

program grants a preference for subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska. The Secretaries first published regulations to carry out this program in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations several times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

#### Federal Subsistence Board

Consistent with subpart B of these regulations, the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board is made up of:

- Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- Alaska Regional Director, U.S. Fish and Wildlife Service;
- Alaska Regional Director, U.S. National Park Service;
- Alaska State Director, U.S. Bureau of Land Management;
- Alaska Regional Director, U.S. Bureau of Indian Affairs; and
- Alaska Regional Forester, U.S. Forest Service.

Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, which set forth the basic program, and they continue to work together on regularly revising the subpart D regulations, which, among other things, set forth specific harvest seasons and limits.

#### Federal Subsistence Regional Advisory Councils

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Council. The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

#### Kenai Peninsula

The Kenai Peninsula in Alaska has unique fish and wildlife management challenges resulting from intense use of the Peninsula's fish and wildlife by local and nonlocal residents and by nonresidents and from the Board's actions to provide a meaningful subsistence priority for fisheries in Federally managed fresh waters on the Kenai Peninsula. Kenai Peninsula lands primarily under Federal management include the Chugach National Forest and the Kenai National Wildlife Refuge. The Departments published a proposed rule in the **Federal Register** on August 14, 2006 (71 FR 46427), to create a separate subsistence resource region for the Kenai Peninsula and requested public comments until September 18, 2006. On September 27, 2006, we published a document to extend the comment period on this proposed rule until November 9, 2006 (71 FR 56421).

#### Withdrawal of Proposed Rule

During a Southcentral Federal Subsistence Regional Advisory Council meeting held in Anchorage, Alaska on August 24, 2006, we heard significant adverse testimony regarding the creation of a new Kenai Peninsula Subsistence Resource Region. Additionally, the Southcentral Regional Council unanimously recommended against the formation of such a region. Letters from the public also strongly opposed the formation of such a region. Therefore, we are withdrawing the proposed rule.

For the reasons stated above, the Federal Subsistence Board withdraws the proposed rule of August 14, 2006 (71 FR 46427).

Dated: June 18, 2009.

**Peter J. Probasco,**

*Acting Chair, Federal Subsistence Board.*

Dated: June 18, 2009.

**Calvin H. Casipit,**

*Acting Subsistence Program Leader, USDA—Forest Service.*

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## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3010

[Docket No. RM2009–8; Order No. 246]

#### Postal Rates

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is proposing to revise a rounding convention used in the statutory price cap calculation for purposes of establishing rates for certain

postal products. This document invites public comment on the proposal.

**DATES:** Initial comments due August 21, 2009; reply comments due September 8, 2009.

**ADDRESSES:** Submit comments electronically via the Commission's electronic Filing Online system at <http://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202–789–6824 and [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

72 FR 63662 (November 9, 2007).

74 FR 27843 (June 11, 2009).

- I. Introduction
- II. Background and Proposed Amendments
- III. Public Representative
- IV. Ordering Paragraphs

#### I. Introduction

This rulemaking is an outgrowth of issues raised in Docket No. R2009–4, the most recent price adjustment filed by the Postal Service and approved by the Commission. The Postal Accountability and Enhancement Act (PAEA), Public Law No. 109–435, 120 Stat. 3198 (2006), affords the Postal Service significant flexibility in setting prices, provided it complies with certain objectives and factors and does not raise rates in excess of an inflation-based cap.

In Order No. 43, the Commission established ratemaking regulations for market dominant and competitive products.<sup>1</sup> In that order, the Commission created a formula to derive a ratemaking authority limitation for the Postal Service based upon the Consumer Price Index for All Urban Consumers (CPI–U) as reported by the Bureau of Labor Statistics (BLS). *Id.* at 47–48, 121–122. The limitation is calculated as the ratio of the most recent 12 month average of the CPI–U to the preceding 12 month average of the CPI–U and subtracting 1. *Id.* As noted in Order No. 43, the BLS began reporting the CPI–U index to three decimal places (when previously it was reported to one decimal place). *Id.* at 48.

#### II. Background and Proposed Amendments

The Commission elected to round the result and express the percentage change in the CPI–U using one decimal place. *Id.* This result was driven by practical considerations. Precision requires both the recent average and the

<sup>1</sup> Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

base average have the same number of significant digits; at the conclusion of Docket No. RM2007-1, neither the recent average nor the base average could be calculated to three decimal places. Inflation is also commonly expressed to one decimal place, and when the percentage change is reported by BLS, it is reported to one decimal place.

Due to several developments, the Commission believes calculating the CPI-U cap to three decimal places is now appropriate. The Postal Service, in utilizing its pricing flexibility under the PAEA, has proposed small rate adjustments that require more precision than a one decimal place cap allows. Adding two decimal places to the level of precision to the adjustment authority allows the Postal Service to fully exercise that flexibility. Enough time has lapsed since the BLS began reporting CPI-U indexes to 3 digits that both the recent average and the base average (a total of 24 months) may be calculated using the 3-digit method. The consistent reporting since January of 2007 (in terms of the number of significant digits) in the CPI-U indexes allows the Commission to calculate the rate adjustment authority to three decimal places without sacrificing precision. Moreover, the Postal Service's unused rate adjustment authority is calculated to three decimal places; therefore, calculating the annual or less than annual rate adjustment authority should use the same number of significant digits.

In Docket No. R2009-4, the Postal Service proposed, and the Commission approved, a rate decrease for Standard Mail High Density flats.<sup>2</sup> Intuitively, when the Postal Service implements a rate decrease for a class of mail, the result should be an increase in the amount of rate adjustment authority at the time of the next rate adjustment. However, as the incremental change for the Standard Mail class is minus 0.037 percent, the benefit from decreasing prices mid-year, which would be included in the amount of rate adjustment authority in the next rate adjustment, may be lost due to rounding.<sup>3</sup> Changing the Commission's rules on the calculation of the CPI-U cap to use the maximum number of significant digits allows the Postal Service to make more subtle adjustments for each class of mail.

<sup>2</sup> See Docket No. R2009-4, Order Approving Price Adjustment for Standard Mail High Density Flats, July 1, 2009 (Order No. 236).

<sup>3</sup> See Library Reference PRC-RM2009-8-LR-1 for a numerical example of this result.

The Commission, therefore, proposes to revise the last sentence of paragraph (a) of rule 3010.21 and paragraph (b) of rule 3010.22 to read "The result is expressed as a percentage, rounded to three decimal places." Though the Commission's proposed changes are limited to these two sentences, the rules are presented in their entirety to provide useful additional context. In addition, the Commission is revising the heading of 39 CFR part 3010 to read as follows: Part 3010—Regulation of Rates for Market Dominant Products. This revision corrects an inadvertent error in the current heading, which reads, "Regulation of Rules for Market Dominant Products."

### III. Public Representative

Pursuant to 39 U.S.C. 505, Emmett Rand Costich is appointed the officer of the Commission (Public Representative) to represent the interests of the general public in the captioned docket.

### IV. Ordering Paragraphs

*It is ordered:*

1. Docket No. RM2009-8 is established for the purpose of proposing amendments to the Commission's rules governing the price cap calculation in the system of ratemaking, 39 CFR part 3010.

2. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Interested persons may submit initial comments no later than 30 days from the date of publication of this notice in the **Federal Register**.

4. Reply comments may be filed no later than 45 days from the date of publication of this Notice in the **Federal Register**.

5. The Secretary shall arrange for publication of this Notice in the **Federal Register**.

#### List of Subjects in 39 CFR Part 3010

Administrative practice and procedure; Postal Service.

Issued: July 10, 2009.

By the Commission.

**Judith M. Grady**,  
*Acting Secretary*.

For the reasons discussed in the preamble, the Postal Regulatory Commission proposes to amend title 39 chapter III of the U.S. Code as follows:

#### PART 3010—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

1. The authority citation for 39 CFR part 3010 continues to read as follows:

**Authority:** 39 U.S.C. 503; 3622.

2. Revise § 3010.21 to read as follows:

#### § 3010.21 Calculation of annual limitation.

(a) The calculation of an annual limitation involves three steps. First, a simple average CPI-U index is calculated by summing the most recently available 12 monthly CPI-U values from the date the Postal Service files its notice of rate adjustment and dividing the sum by 12 (Recent Average). Then, a second simple average CPI-U index is similarly calculated by summing the 12 monthly CPI-U values immediately preceding the Recent Average and dividing the sum by 12 (Base Average). Finally, the annual limitation is calculated by dividing the Recent Average by the Base Average and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(b) The formula for calculating an annual limitation is as follows: Annual Limitation = (Recent Average/Base Average) - 1.

3. Revise § 3010.22 to read as follows:

#### § 3010.22 Calculation of less than annual limitation.

(a) If a notice of rate adjustment is filed less than 1 year after the last Type 1-A or Type 1-B notice of rate adjustment applicable to an affected class of mail, then the annual limitation will recognize the rate increases that have occurred during the preceding 12 months. When the effects of those increases are removed, the remaining partial year limitation is the applicable restriction on rate increases.

(b) The applicable partial year limitation is calculated in two steps. First, a simple average CPI-U index is calculated by summing the 12 most recently available monthly CPI-U values from the date the Postal Service files its notice of rate adjustment and dividing the sum by 12 (Recent Average). The partial year limitation is then calculated by dividing the Recent Average by the Recent Average from the most recent previous notice of rate adjustment (Previous Recent Average) applicable to each affected class of mail and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(c) The formula for calculating the partial year limitation for a notice of rate adjustment filed less than 1 year after the last notice is as follows: Partial Year Limitation = (Recent Average/Previous Recent Average) - 1.

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