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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 950

[Docket No. 970306046-7046-01]

RIN 0648-ZA25

Schedule of Fees for Access to NOAA Environmental Data and Information and Products Derived Therefrom

AGENCY: National Environmental Satellite Data and Information Service (NESDIS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: In order to adequately respond to public requirements for access to environmental data, information, and products, archived at NESDIS' national data centers and for related services, NESDIS must upgrade its data handling capabilities at these centers. In accordance with Government policy on cost recovery, as reflected in OMB Circular A-130, NESDIS will recover the cost of disseminating its data and information, including the cost of this upgrade, from the user community. Accordingly, NESDIS is establishing a new schedule of fees for the sale of its data, information, products, and related services to commercial users which reflects the additional costs involved. Because NESDIS is responsible for promoting research and education and because these additional fees would hinder these activities by other Governmental entities, universities, nonprofit organizations, and depository libraries, NESDIS has made an exception for these organizations. It will continue to charge its existing fees to these organizations for their noncommercial use.

EFFECTIVE DATE: June 6, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Money (704) 271-4680.

SUPPLEMENTARY INFORMATION: NESDIS maintains some 1300 data bases containing over 2400 environmental variables at three National Data Centers and seven World Data Centers. These centers respond to over 2,000,000 requests for these data and products

annually from over 70 countries. This collection of environmental data and products is growing exponentially, both in size and sophistication. In order to provide the public with up-to-date and timely access to these data and products at reasonable cost and to continue to provide related services, NESDIS must make a substantial investment to modernize the data dissemination capability of each center.

The modernization effort will upgrade computer hardware and software systems such that requests for environmental data and information can be serviced more efficiently. It will ultimately allow users to readily locate, browse, access and order data and information on-line at a significantly reduced cost. Users will be provided a single point of access for all NESDIS environmental data and information.

As anticipated by Congress, the cost of these improvements, to NESDIS' information dissemination capability estimated at approximately \$20 million, will be recovered from the users who access these data. This cost will be spread over the lifetime of the equipment, conservatively estimated at 8 years, resulting in cost recovery in each year of about \$2.4 million. Allocating the additional costs in this manner results in a modest increase in the current fees as set forth in the attached fee schedule.

New Fee Schedule

The new fee schedule lists both the current fee charged for each item and the new fee to be charged to commercial users that will take effect beginning June 6, 1997. The schedule applies to listed services provided by NESDIS on or after this date, except for products and services covered by a subscription agreement in effect as of this date that extends beyond this date. In those cases, the increased fees will apply upon renewal of the subscription agreement or at the earliest amendment date provided by the agreement.

This Schedule also sets forth the fees that NESDIS will charge for on-line access via the Internet, see "On-Line Products and Services." It is anticipated that this on-line capability will begin to become operational within a year and, once available, will provide the means to satisfy many user requirements at substantially reduced cost. The overall fee schedule anticipates that providing this new access route at lower cost will substantially increase the number of users to help defray the costs.

Exceptions and Limitations

Appendix IV to OMB Circular A-130 requires agencies to balance the basic

principle of cost recovery against other Governmental policies, "specifically, the proper performance of agency functions and the need to ensure that information dissemination products reach the public for whom they are intended." Where user full-cost recovery would constitute a "significant barrier to carrying out this responsibility, the agency may have grounds for reducing or eliminating its user charges * * * or for exempting some recipients from the charge."

Stimulating research and education is critical, both to support NOAA's operational mission and as a key element of its research mission, see e.g., 49 U.S.C. § 44720. NESDIS believes that were the proposed increase in fees applied to universities and other non-profit organizations that use its environmental data and information for research and educational purposes, it could negatively impact these activities and could, therefore, impair NESDIS' mission responsibility. Therefore, NESDIS has determined that it is appropriate to exempt universities and nonprofit research organizations and depository libraries from these additional fees. Any data provided to these recipients will include a provision which restricts their use to noncommercial activities.

A. Classification Under Executive Order 12866

This rule has been determined to be significant for purposes of E.O. 12866, and was reviewed by OMB.

B. Regulatory Flexibility Act Analysis

The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and the opportunity for public participation are inapplicable because this rule falls within the proprietary exception of subparagraph (a)(2) of section 553. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

C. Paperwork Reduction Act of 1980

These regulations will impose no information collection requirements subject to the Paperwork Reduction Act of 1980.

D. E.O. 12612

This rule does not contain policies with sufficient Federalism implications to warrant preparation of a Federalism assessment under Executive Order 12612.

E. National Environmental Policy Act

NOAA has concluded that issuance of this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Therefore, an environmental impact statement is not required.

List of Subjects in 15 CFR Part 950

Administrative practice and procedure, Reporting and recordkeeping requirements, User fees.

Authority: 5 U.S.C. 552, 553, Reorganization Plan No. 4 of 1970.

Dated: May 1, 1997.

Gregory W. Withee,
Deputy Assistant Administrator for Satellite and Information Services.

For the reasons set out in the preamble, 15 CFR Part 950 is amended as follows:

Appendix A to Part 950 [Amended]

Appendix A is added at the end of 15 CFR Part 950 to read as follows:

Appendix A—Schedule of User Fees for Access to NOAA Environmental Data

Name of product/data/publication/information/service	Current fee	Commercial user fee
NOAA National Data Centers Standard User Fees		
Off-Line Products and Services:		
Magnetic Tape Copy	\$155.00	\$210.00
Diskette Copy	40.00	50.00
CD-ROM:		
Conventional	75.00	100.00
Specialized	130.00	175.00
Recordable Copy	170.00	225.00
Microfilm Reel copy:		
100 Feet	30.00	40.00
1,000 Feet	140.00	190.00
Paper Copies	0.30	0.40
Microprints	0.30	0.40
Posters	18.00	18.00
Slide Sets	25.00	25.00
Publications:		
Non-Serial Pubs less than 20 Pages	8.00	12.00
Non-Serial Pubs 20 or more Pages	15.00	20.00
DOC Certifications of Records	45.00	60.00
General Certifications	35.00	45.00
Priority Surcharge	45.00	60.00
Overnight Rush Surcharge	75.00	100.00
Domestic Fax Charge (Same Day Turnaround)	65.00	85.00
Foreign Fax Charge (Same Day Turnaround)	85.00	115.00
On-Line Products and Services*		
Publications:		
Limited Access	2.00	2.00
Unlimited Access	20.00	20.00
Observation Forms:		
Limited Access	5.00	5.00
Unlimited Access	50.00	50.00
Satellite Datasets:		
Limited Access	30.00	30.00
Unlimited Access	200.00	200.00
In-situ Datasets:		
Limited Access	20.00	20.00
Unlimited Access	200.00	200.00
CD-ROM Access (unlimited)	20.00	20.00
Guide/Inventory/Browse Access	(¹)	(¹)

Additional National Climatic Data Center User Fees

Local Climatological Data Publication	4.00	5.00
Climatological Data Publication	5.00	7.00
Storm Data Publication	5.00	7.00
Monthly Climatic Data of the World Publication	5.00	7.00
Hourly Precipitation Data Publication	5.00	7.00
Local Climatological Data Subscription	24.00	32.00
Climatological Data Subscription	32.00	45.00
Storm Data Subscription	53.00	70.00
Monthly Climatic Data of the World Subscriptions	43.00	55.00
Hourly Precipitation Data Subscription	47.00	65.00
Selected Data Elements (6250/Cart./8mm/4mm/FTP)	230.00	300.00
Diskette (Data Selection)	195.00	260.00

Name of product/data/publication/information/service	Current fee	Commercial user fee
Additional National Oceanographic Data Center User Fees		
Data Selection/Retrieval:		
Printout	103.00	140.00
Magnetic Tape	199.00	265.00
Magnetic Diskette	64.00	85.00
CD-ROM, Recordable	205.00	270.00
Computer Data Transfer (FTP)	145.00	190.00
CD-ROM Sets:		
World Ocean Atlas 1994:		
Individual Discs	36.00	50.00
Complete Set (10 Discs)	360.00	480.00
NOAA Buoy Database:		
Initial Set (thru July 1992):		
Individual Discs	42.00	55.00
Complete Set (14 Discs)	588.00	780.00
Update Discs (8/92-12/94)		
Individual Discs	42.00	55.00
Complete Set (7 Discs)	294.00	390.00
Update Disc 1995 (Full Year, Compressed)	75.00	100.00
Geosat Altimeter Crossover Difference (T2 GDRs):		
Individual Discs	28.00	40.00
Complete Set (6 Discs)	168.00	225.00
Geosat Altimeter Crossover Difference:		
Individual Discs	22.00	30.00
Complete Set (8 Discs)	176.00	235.00
Geosat Geodetic Mission Data:		
Individual Discs	38.00	50.00
Complete Set (4 Discs)	152.00	200.00

* Under Development.

† No charge.

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DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 122**

[T.D. 97-35]

Addition of Midland International Airport to List of Designated Landing Locations for Private Aircraft**AGENCY:** Customs Service, Treasury.**ACTION:** Final rule.

SUMMARY: This document amends the Customs Regulations by adding the user-fee airport at Midland, Texas (Midland International Airport) to the list of designated airports at which private aircraft arriving in the Continental U.S. via the U.S./Mexican border, the Pacific Coast, the Gulf of Mexico, or the Atlantic Coast from certain locations in the southern portion of the Western Hemisphere must land for Customs processing. This amendment is made to improve the effectiveness of Customs enforcement efforts to combat the smuggling of drugs by air into the United States, and will also help to improve service to the

community, by relieving congestion at Presidio-Lely International, Del Rio International, and Eagle Pass Municipal Airports, which are also located in Texas.

EFFECTIVE DATE: June 6, 1997.

FOR FURTHER INFORMATION CONTACT: Gay Laxton, Passenger Operations Division, Office of Field Operations, (202) 927-5709.

SUPPLEMENTARY INFORMATION:**Background**

As part of Customs efforts to combat drug-smuggling efforts, Customs air commerce regulations were amended in 1975 to impose special reporting requirements and control procedures on private aircraft arriving in the Continental United States from certain areas south of the United States. T.D. 75-201. Thus, since 1975, commanders of such aircraft have been required to furnish Customs with timely notice of their intended arrival, and certain private aircraft have been required to land at certain airports designated by Customs for processing. In the last twenty years the list of designated airports for private aircraft has changed and the reporting requirements and control procedures—now contained in Subpart C of Part 122 of the Customs

Regulations (19 CFR subpart C, part 122)—have been amended, as necessary.

In response to a request from community officials from Midland, Texas, on December 3, 1996, Customs published a notice of proposed rulemaking in the **Federal Register** (61 FR 64041) that solicited comments concerning a proposal to amend § 122.24(b), Customs Regulations (19 CFR 122.24(b)), by adding the user-fee airport at Midland, Texas (Midland International Airport) to the list of designated airports at which private aircraft arriving in the Continental U.S. via the U.S./Mexican border, the Pacific Coast, the Gulf of Mexico, or the Atlantic Coast from certain locations in the southern portion of the Western Hemisphere must land for Customs processing.

The public comment period for the proposed amendment closed February 3, 1997. More than 40 comments were received from individual residents, local private companies, and local, state, and federal government officials, all offering overwhelming support for the proposal. Accordingly, Customs has decided to adopt the proposed amendment to Part 122 of the Customs Regulations.

The addition of Midland International Airport to the list of designated landing sites for private aircraft will improve the effectiveness of Customs drug-