

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

Before Commissioners:

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

Modification of Mail Classification Schedule
Regarding Combined Mailings
of Standard Mail and Periodicals

Docket No. MC2011-5

NOTICE AND ORDER CONCERNING CLASSIFICATION CHANGES
AFFECTING OUTSIDE COUNTY PERIODICALS
IN COMBINED STANDARD MAIL AND PERIODICALS MAILINGS

(Issued November 10, 2010)

I. INTRODUCTION

On November 5, 2010, the United States Postal Service, invoking Commission rules 3020.90 and 91, filed a Notice with the Commission announcing a classification change established by the Governors.¹ The change affects bundle and container charges for Outside County Periodicals pieces in combined mailings of Standard Mail and Periodicals. *Id.* at 1. An attachment to the Notice presents conforming revisions to the Mail Classification Schedule (MCS). These revisions affect Periodicals MCS section

¹ Notice of the United States Postal Service of Classification Change Related to Combined Mailings of Standard Mail and Periodicals, November 5, 2010 (Notice).

1320.4, Price Categories. They do not affect any Standard Mail sections in the MCS, nor do they affect any Within County MCS sections. The Notice does not provide a date certain for the planned change.

II. ADDITIONAL DETAILS

Relationship to co-mailing and co-palletizing. The Postal Service notes that the planned change means that when bundles or containers include both Standard Mail and Periodicals pieces, the Outside County Periodicals bundle and container prices apply based on the proportion of Periodicals pieces in bundles or weight in the container. *Id.*

It explains:

Specifically, mailers using the Mixed Class preparation option may combine Standard Mail and Periodicals mailpieces within the same bundle (comail), or combine separate same-class bundles on the same pallet (copalletize), to maximize presorting or to qualify for deeper destination entry discounts.

Id.

The Postal Service asserts, without elaboration, that the changes provide “a fair price application for Mixed Class mailings of Standard Mail and Periodicals.” *Id.* In a similar vein, it also asserts that it believes the changes are consistent with 39 U.S.C. 3642 and should be incorporated by the Commission into the MCS. *Id.*

III. COMMISSION ANALYSIS AND INITIAL ACTION

Rules 3020.90 and 91, which the Postal Service cites as the administrative vehicle for its filing, are part of Subpart E of Part 3020—Product Lists. This subpart is captioned “Requests Initiated by the Postal Service to Change the Mail Classification Schedule.” The first two individual rules within this subpart address Postal Service responsibilities. They require that the Postal Service assure that product descriptions in the MCS accurately reflect current offerings (§ 3020.90) and submit corrections that do not constitute a proposal to modify the product lists by filing a notice of the proposed change no later than 15 days prior to effective date (§ 3020.91).

The remaining two rules address Commission responsibilities. They require the Commission to publish the proposed change on its website and provide interested persons with an opportunity to comment on the consistency of the planned change with 39 U.S.C. 3642 (§ 3020.92). They also require the Commission to review the change and comments and, upon a finding that there is no inconsistency with 39 U.S.C. 3642, to change the MCS to coincide with the effective date of the change (§ 3020.93(a)).

The rules in Subpart E were adopted as part of a series of rulemakings implementing the Postal Accountability and Enhancement Act (PAEA) of 2006. At the time, the Commission viewed Subpart E as a vehicle for minor classification changes. The Postal Service's Notice indicates that it considers Subpart E as an appropriate vehicle for effecting the modification proposed here, which it characterizes as a matter of rate application for practices associated with co-mailing and co-palletizing in mixed class mailings.

The Commission interprets the Postal Service's presentation of proposed MCS revisions and its assertion regarding consistency with 39 U.S.C. 3642, which addresses changes to the product lists, as a demonstration of its interest in facial compliance with Subpart E requirements and the apparent lack of other viable alternatives under the existing administrative framework.

With the perspective gained over the past few years, it appears that Subpart E may not be optimally suited for the type of change the Postal Service proposes here. This is because the proposal may have rate and price cap implications, raising questions about how the Commission's compliance function will be affected. At the same time, it also appears that no practical alternative exists for expedited consideration of the proposal, and that compliance concerns can be addressed, at least preliminarily, in the context of this case.

The Commission therefore establishes Docket No. MC2011-5, Modification of Mail Classification Schedule Regarding Combined Mailings of Standard Mail and Periodicals, to address the Postal Service's filing. In conformance with rule 3020.92, the planned change appears on the Commission's website. In addition, the Notice will

be published in the *Federal Register*. The Commission invites interested persons to comment on the consistency of the change with 39 U.S.C. 3622 and 3642. Comments are due no later than November 24, 2010.

In conformance with 39 U.S.C. 505, the Commission appoints Robert N. Sidman to represent the interests of the general public in this proceeding.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. MC2011-5, Modification of Mail Classification Schedule Regarding Combined Mailings of Standard Mail and Periodicals, for consideration of matters raised in the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Robert N. Sidman is designated officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments are due no later than November 24, 2010.
4. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary