

ORDER NO. 1705

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Amendments to Part 3002

Docket No. RM2013-3

ORDER AMENDING ORGANIZATIONAL DESCRIPTION
IN 39 CFR PART 3002

(Issued April 26, 2013)

I. BACKGROUND

This final rule amends the Postal Regulatory Commission's organizational description, 39 CFR part 3002, by revising regulations that describe the agency's jurisdiction, seal, and individual office components. This rule reflects changes to the Commission's organization since the passage of the Postal Accountability and Enhancement Act (PAEA), Public Law No. 109-435, 120 Stat. 3198 (2006).

The PAEA transformed the Postal Rate Commission into the Postal Regulatory Commission, repealed several key sections of title 39 of the United States Code, and added a number of new statutory provisions to title 39. The result was a major change in the Commission's regulatory responsibilities and authorities. In response to the changes made by the PAEA, the Commission changed its organizational structure to

reflect its responsibilities under the PAEA. These amendments to 39 CFR part 3002 reflect these organizational changes.

II. CHANGES TO PART 3002

The changes adopted in this Order amend descriptions to reflect present Commission structure. The following list summarizes the impact of this Order on the provisions of 39 CFR part 3002 by providing a section-by-section analysis of the amended portions of part 3002. In addition, below the signature of the Secretary at the end of this Order are the amended sections of part 3002 reproduced in their entireties.

Rule 3002.2(a) is revised to read as follows:

(a) *Areas of jurisdiction.* The Commission develops and maintains regulations for a modern system of rate regulation, including maintaining the market dominant and competitive product lists in the Mail Classification Schedule and ensuring that rates meet the requirements of 39 U.S.C. 3622 and 3633. The Commission consults with the Postal Service on delivery service standards and performance measures and with the Department of State on international postal policies. The Commission adjudicates rate and service complaints filed pursuant to 39 U.S.C. 3662 and offers advisory opinions on proposed changes to postal services pursuant to 39 U.S.C. 3661. Pursuant to 39 U.S.C. 3651, the Commission provides an annual report to the President and Congress, and pursuant to 39 U.S.C. 3653, the Commission issues an annual compliance determination to assess whether the Postal Service's rates, fees, and services comport with the requirements of title 39. Pursuant to 39 U.S.C. 404(d)(5), the Commission acts on postal patrons' appeals concerning Postal Service decisions to close or consolidate post offices.

Rule 3002.2(b) is revised to read as follows:

(b) *Public participation.* Interested persons may participate in formal proceedings described in §§ 3001.17 and 3001.18 of this chapter as formal intervenors

(§ 3001.20), limited participators (§ 3001.20a), or commenters (§ 3001.20b). Pursuant to 39 U.S.C. 3662(a) and 39 CFR part 3030, any interested person may lodge rate and service complaints with the Commission. Persons served by a post office that the Postal Service decides to close or consolidate may appeal such determinations in accordance with 39 U.S.C. 404(d) and 39 CFR part 3025.

The indefinite suspension of Rule 3002.3 is lifted.

Rule 3002.3(a) is amended by replacing “Postal Rate Commission” with “Postal Regulatory Commission” and “Seal” with “seal”.

Rule 3002.3(b)(1) is revised to read as follows:

(b) *Description.* (1) On a Gold color (Yellow) pentagon device, the base-line formed as a “V”, edged with a Black border, a Black triangle point down and between the inscription at top “Postal Regulatory Commission” in White letters and in base at the point of the triangle three Celeste mullets two, two and one, the American Eagle with branch and arrows derived from the Great Seal of the United States charged on the breast with the Commission’s earlier round seal inscribed “Postal Regulatory Commission” and the date “2006”, all in Gold (Yellow).

Rule 3002.3(b)(2) is amended by replacing “Postal Rate Commission” with “Postal Regulatory Commission” and by replacing the former seal with the current seal.

Rule 3002.3(c)(1) is amended by replacing “Postal Rate Commission” with “Postal Regulatory Commission” and by deleting the word “therefore”.

Rule 3002.3(c)(2) is amended by replacing “Postal Rate Commission” with “Postal Regulatory Commission”.

Rule 3002.10(a) is amended by replacing “the Postal Reorganization Act (84 Stat. 719, title 39, U.S.C.)” with “the Postal Accountability and Enhancement Act (39 U.S.C. 501)” and by replacing “U.S. Government” with “federal government”.

Rule 3002.10(c) is amended by replacing “and the staff components described in §§ 3001.4, 3001.5, 3001.6 and 3001.7” with “and staff” and “§ 3001.9” with “§ 3001.9 of this chapter”, and by deleting “a library containing legal and technical reference materials;”.

Rule 3002.11 is renamed “Office of Secretary and Administration”.

Rule 3002.11 is revised to read as follows:

- (a) The incumbent head of the office utilizes the title of “Secretary”.
- (b) The Office of Secretary and Administration is responsible for the Commission’s budget and accounting. In this role, the Office of Secretary and Administration develops, implements, and administers the Commission’s financial management system and accounting activities including those relating to the budget and the payroll; is responsible for the Commission’s strategic planning; and serves as the point of contact for all Commission contracts and audits.
- (c) The Office of Secretary and Administration is responsible for the Commission’s human resources and personnel. In this role, the Office of Secretary and Administration is responsible for Commission employee hiring, training, travel, personnel policy and compliance, and human capital planning. In addition, the Office of Secretary and Administration serves as an Equal Employment Opportunity Officer for the Commission and manages the Commission’s continuity of operations planning.
- (d) The Office of Secretary and Administration manages the Commission’s records, including the Commission’s seal, administrative policies, orders, reports, and official correspondence. In this role, the Office of Secretary and Administration manages the Commission’s dockets and docket room, website, reference materials,

inter-agency reporting, and Freedom of Information Act responsibilities. All orders and other actions of the Commission shall be authenticated or signed by the Secretary or any such other person as may be authorized by the Commission.

(e) The Office of Secretary and Administration is responsible for the Commission's facilities and infrastructure. In this role, the Office of Secretary and Administration manages facility security; provides information technology and other support services essential to the efficient and effective conduct of operations; acquires and assigns office space; and manages procurement and supply.

Rule 3002.12 is renamed "Office of Accountability and Compliance".

Rule 3002.12(a) is amended by replacing "Office of Rates, Analysis, and Planning" with "Office of Accountability and Compliance"; by deleting "(as opposed to legal)"; and by adding "in both domestic and international matters, including those governed by the Universal Postal Union" to the end of the sentence.

The first sentence of Rule 3002.12(b) is amended by replacing "This office" with "The Office of Accountability and Compliance" and "reviewing the record of rate and classification requests" with "the review of rate changes, negotiated service agreements, classification of products, the Annual Compliance Determination, the Annual Report, changes to postal services".

Rule 3002.12(b)(3) is amended by replacing "by the operational characteristics" with "by operational characteristics, changes in volume, and changes in other relevant factors".

Rule 3002.12(c) is revised to read as follows:

(c) These functional activities are combined in the evaluation of the Postal Service's proposed rates, proposed service changes, proposed changes to the Mail

Classification Schedule, and product list designations, as well as formal complaints, the Annual Compliance Determination, and all other proceedings, reports, and filings before the Commission requiring such analysis.

Rule 3002.12(d) is amended by replacing “The office” with “The Office of Accountability and Compliance”.

Rule 3002.13 is revised to read as follows:

(a) The General Counsel directs and coordinates the functions of the Office of the General Counsel. The General Counsel does not appear as an attorney in any proceeding before the Commission and takes no part in the preparation of evidence or argument presented in such hearings.

(b) The Office of the General Counsel provides legal assistance on matters involving the Commission’s responsibilities; defends Commission decisions before the courts; and advises the Commission on the legal aspects of proposed legislation, rulemaking, and policies on procurement, contracting, personnel matters, ethics, and other internal legal matters.

Rule 3002.14 is renamed “The Public Representative”.

Rule 3002.14 is revised to read as follows:

(a) Pursuant to 39 U.S.C. 505, the Commission appoints a staff member, on a case-by-case basis, to serve as a representative of the general public’s interests in public proceedings before the Commission. This appointee is called the Public Representative.

(b) Individuals appointed to represent the general public are subject to the same ex parte prohibitions as apply to all other interested persons in the cases to which they are assigned to the role of the Public Representative.

Rule 3002.15 is renamed "Office of Public Affairs and Government Relations".

Rule 3002.15 is revised to read as follows:

(a) The Office of Public Affairs and Government Relations facilitates prompt and responsive communications for the Commission with the public, Members of Congress, the Postal Service, state and local governments, and the media.

(b) The Office of Public Affairs and Government Relations has three primary areas of responsibility: Government Relations, Consumer Affairs, and Communications.

(1) *Government Relations*. The Office of Public Affairs and Government Relations is the principal liaison between the Commission and Members of Congress. It develops and maintains effective working relationships with Congressional staff; monitors legislative activity; and advises the Commission and its staff on legislative actions and policies related to the Commission and its mission. The Office of Public Affairs and Government Relations works in conjunction with all Commission offices to ensure that lawmakers are informed of regulatory decisions and policies and that the Commission is responsive to Congressional inquiries for technical information. The Office of Public Affairs and Government Relations also prepares Commissioners and Commission staff when called upon to provide Congressional testimony.

(2) *Consumer Affairs*. As the principal source of outreach and education to the public, the Office of Public Affairs and Government Relations provides information to postal consumers and assists in the resolution of rate and service inquiries from members of the public pursuant to 39 CFR part 3031. It supports the impartial resolution of those inquiries through use of the Postal Service's Office of Consumer Advocate and reports the results to the Commission. The Office of Public Affairs and Government Relations also utilizes procedures available under the Commission's rules and applicable law to assist relevant stakeholders in appeals of Postal Service decisions to close or consolidate individual post offices; maintains a record of service-related inquiries; and posts calendar updates and other public information on the Commission's website.

(3) *Communication.* The Office of Public Affairs and Government Relations also develops public outreach strategies for the Commission, responds to media inquiries, and disseminates information concerning Commission decisions and activities to the public.

Rule 3002.16 is revised to read as follows:

(a) The Office of Inspector General has the duty and responsibility to:

(1) Provide policy direction and conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the Commission;

(2) Review existing and proposed legislation and regulations relating to programs and operations of the Commission;

(3) Make recommendations in semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency of programs and operations administered or financed by the Commission or on the prevention and detection of fraud and abuse in the Commission's programs and operations;

(4) Recommend policies and conduct, supervise, or coordinate other activities carried out or financed by the Commission for the purpose of preventing and detecting fraud and abuse in its programs and operations;

(5) Recommend policies and coordinate communications between the Commission and other federal agencies, state and local government agencies, and nongovernment entities for:

(i) All matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Commission; or

(ii) The identification and prosecution of participants in such fraud and abuse;

(6) Keep the Commission and Congress fully and currently informed through reports concerning fraud and other serious problems, abuses, and deficiencies relating to programs and operations administered or financed by the Commission; recommend

corrective action concerning such problems, abuses, and deficiencies; and report on the progress made in implementing such corrective action.

(b) Reserved.

Appendix A to part 3002 is removed.

III. EFFECTIVE DATE

Notice and comment are not required under the Administrative Procedure Act when a rulemaking involves “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b). Since these changes concern the Commission’s rules of agency organization, notice and opportunity for public comment are not required. See *also* 39 CFR 3001.41(e) (stating that “[e]xcept when notice or hearing is required by statute, the Commission may issue at any time rules of organization . . . without notice or public procedure”).

Generally, a rule becomes effective not less than 30 days after publication in the *Federal Register*. 39 CFR 3001.41(a). Finding no reason to deviate from the general rule, this Final Rule shall be effective 30 days following publication in the *Federal Register*.

IV. CONCLUSION

In consideration of the foregoing, the Commission adopts the changes to part 3002 appearing below the Secretary’s signature in this Order.

It is ordered:

1. 39 CFR part 3002 is hereby amended as discussed in this Order.
2. Amendments listed in this Order are effective 30 days following publication of this Order in the *Federal Register*.
3. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary

AMENDED RULES¹

1. Revise § 3002.2 to read as follows:

§ 3002.2 Statutory functions.

(a) *Areas of jurisdiction.* The Commission develops and maintains regulations for a modern system of rate regulation, including maintaining the market dominant and competitive product lists in the Mail Classification Schedule and ensuring that rates meet the requirements of 39 U.S.C. 3622 and 3633. The Commission consults with the Postal Service on delivery service standards and performance measures and with the Department of State on international postal policies. The Commission adjudicates rate and service complaints filed pursuant to 39 U.S.C. 3662 and offers advisory opinions on proposed changes to postal services pursuant to 39 U.S.C. 3661. Pursuant to 39 U.S.C. 3651, the Commission provides an annual report to the President and Congress, and pursuant to 39 U.S.C. 3653, the Commission issues an annual compliance determination to assess whether the Postal Service's rates, fees, and services comport with the requirements of title 39. Pursuant to 39 U.S.C. 404(d)(5), the Commission acts on postal patrons' appeals concerning Postal Service decisions to close or consolidate post offices.

(b) *Public participation.* Interested persons may participate in formal proceedings described in §§ 3001.17 and 3001.18 of this chapter as formal intervenors (§ 3001.20), limited participators (§ 3001.20a), or commenters (§ 3001.20b). Pursuant to 39 U.S.C. 3662(a) and 39 CFR part 3030, any interested person may lodge rate and service complaints with the Commission. Persons served by a post office that the Postal Service decides to close or consolidate may appeal such determinations in accordance with 39 U.S.C. 404(d) and 39 CFR part 3025.

2. The indefinite suspension of Rule 3002.3 is lifted.

¹ The version published in the *Federal Register* may reflect minor editorial revisions to conform with official publication requirements.

3. Revise § 3002.3 to read as follows:

§ 3002.3 Official seal.

(a) *Authority.* The seal described in this section is hereby established as the official seal of the Postal Regulatory Commission.

(b) *Description.* (1) On a Gold color (Yellow) pentagon device, the base-line formed as a “V”, edged with a Black border, a Black triangle point down and between the inscription at top “Postal Regulatory Commission” in White letters and in base at the point of the triangle three Celeste mullets two, two and one, the American Eagle with branch and arrows derived from the Great Seal of the United States charged on the breast with the Commission’s earlier round seal inscribed “Postal Regulatory Commission” and the date “2006”, all in Gold (Yellow).

(2) The official seal of the Postal Regulatory Commission is modified when reproduced in black and white and when embossed, as it appears in this section.



(c) *Custody and authorization to affix.* (1) The seal is the official emblem of the Postal Regulatory Commission and its use is permitted only as provided in this part.

(2) The seal shall be kept in the custody of the Secretary and is to be used to authenticate records of the Postal Regulatory Commission and for other official purposes.

(3) Use by any person or organization outside of the Commission may be made only with the Commission's prior written approval. Such request must be made in writing to the Secretary.

4. Revise § 3002.10 to read as follows:

§ 3002.10 The Commission and its offices.

(a) *The Commissioners.* The Postal Regulatory Commission is an independent establishment of the executive branch of the federal government created by the Postal Accountability and Enhancement Act (39 U.S.C. 501). The Commission consists of five Commissioners appointed by the President and confirmed by the Senate, one of whom is designated as Chairman by the President.

(b) *The Chairman and Vice-Chairman.* The Chairman has the administrative responsibility for assigning the business of the Commission to the other Commissioners and to the offices and employees of the Commission. He/She has the administrative duty to preside at the meetings and sessions of the Commission and to represent the Commission in matters specified by statute or executive order or as the Commission directs. The Commission shall elect annually a member of the Commission to serve as Vice-Chairman of the Commission for a term of 1 year or until a successor is elected. In case of a vacancy in the Office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, the Vice-Chairman, unless otherwise directed by the Chairman, shall have the administrative responsibilities and duties of the Chairman during the period of vacancy, absence, or inability.

(c) The Commission's offices are located at 901 New York Avenue NW., Suite 200, Washington, DC 20268. On these premises, the Commission maintains offices for Commissioners and staff; a docket room where documents may be filed with the Commission pursuant to § 3001.9 of this chapter and examined by interested persons; a public reading room where the Commission's public records are available for inspection and copying; and a hearing room where formal evidentiary proceedings are

held on matters before the Commission. The Commission also maintains an electronic reading room accessible through the Internet, on its website at *www.prc.gov*.

5. Revise § 3002.11 to read as follows:

§ 3002.11 Office of Secretary and Administration.

(a) The incumbent head of the office utilizes the title of “Secretary”.

(b) The Office of Secretary and Administration is responsible for the Commission’s budget and accounting. In this role, the Office of Secretary and Administration develops, implements, and administers the Commission’s financial management system and accounting activities including those relating to the budget and the payroll; is responsible for the Commission’s strategic planning; and serves as the point of contact for all Commission contracts and audits.

(c) The Office of Secretary and Administration is responsible for the Commission’s human resources and personnel. In this role, the Office of Secretary and Administration is responsible for Commission employee hiring, training, travel, personnel policy and compliance, and human capital planning. In addition, the Office of Secretary and Administration serves as an Equal Employment Opportunity Officer for the Commission and manages the Commission’s continuity of operations planning.

(d) The Office of Secretary and Administration manages the Commission’s records, including the Commission’s seal, administrative policies, orders, reports, and official correspondence. In this role, the Office of Secretary and Administration manages the Commission’s dockets and docket room, website, reference materials, inter-agency reporting, and Freedom of Information Act responsibilities. All orders and other actions of the Commission shall be authenticated or signed by the Secretary or any such other person as may be authorized by the Commission.

(e) The Office of Secretary and Administration is responsible for the Commission’s facilities and infrastructure. In this role, the Office of Secretary and Administration manages facility security; provides information technology and other support services essential to the efficient and effective conduct of operations; acquires

and assigns office space; and manages procurement and supply.

6. Revise § 3002.12 to read as follows:

§ 3002.12 Office of Accountability and Compliance.

(a) The Office of Accountability and Compliance is responsible for technical analysis and the formulation of policy recommendations for the Commission in both domestic and international matters, including those governed by the Universal Postal Union.

(b) The Office of Accountability and Compliance provides the analytic support to the Commission for the review of rate changes, negotiated service agreements, classification of products, the Annual Compliance Determination, the Annual Report, changes to postal services, post office closings and other issues which come before the Commission. The functional areas of expertise within this office are:

(1) The economic analysis of the market for postal services including the alternative sources for such services and the users of the service;

(2) The analysis of the operational characteristics of the postal system and its interface with various segments of the economy; and

(3) The analysis of the costs of operating the Postal Service and how such costs are influenced by operational characteristics, changes in volume, and changes in other relevant factors.

(c) These functional activities are combined in the evaluation of the Postal Service's proposed rates, proposed service changes, proposed changes to the Mail Classification Schedule, and product list designations, as well as formal complaints, the Annual Compliance Determination, and all other proceedings, reports, and filings before the Commission requiring such analysis.

(d) The Office of Accountability and Compliance also collects, analyzes, and periodically summarizes financial and various other statistical information for use in its ongoing activities and for the development of future methods, techniques, and systems of analysis and reporting.

7. Revise § 3002.13 to read as follows:

§ 3002.13 Office of the General Counsel.

(a) The General Counsel directs and coordinates the functions of the Office of the General Counsel. The General Counsel does not appear as an attorney in any proceeding before the Commission and takes no part in the preparation of evidence or argument presented in such hearings.

(b) The Office of the General Counsel provides legal assistance on matters involving the Commission's responsibilities; defends Commission decisions before the courts; and advises the Commission on the legal aspects of proposed legislation, rulemaking, and policies on procurement, contracting, personnel matters, ethics, and other internal legal matters.

8. Revise § 3002.14 to read as follows:

§ 3002.14 The Public Representative.

(a) Pursuant to 39 U.S.C. 505, the Commission appoints a staff member, on a case-by-case basis, to serve as a representative of the general public's interests in public proceedings before the Commission. This appointee is called the Public Representative.

(b) Individuals appointed to represent the general public are subject to the same ex parte prohibitions as apply to all other interested persons in the cases to which they are assigned to the role of the Public Representative.

9. Revise § 3002.15 to read as follows:

§ 3002.15 Office of Public Affairs and Government Relations.

(a) The Office of Public Affairs and Government Relations facilitates prompt and responsive communications for the Commission with the public, Members of Congress, the Postal Service, state and local governments, and the media.

(b) The Office of Public Affairs and Government Relations has three primary areas of responsibility: Government Relations, Consumer Affairs, and Communications.

(1) *Government Relations.* The Office of Public Affairs and Government Relations is the principal liaison between the Commission and Members of Congress. It develops and maintains effective working relationships with Congressional staff; monitors legislative activity; and advises the Commission and its staff on legislative actions and policies related to the Commission and its mission. The Office of Public Affairs and Government Relations works in conjunction with all Commission offices to ensure that lawmakers are informed of regulatory decisions and policies and that the Commission is responsive to Congressional inquiries for technical information. The Office of Public Affairs and Government Relations also prepares Commissioners and Commission staff when called upon to provide Congressional testimony.

(2) *Consumer Affairs.* As the principal source of outreach and education to the public, the Office of Public Affairs and Government Relations provides information to postal consumers and assists in the resolution of rate and service inquiries from members of the public pursuant to 39 CFR part 3031. It supports the impartial resolution of those inquiries through use of the Postal Service's Office of Consumer Advocate and reports the results to the Commission. The Office of Public Affairs and Government Relations also utilizes procedures available under the Commission's rules and applicable law to assist relevant stakeholders in appeals of Postal Service decisions to close or consolidate individual post offices; maintains a record of service-related inquiries; and posts calendar updates and other public information on the Commission's website.

(3) *Communication.* The Office of Public Affairs and Government Relations also develops public outreach strategies for the Commission, responds to media inquiries, and disseminates information concerning Commission decisions and activities to the public.

10. Revise § 3002.16 to read as follows:

§ 3002.16 Office of Inspector General.

(a) The Office of Inspector General has the duty and responsibility to:

(1) Provide policy direction and conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the Commission;

(2) Review existing and proposed legislation and regulations relating to programs and operations of the Commission;

(3) Make recommendations in semiannual reports concerning the impact of such legislation or regulations on the economy and efficiency of programs and operations administered or financed by the Commission or on the prevention and detection of fraud and abuse in the Commission's programs and operations;

(4) Recommend policies and conduct, supervise, or coordinate other activities carried out or financed by the Commission for the purpose of preventing and detecting fraud and abuse in its programs and operations;

(5) Recommend policies and coordinate communications between the Commission and other federal agencies, state and local government agencies, and nongovernment entities for:

(i) All matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Commission; or

(ii) The identification and prosecution of participants in such fraud and abuse;

(6) Keep the Commission and Congress fully and currently informed through reports concerning fraud and other serious problems, abuses, and deficiencies relating to programs and operations administered or financed by the Commission; recommend corrective action concerning such problems, abuses, and deficiencies; and report on the progress made in implementing such corrective action.

(b) Reserved.

11. Remove Appendix A.