

ORDER NO. 745

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

Temporary Waivers from Periodic  
Reporting of Service Performance  
Measurement

Docket No. RM2011-1

Semi-Permanent Exceptions from  
Periodic Reporting of Service  
Performance Measurement

Docket No. RM2011-4

Temporary Waivers from Periodic  
Reporting of Service Performance  
Measurement

Docket No. RM2011-7

ORDER CONCERNING TEMPORARY WAIVERS AND  
SEMI-PERMANENT EXCEPTIONS FROM PERIODIC REPORTING OF  
SERVICE PERFORMANCE MEASUREMENT



Washington, DC 20268-0001

June 16, 2011

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## I. INTRODUCTION

This Order addresses three separately docketed Postal Service requests for temporary waivers, semi-permanent exceptions, and/or other alternative forms of relief from the periodic reporting of service performance measurements.

### A. Docket No. RM2011-1

On October 1, 2010, the Postal Service filed a request for temporary waivers from several service performance reporting requirements.<sup>1</sup> This request seeks temporary waivers for First-Class Mail Flats at the District level; non-retail First-Class Mail Parcels; all categories of Standard Mail; Outside County Periodicals; non-retail Media Mail, Library Mail, and Bound Printed Matter Parcels; and Stamp Fulfillment Services.

### B. Docket No. RM2011-4

On November 23, 2010, the Postal Service filed a request for a semi-permanent exception, or alternative relief, for quarterly reporting of First-Class Mail Flats at the District level.<sup>2</sup> On November 24, 2010, the Postal Service filed a conditional notice of withdrawal concerning the temporary waiver request for District level reporting of First-Class Mail Flats previously filed in Docket No. RM2011-1.<sup>3</sup>

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<sup>1</sup> Docket No. RM2011-1, United States Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, October 1, 2010 (RM2011-1, Request).

<sup>2</sup> Docket No. RM2011-4, United States Postal Service Request for Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement or, in the Alternative, Petition for Rulemaking Concerning 39 C.F.R. § 3055.45(a), November 23, 2010 (RM2011-4, Request).

<sup>3</sup> Docket No. RM2011-1, United States Postal Service Notice of Provisional Partial Withdrawal of Request for Temporary Waiver, November 24, 2010.

C. Docket No. RM2011-7

On February 3, 2011, the Postal Service filed an additional request for temporary waivers from several quarterly service performance reporting requirements.<sup>4</sup> This request seeks temporary waivers for Standard Mail, Bound Printed Matter Flats, and certain Area and District level data for presort First-Class Mail and End-to-End Periodicals.

D. Summary

The Commission denies the Postal Service's requests for a waiver, semi-permanent exception, or alternative forms of relief concerning First-Class Mail Flats. The Commission directs the Postal Service to begin quarterly reporting including District level service performance based upon available data from the existing External First-Class (EXFC) system with the next due quarterly report. Standard statistical calculations describing the validity of data are to be included where appropriate.

The Postal Service's request for a temporary waiver for presorted First-Class Mail Parcels appears moot because this component of First-Class Mail Parcels has been reclassified within competitive products. See Docket No. MC2011-22.

The Commission grants the Postal Service's request for a temporary waiver concerning presorted First-Class Mail. The Postal Service shall provide status reports as it indicated it would. However, beginning with the FY 2011 Quarter 4 report, the Postal Service shall report all data regardless of whether the data meets the Postal Service's self-imposed data sufficiency thresholds, and where appropriate, include standard statistical calculations describing the validity of the data.

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<sup>4</sup> Docket No. RM2011-7, United States Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, February 3, 2011 (RM2011-7, Request).

The Commission denies the Postal Service's request for a waiver concerning Standard Mail. The Postal Service is directed to inform the Commission of its plan concerning the implementation of a measurement system capable of reporting service performance for individual Standard Mail products by August 1, 2011. While this issue is being resolved, the Postal Service shall report Standard Mail service performance as outlined in its waiver requests.

The Commission denies the Postal Service's request for a waiver concerning Periodicals. Beginning with the FY 2011 Quarter 4 report, the Postal Service is directed to report all Periodicals data regardless of whether the data meets the Postal Service's self-imposed data sufficiency thresholds, and where appropriate, include standard statistical calculations describing the validity of the data. The Commission accepts the use of proxies and the use of Red Tag and Del-Trak data while a transition is being made to an Intelligent Mail Barcode (IMb)-based system in the near term.

Concerning the commercial Package Services start-the-clock issue, the Commission does not find acceptable the Postal Service's proposal to move start-the-clock downstream to the first en route scan without a further accounting for the period from when the Postal Service receives the mail up until the first en route scan. The Postal Service is directed to present a plan to the Commission detailing how it intends to account for the period prior to the first en route scan by August 1, 2011. Furthermore, beginning with the FY 2011 Quarter 4 report, the Postal Service is directed to report all Package Services data regardless of whether the data meets the Postal Service's self-imposed data sufficiency thresholds, and where appropriate, include standard statistical calculations describing the validity of the data.

The Commission grants the Postal Service's request for a temporary waiver from reporting service performance for Stamp Fulfillment Services until the filing date for the 2011 Annual Compliance Report (ACR).

## II. PROCEDURAL HISTORY

### A. Docket No. RM2011-1

Order No. 552 docketed the initial Postal Service request for waivers, established deadlines for interested persons to comment, assigned an officer of the Commission to represent the interests of the general public, and provided for publication in the *Federal Register*.<sup>5</sup>

The Commission held a technical conference on November 17, 2010 to explore the complex issues raised by the Postal Service's request and to obtain a better understanding of the proposals contained therein.<sup>6</sup> The technical conference, which was webcast and recorded, accomplished its goal of furthering the understanding of the Postal Service's proposals. The Postal Service followed up on the technical conference by filing supplemental information to its request.<sup>7</sup>

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<sup>5</sup> Docket No. RM2011-1, Notice and Order Concerning Filing of Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, October 4, 2010 (Order No. 552); see also Docket No. RM2011-1, Errata Notice, October 5, 2010.

<sup>6</sup> Docket No. RM2011-1, Order No. 580, Order Scheduling Technical Conference, November 8, 2010.

<sup>7</sup> Docket No. RM2011-1, Supplemental Information of the United States Postal Service in Response to Informal Questions Regarding Standard Mail Implementation Milestones Posed at Technical Conference, December 2, 2010 (RM2011-1, Supplemental Information).

The Chairman issued one information request in this docket, with questions addressing most of the Postal Service's proposals.<sup>8</sup> The Postal Service provided responses to the Chairman's Information Request on November 12, 2010.<sup>9</sup>

Comment periods were extended twice to provide opportunities to incorporate into comments the responses to the Chairman's Information Request and any insight into the Postal Service's proposals obtained from the technical conference.<sup>10</sup>

Comments were filed by the Association for Postal Commerce and the Direct Marketing Association (PostCom/DMA), Parcel Shippers Association (PSA), the Public Representative, and Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (Valpak).<sup>11</sup> Reply comments were filed by the Public Representative and the Postal Service.<sup>12</sup>

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<sup>8</sup> Docket No. RM2011-1, Chairman's Information Request No. 1, October 28, 2010 (RM2011-1, CHIR No. 1). The Public Representative filed questions in the form of a motion for issuance of an information request. See Public Representative Motion for Issuance of Information Request, October 12, 2010. Elements of the Public Representative's questions were incorporated into RM2011-1, CHIR No. 1.

<sup>9</sup> Docket No. RM2011-1, Responses of the United States Postal Service to Chairman's Information Request No. 1, November 12, 2010; Docket No. RM2011-1, Notice of Errata to Responses of the United States Postal Service to Chairman's Information Request No. 1, Questions 5 and 9, November 19, 2010 (RM2011-1, Response to CHIR No. 1).

<sup>10</sup> Docket No. RM2011-1, Order No. 571, Order Rescheduling the Filing of Comments and Reply Comments, October 28, 2010; Docket No. RM2011-1, Order No. 587, Order Rescheduling the Dates for Filing of Comments and Reply Comments, November 16, 2010.

<sup>11</sup> Comments of the Association for Postal Commerce and the Direct Marketing Association: Order No. 552, November 24, 2010 (RM2011-1, PostCom/DMA Comments); Parcel Shippers Association Comments on the United States Postal Service Proposed Temporary Waivers for Reporting of Service Performance Measurement, November 24, 2010 (RM2011-1, PSA Comments); Public Representative's Initial Comments in Response to Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, November 24, 2010 (RM2011-1, PR Comments); Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Initial Comments Regarding Temporary Waivers from Periodic Reporting of Service Performance Measurement, November 24, 2010 (RM2011-1, Valpak Comments). All of these comments were filed in Docket No. RM2011-1.

<sup>12</sup> Docket No. RM2011-1, Public Representative Reply Comments Pursuant to Order No. 552, December 6, 2010; Docket No. RM2011-1, Reply Comments of the United States Postal Service, December 6, 2010 (RM2011-1, Postal Service Reply Comments).

B. Docket No. RM2011-4

Order No. 600 established Docket No. RM2011-4, set deadlines for interested persons to comment, assigned an officer of the Commission to represent the interests of the general public, and provided for publication in the *Federal Register*.<sup>13</sup>

The Chairman issued one information request in this docket, with questions addressing costs and potential alternatives for First-Class Mail Flats, District level quarterly reporting.<sup>14</sup> The Postal Service provided responses to the Chairman's Information Request on December 21, 2010.<sup>15</sup>

On December 14, 2010, the Public Representative filed comments.<sup>16</sup> On December 21, 2010, the Postal Service filed reply comments.<sup>17</sup>

C. Docket No. RM2011-7

Order No. 664 established Docket No. RM2011-7, set deadlines for interested persons to comment, assigned an officer of the Commission to represent the interests of the general public, and provided for publication in the *Federal Register*.<sup>18</sup>

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<sup>13</sup> Docket No. RM2011-4, Notice and Order Concerning Filing of Postal Service Request for Relief from Periodic Reporting of Service Performance Measurement, November 30, 2010 (Order No. 600).

<sup>14</sup> Docket No. RM2011-4, Chairman's Information Request No. 1, December 13, 2010.

<sup>15</sup> Docket No. RM2011-4, Responses of the United States Postal Service to Chairman's Information Request No. 1 and Application for Non-Public Treatment, December 21, 2010 (RM2011-4, Response to CHIR No. 1). The responses were accompanied by a Motion for Late Acceptance of Response to Chairman's Information Request No. 1, December 21, 2010. The motion is granted.

<sup>16</sup> Docket No. RM2011-4, Public Representative's Comments in Response to Order No. 600, December 14, 2010 (RM2011-4, PR Comments).

<sup>17</sup> Docket No. RM2011-4, Reply Comments of the United States Postal Service, December 21, 2010. The reply comments were accompanied by a Motion for Leave to File Response to Comments of the Public Representative, December 21, 2010. The motion is granted.

<sup>18</sup> Docket No. RM2011-7, Notice and Order Concerning Filing of Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, February 4, 2011 (Order No. 664).



Comments were filed by PostCom/DMA, the Public Representative, and Valpak.<sup>19</sup> Reply comments were filed by the Postal Service.<sup>20</sup>

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<sup>19</sup> Comments of the Association for Postal Commerce and the Direct Marketing Association: Order No. 664, February 15, 2011 (RM2011-7, PostCom/DMA Comments); Public Representative Comments in Response to Order No. 664, February 15, 2011; and Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Comments Regarding Request for Temporary Waiver from Periodic Reporting of Service Performance Measurement, February 15, 2011 (RM2011-7, Valpak Comments). All of these comments were filed in Docket No. RM2011-7.

<sup>20</sup> Docket No. RM2011-7, Reply Comments of the United States Postal Service, March 3, 2011 (RM2011-7, Postal Service Reply Comments). The Postal Service also filed a Motion for Leave to File Response to Comments, March 3, 2011. The motion is granted.

### III. GROUND RULES ESTABLISHED IN ORDER NO. 465 FOR REQUESTING SEMI-PERMANENT EXCEPTIONS OR TEMPORARY WAIVERS

The Commission issued final rules for periodic reporting of service performance measurements and customer satisfaction on May 25, 2010.<sup>21</sup> Order No. 465, in establishing these rules, allows the Postal Service “to follow a two-step process to achieve full compliance with all reporting requirements by the filing date of the FY 2011 Annual Compliance Report (2011 ACR).” *Id.* at 21. The first step allows the Postal Service to request semi-permanent exceptions from service performance reporting as allowed by rule 3055.3.<sup>22</sup> The second step allows the Postal Service to request temporary, short-term waivers from service performance reporting in areas where measurement and reporting systems need additional time for development. The requests presented by the Postal Service and reviewed in this Order include both requests for semi-permanent exceptions and for temporary, short-term waivers.

The Commission’s Rules of Practice and Procedure acknowledge that certain products, or components of products, should be excluded from measurement because requiring such measurements would be unnecessary, impractical, or would not further the goals and objectives of the Postal Accountability and Enhancement Act of 2006 (PAEA). Under these limited circumstances, a semi-permanent exception from service performance reporting may be granted. Rule 3055.3 provides the Postal Service the

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<sup>21</sup> Docket No. RM2009-11, Order Establishing Final Rules Concerning Periodic Reporting of Service Performance Measurements and Customer Satisfaction, May 25, 2010 (Order No. 465).

<sup>22</sup> The Postal Service previously filed two requests for semi-permanent exceptions. In Docket No. RM2010-11, the Commission granted 27 of 31 requests for semi-permanent exceptions predominately within the Special Services and Negotiated Service Agreement areas. See Docket No. RM2010-11, Order Concerning Postal Service Request for Semi-Permanent Exceptions from Periodic Reporting of Service Performance Measurement, September 3, 2010 (Order No. 531). In Docket No. RM2010-14, the Commission granted an additional semi-permanent exception from reporting of Application and Mailing Permits. See Docket No. RM2010-14, Order No. 570, Order Approving Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement for Application and Mailing Permits, October 27, 2010.

opportunity to request that a product, or component of a product, be excluded from service performance measurement reporting upon demonstration that:

- (1) The cost of implementing a measurement system would be prohibitive in relation to the revenue generated by the product, or component of a product;
- (2) The product, or component of a product, defies meaningful measurement; or
- (3) The product, or component of a product, is in the form of a negotiated service agreement with substantially all components of the agreement included in the measurement of other products.

39 CFR 3055.3(a)(1)-(3).

Rule 3055.3 exceptions are semi-permanent in the sense that they are always subject to review, and the Postal Service must re-assert that the reasons for granting the exceptions remain valid on an annual basis. However, barring changed circumstances, there is little expectation for future service performance reporting for products or components of products granted semi-permanent exceptions, nor will the absence of service performance reporting by itself raise a compliance issue in reference to an Annual Compliance Determination.

Waivers, in comparison, are intended to be of limited duration and only are granted for the purpose of providing the Postal Service time to develop service performance measurement and reporting systems in compliance with the Commission's reporting rules as required by the PAEA. Order No. 465 set forth criteria for obtaining temporary waivers.

As a condition of granting any waiver, the Commission shall require the Postal Service to develop and present implementation plans addressing each reporting requirement for which the Postal Service cannot provide the required information. The plans shall conform with a goal of achieving full compliance with all reporting requirements by the filing date of the 2011 ACR.

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Implementation plans at a minimum should provide an explanation of why a reporting requirement cannot be complied with, the steps necessary to come into compliance, and a timeline of events necessary to achieve compliance. Interim milestones shall be included in the plans where applicable such that both the Postal Service and the Commission can evaluate progress being made.

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...The Postal Service shall provide status reports on achieving the milestones of its implementation plans with the filing of quarterly performance reports.

\* \* \*

The Commission will issue a ruling shortly thereafter. For any requests that may be unjustified or implementation plans that may appear unreasonable, the Commission intends to direct the Postal Service to make improvements to its plans or the request may be denied.

Order No. 465 at 22-23. The criteria were established to allow the Commission to first, evaluate whether the Postal Service has a plan reasonably calculated to achieve compliance with service performance reporting requirements by the filing date of the 2011 ACR, and second, to be able to monitor the progress being made by the Postal Service in reaching this objective.

#### IV. DISCUSSION

The discussion that follows begins with a review of comments that either address service performance measurements in general, or address specific measurement systems that may be used across multiple products. Although these comments may not be directly on point in regard to specific Postal Service requests, the comments are informative in regard to the overall status of service performance measurements from the perspective of the mailer or other commenter.

The discussion progresses to individual Postal Service requests for temporary waivers, semi-permanent exceptions, or alternative relief. The requests are organized by class of mail and further by individual products within a class of mail. Within this structure, the three dockets are presented in chronological order because in some instances earlier requests are modified by later requests.

##### A. General Comments

PostCom/DMA provides an informative perspective of service performance measurement and reporting issues. RM2011-1, PostCom/DMA Comments at 1-13. Three themes stand out. First, PostCom/DMA believes that it is important to have a service performance measurement and reporting system in place. Second, PostCom/DMA believes that the Postal Service is not including mailers in developing resolutions to important issues such as critical entry times and start-the-clock. Third, PostCom/DMA indicates that the Postal Service is not keeping the mailing community and the Commission fully informed by, for example, publishing the latest business rules underlying service performance measurement systems or publishing IMb adoption rates by product. PostCom/DMA suggests the Commission convene a technical conference, including industry and Postal Service representatives, to discuss issues concerning service performance measurements. RM2011-7, PostCom/DMA Comments at 1.

The Public Representative comments that, with respect to Standard Mail and Periodicals, approval or rejection of waiver requests will have little effect on the timelines for implementing IMb-based reporting systems. RM2011-1, PR Comments at 3-4. He believes that “[t]he system changes and changes in mailer behavior that must occur are too numerous to make Full-Service Intelligent Mail<sup>®</sup> barcodes and corresponding documentation methods a useable, let alone reliable, platform for service performance measurement.” *Id.* at 4. The Public Representative suggests requiring use of external measurement systems for the associated products.

The Public Representative further notes that the Postal Service has not offered a plan to achieve compliance with service performance measurement and reporting requirements by certain dates. RM2011-7, PR Reply Comments at 2. He suggests that the Commission should require a compliance plan with definite dates. He also suggests considering the acceptance of service performance measurements with a lesser degree of precision or reconsidering the whole IMb measurement concept.

In the 2010 ACD, the Commission expressed concern “with the Postal Service’s progress in achieving full compliance with all service performance reporting requirements by the filing date of the FY 2011 ACR.”<sup>23</sup> The Commission further commented on significant problems with the IMb-based measurement system that are preventing IMb from living up to expectations. *Id.* at 58. Of particular concern were issues preventing Standard Mail service reporting at the product level as required by the PAEA. The Commission commented that “[s]hould growth [in participation rates] not continue during this fiscal year, the Commission may review its previous decision to allow the Postal Service to proceed with development of an internal IMb based hybrid measurement system.” *Id.* at 67. The plans presented with the Postal Service’s requests, especially for Standard Mail, do not inspire confidence that the Postal Service

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<sup>23</sup> See Docket No. ACR2010, FY 2010 Annual Compliance Determination, March 29, 2010, at 57-58 (2010 ACD).

is on a path to successful implementation of a systemwide service performance measurement and reporting program.<sup>24</sup>

The Commission recognizes that some in the mailing community are concerned that they are being left out of the process to develop measurement systems. PostCom/DMA suggests that the Commission convene a technical conference to discuss service performance issues. The Commission will take this suggestion under advisement. If progress is not made in a reasonable timeframe, a technical conference may be helpful in determining whether a change in direction in the approach to service performance measurement and reporting may be necessary.

Another area of mailer concern is publication of current business rules for measuring service performance. Rules are now in place which should assure timely awareness of business rules. On an annual basis, the Postal Service is required to provide a description of the measurement system for each product. See 39 CFR 3055.2(e). The Postal Service is also required to inform the Commission of any changes to measurement systems, service standards, service goals or reporting methodologies. See 39 CFR 3055.5.

During the initial stages of service performance measurement, the Commission has allowed the Postal Service the freedom to implement its service performance measurement systems without excessive oversight. This was thought necessary given the complexity of the systems and the numerous developmental changes that would have to be made along the way. As long as the Commission is sufficiently informed and there is evidence of progress, the Commission has deferred to the Postal Service to develop its service performance measurement systems. The Commission has yet to strictly enforce the provisions of 39 CFR 3055.5. As the systems become mature,

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<sup>24</sup> The exception is the EXFC measurement system, which is an externally run measurement system. Some success also is evident with international mail, and the Red-Tag and Del-Trak systems.

adherence with 39 CFR 3055.5 will become more important. If significant changes have been made to the business rules as indicated by some mailers, the Commission reminds the Postal Service that it must present these changes to the Commission and disseminate this information to the mailing community.

B. First-Class Mail

The following products are included within First-Class Mail: Single-Piece Letters/Postcards, Presort Letters/Postcards, Flats, Parcels, Outbound Single-Piece First-Class Mail International, and Inbound Single-Piece First-Class Mail International. The Postal Service seeks temporary waivers from service performance reporting within the Flats and Parcels products. RM2011-1, Request at 3-6. The Postal Service then seeks a semi-permanent exception, or alternative relief, from service performance reporting within the Flats product. RM2011-4, Request at 1. Finally, the Postal Service seeks a temporary waiver from quarterly reporting for presort First-Class Mail to the extent that data is not available.<sup>25</sup> RM2011-7, Request at 4.

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<sup>25</sup> The Commission assumes that “presort First-Class Mail” refers to the Presorted Letters/Postcards product and the presort components of the Flats product within First-Class Mail. The Commission understands that the service performance of single-piece Flats is proposed in the near term as a proxy for presort Flats service performance, and that the Postal Service in the future may use an IMb-based system for measuring presort Flats.



The Postal Service provided the following status, as of November 2010, of its reporting capability for each First-Class Mail product:

<b>First-Class Mail Product</b>	<b>Geographic Reporting Level</b>	<b>Available Beginning</b>	<b>Proxy Used</b>	<b>Proxy— Temporary or Permanent</b>
Single-Piece Letters/Postcards	District, Area, and National	Q4 FY 2010	None	
Presorted Letters/Postcards	District, Area, and National	Q4 FY 2010	None	
Flats	District	Pending Date	Single-Piece Flats to be used as a proxy for all Flats	Temporary until sufficient presort data is available
	Area and National	Q4 FY 2010	Single-Piece Flats to be used as a proxy for all Flats	Temporary until sufficient presort data is available
Parcels	District, Area, and National	Q4 FY 2010	Retail pieces with Delivery Confirmation used as a proxy for all Parcels	Temporary until commercial Parcels data is available
Outbound Single-Piece First-Class Mail International	Area and National	Q4 FY 2010	Domestic single-piece Flats to be used as a proxy for international flats; domestic retail Parcels to be used as a proxy for international parcels	Permanent
Inbound Single-Piece First-Class Mail International	Area and National	Q4 FY 2010	Domestic single-piece Flats to be used as a proxy for international flats; domestic retail Parcels to be used as a proxy for international parcels	Permanent

RM2011-1, Response to CHIR No. 1, question 1. The Postal Service states that service performance results will be reported for overnight, 2-day, and 3- to 5-day service standards, and include both service performance and service variance.

1. Flats—District Level Quarterly Reporting

First-Class Mail Flats includes both single-piece and presort categories. The Postal Service proposes to use the EXFC measurement system for measuring the single-piece category. The single-piece measurement then will be used as a proxy for the service performance of mail within the presort categories.<sup>26</sup>

The Postal Service first seeks a temporary waiver from the requirement to report the service performance of First-Class Mail Flats at the District level on a quarterly basis. RM2011-1, Request at 3; *see also* 39 CFR 3055.45(a). Quarterly reporting at the Postal Administrative Area and National levels will be provided. The Postal Service asserts that the EXFC measurement system currently does not provide statistically valid measurements at the District level when reported on a quarterly basis. The Postal Service states that it will analyze design changes and implement modifications to the EXFC system that will support this measurement during quarter 1 of FY 2011, with reporting at the District level to begin in quarter 2 of FY 2011.<sup>27</sup>

In the Postal Service Response to RM2011-1, CHIR No. 1, question 1, the Postal Service changes its reporting target stating that “[i]t is currently unclear when the modifications will be finalized and reporting will begin for this category.”

Subsequently, the Postal Service filed a conditional withdrawal of its request for a temporary waiver and seeks alternative relief. It now seeks to either:

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<sup>26</sup> United States Postal Service, Service Performance Measurement, June 2008 (Service Performance Measurement) attached to Docket No. PI2008-1, Order No. 83, Second Notice of Request for Comments on Service Performance Measurement Systems for Market Dominant Products, June 18, 2008, at 22.

<sup>27</sup> The Postal Service also states that it will examine the potential use of a hybrid system based on Full-Service Intelligent Mail barcodes for the presort categories of First-Class Mail Flats in lieu of using a single-piece First Class Mail Flats proxy.

- (1) Allow a semi-permanent exception for quarterly, district-level reporting of First-Class Mail Flats under 39 C.F.R. § 3055.3(a)(1), on the basis of the undue burden that a \$4 million measurement cost would impose on the Postal Service's financial position;
- (2) Allow a semi-permanent exception on an extraordinary basis, not under 39 C.F.R. § 3055.3(a)(1), for the same reason; or
- (3) Amend 39 C.F.R. § 3055.45(a)(1) and (2) to delete the word 'District.'

RM2011-4, Request at 7. The Postal Service argues that given the current economic climate, the cost of modifying the EXFC system is not justified by the benefit of providing reliable quarterly measurement at the District level.<sup>28</sup> *Id.* at 5.

The Postal Service estimates a first-year cost of \$3.8 million, with follow-on years costing approximately \$3.3 million per year, for modifications to the EXFC system necessary to measure the service performance of Flats on a quarterly basis at the District level. RM2011-4, Response to CHIR No. 1, question 1. The estimates were developed after informal discussions with the EXFC vendor. A formal request for proposal was not issued.

The Postal Service further speculates that if the presort categories can be successfully measured using a hybrid Intelligent Mail-based system (currently, the single-piece measurement is used as a proxy for the presort categories), the District level analysis might be conducted with a lower volume of single-piece EXFC flats. It states that at this time the impact on costs is impossible to predict.

The Public Representative supports the initial request for a temporary waiver stating that the waiver is expected to result in full compliance with the reporting requirements prior to the filing of the 2011 ACR. RM2011-1, PR Comments at 3.

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<sup>28</sup> The Postal Service states that it can provide annual reporting of District level First-Class Mail Flats performance without any EXFC modifications or expense. *Id.* at 7. Providing annual reporting without quarterly reporting would also require a change to the reporting rules.

However, the Public Representative argues that the approval should be conditioned on finalization of EXFC contract modifications and a date certain for initiation of reporting. *Id.* at 8.

The Public Representative opposes the subsequent request for a semi-permanent exception or alternative forms of relief presented in Docket No. RM2011-4. RM2011-4, PR Comments at 3. He contends that none of the three conditions of 39 CFR 3055.3(a) are satisfied upon which to allow a semi-permanent exception. *Id.* at 4-7. He finds no support for an “extraordinary basis” upon which to allow a semi-permanent exception. *Id.* at 8. He also opposes a rulemaking to strike the requirement to provide District level reporting on a quarterly basis. *Id.* at 8-9.

Because the Postal Service’s withdrawal of its request for a waiver is conditioned upon approval of either a semi-permanent exception or alternative forms of relief, the Commission will first address the request for semi-permanent exception or alternative forms of relief. Semi-permanent exceptions may be justified within three limited categories pursuant to 39 CFR 3055.3(a). Only the first category, based on cost, is applicable to the Postal Service’s request.

(1) The cost of implementing a measurement system would be prohibitive in relation to the revenue generated by the product, or component of a product[.]

39 CFR 3055.3(a)(1).

The Commission recently determined that First-Class Mail Flats generated \$3.1 billion in revenue with a volume of 2.5 billion pieces and a cost coverage of 145.4 percent. 2010 ACD at 84. The Postal Service estimates the recurring costs to provide the requisite level of measurement to be approximately \$3.3 million per year. Based on the Postal Service’s cost estimate, quarterly reporting of First-Class Mail Flats would increase costs by roughly 0.13 cents per piece, or affect overall Flats revenue by one-tenth of 1 percent.

The Commission does not find the cost of implementing a measurement system for Flats reporting on a quarterly basis to be prohibitive in relation to the revenue generated by the product, or component of a product. The request based on the semi-permanent exception provisions of 39 CFR 3055.3(a) is denied.

The Postal Service also recognized that the above request likely does not meet the cost test under 39 CFR 3055(a)(1). RM2011-4, Request at 4-5. It adds that the current overall condition (losses in volume, revenue, and profitability) of the Postal Service also should be considered. Thus, the Postal Service requests a semi-permanent exception based on extraordinary circumstances.

The Commission has been amenable to taking the financial condition of the Postal Service into consideration by pacing the development of measurement systems over several years. This does not absolve the Postal Service of the statutory requirement to eventually have reliable service performance measurement systems in place for all market dominant products. The Commission does not find an extraordinary basis upon which to grant relief.

The Postal Service next proposes to strike the word “District” from the 39 CFR 3055(a)(1) and (2) reporting requirements.<sup>29</sup> In initially developing the reporting requirements, the Commission adopted the two-level system of reporting proposed by the Postal Service. The levels consist of an Annual Report provided at a high level of aggregation and four Quarterly Reports which provide information at a more detailed level. The more detailed quarterly reports are used to ensure that the high level reports

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<sup>29</sup> The Commission understands the intent of the Postal Service's proposal is to remove the requirement for quarterly District level reporting for Flats only, and not as implied by the Public Representative to remove the requirement for quarterly District level reporting for all domestic First-Class Mail. The Postal Service's proposal would also require modifications to add an annual District level reporting requirement for Flats.

are in fact representative of service performance. District level reporting was determined to be appropriate to accomplish this task.

The Commission explored whether the Postal Service considered less expensive reporting options for District level reporting. The Postal Service stated that the EXFC vendor provided only two options, no reporting, or reporting at a 95 percent confidence level within +/- 3 percent. RM2011-4, Response to CHIR No. 1, question 2. No intermediate, and potentially lower cost, options were considered.

At the technical conference, the Commission informally inquired into the feasibility of using the existing EXFC system and reporting available data at the District level along with existing confidence levels/intervals. The Postal Service was concerned that this level of reporting may be misleading to mailers without a higher level of understanding of the statistics behind the reporting.

What remains is consideration of the Postal Service's request for a temporary waiver. The Postal Service initially stated that EXFC modifications could be made and reporting begin by FY 2011 quarter 2. It then stated that it is unclear when reporting might begin.

Order No. 465 requires the Postal Service to present implementation plans including dates and milestones. The Postal Service has not fully complied with these requirements. There is no justification for granting an open-ended waiver. Thus, the request for temporary waiver is denied.

The Commission directs the Postal Service to begin quarterly reporting of First-Class Mail Flats including District level service performance based upon available data from the existing EXFC system starting with the next due quarterly report. The performance scores shall be accompanied by standard statistical calculations which describe the validity of the data for each District such as confidence intervals and confidence levels. This will allow initial reporting of service performance and provide

the information necessary for the Postal Service and mailers to evaluate the benefits of improved reporting for specific Districts.

## 2. Parcels—Non-Retail

Service performance measurement for Parcels is based on the portion of mailpieces that are mailed with Delivery Confirmation. There are both retail and commercial categories within Parcels. For each category, measurement begins with a start-the-clock event and ends with a stop-the-clock event.<sup>30</sup> The Postal Service states that the start-the-clock event for retail Parcels primarily occurs at the retail counter with a Delivery Confirmation barcode scan. Service Performance Measurement at 22-23. Parcels service performance measurements currently are based solely on single-piece Parcels accepted over the counter at retail locations. RM2011-1, Request at 4-6.

For the measurement of presort Parcels, the Postal Service planned to develop a start-the-clock system based on documented arrival time at a postal facility in conjunction with Delivery Confirmation barcodes and mailer documentation.<sup>31</sup> Service Performance Measurement at 24. The Postal Service now believes that the commercial Parcels start-the-clock system as originally proposed is not reliable. Therefore, commercial Parcels have been excluded from reporting.

The Postal Service seeks a waiver to allow time to modify the originally planned presort measurement system to use the first en route scan of commercial Parcels, which include Delivery Confirmation, to start-the-clock. RM2011-1, Request at 5. The Postal Service asserts that it has developed system requirements and plans

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<sup>30</sup> The proposed stop-the-clock events for both retail and commercial Parcels are based on Delivery Confirmation scans at the time of delivery or attempted delivery.

<sup>31</sup> Commercial Parcels represent 91.9 percent of First-Class Mail Parcels with Delivery Confirmation service.

implementation in May 2011. It anticipates including commercial Parcels in the First-Class Mail Parcels measurement in quarter 4 of FY 2011. *Id.* at 5-6.

In Docket No. MC2011-22, the Commission approved a Postal Service request to move commercial First-Class Mail Parcels to the competitive product list where service performance measurement and reporting is not required; however, the Postal Service has not withdrawn its request.<sup>32</sup> The Postal Service's request for a temporary waiver for presorted First-Class Mail Parcels appears moot.<sup>33</sup>

### 3. Presorted Letters/Postcards and Presort Components of Flats

In the RM2011-7 Request, the Postal Service states that a review of FY 2010 quarter 4 performance scores has led to a reassessment of the quality of service performance data. RM2011-7, Request at 1. The Postal Service concluded that insufficient mailer compliance with Full-Service Intelligent Mail requirements was challenging the reliability of performance measurement results. Specifically, documentation errors affecting the start-the-clock event were skewing scores downward. This issue affects products within all classes of mail which rely upon Intelligent Mail barcode measurements for service performance reporting.

In November 2010, the Postal Service established a new certification process for all commercial mailers. Only mail tendered by mailers certified as compliant and accurate are included in service performance measurements. As of the end of FY 2011 quarter 1, 11 First-Class Mail mailers have been certified. No Standard Mail mailers or Bound Printed Matter mailers had met the criteria for certification. *Id.* at 2. On a site basis, 26 out of 527 Full-Service Intelligent Mail customer sites have been certified and

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<sup>32</sup> See Docket No. MC2011-22, Order No. 710, Order Adding Lightweight Commercial Parcels to the Competitive Product List, April 6, 2011.

<sup>33</sup> The start-the-clock issue within First-Class Mail Parcels is generic and applicable to parcels within other classes of mail as discussed below.



are included in the service performance measurement system. *Id.* at 2-3. By March 2011, 105 sites have been certified and are included. RM2011-7, Postal Service Reply Comments at 4.

The Postal Service states that some FY 2011 quarter 1 data exists and will be reported for presorted First-Class Mail. However, some Districts and Areas are without data due to low coverage. The Postal Service has established data sufficiency thresholds that must be met prior to reporting additional data. See RM2011-7, Request at 3-4. Thus, the Postal Service seeks a temporary waiver from the reporting of service performance data to the extent that data is unavailable for presort First-Class Mail. *Id.* at 4. The Postal Service suggests that it provide a status report or request an additional waiver if this issue continues to affect quarterly reporting in FY 2011 quarter 2.

The Commission grants the Postal Service's request for a temporary waiver. The Postal Service shall provide status reports as it has indicated it would. Beginning with the FY 2011 Quarter 4 report, the Postal Service shall report all data regardless of whether the data meets the Postal Service's self-imposed data sufficiency thresholds. If the data sufficiency thresholds are not met, the performance scores shall be accompanied by standard statistical calculations which describe the validity of the data such as confidence intervals and confidence levels. This will allow initial reporting of service performance and provide the information necessary for the Postal Service to focus attention on data cells where reporting needs to be improved. The Postal Service need not seek additional relief from the Commission in the interim.

#### C. Standard Mail

The following products are included within Standard Mail: High Density and Saturation Letters, High Density and Saturation Flats/Parcels, Carrier Route, Letters, Flats, and Not Flat-Machinables (NFM)s/Parcels. The Postal Service is capable of providing limited service performance measurement reporting at the class level. Data

will be reported at the District, Area, and National levels disaggregated by Destination Entry and End-to-End. The Postal Service first seeks a temporary waiver from reporting on all Standard Mail products at the product level (or below). RM2011-1, Request at 6. The Postal Service then seeks a temporary waiver for service performance reporting for all Standard Mail due to the same Intelligent Mail data quality/certification issue applicable to the Presorted Letters/Postcards and presort components of Flats within First-Class Mail.<sup>34</sup> RM2011-7, Request at 3.

The Postal Service explains that for mailers using Postal Wizard or the Intelligent Mail Range Record documentation methods, the Postal Service cannot distinguish each mailpiece's product category. Approximately half of all Full-Service Intelligent Mail barcode volume uses such systems. The Postal Service states that it could have new documentation specifications developed and supported by Postal Service systems by June 2011, but industry adoption may take two or more years. Therefore, the Postal Service does not expect to fully comply with Standard Mail product level service performance measurement reporting requirements until 2012 at the earliest. *Id.* at 7; see *also* RM2011-1, Response to CHIR No. 1, question 6.

At the November 17, 2010 technical conference, the Commission asked the Postal Service to provide a timeline towards enabling the capture of product-level information for all Standard Mail products. The Postal Service reported that the capability to support product level breakouts has been in place since May 2010 for Mail.dat pieces. By January 2, 2011, the capability for product level breakouts will be available for Mail.XML pieces. However, there is no plan to provide this capability for Postal Wizard pieces. The Postal Service notes that even after this capability is

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<sup>34</sup> The Postal Service's second waiver request only temporarily supersedes the first waiver request. Once the Postal Service resolves its data quality/certification issues, the issues concerning product level reporting remain.

provided, reporting is dependent on sufficiently reliable data and industry adoption. See RM2011-1, Supplemental Information.

The Postal Service also states that there is no measurement system in place for Standard Mail Not-Flat Machinables (NFMs)/Parcels. This issue is complicated by the transfer of a portion of this product to the competitive product category.<sup>35</sup> The portion of this product that remains as a market dominant product is not susceptible to a Delivery Confirmation-based measurement system. Therefore, the Postal Service states that a hybrid system will have to be developed.

Further complicating the issue, the Postal Service proposes to use the new Not-Flat Machinables (NFMs)/Parcels product measurement as a proxy for the parcels component of High Density and Saturation Flats/Parcels, and Carrier Route measurements. Thus, the Postal Service also seeks a waiver from service performance reporting for these products until the measurement system for the new Not-Flat Machinables (NFMs)/Parcels product is operational. RM2011-1, Request at 9-10.

Appearing inconsistent with the above, the Postal Service also states that it will be permanently using the flats component of High Density and Saturation Flats/Parcels as a proxy for the parcels component of High Density and Saturation Flats/Parcels. It further states that it permanently will be using the flats component of Carrier Route as a proxy for the parcels component of Carrier Route. RM2011-1, Response to CHIR No. 1, question 6.

In the interim, the Postal Service proposes to report all Standard Mail disaggregated by all letters, all flats, and Not-Flat Machinables (NFMs)/Parcels. It states that this level of reporting would begin in quarter 1 of FY 2011, with the exception

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<sup>35</sup> The Postal Service's request to move a portion of the Not-Flat Machinables (NFMs)/Parcels product into the competitive Parcel Select product was conditionally granted on March 2, 2011. See Docket No. MC2010-36, Order No. 689, Order Conditionally Granting Request to Transfer Commercial Standard Mail Parcels to the Competitive Product List, March 2, 2011.

of Not-Flat Machinables (NFM)s/Parcels which would not begin until quarter 4 of FY 2011. *Id.* at 8-9.

The Public Representative does not support this request for a temporary waiver. RM2011-1, PR Comments at 3, 16. He believes that the likelihood of service reporting by product in the foreseeable future is remote, and that the Commission has the option of directing use of an external measurement system, or alternatively may consider opening a permanent docket to track Postal Service progress. *Id.* at 14-15.

PSA opposes further delay in reporting service performance for the Not-Flat Machinables and Parcels products. RM2011-1, PSA Comments at 1. PSA contends that data already exists within the Enterprise Data Warehouse system that can be readily used for service performance reporting. *Id.* at 2. PSA also argues that all Electronic Verification System (eVS) manifested, uniquely barcoded parcels should be included in service performance measurements regardless of whether Delivery Confirmation is purchased.<sup>36</sup> *Id.* at 5.

PSA also believes that the Postal Service will be adopting the same first en route barcode scan start-the-clock system for commercial Standard Mail Parcels as it is proposing for commercial First-Class Mail Parcels. *Id.* at 3-4. PSA contends that this system is unacceptable. PSA notes that Standard Mail parcels are deferrable; parcels that start their processing by being cross-docked and transported will not obtain a start-the-clock until the parcels arrive at the next facility; and further, this system will not account for unload or staging times. *Id.* at 4. PSA argues that the start-the-clock time must be the exact time the parcels were picked up or dropped off. PSA asked the Postal Service to work with industry to develop start-the-clock business rules. *Id.* at 5.

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<sup>36</sup> As part of the Postal One! system, eVS allows shippers to submit documentation and pay postage by transmitting electronic manifest files to the eVS database.

PostCom/DMA submits comments concerning all market dominant parcels that parallel the parcels' comments provided by PSA. RM2011-1, PostCom/DMA Comments at 14-17. PostCom/DMA oppose the waiver request for start-the-clock changes and the delay of Not-Flat Machinables and parcel reporting until quarter 4 of FY 2011. It asks that the Postal Service be directed to immediately begin reporting based on Enterprise Data Warehouse data. *Id.* at 16.

PostCom/DMA also comment on reporting for letters and flats. PostCom/DMA states “[i]t is unclear exactly what specifications need to be changed to allow the USPS to report service performance at the product category level.” *Id.* at 18. It also contends that it is unclear why “the requisite software functionality for Standard Mail product-level detail would not be implemented until mid-2011, and why the Postal Service believes it will take industry an additional two years beyond that time to comply.” *Id.* at 19.

PostCom/DMA is concerned with the open-ended nature of the Postal Service's request. PostCom/DMA asserts that the duration of the waiver clearly needs to be stated with supporting rationale, along with milestones that will be accomplished in the interim. *Id.* at 19-20.

Valpak reminds the Commission that the PAEA requirement of 39 U.S.C. 3652 was enacted on December 20, 2006, with final Commission rules on service performance measurements promulgated on May 25, 2010. RM2011-1, Valpak Comments at 2. Valpak urges that any temporary waiver issued at this time not extend beyond FY 2011. If a subsequent waiver is needed beyond that time, the Postal Service could seek an additional waiver while explaining progress that has been made and the specific reasons necessitating the request. *Id.*

Valpak further comments that the Postal Service's request and the response to RM2011-1, CHIR No. 1, question 6 are silent on Standard Mail variance reporting.<sup>37</sup> RM2011-1, Valpak Comments at 2.

Valpak proposes that the solution to gaining mailer participation in the IMb program is to use the pricing system and provide mailers with much stronger incentives. RM2011-7, Valpak Comments at 4. It argues that these incentives must consider the mailer's cost of participation. It does not view a discount based on worksharing appropriate because it does not consider the use of the Full-Service option of IMb as worksharing related. *Id.* at 9. Valpak also discusses alternative measurement systems, such as those based upon electronic tracking devices. *Id.* at 10. This is presented more as a warning that if the Postal Service is unable to produce reliable data via an IMb-based system, it may have to explore more expensive measurement systems. *Id.* at 11.

The Postal Service does not oppose the consideration of adding eVS manifested and uniquely barcoded parcels to measurements. RM2011-1, Postal Service Reply Comments at 4. Nor is it opposed to using pallet scans as a start-the-clock event for parcels. However, the Postal Service notes that commercial parcel mailers would have to adopt the Intelligent Mail package barcode (IMpb) format, corresponding file format, Intelligent Mail container placard, and nesting of item level information with sufficiently high data quality. *Id.* at 5.

The Postal Service believes that the proposal to use Enterprise Data Warehouse information is overly simplistic. The Postal Service states that this data applies to the competitive Parcel Select product only. The Postal Service asserts that the summary

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<sup>37</sup> The Commission assumes a one-to-one correspondence on the Postal Service's ability to report on time service performance and to report service variance (where required) when discussing all temporary waivers. This assumption was confirmed by the Postal Service. RM2011-1, Postal Service Reply Comments at 14.

reports generated through this system proved insufficient for internal Postal Service diagnostics and would be unsuitable for reliable public reporting. *Id.* at 11.

The Postal Service has not complied with Commission directions for seeking waivers which require the Postal Service to present implementation plans including dates and milestones. The Postal Service has not presented a plan reasonably calculated to achieve compliance with Standard Mail by the filing of the 2011 ACR or any other fixed date into the foreseeable future. The Postal Service has indicated what data it may be able to provide during different time periods. However, this falls short of what is required by the PAEA and Commission rules. The Commission denies the Postal Service's requests for waivers concerning Standard Mail.

The Commission directs the Postal Service to inform the Commission of its intent concerning the implementation of an IMb-based system capable of reporting service performance measurements for individual Standard Mail products. If the Postal Service's decision is to continue with an IMb-based approach, it shall present implementation plans as originally required by Order No. 465. The Commission will require sufficient detail in each plan to generate confidence that the Postal Service will be able to implement measurement systems by a fixed date in the near future. If the Postal Service's decision is to abandon the IMb-based approach, it shall present plans for implementing an external measurement system for each Standard Mail product. The Postal Service shall provide this information to the Commission by August 1, 2011.

Parcels within Standard Mail appear to share the same start-the-clock issues as parcels within First-Class Mail and Package Services. The Commission addresses these issues in the Package Services discussion.

The Commission notes that the Postal Service provided no service performance data for Standard Mail in its latest report filed on May 10, 2011. At a minimum, while

the service performance issues for Standard Mail are being resolved, the Postal Service shall report Standard Mail service performance as outlined in its waiver requests.

#### D. Periodicals

The following products are included within Periodicals: Within County Periodicals, and Outside County Periodicals. The Postal Service first seeks a temporary waiver from performance reporting for Outside County Periodicals. RM2011-1, Request at 10. The Postal Service then seeks a temporary waiver for quarterly reporting of End-to-End Outside County Periodicals for Areas where an acceptable level of reporting precision cannot be met.<sup>38</sup> RM2011-7, Request at 7.

The Postal Service explains that the hybrid measurement system currently does not distinguish between Within County and Outside County mailpieces. The Postal Service asserts that it has developed system modifications, which were scheduled for implementation in January of 2011, to capture the necessary information from a mailer's documentation for use in a hybrid measurement system.

Even after these modifications, the Postal Service states that approximately half of all Periodicals mail using Full-Service Intelligent Mail still will rely on electronic documentation methods that do not distinguish between Within County and Outside County mailpieces. The Postal Service states that for this portion of Periodicals mail, documentation specifications potentially could be developed and supported by Postal Service systems by June 2011, but mailer adoption could take two or more years. Therefore, the Postal Service does not expect to fully comply with all Periodicals reporting requirements until 2012 at the earliest.

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<sup>38</sup> The first waiver request anticipates a transition from the Red Tag and Del-Trak measurement system to an IMb-based measurement system. The second waiver request recognizes transitional delays due to the mailer certification issue.



In the interim, the Postal Service proposes to use Periodicals measured at the class level as a proxy for Within County Periodicals performance as suggested by the Commission in Order No. 531.<sup>39</sup> RM2011-1, Request at 12. A determination will be made by 2014 whether sufficient Intelligent Mail barcode information is available to replace the proxy with a direct measurement or to continue use of the proxy supported by a new special study.

In quarter 4 of FY 2010, the Postal Service proposes to report class level Periodicals measurements based on a Red Tag and Del-Trak system at the Area and National levels, without segregating by Destination Entry and End-to-End performance. The Postal Service notes that the Red Tag and Del-Trak system currently does not provide statistically reliable service performance estimates at a more granular level. *Id.* at 11.

Beginning in quarter 1 of FY 2011, the Postal Service proposes to report Outside County Periodicals service performance disaggregated by Destination Entry and End-to-End using an Intelligent Mail barcode hybrid system. The Postal Service notes that with this system, it will describe the population of mail that is available for measurement until at least 80 percent of Full-Service Intelligent Mail Periodicals has the information necessary to distinguish between Within County and Outside County mailpieces.<sup>40</sup>

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<sup>39</sup> “The Commission suggests that the Postal Service look into the feasibility of using all Periodicals as a proxy for reporting Within County Periodicals (as indicated by the Postal Service), along with a special study every 5 years (such as presented in Supplemental Information) to examine the veracity of the proxy. In the future, as the Intelligent Mail barcode develops and is put to new uses, the Postal Service may wish to examine the potential of developing a more appropriate direct measurement system.” Order No. 531 at 11.

<sup>40</sup> All Destination Entry Periodicals will be used as a proxy for Outside County Destination Entry Periodicals and all End-to-End Periodicals will be used as a proxy for Outside County End-to-End Periodicals. The Postal Service will assume that a Periodicals mailpiece is Outside County when the electronic documentation prevents a determination of whether the mailpiece is in fact Outside County or Within County. See RM2011-1, Response to CHIR No. 1, question 9.

The RM2011-7 Request modifies the Postal Service's FY 2011 quarter 1 reporting proposal. The Postal Service explains that the new mailer certification process for IMb has delayed reporting of Periodicals based on an Intelligent Mail barcode hybrid system. The Postal Service states that, for the time being, it will continue to use the Red Tag and Del-Trak system. The Postal Service requests a waiver from reporting Periodicals service performance until data becomes available from certified Intelligent Mail users and the Postal Service shifts away from the Red Tag and Del-Trak system. RM2011-7, Request at 7.

The Postal Service somewhat narrows the scope of its request by stating that Red Tag and Del-Trak data is sufficiently reliable for reporting End-to-End service at the National and Area levels, and Destination Entry service at National and some Area levels. Therefore, the Postal Service seeks a temporary waiver for quarterly reporting of End-to-End Periodicals for Areas where an acceptable level of reporting precision cannot be met until sufficient Intelligent Mail data is available or sufficient precision otherwise can be obtained. In the interim, the Postal Service will not report on these Areas, while reporting on all Destination Entry Periodicals, all Periodicals, National level End-to-End Periodicals, and where data exists, Area level End-to-End Periodicals. *Id.*

The Public Representative does not support the request for a temporary waiver concerning Periodicals. RM2011-1, PR Comments at 3. He views the potential for service performance reporting as remote and for the same reasons he presented for Standard Mail asks that a waiver not be granted. *Id.* at 17.

The Commission accepts the use of proxies in the near term within Periodicals. The Commission also accepts the use of Red Tag and Del-Trak data while a transition is being made to an IMb-based system. The Postal Service should set a goal of ensuring sufficient certified Intelligent Mail barcode users are in the system to provide reliable reporting by the FY 2011 Quarter 4 report.

The Commission, however, does not accept the open-ended request to delay reporting until at least 80 percent of Full-Service Intelligent Mail barcoded Periodicals has the information necessary to distinguish between Within County and Outside County mailpieces or until an acceptable level of reporting precision can be met. This is not consistent with the ground rules established in Order No. 465 which require the Postal Service to present implementation plans including dates and milestones. Beginning with the FY 2011 Quarter 4 report, the Postal Service shall report all data regardless of whether the data meets the Postal Service's self-imposed data sufficiency thresholds. If the data sufficiency thresholds are not met, the performance scores shall be accompanied by standard statistical calculations which describe the validity of the data such as confidence intervals and confidence levels.

#### E. Package Services

The following products are included within Package Services: Single-Piece Parcel Post, Inbound Surface Parcel Post (at UPU rates), Bound Printed Matter Flats, Bound Printed Matter Parcels, and Media Mail/Library Mail.<sup>41</sup> The Postal Service first seeks a temporary waiver from performance reporting for commercial Package Service parcel mailpieces within Package Services, *i.e.*, non-retail Media Mail, Library Mail, and Bound Printed Matter Parcels. RM2011-1, Request at 13. The Postal Service then seeks an additional temporary waiver for service performance reporting for Bound Printed Matter Flats due to the Intelligent Mail barcode data quality/certification issue previously discussed. RM2011-7, Request at 3.

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<sup>41</sup> The Postal Service notes that beginning in quarter 4 of FY 2010, the Postal Service may be able to report on Single-Piece Parcel Post, retail Media/Library Mail, and possibly Bound Printed Matter Flats. It states that retail Package Services currently are using a Delivery Confirmation-based system when mailpieces are inducted over the retail counter, and that Bound Printed Matter Flats eventually will use a hybrid system based on IMb (anticipated quarter 4 of FY 2010).

The Postal Service contends that there currently is no reliable start-the-clock method for commercial Package Services parcels. The Postal Service originally proposed a “presort” start-the-clock system based on documented arrival time and entry/acceptance scans. See Service Performance Measurement at 38. The Postal Service now requests time to implement a start-the-clock-system based on the first en route scan on mail processing equipment. RM2011-1, Request at 13. The proposed stop-the-clock event continues to be based on delivery, or attempted delivery, Delivery Confirmation scans. *Id.*

The Postal Service asserts that it is currently developing requirements for the new start-the-clock system. System implementation is scheduled for May 2011 with pilot tests scheduled for quarter 3 of FY 2011. It anticipates that service performance reporting of commercial Package Services may begin by quarter 4 of FY 2011. *Id.*

The Public Representative comments concerning commercial First-Class Mail Parcels start-the-clock also are applicable to the Package Services start-the-clock issue. The Public Representative does not support the request for a temporary waiver concerning development of a first en route scan start-the-clock for commercial Parcels. RM2011-1, PR Comments at 3. He comments that a first en route scan start-the-clock moves the starting point for measurement closer to the end point. He states that the Postal Service should acknowledge the measurement inaccuracies introduced by this system and suggests the use of an adjustment factor. *Id.* at 8-9.

The Postal Service did not oppose the concept of an adjustment factor within commercial First-Class Mail Parcels. It noted that time would be needed for study of the concept, information technology development, and generation of business rules. RM2011-1, Postal Service Reply Comments at 6. The Public Representative argues that the Postal Service may apply for a waiver for Package Services once this analysis is complete. RM2011-1, PR Comments at 19.

The Commission finds that the Postal Service's proposal to move the start-the-clock downstream to the first en route scan for commercial Package Services is not an acceptable solution to providing service performance measurement that is representative of the service being provided. Based on comments from First-Class Mail, Standard Mail, and Package Services mailers, such a system would fail to account for a significant period of time that mail is within the Postal Service's possession, and will not lead to representative service performance measurements. This approach may be used if combined with a system of accounting for the period from when the Postal Service receives the mail until the first en route scan.

If the Postal Service chooses to proceed with this approach, it may report data as it becomes available using a first en route scan through the FY 2011 Quarter 4 report. By August 1, 2011, the Postal Service shall present a plan to the Commission detailing how it intends to account for the period prior to the first en route scan. The plan should include an implementation schedule with a specified end date. See RM2009-11, Order No. 465 at 22-23. The Commission advises the Postal Service to consult with the mailing community prior to submitting its plan to the Commission.

Concerning the Intelligent Mail barcode data quality/certification issue, beginning with the FY 2011 Quarter 4 report, the Postal Service shall report all data regardless of whether the data meets the Postal Service's self-imposed data sufficiency thresholds. If the data sufficiency thresholds are not met, the performance scores shall be accompanied by standard statistical calculations which describe the validity of the data such as confidence intervals and confidence levels.

#### F. Special Services—Stamp Fulfillment Services

Stamp Fulfillment Services provides the fulfillment of stamps, stamped cards, envelopes, stationary, or other philatelic item orders placed by mail, phone, fax, or

internet to the Stamp Fulfillment Services center in Kansas City, Missouri. A fee is charged for order processing and handling. RM2011-1, Request at 14.

The Postal Service states that it is currently exploring whether it is possible to develop a meaningful service standard and performance measurement system for this product. If the Postal Service determines that a system is feasible, the Postal Service anticipates reporting possibly can begin as early as quarter 2 of FY 2011. If not, the Postal Service states that it will seek a semi-permanent exception from reporting during quarter 1 of FY 2011. In either case, the Postal Service seeks a temporary waiver from reporting in the interim.<sup>42</sup> *Id.* at 15.

The Public Representative supports the request for a temporary waiver for Stamp Fulfillment Services. He notes that this is a new product and that time should be provided to develop standards and a measurement system or to request a semi-permanent exception. RM2011-1, PR Comments at 3, 19-21.

The Commission grants the Postal Service's request for a temporary waiver from reporting service performance for Stamp Fulfillment Services until the filing date for the 2011 Annual Compliance Report. The Commission asks the Postal Service to either file a request for a semi-permanent exception or begin the consultation process for establishing service standards (and measurement systems) prior to August 1, 2011.

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<sup>42</sup> The Postal Service is critical of its obligation to measure and report service performance for Stamp Fulfillment Services. *Id.* at 14-15. It presents a potential due process argument based on the timing of the addition of Stamp Fulfillment Services to the market dominant product list and the issuance of Order No. 465 which establishes rules for service performance reporting. This argument is without merit. The Postal Service has an obligation to report service performance for all market dominant products pursuant to 39 U.S.C. 3652(a)(2)(B)(i) and has an obligation to establish service standards pursuant to 39 U.S.C. 3691. Both statutory requirements predate the addition of Stamp Fulfillment Services to the market dominant product list and the issuance of Order No. 465.

## V. ORDERING PARAGRAPHS

*It is ordered:*

1. In Docket No. RM2011-1, the United States Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, filed October 1, 2010, is denied in part, and granted in part, consistent with the body of this Order.
2. In Docket No. RM2011-4, the United States Postal Service Request for Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement or, in the Alternative, Petition for Rulemaking Concerning 39 C.F.R. § 3055.45(a), filed November 23, 2010, is denied.
3. In Docket No. RM2011-7, the United States Postal Service Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement, filed February 3, 2011, is denied in part, and granted in part, consistent with the body of this Order.
4. In Docket No. RM2011-1, the Public Representative Motion for Issuance of Information Request, filed October 12, 2010, is moot.
5. In Docket No. RM2011-4, the Motion for Leave to File Response to Comments of the Public Representative, filed December 21, 2010, is granted.
6. In Docket No. RM2011-4, the Postal Service Motion for Late Acceptance of Response to Chairman's Information Request No. 1, filed December 21, 2010, is granted.

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7. In Docket No. RM2011-7, the Postal Service Motion for Leave to File Response to Comments, filed March 3, 2011, is granted.

By the Commission.

Shoshana M. Grove  
Secretary