National Environmental Policy Act

This rule does not require an environmental impact statement because Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the West Virginia submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the West Virginia submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 18, 2008.

Brent Wahlquist,

Director.

■ For the reasons set out in the preamble, 30 CFR part 948 is amended as set forth below:

PART 948—WEST VIRGINIA

■ 1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 3. Section 948.15 is amended by adding a new entry in the table in chronological order by ''Date of final publication'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * * *
March 22, 2007	December 24, 2008	CSR 38–2–2.39 (deletion of cumulative impact definition). CSR 38–2–3.22.e (approval of material damage to the hydrologic balance definition).

[FR Doc. E8–30720 Filed 12–23–08; 8:45 am]
BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Parts 1–11

Bylaws of the Board of Governors

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Board of Governors of the United States Postal Service has adopted a considerable number of amendments to its Bylaws, set forth in subchapter A, parts 1 through 11, of title 39 of the Code of Federal Regulations. These amendments implement changes in the authority, responsibilities, and procedures of the Board made necessary by the Postal Accountability and Enhancement Act of 2006 (PAEA), Public Law 109–435. The Postal Service hereby publishes this final rule revising subchapter A to reflect the changes in the Board's Bylaws.

DATES: *Effective Date:* December 24, 2008.

FOR FURTHER INFORMATION CONTACT: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000; (202) 268–4800, or Christopher T. Klepac, (202) 268–3006.

SUPPLEMENTARY INFORMATION: This document revises subchapter A, incorporating parts 1 through 11 of 39 CFR, to reflect numerous changes to the Bylaws of the Postal Service's Board of Governors necessitated by the enactment of the Postal Accountability and Enhancement Act of 2006 (PAEA), Public Law 109–435. A large number of these changes are editorial or technical in nature, and do not alter the authority, responsibilities, or procedures of the Board. Others reflect substantive changes in these matters, particularly with reference to the establishment of postal rates and fees under the new legislation. For the convenience of the user, subchapter A has been republished in its entirety, as revised by the Board of Governors. The following section-by-section analysis identifies the new or modified provisions of revised subchapter A.

Section-by-Section Analysis

Part 1—Postal Policy (Article I)

The authority citation for part 1 has been updated to reflect changes under Public Law 109–435.

Section 1.1 Establishment of the U.S. Postal Service

Language has been added to this section to reflect the enactment of

Public Law 109–435. Minor editorial changes have been made for enhanced clarity and other purposes.

Section 1.2 Delegation of Authority

This section is unchanged.

Part 2—General and Technical Provisions (Article II)

The authority citation for part 2 has been updated to reflect changes under Public Law 109–435.

Section 2.1 Office of the Board of Governors

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 2.2 Agent for Receipt of Process

This section is unchanged.

Section 2.3 Offices

This section is unchanged.

Section 2.4 Seal

Subsection (b) of this section has been modified to correct a reference to 39 CFR.

Section 2.5 Authority

This section is unchanged.

Section 2.6 Severability, Amendment, Repeal, and Waiver of Bylaws

This section is unchanged.

Part 3—Board of Governors (Article III)

The table of contents for part 3 has been revised by changing the title of section 3.1, and adding new sections 3.9 and 3.10. The authority citation for part 3 has been updated to reflect changes under Public Law 109–435.

Section 3.1 Composition and Responsibilities of Board

This section has been given a new title.

Section 3.2 Compensation of Board

The statutory citation in this section has been updated.

Section 3.3 Matters Reserved for Decision by the Board

This section has been revised and reorganized to reflect the functions of the Board of Governors, as modified by Public Law 109–435. Language has been added concerning the authority of the Board with regard to the establishment of service standards under 39 U.S.C. 3691, as well as borrowing or the issuance of obligations under 39 U.S.C. 2011. Duplicative or obsolete language has been removed with regard to separate approval of Postal Service Five-Year Capital Investment Plans, requests under former law for recommended decisions in changes in postal rates or the mail classification schedule, and the effective dates of final decisions on such changes. In addition, this section contains numerous minor editorial changes for enhanced clarity and other purposes.

Section 3.4 Matters Reserved for Decision by the Governors

This section has been revised and reorganized to reflect the functions reserved to the Governors, as modified by Public Law 109–435. Language has been added concerning the authority of the Governors with regard to establishing rates and classes of competitive products under 39 U.S.C. 3632, adjusting rates and fees for market-dominant products under 39 U.S.C. 3622, requesting the Postal Regulatory Commission (PRC) to change the lists of market-dominant and competitive products under 39 U.S.C. 3642, requesting the PRC for an expedited adjustment of rates due to extraordinary circumstances under 39 U.S.C. 3622, taking actions with regard to the Inspector General of the Postal Service under 39 U.S.C. 202(e) or 5 U.S.C. App. 8G(f)(3)(A), and establishing the price for the breast cancer research special postal stamp under 39 U.S.C. 414 and any semipostal stamp under 39 U.S.C. 416. Obsolete language has been removed with regard to actions under former law concerning approval or adjustment of the Postal Rate Commission's budget, actions under former law on the recommended decisions of the Postal Rate Commission, and concurrence with the Postmaster General in the removal or transfer of the Chief Postal Inspector. In addition, this section contains numerous minor editorial changes for enhanced clarity and other purposes.

Section 3.5 Delegation of Authority by the Board

This section is unchanged.

Section 3.6 Information Furnished to Board—Financial And Operating Reports

This section contains minor changes in format for enhanced clarity and other purposes.

Section 3.7 Information Furnished to Board—Program Review

This section has been revised to remove obsolete language concerning separate approval of Postal Service Five-Year Capital Investment Plans. In addition, this section contains numerous minor editorial changes for enhanced clarity and other purposes.

Section 3.8 Information Furnished to Board—Special Reports

Language has been added to subsection (b) to enhance reporting to the Board on major litigation or regulatory activities significantly impacting the Postal Service or involving a new, novel, or potentially controversial issue. New subsection (f) has been added to require reporting on major or significant financial, operational and compliance reports or studies the Postal Service is required by statute or law to prepare.

Section 3.9 Establishment of Rates and Classes of Competitive Products of General Applicability

This new section relates to the authority of the Governors under 39 U.S.C. 3632 concerning changes in rates or classes of competitive products of general applicability.

Section 3.10 Establishment of Rates and Classes of Competitive Products Not of General Applicability

This new section relates to the authority of the Governors under 39 U.S.C. 3632 concerning changes in rates or classes of competitive products not of general applicability.

Part 4—Officials (Article IV)

Part 4 has been given a new title, and the authority citation for part 4 has been updated to reflect changes under Public Law 109–435.

Section 4.1 Chairman

Language has been added to subsection (a)(2) to allow the Chairman of the Board to designate a vice chairman of any committee established by the Board. Subsection (c) has been added to provide that upon the election of a new Chairman of the Board, the immediate past Chairman shall become Chairman Pro Tempore of the Board, with certain specified duties.

Section 4.2 Vice Chairman

This section is unchanged.

Section 4.3 Postmaster General

This section has been modified to reflect the enactment of 39 U.S.C. 3686, and contains minor editorial changes for enhanced clarity and other purposes.

Section 4.4 Deputy Postmaster General

This section has been modified to reflect the enactment of 39 U.S.C. 3686, and contains minor editorial changes for enhanced clarity and other purposes.

Section 4.5 Assistant Postmasters General, General Counsel, Judicial Officer, Chief Postal Inspector

This section is unchanged.

Section 4.6 Secretary of the Board

This section is unchanged.

Part 5—Committees (Article V)

The authority citation for part 5 has been updated to reflect changes under Public Law 109–435.

Section 5.1 Establishment and Appointment

Language has been added to allow the Chairman of the Board to designate a vice chairman of any committee established by the Board.

Section 5.2 Committee Procedure

This section is unchanged.

Part 6—Meetings (Article VI)

The authority citation for part 6 has been updated to reflect changes under Public Law 109–435.

Section 6.1 Regular Meetings, Annual Meeting

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 6.2 Special Meetings

This section has been modified to require the ''earliest practicable notice'' of a special meeting called by the Chairman of the Board. This section also contains minor editorial changes for enhanced clarity and other purposes.

Section 6.3 Notice of Meetings

This section has been modified to establish procedures for providing e-mail notice of meetings. This section also contains minor editorial changes for enhanced clarity and other purposes.

Section 6.4 Attendance by Conference Telephone Call

This section has been modified to clarify the Board's policy concerning attendance at regularly scheduled meetings by conference telephone call.

Section 6.5 Minutes of Meetings

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 6.6 Quorum and Voting

This section has been revised to reflect quorum and voting requirements established under Public Law 109–435. As revised, subsection (f) addresses the votes required to establish rates or classes of competitive products, and subsection (g) applies to votes to remove the Inspector General for cause. Obsolete language has been removed with regard to actions under former law concerning adjustment of the total budget of the Postal Rate Commission, as well as actions under former law to approve, allow under protest, reject, or modify a recommended decision of the Postal Rate Commission. This section also contains minor editorial changes for enhanced clarity and other purposes.

Part 7—Public Observation (Article VII)

The authority citation for part 7 has been updated to reflect changes under Public Law 109–435.

Section 7.1 Definitions

This section is unchanged.

Section 7.2 Open Meetings

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 7.3 Exceptions

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 7.4 Procedure for Closing a Meeting

This section in unchanged.

Section 7.5 Public Notice of Meetings, Subsequent Changes

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 7.6 Certification and Transcripts of Closed Meetings

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 7.7 Enforcement

This section is unchanged.

Section 7.8 Open meetings, Freedom of Information, and Privacy of Information

This section contains minor editorial changes for enhanced clarity and other purposes.

Part 8 [Reserved]

Part 8 remains reserved.

Part 9 [Reserved]

Part 9, which formerly dealt with the policy under previous law concerning communications with the Governors of the Postal Service while rate and classification proceedings were pending, has been removed and reserved.

Part 10—Rules of Conduct for Postal Service Governors (Article X)

The title of part 10 has been modified, and the authority citation for part 10 has been updated to reflect changes under Public Law 109–435.

Section 10.1 Applicability

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 10.2 Advisory Service

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 10.3 Post-Employment Activities

This section contains minor editorial changes for enhanced clarity and other purposes.

Section 10.4 Financial Disclosure Reports

This section is unchanged.

Part 11—Advisory Boards (Article XI)

The authority citation for part 11 has been updated to reflect changes under Public Law 109–435.

Section 11.1 Establishment

This section is unchanged.

List of Subjects in 39 CFR Parts 1–11

Administrative practice and procedure, Organization and functions (Government agencies), Postal Service.

■ Subchapter A of 39 CFR is revised as follows:

Subchapter A—The Board of Governors of the U.S. Postal Service Bylaws of the Board of Governors

PART 1—POSTAL POLICY (ARTICLE I)

Sec.

1.1 Establishment of the U.S. Postal Service.
1.2 Delegation of authority.

Authority: 39 U.S.C. 101, 202, 205, 401(2), 402, 403.

§ 1.1 Establishment of the U.S. Postal Service.

The U.S. Postal Service is established under the provisions of the Postal Reorganization Act (the Reorganization Act) of 1970, Public Law 91–375, 84 Stat. 719, as amended by the Postal Accountability and Enhancement Act of 2006 (PAEA), Public Law 109–435, 120 Stat. 3198, as an independent establishment of the executive branch of the Government of the United States, under the direction of a Board of Governors, with the Postmaster General as its chief executive officer. The Board of Governors of the Postal Service (the

Board) directs the exercise of its powers through management that is expected to be honest, efficient, economical, and mindful of the competitive business environment in which the Postal Service operates. The Board consists of nine Governors appointed by the President, by and with the advice and consent of the Senate, to represent the public interest generally, together with the Postmaster General and Deputy Postmaster General.

§ 1.2 Delegation of authority.

Except for powers, duties, or obligations specifically vested in the Governors by law, the Board may delegate its authority to the Postmaster General under such terms, conditions, and limitations, including the power of redelegation, as it finds desirable. The bylaws of the Board are the framework of the system through which the Board monitors the exercise of the authority it has delegated, measures progress toward the goals it has set, and shapes the policies to guide the future development of the Postal Service. Delegations of authority do not relieve the Board of full responsibility for carrying out its duties and functions, and are revocable by the Governors in their exclusive judgment.

PART 2—GENERAL AND TECHNICAL PROVISIONS (ARTICLE II)

Sec.

2.1 Office of the Board of Governors.
2.2 Agent for receipt of process.
2.3 Offices
2.4 Seal.
2.5 Authority.
2.6 Severability, amendment, repeal, and waiver of bylaws.

Authority: 39 U.S.C. 202, 203, 205(c), 207, 401(2); 5 U.S.C. 552b(f), (g).

§ 2.1 Office of the Board of Governors.

There shall be located in Washington, DC an Office of the Board of Governors of the United States Postal Service. It shall be the function of this Office to provide staff support for the Board, as directed by the Chairman of the Board, to enable the Board to carry out effectively its duties and responsibilities.

§ 2.2 Agent for receipt of process.

The General Counsel of the Postal Service shall act as agent for the receipt of legal process against the Postal Service, and as agent for the receipt of legal process against the Board of Governors or a member of the Board, in his or her official capacity, and all other officers and employees of the Postal Service to the extent that the process arises out of the official functions of those officers and employees. The General Counsel shall also issue public certifications concerning closed meetings of the Board as appropriate under 5 U.S.C. 552b(f).

§ 2.3 Offices.

The principal office of the Postal Service is located in Washington, DC, with such regional and other offices and places of business as the Postmaster General establishes from time to time, or the business of the Postal Service requires.

§ 2.4 Seal.

(a) The Seal of the Postal Service is filed by the Board in the Office of the Secretary of State, and is required by 39 U.S.C. 207 to be judicially noticed. The Seal shall be in the custody of the General Counsel, who shall affix it to all commissions of officers of the Postal Service, and use it to authenticate records of the Postal Service and for other official purposes. The following describes the Seal adopted for the Postal Service:

(1) A stylized bald eagle is poised for flight, facing to the viewer's right, above two horizontal bars between which are the words ''U.S. MAIL'', surrounded by a square border with rounded corners consisting of the words ''UNITED STATES POSTAL SERVICE'' on the left, top, and right, and consisting of nine five-pointed stars on the base.

(2) The color representation of the Seal shows, a white field on which the bald eagle appears in dark blue, the words ''U.S. MAIL'' in black, the bar above the words in red, the bar below in blue, and the entire border consisting of the words ''UNITED STATES POSTAL SERVICE'' and stars in ochre.



(b) The location and description of the Postal Service emblem is described at 39 CFR 221.7.

§ 2.5 Authority.

These bylaws are adopted by the Board under the authority conferred upon the Postal Service by 39 U.S.C. 401(2) and 5 U.S.C. 552b(g).

§ 2.6 Severability, amendment, repeal, and waiver of bylaws.

The invalidity of any provision of these bylaws does not affect the validity of the remaining provisions, and for this purpose these bylaws are severable. The Board may amend or repeal these bylaws at any special or regular meeting, provided that each member of the Board has received a written notice containing a statement of the proposed amendment or repeal at least 5 days before the meeting. The members of the Board may waive the 5 days' notice or the operation of any other provision of these bylaws by unanimous consent, if that action is not prohibited by law. The Secretary shall submit the text of any amendment to these bylaws for publication in the **Federal Register** as soon as practicable after the amendment is adopted by the Board.

PART 3—BOARD OF GOVERNORS (ARTICLE III)

Sec.

3.1 Composition and responsibilities of Board.
3.2 Compensation of Board.
3.3 Matters reserved for decision by the Board.
3.4 Matters reserved for decision by the Governors.
3.5 Delegation of authority by Board.
3.6 Information furnished to Board—financial and operating reports.
3.7 Information furnished to Board—program review.
3.8 Information furnished to Board—special reports.
3.9 Establishment of rates and classes of competitive products of general applicability.
3.10 Establishment of rates and classes of competitive products not of general applicability.

Authority: 39 U.S.C. 202, 203, 205, 401 (2), (10), 402, 404(b), 414, 416, 1003, 2005, 2011, 2802–2804, 3013, 3622, 3632, 3642, 3652, 3654, 3691; 5 U.S.C. 552b(g), (j); 5 U.S.C. App.; Pub. L. 107–67, 115 Stat. 514 (2001).

§ 3.1 Composition and responsibilities of Board.

The composition of the Board is described in 39 U.S.C. 202. The Board directs the exercise of the powers of the Postal Service, reviews the practices and policies of the Postal Service, and directs and controls the expenditures of the Postal Service. Consistent with the broad delegation of authority to the Postmaster General in § 3.5 of these bylaws, and except for those powers, duties, or obligations which are specifically vested by statute in the Governors, as distinguished from the Board of Governors, the Board accomplishes its purposes by monitoring the operations and performance of the Postal Service, and

by establishing basic objectives, broad policies, and long-range goals for the Postal Service.

§ 3.2 Compensation of Board.

Section 202(a)(1) of title 39 provides for the compensation of the Governors and for reimbursement for travel and reasonable expenses incurred in attending Board meetings. Compensation is provided for not more than 42 days of meetings per year.

§ 3.3 Matters reserved for decision by the Board.

The following matters are reserved for decision by the Board of Governors:

(a) Adoption of, and amendments to, the bylaws of the Board.

(b) (1) Approval of the annual Postal Service Finance Plan;

(2) Approval of the annual Postal Service Operating Plan;

(3) Approval of the annual Postal Service Capital Plan.

(c) Approval of the annual financial statements of the Postal Service following receipt of the annual report of the Postal Service's independent, certified public accounting firm.

(d) Authorization of the Postal Service, in consultation with the Postal Regulatory Commission, to establish service standards under 39 U.S.C. 3691.

(e) Authorization of the Postal Service to request that the Postal Regulatory Commission submit an advisory opinion on a proposed change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.

(f) Approval of any use of the authority of the Postal Service to borrow money under 39 U.S.C. 2005 and 39 U.S.C. 2011, except for short-term borrowings, having maturities of one year or less, assumed in the normal course of business.

(g) Approval of the terms and conditions of each series of obligations issued by the Postal Service under 39 U.S.C. 2005 and 39 U.S.C. 2011, including the time and manner of sale and the underwriting arrangements, except for short-term borrowings, having maturities of one year or less, assumed in the normal course of business.

(h) Approval of any use of the authority of the Postal Service to require the Secretary of the Treasury to purchase Postal Service obligations under 39 U.S.C. 2006(b), or to request the Secretary of the Treasury to pledge the full faith and credit of the Government of the United States for the payment of principal and interest on Postal Service obligations under 39 U.S.C. 2006(c).

(i) Determination of the number of officers, described in 39 U.S.C. 204 as Assistant Postmasters General, whether so denominated or not, as the Board authorizes by resolution.

(j) Compensation and benefits of officers of the Postal Service whose positions are included in Level II of the Postal Career Executive Service.

(k) Approval of official statements adopting major policy positions or departing from established major policy positions, and of official positions on legislative proposals having a major impact on the Postal Service.

(l) Approval of all major policy positions taken with the Department of Justice on petitioning the Supreme Court of the United States for writs of certiorari.

(m) Approval and transmittal to the President and the Congress of the annual report of the Postmaster General under 39 U.S.C. 2402.

(n) Approval and transmittal to the Congress of the annual report of the Board under 5 U.S.C. 552b(j).

(o) Approval of the annual comprehensive statement of the Postal Service to Congress under 39 U.S.C. 2401(e).

(p) Approval and transmittal to the Congress of the semi-annual report of the Postmaster General under 39 U.S.C. 3013, summarizing the investigative activities of the Postal Service.

(q) Approval and transmittal to the President and the Congress of the Postal Service's strategic plan pursuant to the Government Performance and Results Act of 1993, 39 U.S.C. 2802; approval of the Postal Service annual performance plan under 39 U.S.C. 2803 and the Postal Service program performance report under 39 U.S.C. 2804, which are included in the comprehensive statement under 39 U.S.C. 2401.

(r) All other matters that the Board may consider appropriate to reserve for its decision.

§ 3.4 Matters reserved for decision by the Governors.

The following matters are reserved for decision by the Governors:

(a) Appointment, pay, term of service, and removal of the Postmaster General, 39 U.S.C. 202(c).

(b) Appointment, term of service, and removal of the Deputy Postmaster General (by the Governors and the Postmaster General, 39 U.S.C. 202(d)); pay of the Deputy Postmaster General, 39 U.S.C. 202(d).

(c) Election of the Chairman, 39 U.S.C. 202(a)(1), and Vice Chairman of the Board of Governors.

(d) Establishment of rates and classes of competitive products of both general and not of general applicability under 39 U.S.C. 3632 in accordance with the procedures set out in sections 3.9 and 3.10 of these bylaws.

(e) Authorization of the Postal Service to adjust the rates and fees for market dominant products under 39 U.S.C. 3622.

(f) Authorization of the Postal Service to request that the Postal Regulatory Commission, under 39 U.S.C. 3642, change the lists of market dominant and competitive products by adding a product, removing a product, or transferring a product.

(g) Authorization of the Postal Service to file a notice with the Postal Regulatory Commission of substantive modifications to the product descriptions in the Mail Classification Schedule.

(h) Authorization of the Postal Service to file a request with the Postal Regulatory Commission for adjustment of rates on an expedited basis due to extraordinary or exceptional circumstances, as provided in 39 U.S.C. 3622(d)(1)(E).

(i) Appointment and removal of the Inspector General under 39 U.S.C. 202(e).

(j) Exercise of the authority of the Governors under 5 U.S.C. App. 8G(f)(3)(A).

(k) The Governors shall meet annually in closed session to discuss compensation and benefits, term of service, and appointment/removal of the Board Secretary and other necessary staff.

(l) Transmittal to the Congress of the semi-annual report of the Inspector General under section 5 of the Inspector General Act.

(m) Establishment of the price of the breast cancer research special postage stamp under 39 U.S.C. 414 and any semipostal stamp under 39 U.S.C. 416.

(n) Selection of an independent, certified public accounting firm to certify the accuracy of Postal Service financial statements as required by 39 U.S.C. 2008(e).

§ 3.5 Delegation of authority by Board.

As authorized by 39 U.S.C. 402, these bylaws delegate to the Postmaster General the authority to exercise the powers of the Postal Service to the extent that this delegation of authority does not conflict with powers reserved to the Governors or to the Board by law, these bylaws, or resolutions adopted by the Board. Any of the powers delegated to the Postmaster General by these bylaws may be redelegated by the Postmaster General to any officer, employee, or agency of the Postal Service.

§ 3.6 Information furnished to Board—financial and operating reports.

(a) To enable the Board to monitor the performance of the Postal Service during the most recent accounting periods for which data are available, postal management shall furnish the Board (on a monthly basis) financial and operating statements for the fiscal year to date, addressing the following categories:

(1) Mail volume by class;

(2) Income and expense by principal categories;

(3) Balance sheet information;

(4) service quality measurements;

(5) productivity measurements (reflecting workload and resource utilization); and

(6) changes in postal costs.

(b) These statements shall include, where applicable, comparable figures for the previous year and the current year's plan.

§ 3.7 Information furnished to Board—program review.

(a) To enable the Board to review the Postal Service operating program, postal management shall furnish the Board information on all aspects of the Postal Service budget plan, including:

(1) The tentative and final annual budgets submitted to the Office of Management and Budget and the Congress, and amendments to the budget;

(2) Five-year plans, annual operating and investment plans, and significant departures from estimates upon which the plans were based;

(3) The need for rate adjustments and the progress of any pending matters before the Postal Regulatory Commission and related litigation; and

(4) Debt financing needs, including a review of all borrowings of the Postal Service from the U.S. Treasury and private sources.

(b) To enable the Board to review the effectiveness of the Postal Service's equal employment opportunity program, performance data relating to this program shall be furnished to the Board at least quarterly. These data shall be categorized in such manner as the Board, from time to time, specifies.

(c) Postal management shall also regularly furnish the Board information regarding major programs for improving postal service or reducing the cost of postal operations.

(d) Management shall furnish to the Board: information regarding any significant, new program, policy, major modification or initiative; any plan to offer a significant, new or unique product or system implementation; or any significant, new project not related directly to the core business function of the Postal Service. This information shall be provided to the Board in advance of entering into any agreement in furtherance of such project. For the purposes of this paragraph, ''significant'' means a project anticipated to have a notable or conspicuous impact on corporate visibility or the operating budget (including increases in expense amounts) or the capital investment budget. The notification requirement of this paragraph governs applicable projects regardless of the level of expenditure or potential liability involved.

§ 3.8 Information furnished to Board—special reports.

To insure that the Board receives significant information of developments meriting its attention, postal management shall bring to the Board's attention the following matters:

(a) Major developments in personnel areas, including but not limited to equal employment opportunity, career development and training, and grade and salary structures.

(b) Major litigation activities. Postal management shall also notify the Board in a timely manner whenever it proposes to seek review by any United States Court of Appeals of an adverse judicial or regulatory decision significantly impacting the Postal Service or involving a new, novel, or potentially controversial issue.

(c) Any significant changes proposed in the Postal Service's system of accounts or methods of accounting.

(d) Matters of special importance, including but not limited to important research and development initiatives, major changes in Postal Service organization or structure, major law enforcement activities, and other matters having a significant impact upon the relationship of the Postal Service with its employees, with any major branch of Government, or with the general public.

(e) Information concerning any proposed grant of unique or exclusive licenses to use Postal Service intellectual properties (other than patents and technical data rights), or any proposed joint venture involving the use of such property.

(f) Major or significant financial, operational and compliance reports or studies the Postal Service is required by statute or regulation to prepare.

(g) Other matters having important policy implications.

§ 3.9 Establishment of rates and classes of competitive products of general applicability.

This section relates to changes in rates or classes of competitive products of general applicability.

(a) Prior to establishing changes in rates or classes of competitive products of general applicability, postal management shall furnish to the Governors the following:

(1) The proposed rate and classification changes; and

(2) Management analysis demonstrating compliance with the standards of 39 U.S.C. 3633(a).

(b) Pursuant to § 6.6(f) of these bylaws, the Governors shall issue a written decision on any changes in rates or classes of competitive products of general applicability, which shall include a statement as to when the decision becomes effective.

(c) The Secretary shall certify that the vote of the Governors met the condition set forth in section 6.6(f) of these bylaws.

(d) The Secretary shall cause the decision of the Governors and its attached analysis, along with the record of the Governors' proceedings in connection with such decision, to be published in the **Federal Register** at least 30 days before the effective date of the changes in rates or classes of competitive products of general applicability. The record of the proceedings of the Governors consists of the certification by the Secretary of the vote of the Governors.

§ 3.10. Establishment of rates and classes of competitive products not of general applicability.

This section relates to changes in rates and classes of competitive products not of general applicability.

(a) Prior to establishing rates or classes of competitive products not of general applicability, postal management shall furnish to the Governors the following:

(1) The proposed changes in rates or ranges of rates, along with the proposed changes in classes; and

(2) Management analysis demonstrating compliance with the standards of 39 U.S.C. 3633(a).

(b) Pursuant to § 6.6(f) of these bylaws, the Governors shall issue a written decision on any changes in rates or classes of competitive products not of general applicability, which shall include a statement as to when the decision becomes effective.

(c) The Secretary shall certify that the vote of the Governors met the condition set forth in § 6.6(f) of these bylaws.

(d) The Secretary shall cause any decision of the Governors under this

section, along with the record of any proceedings of the Governors, and any supporting documentation required by 39 CFR Part 3015, to be filed with the Postal Regulatory Commission. The record of the proceedings of the Governors consists of the certification by the Secretary of the vote of the Governors.

(e) Postal management is authorized to conclude agreements with customers concerning any rates or classes of competitive products not of general applicability, provided that any such rates are within the range, or such classes are within the scope, of a decision of the Governors then in effect.

PART 4—OFFICIALS (ARTICLE IV)

Sec.
4.1 Chairman.
4.2 Vice Chairman.
4.3 Postmaster General.
4.4 Deputy Postmaster General.
4.5 Assistant Postmasters General, General Counsel, Judicial Officer, Chief Postal Inspector.
4.6 Secretary of the Board.

Authority: 39 U.S.C. 202–205, 401(2), (10), 402, 1003, 3013, 3686.

§ 4.1 Chairman.

(a) The Chairman of the Board of Governors is elected by the Governors from among the members of the Board. The Chairman:

(1) Shall preside at all regular and special meetings of the Board, and shall set the agenda for such meetings;

(2) Shall select and appoint the chairman, vice chairman (if any), and members of any committee properly established by the Board;

(3) Serves a term that commences upon election and expires at the end of the first annual meeting following the meeting at which he or she was elected.

(b) If the Postmaster General is elected Chairman of the Board, the Governors shall also elect one of their number to preside during proceedings dealing with matters upon which only the Governors may vote.

(c)(1) Upon the election of a new Chairman of the Board, the immediate past Chairman shall become Chairman Pro Tempore of the Board, to preside during the absence of the Chairman and Vice Chairman at any meeting of the Board during the year or years following the immediate past Chairman's tenure as Chairman and until another Chairman has been elected.

(2) The Chairman Pro Tempore shall, at the request of the Chairman or Vice-Chairman, serve as the representative of the Board of Governors at conferences, trade shows, ceremonial functions and other meetings important to Postal Service business.

§ 4.2 Vice Chairman.

The Vice Chairman is elected by the Governors from among the members of the Board and shall perform the duties and exercise the powers of the Chairman during the Chairman's absence or disability. The Vice Chairman serves a term that commences upon election and expires at the end of the first annual meeting following the meeting at which he or she was elected.

§ 4.3 Postmaster General.

The appointment and role of the Postmaster General are described at 39 U.S.C. 202(c), 203. The Governors set the compensation and benefits of the Postmaster General by resolution, subject to 39 U.S.C. 1003(a) and 3686.

§ 4.4 Deputy Postmaster General.

The appointment and role of the Deputy Postmaster General are described at 39 U.S.C. 202(d), 203. The Deputy Postmaster General shall act as Postmaster General during the Postmaster General's absence or disability, and when a vacancy exists in the office of Postmaster General. The Governors set the compensation and benefits of the Deputy Postmaster General, subject to 39 U.S.C. 1003(a) and 3686.

§ 4.5 Assistant Postmasters General, General Counsel, Judicial Officer, Chief Postal Inspector.

There are within the Postal Service a General Counsel, a Judicial Officer, a Chief Postal Inspector, and such number of officers, described in 39 U.S.C. 204 as Assistant Postmasters General, whether so denominated or not, as the Board authorizes by resolution. These officers are appointed by, and serve at the pleasure of, the Postmaster General. The Chief Postal Inspector shall report to, and be under the general supervision of, the Postmaster General. The Postmaster General shall promptly notify the Governors and both Houses of Congress in writing if he or she removes the Chief Postal Inspector or transfers the Chief Postal Inspector to another position or location within the Postal Service, and shall include in any such notification the reasons for such removal or transfer.

§ 4.6 Secretary of the Board.

The Secretary of the Board of Governors is appointed by the Governors and serves at the pleasure of the Governors. The Secretary shall be responsible for carrying out the functions of the Office of the Board of Governors, under the direction of the Chairman of the Board. The Secretary shall also issue notices of meetings of the Board and its committees, keep minutes of these meetings, and take steps necessary for compliance with all statutes and regulations dealing with public observation of meetings. The Secretary shall perform all those duties incident to this office, including those duties assigned by the Board or by the Chairman of the Board. The Chairman may designate such assistant secretaries as may be necessary to perform any of the duties of the Secretary.

PART 5—COMMITTEES (ARTICLE V)

Sec.
5.1 Establishment and appointment.
5.2 Committee procedure.

Authority: 39 U.S.C. 202, 203, 204, 205, 401(2), (10), 1003.

§ 5.1 Establishment and appointment.

From time to time the Board may establish by resolution special and standing committees of one or more members of the Board. The Board shall specify, in the resolution establishing any committee, whether the committee is authorized to submit recommendations or preliminary decisions to the Board, to conduct hearings for the Board, or otherwise to take action on behalf of the Board. Each committee may exercise only those duties, functions, and powers prescribed from time to time by the Board, and the Board may affirm, alter, or revoke any action of any committee. Each member of the Board may have access to all of the information and records of any committee at any time. The Chairman of the Board shall appoint the chairman, vice chairman (if any), and members of each committee, who serve terms which expire at the end of each annual meeting. Each committee chairman may assign responsibilities to members of the committee that are considered appropriate. The committee chairman, or the chairman's designee, shall preside at all meetings of the committee.

§ 5.2 Committee procedure.

Each committee establishes its own rules of procedure, consistent with these bylaws, and meets as provided in its rules. A majority of the members of a committee constitute a quorum.

PART 6—MEETINGS (ARTICLE VI)

Sec
6.1 Regular meetings, annual meeting.
6.2 Special meetings.
6.3 Notice of meetings.
6.4 Attendance by conference telephone call.
6.5 Minutes of meetings.
6.6 Quorum and voting.

Authority: 39 U.S.C. 202, 205, 401(2), (10), 1003, 3622, 3632; 5 U.S.C. 552b(e), (g).

§ 6.1 Regular meetings, annual meeting.

The Board shall meet regularly on a schedule established by the Board. The first regular meeting of each calendar year is designated as the annual meeting. Consistent with the provisions of §§ 6.6 and 7.5 of these bylaws, the time or place of a regular or annual meeting may be varied by recorded vote, with the earliest practicable notice to the Secretary. The Secretary shall distribute to the members an agenda setting forth the proposed subject matter for any regular or annual meeting in advance of the meeting.

§ 6.2 Special meetings.

Consistent with the provisions of §§ 6.6 and 7.5 of these bylaws, the Chairman may call a special meeting of the Board at any place in the United States, with the earliest practicable notice to the other members of the Board and to the Secretary, specifying the time, date, place, and subject matter of the meeting. Consistent with the provisions of §§ 6.6 and 7.5 of these bylaws, by recorded vote a majority of the members of the Board may call a special meeting of the Board at any place in the United States, with the earliest practicable notice to the other members of the Board and to the Secretary, specifying the time, date, place and subject matter of the meeting.

§ 6.3 Notice of meetings.

The Chairman or the members of the Board may give the notice required under § 6.1 or § 6.2 of these bylaws in oral, written, or e-mail form. Oral notice to a member may be delivered by telephone and is sufficient if made to the member personally or to a responsible person in the member's home or office. Any oral notice to a member must be subsequently confirmed by written or e-mail notice. Written notice to a member may be delivered by mail addressed to the member's mailing address of record filed with the Secretary. Notice by e-mail may be addressed to the member's e-mail address of record filed with the Secretary. Except for written or e-mail notice confirming a previous oral notice, a written or e-mail notice must be sent in sufficient time to reach the address of record at least 2 days before the meeting date under normal delivery conditions. A member waives notice of any meeting by attending the meeting, and may otherwise waive notice of any meeting at any time. No notice—whether oral, written, or e-mail—to the Secretary is sufficient until actually received by the Secretary. The Secretary may not waive notice of any meeting.

§ 6.4 Attendance by conference telephone call.

For regularly scheduled meetings of the Board, members are expected to attend in person. Unless prohibited by law or by these bylaws, however, a member of the Board, under exceptional circumstances, may participate in a meeting of the Board by conference telephone or similar communications equipment which enables all persons participating in the meeting to hear each other and which permits full compliance with the provisions of these bylaws concerning public observation of meetings. Attendance at a meeting by this method constitutes presence at the meeting and a member of the Board may be paid for his or her participation provided such meeting addresses substantive, as opposed to procedural or administrative, matters on which the Board has decisionmaking authority.

§ 6.5 Minutes of meetings.

The Secretary shall preserve the minutes of Board meetings prepared under § 4.6 of these bylaws. After the minutes of any meeting are approved by the Board, the Secretary shall promptly make available to the public, in the Corporate Communications Department at Postal Service Headquarters, or in another place easily accessible to the public, copies of the minutes, except for those portions which contain information inappropriate for public disclosure under 5 U.S.C. 552(b) or 39 U.S.C. 410(c).

§ 6.6 Quorum and voting.

As provided by 39 U.S.C. 205(c), the Board acts by resolution upon a majority vote of those members who attend a meeting in person or by teleconference. No proxies are allowed in any vote of the members of the Board. Any 6 members constitute a quorum for the transaction of business by the Board, except:

(a) In the appointment or removal of the Postmaster General, and in setting the compensation and benefits of the Postmaster General and Deputy Postmaster General, 39 U.S.C. 205(c)(1) requires a favorable vote of an absolute majority of the Governors in office;

(b) In the appointment or removal of the Deputy Postmaster General, 39 U.S.C. 205(c)(2) requires a favorable vote of an absolute majority of the Governors in office and the Postmaster General;

(c) In the appointment, removal, or in the setting of the compensation and benefits of the Secretary, Assistant Secretary, or other necessary staff, a favorable vote of an absolute majority of the Governors in office is required;

(d) In the determination to close a portion of a meeting or to withhold information concerning a meeting, 5 U.S.C. 552b(d)(1) requires a vote of a majority of the entire membership of the Board; and

(e) In the decision to call a meeting with less than a week's notice, 5 U.S.C. 552b(e)(1) requires a vote of a majority of the members of the Board. In the decision to change the subject matter of a meeting, or the determination to open or close a meeting, 5 U.S.C. 552b(e)(2) requires a vote of a majority of the entire membership of the Board.

(f) In establishing rates or classes of competitive products of both general and not of general applicability in §§ 3.9 and 3.10 of these bylaws, 39 U.S.C. 3632(a) requires the concurrence of a majority of all of the Governors then holding office.

(g) In removing the Inspector General for cause, 39 U.S.C. 202(e) requires the written concurrence of at least 7 Governors.

PART 7—PUBLIC OBSERVATION (ARTICLE VII)

Sec.

7.1 Definitions.
7.2 Open meetings.
7.3 Exceptions.
7.4 Procedure for closing a meeting.
7.5 Public notice of meetings, subsequent changes.
7.6 Certification and transcripts of closed meetings.
7.7 Enforcement.
7.8 Open meetings, Freedom of Information, and Privacy of Information.

Authority: 39 U.S.C. 410; 5 U.S.C. 552b(a)–(m).

§ 7.1 Definitions.

For purposes of §§ 7.2 through 7.8 of these bylaws:

(a) The term *Board* means the Board of Governors, and any subdivision or committee of the Board authorized to take action on behalf of the Board.

(b) The term *meeting* means the deliberations of at least the number of individual members required to take action on behalf of the Board under § 5.2 or § 6.6 of these bylaws, where such deliberations determine or result in the joint conduct or disposition of the official business of the Board. The term ''meeting'' does not include any procedural deliberations required or permitted by §§ 6.1, 6.2, 7.4, or 7.5 of these bylaws.

§ 7.2 Open meetings.

(a) It is the policy of the United States, established in section 2 of the

Government in the Sunshine Act, Public Law 94–409, 90 Stat. 1241, that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. The Postal Service is charged to provide the public with this information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities. Accordingly, except as specifically permitted by statute, every portion of every meeting of the Board of Governors is open to public observation.

(b) Except as provided in § 7.3 of these bylaws, every portion of every meeting of the Board is open to public observation. Members of the Board may not jointly conduct or dispose of business of the Board without complying with §§ 7.2 through 7.8 of these bylaws. Members of the public may obtain access to documents considered at meetings to the extent provided in the regulations of the Postal Service concerning the release of information.

(c) Without the permission of a majority of the Board, no person may participate in, film, televise, or broadcast any portion of any meeting of the Board. Any person may electronically record or photograph a meeting, as long as that action does not tend to impede or disturb the members of the Board in the performance of their duties, or members of the public while attempting to attend or observe a meeting of the Board. The rules and penalties of 39 CFR Part 232, concerning conduct on postal property, apply with regard to meetings of the Board.

§ 7.3 Exceptions.

Section 7.2 of these bylaws does not apply to a portion of a meeting, and §§ 7.4 and 7.5 do not apply to information concerning the meeting which otherwise would be required to be disclosed to the public, if the Board properly determines that the public interest does not require otherwise, and that such portion of the meeting or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and

(2) In fact properly classified under that Executive order;

(b) Relate solely to the internal personnel rules and practices of the Postal Service, including the Postal Service position in negotiations or consultations with employee organizations.

(c) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, such as market information pertinent to Postal Service borrowing or investments, technical or patent information related to postal mechanization, or commercial information related to purchases of real estate;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature, such as personal or medical data regarding any individual if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in those records, but only to the extent that the production of those records or information would:

(1) Interfere with enforcement proceedings,

(2) Deprive a person of a right to a fair trial or an impartial adjudication,

(3) Constitute an unwarranted invasion of personal privacy,

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(5) Disclose investigative techniques and procedures, or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely significantly to frustrate implementation of a proposed action of the Board, such as information relating to the negotiation of a labor contract or proposed Postal Service procurement activity, except that this provision does not apply in any instance where:

(1) The Postal Service has already disclosed to the public the content or nature of the proposed action, or

(2) The Postal Service is required by law to make such disclosure on its own initiative before taking final action on the proposal; or

(j) Specifically concern the issuance of a subpoena by the Postal Service, or the participation of the Postal Service in a civil action or proceeding, such as a postal rate or classification proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Postal Service of a particular case of formal adjudication under the procedures of 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 7.4 Procedure for closing a meeting.

(a) A majority of the entire membership of the Board may vote to close a portion of a meeting or to withhold information concerning a meeting under the provisions of § 7.3 of these bylaws. The members shall take a separate vote with respect to each meeting a portion of which is proposed to be closed to the public, or with respect to any information which is proposed to be withheld, and shall make every reasonable effort to take any such vote at least 8 days before the date of the meeting involved. The members may take a single vote with respect to a series of meetings, portions of which are proposed to be closed to the public, or with respect to information concerning the series, so long as each portion of a meeting in the series involves the same particular matters, and no portion of any meeting is scheduled to be held more than 30 days after the initial portion of the first meeting in the series.

(b) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Board close that portion to the public for any of the reasons referred to in § 7.3(e), (f), or (g) of these bylaws, upon request of any one of its members the Board shall vote by recorded vote whether to close that portion of the meeting.

(c) The Secretary shall record the vote of each member participating in a vote under paragraph (a) or (b) of this section. Within 1 day of any vote under paragraph (a) or (b) of this section, the Secretary shall make publicly available a written copy of the vote showing the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within 1 day of the vote, make publicly available a full written explanation of the action

closing the portion, together with a list of all persons expected to attend the meeting and their affiliation.

§ 7.5 Public notice of meetings, subsequent changes.

(a) At least one week before any meeting of the Board, the Secretary shall publicly announce the time, date, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Board to respond to requests for information about the meeting.

(b) By a recorded vote, a majority of the members of the Board may determine that the business of the Board requires a meeting to be called with less than a week's notice. At the earliest practicable time, the Secretary shall publicly announce the time, date, place, and subject matter of the meeting, and whether it is to be open or closed to the public.

(c) Following the public announcement required by paragraphs (a) or (b) of this section:

(1) As provided in § 6.1 of these bylaws, the Board may change the time or place of a meeting. At the earliest practicable time, the Secretary shall publicly announce the change.

(2) A majority of the entire membership of the Board may change the subject matter of a meeting, or the determination to open or close a meeting to the public, if it determines by a recorded vote that the change is required by the business of the Board and that no earlier announcement of the change was possible. At the earliest practicable time, the Secretary shall publicly announce the change, and the vote of each member upon the change.

(d) Immediately following each public announcement required under paragraphs (a), (b), or (c) of this section, the Secretary shall submit for publication in the **Federal Register** a notice of the time, date, place, and subject matter of the meeting, whether the meeting is open or closed, any change in the preceding, and the name and phone number of the official designated by the Board to respond to requests for information about the meeting. The Secretary shall also submit the announcement and information to the Corporate Communications Department for dissemination to the public.

§ 7.6 Certification and transcripts of closed meetings.

(a) At the beginning of every meeting or portion of a meeting closed under § 7.3(a) through (j) of these bylaws, the General Counsel shall publicly certify that, in his or her opinion, the meeting or portion of the meeting may be closed to the public, stating each relevant exemptive provision. The Secretary shall retain this certification, together with a statement from the officer presiding at the meeting which sets forth the time and place of the meeting, and the persons present.

(b) The Secretary shall arrange for a complete transcript or electronic recording adequate to record fully the proceedings to be made of each meeting or portion of a meeting of the Board which is closed to the public. The Secretary shall maintain a complete verbatim copy of the transcript, or a complete electronic recording of each meeting or portion of a meeting closed to the public for at least 2 years after the meeting, or for 1 year after the conclusion of any Postal Service proceeding with respect to which the meeting was held, whichever occurs later.

(c) Except for those items of discussion or testimony which the Board, by a majority vote of those members who are present, determines to contain information which may be withheld under § 7.3 of these bylaws, the Secretary shall promptly make available to the public, in the Corporate Communications Department at Postal Service Headquarters, or in another place easily accessible to the public, the transcript or electronic recording of a closed meeting, including the testimony of any witnesses received at the meeting. The Secretary shall furnish a copy of this transcript, or a transcription of this electronic recording disclosing the identity of each speaker, to any person at the actual cost of duplication or transcription.

§ 7.7 Enforcement.

(a) Under 5 U.S.C. 552b(g), any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside any provisions of these bylaws which are not in accord with the requirements of 5 U.S.C. 552b (a)–(f) and to require the promulgation of provisions that are in accord with those requirements.

(b) Under 5 U.S.C. 552b(h) any person may bring a civil action against the Board in an appropriate U.S. District Court to obtain judicial review of the alleged failure of the Board to comply with 5 U.S.C. 552b(a)–(f). The burden is on the Board to sustain its action. The court may grant appropriate equitable relief, including enjoining future violations, or ordering the Board to make public information improperly withheld from the public.

(c) Under 5 U.S.C. 552b(i) the court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails, except that the court may assess costs against the plaintiff only if the court finds that he initiated the suit primarily for frivolous or dilatory purposes.

§ 7.8 Open meetings, Freedom of Information, and Privacy of Information.

The provisions of 5 U.S.C. 552b(c) (1)–(10), enacted by Public Law 94–409, the Government in the Sunshine Act, govern in the case of any request under the Freedom of Information Act, 5 U.S.C. 552, to copy or to inspect the transcripts or electronic recordings described in § 7.6 of these bylaws. Nothing in 5 U.S.C. 552b authorizes the Board to withhold from any individual any record, including the transcripts or electronic recordings described in § 7.6 of these bylaws, to which the individual may otherwise have access under 5 U.S.C. 552a, enacted by the Privacy Act of 1974, Public Law 93–579.

PART 8—[RESERVED]

PART 9—[RESERVED]

PART 10—RULES OF CONDUCT FOR POSTAL SERVICE GOVERNORS (ARTICLE X)

Sec.

10.1 Applicability.
10.2 Advisory service.
10.3 Post-employment activities.
10.4 Financial disclosure reports.

Authority: 39 U.S.C. 401(2), (10).

§ 10.1 Applicability.

This part contains rules of conduct for the members of the Board of Governors of the United States Postal Service. As special employees within the meaning of 18 U.S.C. 202(a), the members of the Board are also subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and Postal Service regulations supplemental thereto, 5 CFR part 7001.

§ 10.2 Advisory service.

(a) The General Counsel is the Ethical Conduct Officer of the Postal Service and the Designated Agency Ethics Official for purposes of the Ethics in Government Act, as amended, and the implementing regulations of the Office of Government Ethics, including 5 CFR part 2638.

(b) A Governor may obtain advice and guidance on questions of conflicts of interest, and may request any ruling provided for by either the Standards of Ethical Conduct for Employees of the

Executive Branch, or the Postal Service regulations supplemental thereto, from the General Counsel or a designated assistant.

(c) If the General Counsel determines that a Governor is engaged in activity which involves a violation of federal statute or regulation, including the ethical conduct regulations contained in 5 CFR parts 2635 and 7001, or conduct which creates the appearance of such a violation, he or she shall bring this to the attention of the Governor or shall notify the Chairman of the Board of Governors, or the Vice Chairman, as appropriate.

§ 10.3 Post-employment activities.

Governors are subject to the restrictions on the post-employment activities of special Government employees imposed by 18 U.S.C. 207. Guidance concerning post-employment restrictions applicable to Governors may be obtained in accordance with section 10.2(b).

§ 10.4 Financial disclosure reports.

(a) *Requirement of submission of reports.* At the time of their nomination, Governors complete a financial disclosure report which, under the practice of the Senate Governmental Affairs Committee, is kept confidential. Because the Director of the Office of Government Ethics has ruled that Governors who do not perform the duties of their office for more than 60 days in any calendar year are not required to file financial disclosure reports that are open to the public, Governors file non-public reports annually, in accordance with this section. A Governor who performs the duties of his or her office for more than 60 days in a particular calendar year is required to file a public report in accordance with 5 CFR 2634.204(c).

(b) *Person with whom reports should be filed and time for filing.* (1) A Governor shall file a financial disclosure report with the General Counsel on or before May 15 of each year when the Governor has been in office for more than 60 consecutive calendar days during the previous year.

(2) The General Counsel may, for good cause shown, grant to a Governor an extension of up to 45 days. An additional extension of up to 45 days may be granted by the Director of the Office of Government Ethics for good cause shown.

(c) *Information required to be reported.* Each report shall be a full and complete statement, on the form prescribed by the General Counsel and the Office of Government Ethics and in accordance with instructions issued by him or her. The form currently in use is Standard Form 278.

(d) *Reviewing reports.* (1) Financial disclosure reports filed in accordance with the provisions of this section shall, within 60 days after the date of filing, be reviewed by the General Counsel who shall either approve the report, or make an initial determination that a conflict or appearance thereof exists. If the General Counsel determines initially that a conflict or the appearance of a conflict exists, he or she shall inform the Governor of his determination.

(2) If the General Counsel considers that additional information is needed to complete the report or to allow an adequate review to be conducted, he or she shall request the reporting Governor to furnish that information by a specified date.

(3) The General Counsel shall refer to the Chairman of the Board of Governors or the Vice Chairman the name of any Governor he or she has reasonable cause to believe has wrongfully failed to file a report or has falsified or wrongfully failed to report required information.

(e) *Custody of and public access to reports.* (1) *Retention of reports.* Each report filed with the General Counsel shall be retained by him or her for a period of six years. After the six-year period, the report shall be destroyed unless needed in connection with an investigation then pending.

(2) *Confidentiality of reports.* Unless a public report is required by this section, the financial disclosure reports filed by Governors shall not be made public.

PART 11—ADVISORY BOARDS (ARTICLE XI)

Authority: 39 U.S.C. 202, 205, 401(2), (10), 402, 403.

§ 11.1 Establishment.

The Board of Governors may create such advisory boards as it may deem appropriate and may appoint persons to serve thereon or may delegate such latter authority to the Postmaster General.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E8–30020 Filed 12–23–08; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 3

[EPA–HQ–OEI–2003–0001; FRL–8757–2]

Extension of Cross–Media Electronic Reporting Rule Deadline for Authorized Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the Final Cross-Media Electronic Reporting Rule (CROMERR) deadline for authorized programs (states, tribes, or local governments) with existing electronic document receiving systems to submit an application for EPA approval to revise or modify their authorized programs. This action will extend the current October 13, 2008, deadline until January 13, 2010.

DATES: This rule is effective on December 24, 2008.

ADDRESSES: The public record for this rulemaking has been established under Docket ID No. EPA–HQ–OEI–2003–0001, and may be accessed online at *http://www.regulations.gov.* Docket materials are also available in hard copy at the CROMERR Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the CROMERR Docket is (202) 566–1752.

For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Evi Huffer, Office of Environmental Information (2823T), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 566–1697; *huffer.evi@epa.gov,* or David Schwarz, Office of Environmental Information (2823T), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 566–1704; *schwarz.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Does This Rule Do?

This rule provides temporary regulatory relief to states, tribes, and local governments with ''authorized programs'' as defined in 40 Code of Federal Regulations (CFR) 3.3. Any such authorized program that operates an