to that required on the original application for future issues of the publication, if requested by the RCSC manager. Authorization is approved for a specific period, not to exceed 2 years.

d. Authorization to bundle instead of sack may be revoked when it is determined that the preparation method no longer benefits the USPS.

5.2 Package Preparation

Packages must be presorted and labeled under 2.0 and meet the applicable basic standards in M020 and these conditions:

a. Packages must contain at least six pieces but no more than 20 pounds of mail.

b. Firm packages may contain as few as two copies of a publication and do not have to be consolidated into bundles with other packages to the same 5-digit destination.

c. All pieces must be in one package if they weigh less than 10 pounds. Ten pounds or more of mail for a destination must be prepared in packages weighing from 10 to 20 pounds each.

d. The last package to a destination may contain less than 10 pounds of mail.

e. All palletized packages of copalletized publications must contain at least six pieces.

5.3 Bundle Preparation

Bundles must be presorted under 3.0 and meet the applicable standards in M020 and these conditions:

a. Bundle size for all required presort levels: required (20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted).

b. Bundle size for all optional presort levels: optional (20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted).

c. Bundles other than carrier route and 5-digit bundles must be labeled with facing slips that have similar information to that required for sack labels. A facing slip is not required on carrier route bundles. Five-digit bundles must contain pieces with the correct optional endorsement line or have a red Label D.

5.4 Physical Characteristics

Bundles must be machinable on USPS sack-sorting equipment, unless they consist of publications for entry and delivery in the same SCF service area. Machinability can be improved by cross-strapping and using heavy-gauge shrinkwrap or stretchwrap on each bundle. Bundles entered and delivered in the same SCF service area must be securely bound to withstand normal handling without breakage or injury to USPS employees or damage to mechanized sorting systems. Binding material must be applied at least once around both the length and girth. Wire and metal strapping are prohibited.

6.0 COMBINING MULTIPLE PUBLICATIONS OR EDITIONS

6.1 Basic Information

A combined mailing is a mailing in which individually addressed copies of two or more Periodicals publications or editions are merged into a single mailstream, during production or after finished copies are produced, and all copies are presorted together to achieve the finest presort possible for the combined mailing. This process is also known as comailing. More than one publication, or edition of a publication, may be combined to meet the volume standard per tray, sack, or bundle, applicable to the presort rate claimed. Each piece must meet all applicable standards for the specific rate claimed. Nonprofit and classroom publications may be combined with Regular or Publications Service publications only as permitted by standard.

6.2 Mailing Statements

A separate mailing statement must be prepared for the postage computations for each publication or edition that is part of the combined mailing. The name and issue date of the publications with which each publication or edition was combined must be noted on, or attached to, the mailing statements. To report postage for firm packages, the per piece postage computation (and nonadvertising adjustment, if applicable) for all copies included in firm packages must be on the mailing statement for the publication (having copies in those packages) that contains the higher (or highest) amount of advertising.

7.0 DOCUMENTATION

The publisher must be prepared to support information on mailing statements required with a Periodicals publication (e.g., the number of pieces or weight of copies addressed or sorted to specific destinations or zones, prepared at specific levels of presort, or prepared to qualify for a particular rate or discount). Except for mailings containing pieces at an automation rate, a destination entry rate, or a walk-sequence rate, the publisher may meet this standard at the time of mailing by separating sacks into groups based on the presort level for which their contents qualify. In other situations, the publisher must have available documentation meeting the standards in P012 that describes the mailing in sufficient detail to allow verification of the accompanying mailing''s compliance with applicable preparation and eligibility standards.

[Delete current M300 and M400; no change to M500.]

* * * * *

M600 Standard Mail

M610 Single-Piece and Regular Standard Mail (A)

1.0 SINGLE-PIECE RATES

Each piece must be legibly marked ''Standard'' or ''STD.'' Unmarked pieces are treated as First-Class Mail and charged postage at the applicable First-Class rate.

2.0 BASIC STANDARDS''REGULAR RATES

2.1 All Mailings

All Regular (Basic and 3/5) rate mailings are subject to these general standards:

a. Each mailing must meet the applicable standards in E631 and M010 through M030.

b. All pieces must be in the same processing category unless specifically excepted by standard.

c. All pieces must be presorted together and prepared under M610, except under M045 for palletized mail.

d. Sortation determines rate eligibility; pieces not claimed at or not eligible for the 3/5 rate must be claimed at the Basic rate.

e. All pieces must be marked ''STD'' (or ''Standard'') and ''Presort.''

f. Subject to 2.2, letter-size pieces must be prepared in trays and, unless palletized, flat-size pieces must be prepared in sacks.

g. Postmasters may authorize preparation of small volume mailings in nonpostal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

2.2 Preparation Category

Pieces of Standard Mail (A) that, by size, could qualify for an Automation rate as either a letter or a flat, and that are prepared as palletized flats at Automation rates for flats or at Enhanced Carrier Route rates, may be prepared as palletized flats at Regular nonletter rates as well if the number of Regular nonletter rate pieces does not exceed 10% of the total number of pieces in the entire mailing job (regardless of rate).

2.3 Documentation

Documentation meeting the standards in P012 must be provided for all mailings paid by permit imprint, in which all pieces do not bear the correct postage, or in which pieces are of nonidentical weight.

3.0 BASIC PREPARATION''REGULAR RATE LETTER-SIZE PIECES

3.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D, facing slip, or optional endorsement line (OEL); labeling optional.

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3, facing slip, or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A, facing slip, or OEL.

d. Mixed ADC: required (no minimum); tan Label MS, facing slip, or OEL.

3.2 3/5 Rate

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces in total for the 3-digit area) can be prepared in 5- and 3-digit trays

3.3 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. 5-digit: optional (full trays), subject to 3.2; no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (no minimum), subject to 3.2; use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); overflow allowed; use L002, Column A, for Line 1.

d. ADC: required (full trays); no overflow; use L004 for Line 1.

e. Mixed ADC: required (no minimum); for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

3.4 Line 2

Line 2: STD LTRS NON-OCR and, as applicable:

a. Mixed ADC trays: WKG.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

4.0 OPTIONAL PREPARATION—UPGRADABLE REGULAR RATE LETTER-SIZE PIECES

4.1 Definition

Upgradable pieces are those that meet both the physical automation compatibility standards in C810 and the standards in C830 for an OCR clear zone, for reflectance, and for paper that can accept water-based ink. Addresses on upgradable pieces must be machine printed in a nonscript font. Upgradable pieces prepared under 4.0 are not packaged.

4.2 3/5 Rate

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces in total for the 3-digit area) can be prepared in 5- and 3-digit trays

4.3 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. 5-digit: optional (full trays), subject to 4.2; no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (no minimum), subject to 4.2; use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); overflow allowed; use L002, Column A, for Line 1.

d. AADC: required (full trays); no overflow; group pieces by 3-digit ZIP Code prefix; use L804 for Line 1.

e. Mixed AADC: required (no minimum); group pieces by AADC and, within each, by 3-digit ZIP Code prefix; for Line 1, use L805 (mail entered by the mailer at an ASF or BMC) or L806, as appropriate.

4.4 Line 2

Line 2: STD LTRS OCR and, as applicable:

a. Mixed AADC trays: WKG.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

5.0 PREPARATION—REGULAR RATE FLAT-SIZE PIECES AND IRREGULAR PARCELS

5.1 Commingling Irregular Parcel Mailings

RCSCs may authorize the commingling of several permit imprint mailings of irregular parcels to achieve a finer presort, if adequate means are available to ensure that proper postage is paid. When authorizing commingling, RCSCs may waive minimum quantity standards for preparation of 5-digit and 3-digit packages if doing so results in a finer makeup of at least 50% of the mail.

5.2 Packaging Irregular Parcels

Irregular parcels are packaged under 5.3, except that:

a. Irregular parcels 1/2 inch or more thick need not be made up into packages, if the packages would be placed in a sack for same destination.

b. Items that are so large that 10 or fewer pieces fill a sack need not be packaged.

c. Pieces in a 5-digit sack containing both machinable and irregular parcels need not be packaged. (Sacks containing both machinable and irregular parcels cannot be prepared to other presort levels.)

5.3 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D, facing slip, or optional endorsement line (OEL).

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3, facing slip, or OEL.

c. ADC: required (10-piece minimum, fewer permitted); pink Label A, facing slip, or OEL.

d. Mixed ADC: required (no minimum); tan Label MS, facing slip, or OEL.

5.4 Loose Packing

District managers of customer services may authorize loose packing of unpackaged pieces to fill No. 3 sacks if no material in a sack would be more finely presorted if packaged. Pieces must be faced and packed to remain oriented in transit. The total weight of pieces placed in one sack must not exceed 70 pounds. Requests to loose-pack mail must be made through the post office of mailing.

5.5 When to Sack

A sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum, those that weigh more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 125-piece or 15-pound minimum applies) or sack by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying mailing statement whether they applied the 125-piece (''PCS'') or 15-pound (''WT'') threshold or if the method in 5.5b (''BOTH'') was used.

5.6 Drop Shipment

Mailers who use Priority Mail or Express Mail to drop ship Standard Mail (A) may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

5.7 Sack Size, Presort, and Labeling

Sack size (subject to 5.4 through 5.6), presort sequence, and labeling:

a. 5-digit: As applicable:

(1) Flats or irregular parcels: required (125 pieces/15 pounds minimum, smaller volume not permitted); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

(2) Commingled machinable and irregular parcels: required at 10 pounds, smaller volume permitted; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (125 pieces/15 pounds minimum, smaller volume not permitted); use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

d. ADC: required (125 pieces/15 pounds minimum, smaller volume not permitted); use L004 for Line 1.

e. Mixed ADC: required (no minimum) ; for Line 1, use MXD, followed by the entry ADC facility city/state/ZIP shown in L004.

5.8 Line 2

Line 2: STD and:

a. 5-digit sacks of machinable and irregular parcels: 3C MACH AND IRREG.

b. Sacks of commingled irregular parcels: 3C COMM IRREG.

c. All other sacks: FLTS or 3C IRREG (as appropriate).

d. Mixed ADC sacks: WKG.

e. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

6.0 REGULAR RATE MACHINABLE PARCELS

6.1 5-Digit Sacks

Five-digit sacks containing both machinable and irregular parcels must be prepared under 5.0. Each possible 5-digit sack must be prepared in any mailing including pieces claimed at the 3⁄5 rate. If each possible 5-digit sack is not prepared when there are 10 pounds or more of mail for that destination, the 3⁄5 rate may not be claimed for any part of the mailing.

6.2 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. 5-digit: optional at 10 pounds except under 6.1; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

b. Destination ASF: required for DBMC rate only (10 pounds minimum, smaller volume not permitted); use L602 for Line 1.

c. Destination BMC: required (10 pounds minimum, smaller volume not permitted); use L602 if DBMC rate is claimed; otherwise, use L601 for Line 1.

d. Mixed BMC: required (no minimum); use L601 to show entry BMC for Line 1.

6.3 Line 2

Line 2: STD 3C MACH and:

a. Mixed BMC sacks: MIXED BMC.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

7.0 BEDLOADED BUNDLES OF REGULAR RATE FLAT-SIZE PIECES

7.1 Authorization

The RCSC manager serving the post office where the mailing is to be made may authorize preparation of Regular Standard Mail (A) in bundles outside mail sacks if this preparation benefits the USPS. Generally, authorization is approved only when the number of bundles is not more than the number of sacks that would otherwise be used in a mailing. The mailer or agent must submit an application for each product that states the name of the mailer, the frequency of mailing, the post offices to which shipments are to be made, and the approximate numbers of copies and of bundles to be deposited at each office. The RCSC manager rules on the application and informs the applicant in writing. If an authorization is approved, the publisher or agent must be prepared to provide information for future mailings, similar to that required in the original application if requested by the RCSC manager. Authorization is approved for a specific period, not to exceed 2 years. Authorizations to bundle instead of sack may be revoked when it is determined that the preparation method no longer benefits the USPS.

7.2 Documentation

Documentation must be provided under 2.3, applying those standards to bundles rather than sacks.

7.3 Package Preparation

Package size for all presort levels: two-piece minimum, 20-pound maximum. Presort sequence and labeling of packages are subject to 5.0.

7.4 Bundle Preparation

Bundle size for all presort levels: two packages/20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted. Presort sequence is subject to 5.0. Five-digit bundles must contain pieces with the correct optional endorsement line or have a red Label D. Other bundles must be labeled with facing slips that have similar information to that required for sack labels. Packages too large to be placed in a bundle do not require a facing slip.

7.5 Physical Characteristics

Bundles must be machinable by USPS sack-sorting equipment, unless they consist of pieces for entry and delivery in the same SCF service area. Machinability might be improved by cross-strapping and using heavy-gauge shrinkwrap or stretchwrap on each bundle. Bundles entered and delivered in the same SCF service area must be securely bound to withstand normal handling without breakage or injury to USPS employees or damage to mechanized sorting systems. Binding material must be applied at least once around both the length and girth. Wire and metal strapping are prohibited.

M620 Enhanced Carrier Route Standard Mail (A)

1.0 BASIC STANDARDS

1.1 All Mailings

All Enhanced Carrier Route rate mailings are subject to these general standards:

a. Each mailing must meet the applicable standards in E632 and M010 through M030.

b. All pieces must be in the same processing category.

c. All pieces must be presorted together and prepared under M620, unless palletized under M045.

d. Sortation determines rate eligibility; pieces not claimed at or not eligible for the High Density or Saturation rates must be claimed at the Basic Carrier Route rate.

e. Subject to M012, all pieces must be marked ''STD'' (or ''Standard''), ''ECR'' (or ''Enhanced Carrier Route''). In addition, Basic, High Density, and Saturation rate pieces must each be marked ''LOT,'' ''WSH,'' or ''WSS,'' respectively, after the ECR marking (e.g., ''ECRWSS''), in the correct optional endorsement line under M013, or in the correct carrier route information line under M014. Pieces not claimed at the corresponding rate must not bear the ''LOT,'' ''WSH,'' or ''WSS'' marking.

f. Subject to 1.2, letter-size pieces must be prepared in trays and, unless palletized, flat-size pieces must be prepared in sacks.

g. Postmasters may authorize preparation of small volume mailings in nonpostal containers if they consist primarily of packages for local ZIP Codes, do not exceed 20 pounds, and do not require postal transportation for processing.

1.2 Preparation Category

Pieces of Standard Mail (A) that, by size, could qualify for an Automation rate as either a letter or a flat, and that are prepared as palletized flats at Enhanced Carrier Route rates, may be prepared as palletized flats at Regular nonletter rates as well if the number of Regular nonletter rate pieces does not exceed 10% of the total number of pieces in the entire mailing job (regardless of rate).

1.3 High Density and Saturation Rates

Mailpieces for which the High Density or Saturation rate is claimed must be prepared as a carrier route mailing under this section and the walk-sequencing standards in M050. Pieces prepared with a simplified address must also meet the corresponding standards.

1.4 Documentation

Documentation is subject to the general standards in P012. At the time a mailing is submitted for presort and postage verification, the mailer must submit a list of the number of pieces qualifying for each Enhanced Carrier Route rate claimed by 5-digit ZIP Code and, within each, by carrier route. Additional documentation is required under M050 for the High Density and Saturation rates. After the first mailing, the postmaster may authorize the mailer to keep the records and submit them on request. The mailer must keep these records for 90 days after the mailing date, or until any action pending on the recalculation of postage is resolved to the USPS''s satisfaction.

2.0 PACKAGE PREPARATION

2.1 General

Only carrier route packages are prepared. ''Carrier route'' includes city carrier routes, rural routes, highway contract routes, post office box sections, and general delivery units. Packages are not required in full carrier route trays.

2.2 Package Size and Labeling

Package size: carrier route; required (10-piece minimum, fewer not permitted). Carrier route package labels are based on the level of sack or tray in which placed:

a. No label is required if the package is placed in a correctly labeled carrier route tray or sack.

b. Packages in 5-digit carrier routes trays and sacks must have a facing slip unless the pieces in the package show a carrier route information line. Optional endorsement lines may be used instead of carrier information lines or facing slips.

2.3 Walk-Sequence Mail

A facing slip with the phrase ''WALK-SEQUENCED CARRIER ROUTE MAIL'' may be placed on the top of each package of walk-sequence mail. It may be an address label with the required information placed on a sample mailpiece that is the top piece in the package, or a separate piece of paper affixed to the top of the package. A facing slip does not satisfy the marking on each piece required by 1.1e.

3.0 TRAY PREPARATION''LETTER-SIZE PIECES

3.1 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. Carrier route: required full tray; no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes: required (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

3.2 Line 2

Line 2: STD LTRS and:

a. Basic Carrier Route trays: ECRLOT, route type and number.

b. High Density trays: ECRWSH, route type and number.

c. Saturation trays: ECRWSS, route type and number.

d. 5-digit carrier routes trays: CR-RTS.

4.0 SACK PREPARATION—OTHER PIECES

4.1 When to Sack

A sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum, those that weigh more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 125-piece or 15-pound minimum applies) or sack by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying mailing statement whether they applied the 125-piece (''PCS'') or 15-pound (''WT'') threshold or if the method in 4.1b (''BOTH'') was used.

4.2 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. Carrier route: required (125 pieces/15 pound minimum, smaller volume not permitted); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes: required (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

4.3 Line 2

Line 2: STD, FLTS or 3C IRREG (as appropriate), and:

a. Basic Carrier Route sacks: ECRLOT, route type and number.

b. High Density sacks: ECRWSH, route type and number.

c. Saturation sacks: ECRWSS, route type and number.

d. 5-digit carrier routes sacks: CR-RTS.

5.0 RESIDUAL MAIL

Pieces not presorted under 2.0 and either 3.0 or 4.0 must be prepared as a separate mailing at Regular or Automation Standard Mail rates.

6.0 BEDLOADED BUNDLES

6.1 Authorization

The RCSC manager serving the post office where the mailing is to be made may authorize preparation of Enhanced Carrier Route Standard Mail in bundles outside mail sacks if this preparation benefits the USPS. Generally, authorization is approved only when the number of bundles is not more than the number of sacks that would otherwise be used in a mailing. The mailer or agent must submit an application for each product that states the name of the mailer, the frequency of mailing, the post offices to which shipments are to be made, and the approximate numbers of copies and of bundles to be deposited at each office. The RCSC manager rules on the application and informs the applicant in writing. If an authorization is approved, the publisher or agent must be prepared to provide information for future mailings, similar to that required in the original application if requested by the RCSC manager. Authorization is approved for a specific period, not to exceed 2 years. Authorizations to bundle instead of sack may be revoked when it is determined that the preparation method no longer benefits the USPS.

6.2 Documentation

Documentation meeting the standards in P012 must be provided for all mailings paid with a permit imprint, in which all pieces do not bear the correct postage, or in which pieces are of nonidentical weight.

6.3 Package Preparation

Package size for all presort levels: two-piece minimum, 20-pound maximum. Presort sequence and labeling of packages are subject to 2.0.

6.4 Bundle Preparation

Bundle size for all presort levels: two packages/20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted. Presort sequence is subject to 4.0. Five-digit bundles must contain pieces with the correct optional endorsement line or have a red Label D. Packages too large to be placed in a bundle do not require a facing slip.

6.5 Physical Characteristics

Bundles must be machinable by USPS sack-sorting equipment, unless they consist of pieces for entry and delivery in the same SCF service area. Machinability might be improved by cross-strapping and using heavy-gauge shrinkwrap or stretchwrap on each bundle. Bundles entered and delivered in the same SCF service area must be securely bound to withstand normal handling without breakage or injury to USPS employees or damage to mechanized sorting systems. Binding material must be applied at least once around both the length and girth. Wire and metal strapping are prohibited.

M630 Standard Mail (B)

1.0 PARCEL POST

1.1 Marking

Pieces mailed at the single-piece parcel post rates do not require a marking. Each piece mailed at the bulk parcel post rates must be marked ''Bulk Parcel Post'' or ''Bulk PP.'' Each piece mailed at the DBMC parcel post rates must be marked ''DBMC Parcel Post'' or ''DBMC PP.'' If postage for the piece is paid with a permit imprint and the office of mailing is in a different 3-digit ZIP Code area from the post office in the return address, the 5-digit ZIP Code or the 3-digit ZIP Code prefix of the office of mailing must be included in the indicia or incorporated in the required marking (e.g., ''DBMC PP 011'' or ''DBMC Parcel Post Mailed From 01101''). Pieces not clearly marked as required are treated as single-piece rate parcel post and subject to additional postage as necessary.

1.2 Separation

DBMC and bulk parcel post pieces must be separated by zones when presented unless either the correct postage is affixed to each piece or the mailing is prepared under 8.0. For mailings prepared in sacks, pieces for more than one zone may not be placed in the same sack, and sacks must be separated by zone when presented to the USPS.

2.0 BOUND PRINTED MATTER

2.1 Basic Standards

There are no presort, sacking, or labeling requirements for single-piece rate bound printed matter. All bulk rate bound printed matter must be prepared under the standards in 2.5 and 2.6, except for carrier route presort rate bound printed matter, machinable pieces, bedloaded bundles, and palletized pieces and bundles subject to 3.0, 6.0, 7.0, and M045, respectively.

2.2 Separation

Mailpieces must be separated by zones when presented unless either the correct postage is affixed to each piece or the mailing is prepared under 8.0. Pieces for more than one zone may not be placed in the same bundle or sack, and bundles and sacks must be separated by zone when presented.

2.3 Marking

Each piece claimed at single-piece bound printed matter rates must be marked ''Bound Printed Matter.'' Each piece of bound printed matter claimed at bulk bound printed matter rates must be marked ''Bound Printed Matter'' and

''Bulk Rate'' or ''Blk. Rt.'' Pieces not clearly marked as required are treated as single-piece rate parcel post and subject to additional postage as necessary.

2.4 Catalogs

In addition to marking under 2.3, catalogs must be marked ''CATALOG RATE'' or ''CATALOG.'' For this standard, a ''catalog'' is bound printed matter consisting entirely of advertising. ''Advertising'' includes all material for the publication of which a valuable consideration is paid, accepted, or promised, which calls attention to something for getting people to buy it, seek it, sell it, or support it. Public service advertisements for which no consideration is paid are not advertising for postal purposes. Advertising includes:

a. Reading matter or other material, for the publication of which an advertising rate is charged.

b. Articles, items, and notices that are reading matter inserted by a custom or understanding that textual matter is to be inserted for the advertiser or the advertiser''s products in the publication where a display advertisement appears.

c. Material in a publication advertising its own services or issues, or any other business (or products or services) of its publisher, whether display advertising or editorial or reading matter.

2.5 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. 5-digit: required at 10 pieces/20 pounds/1,000 cubic inches; smaller volume permitted; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required at 10 pieces/20 pounds/1,000 cubic inches; smaller volume permitted; use L002, Column A, for Line 1.

c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

d. SCF: optional (10 pieces/20 pounds/1,000 cubic inches minimum; smaller volume not permitted); use L002, Column B, for Line 1.

e. ADC: optional (no minimum); use L004 for Line 1.

f. Mixed ADC: required (no minimum); for Line 1, use MXD followed by the entry ADC facility city/state/ZIP shown in L004.

2.6 Line 2

Line 2: STD 4C, FLATS or IRREG (as applicable), and:

a. Mixed ADC sacks: WKG.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

3.0 CARRIER ROUTE BOUND PRINTED MATTER

3.1 Preparation

Carrier route rate bound printed matter must be prepared under the standards in 3.5 through 3.8, unless prepared as machinable pieces, bedloaded bundles, or palletized under 6.0, 7.0, and M045, respectively.

3.2 Documentation

Documentation is subject to the general standards in P012. At the time a mailing is submitted for presort and postage verification, the mailer must submit a list of the number of qualifying and residual pieces for each by 5-digit ZIP Code and, within each, by carrier route. After the first mailing, the postmaster may authorize the mailer to keep the records and submit them on request. The mailer must keep these records for 90 days after the mailing date, or until any action pending on the recalculation of postage is resolved to the USPS''s satisfaction.

3.3 Marking

Each piece claimed at carrier route bulk bound printed matter rates must be marked ''Bound Printed Matter Blk. Rt.'' and ''Carrier Route Presort'' or ''CAR–RT SORT.'' In addition, catalogs must be marked ''CATALOG RATE'' or ''CATALOG.'' Catalog is defined in 2.4. Residual pieces in a carrier route bulk bound printed matter mailing may have the ''Carrier Route Presort'' or ''CAR–RT SORT'' marking if the number of residual pieces to any single 5-digit ZIP Code area does not exceed 5% of the total qualifying carrier route rate pieces addressed to that 5-digit area. The residual pieces must be separated from the qualifying pieces when presented to the USPS. Pieces not clearly marked as required are treated as single-piece rate parcel post and subject to additional postage as necessary.

3.4 Package Preparation

''Carrier route'' includes city carrier routes, rural routes, highway contract routes, post office box sections, and general delivery units. Packages must meet the applicable basic standards in M020.

3.5 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling: Carrier route; required (10 pieces/20 pounds/1,000 cubic inches minimum, smaller packages not permitted); facing slip required unless the pieces in the package show a carrier route information line.

3.6 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. Carrier route: optional (10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use 5-digit destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes: required (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

3.7 Line 2

Line 2: STD 4C, FLTS or IRREG (as applicable), and:

a. Carrier route sacks: route type and number.

b. 5-digit carrier routes sacks: CARRIER ROUTES.

3.8 Residual Pieces

Residual mail not presorted under 3.5 through 3.7 may be prepared in packages of fewer than 10 pieces each for individual carrier routes. Residual pieces must be sacked under 2.0. Residual pieces may be included in a carrier route presort rate mailing with the ''Carrier Route Presort'' or ''CAR–RT SORT'' marking if postage is paid at the applicable bulk bound printed matter rate. These pieces must be separated from the qualifying carrier route rate pieces when presented to the USPS. The number of residual pieces endorsed ''Carrier Route Presort'' or ''CAR–RT SORT'' addressed to any single 5-digit ZIP Code area must not exceed 5% of the total qualifying presorted carrier route pieces addressed to that 5-digit area.

4.0 SPECIAL STANDARD MAIL

4.1 Basic Standards

There are no presort, sacking, or labeling requirements for single-piece Special Standard Mail. Presorted Special Standard Mail matter must be prepared subject to 4.3 through 4.5, unless prepared as machinable pieces, bedloaded bundles, or palletized, subject to 6.0, 7.0, and M045, respectively. Mailings of nonmachinable (outside) pieces eligible for the presort rates must be prepared to preserve the required presort as instructed by the postmaster of the office of mailing.

4.2 Marking

Each piece claimed at Special Standard Mail single-piece rates must be marked ''Special Standard Mail.'' Each piece claimed at Presorted Special

Standard Mail rates must be marked ‘‘Presorted Special Standard Mail.’’ Pieces not clearly marked as required are treated as single-piece parcel post and subject to additional postage as necessary.

4.3 Sack or Bundle Preparation (5-Digit Rate)

Sack or bundle size, presort sequence, and labeling: 5-digit (only); required (eight pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); 20-pound maximum for bundles; no label required on bundles; on sacks use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

4.4 Sack Preparation (BMC Rate)

Sack size, presort sequence, and labeling: destination BMC (only); required (four pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use L601 for Line 1.

4.5 Line 2

Line 2: STD 4C and processing category. As required by the labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

5.0 LIBRARY MAIL

5.1 Basic Standards

There are no presort, sacking, or labeling requirements for single-piece Library Mail, except that, if 1,000 or more identical-weight Library Mail pieces are mailed during a single day, they must be presorted and sacked under 2.0 unless prepared as machinable parcels or palletized subject to 6.0 or M045, respectively.

5.2 Marking

Each piece of Library Mail must be marked ‘‘Library Rate’’ or ‘‘Library Mail.’’ Pieces not clearly marked as required are treated as single-piece parcel post and subject to additional postage as necessary.

6.0 MACHINABLE PARCELS

6.1 Basic Standards

All Standard Mail (B) machinable parcels must be prepared in sacks under 6.2 unless palletized under M045. Parcel post or bound printed matter pieces must be separated by zones when presented unless either the correct postage is affixed to each piece or the mailing is prepared under 8.0. Pieces for more than one zone may not be placed in the same bundle or sack, and bundles and sacks must be separated by zone when presented.

6.2 Sack Size, Presort, and Labeling

Sack size, presort sequence, and labeling:

a. 5-digit: required (10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

b. ASF: allowed and required only if DBMC rate is claimed for mail deposited at ASF; 10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted; use L602 for Line 1.

c. Destination BMC: required (10 pieces/20 pounds/1,000 cubic inches minimum, smaller volume not permitted); use L601 (L602 if DBMC rate claimed) for Line 1.

d. Mixed BMC: required (no minimum); use L601 to show entry BMC for Line 1.

6.3 Line 2

Line 2: STD 4C MACH and:

a. Mixed BMC sacks: MIXED BMC.

b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

7.0 BOUND PRINTED MATTER AS BEDLOADED BUNDLES

7.1 Authorization

The RCSC manager serving the post office where the mailing is to be made may authorize preparation of bound printed matter meeting the applicable standards in 2.0 or 3.0 in bundles outside mail sacks if this preparation benefits the USPS. Generally, authorization is approved only when the number of bundles is not more than the number of sacks that would otherwise be used in a mailing. The mailer or agent must submit an application for each product that states the name of the mailer, the frequency of mailing, the post offices to which shipments are to be made, and the approximate numbers of copies and bundles to be deposited at each office. The RCSC manager rules on the application and informs the applicant in writing. If an authorization is approved, the publisher or agent must be prepared to provide information for future mailings, similar to that required on the original application, if requested by the RCSC manager. Authorization is approved for a specific period, not to exceed 2 years. Authorizations to bundle instead of sack can be revoked when it is determined that the preparation method no longer benefits the USPS.

7.2 Separation

Unless prepared under 8.0, pieces for more than one zone may not be placed in the same package or bundle, and packages and bundles must be separated by zone when presented to the USPS.

7.3 Package Preparation

Packages must meet the applicable basic standards in M020. Package size: two-piece minimum, 20-pound maximum. Presort sequence and labeling of packages are subject to 2.0 or 3.0, as applicable for the rate claimed.

7.4 Bundle Preparation

Bundles must meet the applicable basic standards in M020. Bundles must be machinable by USPS sack-sorting equipment, unless they consist of pieces for entry and delivery in the same SCF service area. Machinability can be improved by cross-strapping and using heavy-gauge shrinkwrap or stretchwrap on each bundle. Bundles entered and delivered in the same SCF service area must be securely bound to withstand normal handling without breakage or injury to USPS employees or damage to mechanized sorting systems. Binding material must be applied at least once around both the length and girth. Wire and metal strapping are prohibited.

7.5 Bundle Size, Presort, and Labeling

Bundle size, presort sequence, and labeling: For all presort levels: two packages/20 pounds/1,000 cubic inches minimum, 40 pounds maximum; smaller bundles not permitted. Presort sequence is same as sacks under 2.0 or 3.0, as applicable for the rate claimed. Bundles other than carrier route and 5-digit bundles must be labeled with facing slips that have similar information to that required for sack labels. A facing slip is not required on carrier route bundles. The 5-digit bundles must contain pieces with the correct optional endorsement line or have a red Label D. Packages too large to be placed in a bundle do not require a facing slip. Optional endorsement lines may be used instead of facing slips on other than mixed states bundles, subject to M013.

8.0 COMMINGLING ZONES

Zone-rated Standard Mail pieces need not be separated by zones when presented other than as individual pieces or with full correct postage affixed to each piece, subject to the applicable conditions of this section. Nonidentical-weight pieces not bearing the full correct postage may not be commingled unless authorized by the RCSC manager serving the office of mailing. These provisions also apply to bundles of bound printed matter regardless of whether the bundles are bedloaded, sacked, or palletized. The mail must be prepared and documented:

a. Under P710 or P730; or

b. Under all these conditions:

(1) A unique number is assigned to each sack/pallet in the mailing and printed on a separate line at the top of the sack/pallet label (above the Line 1 information on bound printed matter).

(2) For bound printed matter and all palletized mailings, Line 2 of the sack/pallet label for each sack/pallet that contains mail for more than one zone also shows ''MIXED ZONES'' and the zone numbers (e.g., ''STD FLATS MIXED ZONES 2 & 3'').

(3) A detailed list accompanies each mailing or mailing segment, sequenced numerically by the numbers assigned to sacks/pallets in the mailing, that shows the post office where the mail is to be entered (entry post office), a unique identifier for the mailing or mailing segment that also appears on the corresponding mailing statement(s), the name and address of the mailer, the permit number (if applicable), the date of mailing, individual line entries for each sack/pallet, and the total number of pieces to each zone and in the entire mailing or mailing segment. Line entries for sacks/pallets containing mail for only one zone must show the sack/pallet number, the level of sortation, the zone for which the mail is destined, and the total number of pieces for the sack/pallet. Entries for sacks/pallets containing mail for more than one zone must also show (by zone) the number of pieces to each 3-digit ZIP Code area and the total number of pieces for that zone for the sack/pallet. Mailings are not accepted if there are discrepancies between the information in the detailed listing or on the mailing statement and the results of USPS random verification of piece counts and postage.

M690 Nonprofit Standard Mail

M692 Basic and 3/5 Presort

[Text of current M302, except in 1.2 and 3.3, replace ''bulk third-class'' with ''Nonprofit Standard Mail (A)''; delete 1.3 and 1.5, and renumber succeeding sections accordingly; in renumbered 1.8a and 2.1, delete ''or optional city,'' delete 2.2c, 2.3c, 3.4b, 3.5b, and 3.6b and reletter succeeding sections accordingly; in 3.6, replace ''3C'' with ''STD''; and in 3.6a and 3.6b, insert ''3C'' before ''MACH.'' In 2.2f, 2.3f, 3.4e, 3.5e, and 3.5g, replace ''SDC'' with ''ADC''; in 2.3f, replace ''orange Label S'' with ''pink Label A''; in 3.5g, replace ''L706 or L707, as applicable'' with ''use L004''; delete current 3.6d, redesignate 3.6e and 3.6f as 3.6d and 3.6e, respectively, and revise redesignated 3.6d to read ''Mixed ADC sacks: WKG''; delete 2.2g, 2.3g, 3.4f, and 3.5f; redesignate 2.2h, 2.3h, 3.4g, and 3.5g as 2.2g, 2.3g, 3.4f, and 3.5f, respectively, and replace ''Mixed states'' with ''Mixed ADC.'']

M693 Carrier Route

[Text of current M303, except in 1.2 and 3.3, replace ''bulk third-class'' with ''Nonprofit Standard Mail (A)''; delete 1.3 and 1.5, and renumber succeeding sections accordingly; and in 3.6, replace ''3C'' with ''STD.'']

M695 Machinable Parcels

[Text of current M305, except in 2.4, replace ''3C'' with ''STD 3C.'']

M696 Irregular Parcels

[Text of current M306, except in 1.5, replace ''bulk third-class'' with ''Nonprofit Standard Mail (A)''; and in 3.0, replace ''3C'' with ''STD 3C.'']

M697 Bedloaded Bundles

[Text of current M307, except in 1.2, replace ''third-class mail'' with ''Nonprofit Standard Mail (A).'']

M698 Combined Mailings of Nonprofit Standard Mail (A) and Standard Mail (B) Machinable Parcels

[Text of current M073. In 1.1, replace ''third-class and fourth-class'' with ''Nonprofit Standard Mail (A) and Standard Mail (B)''; in 1.2, replace ''third- or fourth-class'' with ''Nonprofit Standard Mail (A) or Standard Mail (B)'' and delete ''class or''; in 1.6 and 1.7, replace ''class'' with ''category''; in 1.7, replace ''third- and fourth-class'' with ''Nonprofit Standard Mail (A) and Standard Mail (B) pieces''; in 1.7, replace ''third- and fourth-class'' with ''Nonprofit Standard Mail (A) and Standard Mail (B)''; and in 3.3, replace ''3C/4C'' with ''STD 3C/4C.'']

M800 Automation-Compatible Mail

[Move current M810–M820 contents to M890 and renumber and revise as shown below to apply only to Preferred Periodicals and Nonprofit Standard Mail (A). For Automation First-Class and Standard Mail (A) and Barcoded rate Regular and automation-compatible Publications Service Periodicals, add new M810 (replacing M814 through M816) and M820 (replacing M823), as follows; (M812, M813, M817, M818, M819, M825, and M827 are deleted for these subclasses).]

M810 Letter-Size Mail—(Except Preferred Periodicals and Nonprofit Standard Mail)

1.0 BASIC STANDARDS

1.1 Standards

Letter-size Automation First-Class, Barcoded rate Regular and automation-compatible Publications Service Periodicals, and Automation Standard Mail must be prepared under M810, subject to the basic eligibility standards applicable to the rate claimed. Presort, labeling, and package and tray preparation are subject to the general standards in M010 through M030. All pieces in a mailing must be in the same processing category and must be presorted together to the finest extent required. Firm packages may not be included in mailings prepared under M810.

1.2 Marking

First-Class pieces must be marked ''First-Class.'' Standard Mail must be marked either ''STD'' or ''Standard.'' In addition, Carrier Route rate pieces must be marked ''AUTOCR,'' and pieces at other rates must be marked ''AUTO.'' No markings are required on Periodicals pieces.

1.3 Grouping, Packaging, Labeling

Grouping, packaging, and labeling are not generally required, with these exceptions:

a. Pieces must be packaged to preserve orientation in overflow and less-than-full trays and in any mailing consisting entirely of card-size pieces.

b. Pieces must be grouped as specified below in 5-digit carrier routes, AADC, and mixed AADC trays, and for Regular Periodicals.

c. Package labels are required only for Regular Periodicals.

1.4 Heavy Letter Mail

Each tray of heavy letter mail (as defined in C810) must be identified by a flag (similar to a separator card) clearly marked ''HEAVY LETTER MAIL'' and placed in front of the contents of the tray. Each pallet, general purpose mail container, or other equipment used to transport trays of heavy letter mail must be labeled ''HEAVY LETTER MAIL,'' in letters not less than 1/2 inch high on white or light-colored stock not smaller than 8 by 11 inches, on two adjacent sides of the pallet or other equipment.

1.5 Mixed Rates

A single mailing (e.g., Automation First-Class) may include pieces prepared at all available rate levels (e.g., Carrier Route, 5–Digit, 3–Digit, and

Basic); all may be reported on the same mailing statement and documentation. No other combinations are permitted.

1.6 Availability of Carrier Route Rates

Preparation of mail to qualify for Automation Carrier Route rates is optional for Automation First-Class and Standard Mail (A) and Publications Service pieces, subject to the availability limitations in E140, E232, and E641.

1.7 Scheme Sortation—Availability and Use

Scheme sortation is an option available for Automation First-Class, Automation Standard Mail (A), and Publications Service pieces only, and only for those ZIP Code prefix groups listed in L003. Scheme sortation may be performed for only selected available destinations and may include only pieces that could not be prepared in full 3-digit trays. Scheme trays are considered 3-digit separations for rate eligibility, subject to a single minimum volume and the applicable standards for the rate claimed.

2.0 PREPARATION—FIRST-CLASS AND STANDARD MAIL (A)

2.1 Packaging/Grouping

No packaging is required in full trays. Grouping is required for Carrier Route rate pieces and pieces in AADC and mixed AADC trays.

2.2 Grouping—Carrier Route Pieces

Grouping size, presort sequence, and labeling: carrier route (only); required (10-piece minimum; fewer not permitted); use OEL or carrier route information line. Group pieces by carrier route (using separator cards under M020, not packaging) in full 5-digit carrier routes trays.

2.3 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. Carrier route: optional, but required for rate eligibility (full trays); no overflow; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes (carrier route pieces only): optional, but required for rate eligibility (no minimum); overflow allowed; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

c. 5-digit: optional, but required for rate eligibility (150-piece minimum); overflow allowed; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

d. 3-digit/scheme: required (150-piece minimum); overflow allowed; for Line 1, use L002, Column A (3-digit trays), or L003 (scheme trays), as appropriate.

e. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

f. AADC: required (150-piece minimum); overflow allowed; group pieces by 3-digit ZIP Code prefix; use L804 for Line 1.

g. Mixed AADC: required (no minimum); group by AADC and, within each, by 3-digit ZIP Code prefix; for Line 1, for First-Class Mail, use MXD, followed by the entry 3-digit facility city/state/ZIP shown in L002, Column A (use lowest ZIP in range) or, for Standard Mail, use L805 (mail entered by the mailer at an ASF or BMC) or L806, as appropriate.

2.4 Line 2

Line 2: FCM or STD (as appropriate), LTRS BC, and:

a. Carrier route trays: route type and number.

b. 5-digit carrier routes trays: CR-RTS.

c. For scheme trays: SCHEME.

d. For mixed AADC trays: WKG.

3.0 PREPARATION—PUBLICATIONS SERVICE

3.1 Packaging/Grouping

No packaging is required in full trays. Grouping is required for Carrier Route rate pieces and pieces in AADC and mixed AADC trays.

3.2 Grouping—Carrier Route Pieces

Grouping size, presort sequence, and labeling: carrier route (only); required (six-piece minimum; fewer not permitted); no label required. Group pieces by carrier route (using separator cards under M020, not packaging) in full 5-digit carrier routes trays.

3.3 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. Carrier route: optional, but required for rate eligibility (full trays); no overflow; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

b. 5-digit carrier routes: optional, but required for rate eligibility (no minimum); overflow allowed; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

c. 5-digit: optional, but required for rate eligibility (150-piece minimum); overflow allowed; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

d. 3-digit/scheme: required (150-piece minimum); overflow allowed; for Line 1, use L002, Column A (3-digit trays), or L003 (scheme trays), as appropriate.

e. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

f. AADC: required (150-piece minimum); overflow allowed; group pieces by 3-digit ZIP Code prefix; use L804 for Line 1.

g. Mixed AADC: required (no minimum); group pieces by AADC; for Line 1, use L805 (mail entered by the mailer at an ASF or BMC) or L806, as appropriate.

3.4 Line 2

Line 2: PERIOD or NEWS (as appropriate), LTRS BC, and:

a. Carrier route trays: route type and number.

b. 5-digit carrier routes trays: CR–RTS.

c. For scheme trays: SCHEME.

d. For mixed AADC trays: WKG.

4.0 PREPARATION—REGULAR PERIODICALS

4.1 Packaging/Grouping, Presort, and Labeling

Pieces are grouped with separator cards but not packaged in full trays. Grouping size, presort sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D or optional endorsement line (OEL).

b. 3-digit: required (50-piece minimum, fewer not permitted); green Label 3 or OEL.

c. AADC: required (10-piece minimum, fewer not permitted); pink Label A or OEL.

d. Mixed AADC: required (no minimum); tan Label MS or OEL.

4.2 Tray Size, Presort, and Labeling

Tray size, presort sequence, and labeling:

a. 5-digit: required (full trays); no overflow; use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required (full trays); no overflow; for Line 1, use L002, Column A (3-digit trays), or L003 (scheme trays), as appropriate.

c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.

d. AADC: required (full trays); no overflow; use L804 for Line 1.

e. Mixed AADC: required (no minimum); for Line 1, use L805 (mail entered by the mailer at an ASF or BMC) or L806, as appropriate.

4.3 Line 2

Line 2: PERIOD or NEWS (as appropriate), LTRS BC, and, on mixed AADC trays: WKG.

5.0 DOCUMENTATION

The mailer must be prepared to support information on mailing statements with documentation meeting the standards in P012 that describes the mailing in sufficient detail to allow verification of the accompanying mailing''s compliance with applicable preparation and eligibility standards. Combined mailings of Periodicals publications must also be documented under M210. A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing.

M820 Flat-Size Mail—(Except Preferred Periodicals and Nonprofit Standard Mail)

1.0 BASIC STANDARDS

1.1 Standards

Flat-size Automation First-Class, Barcoded rate Regular and automation-compatible Publications Service Periodicals, and Automation Standard Mail must be prepared under M820, subject to the basic eligibility standards applicable to the rate claimed. Presort, labeling, and package, sack, and tray preparation are subject to the general standards in M010 through M030. All pieces in a mailing must be in the same processing category and must be presorted together to the finest extent required.

1.2 Packages

All pieces must be prepared in packages. When the pieces for a presort destination must be prepared in more than one package or in packages each with fewer pieces than the minimum required (because of size or total number of pieces), rate eligibility is not affected if the total number of pieces for that destination exceeds the applicable minimum. Firm packages are allowed only in Publications Service mailings.

1.3 Standard Mail (A)

Pieces of Standard Mail (A) that, by size, could qualify for an Automation rate as either a letter or a flat, and that are prepared as palletized flats at Automation rates for flats or at Enhanced Carrier Route rates, may be prepared as palletized flats at Regular nonletter rates as well if the number of Regular nonletter rate pieces does not exceed 10% of the total number of pieces in the entire mailing job (regardless of rate).

1.4 Marking

First-Class pieces must be marked ''First-Class'' and ''AUTO.'' Standard Mail must be marked either ''STD'' or ''Standard'' and ''AUTO.'' No markings are required on Periodicals pieces.

1.5 Other Rates

A single mailing (e.g., Automation First-Class) may include pieces prepared at all available rate levels (e.g., 3/5 and Basic); all may be reported on the same mailing statement and documentation. Other combinations are permitted only when allowed by standard.

2.0 PREPARATION—FIRST-CLASS MAIL

2.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. 5-digit: required (10-piece minimum, fewer not permitted); use red Label D or optional endorsement line (OEL).
b. 3-digit: required (10-piece minimum, fewer not permitted); use green Label 3 or OEL.
c. ADC: required (10-piece minimum, fewer not permitted); use pink Label A or OEL.
d. Mixed ADC: required (no minimum); use tan Label MS or OEL.

2.2 Tray Preparation

Tray size, presort sequence, and labeling:
a. 5-digit: required full trays, no overflow; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. 3-digit: required full trays, no overflow; use L002, Column A, for Line 1.
c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.
d. ADC: required full trays, no overflow; use L004 for Line 1.
e. Mixed ADC: required (no minimum); use MXD, followed by the entry 3-digit facility city/state/ZIP shown in L002, Column A (use lowest ZIP in range) for Line 1.

2.3 Line 2

Line 2: FCM FLTS BC, and:
a. Mixed ADC sacks: WKG.
b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

3.0 PREPARATION—REGULAR PERIODICALS

3.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. 5-digit: required (six-piece minimum, fewer not permitted); use red Label D or optional endorsement line (OEL).
b. 3-digit: required (six-piece minimum, fewer not permitted); use green Label 3 or OEL.
c. ADC: required (six-piece minimum, fewer not permitted); use pink Label A or OEL.
d. Mixed ADC: required (no minimum); use tan Label MS or OEL.

3.2 Sack Preparation

Sack size, presort sequence, and labeling:
a. 5-digit: required at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. 3-digit: required at 24 pieces, optional with one six-piece package minimum; use L002, Column A, for Line 1.
c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.
d. ADC: required at 24 pieces, optional with one six-piece package minimum; use L004 for Line 1.
e. Mixed ADC: required (no minimum); for Line 1, use L805 (mail entered by the mailer at an ASF or BMC) or use MXD, followed by the entry ADC facility city/state/ZIP shown in L004, as appropriate.

3.3 Line 2

Line 2: PERIOD or NEWS (as appropriate), FLTS BC, and:
a. Mixed ADC sacks: WKG.
b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

4.0 PREPARATION—PUBLICATIONS SERVICE

4.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. Firm: optional (two-piece minimum); use blue Label F or optional endorsement line (OEL).
b. Carrier Route: optional (six-piece minimum, fewer not permitted); use purple Label CR or OEL.
c. 5-digit: required (six-piece minimum, fewer not permitted); use red Label D or OEL.

d. 3-digit: required (six-piece minimum, fewer not permitted); use green Label 3 or OEL.
e. ADC: required (six-piece minimum, fewer not permitted); use pink Label A or OEL.
f. Mixed ADC: required (no minimum); use tan Label MS or OEL.

4.2 Sack Preparation

Sack size, presort sequence, and labeling:
a. Carrier route: required for rate eligibility at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. 5-digit carrier routes: (carrier route packages only) required for rate eligibility (no minimum); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
c. 5-digit: required at 24 pieces, optional with one six-piece package minimum; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
d. 3-digit: required at 24 pieces, optional with one six-piece package minimum; use L002, Column A, for Line 1.
e. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.
f. ADC: required at 24 pieces, optional with one six-piece package minimum; use L004 for Line 1.
g. Mixed ADC: required (no minimum); for Line 1, use L805 (mail entered by the mailer at an ASF or BMC) or use MXD, followed by the entry ADC facility city/state/ZIP shown in L004, as appropriate.

4.3 Line 2

Line 2: PERIOD or NEWS (as appropriate), FLTS, and:
a. Carrier Route sacks: LOT (or WSH or WSS if applicable), route type and number.
b. 5-digit carrier routes sacks: CR-RTS.
c. 5-digit, 3-digit, and ADC sacks: BC.
d. Mixed ADC sacks: BC WKG.
e. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

5.0 PREPARATION—STANDARD MAIL

5.1 Package Size, Presort, and Labeling

Package size, presort sequence, and labeling:
a. 5-digit: required (10-piece minimum, fewer not permitted); use red Label D or optional endorsement line (OEL).
b. 3-digit: required (10-piece minimum, fewer not permitted); use green Label 3 or OEL.
c. ADC: required (10-piece minimum, fewer not permitted); use pink Label A or OEL.
d. Mixed ADC: required (no minimum); use tan Label MS or OEL.

5.2 When to Sack

A sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:
a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum, those that weigh more must be prepared using the 15-pound minimum.
b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 125-piece or 15-pound minimum applies) or sack by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.
c. Mailers must note on the accompanying mailing statement whether they applied the 125-piece (''PCS'') or 15-pound (''WT'') threshold or if the method in 5.2b (''BOTH'') was used.

5.3 Sack Preparation

Sack size, presort sequence, and labeling:
a. 5-digit: required (125-piece/15-pound minimum, smaller volume prohibited); use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.
b. 3-digit: required (125-piece/15-pound minimum, smaller volume prohibited); use L002, Column A, for Line 1.
c. Entry SCF 3-digit(s): required (no minimum); use L002, Column A, for Line 1.
d. ADC: required (125-piece/15-pound minimum, smaller volume prohibited); use L004 for Line 1.
e. Mixed ADC: required (no minimum); for Line 1, use L805 (mail entered by the mailer at an ASF or BMC) or use MXD, followed by the entry ADC facility city/state/ZIP shown in L004, as appropriate.

5.4 Line 2

Line 2: STD FLTS BC and:
a. Mixed ADC sacks: WKG.
b. As required by the applicable labeling list, Line 2 processing code information must be right-justified under the ZIP Code on Line 1.

6.0 DOCUMENTATION

The mailer must be prepared to support information on mailing statements with documentation meeting the standards in P012 that describes the mailing in sufficient detail to allow verification of the accompanying mailing's compliance with applicable preparation and eligibility standards. Combined mailings of Periodicals publications must also be documented under M210. A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing.

M890 Preferred Periodicals and Nonprofit Standard Mail

M891 ZIP+4 Presort—Tray-Based Letter-Size Mailings

[Text of current M812, revised to apply only to Preferred Periodicals publications and Nonprofit Standard Mail.]

1.0 BASIC STANDARDS

1.1 Standards

Preferred Periodicals and Nonprofit Standard Mail claimed at a ZIP+4 presort rate must be prepared as a tray-based mailing under 1.2 through 1.7, 2.0, 4.0, and 5.0, or as a package-based mailing under M892. Grouping, packaging, labeling, and traying are subject to M010 through M030.

1.2 Automated Sites

Mailings consisting entirely of pieces for the 3-digit areas listed in L801 (''automated sites'') may be prepared under 3.0 rather than 2.0. Pieces for other ZIP Code areas must be prepared in a separate mailing.

1.3 Grouping

Grouping is required for pieces for the same 3-digit ZIP Code prefix in SCF trays and for pieces for the same AADC area in working trays. Grouping by ZIP Code is not required in 5-digit, city, or 3-digit trays.

1.4 Packaging

Packaging is required:
a. For mailings consisting entirely of pieces that qualify by size for First-Class

card rates, regardless of the actual rate claimed or class of mail. Package labels are required in less-than-full trays.

b. For mail in overflow AADC trays, in mixed AADC trays, and in a less-than-full working tray. Appropriate package labels are required in these trays.

1.5 No Packaging

Packaging may not be used for larger than card-size pieces, except that:

a. Mail in overflow trays must be packaged and labeled correctly as for the corresponding trays (mail in a less-than-full tray for the entry SCF must be sorted and labeled as 3-digit packages).

b. Mail in AADC trays may be packaged, and mail in mixed AADC trays must be packaged into AADC packages.

1.6 Marking

Standard Mail must be marked ‘‘Nonprofit Organization’’ or the authorized abbreviation and may be marked ‘‘ZIP+4’’ or ‘‘5-digit ZIP+4’’ (as appropriate). No marking is required on Periodicals.

1.7 Carrier Route

ZIP+4 rate mail and carrier route presort (or walk-sequence) rate mail may not be included in the same mailing or reported on the same mailing statement.

* * * * *

[In 2.2b and 2.3, replace ‘‘second-class’’ with ‘‘Periodicals’’; no other change to 2.0 or 3.0. Revise succeeding sections as follows:]

4.0 RESIDUAL MAIL

Pieces remaining after packages and trays are prepared under 2.0 or 3.0 are residual (nonqualifying) mail. Residual Periodicals or Standard Mail must be prepared as follows:

a. All pieces must be sorted by AADC area using L804 (or, for automated site mailings, L803).

b. Quantities of 10 or more pieces for an AADC area must be prepared as an AADC package (or, if possible, a full AADC tray). Packaging is not required in full AADC trays. AADC packages of fewer than 10 pieces are not permitted.

c. All AADC packages must be trayed in AADC or mixed AADC trays. Pieces remaining after preparing full AADC trays and AADC packages must be placed in separate working trays.

d. Pieces in less-than-full AADC overflow trays and in all mixed AADC trays must be packaged and labeled as AADC packages using a pink Label A or OEL. Separator cards are not permitted.

e. Pieces in working trays must be grouped by AADC area. Pieces in a less-than-full working tray must be prepared in working packages up to 6 inches thick making as few packages as possible without regard to AADC breaks. Separator cards are not permitted. Label packages in less-than-full working trays with either a facing slip marked ‘‘WORKING’’ or ‘‘WKG’’ or the optional endorsement line ‘‘WORKING’’.

f. A piece count listing must be provided for all residual pieces that shows by tray level and AADC area (listed by numeric AADC code from the labeling list in L804 or, for automated site mailings, L803) the number of pieces eligible for each rate and the number of pieces with and without a ZIP+4 code.

g. Tray size:

(1) AADC: required full trays; one less-than-full overflow tray permitted per destination per mailing.

(2) Mixed AADC: required full trays; one less-than-full tray permitted.

(3) Working: required full trays; one less-than-full tray permitted.

h. Residual presort sequence and Line 1 labeling:

(1) AADC (required); use L804 (or, for automated site mailings, L803) for Line 1.

(2) Mixed AADC (required); for Line 1 use MXD, followed by the applicable entry SCF name, state, and SCF code from L002, Column A (facilities identified with three bullets), or Column B, except use L805 for mail entered by the mailer at an ASF or BMC.

(3) Working (required); for Line 1 use MXD, followed by the applicable entry SCF name, state, and ZIP Code from L002, Column A (facilities identified with three bullets), or Column B, except use L805 for mail entered by the mailer at an ASF or BMC.

i. For Line 2: class (PERIOD or NEWS (as applicable), or STD), followed by:

(1) For AADC trays: AADC ZIP+4 PRESORT.

(2) For mixed AADC trays: ZIP+4 PRESORT PKGS.

(3) For working trays: ZIP+4 WORKING or ZIP+4 WKG.

5.0 DOCUMENTATION

5.1 Mailing Statement

A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing. The endorsement ‘‘M891’’ must be placed at the top and, as appropriate, ‘‘Automated Site’’ (if prepared under 3.0).

* * * * *

5.4 Standards

Documentation must include residual pieces and meet the basic standards in P012 and those below. Abbreviated documentation may be provided under M896. Combined mailings of Periodicals publications must also be documented under M210.

* * * * *

5.6 ZIP Code Option

Under the ZIP Code option, individual entries for each type of tray destination must be listed sequentially by ZIP Code: by 5-digit ZIP Code for 5-digit trays; by lowest assigned 5-digit ZIP Code for city trays (Periodicals only); by 3-digit ZIP Code for 3-digit and SCF trays; by the 3-digit AADC code (preceded by ‘‘AADC’’) in L804 (or L803 for automated sites) for AADC, mixed AADC, and working trays. Volume in overflow trays must be included in the corresponding entry even though there is a list of overflow trays.

5.7 Tray Label Option

Under the tray label option, individual entries for each tray must be listed sequentially by the unique tray number on each label or by Line 1 on the label. The contents of each overflow tray is reported as an individual entry even though there is a list of overflow trays. Each tray entry must be subdivided as needed to report volume sequentially by ZIP Code in the tray: by 5-digit ZIP Code for 5-digit trays; by lowest assigned 5-digit ZIP Code for city trays (Periodicals only); by 3-digit ZIP Code for 3-digit and SCF trays; by the 3-digit AADC code (preceded by ‘‘AADC’’) in L804 (or L803 for automated sites) for AADC, mixed AADC, and working trays.

5.8 Line Entries

Under either option, each entry must report ZIP+4 coded (including delivery point barcoded) and uncoded pieces by each rate for which specific numbers of pieces are eligible, and a cumulative total for the segment through that entry. As applicable, data on each line must be broken down further:

a. In Periodicals mailings, to separately report in-county and outside-county pieces, and Level G/J1 and Level H/J3 rates.

b. In Standard Mail, to separately report pieces at each destination entry rate.

5.9 Subtotals and Summaries

Each column of data must be subtotaled at the end of each segment of the report and a summary must list data for the entire mailing, including the residual. The summary must include:

a. The number of pieces with a ZIP+4 code or delivery point barcode, the number without, the total number of pieces in the mailing, and the percentage with ZIP+4 codes or delivery point barcodes.

b. Each rate (or weight increment, combination of rate and discount, or other variable in 5.8), the number of pieces at each rate, the total postage at each rate, and the total postage for the mailing. (For Periodicals mailings, postage rates and computed totals may be omitted.)

c. A list of overflow trays.

d. For postage-affixed mailings, further detail must be added as needed to account for the value of postage affixed, if less than the applicable amount, and the net due, to yield the correct total postage.

M892 ZIP+4 Presort—Package-Based Letter-Size Mailings

[Text of current M813, revised to apply only to Barcoded Preferred Periodicals publications and Nonprofit Standard Mail.]

1.0 BASIC STANDARDS

1.1 Standards

Preferred Periodicals and Nonprofit Standard Mail claimed at a ZIP+4 presort rate must be prepared as a package-based mailing under 2.0, 3.0, 5.0, and 6.0, or as a tray-based mailing under M891. Grouping, packaging, labeling, and traying are subject to M010 through M030.

1.2 Automated Sites

Mailings consisting entirely of pieces for the 3-digit areas listed in L801 (''automated sites'') may be prepared under 4.0 rather than 3.0. Pieces of Periodicals or Standard Mail for other ZIP Code areas must be prepared in a separate mailing.

* * * * *

1.4 No Packaging

Packages or separator cards are not required for larger than card-size pieces in full 5-digit trays, full AADC trays if the contents are only residual AADC packages, and full working trays under 4.2 and 4.3.

* * * * *

1.6 Marking

Standard Mail must be marked ''Nonprofit Organization'' or the authorized abbreviation, and may be marked ''ZIP+4'' or ''5-digit ZIP+4'' (as appropriate). No marking is required on Periodicals.

* * * * *

[In 2.1b, 2.2b, 3.2b, 3.3b, and 3.4b, replace ''second-class'' with ''Periodicals''; no other change to 2.0, 3.0, or 4.0.]

5.0 RESIDUAL MAIL

5.1 Definition

Pieces remaining after packages and trays are prepared under 2.0 through 4.0 are residual (nonqualifying) mail. Residual Periodicals and Standard Mail must be prepared under an option in 5.2 and 5.3. Residual mail from automated site mailings under 4.0 is subject to specific instructions where applicable. All residual mail must be presented under 5.6.

5.2 Options

Residual Periodicals and Standard Mail must be prepared under one of these options and in accordance with 5.3.

a. Separate AADC Preparation. Residual mail is trayed separately from qualifying mail. Groups of 10 or more residual pieces to an AADC area in L804 (or L803 or automated site preparation) are placed in AADC trays and mixed AADC trays. AADC trays are required if there are enough pieces to fill a tray, but less-than-full AADC trays are permitted. Residual pieces in mixed AADC trays and in less-than-full AADC trays must be prepared and labeled as AADC packages. Remaining groups of fewer than 10 pieces to an AADC are placed in separate working trays. Packages and trays must be prepared under 5.3.

b. Intermixed SCF/AADC Preparation. Some residual mail is trayed with qualifying mail. Groups of 10 or more residual pieces to the same AADC area in L804 (or L803 for automated site preparation) are packaged by AADC and placed in AADC trays (with qualifying mail) and in mixed AADC trays. AADC trays are required if there are enough pieces to fill a tray, but less-than-full AADC trays are permitted. AADC trays containing only residual AADC packages are allowed. Mixed AADC trays are limited to residual AADC packages. At the mailer's option, residual mail may be packaged by 3-digit ZIP Code and placed in SCF trays (remaining pieces sorted by AADC). A less-than-full tray for the entry SCF containing only residual packages is allowed. Remaining groups of fewer than 10 pieces to an AADC are placed in separate working trays. Packages and trays must be prepared under 5.3.

5.3 Required Preparation

Subject to 5.1 and 5.2, residual mail must be prepared as follows:

* * * * *

d. Tray presort sequence and Line 1 labeling:

[In 5.3d(4) and 5.3d(5), delete ''second- and third-class.'']

e. Line 2: class (PERIOD or NEWS (as applicable), or STD), followed by:

(1) On 3-digit and SCF trays (option 5.2b only): ZIP+4 PRESORT.

(2) On AADC trays: AADC ZIP+4 PRESORT.

(3) On mixed AADC trays: ZIP+4 PRESORT PKGS.

(4) On working trays: ZIP+4 WORKING or ZIP+4 WKG.

[Delete current 5.4 and 5.5; renumber current 5.6 as 5.4, no change in text.]

6.0 DOCUMENTATION

6.1 Mailing Statement

A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing. The endorsement ''M892'' must be placed at the top and, as appropriate, ''Automated Site'' (if prepared under 4.0).

6.2 When Not Required

Documentation under 6.3 through 6.8 is not required if each piece in the mailing is correctly ZIP+4 coded or delivery point barcoded and either has postage affixed at the exact rate for which it qualifies; or is of identical weight, the pieces in each tray are subject to the same rate, and the trays for each rate are segregated when presented to the USPS.

6.3 Standards

Documentation must include residual pieces and must meet the basic standards in P012 and those below. Abbreviated documentation may be provided under M896. Combined mailings of Periodicals publications must be documented under M210.

6.4 Segmentation, Labeling

Documentation must be segmented and labeled by qualification tier (e.g., presort and residual). Each tier must be further segmented by type of package/grouping (5-digit, 3-digit, AADC, as applicable) under 6.5, or have all represented 3- and 5-digit ZIP Codes (and AADC codes for residual mail under 5.2 and 5.3) reported in a continuous sequential list under 6.6 within each tier listing. Under either option, data must be presented as shown in 6.7 and 6.8.

6.5 Type of Package Option

If the report is segmented by type of package, for each type, individual entries for each destination must be ordered sequentially by ZIP Code: by 5-digit ZIP Code for 5-digit packages, by lowest assigned 5-digit ZIP Code for city packages (Periodicals only), by 3-digit ZIP Code for 3-digit packages, and, for

AADC packages and AADC groups (in working trays) under 5.2 and 5.3, by the applicable 3-digit AADC code in L803 (for automated site mailings) or L804 (AADC entries must be preceded by ''AADC'').

6.6 Sequential List Option

If the report is a sequential list, individual entries for each destination must be ordered sequentially by ZIP Code within each tier, regardless of package type: by 5-digit ZIP Code for 5-digit packages, by lowest assigned 5-digit ZIP Code for city packages (Periodicals only), by 3-digit ZIP Code for 3-digit packages, and, for AADC packages and AADC groups (in working trays) under 5.2 and 5.3, by the applicable 3-digit AADC code in L803 (for automated site mailings) or L804. AADC entries must be preceded by the prefix ''AADC.'' For Periodicals only, listings for 5-digit, city, and 3-digit packages must be preceded by the prefixes 5DG, CTY, and 3DG, respectively.

6.7 Line Entries

Under either option, each entry must separately report ZIP+4 coded (including delivery point barcoded) and uncoded pieces by each rate for which specific numbers of pieces are eligible; and a cumulative total for the segment through that entry. As applicable, data on each line must be broken down further:

a. In Periodicals mailings, to separately report in-county and outside-county pieces, and Level G/J1 and Level H/J3 rates.

b. In Standard Mail, to separately report pieces at each destination entry rate.

6.8 Subtotals and Summaries

Each column of data must be subtotaled at the end of each segment of the report, and a summary must list data for the entire mailing, including the residual. The summary must include:

a. The number of pieces with a ZIP+4 code or delivery point barcode, the number without, the total number of pieces in the mailing, and the percentage with ZIP+4 codes or delivery point barcodes.

b. Each rate (or weight increment, combination of rate and discount, or other variable in 6.7), the number of pieces at each rate, the total postage at each rate, and the total postage for the mailing. (For Periodicals mailings, postage rates and computed totals may be omitted.)

c. For postage-affixed mailings, further detail must be added as needed to account for the value of postage affixed, if less than the applicable amount and the net due, to yield the correct total postage.

M893 Barcoded Tray-Based Letter-Size Mailings

[Text of current M814, revised to apply only to Barcoded Preferred Periodicals publications and Nonprofit Standard Mail.]

1.0 BASIC STANDARDS

1.1 Standards

Preferred Periodicals and Nonprofit Standard Mail claimed at a Barcoded presort rate must be prepared as a tray-based mailing under 1.2 through 1.7, 2.0 through 4.0, or as a package-based mailing under M894 or M895. Grouping, packaging, labeling, and traying are subject to M010 through M030.

1.2 Grouping

Grouping is required for pieces for the same 3-digit ZIP Code prefix in SCF trays, and for pieces for the same AADC area in working trays under 3.0. Grouping by ZIP Code is not required in 5-digit, city, or 3-digit trays.

1.3 Packaging

Packaging is required:

a. For mailings consisting entirely of pieces that qualify by size for First-Class card rates, regardless of the actual rate claimed or class of mail. Package labels are required in less-than-full trays.

b. For mail in overflow AADC trays, in mixed AADC trays, and in a less-than-full working tray. Appropriate package labels are required.

1.4 No Packaging

Packaging may not be used for larger than card-size pieces, except that:

a. Mail in overflow trays must be packaged and labeled correctly (as for the corresponding full trays).

b. Mail in a less-than-full tray for the entry SCF must be sorted and labeled as 3-digit packages.

c. Mail in AADC trays may be packaged and mail in mixed AADC trays must be packaged into AADC packages.

d. Mail in a less-than-full working tray under 3.0 must be packaged.

1.5 5–Digit Trays

Only pieces with correct DPBCs may be presorted to 5-digit trays. Other pieces for the same ZIP Code must be sorted to successive trays as appropriate. Preparation of 5-digit trays is required only for mail claimed at the 5-digit Barcoded rate.

1.6 Marking

Standard Mail must be marked ''Nonprofit Organization'' or the authorized abbreviation and may be marked ''Barcoded.'' No marking is required on Periodicals.

1.7 Carrier Route

Barcoded rate mail and carrier route presort (or walk-sequence) rate mail may not be included in the same mailing or reported on the same mailing statement.

1.8 Heavy Letter Mail

Each tray of heavy letter mail (as defined in C810) must be identified by a flag (similar to a separator card) clearly marked ''HEAVY LETTER MAIL'' and placed in front of the contents of the tray. Each pallet, general purpose mail container, or other equipment used to transport trays of heavy letter mail must be labeled ''HEAVY LETTER MAIL,'' in letters not less than 1/2 inch high on white or light-colored stock not smaller than 8 by 11 inches, on two adjacent sides of the pallet or other equipment.

[In 2.2b, replace ''second-class'' with ''Periodicals''; no other change to 2.0.]

* * * * *

3.0 RESIDUAL MAIL

Pieces remaining after packages and trays are prepared under 2.0 are residual (nonqualifying) mail.

Residual Periodicals or Standard Mail must be prepared as follows:

a. All pieces must be sorted by AADC area, using L804.

b. Quantities of 10 or more pieces for an AADC area must be prepared as an AADC package (or, if possible, a full AADC tray). Packaging is not required in full AADC trays. AADC packages of fewer than 10 pieces are not permitted.

c. All AADC packages must be trayed in AADC or mixed AADC trays. Pieces remaining after preparing full AADC trays and AADC packages must be placed in separate working trays.

d. Pieces in less-than-full AADC overflow trays and in all mixed AADC trays must be packaged and labeled as AADC packages using a pink Label A or OEL. Separator cards are not permitted.

e. Pieces in working trays must be grouped by AADC area. Pieces in a less-than-full working tray must be prepared in working packages up to 6 inches thick making as few packages as possible without regard to AADC breaks. Separator cards are not permitted. Label packages in less-than-full working trays with either a facing slip marked ''WORKING'' or ''WKG'' or the optional endorsement line ''WORKING.''

f. A piece count listing must be provided for all residual pieces that shows by tray level and AADC area (listed by numeric AADC code from the labeling list in L804) the number of pieces eligible for each rate and the number of pieces with a DPBC, the number of pieces without a DPBC that qualify for ZIP+4 rates, and the number of other pieces.

g. Tray size:

(1) AADC: required full trays; one less-than-full overflow tray permitted per destination per mailing.

(2) Mixed AADC: required full trays; one less-than-full tray permitted.

(3) Working: required full trays; one less-than-full tray permitted.

h. Residual presort sequence and Line 1 labeling:

(1) AADC (required); use L804 for Line 1.

(2) Mixed AADC (required); for Line 1 use MXD, followed by the applicable entry SCF name, state, and SCF code from L002, Column A (facilities identified with three bullets), or Column B, except use L805 for mail entered by the mailer at an ASF or BMC.

(3) Working (required); for Line 1 use MXD, followed by the applicable entry SCF name, state, and ZIP Code from L002, Column A (facilities identified with three bullets), or Column B, except use L805 for mail entered by the mailer at an ASF or BMC.

i. For Line 2: class (PERIOD or NEWS (applicable), or STD), followed by:

(1) For AADC trays: LTRS AADC BARCODED.

(2) For mixed AADC trays: LTRS BARCODED PKGS.

(3) For working trays: LTRS BARCODED WKG.

4.0 DOCUMENTATION

4.1 Mailing Statement

A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing. The mailing endorsement ''M893'' must be placed at the top, based on the documentation method used, and ''ZIP Code Option''or ''Tray Label Option.''

* * * * *

4.4 Standards

Documentation must include residual pieces and meet the basic standards in P012 and those below. Abbreviated documentation may be provided under M896. Combined mailings of Periodicals publications must also be documented under M210.

* * * * *

4.6 Zip Code Option

Under the ZIP Code option, individual entries for each type of tray destination must be listed sequentially by ZIP Code: by 5-digit ZIP Code for 5-digit trays, by lowest assigned 5-digit ZIP Code for city trays (Periodicals only), by 3-digit ZIP Code for 3-digit and SCF trays, by the 3-digit AADC code (preceded by ''AADC'') in L804 for AADC, mixed AADC, and working trays. Volume in overflow trays must be included in the corresponding entry even though there is a list of overflow trays.

4.7 Tray Label Option

Under the tray label option, individual entries for each tray must be listed sequentially by the unique tray number on each label or by Line 1 on the label. The contents of each overflow tray are reported as an individual entry even though there is a list of overflow trays. Each tray entry must be subdivided as needed to report volume sequentially by ZIP Code in the tray: by 5-digit ZIP Code for 5-digit trays, by lowest assigned 5-digit ZIP Code for city trays (Periodicals only, by 3-digit ZIP Code for 3-digit and SCF trays, by the 3-digit AADC code (preceded by ''AADC'') in L804 for AADC, mixed AADC, and working trays.

4.8 Line Entries

Under either option, each entry must report DPBC mail, correctly ZIP+4 coded non-DPBC mail (meeting the standards in C830), and other pieces by each rate for which specific numbers of pieces are eligible, and a cumulative total for the segment through that entry. As applicable, data on each line must be subdivided further:

a. In Periodicals mailing, to separately report in-county and outside-county pieces, and Level G/J1 and Level H/J3 rates.

b. In Standard Mail, to separately report pieces at each destination entry rate.

4.9 Subtotals and Summaries

Each column of data must be subtotaled at the end of each segment of the report and a summary must list data for the entire mailing, including the residual. The summary must include:

a. The number of pieces with a DPBC, the number without, the total number of pieces in the mailing, and the percentage with DPBCs.

b. Each rate (or weight increment, combination of rate and discount, or other variable in 4.8), the number of pieces at each rate, the total postage at each rate, and the total postage for the mailing. (For Periodicals mailings, postage rates and computed totals may be omitted.)

c. A list of overflow trays.

d. For postage-affixed mailings, further detail must be added as needed to account for the value of postage affixed, if less than the applicable amount and the net due, to yield the correct total postage.

M894 Barcoded Two-Tier Package—Based Letter-Size Mailings

[Text of current M815, revised to apply only to Barcoded Preferred Periodicals publications and Nonprofit Standard Mail.]

1.0 BASIC STANDARDS

1.1 Standards

Preferred Periodicals and Nonprofit Standard Mail claimed at a Barcoded presort rate must be prepared as a tray-based mailing under M893, as a two-tier package based mailing under 1.2 through 1.6, 2.0 through 5.0, or as a three-tier package-based mailing under M895. Grouping, packaging, labeling, and traying are subject to M010 through M030.

* * * * *

1.3 No Packaging

Packages or separator cards are not required for larger than card-size pieces in full 5-digit trays, full AADC trays if the contents are only residual AADC packages, and full working trays under 4.2 and 4.3.

[Delete current 1.4 and replace with the following:]

1.4 Marking

Standard Mail must be marked ''Nonprofit Organization'' or the authorized abbreviation and may be marked ''Barcoded.'' No marking is required on Periodicals.

* * * * *

[In 2.1b, 2.2b, 3.2b, 3.3b, and 3.4b, replace ''second-class'' with ''Periodicals''; delete the parenthetical in 2.1c and 2.2c; no other change to 2.0 or 3.0.]

4.0 RESIDUAL MAIL

4.1 Definition

Pieces remaining after packages and trays are prepared under 2.0 and 3.0 are residual (nonqualifying) mail. Residual Periodicals and Standard Mail must be prepared under an option in 4.2 and 4.3. All residual mail must be presented under 4.6.

4.2 Options

Residual Periodicals and Standard Mail must be prepared under one of these options and in accordance with 4.3.

a. Separate AADC Preparation. Residual mail is trayed separately from qualifying mail. Groups of 10 or more residual pieces to an AADC area in L804 are placed in AADC trays and mixed AADC trays. AADC trays are required if there are enough pieces to fill a tray, but less-than-full AADC trays are permitted. Residual pieces in mixed AADC trays and in less-than-full AADC trays must be prepared and labeled as AADC packages. Remaining groups of fewer than 10 pieces to an AADC are placed in separate working trays. Packages and trays must be prepared under 4.3.

b. Intermixed SCF/AADC Preparation. Some residual mail is trayed with qualifying mail. Groups of 10 or more residual pieces to the same AADC area in L804 are packaged by AADC and placed in AADC trays (with qualifying mail) and in mixed AADC trays. AADC trays are required if there are enough pieces to fill a tray, but less-than-full AADC trays are permitted. AADC trays containing only residual AADC packages are allowed. Mixed AADC trays are limited to residual AADC packages. At the mailer's option, residual mail may be packaged by 3-digit ZIP Code and placed in SCF trays (remaining pieces sorted by AADC). A less-than-full tray for the entry SCF containing only residual packages is allowed. Remaining groups of fewer than 10 pieces to an AADC are placed in separate working trays. Packages and trays must be prepared under 4.3.

4.3 Required Preparation

Subject to 4.1 and 4.2, residual mail must be prepared as follows:

* * * * *

d. Tray presort sequence and Line 1 labeling:

[In 4.3d(4) and 4.3d(5), delete ''second- and third-class.'']

e. Line 2: class (PERIOD or NEWS (as applicable), or STD), followed by:

(1) On 3-digit and SCF trays (option 5.2b only); ZIP+4 PRESORT.

(2) On AADC trays: AADC ZIP+4 PRESORT.

(3) On mixed AADC trays: ZIP+4 PRESORT PKGS.

(4) On working trays: ZIP+4 WORKING or ZIP+4 WKG.

[Delete current 4.4 and 4.5; renumber current 4.6 as 4.4, no change in text.]

5.0 DOCUMENTATION

5.1 Mailing Statement

A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing. The endorsement ''M894'' must be placed at the top.

5.2 Standards

Documentation must include residual pieces and must meet the basic standards in P012 and those below. Abbreviated documentation may be provided under M896. Combined mailings of Periodicals publications must be documented under M210.

5.3 When Not Required

Documentation under 5.4 through 5.8 is not required if each piece in the mailing is correctly delivery point barcoded and either has postage affixed at the exact rate for which it qualifies; or is of identical weight, the pieces in each tray are subject to the same rate, and the trays for each rate are segregated when presented to the USPS.

5.4 Segmentation, Labeling

Documentation must be segmented and labeled by qualification tier (e.g., presort and residual). Each tier must be further segmented by type of package/grouping (5-digit, 3-digit, AADC, as applicable) under 5.5, or have all represented 3- and 5-digit ZIP Codes (and AADC codes for residual mail under 4.2 and 4.3) reported in a continuous sequential list under 5.6 within each tier listing. Under either option, data must be presented as shown in 5.7 and 5.8.

5.5 Type of Package Option

If the report is segmented by type of package, for each type, individual entries for each destination must be ordered sequentially by ZIP Code: by 5-digit ZIP Code for 5-digit packages, by lowest assigned 5-digit ZIP Code for city packages (Periodicals only), by 3-digit ZIP Code for 3-digit packages, and, for AADC packages and AADC groups (in working trays) under 5.2 and 5.3, by the applicable 3-digit AADC code in L804 (AADC entries must be preceded by ''AADC'').

5.6 Sequential List Option

If the report is a sequential list, individual entries for each destination must be ordered sequentially by ZIP Code within each tier, regardless of package type: 5-digit ZIP Code for 5-digit packages, by lowest assigned 5-digit ZIP Code for city packages (Periodicals only), by 3-digit ZIP Code for 3-digit packages, and, for AADC packages and AADC groups (in working trays) under 4.2 and 4.3, by the applicable 3-digit AADC code in L804. AADC entries must be preceded by the prefix ''AADC.'' For Periodicals only, listings for 5-digit, city, and 3-digit packages must be preceded by the prefixes 5DG, CTY, and 3DG, respectively.

5.7 Line Entries

Under either option, each entry must separately report DPBC pieces, correctly ZIP+4 coded non-DPBC pieces (meeting the standards in C830), and other pieces, by each rate for which specific numbers of pieces are eligible; and a cumulative total for the segment through that entry. As applicable, data on each line must be subdivided further.

a. In Periodicals mailings, to separately report in-county and outside-county pieces, and Level G/J1 and Level H/J3 rates.

In Standard Mail, to separately report pieces at each destination entry rate.

5.8 Subtotals and Summaries

Each column of data must be subtotaled at the end of each segment of the report, and a summary must list data for the entire mailing, including the residual. The summary must include:

a. The number of pieces with a DPBC, the number without, the total number of pieces in the mailing, and the percentage with DPBCs.

b. Each rate (or weight increment, combination of rate and discount, or other variable in 5.7), the number of pieces at each rate, the total postage at each rate, and the total postage for the mailing. (For Periodicals mailings, postage rates and computed totals may be omitted.)

c. For postage-affixed mailings, further detail must be added as needed to account for the value of postage affixed, if less than the applicable amount, and the net due, to yield the correct total postage.

M895 Barcoded Three-Tier Package-Based Letter-Size Mailings [Text of current M816, revised to apply only to Barcoded Preferred Periodicals publications and Nonprofit Standard Mail.]

1.0 BASIC STANDARDS

1.1 Standards

Preferred Periodicals and Nonprofit Standards Mail claimed at a Barcoded presort rate must be prepared as a tray-based mailing under M893, as a two-tier package-based mailing under M894, or as a three-tier package-based mailing under 2.0 through 7.0. Grouping, packaging, labeling, and traying are subject to M010 through M030.

* * * * *

1.3 No Packaging

Packages or separator cards are not required for larger than card-size pieces in full 5-digit trays in the 5-digit tier; nor in the 3-digit tier in full city, full 3-digit, full SCF, and full AADC trays containing only residual AADC packages; nor in full working trays under 6.2 and 6.3.

* * * * *

1.5 Marking

Standard Mail must be marked ''Nonprofit Organization'' or the authorized abbreviation, and may be ''marked'' Barcoded.'' No marking is required on Periodicals.

* * * * *

[In 4.1a, 4.2a, 5.2a, 5.3a, and 5.4b, replace ''second-class'' with ''Periodicals''; delete the parenthetical ''optional for . . . '' in 4.1b and 4.2b; no other change to 2.0 through 5.0.]

6.0 RESIDUAL MAIL

6.1 Definition

Pieces remaining after packages and trays are prepared under 2.0 through 5.0 are residual (nonqualifying) mail. Residual Periodicals and Standard Mail must be prepared under an option in 6.2 and 6.3. All residual mail must be presented under 6.6.

6.2 Options

Residual Periodicals and Standard mail must be prepared under one of these options and in accordance with 6.3.

a. Separate AADC Preparation. Residual mail is trayed separately from qualifying mail. Groups of 10 or more residual pieces to an AADC area in L804 are placed in AADC trays and mixed AADC trays. AADC trays are required if there are enough pieces to fill a tray, but less-than-full AADC trays are permitted. Residual pieces in mixed AADC trays and in less-than-full AADC trays must be prepared and labeled as AADC packages. Remaining groups of fewer than 10 pieces to an AADC are placed in separate working trays. Packages and trays must be prepared under 6.3.

b. Intermixed SCF/AADC Preparation. Some residual mail is trayed with qualifying mail. Groups of 10 or more residual pieces to the same AADC area in L804 are packaged by AADC and placed in AADC trays (with qualifying mail) and in mixed AADC trays. AADC trays are required if there are enough pieces to fill a tray, but less-than-full AADC trays are permitted. AADC trays containing only residual AADC packages are allowed. Mixed AADC trays are limited to residual AADC packages. At the mailer's option, residual mail may be packaged by 3-digit ZIP Code and placed in SCF trays (remaining pieces sorted by AADC). A less-than-full tray for the entry SCF containing only residual packages is allowed. Remaining groups of fewer than 10 pieces to an AADC are placed in separate working trays. Packages and trays must be prepared under 6.3.

6.3 Required Preparation

Subject to 6.1 and 6.2, residual mail must be prepared as follows:

* * * * *

d. Tray presort sequence and Line 1 labeling:

[In 6.3d(4) and 6.3(5), delete ''second- and third-class.'']

e. Line 2: class (PERIOD, NEWS, or STD), followed by:

(1) On 3-digit and SCF trays (option 6.2b only): ZIP+4 PRESORT.

(2) ON AADC trays: AADC ZIP+4 PRESORT.

(3) On mixed AADC trays: ZIP+4 PRESORT PKGS.

(4) On working trays: ZIP+4 WORKING of ZIP+4WKG.

[Delete current 6.4 and 6.5; renumber current 6.6 as 6.4, no change in text.]

7.0 DOCUMENTATION

7.1 Mailing Statement

A complete, signed mailing statement, using the correct USPS form or an approved facsimile, must accompany each mailing. The endorsement ''M895'' must be placed at the top.

7.2 Standards

Documentation must include residual pieces and must meet the basic standards in P012 and those below. Abbreviated documentation may be provided under M896. Combined mailings of Periodicals publications must be documented under M210.

7.3 When Not Required

Documentation under 7.4 through 7.8 is not required if each piece in the mailing is correctly delivery point barcoded and either has postage affixed at the exact rate for which it qualifies; or is of identical weight, the pieces in each tray are subject to the same rate, and the trays for each rate are segregated when presented to the USPS.

7.4 Segmentation, Labeling

Documentation must be segmented and labeled by qualification tier (e.g., presort and residual). Each tier must be further segmented by type of package/ grouping (5-digit, AADC, as applicable) under 7.5, or have all represented 3- and 5-digit ZIP Codes (and AADC codes for residual mail under 6.2 and 6.3) reported in a continuous sequential list under 7.6 within each tier listing. Under either option, data must be presented as shown in 7.7 and 7.8.

7.5 Type of Package Option

If the report is segmented by type of package, for each type, individual entries for each destination must be ordered sequentially by ZIP Code: by digit ZIP Code for 5-digit packages, by lowest assigned 5-digit ZIP Code for city packages (Periodicals only), by 3-digit ZIP code for 3-digit packages, and, for AADC packages and AADC groups (in working trays), by the applicable 3-digit AADC code in L804 (AADC entries must by preceded by ''AADC'').

7.6 Sequential List Option

If the report is a sequential list, individual entries for each destination must be ordered sequentially by ZIP Code within each tier, regardless of package type: by 5-digit ZIP Code for 5-digit packages, by lowest assigned 5-digit ZIP Code for city packages (Periodicals only), by 3-digit ZIP Code for 3-digit packages, and, for AADC packages and AADC groups (in working trays) under 6.2 and 6.3, by the applicable 3-digit AADC code in L804. AADC entries must be preceded by the prefix ''AADC.'' For Periodicals only, listings for 5-digit, city, and 3-digit packages must be preceded by the prefixes 5DG, CTY, and 3DG, respectively.

7.7 Line Entries

Under either option, each entry must separately report DPBC pieces, correctly ZIP+4 coded non-DPBC pieces (meeting the standards in C830), and other pieces, by each rate for which specific numbers of pieces are eligible; and a cumulative total for the segment through that entry. As applicable, data on each line must be subdivided further.

a. In Periodicals mailings, to separately report in-county and outside-county pieces, and Level G/J1 and Level H/J3 rates.

b. In Standard Mail, to separately report pieces at each destination entry rate.

7.8 Subtotals and Summaries

Each column of data must be subtotaled at the end of each segment of the report, and a summary must list data for the entire mailing, including the residual. The summary must include:

a. The number of pieces with a DPBC, the number without, the total number of pieces in the mailing, a and the percentage with DPBCs.

b. Each rate (or weight increment, combination of rate and discount, or other variable in 7.7), the number of pieces at each rate, the total postage at each rate, and the total postage for the mailing. (For Periodicals mailings, postage rates and computed totals may be omitted.)

c. For postage-affixed mailings, further detail must be added as needed to account for the value of postage affixed, if less than the applicable amount, and the net due, to yield the correct total postage.

M896 Elective Documentation for Letter-Size Mailings

[Text of current M817; in 1.1, 2.2, 2.4, 3.1c, and 4.8, replace ''M812 through M816'' with ''M891 through M895''; in 1.2, 4.7b, and 4.7d, replace ''M817,'' ''M815,'' and ''M812 or M814'' with ''M896,'' ''M894,'' and ''M891 or M893,'' respectively; no other change in text.]

[Delete current M818 and M819.]

M897 ZIP+4 Barcoded Flat-Size Mail

[Text of current M823, revised to apply only to Barcoded Preferred Periodicals publications and Nonprofit Standard Mail.]

1.0 BASIC STANDARDS

1.1 Standards

Flat-size Preferred Periodicals and Nonprofit Standard Mail claimed at a ZIP+4 Barcoded presort rate must be prepared as described below. Packaging, labeling, a and sacking are subject to M010 through M030.

* * * * *

1.5 Marking

Standard Mail must be marked ''Nonprofit Organization'' or the authorized abbreviation, and may be marked ''Barcoded.'' No marking is required on Periodicals.

* * * * *

2.0 PACKAGE PREPARATION—MAILINGS SUBJECT TO 85% RULE

2.1 Package Size, Presort, and Labeling—Periodicals

Package size, presort sequence, and labeling for Periodicals:

a. 5-digit: required at six pieces; smaller packages permitted but do not qualify for Level H rates; use red Label D or optional endorsement line (OEL).

b. City: optional at six pieces; smaller packages permitted but do not qualify for Level H rates; use yellow Label C or OEL.

c. 3-digit: required at six pieces; smaller packages permitted but do not qualify for Level H rates; use green Label 3 or OEL.

d. SCF: required at six pieces; smaller packages permitted; use green Label 3 or OEL.

2.2 Package Size, Presort, and Labeling—Standard Mail

Package size, presort sequence, and labeling for Standard Mail:

a. 5-digit: required at 10 pieces; smaller packages prohibited; use red Label D or optional endorsement line (OEL).

b. 3-digit: required at 10 pieces; smaller packages prohibited; use green Label 3 or OEL.

c. SCF: required at 10 pieces; smaller packages prohibited; use green Label 3 or OEL.

3.0 PACKAGE PREPARATION—MAILINGS NOT SUBJECT TO 85% RULE

3.1 Package Size, Presort, and Labeling—Periodicals

Package size, presort sequence, and labeling for Periodicals:

a. 5-digit (ZIP+4 or DPBC pieces only; see 1.3): required at six pieces; smaller packages prohibited; use red Label D or optional endorsement line (OEL).

b. 5-digit (nonbarcoded pieces only; see 1.3): required at six pieces; smaller packages prohibited; use red Label D or OEL.

c. City: optional at six pieces; smaller packages permitted but do not qualify for Level H rates; use yellow Label C or OEL.

d. 3-digit: required at six pieces; smaller packages permitted but do not qualify for Level H rates; use green Label 3 or OEL.

e. SCF: required at six pieces; smaller packages permitted; use green Label 3 or OEL.

3.2 Package Size, Presort, and Labeling—Standard Mail

Package size, presort sequence, and labeling for Standard Mail:

a. 5-digit (ZIP+4 or DPBC pieces only; see 1.3): required at 10 pieces; smaller packages prohibited; use red Label D or optional endorsement line (OEL).

b. 5-digit (nonbarcoded pieces only; see 1.3): required at 10 pieces; smaller packages prohibited; use red Label D or OEL.

c. 3-digit: required at 10 pieces; smaller packages prohibited; use green Label 3 or OEL.

d. SCF: required at 10 pieces; smaller packages prohibited; use green Label 3 or OEL.

4.0 SACK PREPARATION—QUALIFYING MAIL

4.1 Sack Size, Presort, and Labeling—Periodicals

Sack size, presort sequence, and labeling for Periodicals:.

a. 5-digit: required with four packages; smaller volume permitted; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. City: optional with four packages; smaller volume permitted; use lowest ZIP Code for destination from L001 for Line 1.

c. 3-digit: required with four packages; smaller volume permitted; use L002, Column A, for Line 1.

d. SCF: required with four packages; smaller volume permitted; use L002, Column B, for Line 1.

e. ADC: required with no minimum.

4.2 When to Sack—Standard Mail

For Standard Mail, a sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum, those that weigh more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 125-piece or 15-pound minimum applies) or sack by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying mailing statement whether they applied the 125-piece (''PCS'') or 15-pound (''WT'') threshold or if the method in 4.2b (''BOTH'') was used.

4.3 Sack Size, Presort, and Labeling—Standard Mail

Sack size, presort sequence, and labeling Standard Mail, subject to 4.2:

a. 5-digit: required at 125 pieces/15 pounds; smaller volume prohibited; use 5-digit ZIP Code destination of packages for Line 1, preceded for military mail by the correct prefixes under M031.

b. 3-digit: required at 125 pieces/15 pounds; smaller volume prohibited; use L002, Column A, for Line 1.

c. SCF: required at 125 pieces/15 pounds; smaller volume prohibited; use L002, Column B, for Line 1

d. ADC: required with no minimum; use L004 for Line 1

4.4 Line 2

Line 2: class of mail and FLATS BARCODED (and, on city sacks, CITY right-justified under the ZIP Code for Line 1).

5.0 RESIDUAL MAIL

[In 5.4a, delete ''second- or third-class''; no other change in text in 5.0.]

6.0 DOCUMENTATION

[In 6.9c, replace ''second-class'' with Periodicals''; revise other text as follows:]

* * * * *

6.7 Line Entries

Under either option, the mailer must identify 5-digit, city, 3-digit, SCF,and residual packages by the prefixes 5DG, 3DG, SCF, and WKG, respectively. Each entry must separately report ZIP+4 or DPBC pieces, and 5-digit barcoded or nonbarcoded pieces, by each rate for which specific numbers of pieces are eligible; and a cumulative total for the segment through that entry. As applicable, data on each line must be subdivided further in Periodicals mailings, to separately report in-county and outside-county pieces, and Level G/J1 and Level H/J3 rates.

6.8 Actual Piece Count

In Standard Mail for which the mailer used the actual piece count and weight of the mail to prepare sacks (''BOTH''), a separate listing must identify for each sack the total number of pieces it contains and their combined weight.

* * * * *

M898 Elective Documentation for Flat-Size Mailings

[Text of current M825; in 1.1, 2.2, 2.3, 3.1c, 3.4, and 4.5, replace ''M823'' with ''M897''; in 1.2, replace ''M825'' with ''M898''; no other change in text]

[Delete current M827.]

P POSTAGE AND PAYMENT METHODS

P000 Basic Information

P010 General Standards

P011 Payment

[In 1.5 and 2.3, replace ''third-class mail'' with ''Standard Mail (A)''; in 2.3, replace ''fourth-class'' with ''Standard Mail (B)''; in 4.2 and 5.1, change the reference form ''E370'' to ''E670''; in 5.0 and 5.1, replace ''special [bulk] third-class'' with ''Nonprofit Standard Mail''; no other change in text]

P012 Documentation

1.0 PURPOSE AND BASIC STANDARDS

* * * * *

1.6 When Required

In addition to the correct mailing statement under 3.0, documentation is required for a First-Class or Standard Mail mailing in which all pieces are not of identical weight and full postage at the applicable rate is not affixed to each piece, for all mailings paid with permit imprint in which pieces at different rates are not separated when presented to the USPS. Documentation also must be submitted when specified by the standards for the rate claimed.

* * * * *

2.0 BASIC CONTENT AND FORMAT

[Renumber current 2.1 through 2.6 as 2.2 through 2.7, respectively, and add new 2.1 as follows:]

2.1 Standardized Documentation

Standardized documentation contains the elements described in 2.2 through 2.7, as applicable. Documentation produced by Presort Accuracy Verification and Evaluation (PAVE) or Manifest Analysis and Certification (MAC) software, appropriate for the accompanying class of mail and rate claimed, is considered standardized documentation for purposes of these standards.

2.2 Format and Content

Standardized documentation includes:* * *

* * * * *

3.0 MAILING STATEMENT

[Add to the end of the section:] * * * A facsimile mailing statement produced by Presort Accuracy Verification and Evaluation (PAVE) or Manifest Analysis and Certification (MAC) software, appropriate for the accompanying class of mail and rate claimed, is considered a USPS-approved form for purposes of these standards.

P013 Rate Application and Computation

1.0 BASIC STANDARDS

* * * * *

1.3 Determing Single-Piece Weight

To determine single-piece weight in any mailing at single-piece rates, in a bulk rate mailing at Standard Mail parcel post or Special Standard Mail rates, or in any bulk rate mailing of nonidentical-weight pieces (except at Periodicals rates), weight each piece individually. To determine single-piece weight in any other bulk or presort rate mailing (except at Periodicals rates), compute the average weight of a single piece by weighing a sample group of at least 10 randomly selected pieces and dividing the total sample weight by the number of pieces in the sample. Express all single-piece weights in decimal pounds rounded off to four decimal places.

1.4 Affixing Postage—Single-Piece Rate Mailings

In a postage-affixed single-piece rate Express Mail, First-Class, Priority Mail, or Standard Mail (A) mailing, or in any postage-affixed Standard Mail (B) mailing, the mailer must affix to each piece a value in adhesive stamps, precanceled stamps, or meter impressions equal to at least the postage required for the piece. (In a Standard Mail bound printed matter rate mailing, the postage affixed to each piece must be at least the sum of the applicable per pound charge based on the weight of the piece plus one unit of the applicable per piece charge.) Less than the correct amount of postage may be affixed only when allowed by standard or specific USPS authorization.

1.5 Affixing Postage—Other Than Single-Piece Rate Mailings

In a First-Class, Priority Mail, or Standard Mail postage-affixed mailing at other than a single-piece rate, the mailer must affix to each piece a value in precanceled stamps or meter impressions that equals at least the full amount of postage at the applicable rate; or

a. For First-Class and Priority Mail, the applicable postage at the lowest rate in the mailing (or a lesser amount if authorized under P760) if all additional postage in paid at the time of mailing.

b. For Standard Mail (A), the minimum per piece charge, with the pound rate charge paid with permit imprint under the applicable standards; or the applicable postage at the lowest rate in the mailing (or a lesser amount if authorized under P760) if all additional postage is paid at the time of mailing.

c. For Standard Mail bound printed matter, the postage affixed to each piece must be at least the sum of the applicable per pound charge plus one unit of the applicable per piece charge.

* * * * *

3.0 RATE APPLICATION—PERIODICALS

3.1 Rate Elements

Postage for all Periodicals includes a pound rate charge, a piece rate charge, and any discounts and reductions for which the mail qualifies under the corresponding standards.

3.2 Applying Pound Rate

Pound rates are applied to the weight of the mailpieces in the mailing. Regular and preferred outside-county pound rates are based on the weight of the advertising portion of the mail sent to each postal zone (as computed from the office of entry) and the weight of the nonadvertising portion without regard to zone. In-county pound rates consist of a delivery office zone rate and a uniform (unzoned) rate for all other eligible mailpieces delivered within the county of publication. Publications Service pound rates are based on the weight of the mail sent to each postal zone (as computed from the office of entry) without regard to advertising content. The minimum pound rate charge for any zone or other group for which a per pound charge is computed is 1 unit (1 pound) of the pound rate charge. For example, three 2-ounce pieces for a zone are subject to the minimum 1-pound charge.

3.3 Computing Weight of Advertising Portion

Advertising content is a postage factor only for Regular and Preferred Periodicals. The pound rate charge is the sum of the charges for the computed weight of the advertising portion of copies to each zone, plus an additional flat (unzoned) charge for the total weight of the nonadvertising portion of all copies to all zones. For publications containing advertising, the minimum pound rate charge for any zone to which copies are mailed is 1 unit (pound) of the advertising pound rate charge. The minimum pound rate charge for the nonadvertising portion is that which applies to all weight not reported in the advertising (zoned) portion. (Authorized nonprofit rate publications with an advertising percentage that is 10% or less are considered 100% nonadvertising. When computing the pound rates and the nonadvertising adjustment, use ''0'' as the ''advertising percentage.'' Authorized nonprofit rate publications claiming 0% advertising must pay the nonadvertising pound rate for the entire weight of all copies to all zones.)

* * * * *

4.0 RATE APPLICATION—STANDARD MAIL (A)

4.1 Single-Piece Rates

[In 4.1a, 4.1b, and 4.1c, replace ''third-class'' with ''Standard Mail (A)'' and revise the opening of the section as follows:]

Single-piece rate postage is based on the rate that applies to the weight (postage) increment of each piece. Single-piece rates are applied differently depending on weight: * * *

* * * * *

4.3 Bulk Rates

Bulk rates are based on the weight of the pieces and are applied differently to pieces weighing under or equal to a ''break point'' and those weighing more:

a. Pieces weighing 0.2059 pound (3.2941 ounces) or less (Automation or Enhanced Carrier Route rates), 0.2067 pound (3.3071 ounces) or less (Regular rates), or 0.2149 pound (3.4383 ounces) or less (Nonprofit rates), are subject to the minimum applicable rate per piece.

b. Pieces weighing more than 0.2059 pound (3.2941 ounces) (Automation or Enhanced Carrier Route rates), 0.2067 pound (3.3071 ounces) (Regular rates), or 0.2149 pound (3.4383 ounces) (Nonprofit rates), are subject to a per piece charge plus a per pound charge based on the weight of the piece.

5.0 RATE APPLICATION—STANDARD MAIL (B)

* * * * *

5.4 Special Standard Mail

The Special Standard Mail rate is charged per pound or fraction thereof; any fraction of a pound is considered a whole pound. (Rate application is identical for the single-piece and presort rates.) For example, if an item weighs 4.225 pounds, the weight (postage) increment is 5 pounds. The minimum postage rate per piece is that for a piece weighing 1 pound.

* * * * *

7.0 COMPUTING POSTAGE—PERIODICALS

* * * * *

7.4 Pound Rate

To compute the pound rate postage for Regular and Preferred outside-county copies, multiply the weight of the advertising and nonadvertising portions by the corresponding rates, add the unrounded results, and subtract any applicable discounts. To compute the pound rate postage for in-county and Publications Service copies, multiply their total weight by the corresponding rate per pound.

* * * * *

7.6 Nonadvertising Adjustment

To compute the nonadvertising adjustment (where applicable), subtract the advertising percentage from 100, multiply the remainder by the nonadvertising adjustment per piece, multiply the unrounded product by the number of pieces, and round off the product to four decimal places.

* * * * *

8.0 COMPUTING POSTAGE—STANDARD MAIL (A)

* * * * *

9.0 COMPUTING POSTAGE—STANDARD MAIL (B)

[In 9.1b and 9.3, replace ''fourth-class'' with ''Standard Mail (B)''; in 9.4, replace ''R400'' with ''R600''; combine current 9.5 and 9.6 and revise as follows:]

9.5 Permit Imprint

In a permit imprint mailing:

a. At other than bulk bound printed matter rates, for each weight increment multiply the number of pieces by the applicable rate per piece, rounding off each product to four decimal places. Add the products and round up the total postage to the nearest whole cent.

b. At bulk bound printed matter rates, for each zone multiply the total unrounded weight of the pieces by the applicable rate per pound (round off each product to four decimal places) and multiply the number of pieces by the applicable rate per piece without rounding. Add the pound and piece charges and round up the total postage to the nearest whole cent.

P014 Refunds and Exchanges

[In 2.3, replace ''First-Class, third-class single-piece, and fourth-class mail'' with ''First-Class Mail, single-piece rate Standard Mail (A), or Standard Mail (B)''; in 4.1, replace ''First-Class or bulk third-class'' with ''First-Class Mail or bulk rate Standard Mail (A)''; in 4.12, replace ''Presorted First-Class, ZIP+4 Presort, or one of the Barcoded'' with ''Automation''; in 4.13, replace ''[T]hird-[C]lass'' with ''Standard Mail (A)''; in 4.13c, replace ''3/5 presort, basic ZIP+4, or one of the Barcoded minimum per-piece rates'' with ''Nonprofit 3/5 presort, Nonprofit Basic ZIP+4, or one of the Nonprofit Barcoded minimum per piece rates for Nonprofit Standard Mail, or an Automation minimum per piece rate for other Standard Mail (A)''; in 4.14d, replace ''First- or third-class'' with ''First-Class or Standard Mail (A),'' delete 4.14e, redesignate 4.14f as 4.14e and replace ''third-class'' with ''Standard Class (A)''; delete 4.17c and redesignate 4.17d and 4.17e as 4.17c and 4.17d, respectively; in redesignated 4.17d, replace ''in (b) (and (c) and (d), as applicable)'' with ''in (b) (and (c) if applicable)''; no other change in text.]

P020 Postage Stamps and Stationery

P021 Stationery Bearing Postage

[In 1.1b, replace ''special bulk third-class'' with ''Nonprofit Standard Mail''; in 2.5b, replace ''Express, First-, or third-class mail'' with ''Express Mail, First-Class, or Standard Mail (A); in 2.5a, 2.5c, and 2.5d, replace ''third-class,'' ''THIRD-CLASS,'' and ''third-class'' with ''Standard Mail (A),'' ''STANDARD MAIL,'' and ''Standard Mail (A),'' respectively; no other change in text.]

* * * * *

P023 Precanceled Stamps

[In 1.2, replace ''third-class'' with ''Standard Mail (A)''; in 1.12, replace ''Third-Class Mail'' with ''Standard Mail''; in 3.5a, replace ''third-class mail'' with ''Standard Mail''; no other change in text.]

P030 Postage Meters and Meter Stamps

[In 1.4, replace ''second-class'' with ''Periodicals''; in 1.5 and 1.5c, replace ''special fourth-class'' with ''Special Standard Mail''; in 4.8 and 4.9, replace ''third- or fourth-class'' with ''Standard Mail''; in 5.3a, replace ''First- or third-class mail'' with ''First-Class or Standard Mail (A)''; no other change in text.]

P040 Permit Imprints

[In 2.5 and 3.5b, replace ''bulk third-class mail'' with ''bulk rate Standard Mail (A)''; in 3.2, replace ''[S]econd-[C]lass Mail'' with ''Periodicals''; in 3.3, replace ''[T]hird- and [F]ourth [C]lass'' with ''Standard Mail''; in 3.5a, replace ''third- or fourth-class'' with ''Standard Mail''; in Exhibit 4.1a, replace ''Presorted,'' ''ZIP+4 Presort,'' ''Third-Class,'' ''Bulk Rate,'' ''Fourth-Class,'' and ''Special Fourth-Class'' with ''Presort,'' ''First-Class Mail Auto,'' ''Standard Mail (A),'' ''Presort,'' ''Standard Mail (B),'' and ''Special Standard Mail,'' respectively; in Exhibit 4.1b, replace ''Presorted,'' ''Third- and Fourth-Class,'' ''Third-Class,'' ''Bulk Rate,'' ''Bulk Rate Car-Rt Sort,'' ''Bulk Rate,'' ''Third-Class,'' ''Fourth-Class,'' and ''Special Fourth-Class'' with ''Presort,'' ''Standard Mail'' ''Standard Mail (A),'' ''Presort,'' ''Enhanced Carrier Route,'' ''Presort,'' ''Standard Mail (A),'' ''Standard Mail (B),'' and ''Special Standard Mail,'' respectively; no other change in text.]

P070 Mixed Classes

[In 1.1, replace ''second-, third-, or fourth-class'' with ''Periodicals or Standard Mail''; in 1.1, 1.2, 2.1, 2.2, 2.4, 2.5, 2.5d, 2.6, 2.6d, 2.7, 2.9, 2.9b, and 3.2, replace ''First- or third class'' with ''First-Class or Standard Mail (A)''; in 1.3, 2.7, and 2.8, replace ''third-class' with ''Standard Mail (A)''; in 2.0, 2.1, 2.2, 2.4, 2.5, 2.6, 2.7, 2.9, 2.9a, and 4.2, replace ''second-class'' with ''Periodicals''; in 3.0, replace ''third- and fourth-class'' with ''Standard Mail''; in 5.0 and 5.4, replace ''special fourth-class'' with ''Special Standard Mail''; no other change in text.]

P100 First-Class Mail

* * * * *

2.0 RETAIL SINGLE-PIECE RATES

[In 2.1, replace ''regular'' with ''Retail.'']

* * * * *

4.0 RETAIL PRESORT RATES

4.1 Payment Methods

Postage on mailings made at Retail Presort First-Class rates must be paid with meter stamps, permit imprints, or precanceled postage, subject to the corresponding standards. All pieces in a mailing must be paid with the same method unless otherwise permitted by standard or USPS authorization.

4.2 Postage Affixed, Generally

Unless permitted by other standards or authorized by the USPS, when precanceled postage or meter stamps are used, each piece must bear the correct postage at the Retail First-Class rate for which it qualifies.

[Delete current 4.3, 4.4, and 4.5, and renumber 4.6 as 4.3.]

* * * * *

5.0 AUTOMATION RATES

5.1 Payment Methods

Postage on mailings made at Automation rates must be paid with meter stamps, permit imprints, or precanceled postage, subject to the corresponding standards. All pieces in a mailing must be paid by the same method unless otherwise permitted by standard or USPS authorization. Permit imprints may be used for mailings of nonidentical-weight pieces only if authorized by the RCSC serving the mailing post office.

5.2 Postage Affixed, Generally

Unless permitted by other standards (e.g., 5.2c) or authorized by the USPS, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear the correct postage at the rate for which it qualified. In a metered or precanceled stamp mailing:

a. Each piece weighing more than 1 ounce must bear the correct amount of additional postage to pay for the additional ounces.

b. Flat-size pieces must bear enough postage to include the nonstandard surcharge if applicable.

c. Each piece may bear postage at the lowest rate applicable to pieces in the mailing if all additional postage is paid at the time of mailing by advance deposit account or by a meter strip affixed to the required mailing statement.

d. Documentation meeting the standards in P012 must be presented with the mailing statement to show the number of pieces at each rate and the computation of the additional postage due for pieces not bearing full postage at the applicable rate (i.e., the difference between what the pieces bear and the correct postage at the rate for which each qualifies).

* * * * *

P200 Periodicals

[In 1.3, 1.4, 1.9, 1.11, 1.12, 2.4, and 4.0, replace ''second-class'' with ''Periodicals''; in 1.9, replace ''third- or fourth-class'' with ''Standard Mail''; revise other sections as follows:]

* * * * *

2.0 MONTHLY MAILINGS STATEMENT

* * * * *

2.4 Waiving Advertising Rates

[Revise the first sentence to read:]

Instead of marking a copy of each issue to show the advertising and nonadvertising portions, the publisher may pay postage at the advertising zone rates on both portions of all issues or editions of a Periodicals publication (except a requester or Publications Service publication). * * *

[Delete current 3.0 (key rates were eliminated as of 11/1/95); redesignate 4.0 as 3.0; delete current P300 and P400 but incorporate text into new P600 as shown below; no change in P500.]

* * * * *

P600 Standard Mail

1.0 BASIC INFORMATION

1.1 Payment Method

Subject to the corresponding standards, postage for single-piece rate Standard Mail may be paid by any method; postage for bulk rate Standard Mail may be paid with meter or permit imprints. Postage for bulk rate Standard Mail (A) may also be paid with precanceled stamps. Postage-affixed pieces must bear the correct postage unless excepted by standard. A permit imprint may be used for mailings of nonidentical-weight pieces only if authorized by the RCSC serving the office of mailing. The mailer is responsible for proper payment of postage.

1.2 Mailing Statement

The mailer must submit a complete and signed mailing statement, as specified in P012, with every Standard Mail mailing for which postage is paid with a permit imprint or claimed at any bulk rate.

2.0 REGULAR, NONPROFIT, AND ENHANCED CARRIER ROUTE RATES

[Text of current P300.2.0, revised as follows:]

2.1 Identical-Weight Pieces

Bulk mailings of identical-weight pieces at 3/5 rates may have postage affixed at the respective rate to each piece in the mailing with additional postage for pieces subject to the basic presort rate paid either by an advance deposit account or with a meter strip affixed to the back of the accompanying mailing statement. The 3/5 presort rate pieces and carrier route presort or walk-sequence rate pieces may not be part of the same mailing nor (except under D600) reported on the same mailing statement.

* * * * *

3.0 AUTOMATION RATES

[Text of current P300.3.0, revised as follows:]

3.1 Method

[Revise the first sentence to read:]

Postage on mailings made at all Automation and Nonprofit ZIP+4 and Barcoded rates must be paid with meter stamps, permit imprints, or precanceled postage, under applicable standards. * * *

* * * * *

P700 Special Postage Payment Systems

P710 Manifest Mailing System (MMS)

[In 1.0, replace ''second-class'' with ''Periodicals''; in 2.6 and 3.1, replace ''First- or third-class'' with ''First-Class or Standard Mail (A)''; in Exhibit 3.1, replace ''Third-Class'' with ''Standard Mail (A)''; combine and revise current 3.3 and 3.4 as shown below and renumber current 3.5 as 3.4; no other change in text.]

* * * * *

3.3 Rate Category Abbreviations—Letter-Size Mail

Keylines on letter-size First-Class Mail or bulk Standard Mail (A) must use only the rate category abbreviations in 3.3a or 3.3b, respectively. All mailpieces that qualify for more than one rate of postage must show each rate category abbreviation, separated by a ''/'' (slash) (e.g., ZP/DS).

Code	Rate category
a. First-Class Mail	
AC	AUTOMATION CARRIER ROUTE
AV	AUTOMATION 5-DIGIT [Letters]
AT	AUTOMATION 3-DIGIT [Letters]
AF	AUTOMATION 3/5 [Flats]
AB	AUTOMATION BASIC
RP	RETAIL PRESORT
b. Standard Mail (A)	
AC	AUTOMATION CARRIER ROUTE
AV	AUTOMATION 5-DIGIT [Letters]
AT	AUTOMATION 3-DIGIT [Letters]
AF	AUTOMATION 3/5 [Flats]
AB	AUTOMATION BASIC
RA	REGULAR 3/5
RB	REGULAR BASIC
EB	ENHANCED CARRIER ROUTE BASIC
EH	ENHANCED CARRIER ROUTE HIGH DENSITY
ES	ENHANCED CARRIER ROUTE SATURATION
ZB	NONPROFIT 5-DIGIT ZIP+4 BARCODED
TB	NONPROFIT 3-DIGIT ZIP+4 BARCODED
BB	NONPROFIT BASIC ZIP+4 BARCODED
ZP	NONPROFIT 3/5 ZIP+4
ZN	NONPROFIT BASIC ZIP+4
ST	NONPROFIT SATURATION WALK SEQUENCE
HD	NONPROFIT 125-PIECE WALK SEQUENCE
CP	NONPROFIT CARRIER ROUTE
FD	NONPROFIT 3/5 PRESORT
BA	NONPROFIT BASIC PRESORT
DB	DESTINATION BMC
DS	DESTINATION SCF
DD	DESTINATION DELIVERY UNIT

* * * * *

P720 Optional Procedure (OP) Mailing System

[In 1.1, replace ''First-, third-, and fourth-class'' with ''First-Class and Standard Mail''; no other change in text.]

* * * * *

P750 Plant-Verified Drop Shipment (PVDS)

[In 1.1, 1.2b, 1.3a, 2.4, 2.6, 2.12a, and 5.1, replace ''[S]econd-class'' with ''Periodicals''; in 1.2c, 2.5, and 2.11, replace ''[T]hird- and [F]ourth-class'' with ''Standard Mail''; in 1.3b, 2.2e, and 2.5, replace ''third- or fourth-class'' with ''Standard Mail''; in 2.7, 2.9, 2.12b, 5.2, and 6.0, replace [T]hird-[C]lass ''with ''Standard Mail (A)''; in 2.8, 2.12c, 5.3, 7.0, and 7.2, replace ''[F]ourth-[C]lass'' with ''Standard Mail (B)''; no other change in text.]

P760 First-Class or Standard Mail Mailings With Different Postage Payment Methods

[In 1.1 and 4.1, replace ''First- or third-class'' with ''First-Class or Standard Mail (A)''; in 3.1e, 3.2, and 3.3a, replace ''third-class'' with ''Standard Mail (A)''; in 3.3a, replace ''Presorted First-Class'' with ''Retail Presort First-Class''; in Exhibit 4.6, replace ''First-Class and Third-Class ZIP+4 Barcoded,'' ''ZIP+4 Barcoded,'' and ''3rd'' with ''First-Class and Standard Mail Automation and Barcoded''; ''Automation or Barcoded,'' and ''STD,'' respectively; revise 2.0 as shown below; no other change in text.]

* * * * *

2.0 POSTAGE

2.1 Payment for Metered Pieces—First-Class

Metered pieces in a combined mailing must bear postage for the first ounce at an Automation rate for which the pieces are eligible and, if applicable, the full amount of postage due for additional ounces. Additional postage due for metered pieces in a combined mailing is deducted from the mailer's advance deposit account.

2.2 Payment for Metered Pieces—Standard Mail (A)

Metered pieces in a combined mailing must bear postage at an Automation rate (or, in combined Nonprofit mailings only, at a Nonprofit rate) for which the pieces are eligible. Additional postage due for metered pieces in a combined mailing is deducted from the mailer's advance deposit account.

2.3 Payment for Precanceled Pieces—First-Class

Pieces with precanceled stamps in a combined mailing must bear postage for the first ounce in any denomination of precanceled stamp permitted in an Automation rate mailing and the full applicable amount of postage due for additional ounces. Additional postage due for precanceled stamp pieces in a combined mailing is deducted from the mailer's advance deposit account.

2.4 Payment for Precanceled Pieces—Standard Mail (A)

Pieces with precanceled stamps in a combined mailing must bear postage in any denomination of precanceled stamp permitted in an Automation rate or Nonprofit Barcoded rate mailing. Nonprofit postage may appear only on pieces in a Nonprofit rate mailing that are eligible for and claimed at a Nonprofit rate. Additional postage due for precanceled stamp pieces in a combined mailing is deducted from the mailer's advance deposit account.

2.5 Permit Imprint—First-Class and Standard Mail (A)

Pieces in a combined mailing may bear the permit imprint of the mailer or the mailer's clients. Postage for the permit imprint part of a combined mailing must be paid by the advance deposit account maintained or combined mailings. Postage is deducted only from this account, regardless of the permit numbers or company permit imprints on pieces in a combined mailing.

R Rates and Fees

R000 Stamps and Stationery

1.0 PLAIN STAMPED ENVELOPES

Quantity and price

Kind	Size [1]	Denomination or value	Each (less than 500)	500	1,000
Regular	6¾	$0.32	$0.38	$168.20	$336.40
	10	0.32	0.38	172.00	344.00
Single	6¾	0.32	0.38	169.00	338.00
Window	10	0.32	0.38	173.00	346.00
Special	6¾	0.32	0.38	170.50	341.00
Regular [2]	10	0.32	0.38	175.00	350.00
Bulk Rate:					
Regular	10	0.10		62.00	124.00
Nonprofit	6¾	0.05		33.20	66.40
Regular	10	0.05		37.00	74.00
Nonprofit	6¾	0.05		34.00	68.00
Sngl. Wndw	10	0.05		38.00	76.00

[1] Size 10 includes all intermediate sizes through 10.
[2] Envelopes with multicolor indicia such as a Love stamp or a hologram.

2.0 PERSONALIZED STAMPED ENVELOPES

Quantity and price

Kind	Size [1]	Denomination or value	50	500	1,000
Regular	6¾	$0.32	$19.00	$172.60	$345.20
	10	0.32	19.20	176.40	352.80
Single	6¾	0.32	19.10	173.40	346.80
Window	10	0.32	19.30	177.40	354.80
Special	6¾	0.32	19.00	174.90	349.80
Regular [2]	10	0.32	19.20	179.40	358.80
Bulk Rate:					
Regular	10	0.10		66.40	132.80
Nonprofit	6¾	0.05		37.60	75.20

Kind	Size[1]	Denomination or value	Quantity and price 50	500	1,000
Regular	10	0.05	....	41.40	82.80
Nonprofit	6¾	0.05	....	38.40	76.80
Sngl. Wndw	10	0.05	....	42.40	84.80

[1] Size 10 includes all intermediate sizes through 10.
[2] Envelopes with multicolor indicia such as a Love stamp or a hologram.

3.0 POSTAL CARDS

Postal cards in sheets, per sheet—$8.40.

Denomination	Description
$0.21	Domestic regular or commemorative, cut single card.
0.21	Domestic regular, sheet of 40.
0.42	Domestic regular, double reply-paid card.

4.0 POSTAL STAMPS

Purpose	Form	Denomination
Regular Postage	Panes of up to 100	$0.01, .02, .03, .04, .05, .10, .20, .23, .25, .29, .30, .32, .35, .40, .45, .46, .50, .52, .55, .60, .75, .78, $1, $2, $3, $5, $10.75.
	Booklets	$0.20 ($2.00 booklet), $0.32 ($3.20 or $6.40 booklets).
	Coils of 100 $0.20, .23 (additional oz. postage), .32..	
	Coils of 500	$0.01, .02, .03, .04, .05, .10, .20, .23, .32, $1.
	Coils of 3,000, Coals of 10,000.	$0.01, .02, .03, .04, .05, .10, .20, .23, .32 $0.05, .32.
Precanceled Postage—Bulk Rate First-Class and Standard Mail (A).	Coil of 500, 3,000, and 10,000.	Various nondenominated; available only to permit holders.
Comemorative	Panes of up to 50	$0.32 or other denominations, including international rates, as announced.
	20-Stamp Booklets	$0.32 ($6.40. booklets).

R100 First-Class Mail

1.0 RETAIL SINGLE-PIECE RATES

1.1 Cards

Single and double postal cards and postcards meeting the standards in C100 and E110:

Single—$0.21 each
Double—0.42 ($0.21 each part)

1.2 Letters, Flats, and Parcels

Letters, flats, and parcels (i.e., matter not eligible for card rates); surcharge might apply under 9.0:

First ounce or fraction of an ounce—$0.32
Each additional ounce or fraction of an ounce—0.23

2.0 RETAIL PRESORT RATES

2.1 Cards

Single and double postal cards and postcards meeting the standards in C100 and E110: $0.190 each.

2.2 Letters, Flats, and Parcels

Letters, flats, and parcels (i.e., matter not eligible for card rates); surcharge might apply under 9.0:

First ounce or fraction of an ounce:
(For pieces weighing not more than 2 ounces)—$0.300
(For pieces weighing more than 2 ounces)—0.254
Each additional ounce or fraction of an ounce—0.230

3.0 AUTOMATION BASIC RATES

3.1 Cards

Single and double postal cards and postcards meeting the standards in C100 and E110: $0.175 each.

3.2 Letter-Size Pieces

Letter-size pieces other than cards:

First ounce or fraction of an ounce:
(For pieces weighing not more than 2 ounces)—$0.270
(For pieces weighing more than 2 ounces)—0.224
Each additional ounce or fraction of an ounce—0.230

3.3 Flat-Size Pieces

Surcharges might apply under 9.0:

First ounce or fraction of an ounce:
(For pieces weighing not more than 2 ounces)—$0.290
(For pieces weighing more than 2 ounces)—0.244
Each additional ounce or fraction of an ounce—0.230

4.0 AUTOMATION 3–DIGIT RATES

4.1 Cards

Single and double postal cards and postcards meeting the standards in C100 and E110: $0.155 each.

4.2 Letter-Size Pieces

Letter-size pieces other than cards:

First ounce or fraction of an ounce:
(For pieces weighing not more than 2 ounces)—$0.250
(For pieces weighing more than 2 ounces)—0.204
Each additional ounce or fraction of an ounce—0.230

5.0 AUTOMATION 5–DIGIT RATES

5.1 Cards

Single and double postal cards and postcards meeting the standards in C100 and E110: $0.140 each.

5.2 Letter-Size Pieces

Letter-size pieces other than cards:

First ounce or fraction of an ounce:
(For pieces weighing not more than 2 ounces)—$0.235
(For pieces weighing more than 2 ounces)—0.189
Each additional ounce or fraction of an ounce—0.230

6.0 AUTOMATION 3/5 RATES (FLAT-SIZE PIECES)

Surcharges might apply under 9.0:

First ounce or fraction of an ounce:

(For pieces weighing not more than 2 ounces)—$0.270

(For pieces weighing more than 2 ounces)—0.224

Each additional ounce or fraction of an ounce—0.230

7.0 AUTOMATION CARRIER ROUTE RATES

7.1 Cards

Single and double postal cards and postcards meeting the standards in C100 and E110: $0.137 each.

7.2 Letter-Size Pieces

Letter-size pieces other than cards:

First ounce or fraction of an ounce:

(For pieces weighing not more than 2 ounces)—$0.232

(For pieces weighing more than 2 ounces)—0.186

Each additional ounce or fraction of an ounce—0.230

	Retail		Automation					
	Single-piece	Presort	Basic (letters)	3-digit (letters)	5-digit (letters)	Carrier route (letters)	Basic (flats)	3/5 (flats)
Letters, flats, and parcels weight not over (ounces):								
1 [1]	$0.32	$0.300	$0.270	$0.250	$0.235	$0.232	$0.290	$0.270
2	0.55	0.530	0.500	0.480	0.465	0.462	0.520	0.500
3	0.78	0.714	0.684	0.664	0.649	0.646	0.704	0.684
4	1.01	0.944	0.914	0.894	0.879	0.876	0.934	0.914
5	1.24	1.175	([5])	([3])	([3])	([3])	1.164	1.144
6	1.47	1.404	([3])	([3])	([3])	([3])	1.394	1.374
7	1.70	1.634	([3])	([3])	([3])	([3])	1.624	1.604
8	1.93	1.864	([3])	([3])	([3])	([3])	1.854	1.834
9	2.16	2.094	([3])	([3])	([3])	([3])	2.084	2.064
10	2.39	2.324	([3])	([3])	([3])	([3])	2.314	2.294
11	2.62	2.554	([3])	([3])	([3])	([3])	2.544	2.524
Postcards Postal Cards:								
Single	0.21	0.190	0.175	0.155	0.140	0.137	....	....
Double [2]	0.42	0.380						

[1] Surcharges might apply.
[2] Rates shown apply to each single or double postcard when originally mailed; reply half of double postcards must bear full postage at applicable rates when returned.
[3] Weight not to exceed 3.4383 oz.

Summary of First-Class Rates

[Renumber current 10.0 as 8.0; no change in text.]

9.0 NONSTANDARD SURCHARGE

Retail single-piece rate pieces, each $0.11.

Retail Presort and Automation rate pieces, each: $0.05.

[Renumber current 12.0 through 14.0 as 10.0 through 12.0; no change in text.]

R200 Periodicals

[Renumber current 1.0 through 7.0 as 2.0 through 8.0; insert new 1.0 and revise current text as shown below:]

1.0 PUBLICATIONS SERVICE RATES

1.1 Pound Rates

Pound rates, per pound or fraction:

Zone	Rate
Delivery Office	$0.108
SCF	0.129
1 & 2	0.150
3, 4 & 5	0.193
6, 7 & 8	0.311

1.2 Piece Rates

Per addressed piece:

Presort level	Rate
Basic	$0.147
Carrier Route	0.083

1.3 Delivery Office Zone Pieces

For each addressed piece claimed in the pound-rate portion at the delivery office zone rate, the discount is $0.021.

1.4 SCF Zone Pieces

For each addressed piece claimed in the pound-rate portion at the SCF zone rate, the discount is $0.011.

2.0 REGULAR RATES

2.1 Pound Rates

Pound rates are:

For the nonadvertising portion—$0.194 per pound or fraction.

For the advertising portion, per pound or fraction:

Zone	Rate
Delivery Office	$0.218
SCF	0.239
1 & 2	0.259
3	0.268
4	0.294
5	0.332
6	0.372
7	0.420
8	0.462

2.2 Piece Rates

Per addressed piece:

Presort level	Regular	Barcoded (letter-size)	Barcoded (flat-size)
Basic	$0.272	$0.226	$0.237
3/5	0.217	0.188	0.188
Carrier route	0.166		
High density	0.159		
Saturation	0.146		

2.3 Nonadvertising Adjustment

For each 1% of nonadvertising content, the nonadvertising adjustment is $0.00066 per piece.

2.4 Delivery Office Zone Pieces

For each addressed piece claimed in the pound-rate portion at the delivery office zone rate, the discount is $0.021.

2.5 SCF Zone Pieces

For each addressed piece claimed in the pound-rate portion at the SCF zone rate, the discount is $0.011.

* * * * *

6.0 SCIENCE-OF-AGRICULTURE RATES

6.1 Pound Rates

Pound rates are:

For the nonadvertising portion—$0.194 per pound or fraction.

For the advertising portion, per pound or fraction:

Zone	Rate
Delivery Office	$0.135
SCF	0.143
1&2	0.159
3	0.268
4	0.294
5	0.332
6	0.372
7	0.420
8	0.462

6.2 Piece Rates

Per addressed piece:

Presort level	Regular	Barcoded (letter-size)	Barcoded (Flat-Size)
Basic	$0.272	$0.226	$0.237
3/5	0.217	0.188	0.188
Carrier route	0.166		
High density	0.159		
Saturation	0.146		

6.3 Nonadvertising Adjustment

For each 1% of nonadvertising content, the nonadvertising adjustment is $0.00066 per piece,

6.4 Delivery Office Zone Pieces

For each addressed piece claimed in the pound-rate portion at the delviery office zone rate, the discount is $0.021.

6.5 SCF Zone Pieces

For each addressed piece claimed in the pound-rate portion at the SCF zone rate, the discount is $0.011.

7.0 APPLICATION FEES

Original entry''$305.00.
Publications Service entry—$305.00
News agent registry''$50.00.
Additional entry''$85.00.
Reentry''$50.00.

[Delete current R300 and R400, revise and redesignate text of current R300 and R400 as parts of new R600 as shown below; no changes in R500.]

R600 Standard Mail

1.0 REGULAR STANDARD MAIL SINGLE-PIECE RATES

Weight	Rate
Not exceeding 1 oz	$0.32
Over 1 oz., but not exceeding 2 oz	0.55
Over 2 oz., but not exceeding 3 oz	0.78
Over 3 oz., but not exceeding 4 oz	1.01
Over 4 oz., but not exceeding 5 oz	1.24
Over 5 oz., but not exceeding 6 oz	1.47
Over 6 oz., but not exceeding 7 oz	170
Over 7 oz., but not exceeding 8 oz	1.93
Over 8 oz., but not exceeding 9 oz	2.16
Over 9 oz., but not exceeding 10 oz	2.39
Over 10 oz., but not exceeding 11 oz	2.62
Over 11 oz., but not exceeding 13 oz	2.90
Over 13 oz., but not less than 16 oz	2.95

2.0 KEYS AND IDENTIFICATION DEVICES

Weight	Rate
Not exceeding 2 oz	$0.99
Over 2 oz., but not exceeding 4 oz	1.54
Over 4 oz., but not exceeding 6 oz	2.09
Over 6 oz., but not exceeding 8 oz	2.64
Over 8 oz., but not exceeding 10 oz	3.19
Over 10 oz., but not exceeding 12 oz	3.74
Over 12 oz., but not exceeding 14 oz	4.29
Over 14 oz., but less than 16 oz	4.84

3.0 REGULAR STANDARD MAIL BULK RATES

3.1 Letter-Size Minimum Per Piece Rates—Pieces 0.2067 lb. (3.3071 oz.) or less

Entry discount	Basic	3/5
None	$0.261	$0.219
BMC	0.248	0.206
SCF	0.244	0.202

3.2 Nonletter-Size Minimum Per Piece Rates—Pieces 0.2067 lb. (3.3071 oz.) or less

Entry discount	Basic	3/5
None	$0.305	$0.237
BMC	0.292	0.0224
SCF	0.288	0.220

3.3 Piece/Pound Rates—Pieces More Than 0.2067 lb. (3.3071 oz.)

	Basic	3/5
Per Piece Rates*	$0.163	$0.095
Per Pound Rates* (incl. entry discount if appl.):	plus:	plus:
None	$0.687	$0.687
BMC	0.626	0.626
SCF	0.606	0.606

*Each piece is subject to both a piece and a pound rate.

4.0 ENHANCED CARRIER ROUTE STANDARD MAIL BULK RATES

4.1 Minimum Per Pieces Rates—Pieces 0.2059 lb. (3.2941 oz.) or less

Entry discount	Basic	High density	Saturation
None	$0.155	$0.148	$0.135
BMC	0.142	0.135	0.122
SCF	0.137	0.130	0.177
Delivery Unit	0.132	0.125	0.112

4.2 Piece/Pound Rates—Pieces More Than 0.2059 lb. (3.2941 oz.)

	Basic	High density	Saturation
Per Piece Rates*	$0.050	$0.043	$0.030
Per Pound Rates* (incl. entry discount if appl.):	plus	plus	plus
None	0.510	0.510	0.510
BMC	0.446	0.446	0.446
SCF	0.425	0.425	0.425
Delivery Unit	0.399	0.399	0.399

*Each piece is subject to both a piece and a pound rate.

5.0 AUTOMATION STANDARD MAIL BULK RATES

5.1 Letter-Size Minimum Per Piece Rates—Pieces 0.2059 lb. (3.2941 oz.) or Less

Entry discount	Basic	3-Digit	5-Digit	Carrier route
None	$0.175	$0.168	$0.510	$0.141
BMC	0.162	0.155	0.137	0.128
SCF	0.158	0.151	0.133	0.124
Delivery Unit	....	....	....	0.119

5.2 Flat-Size Minimum Per Piece Rates—Pieces 0.2059 lb. (3.2941 oz.) or Less

Entry discount	Basic	3/5
None	$0.237	$0.190
BMC	0.224	0.177
SCF	0.220	0.173

5.3 Flat-Size Piece/Pound Rates—Pieces More Than 0.2059 lb. (3.2941 oz.)

	Basic	3/5
Per Piece Rates*	$0.132	$0.085
Per Pound Rates* incl. entry discount if appl.):	plus	plus
None	0.510	0.510
BMC	0.449	0.449
SCF	0.429	0.429

*Each piece is subject to both a piece and a pound rate.

6.0 NONPROFIT STANDARD MAIL BULK RATES

6.1 Letter-Size Minimum Per Piece Rates—Pieces 0.2149 lb. (3.4383 oz.) or Less

	Nonautomation rates				Automation rates				
Entry discount	Basic	3/5	Carrier route	Saturation W–S	Basic ZIP+4	3/5 ZIP+4	Basic barcoded	3-digit barcoded	5-digit barcoded
None	$0.124	$0.111	$0.086	$0.083	$0.117	$0.107	$0.106	$0.101	$0.093
BMC	0.112	0.099	0.074	0.071	0.105	0.095	0.094	0.089	0.081
SCF	0.106	0.093	0.068	0.065	0.099	0.089	0.088	0.083	0.075
Delivery Unit	....	....	0.063	0.060	....	....	....	....	....

Note: See C810 for additional weight restrictions for automation rates.

6.2 Nonletter-Size Minimum Per Piece Rates—Pieces 0.2149 lb. (3.4383 oz.) or Less

	Nonautomation rates					Automation rates				
Entry discount	Basic	3/5	Carrier route	125–PC W–S	Saturation W–S	Basic ZIP+4	3/5 ZIP+4	Basic barcoded	3-digit barcoded	3/5-digit barcoded
None	$0.175	$0.161	$0.128	$0.126	$0.121	....	....	$0.149	....	$0.143
BMC	0.163	0.149	0.116	0.114	0.109	....	....	0.137	....	0.131
SCF	0.157	0.143	0.110	0.108	0.103	....	....	0.131	....	0.125
Delivery Unit	....	....	0.105	0.103	0.098	....	....	....	....	....

Note: Each piece is subject to both a piece and a pound rate. Automation rates are available only for automation-compatible flats (see C820).

6.3 Piece/Pound Rates—Pieces More Than 0.2149 lb. (3.4383 oz.)

	Nonautomation rates					Automation rates				
	Basic	3/5	Carrier route	125–PC W–S	Saturation W–S	Basic ZIP+4	3/5 ZIP+4	Basic barcoded	3-Digit barcoded	3/5-Digit barcoded
Per Piece Rates*	$0.074	$0.060	$0.027	$0.025	$0.020	....	....	$0.048	....	$0.042
Per pound rates *(incl. entry discount if appl.):	plus	plus	plus	plus	plus	....	....	plus	....	plus
None	0.470	0.470	0.470	0.470	0.470	....	....	0.470	....	0.470
BMC	0.410	0.410	0.410	0.410	0.410	....	....	0.410	....	0.410
SCF	0.386	0.386	0.386	0.386	0.386	....	....	0.386	....	0.386
Delivery Unit	....	....	0.362	0.362	0.362	....	....	....	....	....

*Each piece subject to both a piece and a pound rate. Automation rates are available only for automation-compatible flats (see C820).

7.0 PARCEL POST

[Insert text and rates from current R400.1.0 with no change.]

8.0 BOUND PRINTED MATTER

8.1 Single-Piece Rates

[Insert text and rates from current R400.2.0 with no change.]

8.2 Bulk Rates

[Insert text and rates from current R400.3.0 with no change.]

8.3 Bulk Rate Computed Postage Amount With Postage Affixed

[Insert text and rates from current R400.4.0 with no change.]

9.0 SPECIAL STANDARD MAIL RATES

[Insert text and rates from current R400.5.0 with no change.]

10.0 LIBRARY RATES

[Insert text and rates from current R400.6.0 with no change.]

11.0 FEES

11.1 Per 12–Month Period

a. Regular, Enhanced Carrier Route, Automation, and Nonprofit Bulk Rates—$85.00.

b. Parcel Post Destination BMC Rate—$85.00.

c. Presorted Special Standard Mail—$85.00.

11.2 Address Correction Service

Manual, per notice issued—$0.50.
Automated, per notice issued—$0.20.

11.3 Pickup

Parcel Post only, per occurrence—$4.95.

12.0 NONSTANDARD SURCHARGE

Applicable to Regular Single-Piece rate pieces only, each—$0.11.

S SPECIAL SERVICES

S000 Miscellaneous Services

* * * * *

S020 Money Orders and Other Services

[Retitle 1.0, 2.0, and 3.0 as ''Issuing Money Orders,'' ''Cashing Money Orders,'' and ''Use of the Federal Reserves System,'' respectively; add new 4.0, as shown below.]

4.0 NONPOSTAL SERVICES

4.1 Bird Stamps

Migratory-bird hunting and conservation stamps are required by federal law for the hunting of migratory birds, such as ducks and geese. As a convenience to the public, these stamps are sold at all post offices in CAGs A–J and (based on demand) at designated offices in CAGs K and L. These facilities act as agents of the federal government for this function. Blocks composed of two or more attached unused stamps, sold on consignment to any person but not resold, may be redeemed at any time on or before the last day of the stamp year. Stamps validated by signature or stamps that appear removed from a hunting license or identification card are not accepted.

[Redesignate current S030.2.0, 3.0, and 4.0 as S020.4.2, 4.3, and 4.4, respectively; no other changes in text; delete current S030.]

S070 Mixed Classes

[In 1.1, replace ''third- or fourth-class mail'' with ''Standard Mail''; in 1.2, replace ''third- and fourth-class mail'' with ''Standard Mail''; no other change in text.]

S500 Special Services for Express Mail

[In 3.0, replace ''third- or fourth-class mail'' with ''Standard Mail''; no other change in text.]

* * * * *

S913 Insured Mail

[In 1.2a, replace ''third- and fourth-class mail'' with ''Standard Mail''; in 1.2b, replace ''third- or fourth-class mail,'' ''Third-Class Mail,'' and ''Fourth-Class Mail'' with ''Standard Mail,'' ''Standard Mail (A)'', and ''Standard Mail (B),'' respectively; no other change in text.]

S914 Certificate of Mailing

[In 1.2, replace ''First-, third-, and fourth-class'' with ''First-Class and Standard Mail''; in 1.6, replace ''third-class mail'' with ''Standard Mail (A)''; in 2.3, replace ''First- and third-class'' with ''First-Class and Standard Mail (A)''; no other change in text.]

* * * * *

S917 Return Receipt for Merchandise

[In 1.2, replace ''third-class'' and ''special fourth-class'' with ''Standard Mail (A)'' and ''Special Standard Mail,'' respectively; in 1.3, replace ''third-class'' and ''third-class and fourth-class'' with ''Standard Mail (A)'' and ''Standard Mail,'' respectively; no other change in text.]

S921 Collect on Delivery (COD) Mail

[In 1.2, replace ''First-, third-, and fourth-class'' with ''First-Class and Standard Mail''; no other change in text.]

* * * * *

S923 Merchandise Return Service

[In 1.1, replace ''third-class and fourth-class'' and ''special fourth-class'' with ''and Standard Mail'' and ''Special Standard Mail,'' respectively; in 1.7, replace ''third-class, and fourth-class'' with ''and Standard Mail''; in 1.10, replace ''single-piece third-class or fourth-class parcel post'' with ''Standard Mail single-piece Regular or parcel post''; in 1.11, replace ''or third- or fourth-class'' and ''Special fourth-class'' with ''Standard Mail (A) or Standard Mail (B)'' and ''Special Standard Mail,'' respectively; in 3.2, replace ''First-, third-, or fourth-class'' with ''First-Class or Standard Mail''; in 4.0, replace ''third- or fourth-class,'' ''Third-Class Mail,'' and ''Fourth-Class Mail'' with ''Standard Mail,'' ''Standard Mail (A)'', and ''Standard Mail (B),'' respectively; in 4.7 and 5.6d, replace ''third- or fourth-class'' with ''Standard Mail''; in 4.10, replace ''third- and fourth-class'' with ''Standard Mail''; no other change in text.]

S930 Handling

[In 2.2, replace ''third- and fourth-class mail'' with ''Standard Mail''; in 3.2, replace ''both third-class mail and fourth-class mail'' with ''Standard Mail''; no other change in text.]

[FR Doc. 95–31040 Filed 12–18–95; 10:32 am]

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federal register

Friday
December 22, 1995

Part III

Environmental Protection Agency

Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5400–1]

Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Policy Statement.

SUMMARY: The Environmental Protection Agency (EPA) today issues its final policy to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, and disclose and correct violations of environmental requirements. Incentives include eliminating or substantially reducing the gravity component of civil penalties and not recommending cases for criminal prosecution where specified conditions are met, to those who voluntarily self-disclose and promptly correct violations. The policy also restates EPA's long-standing practice of not requesting voluntary audit reports to trigger enforcement investigations. This policy was developed in close consultation with the U.S. Department of Justice, states, public interest groups and the regulated community, and will be applied uniformly by the Agency's enforcement programs.

DATES: This policy is effective January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Additional documentation relating to the development of this policy is contained in the environmental auditing public docket. Documents from the docket may be obtained by calling (202) 260–7548, requesting an index to docket #C–94–01, and faxing document requests to (202) 260–4400. Hours of operation are 8 a.m. to 5:30 p.m., Monday through Friday, except legal holidays. Additional contacts are Robert Fentress or Brian Riedel, at (202) 564–4187.

SUPPLEMENTARY INFORMATION:

I. Explanation of Policy

A. Introduction

The Environmental Protection Agency today issues its final policy to enhance protection of human health and the environment by encouraging regulated entities to discover voluntarily, disclose, correct and prevent violations of federal environmental law. Effective 30 days from today, where violations are found through voluntary environmental audits or efforts that reflect a regulated entity's due diligence, and are promptly disclosed and expeditiously corrected, EPA will not seek gravity-based (i.e., non-economic benefit) penalties and will generally not recommend criminal prosecution against the regulated entity. EPA will reduce gravity-based penalties by 75% for violations that are voluntarily discovered, and are promptly disclosed and corrected, even if not found through a formal audit or due diligence. Finally, the policy restates EPA's long-held policy and practice to refrain from routine requests for environmental audit reports.

The policy includes important safeguards to deter irresponsible behavior and protect the public and environment. For example, in addition to prompt disclosure and expeditious correction, the policy requires companies to act to prevent recurrence of the violation and to remedy any environmental harm which may have occurred. Repeated violations or those which result in actual harm or may present imminent and substantial endangerment are not eligible for relief under this policy, and companies will not be allowed to gain an economic advantage over their competitors by delaying their investment in compliance. Corporations remain criminally liable for violations that result from conscious disregard of their obligations under the law, and individuals are liable for criminal misconduct.

The issuance of this policy concludes EPA's eighteen-month public evaluation of the optimum way to encourage voluntary self-policing while preserving fair and effective enforcement. The incentives, conditions and exceptions announced today reflect thoughtful suggestions from the Department of Justice, state attorneys general and local prosecutors, state environmental agencies, the regulated community, and public interest organizations. EPA believes that it has found a balanced and responsible approach, and will conduct a study within three years to determine the effectiveness of this policy.

B. Public Process

One of the Environmental Protection Agency's most important responsibilities is ensuring compliance with federal laws that protect public health and safeguard the environment. Effective deterrence requires inspecting, bringing penalty actions and securing compliance and remediation of harm. But EPA realizes that achieving compliance also requires the cooperation of thousands of businesses and other regulated entities subject to these requirements. Accordingly, in May of 1994, the Administrator asked the Office of Enforcement and Compliance Assurance (OECA) to determine whether additional incentives were needed to encourage voluntary disclosure and correction of violations uncovered during environmental audits.

EPA began its evaluation with a two-day public meeting in July of 1994, in Washington, D.C., followed by a two-day meeting in San Francisco on January 19, 1995 with stakeholders from industry, trade groups, state environmental commissioners and attorneys general, district attorneys, public interest organizations and professional environmental auditors. The Agency also established and maintained a public docket of testimony presented at these meetings and all comment and correspondence submitted to EPA by outside parties on this issue.

In addition to considering opinion and information from stakeholders, the Agency examined other federal and state policies related to self-policing, self-disclosure and correction. The Agency also considered relevant surveys on auditing practices in the private sector. EPA completed the first stage of this effort with the announcement of an interim policy on April 3 of this year, which defined conditions under which EPA would reduce civil penalties and not recommend criminal prosecution for companies that audited, disclosed, and corrected violations.

Interested parties were asked to submit comment on the interim policy by June 30 of this year (60 FR 16875), and EPA received over 300 responses from a wide variety of private and public organizations. (Comments on the interim audit policy are contained in the Auditing Policy Docket, hereinafter, ''Docket''.) Further, the American Bar Association SONREEL Subcommittee hosted five days of dialogue with representatives from the regulated industry, states and public interest organizations in June and September of this year, which identified options for strengthening the interim policy. The changes to the interim policy announced today reflect insight gained through comments submitted to EPA, the ABA dialogue, and the Agency's practical experience implementing the interim policy.

C. Purpose

This policy is designed to encourage greater compliance with laws and regulations that protect human health and the environment. It promotes a higher standard of self-policing by waiving gravity-based penalties for violations that are promptly disclosed and corrected, and which were discovered through voluntary audits or compliance management systems that demonstrate due diligence. To further promote compliance, the policy reduces gravity-based penalties by 75% for any violation voluntarily discovered and promptly disclosed and corrected, even if not found through an audit or compliance management system.

EPA's enforcement program provides a strong incentive for responsible behavior by imposing stiff sanctions for noncompliance. Enforcement has contributed to the dramatic expansion of environmental auditing measured in numerous recent surveys. For example, more than 90% of the corporate respondents to a 1995 Price-Waterhouse survey who conduct audits said that one of the reasons they did so was to find and correct violations before they were found by government inspectors. (A copy of the Price-Waterhouse survey is contained in the Docket as document VIII–A–76.)

At the same time, because government resources are limited, maximum compliance cannot be achieved without active efforts by the regulated community to police themselves. More than half of the respondents to the same 1995 Price-Waterhouse survey said that they would expand environmental auditing in exchange for reduced penalties for violations discovered and corrected. While many companies already audit or have compliance management programs, EPA believes that the incentives offered in this policy will improve the frequency and quality of these self-monitoring efforts.

D. Incentives for Self-Policing

Section C of EPA's policy identifies the major incentives that EPA will provide to encourage self-policing, self-disclosure, and prompt self-correction. These include not seeking gravity-based civil penalties or reducing them by 75%, declining to recommend criminal prosecution for regulated entities that self-police, and refraining from routine requests for audits. (As noted in Section C of the policy, EPA has refrained from making routine requests for audit reports since issuance of its 1986 policy on environmental auditing.)

1. Eliminating Gravity-Based Penalties

Under Section C(1) of the policy, EPA will not seek gravity-based penalties for violations found through auditing that are promptly disclosed and corrected. Gravity-based penalties will also be waived for violations found through any documented procedure for self-policing, where the company can show that it has a compliance management program that meets the criteria for due diligence in Section B of the policy.

Gravity-based penalties (defined in Section B of the policy) generally reflect the seriousness of the violator's behavior. EPA has elected to waive such penalties for violations discovered through due diligence or environmental audits, recognizing that these voluntary efforts play a critical role in protecting human health and the environment by identifying, correcting and ultimately preventing violations. All of the conditions set forth in Section D, which include prompt disclosure and expeditious correction, must be satisfied for gravity-based penalties to be waived.

As in the interim policy, EPA reserves the right to collect any economic benefit that may have been realized as a result of noncompliance, even where companies meet all other conditions of the policy. Economic benefit may be waived, however, where the Agency determines that it is insignificant.

After considering public comment, EPA has decided to retain the discretion to recover economic benefit for two reasons. First, it provides an incentive to comply on time. Taxpayers expect to pay interest or a penalty fee if their tax payments are late; the same principle should apply to corporations that have delayed their investment in compliance. Second, it is fair because it protects responsible companies from being undercut by their noncomplying competitors, thereby preserving a level playing field. The concept of recovering economic benefit was supported in public comments by many stakeholders, including industry representatives (see, *e.g.,* Docket, II–F–39, II–F–28, and II–F–18).

2. 75% Reduction of Gravity

The policy appropriately limits the complete waiver of gravity-based civil penalties to companies that meet the higher standard of environmental auditing or systematic compliance management. However, to provide additional encouragement for the kind of self-policing that benefits the public, gravity-based penalties will be reduced by 75% for a violation that is voluntarily discovered, promptly disclosed and expeditiously corrected, even if it was not found through an environmental audit and the company cannot document due diligence. EPA expects that this will encourage companies to come forward and work with the Agency to resolve environmental problems and begin to develop an effective compliance management program.

Gravity-based penalties will be reduced 75% only where the company meets all conditions in Sections D(2) through D(9). EPA has eliminated language from the interim policy indicating that penalties may be reduced ''up to'' 75% where ''most'' conditions are met, because the Agency believes that all of the conditions in D(2) through D(9) are reasonable and essential to achieving compliance. This change also responds to requests for greater clarity and predictability.

3. No Recommendations for Criminal Prosecution

EPA has never recommended criminal prosecution of a regulated entity based on voluntary disclosure of violations discovered through audits and disclosed to the government before an investigation was already under way. Thus, EPA will not recommend criminal prosecution for a regulated entity that uncovers violations through environmental audits or due diligence, promptly discloses and expeditiously corrects those violations, and meets all other conditions of Section D of the policy.

This policy is limited to good actors, and therefore has important limitations. It will not apply, for example, where corporate officials are consciously involved in or willfully blind to violations, or conceal or condone noncompliance. Since the regulated entity must satisfy all of the conditions of Section D of the policy, violations that caused serious harm or which may pose imminent and substantial endangerment to human health or the environment are not covered by this policy. Finally, EPA reserves the right to recommend prosecution for the criminal conduct of any culpable individual.

Even where all of the conditions of this policy are not met, however, it is important to remember that EPA may decline to recommend prosecution of a company or individual for many other reasons under other Agency enforcement policies. For example, the Agency may decline to recommend prosecution where there is no significant harm or culpability and the individual or corporate defendant has cooperated fully.

Where a company has met the conditions for avoiding a recommendation for criminal prosecution under this policy, it will not face any civil liability for gravity-based penalties. That is because the same conditions for discovery, disclosure, and correction apply in both cases. This represents a clarification of the interim policy, not a substantive change.

4. No Routine Requests for Audits

EPA is reaffirming its policy, in effect since 1986, to refrain from routine requests for audits. Eighteen months of public testimony and debate have produced no evidence that the Agency has deviated, or should deviate, from this policy.

If the Agency has independent evidence of a violation, it may seek information needed to establish the extent and nature of the problem and the degree of culpability. In general, however, an audit which results in prompt correction clearly will reduce liability, not expand it. Furthermore, a review of the criminal docket did not reveal a single criminal prosecution for violations discovered as a result of an audit self-disclosed to the government.

E. Conditions

Section D describes the nine conditions that a regulated entity must meet in order for the Agency not to seek (or to reduce) gravity-based penalties under the policy. As explained in the Summary above, regulated entities that meet all nine conditions will not face gravity-based civil penalties, and will generally not have to fear criminal prosecution. Where the regulated entity meets all of the conditions except the first (D(1)), EPA will reduce gravity-based penalties by 75%.

1. Discovery of the Violation Through an Environmental Audit or Due Diligence

Under Section D(1), the violation must have been discovered through either (a) an environmental audit that is systematic, objective, and periodic as defined in the 1986 audit policy, or (b) a documented, systematic procedure or practice which reflects the regulated entity's due diligence in preventing, detecting, and correcting violations. The interim policy provided full credit for any violation found through ''voluntary self-evaluation,'' even if the evaluation did not constitute an audit. In order to receive full credit under the final policy, any self-evaluation that is not an audit must be part of a ''due diligence'' program. Both ''environmental audit'' and ''due diligence'' are defined in Section B of the policy.

Where the violation is discovered through a ''systematic procedure or practice'' which is not an audit, the regulated entity will be asked to document how its program reflects the criteria for due diligence as defined in Section B of the policy. These criteria, which are adapted from existing codes of practice such as the 1991 Criminal Sentencing Guidelines, were fully discussed during the ABA dialogue. The criteria are flexible enough to accommodate different types and sizes of businesses. The Agency recognizes that a variety of compliance management programs may develop under the due diligence criteria, and will use its review under this policy to determine whether basic criteria have been met.

Compliance management programs which train and motivate production staff to prevent, detect and correct violations on a daily basis are a valuable complement to periodic auditing. The policy is responsive to recommendations received during public comment and from the ABA dialogue to give compliance management efforts which meet the criteria for due diligence the same penalty reduction offered for environmental audits. (See, *e.g.*, II–F–39, II–E–18, and II–G–18 in the Docket.)

EPA may require as a condition of penalty mitigation that a description of the regulated entity's due diligence efforts be made publicly available. The Agency added this provision in response to suggestions from environmental groups, and believes that the availability of such information will allow the public to judge the adequacy of compliance management systems, lead to enhanced compliance, and foster greater public trust in the integrity of compliance management systems.

2. Voluntary Discovery and Prompt Disclosure

Under Section D(2) of the final policy, the violation must have been identified voluntarily, and not through a monitoring, sampling, or auditing procedure that is required by statute, regulation, permit, judicial or administrative order, or consent agreement. Section D(4) requires that disclosure of the violation be prompt and in writing. To avoid confusion and respond to state requests for greater clarity, disclosures under this policy should be made to EPA. The Agency will work closely with states in implementing the policy.

The requirement that discovery of the violation be voluntary is consistent with proposed federal and state bills which would reward those discoveries that the regulated entity can legitimately attribute to its own voluntary efforts.

The policy gives three specific examples of discovery that would not be voluntary, and therefore would not be eligible for penalty mitigation: emissions violations detected through a required continuous emissions monitor, violations of NPDES discharge limits found through prescribed monitoring, and violations discovered through a compliance audit required to be performed by the terms of a consent order or settlement agreement.

The final policy generally applies to any violation that is voluntarily discovered, regardless of whether the violation is required to be reported. This definition responds to comments pointing out that reporting requirements are extensive, and that excluding them from the policy's scope would severely limit the incentive for self-policing (see, *e.g.*, II–C–48 in the Docket).

The Agency wishes to emphasize that the integrity of federal environmental law depends upon timely and accurate reporting. The public relies on timely and accurate reports from the regulated community, not only to measure compliance but to evaluate health or environmental risk and gauge progress in reducing pollutant loadings. EPA expects the policy to encourage the kind of vigorous self-policing that will serve these objectives, and not to provide an excuse for delayed reporting. Where violations of reporting requirements are voluntarily discovered, they must be promptly reported (as discussed below). Where a failure to report results in imminent and substantial endangerment or serious harm, that violation is not covered under this policy (see Condition D(8)). The policy also requires the regulated entity to prevent recurrence of the violation, to ensure that noncompliance with reporting requirements is not repeated. EPA will closely scrutinize the effect of the policy in furthering the public interest in timely and accurate reports from the regulated community.

Under Section D(4), disclosure of the violation should be made within 10 days of its discovery, and in writing to EPA. Where a statute or regulation requires reporting be made in less than 10 days, disclosure should be made within the time limit established by law. Where reporting within ten days is not practical because the violation is complex and compliance cannot be determined within that period, the Agency may accept later disclosures if the circumstances do not present a serious threat and the regulated entity meets its burden of showing that the additional time was needed to determine compliance status.

This condition recognizes that it is critical for EPA to get timely reporting of violations in order that it might have clear notice of the violations and the opportunity to respond if necessary, as well as an accurate picture of a given facility's compliance record. Prompt disclosure is also evidence of the regulated entity's good faith in wanting to achieve or return to compliance as soon as possible.

In the final policy, the Agency has added the words, ''or may have occurred,'' to the sentence, ''The regulated entity fully discloses that a specific violation has occurred, or may have occurred * * *.'' This change, which was made in response to comments received, clarifies that where an entity has some doubt about the existence of a violation, the recommended course is for it to disclose and allow the regulatory authorities to make a definitive determination.

In general, the Freedom of Information Act will govern the Agency's release of disclosures made pursuant to this policy. EPA will, independently of FOIA, make publicly available any compliance agreements reached under the policy (see Section H of the policy), as well as descriptions of due diligence programs submitted under Section D.1 of the Policy. Any material claimed to be Confidential Business Information will be treated in accordance with EPA regulations at 40 C.F.R. Part 2.

3. Discovery and Disclosure Independent of Government or Third Party Plaintiff

Under Section D(3), in order to be ''voluntary'', the violation must be identified and disclosed by the regulated entity prior to: the commencement of a federal state or local agency inspection, investigation, or information request; notice of a citizen suit; legal complaint by a third party; the reporting of the violation to EPA by a ''whistleblower'' employee; and imminent discovery of the violation by a regulatory agency.

This condition means that regulated entities must have taken the initiative to find violations and promptly report them, rather than reacting to knowledge of a pending enforcement action or third-party complaint. This concept was reflected in the interim policy and in federal and state penalty immunity laws and did not prove controversial in the public comment process.

4. Correction and Remediation

Section D(5) ensures that, in order to receive the penalty mitigation benefits available under the policy, the regulated entity not only voluntarily discovers and promptly discloses a violation, but expeditiously corrects it, remedies any harm caused by that violation (including responding to any spill and carrying out any removal or remedial action required by law), and expeditiously certifies in writing to appropriate state, local and EPA authorities that violations have been corrected. It also enables EPA to ensure that the regulated entity will be publicly accountable for its commitments through binding written agreements, orders or consent decrees where necessary.

The final policy requires the violation to be corrected within 60 days, or that the regulated entity provide written notice where violations may take longer to correct. EPA recognizes that some violations can and should be corrected immediately, while others (*e.g.*, where capital expenditures are involved), may take longer than 60 days to correct. In all cases, the regulated entity will be expected to do its utmost to achieve or return to compliance as expeditiously as possible.

Where correction of the violation depends upon issuance of a permit which has been applied for but not issued by federal or state authorities, the Agency will, where appropriate, make reasonable efforts to secure timely review of the permit.

5. Prevent Recurrence

Under Section D(6), the regulated entity must agree to take steps to prevent a recurrence of the violation, including but not limited to improvements to its environmental auditing or due diligence efforts. The final policy makes clear that the preventive steps may include improvements to a regulated entity's environmental auditing or due diligence efforts to prevent recurrence of the violation.

In the interim policy, the Agency required that the entity implement appropriate measures to prevent a recurrence of the violation, a requirement that operates prospectively. However, a separate condition in the interim policy also required that the violation not indicate ''a failure to take appropriate steps to avoid repeat or recurring violations''—a requirement that operates retrospectively. In the interest of both clarity and fairness, the Agency has decided for purposes of this condition to keep the focus prospective and thus to require only that steps be taken to prevent recurrence of the violation after it has been disclosed.

6. No Repeat Violations

In response to requests from commenters (*see, e.g.*, II–F–39 and II–G–18 in the Docket), EPA has established ''bright lines'' to determine when previous violations will bar a regulated entity from obtaining relief under this policy. These will help protect the public and responsible companies by ensuring that penalties are not waived for repeat offenders. Under condition D(7), the same or closely-related violation must not have occurred previously within the past three years at the same facility, or be part of a pattern of violations on the regulated entity's part over the past five years. This provides companies with a continuing incentive to prevent violations, without being unfair to regulated entities responsible for managing hundreds of facilities. It would be unreasonable to provide unlimited amnesty for repeated violations of the same requirement.

The term ''violation'' includes any violation subject to a federal or state civil judicial or administrative order, consent agreement, conviction or plea agreement. Recognizing that minor violations are sometimes settled without a formal action in court, the term also covers any act or omission for which the regulated entity has received a penalty reduction in the past. Together, these conditions identify situations in which the regulated community has had clear notice of its noncompliance and an opportunity to correct.

7. Other Violations Excluded

Section D(8) makes clear that penalty reductions are not available under this policy for violations that resulted in serious actual harm or which may have presented an imminent and substantial endangerment to public health or the environment. Such events indicate a serious failure (or absence) of a self-policing program, which should be designed to prevent such risks, and it would seriously undermine deterrence to waive penalties for such violations. These exceptions are responsive to suggestions from public interest organizations, as well as other commenters. (See, *e.g.*, II–F–39 and II–G–18 in the Docket.)

The final policy also excludes penalty reductions for violations of the specific terms of any order, consent agreement, or plea agreement. (See, II–E–60 in the Docket.) Once a consent agreement has been negotiated, there is little incentive to comply if there are no sanctions for violating its specific requirements. The exclusion in this section applies to violations of the terms of any response, removal or remedial action covered by a written agreement.

8. Cooperation

Under Section D(9), the regulated entity must cooperate as required by EPA and provide information necessary to determine the applicability of the policy. This condition is largely unchanged from the interim policy. In the final policy, however, the Agency has added that ''cooperation'' includes assistance in determining the facts of any related violations suggested by the disclosure, as well as of the disclosed violation itself. This was added to allow the agency to obtain information about any violations indicated by the disclosure, even where the violation is not initially identified by the regulated entity.

F. Opposition to Privilege

The Agency remains firmly opposed to the establishment of a statutory evidentiary privilege for environmental audits for the following reasons:

1. Privilege, by definition, invites secrecy, instead of the openness needed to build public trust in industry's ability to self-police. American law reflects the high value that the public places on fair access to the facts. The Supreme Court, for example, has said of privileges that, ''[w]hatever their origins, these exceptions to the demand for every man's evidence are not lightly created nor expansively construed, for they are in derogation of the search for truth.'' *United States* v. *Nixon,* 418 U.S. 683 (1974). Federal courts have unanimously refused to recognize a privilege for environmental audits in the context of government investigations. See, *e.g., United States* v. *Dexter,* 132 F.R.D. 8, 9–10 (D.Conn. 1990) (application of a privilege ''would effectively impede [EPA's] ability to enforce the Clean Water Act, and would be contrary to stated public policy.'')

2. Eighteen months have failed to produce any evidence that a privilege is needed. Public testimony on the interim policy confirmed that EPA rarely uses audit reports as evidence. Furthermore, surveys demonstrate that environmental auditing has expanded rapidly over the past decade without the stimulus of a privilege. Most recently, the 1995 Price Waterhouse survey found that those few large or mid-sized companies that do not audit generally do not perceive any need to; concern about confidentiality ranked as one of the least important factors in their decisions.

3. A privilege would invite defendants to claim as ''audit'' material almost any evidence the government needed to establish a violation or determine who was responsible. For example, most audit privilege bills under consideration in federal and state legislatures would arguably protect factual information—such as health studies or contaminated sediment data—and not just the conclusions of the auditors. While the government might have access to required monitoring data under the law, as some industry commenters have suggested, a privilege of that nature would cloak underlying facts needed to determine whether such data were accurate.

4. An audit privilege would breed litigation, as both parties struggled to determine what material fell within its scope. The problem is compounded by the lack of any clear national standard for audits. The ''*in camera*'' (i.e., non-public) proceedings used to resolve these disputes under some statutory schemes would result in a series of time-consuming, expensive mini-trials.

5. The Agency's policy eliminates the need for any privilege as against the government, by reducing civil penalties and criminal liability for those companies that audit, disclose and correct violations. The 1995 Price Waterhouse survey indicated that companies would expand their auditing programs in exchange for the kind of incentives that EPA provides in its policy.

6. Finally, audit privileges are strongly opposed by the law enforcement community, including the National District Attorneys Association, as well as by public interest groups. (See, *e.g.,* Docket, II–C–21, II–C–28, II–C–52, IV–G–10, II–C–25, II–C–33, II–C–52, II–C–48, and II–G–13 through II–G–24.)

G. Effect on States

The final policy reflects EPA's desire to develop fair and effective incentives for self-policing that will have practical value to states that share responsibility for enforcing federal environmental laws. To that end, the Agency has consulted closely with state officials in developing this policy, through a series of special meetings and conference calls in addition to the extensive opportunity for public comment. As a result, EPA believes its final policy is grounded in common-sense principles that should prove useful in the development of state programs and policies.

As always, states are encouraged to experiment with different approaches that do not jeopardize the fundamental national interest in assuring that violations of federal law do not threaten the public health or the environment, or make it profitable not to comply. The Agency remains opposed to state legislation that does not include these basic protections, and reserves its right to bring independent action against regulated entities for violations of federal law that threaten human health or the environment, reflect criminal conduct or repeated noncompliance, or allow one company to make a substantial profit at the expense of its law-abiding competitors. Where a state has obtained appropriate sanctions needed to deter such misconduct, there is no need for EPA action.

H. Scope of Policy

EPA has developed this document as a policy to guide settlement actions. EPA employees will be expected to follow this policy, and the Agency will take steps to assure national consistency in application. For example, the Agency will make public any compliance agreements reached under this policy, in order to provide the regulated community with fair notice of decisions and greater accountability to affected communities. Many in the regulated community recommended that the Agency convert the policy into a regulation because they felt it might ensure greater consistency and predictability. While EPA is taking steps to ensure consistency and predictability and believes that it will be successful, the Agency will consider this issue and will provide notice if it determines that a rulemaking is appropriate.

II. Statement of Policy: Incentives for Self-Policing

Discovery, Disclosure, Correction and Prevention

A. Purpose

This policy is designed to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of federal environmental requirements.

B. Definitions

For purposes of this policy, the following definitions apply:

''Environmental Audit'' has the definition given to it in EPA's 1986 audit policy on environmental auditing, i.e., ''a systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements.''

''Due Diligence'' encompasses the regulated entity's systematic efforts, appropriate to the size and nature of its business, to prevent, detect and correct violations through all of the following:

(a) Compliance policies, standards and procedures that identify how employees and agents are to meet the requirements of laws, regulations, permits and other sources of authority for environmental requirements;

(b) Assignment of overall responsibility for overseeing compliance with policies, standards, and procedures, and assignment of specific responsibility for assuring compliance at each facility or operation;

(c) Mechanisms for systematically assuring that compliance policies, standards and procedures are being carried out, including monitoring and auditing systems reasonably designed to detect and correct violations, periodic evaluation of the overall performance of the compliance management system, and a means for employees or agents to report violations of environmental requirements without fear of retaliation;

(d) Efforts to communicate effectively the regulated entity's standards and procedures to all employees and other agents;

(e) Appropriate incentives to managers and employees to perform in accordance with the compliance policies, standards and procedures, including consistent enforcement through appropriate disciplinary mechanisms; and

(f) Procedures for the prompt and appropriate correction of any violations, and any necessary modifications to the regulated entity's program to prevent future violations.

''Environmental audit report'' means the analysis, conclusions, and recommendations resulting from an environmental audit, but does not include data obtained in, or testimonial evidence concerning, the environmental audit.

''Gravity-based penalties'' are that portion of a penalty over and above the economic benefit., i.e., the punitive portion of the penalty, rather than that portion representing a defendant's economic gain from non-compliance. (For further discussion of this concept, see ''A Framework for Statute-Specific Approaches to Penalty Assessments'', #GM–22, 1980, U.S. EPA General Enforcement Policy Compendium).

''Regulated entity'' means any entity, including a federal, state or municipal agency or facility, regulated under federal environmental laws.

C. Incentives for Self-Policing

1. No Gravity-Based Penalties

Where the regulated entity establishes that it satisfies all of the conditions of Section D of the policy, EPA will not seek gravity-based penalties for violations of federal environmental requirements.

2. Reduction of Gravity-Based Penalties by 75%

EPA will reduce gravity-based penalties for violations of federal environmental requirements by 75% so long as the regulated entity satisfies all of the conditions of Section D(2) through D(9) below.

3. No Criminal Recommendations

(a) EPA will not recommend to the Department of Justice or other prosecuting authority that criminal charges be brought against a regulated entity where EPA determines that all of the conditions in Section D are satisfied, so long as the violation does not demonstrate or involve:

(i) a prevalent management philosophy or practice that concealed or condoned environmental violations; or

(ii) high-level corporate officials' or managers' conscious involvement in, or willful blindness to, the violations.

(b) Whether or not EPA refers the regulated entity for criminal prosecution under this section, the Agency reserves the right to recommend prosecution for the criminal acts of individual managers or employees under existing policies guiding the exercise of enforcement discretion.

4. No Routine Request for Audits

EPA will not request or use an environmental audit report to initiate a civil or criminal investigation of the entity. For example, EPA will not request an environmental audit report in routine inspections. If the Agency has independent reason to believe that a violation has occurred, however, EPA may seek any information relevant to identifying violations or determining liability or extent of harm.

D. Conditions

1. Systematic Discovery

The violation was discovered through:

(a) an environmental audit; or

(b) an objective, documented, systematic procedure or practice reflecting the regulated entity's due diligence in preventing, detecting, and correcting violations. The regulated entity must provide accurate and complete documentation to the Agency as to how it exercises due diligence to prevent, detect and correct violations according to the criteria for due diligence outlined in Section B. EPA may require as a condition of penalty mitigation that a description of the regulated entity's due diligence efforts be made publicly available.

2. Voluntary Discovery

The violation was identified voluntarily, and not through a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement. For example, the policy does not apply to:

(a) emissions violations detected through a continuous emissions monitor (or alternative monitor established in a permit) where any such monitoring is required;

(b) violations of National Pollutant Discharge Elimination System (NPDES) discharge limits detected through required sampling or monitoring;

(c) violations discovered through a compliance audit required to be performed by the terms of a consent order or settlement agreement.

3. Prompt Disclosure

The regulated entity fully discloses a specific violation within 10 days (or such shorter period provided by law) after it has discovered that the violation has occurred, or may have occurred, in writing to EPA;

4. Discovery and Disclosure Independent of Government or Third Party Plaintiff

The violation must also be identified and disclosed by the regulated entity prior to:

(a) the commencement of a federal, state or local agency inspection or investigation, or the issuance by such agency of an information request to the regulated entity;

(b) notice of a citizen suit;

(c) the filing of a complaint by a third party;

(d) the reporting of the violation to EPA (or other government agency) by a ''whistleblower'' employee, rather than by one authorized to speak on behalf of the regulated entity; or

(e) imminent discovery of the violation by a regulatory agency;

5. Correction and Remediation

The regulated entity corrects the violation within 60 days, certifies in writing that violations have been corrected, and takes appropriate measures as determined by EPA to remedy any environmental or human harm due to the violation. If more than 60 days will be needed to correct the violation(s), the regulated entity must so notify EPA in writing before the 60-day period has passed. Where appropriate, EPA may require that to satisfy conditions 5 and 6, a regulated entity enter into a publicly available written agreement, administrative consent order or judicial consent decree, particularly where compliance or remedial measures are complex or a lengthy schedule for attaining and maintaining compliance or remediating harm is required;

6. Prevent Recurrence

The regulated entity agrees in writing to take steps to prevent a recurrence of the violation, which may include improvements to its environmental auditing or due diligence efforts;

7. No Repeat Violations

The specific violation (or closely related violation) has not occurred previously within the past three years at the same facility, or is not part of a pattern of federal, state or local violations by the facility's parent organization (if any), which have occurred within the past five years. For the purposes of this section, a violation is:

(a) any violation of federal, state or local environmental law identified in a judicial or administrative order, consent agreement or order, complaint, or notice of violation, conviction or plea agreement; or

(b) any act or omission for which the regulated entity has previously received penalty mitigation from EPA or a state or local agency.

8. Other Violations Excluded

The violation is not one which (i) resulted in serious actual harm, or may have presented an imminent and substantial endangerment to, human health or the environment, or (ii) violates the specific terms of any judicial or administrative order, or consent agreement.

9. Cooperation

The regulated entity cooperates as requested by EPA and provides such information as is necessary and requested by EPA to determine applicability of this policy. Cooperation includes, at a minimum, providing all requested documents and access to employees and assistance in investigating the violation, any noncompliance problems related to the disclosure, and any environmental consequences related to the violations.

E. Economic Benefit

EPA will retain its full discretion to recover any economic benefit gained as a result of noncompliance to preserve a ''level playing field'' in which violators do not gain a competitive advantage over regulated entities that do comply. EPA may forgive the entire penalty for violations which meet conditions 1 through 9 in section D and, in the Agency's opinion, do not merit any penalty due to the insignificant amount of any economic benefit.

F. Effect on State Law, Regulation or Policy

EPA will work closely with states to encourage their adoption of policies that reflect the incentives and conditions outlined in this policy. EPA remains firmly opposed to statutory environmental audit privileges that shield evidence of environmental violations and undermine the public's right to know, as well as to blanket immunities for violations that reflect criminal conduct, present serious threats or actual harm to health and the environment, allow noncomplying companies to gain an economic advantage over their competitors, or reflect a repeated failure to comply with federal law. EPA will work with states to address any provisions of state audit privilege or immunity laws that are inconsistent with this policy, and which may prevent a timely and appropriate response to significant environmental violations. The Agency reserves its right to take necessary actions to protect public health or the environment by enforcing against any violations of federal law.

G. Applicability

(1) This policy applies to the assessment of penalties for any violations under all of the federal environmental statutes that EPA administers, and supersedes any inconsistent provisions in media-specific penalty or enforcement policies and EPA's 1986 Environmental Auditing Policy Statement.

(2) To the extent that existing EPA enforcement policies are not inconsistent, they will continue to apply in conjunction with this policy. However, a regulated entity that has received penalty mitigation for satisfying specific conditions under this policy may not receive additional penalty mitigation for satisfying the same or similar conditions under other policies for the same violation(s), nor will this policy apply to violations which have received penalty mitigation under other policies.

(3) This policy sets forth factors for consideration that will guide the Agency in the exercise of its prosecutorial discretion. It states the Agency's views as to the proper allocation of its enforcement resources. The policy is not final agency action, and is intended as guidance. It does not create any rights, duties, obligations, or defenses, implied or otherwise, in any third parties.

(4) This policy should be used whenever applicable in settlement negotiations for both administrative and civil judicial enforcement actions. It is not intended for use in pleading, at hearing or at trial. The policy may be applied at EPA's discretion to the settlement of administrative and judicial enforcement actions instituted prior to, but not yet resolved, as of the effective date of this policy.

H. Public Accountability

(1) Within 3 years of the effective date of this policy, EPA will complete a study of the effectiveness of the policy in encouraging:

(a) changes in compliance behavior within the regulated community, including improved compliance rates;

(b) prompt disclosure and correction of violations, including timely and accurate compliance with reporting requirements;

(c) corporate compliance programs that are successful in preventing violations, improving environmental performance, and promoting public disclosure;

(d) consistency among state programs that provide incentives for voluntary compliance.

EPA will make the study available to the public.

(2) EPA will make publicly available the terms and conditions of any compliance agreement reached under this policy, including the nature of the violation, the remedy, and the schedule for returning to compliance.

I. Effective Date

This policy is effective January 22, 1996.

Dated: December 18, 1995.

Steven A. Herman,

Assistant Administrator for Enforcement and Compliance Assurance.

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Privacy Act Compilation	**523–3187**
TDD for the hearing impaired	**523–5229**

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FEDERAL REGISTER PAGES AND DATES, DECEMBER

61645–62016 ... 1
62017–62188 ... 4
62189–62318 ... 5
62319–62700 ... 6
62701–62980 ... 7
62981–63392 ... 8
63393–63608 ... 11
63609–63896 ... 12
63897–64114 ... 13
64115–64296 ... 14
64297–65016 ... 15
65017–65234 ... 18
65235–65504 ... 19
65505–66060 ... 20
66061–66478 ... 21
66079–66712 ... 22

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

6641 (Modified by Proclamation 6857) ... 64817
6763 (Modified by Proclamation 6857) ... 64817
6853 ... 62185
6854 ... 62187
6855 ... 62979
6856 ... 63389
6857 ... 64817
6858 ... 65015
6859 ... 65233

Executive Orders:

11533 (see EO 12981) ... 62981
12002 (continued by EO 12981) ... 62981
12924 (see EO 12981) ... 62981
12981 ... 62981
12982 ... 63895

Administrative Orders:

Memorandum of December 6, 1995 ... 63391
Presidential Determination 96–6 of December 6, 1995 ... 65505

5 CFR

Ch. XVI ... 62319
890 ... 62987
1653 ... 66061
1900 ... 62702, 63576

Proposed Rules:

317 ... 63454
412 ... 63454
532 ... 62701, 65245
Ch. LVIII ... 65249

7 CFR

Ch. VII ... 64297
Ch. XIV ... 64297
Ch. XXXII ... 63393
1–1b ... 66479
17 ... 62702, 63576
29 ... 62172, 62974, 63762
31 ... 62172
32 ... 62172
51 ... 62172
52 ... 62172, 62708, 62709
53 ... 62172
54 ... 62172
56 ... 62172
58 ... 62172
60 ... 62974
70 ... 62172
81 ... 62974
99 ... 62974
100 ... 62974
101 ... 62974
160 ... 62172
202 ... 62974
300 ... 64115
301 ... 64115
318–322 ... 64115
319 ... 62319
330 ... 64115
340 ... 64115
352 ... 64115
354–356 ... 64115
360 ... 64115
380 ... 64115
401 ... 62189, 62321, 62710
443 ... 62710
457 ... 62710
510 ... 66061
800 ... 65235
906 ... 65017
984 ... 65018
955 ... 63609
959 ... 63610
1002 ... 62017, 62018
1004 ... 63612
1099 ... 63612
1212 ... 65019
1260 ... 62019
1280 ... 64297
1755 ... 64311
3200 ... 63368
3305 ... 62974
3411 ... 63368
4100 ... 66062

Proposed Rules:

226 ... 62227
250 ... 62999
457 ... 63457
985 ... 62229
1005 ... 65023
1011 ... 65023
1046 ... 65023
1280 ... 62298
1487 ... 63983
1491 ... 63983
1492 ... 63983
1495 ... 63983
3405 ... 65444
3406 ... 66014

8 CFR

103 ... 66062
214 ... 62021
242 ... 66062
264 ... 66062
274a ... 66062
299 ... 66062

9 CFR

1–3 ... 64115
49–54 ... 64115
70–75 ... 64115
77 ... 62988

77–80..........64115
82..........64115
85..........64115
91–114..........64115
116–118..........64115
124..........64115
130..........64115
145..........64115
147..........64115
151..........64115
156..........64115
160–162..........64115
166–167..........64115
310..........66482
318..........66483

10 CFR

9..........63897
50..........65456
440..........64314
475..........62316
476..........62316
478..........62316
600..........65509
Proposed Rules:
20..........63984
50..........65032
475..........62318
476..........62318
478..........62318

11 CFR

100..........64260
102..........64260
109..........64260
110..........64260, 65515
114..........64260

12 CFR

Ch. III..........66843
Ch. XVI..........66843
3..........64115, 66042
25..........66048
203..........63393
208..........66042
225..........66042
228..........66048
325..........66042
327..........63400, 63406
345..........66048
563e..........66048
701..........63613
934..........65515
Proposed Rules:
Ch. III..........62345
1..........66152
7..........66152
9..........66163
12..........66517
19..........66163
31..........63461
213..........62349
219..........65599
221..........63660
226..........62764, 66179
230..........62349
250..........62050

13 CFR

140..........62190
Proposed Rules:
108..........64356
116..........64356
120..........64356
121..........63987
122..........64356
131..........64356

14 CFR

23..........62730
25..........63901, 64315
39..........61645, 61647, 61649, 62192, 62321, 63411, 63412, 63414, 63613, 63615, 63617, 63762, 64315, 64316, 64317, 65516, 65519, 65521, 65523, 65526, 66484, 66485, 66487, 66488,
71..........61652, 61653, 62194, 62323, 63415, 65020, 65601, 65602, 65603, 65604, 65605, 66069, 66490,
91..........65832
97..........63416, 63904, 63905, 63906
119..........65832
121..........65832, 65940
125..........65832
127..........65832
135..........65832, 65940
Proposed Rules:
Ch. I..........66181
1..........64129, 65254
39..........62051, 62772, 62774, 62776, 62799, 63465, 63468, 63470, 63663, 63665, 63988, 63990, 63992, 64129, 65032, 65035, 65036, 65038, 65254, 65256, 65258, 66527
61..........64129
71..........61666, 61667, 61668, 61669, 62053, 62351, 62782, 63007, 63993, 65041, 65042, 65043, 65044, 65045, 65601, 65602, 65603, 65604, 65605, 66181, 66529
121..........65951, 65977
135..........65951, 65977
141..........64129
143..........64129

15 CFR

771..........65526
779..........65526
799..........65526
2301..........66491
Proposed Rules:
960..........62054
2013..........64131

16 CFR

400..........65528
402..........65529
404..........65530
413..........65532
417..........66071
418..........65533
455..........62195
1145..........62023
1512..........62989
Proposed Rules:
303..........62352
1203..........62662

17 CFR

3..........63907
30..........65236
200..........62295
211..........66072
240..........62323
Proposed Rules:
Ch. II..........65046
1..........63995
3..........64132
30..........63472
240..........65607
400..........65214
420..........65214

18 CFR

Ch. I..........63476
375..........62326
Proposed Rules:
37..........66182

19 CFR

19..........62732
24..........62732
146..........62732
151..........62732

20 CFR

366..........66072
367..........66072
404..........62329
Proposed Rules:
261..........66203
404..........62354, 62783, 65093
416..........62356

21 CFR

5..........63606
20..........63372
123..........65096
165..........66495
176..........62207
177..........61654
182..........62208
184..........63619
186..........62208
510..........63621
520..........63621
522..........63621
558..........63622, 66495, 66496
803..........63578
807..........63578
1240..........65096
Proposed Rules:
50..........66530
101..........66206
312..........66530
801..........61670, 65260
803..........61670, 65260
804..........61670, 65260
888..........66227
897..........61670, 65260
94..........66073
Proposed Rules:
89..........65609

23 CFR

1208..........66074
Proposed Rules:
667..........62359

24 CFR

81..........61846
203..........66476
206..........66476
Proposed Rules:
3500..........63008

26 CFR

1..........62024, 62026, 62209, 63913, 64320, 65534, 65547, 65550, 65553, 66076, 66077, 66082, 66083, 66085, 66091, 66105, 66134, 66496, 66502, 66532
20..........63913
25..........63913, 66085
31..........65237, 66105, 66139,
35a..........66105,
53..........62209, 65568
301..........62209, 65553, 66085, 66091, 66105, 66139
602..........64320, 65553, 66082, 66083, 66085, 66091, 66105, 66134
Proposed Rules:
1..........62229, 63009, 63478, 64401, 66227, 66228, 66229, 66233, 66238, 66532
31..........66243
301..........64402

27 CFR

Proposed Rules:
9..........66535

28 CFR

60..........62733
540..........65204

29 CFR

215..........62964
2606..........61740
2616..........61740
2617..........61740
2619..........64325, 64327
2621..........64324
2627..........64324
2628..........66054
2629..........61740
2676..........64327
Proposed Rules:
Ch. XIV..........65261
102..........61679
1602..........63010
1910..........62360
1915..........62360
1926..........62360
2510..........66036

30 CFR

906..........64115
917..........62734
943..........63922
Proposed Rules:
18..........65609
75..........65609
202..........64000
206..........64000, 65610
211..........64000
250..........63011
251..........63011
256..........63011
756..........62786
906..........62789
913..........62229
914..........65611
936..........66244
950..........65048
390..........65568

32 CFR

706..........65569

33 CFR

162..........63623
165..........62330, 65570
Proposed Rules:
52..........63489

117....65613
151....64001

34 CFR

75....63872
668....61760, 61776, 61796, 61830
674....61796
675....61796
676....61796
682....61750, 61796, 65021
685....61790, 61796, 61820
690....61796

Proposed Rules:

361....64476
646....64108

36 CFR

1415....64122

Proposed Rules:

1....62233
13....62233
1190....66538
1191....66538

37 CFR

10....64125
253....61654
255....61655
259....61657

Proposed Rules:

202....62057

38 CFR

1....63926

39 CFR

20....61660, 65238
111....66142

Proposed Rules:

111....66582
3001....65051

40 CFR

9....62930, 63417
52....62737, 62741, 62748, 62990, 63417, 63434, 63938, 63940, 64126, 65240, 65262, 66149,
60....64329, 65382, 65387
61....65243
63....62930, 62991, 63624, 64330
70....62032, 62753, 62758, 62992, 63631
80....65571
81....62741, 62748
124....63417
140....63941
156....64282
180....62330, 63437, 63945, 63947, 63949, 63950, 63953, 63954, 63956, 63958, 63960, 65575, 65577, 65579
185....62330
270....63417
721....65581
763....62332

Proposed Rules:

52....62792, 62793, 63019, 63491, 64001, 64135, 65262, 66246
60....65437
61....61681
63....64002
70....62793, 62794, 64404
81....62236, 62792, 62793
122....62546
123....62546
131....65614
136....65207
141....65207
180....62361, 62364, 62366, 64006
186....62366
260....66344
261....62794, 66344
266....66344
268....66344
300....65616
372....64407
403....62546
501....62546
721....64009

41 CFR

301–11....62332

42 CFR

400....63124
405....63124
410....63124
411....63124, 63438
412....63124
413....63124
414....63124
415....63124
417....63124
424....63440
489....63124
1004....63634

Proposed Rules:

413....62237

43 CFR

Public Land Orders:

7176....65582
7177....66150
7178....66151
10....62134

Proposed Rules:

2810....66246

44 CFR

64....65582
65....62213, 62333, 62335
67....62337

Proposed Rules:

67....62369

45 CFR

1180....63963

46 CFR

10....65478
12....65478

Proposed Rules:

26....65988
31....65988
32....65988
34....65988
35....65988
38....65988
54....65988
56....65988
61....65988
72....65988
76....65988
77....65988
78....65988
92....65988
95....65988
96....65988
97....65988
108....65988
109....65988
153....65988
160....65988
162....65988
164....65988
167....65988
168....65988
169....65988
190....65988
193....65988
196....65988

47 CFR

0....61662
1....64348
36....65011
73....62218, 62219, 62220, 63645, 64348, 64349, 65021, 65244, 65586
80....62927
90....61662
100....65587

Proposed Rules:

36....65010
64....63491, 63667
68....63667
73....62060, 62061, 62373, 63669, 65052, 65618
76....63492, 65052

48 CFR

31....64254, 64255
970....63645, 66510

Proposed Rules:

6....63876
8....65054
9....62806
10....65054
15....63023, 65054
26....63876
31....65054
32....65054
42....65054
44....66472
45....65054
52....65054, 66472
53....65054
215....64135
219....64135, 66246
236....64135, 66246
242....64135, 64138
252....64135, 66246
253....64135
1535....64408
1552....64408

49 CFR

1....63444, 62762, 63648
192....63450
219....61664
553....62221, 63648
571....63651, 63965
660....65597
1043....63981
1160....63981

Proposed Rules:

106....65210
171....65492
172....65492
173....65492
174....65492
179....65492
571....62061, 64010, 65262, 66247

50 CFR

25....62035
32....62035
285....65597
611....62339
625....64349
638....62762
641....64350
649....62224
650....62224
651....62224
652....62226
672....63654
675....62339, 63451, 63654, 64128, 66516
676....62339
677....62339

Proposed Rules:

611....62373, 65093, 65618
642....62241, 66247
649....64014
650....64014
651....64014
655....65618, 66249
659....66247
675....62373, 65093
676....62373, 65093
677....62373, 65093

REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Milk marketing orders:
  Paducah, KY; published 12-12-95

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
  Potassium hydroxide as hog scald agent, etc.; published 12-22-95

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
  Summer flounder; published 11-24-95

COMMERCE DEPARTMENT

National Telecommunications and Information Administration

Public telecommunications facilities program et al.;

policy statement; published 12-22-95

ENVIRONMENTAL PROTECTION AGENCY

Clean Air Act:
State operating permits programs-
Georgia; published 11-22-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
Sponsor name and address changes--
A.L. Pharma, Inc.; published 12-22-95
Zoalene; published 12-22-95

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
Side impact protection--
Technical amendment; published 11-22-95¶

Comments Due Next Week

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in Michigan et al.; comments due by 12-29-95; published 11-29-95
Oranges, grapefruit, tangerines, and tangelos grown in Florida; comments due by 12-28-95; published 11-28-95
Potatoes (Irish) grown in--
Idaho and Oregon; comments due by 12-26-95; published 11-24-95
Prunes (dried) produced in California; comments due by 12-26-95; published 11-24-95
Tomatoes grown in Florida; comments due by 12-26-95; published 11-24-95

AGRICULTURE DEPARTMENT

Food and Consumer Service

Child nutrition programs:
National school lunch program--
Cheese alternate products specifications removal; comments due by 12-27-95; published 11-27-95

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 12-28-95; published 11-29-95
Gulf of Alaska groundfish; comments due by 12-29-95; published 11-30-95

DEFENSE DEPARTMENT

Acquisition regulations:
Defense Federal Acquisition Regulation supplement; contractor purchasing system reviews; comments due by 12-26-95; published 10-27-95
Federal Acquisition Regulation (FAR):
Contingent fees; comments due by 12-26-95; published 10-26-95

ENVIRONMENTAL PROTECTION AGENCY

Clean Air Act:
State operating permits program--
Kentucky; comments due by 12-26-95; published 11-24-95
Water pollution control:
Sewage sludge; use or disposal standards; comments due by 12-26-95; published 10-25-95

FARM CREDIT ADMINISTRATION

Farm credit system:
Funding and fiscal affairs, loan policies and operations, and funding operations--
Global debt; comments due by 12-26-95; published 11-24-95
Loan policies and operations--
Loan information disclosure; comments due by 12-26-95; published 11-24-95

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Calling party telephone number--
Privacy requirements; comments due by 12-27-95; published 12-11-95
Radio stations; table of assignments:
Georgia; comments due by 12-26-95; published 11-8-95
New Mexico; comments due by 12-26-95; published 11-9-95
Oklahoma; comments due by 12-26-95; published 11-9-95

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:
Membership approval; statutory eligibility requirements; comments due by 12-26-95; published 10-27-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Head Start Program:
Eligibility, recruitment, selection, enrollment, and attendance requirements; comments due by 12-26-95; published 10-25-95

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:
Polymers--
Ethylene-1,4-cyclohexylene dimethylene terephthalate copolymers, etc.; comments due by 12-26-95; published 11-24-95
Human drugs:
Antibiotic drugs--
Cefpodoxime proxetil, etc. for oral suspension; comments due by 12-27-95; published 11-27-95

INTERIOR DEPARTMENT

National Park Service

Special regulations:
Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway, WY; snowmobile and snowplane routes and regulations; comments due by 12-26-95; published 10-25-95

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Maryland; comments due by 12-27-95; published 11-27-95
Virginia; comments due by 12-27-95; published 11-27-95

JUSTICE DEPARTMENT

Motor Vehicle Theft Prevention Act program regulations; comments due by 12-26-95; published 10-24-95

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:
Discipline and good conduct time; comments due by 12-26-95; published 10-26-95

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards, etc.:
Methylene chloride; occupational exposure; comments due by 12-29-95; published 12-6-95

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:
Contract management--
FAR supplement coverage on government property; revision; comments due by 12-26-95; published 10-25-95
Federal Acquisition Regulation (FAR):
Legal proceedings costs; comments due by 12-26-95; published 10-26-95

NATIONAL LABOR RELATIONS BOARD

Administrative law judges; role modifications; comments due by 12-29-95; published 12-1-95

PERSONNEL MANAGEMENT OFFICE

Retirement:
Federal Employees Retirement System--
Alternatve forms of annuity; termination; comments due by 12-26-95; published 10-25-95

POSTAL RATE COMMISSION

Practice and procedure rules:
Rate and classification changes; expedition, flexibility, and innovation; comments due by 12-26-95; published 10-27-95

SMALL BUSINESS ADMINISTRATION

Conflict of interests; comments due by 12-27-95; published 11-27-95
Federal regulatory review:
Government contracting assistance; comments due by 12-27-95; published 11-27-95
Procedure rules governing cases before Office of Hearings and Appeals; comments due by 12-27-95; published 11-27-95
Program Fraud Civil Remedies Act regulations; comments due by 12-27-95; published 11-27-95

Small business investment companies; comments due by 12-28-95; published 11-28-95

Freedom of Information and Privacy Acts; Federal regulatory review; comments due by 12-26-95; published 11-24-95

Reporting and recordkeeping requirements, etc.; Federal regulatory review; comments due by 12-26-95; published 11-24-95

Small business size standards:

Federal regulatory review; comments due by 12-26-95; published 11-24-95

Nonmanufacturer rule; waivers--

Minicomputers; comments due by 12-29-95; published 12-13-95

Standards for conducting business with SBA; Federal regulatory review; comments due by 12-26-95; published 11-24-95

Surety bond guarantee program; Federal regulatory review; comments due by 12-27-95; published 11-27-95

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

New York; comments due by 12-26-95; published 10-26-95

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Canadair; comments due by 12-26-95; published 10-24-95

McDonnell Douglas; comments due by 12-26-95; published 10-24-95

SAAB; comments due by 12-26-95; published 10-24-95

Airworthiness standards:

Special conditions--

AiRadio Corp.; Beech model 58 airplanes; comments due by 12-26-95; published 11-24-95

Bombardier Inc.; high-intensity radiated fields; comments due by 12-26-95; published 11-8-95

Class E airspace; comments due by 12-29-95; published 11-16-95

Special use airspace; definitions; comments due by 12-27-95; published 11-27-95

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Fuel system integrity--

Compressed natural gas vehicles and fuel containers; comments due by 12-26-95; published 11-24-95

Head restraints; alternative testing procedure removed; comments due by 12-26-95; published 10-24-95

Lamps, reflective devices, and associated equipment--

Signal lamps geometric visibility requirements, and rear side marker color; comments due by 12-26-95; published 10-26-95

Occupant crash protection--

Air bag designs, etc.; comments due by 12-26-95; published 11-9-95

VETERANS AFFAIRS DEPARTMENT

Disabilities rating schedule:

Mental disorders; comments due by 12-26-95; published 10-26-95

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 21, 1995