

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

Before Commissioners:

Robert G. Taub, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Tony Hammond; and
Michael Kubayanda

Regulations Concerning Classification
Changes that Modify Product Lists

Docket No. RM2019-3

ADVANCE NOTICE OF PROPOSED RULEMAKING CONCERNING CLASSIFICATION
CHANGES MODIFYING PRODUCT LISTS

(Issued January 29, 2019)

I. INTRODUCTION

The Commission initiates this advanced notice of proposed rulemaking (ANPR) to seek comments on whether to update its regulations to address proposed classification changes to product descriptions in the Mail Classification Schedule (MCS) that may modify the market dominant and/or competitive product lists. The Commission is specifically reviewing changes to regulations involving updates to the size and weight limitations applicable to market dominant mail matter. See 39 CFR 3020.111.

II. BACKGROUND

Section 3682 provides that the Postal Service may establish size and weight limitations for mail matter in the market dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. 39 U.S.C. 3682.

Commission rule 3020.111(a) requires the Postal Service to inform the Commission of updates to size and weight limitations for market dominant mail matter. 39 CFR 3020.111(a). The Commission is required to evaluate any proposed updates “in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C.” 39 CFR 3020.111(c).

In Docket No. MC2019-3, the Postal Service filed a request pursuant to 39 CFR 3020.111 seeking to change the weight limit to 15.994 ounces (from 64 ounces) for Outbound Single-Piece First-Class Mail International (FCMI) Large Envelopes (Flats).¹ The Postal Service stated that FCMI Flats weighing 16 ounces or more would be charged the applicable First-Class Package International Service (FCPIS) price.² FCPIS is an existing product on the competitive product list.

In its Response to CIR No. 1, the Postal Service stated that the proposed classification change would have no effect on the market dominant product list because the FCMI product would still appear on the product list. Response to CIR No. 1, question 1. The Postal Service explained that only the portions of MCS section 1125 that concern the weight limitations for FCMI Flats would be revised, pursuant to 39 U.S.C. 3682. *Id.* The Postal Service also asserted that neither section 3682 nor the Commission rules on updates to size and weight limitations refer to 39 U.S.C. 3642 or 39 CFR part 3020 subpart B governing modifications to the product lists. *Id.*

Because the proposed update was in accordance with the policies and applicable criteria of chapter 36 of title 39, the Commission approved the update to the weight limitation in Order No. 4932.³ However, in that order, the Commission stated “that the practical impact of the proposed update is a transfer of FCMI Flats weighing over 15.994 ounces from the

¹ Docket No. MC2019-3, Notice of the United States Postal Service of Update to the Maximum Weight Limit for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats) in the Mail Classification Schedule, October 10, 2018.

² International Mailing Services: Product and Price Changes-CPI, 83 FR 52351 (October 17, 2018). The Postal Services stated that, if mailed as FCPIS, these mailpieces would be charged from 17 percent to 157 percent more than the prices for FCMI Flats. See Docket No. MC2019-3, Response of the United States Postal Service to Commission Information Request No. 1, October 26, 2018, question 2 (Response to CIR No. 1).

³ Docket No. MC2019-3, Order Approving Update to Weight Limitation, December 19, 2018, at 5 (Order No. 4932).

market dominant product list to the competitive product list.” Order No. 4932 at 5. The Commission went on to express concerns “that the Postal Service could use the size and weight limitation regulations to make extensive changes to product lists without proper Commission oversight.” *Id.* For example, the Public Representative, in that docket, considered that the Postal Service could effectively eliminate products from a product list by drastically reducing the range of a product’s weight limitations or could effectively add products to a product list by greatly expanding the limitations.⁴

III. REQUEST FOR COMMENTS

The Commission establishes Docket No. RM2019-3 to evaluate whether changes to MCS provisions that, in effect, add products to, remove products from, or transfer products between product lists, are changes that implicate the requirements of section 3642. In particular, the Commission requests comments from interested parties on whether it should update its regulations to require information pursuant to section 3642 when changes to the size and weight limitations appear to modify the product lists. Comments are due no later than 60 days after the date of publication of this notice in the *Federal Register*. Commission rules require that comments be filed online according to the process outlined at 39 CFR 3001.9(a), unless a waiver is obtained. Additional information regarding how to submit comments online can be found at: <http://www.prc.gov/how-to-participate>. All comments accepted will be made available on the Commission’s website at: <http://www.prc.gov>.

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

⁴ Docket No. MC2019-3, Public Representative Comments, November 13, 2018, at 7.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. RM2019-3 to evaluate whether changes to MCS provisions that add products to, remove products from, or transfer products between product lists, are changes that implicate the requirements of 39 U.S.C. 3642.
2. Interested persons may submit comments no later than 60 days from the date of publication of this notice in the *Federal Register*.
3. Pursuant to 39 U.C.S. 505, the Commission appoints Kenneth E. Richardson to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Stacy L. Ruble
Secretary