

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Dan G. Blair;
Tony L. Hammond; and
Nanci E. Langley

Mail Classification Schedule

Docket No. RM2011-8

NOTICE OF PROPOSED RULEMAKING
CONCERNING MAIL CLASSIFICATION SCHEDULE

(Issued February 7, 2011)

I. INTRODUCTION

The Postal Regulatory Commission (Commission) establishes a rulemaking docket pursuant to its responsibilities under the Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3198, December 20, 2006, to consider modifications to the Commission's rules governing the Mail Classification Schedule (MCS). Modifications are proposed to add material describing some Postal Service products and make conforming changes. The Commission provides this notice and opportunity for comment on whether the Commission should incorporate the proposed modifications by final rule into the Commission's rules at 39 CFR 3020, Subpart A—Mail Classification Schedule.

For products currently being offered by the Postal Service, this rulemaking does not add products to, remove products from, or transfer products between the existing

market dominant or competitive product lists. However, this rulemaking does reorganize how products appear within each individual list. This reorganization is most apparent within the competitive product list where, at the suggestion of the Postal Service, the vestiges of “class” groupings have been replaced with functional product groupings.

Additionally, the currently published product lists require updating to remove products no longer offered (certain negotiated service agreements) and otherwise to correct for inaccuracies as a better understanding of the Postal Service’s product structure has developed under the PAEA. This task is incorporated into the rulemaking.

The Commission has consulted with the Postal Service as the proposed MCS was developed and has found the Postal Service’s input invaluable in concisely and accurately describing all product offerings. The proposed revisions to the Commission’s rules of practice and procedure appear following the signature of this Order.

II. BACKGROUND

On August 15, 2007, the Commission initiated the process of developing a MCS with a request to the Postal Service to develop language describing individual products.¹ The Postal Service was requested to draw from existing material provided in the Domestic Mail Classification Schedule (DMCS) and the International Mail Manual to develop a model MCS at a comparable level of detail as provided in the DMCS. The Postal Service complied with this request and provided a MCS proposal on September 24, 2007.²

¹ Docket No. RM2007-1, Order No. 26, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at ¶¶ 4008-9.

² Docket No. RM2007-1, United States Postal Service Submission of Initial Mail Classification Schedule in Response to Order No. 26, September 24, 2007.

An initial MCS was published on October 29, 2007.³ This publication met the requirements of publishing market dominant and competitive product lists necessary for operation of the regulatory system. However, the initial MCS did not include descriptions of individual products.

The publication of the initial product lists, which for the first time included international products and a division of products into market dominant and competitive categories, generated a need for additional descriptive material to more accurately describe the then current state of the product lists. The Commission again asked the Postal Service to provide additional proposals for MCS language. *Id.* ¶¶ 4002-4. The additional material focused on treatment of negotiated service agreements, certain international products, and the final categorization of products as either market dominant or competitive. The Postal Service complied with this request and provided additional proposals on November 20, 2007.⁴

In the interim, the Commission developed a “draft” MCS which included material describing each product. As various market dominant product price adjustments, competitive product price adjustments, and classification changes have been reviewed and approved by the Commission, the Commission has kept this draft version of the MCS up to date. Price and classification changes have been incorporated into the proposed MCS as of December 31, 2010. The Commission intends to incorporate any subsequently approved rate or classification changes that occur prior to issuing the final rule in this docket into the final rule in this docket. This proceeding shall consider formal incorporation of all draft material describing each market dominant and competitive product into the official MCS, and conforming language to the Commission’s rules governing the MCS.

³ Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

⁴ Docket No. RM2007-1, United States Postal Service Submission of Additional Mail Classification Schedule Information in Response to Order No. 43, November 20, 2007.

III. ACCESSIBILITY OF THE MAIL CLASSIFICATION SCHEDULE

The Commission intends to make two versions of the MCS available. The first version will be posted to the Commission's website in a format that will allow interested persons the ability to search and copy sections of the MCS for use in Commission proceedings. The Postal Service, and others, may find this version most convenient for communicating proposals to the Commission. The second version will appear in the Code of Federal Regulations (CFR). The organization and appearance of the MCS in the CFR will be different to meet CFR publication requirements. However, there should be no difference in substantive material between the website and the CFR versions.⁵

The electronic documentation appearing on the Commission's website with this Order will contain both versions of the MCS. The Commission would find it helpful if comments addressing the contents of the MCS refer to the version of the MCS that will appear on the Commission's website.

IV. MAIL CLASSIFICATION SCHEDULE STRUCTURE

The revised MCS, as proposed, consists of preface material followed by four substantive sections. The preface material includes a Revision History, which is intended to comply with the 39 U.S.C. 3642(d)(2) requirement to "indicate how and when" product lists are modified, Trademark Notices, and a Table of Contents. The four substantive sections that follow are titled Part A—Market Dominant Products, Part B—Competitive Products, Part C—Glossary of Terms and Conditions, and Part D—Country Price Lists for International Mail.

Part A—Market Dominant Products, is divided into two major sections: the Market Dominant Product List, and the Market Dominant Product Descriptions. Both sections retain the "class" structure for categorizing products developed under the Postal Reorganization Act with the classes including: First-Class Mail, Standard Mail

⁵ If any substantive discrepancies inadvertently appear, the CFR version will govern, until such time as both versions again can be made consistent.

(Commercial and Nonprofit), Periodicals, Package Services, and Special Services.⁶ Three new separate categories are added to this part to contain market dominant Negotiated Service agreements, market dominant Nonpostal Services, and market dominant Market Tests. International products, which did not appear in the former DMCS, now are included within the appropriate associated class.

Each class subsection in Part A follows a similar structure. The individual class subsections first provide a description of class-wide characteristics and a list of all products in the class. This is followed by information about each product in the class. The individual product descriptions generally include the following topics in the following order: (1) product description (where necessary); (2) size and weight limitations; (3) minimum volume requirements; (4) price categories; (5) optional features; and (6) prices. The Special Services' subsection requires less detail and generally includes the following topics in the following order: (1) product description; and (2) prices.

Part B—Competitive Products, also is divided into two major sections: the Competitive Product List, and the Competitive Product Descriptions. As originally published in Order No. 43, the Competitive Product List retained a class-like structure for organizing competitive products. In informal discussions, the Postal Service appropriately pointed out that a class-like structure has lost much of its meaning for competitive products under the PAEA. The Postal Service proposed that the products in the Competitive Product List be reorganized into three subsections: Domestic Products, International Products, and Negotiated Service Agreements. The proposed organization better aligns competitive products with the separate domestic and international business functions of the Postal Service. It also allows all products that are not of general applicability to be grouped within a Negotiated Service Agreement section. This concept is reflected in the proposed MCS. Note that the Negotiated Service Agreement subsection is further subdivided into Domestic, Outbound International, and Inbound International. Two additional separate subsections are

⁶ Special Services is treated as a class for MCS purposes.

added to this part, one for competitive Special Services, and one for competitive Nonpostal Services.

Part B has a similar structure to Part A, except that class separations are not made in competitive products. Thus, there is no need for class descriptions. Each subsection contains a list of all products appearing within that heading. Descriptions applicable to several related products are provided where appropriate. This is followed by information about each product in the subsection. The product descriptions generally include the following topics in the following order: (1) product description (where necessary); (2) size and weight limitations; (3) minimum volume requirements; (4) price categories; (5) optional features; and (6) prices. The competitive Special Services subsection requires less detail and generally includes the following topics in the following order: (1) product description; and (2) prices. Note that many of the Negotiated Service Agreement products merely reference the product name, associated dockets, PRC order numbers, and termination dates due to the confidential nature of these agreements.

Part C—Glossary of Terms and Conditions is self explanatory. Part D—Country Price Lists for International Mail contains the country codes used to identify individual countries in the various international product price lists appearing in Parts A and B.

V. RULE MODIFICATIONS

The Commission's rules concerning the MCS currently are codified at 39 CFR 3020, Subpart A—Mail Classification Schedule. The existing MCS itself is codified at 39 CFR, Appendix A to Subpart A—Mail Classification Schedule.

This rulemaking proposes changes to the rules governing the MCS and replaces the existing Appendix A with four more administratively manageable appendices. The intent of the rule changes are to incorporate the market dominant product list and the competitive product list into the Commission's rules so that the lists are prominently available for examination, and to incorporate the majority of the material describing individual products into four appendices.

Rule 3020.2 General (old rule 3020.10) is revised to describe the proposed new format of the MCS.

Rule 3020.11 Initial Mail Classification Schedule is being deleted. It only was applicable to the initial MCS that is now being replaced.

Rule 3020.3 Publication of the Mail Classification Schedule (old rule 3020.12), paragraph (a), is revised to indicate that the MCS is being incorporated into the rules themselves, *i.e.*, the MCS no longer will be contained solely in Appendix A. Paragraph (b) is modified to indicate that the Commission only will be making the most recent version of the MCS available to the public. With almost weekly revisions to the MCS, it would be administratively burdensome, and confusing to the public, to make multiple, mainly outdated, versions readily available. In any event, all changes will be published in the *Federal Register* for interested persons to reference if the need arises to reconstruct earlier versions.

Rule 3020.4 Notice of change (old rule 3020.14) is revised to indicate that any changes to the material describing products will cause notice to be published in the *Federal Register*.

Rule 3020.5 Contents of the Mail Classification Schedule (old rule 3020.13) will contain the MCS. The same information contained within the MCS version proposed to appear on the Commission's website will be divided among paragraphs (b) through (h) of this rule.

Paragraph (b) will provide a revision history as required by 39 U.S.C. 3642(d)(2).

Paragraph (c) will provide trademark notices.

Paragraph (d) will provide a table of contents by section numbers. The section numbers will correspond to the section numbers appearing in the Appendices.

Paragraph (e) will provide information concerning market dominant products. This paragraph is divided into (e)(1), which contains the list of market dominant products, and (e)(2), which specifies the market dominant product descriptive information that is to be provided and references Appendix A where that information is provided.

Paragraph (f) will provide information concerning competitive products. This paragraph is divided into (f)(1), which contains the list of competitive products, and (f)(2), which specifies the competitive product descriptive information that is to be provided and references Appendix B where that information is provided.

Paragraph (g) references Appendix C, which provides a glossary of terms of conditions.

Paragraph (h) references Appendix D, which provides the country price lists for international mail.

The four appendices will contain the majority of the descriptive material. Appendix A will contain the description of market dominant products. This corresponds to Part A, Section 1001, Market Dominant Product Descriptions provided in the proposed web version of the MCS. Appendix B will contain the description of competitive products. This corresponds to Part B, Section 2001, Competitive Product Descriptions provided in the proposed web version of the MCS. Appendix C will contain a glossary of terms and conditions. This corresponds to Part C, Section 3000, Glossary of Terms and Conditions provided in the proposed web version of the MCS. Appendix D, Section 4000, will contain the country price lists for international mail. This corresponds to Part D, Country Price Lists for International Mail provided in the proposed web version of the MCS.

VI. PUBLIC REPRESENTATIVE

Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

VII. PUBLIC COMMENTS

Comments concerning the proposed modifications to the MCS by interested persons are due March 24, 2011.

It is ordered:

1. Docket No. RM2011-8 is established for the purpose of receiving comments on the Commission's proposal.
2. The Commission proposes to amend its rules of practice and procedure as shown below. The proposed amendments involve amending 39 CFR Part 3020 Subpart A—Mail Classification Schedule.
3. Kenneth E. Richardson is designated as an officer of the Commission representing the interests of the general public in this docket.
4. Interested persons may submit comments by March 24, 2011.
5. The Secretary shall arrange for publication of this Notice in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary