

SUBCHAPTER A—PERSONNEL

PART 3000—STANDARDS OF CONDUCT

Subpart A—General Provisions

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APPENDIX A TO PART 3000—CODE OF ETHICS FOR GOVERNMENT SERVICE

AUTHORITY: 39 U.S.C. 3603; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR parts 2634 and 2635.

SOURCE: 36 FR 5412, Mar. 23, 1971, unless otherwise noted.

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SOURCE: 58 FR 42874, Aug. 12, 1993, unless otherwise noted.

§ 3000.735-101 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Postal Rate Commission (Commission) are subject and should refer to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Commission regulation at 5 CFR part 5601 which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulation at 5 CFR part 2634.

§ 3000.735-102 Counseling and advisory services.

(a) The Chairman of the Commission shall appoint the Designated Agency Ethics Official (DAEO) for the Commission. The DAEO may appoint deputy ethics officials to assist in carrying out the responsibilities of the designated

agency ethics official. The DAEO shall advise employees as to the applicability and interpretation of laws and regulations involving the standards of conduct for employees of the Commission. The DAEO shall furnish advice to employees for the purpose of aiding employees in avoiding conflicts of interest, situations, actions or conduct that may reflect adversely on the Commission.

(b) The DAEO shall develop and execute an ethics agency training plan providing for an initial orientation for new employees and annual ethics training.

§ 3000.735-103 Financial interests.

An employee shall not, either directly or indirectly, have any financial interest (whether by ownership of any stock, bond, security, or otherwise) in any entity or person whose interests may be significantly affected by rates of postage, fees for postage services, the classification of mail, or the operation of the Postal Service. This paragraph does not proscribe interests in an entity or person whose use of the mail is merely an incidental or a minor factor in the general conduct of its business.

[66 FR 32545, June 15, 2001]

§ 3000.735-104 Outside employment.

(a) An employee shall not engage in outside employment or professional practice, either on a paid or unpaid basis, with or for a company or other person whose interests are significantly affected by rates of postage, fees for postal services, the classification of mail or the operations of Postal Service.

(b) An employee who wishes to engage in outside employment either on a paid or unpaid basis shall obtain the prior written approval of the DAEO. A request for such approval shall be submitted in writing with sufficient description of the employment to enable the DAEO to make an informed determination that the outside employment is not prohibited by law or regulation,

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including 5 CFR part 2635 or 5 CFR part 5601.

(c) An employee who has been assigned to a particular matter which affects the financial interests of a prospective employer and who is required, in accordance with 5 CFR 2635.604(a), to disqualify himself from participation in that matter shall, notwithstanding the guidance in 5 CFR 2635.604 (b) and (c), provide notice of disqualification to his supervisor upon determining that he will not participate in the matter.

Subpart B—Ex Parte Communications

§ 3000.735-501 Ex parte communications prohibited.

Decision-making Commission personnel, as defined in § 3001.7(a), shall not, either in an official or unofficial capacity, participate in any ex parte communication—either oral or written—with any person regarding (1) a particular matter (substantive or procedural) at issue in contested proceedings before the Commission or (2) the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission. A particular matter is at issue in contested proceedings before the Commission when it is a subject of controversy in a hearing held under 39 U.S.C. 3624 or 3661(c). However, this section does not prohibit participation in off-the-record proceedings conducted under regulations adopted by the Commission for hearings held under 39 U.S.C. 3624 or 3661(c).

[45 FR 65581, Oct. 3, 1980]

§ 3000.735-502 Public record of ex parte communications.

As ex parte communications (either oral or written) may occur inadvertently notwithstanding § 3000.735-501, the employee who receives such a communication, shall—within 2 workdays after the receipt of such a communication—prepare a written report concerning the communication. The report shall identify the employee and the person or persons who participated in the ex parte communication; the circumstances which resulted in the com-

munication; the substance of the communication; and the relationship of the communication to a particular matter at issue or likely to become at issue in contested proceedings before the Commission. When the ex parte communication concerns a particular matter at issue in a proceeding before the Commission, a copy of the report shall be submitted to each party to the proceeding. The report is a public record of the Commission and a copy thereof shall be available to any member of the public on request. This section does not apply to ex parte communications under paragraph 3000.735-501(b).

[36 FR 5412, Mar. 23, 1971, as amended at 38 FR 24899, Sept. 11, 1973]

APPENDIX A TO PART 3000—CODE OF ETHICS FOR GOVERNMENT SERVICE

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including office-holders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
9. Expose corruption wherever discovered.

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10. Uphold these principles, ever conscious that public office is a public trust.
Passed July 11, 1958.

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AUTHORITY: 39 U.S.C. 404(b); 3603, 3622–24, 3661, 3662, 3663.

SOURCE: 36 FR 396, Jan. 12, 1971, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes for Part 3001 appear at 70 FR 48277, Aug. 17, 2005.

Subpart A—Rules of General Applicability

§ 3001.1 Construction of rules.

The rules in this part shall be liberally construed to secure just and speedy determination of issues.

[38 FR 4327, Feb. 13, 1973]

§ 3001.2 [Reserved]

§ 3001.3 Scope of rules.

The rules of practice in this part are applicable to proceedings before the Postal Rate Commission under the Act,

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including those which involve a hearing on the record before the Commission or its designated presiding officer. They do not preclude the informal disposition of any matters coming before the Commission not required by statute to be determined upon notice and hearing.

§ 3001.4 Method of citing rules.

This part shall be referred to as the "rules of practice." Each section, paragraph, or subparagraph shall include only the numbers and letters to the right of the decimal point. For example, "3001.24 *Prehearing conferences*" shall be referred to as "section 24" or "rule 24."

[65 FR 6539, Feb. 10, 2000]

§ 3001.5 Definitions.

(a) *Act* means the Postal Reorganization Act (84 Stat. 719, title 39, U.S.C.), as amended.

(b) *Postal Service* means the U.S. Postal Service established by the Act.

(c) *Commission* or *Commissioner* means, respectively, the Postal Rate Commission established by the Act or a member thereof.

(d) *Secretary* means the Secretary or the Acting Secretary of the Commission.

(e) *Presiding officer* means the Chairman of the Commission in proceedings conducted by the Commission en banc or the Commissioner or employee of the Commission designated to preside at hearings or conferences.

(f) *Person* means an individual, a partnership, corporation, trust, unincorporated association, public or private organization, or governmental agency.

(g) *Party* means the Postal Service, a complainant, an appellant, or a person who has intervened in a proceeding before the Commission.

(h) *Participant* means any party and the officer of the Commission who is designated to represent the interests of the general public and, for purposes of §§ 3001.11(e), 3001.12, 3001.21, 3001.23, 3001.24, 3001.29, 3001.30, 3001.31, and 3001.32 only, it also means persons who are limited participators.

(i) *Complainant* means a person or interested party who as permitted by section 3662 of the Act files a complaint

with the Commission in the form and manner hereinafter prescribed.

(j) *Hearing* means a hearing under sections 556 and 557 of title 5, U.S.C. (80 Stat. 386), as provided by sections 3624, 3661, and 3662 of the Act.

(k) *Record* means the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, which constitutes the exclusive record for decision.

(l) *Effective date* of an order or notice issued by the Commission or an officer thereof means the date of issuance unless otherwise specifically provided.

(m) *Appellant* means a person who as permitted by 39 U.S.C. 404(b) appeals to the Commission a determination of the Postal Service to close or consolidate a post office.

(n) *Commission meeting* means the deliberations of at least three Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 3001.43(d) or § 3001.43(e).

(o) *Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all participants and limited participators is not given, but it shall not include requests for status reports on any matter or proceeding covered by subchapter II of chapter 5 of title 5 or a proceeding conducted pursuant to subpart H of this part.

(p) *Domestic Mail Classification Schedule* means the classification schedule, including schedules of full and phased rates and fees, adopted by the Decision of the Governors of the U.S. Postal Service Re Recommended Decision of the Postal Rate Commission Regarding the Proper Scope and Extent of the Mail Classification Schedule, issued April 3, 1979, and any amendments thereto adopted pursuant to the procedures of subchapter III, chapter 36, title 39 of the U.S.C.

(q) *Office of the Consumer Advocate* or *OCA* means the officer of the Commission designated to represent the interests of the general public in a Commission proceeding.

(r) *Negotiated Service Agreement* means a written contract, to be in effect for a

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defined period of time, between the Postal Service and a mailer, that provides for customer-specific rates or fees and/or terms of service in accordance with the terms and conditions of the contract.

(s) *Postal service* means the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services incidental thereto.

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4327, Feb. 13, 1973; 42 FR 8142, Feb. 2, 1977; 42 FR 10992, Feb. 25, 1977; 42 FR 13290, Mar. 10, 1977; 44 FR 26075, May 4, 1979; 58 FR 38976, July 21, 1993; 65 FR 6539, Feb. 10, 2000; 69 FR 7593, Feb. 18, 2004; 71 FR 2472, Jan. 17, 2006]

§ 3001.6 Appearances.

(a) *By whom.* An individual may appear in his/her own behalf; a member of a partnership may represent the partnership; and an officer may represent a corporation, trust, unincorporated association, or governmental agency. A person may be represented in a proceeding by an attorney at law admitted to practice and in good standing before the Supreme Court of the United States, the highest court of any State or Territory of the United States or the District of Columbia, or the Court of Appeals or the District Court for the District of Columbia.

(b) *Authority to act.* When an officer of any participant or an attorney acting in a representative capacity appears in person, submits a document to the Commission online as a Principal Account Holder, or signs a paper filed with the Commission, his/her personal appearance, online submission, or signature, shall constitute a representation to the Commission that he/she is authorized to represent the particular participant in whose behalf he/she acts. Any person appearing before or transacting business with the Commission in a representative capacity may be required by the Commission or the presiding officer to file evidence of his/her authority to act in such capacity.

(c) *Notice of appearance and withdrawal of appearance.* An individual intending to appear before the Commission or its presiding officer in a representative capacity for a participant

in a proceeding shall file with the Commission a notice of appearance in the form prescribed by the Secretary unless that individual is named in an initial filing of the participant whom he/she represents as a person to whom communications from the Commission in regard to the filing are to be addressed. A person whose authority to represent a participant in a specific Commission proceeding has been terminated shall file a timely notice of withdrawal of appearance with the Commission.

(d) *Standards of conduct.* Individuals practicing before the Commission shall conform to the standards of ethical conduct required of practitioners in the courts of the United States.

(e) *Disqualification and suspension.* After hearing, the Commission may disqualify and deny, temporarily or permanently, the privilege of appearing and practicing before it in any way to any individual who is found not to possess the requisite qualifications, or to have engaged in unethical or improper professional conduct. Contumacious conduct at any hearing before the Commission or its presiding officer shall be ground for exclusion of any individual from such hearing and for summary suspension for the duration of the hearing by the Commission or the presiding officer.

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4327, Feb. 13, 1973; 51 FR 8827, Mar. 14, 1986; 58 FR 38976, July 21, 1993; 67 FR 67559, Nov. 6, 2002]

§ 3001.7 Ex parte communications.

(a) *Definitions*—(1) *Decision-making Commission personnel.* Subject to the exception stated in paragraph (a)(2)(ii) of this section, the following categories of persons are designated “decision-making Commission personnel”:

(i) The Commissioners and their personal office staffs;

(ii) The General Counsel and his/her staff;

(iii) The Director of the Office of Rates Analysis and Planning and his/her staff.

(iv) Any other employee who may reasonably be expected to be involved in the decisional process.

(2) *Non-decision-making Commission personnel.* The following categories of

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persons are designated “non-decision-making Commission personnel”;

(i) All Commission personnel other than decision-making Commission personnel;

(ii) Decision-making Commission personnel not participating in the decisional process owing to the prohibitions of §3001.8 or 39 CFR 3000.735, Subpart C.

(b) *Prohibition.* In any agency proceeding that is required to be conducted in accordance with section 556 of Title 5 or a proceeding conducted pursuant to Subpart H of this part, except to the extent required for the disposition of ex parte matters as authorized by law:

(1) Interested persons outside the Commission and non-decision-making Commission personnel shall not make or knowingly cause to be made to any Commission decision-making personnel ex parte communications relevant to the merits of the proceeding;

(2) Commission decision-making personnel shall not make or knowingly cause to be made to any interested person outside the Commission or to non-decision-making Commission personnel ex parte communications relevant to the merits of the proceeding;

(3) Commission decision-making personnel who receive ex parte communications relevant to the merits of the proceeding shall decline to listen to such communications and explain that the matter is pending for determination. Any recipient thereof shall advise the communicator that he/she will not consider the communication and shall promptly and fully inform the Commission in writing of the substance of and the circumstances attending the communication, so that the Commission will be able to take appropriate action.

(4) Commission decision-making personnel who receive, or who make or knowingly cause to be made, communications prohibited by this paragraph shall place on the public record of the proceeding:

- (i) All such written communications;
- (ii) Memoranda stating the substance of all such oral communications; and
- (iii) All written responses, and memoranda stating the substance of all oral responses, to the materials de-

scribed in paragraphs (b)(4)(i) and (b)(4)(ii) of this section.

(5) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which have been placed on the public record of the proceeding pursuant to paragraph (b)(4) of this section may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require. Generally, in lieu of actually receiving rebuttal material, the Commission will direct that the alleged factual assertion and the proposed rebuttal be disregarded in arriving at a decision.

(c) *Applicability.* (1) The prohibitions of paragraph (b) of this section shall apply beginning at the time at which a proceeding is noticed for hearing or appeal unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his/her acquisition of such knowledge.

(2) Paragraph (b) of this section does not constitute authority to withhold information from Congress.

(d) *Violations of ex parte rules.* (1) Upon notice of a communication knowingly made or knowingly caused to be made by a participant in violation of paragraph (b) of this section, the Commission or presiding officer at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the participant to show cause why his/her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) The Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Commission, consider a violation of paragraph (b) of this section sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

[45 FR 65580, Oct. 3, 1980, as amended at 58 FR 38976, July 21, 1993; 62 FR 45530, Aug. 28, 1997; 65 FR 6539, Feb. 10, 2000]

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§ 3001.8 No participation by investigative or prosecuting officers.

In any proceeding noticed pursuant to § 3001.17, no officer, employee or agent of the Commission who appears in the hearing in a proceeding before the Commission as an attorney or witness or who actively participates in the preparation of evidence or argument presented by such persons, shall participate or advise as to the intermediate decision or Commission decision in that proceeding except as a witness or counsel in public proceedings.

§ 3001.9 Filing of documents.

(a) *Filing with the Commission.* The filing of each written document required or authorized by these rules or any applicable statute, rule, regulation, or order of the Commission, or by direction of the presiding officer shall be made using the Internet (Filing Online) pursuant to § 3001.10(a) at the Commission's Web site <http://www.prc.gov>, unless a waiver is obtained. If a waiver is obtained, a hardcopy document may be filed either by mailing or by hand delivery to the Office of the Secretary, Postal Rate Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001 during regular business hours on a date no later than that specified for such filing.

(b) *Account holder.* In order for a document to be accepted using Filing Online, it must be submitted to the Commission by a principal account holder or an agent account holder (Filing Online account holder). The authority of the principal account holder to represent the participant on whose behalf the document is filed must be valid and current, in conformance with § 3001.6. The authority of an agent account holder to submit documents for a principal account holder must be valid and current. A principal account holder must promptly inform the Secretary of any change in his/her authority to represent participants in a proceeding or any change in the authority delegated to an agent account holder to submit documents on his/her behalf.

(c) *Acceptance for filing.* Only such documents as conform to the requirements of this part and any other applicable rule or order authorized by the Commission shall be accepted for fil-

ing. In order for a document to be accepted using Filing Online, it must be submitted to the Commission by a Filing Online account holder.

(1) Subject to § 3001.9(d):

(i) A document submitted through Filing Online is filed on the date indicated on the receipt issued by the Secretary. It is accepted when the Secretary, after review, has posted it on the Daily Listing page of the Commission's Web site.

(ii) A hardcopy document is filed on the date stamped by the Secretary. It is accepted when the Secretary, after review, has posted it on the Daily Listing page of the Commission's Web site.

(2) Any document received after the close of regular business hours or on a Saturday, Sunday, or holiday, shall be deemed to be filed on the next regular business day.

(d) *Rejected filings.* Any filing that does not comply with any applicable rule or order authorized by the Commission may be rejected. Any filing that is rejected is deemed not to have been filed with the Commission. If a filing is rejected, the Secretary or the Secretary's designee will notify the person submitting the filing, indicating the reason(s) for rejection. Acceptance for filing shall not waive any failure to comply with this part, and such failure may be cause for subsequently striking all or any part of any document.

(e) *Account holder exemptions.* Notices of intervention and comments solicited by the Commission may be filed under temporary Filing Online accounts. Temporary Filing Online accounts may be obtained without meeting all of the requirements of paragraphs (b) and (c) of this section, and the subscription requirements of § 11. Other categories of documents may be filed under temporary Filing Online accounts under extraordinary circumstances, for good cause shown.

[67 FR 67559, Nov. 6, 2002, as amended at 68 FR 47, Jan. 2, 2003]

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§ 3001.10 Form and number of copies of documents.

(a) *Documents.* Each document filed with the Commission must be submitted through Filing Online by an account holder, unless a waiver is obtained.

(1) The text of documents filed with the Commission shall be formatted in not less than one and one-half spaced lines except that footnotes and quotations may be single spaced. Documents must be submitted in Arial 12 point font, or such program, format, or font as the presiding officer may designate.

(2) The Secretary may prescribe additional format requirements for documents submitted through Filing Online.

(3) The form of documents filed as library references is governed by § 3001.31(b)(2)(iv).

(4) Requests for changes in rates and classifications, including supporting documentation, shall be filed both online and in hardcopy form pursuant to paragraph (b) of this section.

(5) Documents filed online must satisfy Filing Online system compatibility requirements specified by the Secretary in the Filing Online User Guide, which may be accessed from the Filing Online page on the Commission's Web site, <http://www.prc.gov>.

(6) Documents requiring privileged or protected treatment shall not be filed online.

(b) *Hard copies.* Each document filed in paper form must be produced on letter-size paper, 8 to 8½ inches wide by 10½ to 11 inches long, with left- and right-hand margins not less than 1 inch and other margins not less than .75 inches, except that tables, charts or special documents attached thereto may be larger if required, provided that they are folded to the size of the document to which they are attached. If the document is bound, it shall be bound on the left side. Copies of documents for filing and service must be printed from a text-based pdf version of the document, where possible. Otherwise, they may be reproduced by any duplicating process that produces clear and legible copies. Participants in proceedings conducted under subpart H who are unable to comply with these

requirements may seek to have them waived. Each person filing a hardcopy document with the Commission must provide an original and 2 fully conformed copies of the document required or permitted to be filed under this part, except for a document filed under seal, for which only the original and two (2) copies need be filed. The copies need not be signed but shall show the full name of the individual signing the original document and the certificate of service attached thereto.

(c) *Computer media.* A participant that has obtained a waiver of the online filing requirement of § 3001.9(a) may submit a document on standard PC media, simultaneously with the filing of one printed original and two hard copies, provided that the stored document is a file generated in either Acrobat (pdf), Word, or WordPerfect, or Rich Text Format (rtf).

[67 FR 67559, Nov. 6, 2002]

§ 3001.11 General contents of documents.

(a) *Caption and title.* The caption of each document filed with the Commission in any proceeding shall clearly show the docket designation and title of the proceeding before the Commission. The title of such document shall identify each participant on whose behalf the filing is made and include a brief description of the document or the nature of the relief sought therein (*e.g.*, motion for extension, brief on exceptions, complaint, notice of intervention, answer to complaint).

(b) *Designation of individuals to receive service.* Each notice of intervention filed pursuant to § 3001.20 or § 3001.20a must state the name, full mailing address, telephone number, and e-mail address of up to two individuals designated to receive service of hardcopy documents relating to the proceeding.

(c) *Contents.* In the event there is no rule, regulation, or order of the Commission which specifically prescribes the contents of any document to be filed, such document shall contain a proper identification of the parties concerned and a concise but complete statement of the relief sought and of the facts and citations of authority and precedent relied upon.

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(d) *Improper matter.* Defamatory, scurrilous, or unethical matter shall not be included in any document filed with the Commission.

(e) *Subscription.* Each document filed with the Commission shall be subscribed. Subscription constitutes a certification that he/she has read the document being subscribed and filed; that he/she knows the contents thereof; that if executed in any representative capacity, the document has been subscribed and executed in the capacity specified in the document with full power and authority so to do; that to the best of his/her knowledge, information and belief every statement contained in the document is true and no such statements are misleading; and that such document is not filed for purposes of delay.

(1) For a document filed via the Internet by an account holder, the subscription requirement is met when the document is filed with the Commission.

(2) For a hardcopy document filed under either §3001.10(b) or (c), the original shall be signed in ink by the individual filing the same or by an authorized officer, employee, attorney, or other representative and all other copies of such document filed with the Commission and served on the participants in any proceeding shall be fully conformed thereto.

(f) *Table of contents.* Each document filed with the Commission consisting of 20 or more pages shall include a table of contents with page references. For briefs see §3001.34.

(g) *Certificate of service.* A certificate of service signed in ink must be attached to the original of each hardcopy document filed with the Commission showing service on all participants in a proceeding as prescribed by §3001.12. All copies filed and served shall be fully conformed thereto.

[67 FR 67559, Nov. 6, 2002]

§ 3001.12 Service of documents.

(a) *Service by account holders.* Each document filed in a proceeding via the Internet by an Account Holder shall be deemed served on all participants when it is accepted by the Secretary and posted on the Commission's Web site, except that:

(1) A document subject to §3001.10(a)(4) must meet the service requirements that apply to hardcopy documents as well as those that apply to documents filed online.

(2) A document that must be served on a participant that the Commission or presiding officer has determined is unable to receive service through the Commission's Web site shall be served on such participant by the Secretary by First-Class Mail.

(b) *Service by others.* If the Commission or presiding officer has determined that a participant is unable to file documents online, documents filed by that participant must be delivered to the Secretary by hand or First-Class Mail. Such documents will be deemed served upon all participants when they are accepted by the Secretary and posted on the Commission's Web site. If such documents cannot be posted on the Commission's website, they will be deemed served on all participants when the Secretary posts them as First-Class Mail.

(c) *Service by the Commission.* Except as provided in this section, each document issued by the Commission or presiding officer shall be deemed served upon the participants in the proceeding upon its posting by the Commission on its website. Service of Commission documents on any participant that the Commission or presiding officer has determined is unable to receive service through the Commission Web site shall be by First-Class Mail.

(d) *Hardcopy documents.* Each participant filing a hardcopy document in a proceeding shall serve such document upon each person on the proceeding's service list, unless that person is subject to paragraph (b) of this section, or the Commission or presiding officer otherwise directs.

(e) *Limitation on extent of hardcopy service.* To avoid the imposition of an unreasonable burden upon participants, the Commission or the presiding officer may, by appropriate order, limit service of hardcopy documents to service upon participants intending to actively participate in the hearing, or upon a person or persons designated for properly representative groups, or by requiring the making of documents

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available for convenient public inspection, or by any combination of such methods.

(f) *Service list.* The Secretary shall maintain a current service list in each proceeding which shall include the participants in that proceeding and up to two individuals designated for service of documents by each participant. The service list for each current proceeding will be available on the Commission's Web site <http://www.prc.gov>. Each participant is responsible for ensuring that its listing on the Commission's Web site is accurate, and should promptly notify the Commission of any errors.

(g) *Method of hardcopy service.* Service of hardcopy documents may be made by First-Class Mail or personal delivery, to the address shown for the individuals designated on the Secretary's service list. Service of any hardcopy document upon the Postal Service shall be made by delivering or mailing six copies thereof to the address shown for the individual designated in the Secretary's service list.

(h) *Date of hardcopy service.* Whenever service is made by mail, the date of the postmark shall be the date of service. Whenever service is made by personal delivery, the date of such delivery shall be the date of service.

(i) *Form of hardcopy certificate of service.* The certificate of service of hardcopy documents shall show the name of the participant or his/her counsel making service, the date and place of service, and include the statement that "I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

[67 FR 67559, Nov. 6, 2002]

§ 3001.13 Docket and hearing calendar.

The Secretary shall maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The Secretary shall maintain a hearing calendar of all proceedings that have been set for hearing. Proceedings shall be heard on the date set in the hearing order, except that the Commission may for cause, with or without motion, at any time with due notice to the parties

advance or postpone the date of hearing. All documents filed in a docket, other than matter filed under seal, and the hearing calendar may be accessed remotely via the Commission's Web site, or viewed at the Commission's docket section during regular business hours.

[67 FR 67559, Nov. 6, 2002]

§ 3001.14 Consolidation and separation of proceedings.

The Commission, with or without motion, may order proceedings involving related issues or facts to be consolidated for hearing of any or all matters in issue in such proceedings. The Commission may sever proceedings which have been consolidated, or order separate proceedings on any issue presented, if it appears that separate proceedings will be more convenient, expeditious, or otherwise appropriate.

§ 3001.15 Computation of time.

Except as otherwise provided by law, in computing any period of time prescribed or allowed by this part, or by any notice, order, rule or regulation of the Commission or a presiding officer, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday for the Commission, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or holiday. A part-day holiday shall be considered as other days and not as a holiday. In computing a period of time which is 5 days or less, all Saturdays, Sundays, and legal holidays of the Commission are to be excluded.

[38 FR 4327, Feb. 13, 1973; 51 FR 8827, Mar. 14, 1986]

§ 3001.16 Continuances and extensions of time.

Continuances of any proceeding or hearing and extensions of time for making any filing or performing any act required or allowed to be done within a specified time or by a specified date may be granted by the Commission or the presiding officer upon motion for good cause shown unless the

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time for performance or filing is limited by statute. Requests for extension of time shall be by written motion timely filed with the Commission stating the facts on which the application rests, except that after a hearing has convened, such requests shall be made by written or oral motion to the presiding officer. Requests for continuances or extensions of time may as a matter of discretion be acted upon without waiting for answers thereto.

§ 3001.17 Notice of proceeding.

(a) *When issued.* The Commission shall issue a notice of a proceeding to be determined on the record with an opportunity for any interested person to request a hearing whenever:

(1) The Postal Service files a formal request that the Commission submit a recommended decision on changes in postal rates or fees or establishing or changing the mail classification schedule;

(2) The Commission proposes on its own initiative to issue a recommended decision on changes in the mail classification schedule;

(3) The Postal Service files a request with the Commission to issue an advisory opinion on a proposed change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis;

(4) The Commission in the exercise of its discretion determines that an opportunity for hearing should be provided with regard to a complaint filed pursuant to subpart E of this part; or

(5) The Commission in the exercise of its discretion determines to institute any other proceeding under the Act.

(b) *Appellate proceedings under 39 U.S.C. 404(b).* The Commission shall issue a notice of proceeding to be determined on a record compiled by the Postal Service whenever:

(1) An appeal of a determination of the Postal Service to close or consolidate a post office is taken to the Postal Rate Commission pursuant to subpart H of this part; or

(2) An application to suspend the effective date of a determination of the Postal Service to close or consolidate a post office pending appeal to the Postal Rate Commission is made pursuant to subpart H of this part.

(c) *Publication and service of notice.* Each notice of proceeding shall be published in the FEDERAL REGISTER and served on the Postal Service, the complainant in a complaint proceeding, and the appellant in the appeal of a Postal Service determination to close or consolidate a post office.

(d) *Contents of notice.* The notice of a proceeding shall include the following:

(1) The general nature of the proceeding involved in terms of categories listed in paragraphs (a) and (b) of this section;

(2) A reference to the legal authority under which the proceeding is to be conducted;

(3) A concise description of proposals for changes in rates or fees, proposals for the establishment of or changes in the mail classification schedule, proposals for changes in the nature of postal services; in the case of a complaint, an identification of the complainant and a concise description of the subject matter of the complaint or, in the case of an appeal, an identification of the appellant and a summarization of the Postal Service determination to close or consolidate under review;

(4) The date by which notices of intervention and requests for hearing must be filed; and

(5) Such other information as the Commission may desire to include.

[36 FR 396, Jan. 12, 1971, as amended at 42 FR 10992, Feb. 25, 1977; 42 FR 13826, Mar. 14, 1977; 58 FR 38976, July 21, 1993; 65 FR 6540, Feb. 10, 2000]

§ 3001.18 Nature of proceedings.

(a) *Proceedings to be set for hearing.* Except as otherwise provided in these rules, in any case noticed for a proceeding to be determined on the record pursuant to § 3001.17(a), the Commission may hold a public hearing if a hearing is requested by any party to the proceeding or if the Commission in the exercise of its discretion determines that a hearing is in the public interest. The Commission may give notice of its determination that a hearing shall be held in its original notice of the proceeding or in a subsequent notice issued pursuant to paragraph (b) of this section and § 3001.19.

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(b) *Procedure in hearing cases.* In proceedings which are to be set for hearing, the Commission shall issue a notice of hearing or prehearing conference pursuant to §3001.19. After the completion of the hearing, the Commission or the presiding officer shall receive such briefs and hear such oral argument as may be ordered by the Commission or the presiding officer pursuant to §§3001.34 to 3001.37, and the Commission shall then issue a recommended decision, advisory opinion, or public report, as appropriate, in accordance with the provisions of §§3001.38 to 3001.39.

(c) *Procedure in non-hearing cases.* In any case noticed for a proceeding to be determined on the record in which a hearing is not requested by any party or ordered by the Commission, the Commission or the presiding officer shall issue a notice of the procedure to be followed with regard to the filing of briefs and oral argument, and a recommended decision, advisory opinion, or public report, as appropriate, shall then be issued pursuant to the provisions of §§3001.34 to 3001.39. The Commission or presiding officer may, if necessary or desirable, call procedural conferences by issuance of a notice pursuant to §3001.19.

[36 FR 396, Jan. 12, 1971, as amended at 65 FR 6540, Feb. 10, 2000]

§ 3001.19 Notice of prehearing conference or hearing.

In any proceeding noticed for a proceeding on the record pursuant to §3001.17(a) the Commission shall give due notice of any prehearing conference or hearing by including the time and place of the conference or hearing in the notice of proceeding or by subsequently issuing a notice of prehearing conference or hearing. Such notice of prehearing conference or hearing shall give the title and docket designation of the proceeding, a reference to the original notice of proceeding and the date of such notice, and the time and place of the conference or hearing. Such notice shall be published in the FEDERAL REGISTER and served on all participants in the proceeding involved. Notice of the time and place where a hearing will be reconvened shall be served on all partici-

pants in the proceeding unless announcement was made thereof by the presiding officer at the adjournment of an earlier session of the prehearing conference or hearing.

[65 FR 6540, Feb. 10, 2000]

§ 3001.20 Formal intervention.

(a) *Who may intervene.* A notice of intervention will be entertained in those cases that are noticed for a proceeding pursuant to §3001.17(a) from any person claiming an interest of such nature that intervention is allowed by the Act, or appropriate to its administration.

(b) *Contents.* A notice of intervention shall clearly and concisely set forth the nature and extent of the intervenor's interest in the issues to be decided, including the classifications of postal service utilized by the intervenor giving rise to his/her interest in the proceeding, and to the extent known, the position of the intervenor with regard to the proposed changes in postal rates, fees, classifications, or services, or the subject matter of the complaint, as described in the notice of the proceeding. Such notice shall state whether or not the intervenor requests a hearing or in lieu thereof, a conference, and whether or not the intervenor intends to actively participate in a hearing. Such notice shall also include on page one thereof the name and full mailing address of no more than two persons who are to receive service of any documents relating to such proceeding.

(c) *Form and time of filing.* Notices of intervention shall be filed no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary, unless in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Notices of intervention shall conform to the requirements of §§3001.9 through 3001.12.

(d) *Oppositions.* Oppositions to notices of intervention may be filed by any participant in the proceeding no later than 10 days after the notice of intervention is filed. Pending Commission action, an opposition to intervention shall delay on a day-for-day basis, the

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date for responses to discovery requests filed by that intervenor.

(e) *Effect of intervention.* A person filing a notice of intervention shall be a party to the proceeding subject, however, to a determination by the Commission, either in response to an opposition, or sua sponte, that party status is not appropriate under the Act. Intervenors are also subject to the right of the Commission or the presiding officer as specified in §3001.24 to require two or more intervenors having substantially like interests and positions to join together for purposes of service of documents, presenting evidence, making and arguing motions and objections, cross-examining witnesses, filing briefs, and presenting oral arguments to the Commission or presiding officer. No intervention shall be deemed to constitute a decision that the intervening party has such an interest in the proceeding that he/she would be aggrieved by an ultimate decision by order of the Commission.

[48 FR 15627, Apr. 12, 1983, as amended at 58 FR 38976, July 21, 1993; 58 FR 38976, July 21, 1993; 65 FR 6540, Feb. 10, 2000; 67 FR 67561, Nov. 6, 2002]

§ 3001.20a Limited participation by persons not parties.

Notwithstanding the provisions of §3001.20, any person may appear as a limited participator in any case that is noticed for a proceeding pursuant to §3001.17(a), in accordance with the following provisions;

(a) *Form of intervention.* Notices of intervention as a limited participator shall be in writing, shall set forth the nature and extent of the intervenor's interest in the proceeding, and shall conform to the requirements of §§3001.9 through 3001.12.

(b) *Oppositions.* Oppositions to notices to intervene as a limited participator may be filed by any participant in the proceeding no later than 10 days after the notice of intervention as a limited participator is filed.

(c) *Scope of participation.* Subject to the provisions of §3001.30(f), limited participators may present evidence which is relevant to the issues involved in the proceeding and their testimony shall be subject to cross-examination on the same terms applicable to that of

formal participants. Limited participants may file briefs or proposed findings pursuant to §§3001.34 and 3001.35, and within 15 days after the release of an intermediate decision, or such other time as may be fixed by the Commission, they may file a written statement of their position on the issues. The Commission or the presiding officer may require limited participators having substantially like interests and positions to join together for any or all of the above purposes. Limited participators are not required to respond to discovery requests under §3001.25 through §3001.28 except to the extent that those requests are directed specifically to testimony which the limited participators provided in the proceeding; however, limited participators, particularly those making contentions under 39 U.S.C. 3622(b)(4), are advised that failure to provide relevant and material information in support of their claims will be taken into account in determining the weight to be placed on their evidence and arguments.

[48 FR 15627, Apr. 12, 1983, as amended at 58 FR 38976, July 21, 1993; 60 FR 12115, Mar. 6, 1995; 65 FR 6540, Feb. 10, 2000; 67 FR 67561, Nov. 6, 2002]

§ 3001.20b Informal expression of views by persons not parties or limited participators (commenters).

Notwithstanding the provisions of §§3001.19a and 3001.20, any person may file with the Commission, in any case that is noticed for a hearing pursuant to §3001.17, an informal statement of views in writing, in accordance with the following provisions:

(a) *Form of statement.* A statement filed pursuant to this section may be submitted as a hardcopy letter mailed to the Secretary or an electronic message entered on the form provided for this purpose under the "Contact Us" link on the Commission's Web site, <http://www.prc.gov>.

(b) *Contents of statement.* A statement filed pursuant to this section shall set forth the name and full mailing address of the person by whom or on whose behalf it is filed, a concise statement of the issue or issues to which the comments contained therein apply, and a clear statement of any views, opinions, or suggestions which the person filing

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the statement wishes to lay before the Commission.

(c) *Disposition by the Commission or presiding officer.* Statements filed pursuant to this section shall be made a part of the Commission's files in the proceeding. The Secretary shall maintain a file of such statements which shall be segregated from the evidentiary record in the proceeding, and shall be open to public inspection during the Commission's office hours. A statement or exhibit thereto filed pursuant to this section shall not be accepted in the "record," as defined by §3001.5(k) except to the extent that it is (1) otherwise formally introduced in evidence, or (2) a proper subject of official notice, pursuant to §3001.31(j).

(d) *Ex parte communications—exception.* A statement filed pursuant to this section shall not be considered an ex parte communication within the meaning of §3001.7.

[42 FR 8142, Feb. 9, 1977. Redesignated at 48 FR 15627, Apr. 12, 1983, as amended at 58 FR 38976, July 21, 1993; 68 FR 47, Jan. 2, 2003]

§ 3001.21 Motions.

(a) *Scope and contents.* An application for an order or ruling not otherwise specifically provided for in this part shall be by motion. Motions shall set forth with particularity the ruling or relief sought, the grounds and basis therefor, and the statutory or other authority relied upon, and shall be filed with the Secretary and served pursuant to the provisions of §§3001.9 to 3001.12. All motions to dismiss proceedings or other motions which involve a final determination of the proceeding shall be addressed to the Commission. After a presiding officer is designated in any proceeding, and before the issuance of an initial decision pursuant to §3001.39 or certification of the record to the Commission pursuant to §3001.38, all other motions in that proceeding shall be addressed to the presiding officer.

(b) *Answers.* Within seven days after a motion is filed, or such other period as the rules provide or the Commission or presiding officer may fix, any participant to the proceeding may file and serve an answer in support of or in opposition to the motion pursuant to §§3001.9 to 3001.12. Such answers shall state with particularity the position of

the participant with regard to the ruling or relief requested in the motion and the grounds and basis and statutory or other authority relied upon. Unless the Commission or presiding officer otherwise provides, no reply to an answer or any further responsive document shall be filed.

(c) *Motions to strike.* Motions to strike are requests for extraordinary relief and are not substitutes for briefs or rebuttal evidence in a proceeding. All motions to strike testimony or exhibit materials are to be submitted in writing at least 14 days before the scheduled appearance of the witness, unless good cause is shown. Responses to motions to strike are due within seven days.

[38 FR 4327, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986; 58 FR 38976, July 21, 1993; 65 FR 6540, Feb. 10, 2000]

§ 3001.22 Requests for waiver.

Upon request by motion, any requirement of any subpart of this Part 3001 may be waived in whole or in part to the extent permitted by law upon a showing that such waiver will not unduly prejudice the interests of other participants and is consistent with the public interest and the Commission's expeditious discharge of its responsibilities under the Act. A request for waiver shall not be entertained unless it is timely filed so as to permit Commission disposition of the request prior to the date specified for the requirement for which waiver is requested. The pendency of a request for waiver does not justify or excuse any person from timely meeting the requirements of this part.

§ 3001.23 Presiding officers.

(a) *Authority delegated.* Presiding officers shall have the authority, within the Commission's powers and subject to its published rules, as follows:

(1) To regulate the course of the hearing, including the recessing, reconvening, and adjournment thereof, unless otherwise directed by the Commission, as provided in §3001.16;

(2) To administer oaths and affirmations;

(3) To issue subpoenas authorized by law;

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(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or authorize that depositions be taken as provided in § 3001.33;

(6) To hold appropriate conferences before or during hearings and to rule on matters raised at such conferences including those specified in paragraph (d) of § 3001.24;

(7) To dispose of procedural requests or similar matters but not, before their initial or recommended decision, to dispose of motions made during hearings to dismiss proceedings or other motions which involve a final determination of the proceeding;

(8) Within their discretion, or upon direction of the Commission, to certify any question to the Commission for its consideration and disposition;

(9) To submit an initial or recommended decision in accordance with §§ 3001.38 and 3001.39; and

(10) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authorities under which the Commission functions and with the rules, regulations, and policies of the Commission.

(b) *Conduct of hearings.* It is the duty of the presiding officer to conduct a fair and impartial hearing and to maintain order. Any disregard by participants or counsel of his/her rulings on matters of order and procedure shall be noted on the record, and where he/she deems it necessary shall be made the subject of a special written report to the Commission. In the event that participants or counsel should be guilty of disrespectful, disorderly, or contumacious language or conduct in connection with any hearing, the presiding officer immediately may submit to the Commission his/her report thereon, together with his/her recommendations, and in his/her discretion, suspend the hearing.

(c) *Ex parte communication.* Except to the extent required for the disposition of ex parte matters as authorized by law and by the rules of the Commission, no presiding officer shall, in any proceeding in which the Commission may so direct, or in any proceeding required by statute to be determined on the record after opportunity for hearing, consult any person on any matter

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in issue unless upon notice and opportunity for all participants to be heard.

(d) *Disqualification.* A presiding officer may withdraw from a proceeding when he/she deems himself disqualified, or may be withdrawn by the Commission for good cause found after timely affidavits alleging personal bias or other disqualifications have been filed.

[36 FR 396, Jan. 12, 1971, as amended at 49 FR 6490, Feb. 22, 1984; 51 FR 8827, Mar. 14, 1986; 58 FR 38976, July 21, 1993]

§ 3001.24 Prehearing conferences.

(a) *Initiation and purposes.* In any proceeding the Commission or the presiding officer may, with or without motion, upon due notice as to time and place, direct the participants in a proceeding to appear for a prehearing conference for the purposes of considering all possible ways of expediting the proceeding, including those in paragraph (d) of this section. It is the intent of the Commission to issue its recommended decision or advisory opinion on requests under sections 3622, 3623, and 3661 of the Act with the utmost practicable expedition. The Commission directs that these prehearing procedures shall be rigorously pursued by the presiding officer and all participants to that end.

(b) *Informal off-the-record procedures.* In order to make the prehearing conference as effective as possible, the presiding officer may, in his/her discretion, direct that conferences be held off the record at the beginning of a prehearing conference or at other appropriate times, without the presiding officer being present. Such informal off-the-record conferences shall be presided over by the Commission's officer designated to represent the interests of the general public or such other person as the participants may select. At such off-the-record conferences the participants shall be expected to reach agreement on those matters which will expedite the proceeding, including the matters specified in the notice of the prehearing conference, in the ruling of the presiding officer directing that the off-the-record conference be held and in paragraph (d) of this section. A report on the results of such off-the-record conference shall be made to the presiding officer on the record at a time

specified by the presiding officer and he/she shall then determine the further prehearing procedures to be followed.

(c) *Required preparation and cooperation of all parties.* All participants in any proceeding before the Commission are required and expected to come to the prehearing conference fully prepared to discuss in detail and resolve all matters specified in paragraph (d) of this section, and notice of the prehearing conference, and such other notice or agenda as may have been issued by the Commission or the presiding officer. All participants are required and expected to cooperate fully at all stages of the proceeding to achieve these objectives, through thorough advance preparation for the prehearing conference, including informal communications between the participants, requests for discovery and appropriate discovery procedures at the earliest possible time and no later than at the prehearing conference, and the commencement of preparation of evidence and cross-examination. The failure of any participant to appear at the prehearing conference or to raise any matters that could reasonably be anticipated and resolved at the prehearing conference shall not be permitted to unduly delay the progress of the proceeding and shall constitute a waiver of the rights of the participant with regard thereto, including all objections to the agreements reached, actions taken, or rulings issued by the presiding officer with regard thereto.

(d) *Matters to be pursued.* At the prehearing conference in any proceeding, the presiding officer and the participants shall consider and resolve the following matters:

(1) The definition and simplification of the issues including any appropriate explanation, clarification, or amendment of any proposal, filing, evidence, complaint or other pleading filed by any participant;

(2) Arrangement for timely completion of discovery from the Postal Service or any other participant concerning information desired by any participant with regard to any issues in the proceeding or prior filings, evidence or pleadings of any participant;

(3) Agreement as to procedures for timely discovery with regard to any fu-

ture evidentiary filings of any participant;

(4) Stipulations, admissions or concessions as to evidentiary facts, and agreements as to documentary matters, exhibits and matters of official notice, which will avoid unnecessary proof or dispute;

(5) Grouping parties with substantially like interests for purposes of presenting evidence, making and arguing motions and objections, cross-examining witnesses, filing briefs, and presenting oral argument to the Commission or presiding officer;

(6) Disclosure of the number, identity and qualifications of witnesses, and the nature of their testimony, particularly with respect to the policies of the Act and, as applicable according to the nature of the proceeding, each factor stated in section 3622 or 3623 of the Act;

(7) Limitation of the scope of the evidence and the number of witnesses to eliminate irrelevant, immaterial, or cumulative and repetitious evidence;

(8) Procedures to direct and control the use of discovery prior to the hearing and submission of written testimony and exhibits on matters in dispute so as to restrict to a bare minimum the amount of hearing time required for oral cross-examination of witnesses;

(9) Division of the proceeding where practicable into two or more phases for separate simultaneous hearings;

(10) Fixing dates for the submission and service of such written testimony and exhibits as may be appropriate in advance of the hearing;

(11) Order of presentation of the evidence and cross-examination of witnesses so that the hearing may proceed in the most expeditious and orderly manner possible; and

(12) All other matters which would aid in an expeditious disposition of the proceeding, including consent of the participants to the conduct of the entire proceedings off the record.

(e) *Rulings by presiding officer.* The presiding officer at such prehearing conference, irrespective of the consent of the participants, shall dispose of by ruling (1) any of the procedural matters itemized in paragraph (d) of this section and (2) such other procedural matters on which he/she is authorized

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to rule during the course of the hearing if ruling at this stage would expedite the proceeding. Either on the record at the conclusion of such prehearing conference, or by order issued shortly thereafter, the presiding officer shall state the agreements reached by the participants, the actions taken, and the rulings made by the presiding officer. Such rulings shall control the subsequent course of the proceedings unless modified at the hearing to prevent manifest injustice.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38976, July 21, 1993]

§ 3001.25 Discovery—general policy.

(a) Rules 26 through 28 allow discovery reasonably calculated to lead to admissible evidence during a noticed proceeding. Generally, discovery against a participant will be scheduled to end prior to the receipt into evidence of that participant's direct case. An exception to this procedure shall operate in all proceedings brought under 39 U.S.C. 3622, 3623, 3661 and 3662 when a participant needs to obtain information (such as operating procedures or data) available only from the Postal Service. Discovery requests of this nature are permissible only for the purpose of the development of rebuttal testimony and may be made up to 20 days prior to the filing date for final rebuttal testimony.

(b) The discovery procedures set forth in rules 26 through 28 are not exclusive. Participants are encouraged to engage in informal discovery whenever possible to clarify exhibits and testimony. The results of these efforts may be introduced into the record by stipulation, by supplementary testimony or exhibit, by presenting selected written interrogatories and answers for adoption by a witness at the hearing, or by other appropriate means. In the interest of reducing motion practice, parties also are expected to use informal means to clarify questions and to identify portions of discovery requests considered overbroad or burdensome.

(c) If a participant or an officer or agent of a participant fails to obey an order of the Commission or the presiding officer to provide or permit discovery pursuant to §§3001.26 to 3001.28, the Commission or the presiding officer

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may make such orders in regard to the failure as are just, and among others, may direct that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the proceeding in accordance with the claim of the participants obtaining the order, or prohibit the disobedient participant from introducing designated matters in evidence, or strike the evidence, complaint or pleadings or parts thereof.

[65 FR 6543, Feb. 10, 2000]

§ 3001.26 Interrogatories for purpose of discovery.

(a) *Service and contents.* In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may propound to any other participant in a proceeding written, sequentially numbered interrogatories, by witness, requesting nonprivileged information relevant to the subject matter in such proceeding, to be answered by the participant served, who shall furnish such information as is available to the participant. A participant through interrogatories may require any other participant to identify each person whom the other participant expects to call as a witness at the hearing and to state the subject matter on which the witness is expected to testify. The participant propounding the interrogatories shall file them with the Commission in conformance with §§3001.9 through 3001.12. Follow-up interrogatories to clarify or elaborate on the answer to an earlier discovery request may be filed after the initial discovery period ends. They must be filed within seven days of receipt of the answer to the previous interrogatory unless extraordinary circumstances are shown.

(b) *Answers.* Answers to discovery requests shall be prepared so that they can be incorporated as written cross-examination. Each answer shall begin on a separate page, identify the individual responding and the relevant testimony number, if any, the participant who asked the question, and the number and text of the question. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons

for objection shall be stated in the manner prescribed by paragraph (c) of this section. The participant responding to the interrogatories shall file the answers in conformance with §§3001.9 through 3001.12 within 14 days of the filing of the interrogatories or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an interrogatory, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the interrogatory, providing estimates of cost and work hours required, to the extent possible. An interrogatory otherwise proper is not necessarily objectionable because an answer would involve an opinion or contention that relates to fact or the application of law to fact, but the Commission or presiding officer may order that such an interrogatory need not be answered until a prehearing conference or other later time. Objections shall be filed with the Commission in conformance with §§3001.9 through 3001.12 within 10 days of the filing of the interrogatories.

(d) *Motions to compel responses to discovery.* Motions to compel a more responsive answer, or an answer to an interrogatory to which an objection was interposed, should be filed within 14 days of the answer or objection to the discovery request. The text of the discovery request, and any answer provided, should be provided as an attachment to the motion to compel. Participants who have objected to interrogatories which are the subject of a motion to compel shall have seven days to answer. Answers will be considered supplements to the arguments presented in the initial objection.

(e) *Compelled answers.* The Commission, or the presiding officer, upon motion of any participant to the proceeding, may compel a more responsive answer, or an answer to an interroga-

tory to which an objection has been raised if the objection is found not to be valid, or may compel an additional answer if the initial answer is found to be inadequate. Such compelled answers shall be filed in conformance with §§3001.9 through 3001.12 within seven days of the date of the order compelling an answer or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing.

(f) *Supplemental answers.* The individual or participant who has answered interrogatories is under the duty to seasonably amend a prior answer if he/she obtains information upon the basis of which he/she knows that the answer was incorrect when made or is no longer true. Participants shall serve supplemental answers to update or to correct responses whenever necessary, up until the date the answer could have been accepted into evidence as written cross-examination. Participants filing supplemental answers shall indicate whether the answer merely supplements the previous answer to make it current or whether it is a complete replacement for the previous answer.

(g) *Orders.* The Commission or the presiding officer may order that any participant or person shall answer on such terms and conditions as are just and may for good cause make any protective order, including an order limiting or conditioning interrogatories, as justice requires to protect a participant or person from undue annoyance, embarrassment, oppression, or expense.

[65 FR 6541, Feb. 10, 2000, as amended at 67 FR 67561, Nov. 6, 2002]

§3001.27 Requests for production of documents or things for purpose of discovery.

(a) *Service and contents.* In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may serve on any other participant to the proceeding a request to produce and permit the participant making the request, or someone acting in his/her behalf, to inspect and copy any designated documents or things that constitute or contain matters, not privileged, that are relevant to the subject

matter involved in the proceeding and that are in the custody or control of the participant to whom the request is addressed. The request shall set forth the items to be inspected either by individual item or category, and describe each item and category with reasonable particularity, and shall specify a reasonable time, place and manner of making inspection. The participant requesting the production of documents or things shall file its request with the Commission in conformance with §§3001.9 through 3001.12.

(b) *Answers.* The participant responding to the request shall file an answer with the Commission in conformance with §§3001.9 through 12 within 14 days after the request is filed, or within such other period as may be fixed by the Commission or presiding officer. The answer shall state, with respect to each item or category, that inspection will be permitted as requested unless the request is objected to pursuant to paragraph (c) of this section.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an item or category, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state with particularity the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the request, providing estimates of cost and work hours required, to the extent possible. Objections shall be filed with the Commission in conformance with §§3001.9 through 3001.12 within 10 days of the request for production.

(d) *Motions to compel requests for production of documents or things for purposes of discovery.* Motions to compel shall be filed within 14 days of the answer or objection to the discovery request. The text of the discovery request, and any answer provided, should be provided as an attachment to the motion to compel. Participants who have objected to requests for production of documents or things which are the subject of a motion to compel shall have seven days to answer. Answers will be considered supplements to the

arguments presented in the initial objection.

(e) *Compelled answers.* Upon motion of any participant to the proceeding to compel a response to discovery, as provided in paragraph (d) of this section, the Commission or the presiding officer may compel production of documents or things to which an objection is found not to be valid. Such compelled documents or things shall be made available to the participant making the motion within seven days of the date of the order compelling production or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing. When complying with orders to produce documents or things, notice shall be filed in conformance with §§3001.9 through 3001.12. The Commission or the presiding officer may, on such terms and conditions as are just and reasonable, order that any participant in a proceeding shall respond to a request for inspection, and may make any protective order of the nature provided in §3001.26(g) as may be appropriate.

[65 FR 6541, Feb. 10, 2000, as amended at 67 FR 67562, Nov. 6, 2002]

§ 3001.28 Requests for admissions for purpose of discovery.

(a) *Service and content.* In the interest of expedition, any participant may serve upon any other participant a written request for the admission, for purposes of the pending proceeding only, of any relevant, unprivileged facts, including the genuineness of any documents or exhibits to be presented in the hearing. The participant requesting the admission shall file its request with the Commission in conformance with §§3001.9 through 3001.12.

(b) *Answers.* Each matter of which an admission is requested shall be separately set forth and is admitted unless within 14 days after the request is filed, or within such other period as may be fixed by the Commission or presiding officer, the participant to whom the request is directed files a written answer or objection pursuant to paragraph (c) of this section. A participant who answers a request for admission shall file its answer with the Commission in conformance with §§3001.9 through 3001.12.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an item, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the request, providing estimates of cost and work hours required to the extent possible. Objections shall be filed with the Commission in conformance with §§3001.9 through 3001.12, within 10 days of the request for admissions.

(d) *Motions to compel responses to requests for admissions.* Motions to compel a more responsive answer, or an answer to a request to which an objection was interposed, shall be filed within 14 days of the answer or objection to the request for admissions. The text of the request for admissions, and any answer provided, should be provided as an attachment to the motion to compel. Participants who have objected to requests for admissions which are the subject of a motion to compel shall have seven days to answer. Answers will be considered supplements to the arguments presented in the initial objection.

(e) *Compelled answers.* Upon motion of any participant to the proceeding the Commission or the presiding officer may compel answers to a request for admissions to which an objection has been raised if the objection is found not to be valid. Such compelled answers shall be filed with the Commission in conformance with §§3001.9 through 3001.12 within seven days of the date of the order compelling production or within such other period as may be fixed by the Commission or the presiding officer, but before the conclusion of the hearing. If the Commission or presiding officer determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be filed.

[65 FR 6542, Feb. 10, 2000, as amended at 67 FR 67562, Nov. 6, 2002]

§ 3001.29 Settlement conferences.

Any participant in a proceeding may submit offers of settlement or proposals of adjustment at any time and may request a conference between the participants to consider such offers or proposals. The Commission or the presiding officer shall afford the participants appropriate opportunity prior to or during the hearing for conferences for the purpose of considering such offers or proposals as time, the nature of the proceeding, and the public interest permit. Unaccepted offers of settlement or adjustment and proposed stipulations not agreed to shall be privileged and shall not be admissible in evidence against any participant claiming such privilege.

§ 3001.30 Hearings.

(a) *How initiated.* Hearings for the purpose of taking evidence shall be initiated by the issuance of a notice by the Commission as provided in §3001.19.

(b) *Presiding officer.* All hearings shall be held before the Commission sitting en banc, or a duly designated presiding officer.

(c) *Entering of appearances.* The Commission or the presiding officer before whom the hearing is held will cause to be entered on the record all appearances together with a notation showing in whose behalf each such appearance has been made.

(d) *Order of procedure.* In public hearings before the Commission, the Postal Service shall open and close in proceedings which it has initiated under sections 3622, 3623, or 3661 of the Act, and a complainant shall open and close in proceedings on complaints filed under section 3662 of the Act. With respect to the order of presentation of all other participants, and in all other proceedings, unless otherwise ordered by the Commission, the presiding officer shall direct the order of presentation of evidence and issue such other procedural orders as may be necessary to assure the orderly and expeditious conclusion of the hearing.

(e)(1) *Presentations by participants.* Any participant shall have the right in public hearings of presentation of evidence, cross-examination (limited to testimony adverse to the participant

conducting the cross-examination), objection, motion, and argument. The case-in-chief of participants other than the proponent shall be in writing and shall include the participant's direct case and rebuttal, if any, to the initial proponent's case-in-chief. It may be accompanied by a trial brief or legal memoranda. (Legal memoranda on matters at issue will be welcome at any stage of the proceeding.) There will be an opportunity for participants to rebut presentations of other participants and for the initial proponent to present surrebuttal evidence. New affirmative matter (not in reply to another participant's direct case) should not be included in rebuttal testimony or exhibits. When objections to the admission or exclusion of evidence before the Commission or the presiding officer are made, the grounds relied upon shall be stated. Formal exceptions to rulings are unnecessary.

(2) *Written cross-examination.* Written cross-examination will be utilized as a substitute for oral cross-examination whenever possible, particularly to introduce factual or statistical evidence. Designations of written cross-examination should be served in accordance with §§3001.9 through 3001.12 no later than three working days before the scheduled appearance of a witness. Designations shall identify every item to be offered as evidence, listing the participant who initially posed the discovery request, the witness and/or party to whom the question was addressed (if different from the witness answering), the number of the request and, if more than one answer is provided, the dates of all answers to be included in the record. (For example, "OCA-T1-17 to USPS witness Jones, answered by USPS witness Smith (March 1, 1997) as updated (March 21, 1997))." When a participant designates written cross-examination, two hard copies of the documents to be included shall simultaneously be submitted to the Secretary of the Commission. The Secretary of the Commission shall prepare for the record a packet containing all materials designated for written cross-examination in a format that facilitates review by the witness and counsel. The witness will verify the answers and materials in the packet, and

they will be entered into the transcript by the presiding officer. Counsel may object to written cross-examination at that time, and any designated answers or materials ruled objectionable will be stricken from the record.

(3) *Oral cross-examination.* Oral cross-examination will be permitted for clarifying written cross-examination and for testing assumptions, conclusions or other opinion evidence. Notices of intent to conduct oral cross-examination should be filed three or more working days before the announced appearance of the witness and should include specific references to the subject matter to be examined and page references to the relevant direct testimony and exhibits. A participant intending to use complex numerical hypotheticals, or to question using intricate or extensive cross-references, shall provide adequately documented cross-examination exhibits for the record. Copies of these exhibits should be filed at least two calendar days (including one working day) before the scheduled appearance of the witness. They may be filed online or delivered in hardcopy form to counsel for the witness, at the discretion of the participant. If a participant has obtained permission to receive service of documents in hardcopy form, hardcopy notices of intent to conduct oral cross-examination of witnesses for that participant should be delivered to counsel for that participant and served three or more working days before the announced appearance of the witness, and cross-examination exhibits should be delivered to counsel for the witness at least two calendar days (including one working day) before the scheduled appearance of the witness.

(f) *Limitations on presentation of the evidence.* The taking of evidence shall proceed with all reasonable diligence and dispatch, and to that end, the Commission or the presiding officer may limit appropriately (1) the number of witnesses to be heard upon any issue, (2) the examination by any participant to specific issues, and (3) the cross-examination of a witness to that required for a full and true disclosure of the facts necessary for the disposition of the proceeding and to avoid irrelevant,

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immaterial, or unduly repetitious testimony.

(g) *Motions during hearing.* After a hearing has commenced in a proceeding, a request may be made by motion to the presiding officer for any procedural ruling or relief desired. Such motions shall set forth the ruling or relief sought, and state the grounds therefor and statutory or other supporting authority. Motions made during hearings may be stated orally upon the record, except that the presiding officer may require that such motions be reduced to writing and filed separately. Any participant shall have the opportunity to answer or object to such motions at the time and in the manner directed by the presiding officer.

(h) *Rulings on motions.* The presiding officer is authorized to rule upon any such motion not formally acted upon by the Commission prior to the commencement of a prehearing conference or hearing where immediate ruling is essential in order to proceed with the prehearing conference or hearing, and upon any motion to the presiding officer filed or made after the commencement thereof, except that no motion made to the presiding officer, a ruling upon which would involve or constitute a final determination of the proceeding, shall be ruled upon affirmatively by the presiding officer except as a part of his intermediate decision. This section shall not preclude a presiding officer, within his discretion, from referring any motion made in hearing to the Commission for ultimate determination.

(i) *Transcript corrections.* Corrections to the transcript of a hearing should not be requested except to correct a material substantive error in the transcription made at the hearing.

[36 FR 396, Jan. 12, 1971, as amended at 60 FR 12116, Mar. 6, 1995; 65 FR 6543, Feb. 10, 2000; 67 FR 67563, Nov. 6, 2002]

§ 3001.31 Evidence.

(a) *Form and admissibility.* In any public hearing before the Commission, or a presiding officer, relevant and material evidence which is not unduly repetitious or cumulative shall be admissible. Witnesses whose testimony is to be taken shall be sworn, or shall af-

firm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(b) *Documentary material*—(1) *General.* Documents and detailed data and information shall be presented as exhibits. Exhibits should be self-explanatory. They should contain appropriate footnotes or narrative explaining the source of each item of information used and the methods employed in statistical compilations. The principal title of each exhibit should state what it contains or represents. The title may also contain a statement of the purpose for which the exhibit is offered; however, this statement will not be considered part of the evidentiary record. Where one part of a multi-part exhibit is based on another part or on another exhibit, appropriate cross-references should be made. Relevant exposition should be included in the exhibits or provided in accompanying testimony. Testimony, exhibits and supporting workpapers prepared for Commission proceedings that are premised on data or conclusions developed in a library reference shall provide the location of that information within the library reference with sufficient specificity to permit ready reference, such as the page and line, or the file and the worksheet or spreadsheet page or cell. Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant or not intended to be put in evidence, the participant offering the same shall plainly designate the matter offered excluding the immaterial or irrelevant parts. If other matter in such document is in such bulk or extent as would unnecessarily encumber the record, it may be marked for identification, and, if properly authenticated, the relevant and material parts may be read into the record, or, if the Commission or presiding officer so directs, a true copy of such matter in proper form shall be received in evidence as an exhibit. Copies of documents shall be delivered by the participant offering the same to the other participants or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the

entire document and to offer in evidence in like manner other material and relevant portions thereof.

(2) *Library references.* (i) The term “library reference” is a generic term or label that participants and others may use to identify or designate certain documents or things (“material”) filed with the Commission’s docket section. To the extent possible, material filed as a library reference shall be identified and referred to by participants in terms of the following categories: Category 1—Reporting Systems Material (consisting of library references relating to the Service’s statistical cost and revenue reporting systems, and their primary outputs); Category 2—Witness Foundational Material (consisting of material relating to the testimony of specific witnesses, primarily that which is essential to the establishment of a proper foundation for receiving into evidence the results of studies and analyses); Category 3—Reference Material (consisting of previously published material provided for the convenience of the reader, such as books, chapters or other portions of books, articles, reports, manuals, handbooks, guides, and contracts); Category 4—Material Provided in Response to Discovery (consisting of material provided in response to discovery requests); Category 5—Disassociated Material (consisting of material filed at the request of another, from which the filing party wishes to be disassociated, is not vouching for or sponsoring the material provided); Category 6—All Other Material (consisting of library references not fitting any of the other categories).

(ii) The practice of filing a library reference is authorized primarily as a convenience to filing participants and the Commission under certain circumstances. These include when the physical characteristics of the material, such as number of pages, bulk, or format, are reasonably likely to render compliance with the service requirements unduly burdensome; and one of the following considerations apply:

(A) Interest in the material or things so labeled is likely to be so limited that service on the entire list would be unreasonably burdensome, and the participant agrees to serve the material

on individual participants upon request within three days of a request, or to provide, within the same period, an explanation of why the material cannot be provided within three days, and to undertake reasonable efforts to promptly provide the material; or

(B) The participant satisfactorily demonstrates that designation of material as a library reference is appropriate because the material constitutes a secondary source. A secondary source is one that provides background for a position or matter referred to elsewhere in a participant’s case or filing, but does not constitute essential support and is unlikely to be a material factor in a decision on the merits of issues in the proceeding; or

(C) Reference to, identification of, or use of the material would be facilitated if it is filed as a library reference; or

(D) The material is filed in compliance with a discovery request for production of documents or things.

(iii) *Other circumstances.* If a participant considers it appropriate to file material as a library reference because its physical characteristics render service unduly burdensome, but cannot satisfy the terms set out in paragraphs (b)(2)(i)(A) through (D) of this section, the material may be filed (by means of a notice) subject to the following conditions:

(A) Inclusion in the accompanying notice of a detailed explanation of the reason for filing the material under this provision;

(B) Satisfaction of all other applicable requirements relating to library references; and

(C) The Commission’s right to refuse acceptance of the material in its docket room and its right to take other action to ensure participants’ ability to obtain access to the material.

(iv) *Filing procedure.* Participants filing material as a library reference shall file contemporaneous written notice of this action in conformance with §§3001.9 through 3001.12. The notice shall:

(A) Set forth the reason(s) why the material is being designated as a library reference, with specific reference to paragraphs (b)(2)(i) and (iii) of this section;

(B) Identify the category into which the material falls and describe in detail what the material consists of or represents, noting matters such as the presence of survey results;

(C) Explain in detail how the material relates to the participant's case or to issues in the proceeding;

(D) Identify authors or others materially contributing to substantive aspects of the preparation or development of the library reference;

(E) Identify the documents (such as testimony, exhibits, and an interrogatory) or request to which the library reference relates, to the extent practicable;

(F) Identify other library references or testimony relied upon or referred to in the designated material, to the extent practicable;

(G) Indicate whether the library reference is an update or revision to another library reference and, if it is, clearly identify the predecessor material.

(H) To the extent feasible, identify portions expected to be entered into the record and the expected sponsor (if the participant filing a library reference anticipates seeking, on its own behalf, to enter all or part of the material contained therein into the evidentiary record).

(v) *Labeling.* Material filed as a library reference shall be labeled in a manner consistent with standard Commission notation and any other conditions the presiding officer or Commission establishes.

(vi) *Optional preface or summary.* Inclusion of a preface or summary in a library reference addressing the matters set out in paragraphs (b)(2)(iv)(A) through (H) of this section is encouraged but optional.

(vii) *Electronic version.* Material filed as a library reference shall also be made available in an electronic version, absent a showing of why an electronic version cannot be supplied or should not be required to be supplied. Participants are encouraged to include in the electronic version the information and disclosures required to be included in the accompanying notice.

(viii) *Number of copies.* Except for good cause shown, two hard copies of each library reference shall be filed.

(ix) *Special requests and motions seeking service.* In situations other than that covered in paragraph (b)(2)(ii)(A) of this section, special requests for service of material contained in a library reference may be made by the participant that filed the interrogatory or inquiry that generated a response in the form of a library reference. Service shall be made within a reasonable time. Others seeking service of the material contained in a library reference shall file a detailed motion setting forth the reasons why service is necessary or appropriate.

(x) *Waiver.* Upon the filing of a motion showing good cause, the Commission may waive one or more of the provisions relating to library references. Motions seeking waiver may request expedited consideration and may seek waiver for categories of library references.

(xi) *Status of library references.* Designation of material as a library reference and acceptance in the Commission's docket section do not confer evidentiary status. The evidentiary status of the material is governed by this section.

(c) *Commission's files.* Except as otherwise provided in § 3001.31(e), in case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but may be offered in evidence by specifying the report, document, or other file containing the matter so offered.

(d) *Public document items.* Whenever there is offered in evidence (in whole or in part) a public document, such as an official report, decision, opinion or published scientific or economic statistical data issued by any of the Executive Departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations) and such document (or part thereof) has been shown by the offeror thereof to be reasonably available to the public, such document need not be produced or physically marked for identification,

but may be offered in evidence as a public document item by clearly identifying the document and the relevant parts thereof.

(e) *Designation of evidence from other Commission dockets.* Participants may request that evidence received in other Commission proceedings be entered into the record of the current proceeding. These requests shall be made by motion, shall explain the purpose of the designation, and shall identify material by page and line or paragraph number. Absent extraordinary justification, these requests must be made at least 28 days before the date for filing the participant's direct case. Oppositions to motions for designations and/or requests for counter-designations shall be filed within 14 days. Oppositions to requests for counter-designations are due within seven days. At the time requests for designations and counter-designations are made, the moving participant must submit two copies of the identified material to the Secretary of the Commission.

(f) *Form of prepared testimony and exhibits.* Unless the presiding officer otherwise directs, the direct testimony of witnesses shall be reduced to writing and offered either as such or as an exhibit. All prepared testimony and exhibits of a documentary character shall, so far as practicable, conform to the requirements of § 3001.10(a) and (b).

(g) *Copies to participants.* Except as otherwise provided in these rules, copies of prepared testimony and exhibits shall be furnished to the presiding officer and to the participants or counsel, unless the presiding officer otherwise directs. In addition, unless otherwise directed by the presiding officer, eight copies of all prepared testimony and exhibits shall be furnished for the use of the Commission.

(h) *Reception and ruling.* The presiding officer shall rule on the admissibility of evidence and otherwise control the reception of evidence so as to confine it to the issues in the proceeding.

(i) *Offers of proof.* Any offer of proof made in connection with any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends

would be adduced by such testimony; and if the excluded evidence consists of evidence in documentary or written form, or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

(j) *Official notice of facts.* Official notice may be taken of such matters as might be judicially noticed by the courts of the United States or of any other matter peculiarly within the general knowledge of the Commission as an expert body: *Provided*, That any participant shall, on timely request, be afforded an opportunity to show the contrary.

(k) *Introduction and reliance upon studies and analyses—(1) General.* In the case of all studies and analyses offered in evidence in hearing proceedings or relied upon as support for other evidence, other than the kinds described in paragraphs (k) (2) and (3) of this section, there shall be a clear statement of the study plan, all relevant assumptions and a description of the techniques of data collection, estimation and/or testing. In addition, there shall be a clear statement of the facts and judgments upon which conclusions are based, together with an indication of the alternative courses of action considered. Tabulations of input data shall be made available upon request at the offices of the Commission.

(2) *Statistical studies.* All statistical studies offered in evidence in hearing proceedings or relied upon as support for other evidence shall include a comprehensive description of the assumptions made, the study plan utilized and the procedures undertaken. Where a computer analysis is employed to obtain the result of a statistical study, all of the submissions required by § 3001.31(k)(3) shall be furnished, upon request. In addition, for each of the following types of statistical studies, the indicated information should be furnished:

(i) *Market research.* (a) The following data and information shall be provided: (1) A clear and detailed description of the sample, observational, and data preparation designs, including definitions of the target population, sampling frame, units of analysis, and survey variables;

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(2) An explanation of methodology for the production and analysis of the major survey estimates and associated sampling errors;

(3) A presentation of response, coverage and editing rates, and any other potential sources of error associated with the survey's quality assurance procedures;

(4) A discussion of data comparability over time and with other data sources;

(5) An assessment of the effects of editing and imputation;

(6) Identification of applicable statistical models, when model-based procedures are employed; and

(7) An explanation of all statistical tests performed and an appropriate set of summary statistics summarizing the results of each test.

(i) *Other sample surveys.* (a) A clear description of the survey design, including the definition of the universe under study, the sampling frame and units, and the validity and confidence limits than can be placed on major estimates; and

(b) An explanation of the method of selecting the sample and the characteristics measured or counted.

(iii) *Experimental analyses.* (a) A complete description of the experimental design, including a specification of the controlled conditions and how the controls were realized;

(b) A complete description of the methods of making observations and the adjustments, if any, to observed data.

(iv) *Econometric Studies.* (a) A presentation of the economic theory underlying the study;

(b) A complete description of the econometric model(s) and the reasons for each major assumption and specification;

(c) The definition of the variables selected and the justification for their selection;

(d) For any alternative model whose computed econometric results influenced the choice of the preferred model, a statement of the reasons for rejecting that alternative, an identification of any differences between that alternative and the preferred model with respect to variable definitions, equation forms, data, or esti-

mation methods, and, upon request, the computed econometric results for that alternative;

(e) A reference to a detailed description in a text, manual, or technical journal for every econometric technique used in the estimation process and the reasons for selecting the technique, or, in the alternative, a description and analysis of the technique that is sufficient for a technical evaluation;

(f) Summary descriptions and source citations for all input data and, upon request, a complete listing of the data. Complete descriptions of any alterations or transformations made to the data as received from the original sources, and the reasons for making the alterations;

(g) A complete report of the econometric results including, where applicable:

(1) coefficient estimates

(2) standard errors and t-values,

(3) goodness-of-fit statistics,

(4) other appropriate test statistics,

(5) the variance/covariance matrix of the estimates,

(6) computed residuals for results computed from samples composed of fewer than 250 observations, and, upon request, other computed residuals;

(h) Descriptions of all statistical tests of hypotheses and the results of such tests;

(v) *All other studies involving statistical methodology.* (a) The formula used for statistical estimates;

(b) The standard errors of each component estimated;

(c) Test statistics and the description of statistical tests and all related computations, and final results; and

(d) Summary descriptions of input data, and upon request the actual input data shall be made available at the offices of the Commission.

(3) *Computer analyses.* (i) In the case of computer studies or analyses which are being offered in evidence, or relied upon as support for other evidence, a foundation for the reception of such materials must be laid by furnishing a general description of the program that includes the objectives of the program, the processing tasks performed, the methods and procedures employed, and a listing of the input and output data

and source codes (or a showing pursuant to paragraph (k)(3)(iii) of this section as to why such codes cannot be so furnished) and such description shall be furnished in all cases. For the purpose of completing such foundation, the following additional items shall be deemed presumptively necessary and shall be furnished upon request of a participant, the Commission, or the presiding officer, unless the presumption is overcome by an affirmative showing.

(a) For all input data, designations of all sources of such data, and explanations of any modifications to such data made for use in the program;

(b) Definitions of all input and output variables or sets of variables;

(c) A description of input and output data file organization;

(d) A hard copy of all data bases;

(e) For all source codes, documentation sufficiently comprehensive and detailed to satisfy generally accepted software documentation standards appropriate to the type of program and its intended use in the proceeding;

(f) The source code in hardcopy form;

(g) All pertinent operating system and programming language manuals; and

(h) If the requested program is user interactive, a representative sample run, together with any explanation necessary to illustrate the response sequence.

(i) An expert on the design and operation of the program shall be provided at a technical conference to respond to any oral or written questions concerning information that is reasonably necessary to enable independent replication of the program output. Machine-readable data files and program files shall be provided in the form of a compact disk or other media or method approved in advance by the Administrative Office of the Postal Rate Commission. Any machine-readable data file or program file so provided must be identified and described in accompanying hardcopy documentation. In addition, files in text format must be accompanied by hard-copy instructions for printing them. Files in machine code must be accompanied by hardcopy instructions for executing them.

(j) Computer simulation models offered in evidence or relied upon as support for other evidence, shall be bound by all applicable provisions of paragraph (k)(3) of this section and the separate requirements of paragraph (k)(2) of this section, to the extent that portions of the simulation model utilize or rely upon such studies. Information that compares the simulation model output results to the actual phenomena being modelled, using data other than those from which the model was developed, shall be separately identified and submitted as evidence supporting the test and validation of the simulation model. Separate statements concerning the model limitations, including limiting model design assumptions and range of data input utilized in model design, shall be provided. Where test and validation of the entire simulation model are not possible, test and validation information shall be provided for disaggregate portions of the model. If disaggregate testing and validation are not possible, separate statements to that effect and statements regarding operational experts' review of model validity shall be provided.

(ii) Upon timely and otherwise proper request of a participant, or sua sponte, the Commission or the Presiding Officer may rule that matters other than those listed in paragraphs (k)(3)(i) (a) through (h) of this section are necessary to establish the foundation for reception of the evidence concerned and must be furnished.

(iii) When the requestor is other than the Commission or the Presiding Officer, the cost of producing the material required in paragraph (k)(3)(i) (d), (f), and (g) of this section, shall be borne by the requesting party unless otherwise ordered, for good cause shown by the requestor. When the Commission or the Presiding Officer is the requestor, it may assume or equitably allocate such costs for good cause shown by the requestee.

(iv) If the recipient of a request for materials pursuant to this paragraph (k)(3) of this section asserts that compliance with the request would conflict with patent, copyright, trade secret or contract rights applicable to the requested material, the recipient shall

immediately notify the requestor and the Presiding Officer. If valid, the Presiding Officer shall devise means of accommodating such rights. Such means may include protective orders, including access under protective conditions to the computer facilities of the recipient of a request, making material available for inspection, compensation, or other procedures, according to the nature of the right affected by compliance with this paragraph (k)(3) of this section. If the Presiding Officer determines that compensation is necessary to accommodate the affected right, the cost of compensation shall be borne in the same manner that paragraph (k)(3)(iii) of this section prescribes for bearing the costs referenced there. If such right cannot be accommodated by reasonable compensation, or by protective orders or other procedures, and, as a result, materials required by this paragraph (k)(3) of this section cannot be provided, the Presiding Officer shall determine, in his/her discretion, whether evidence that relies upon the materials not provided shall be admissible or afforded limited weight.

(4) *Expedition.* The offeror shall expedite responses to requests made pursuant to this section. Responses shall be served on the requesting party, and notice thereof filed with the Secretary in accordance with the provisions of §3001.12, no later than 14 days after a request is made.

[36 FR 396, Jan. 12, 1971, as amended at 45 FR 65580, Oct. 3, 1980; 47 FR 12796, Mar. 25, 1982; 50 FR 43392, Oct. 25, 1985; 51 FR 8827, Mar. 14, 1986; 51 FR 14992, Apr. 22, 1986; 54 FR 35494, Aug. 28, 1989; 58 FR 38976, July 21, 1993; 62 FR 45729, Aug. 29, 1997; 64 FR 67490, Dec. 2, 1999; 65 FR 6543, Feb. 10, 2000; 67 FR 67563, Nov. 6, 2002]

§3001.31a In camera orders.

(a) *Definition.* Except as hereinafter provided, documents and testimony made subject to *in camera* orders are not made a part of the public record, but are kept confidential, and only authorized parties, their counsel, authorized Commission personnel, and court personnel concerned with judicial review shall have access thereto. The right of the presiding officer, the Commission, and reviewing courts to disclose *in camera* data to the extent nec-

essary for the proper disposition of the proceeding is specifically reserved.

(b) *In camera treatment of documents and testimony.* Presiding officers shall have authority, but only in those unusual and exceptional circumstances when good cause is found on the record, to order documents or oral testimony offered in evidence whether admitted or rejected, to be placed *in camera*. The order shall specify the date on which *in camera* treatment expires and shall include: (1) A description of the documents and testimony; (2) a full statement of the reasons for granting *in camera* treatment; and (3) a full statement of the reasons for the date on which *in camera* treatment expires. Any party desiring, for the preparation and presentation of the case, to disclose *in camera* documents or testimony to experts, consultants, prospective witnesses, or witnesses, shall make application to the presiding officer setting forth the justification therefor. The presiding officer, in granting such application for good cause found, shall enter an order protecting the rights of the affected parties and preventing unnecessary disclosure of information. *In camera* documents and the transcript of testimony subject to an *in camera* order shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceeding, the notation "*In Camera Record* under §3001.31a," and the date on which *in camera* treatment expires.

(c) *Release of in camera information.* *In camera* documents and testimony shall constitute a part of the confidential records of the Commission and shall be subject to the provisions of §3001.42 of this chapter. However, the Commission, on its own motion or pursuant to a request, may make *in camera* documents and testimony available for inspection, copying, or use by any other governmental agency. The Commission shall, in such circumstances, give reasonable notice of the impending disclosure to the affected party. However, such notice may be waived in extraordinary circumstances for good cause.

(d) *Briefing of in camera information.* In the submittal of proposed findings, briefs, or other papers, counsel for all

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parties shall make a good faith attempt to refrain from disclosing the specific details of *in camera* documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details of *in camera* data in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential," which shall be placed *in camera* and become a part of the *in camera* record.

[44 FR 33880, June 13, 1979, as amended at 48 FR 15901, Apr. 13, 1983; 58 FR 38976, July 21, 1993]

§ 3001.32 Appeals from rulings of the presiding officer.

(a) *General policy.* The Commission will not review a ruling of the presiding officer prior to its consideration of the entire proceeding except in extraordinary circumstances. This section specifies the showing which participants must make in order to appeal interlocutory rulings.

(b) *Appeals certified by the presiding officer.* (1) Before the issuance of an initial decision pursuant to § 3001.39(a) or the certification of the record to the Commission pursuant to § 3001.38(a), rulings of the presiding officer may be appealed when the presiding officer certifies in writing that an interlocutory appeal is warranted. The presiding officer shall not certify an appeal unless the officer finds that (i) the ruling involves an important question of law or policy concerning which there is substantial ground for difference of opinion and (ii) an immediate appeal from the ruling will materially advance the ultimate termination of the proceeding or subsequent review will be an inadequate remedy.

(2) A request for the presiding officer to certify an appeal shall be made within 5 days after the presiding officer's ruling has been issued. The request shall set forth with specificity the reasons that a participant believes that an appeal meets the criteria of paragraphs (b)(1) (i) and (ii) of this section. Such requests shall also state in

detail the legal, policy, and factual arguments supporting the participant's position that the ruling should be modified. If the appeal is from a ruling rejecting or excluding evidence, such request shall include a statement of the substance of the evidence which the participant contends would be adduced by the excluded evidence and the conclusions intended to be derived therefrom.

(3) The presiding officer may request responsive pleadings from other participants prior to ruling upon the request to certify an appeal.

(c) *Appeals not certified by the presiding officer.* If the presiding officer declines to certify an appeal, a participant who has requested certification may apply to the Commission for review within 10 days. Unless the Commission directs otherwise, its review of the application will be based on the record and pleadings filed before the presiding officer pursuant to paragraph (b) of this section.

(d) *Action by the Commission.* (1) The Commission may dismiss an appeal certified by the presiding officer if it determines that (i) the objection to the ruling should be deferred until the Commission's consideration of the entire proceeding or (ii) interlocutory review is otherwise not warranted or appropriate under the circumstances.

(2) Where the presiding officer has declined to certify an appeal, the Commission will not allow an application for review unless it determines (i) that the presiding officer should have certified the matter, (ii) that extraordinary circumstances exist, and (iii) that prompt Commission decision is necessary to prevent grave detriment to the public interest.

(3) The Commission may issue an order accepting an interlocutory appeal within 15 days after the presiding officer certifies the appeal or a participant files an application for review. If the Commission fails to issue such an order, leave to appeal from the presiding officer's interlocutory ruling shall be deemed to be denied. If the Commission issues an order accepting an appeal, it may rule upon the merits of the appeal in that order or at a later time.

(e) *Effect of appeals.* Unless the presiding officer or the Commission so orders, the certification of an appeal or the filing of an application for review shall not stay the proceeding or the effectiveness of any ruling.

(f) *Review at conclusion of proceeding.* If an interlocutory appeal is not allowed or requested, objection to the ruling may be raised on review of the presiding officer's initial decision, or, if the initial decision is omitted, at the conclusion of the proceeding.

(g) *Form, filing, and service of documents.* Requests for certification, applications for review, and any responses shall be in writing and shall be in conformity with §§ 3001.10 and 3001.11. They shall be filed and served pursuant to §§ 3001.9 and 3001.12.

[38 FR 4328, Feb. 13, 1973, as amended at 42 FR 8143, Feb. 9, 1977; 51 FR 8827, Mar. 14, 1986]

§ 3001.33 Depositions.

(a) *When permissible.* The testimony of a witness may be taken by deposition upon authorization by the Commission or the presiding officer on application of any participant before the hearing is closed. An authorization to take the deposition of a witness will be issued only if (1) the person whose deposition is to be taken would be unavailable at the hearing, or (2) the deposition is deemed necessary to perpetuate the testimony of the witness, or (3) the taking of the deposition is necessary to prevent undue and excessive expense to a participant and will not result in undue delay or an undue burden to other participants.

(b) *Application.* An application for authorization to take testimony by deposition shall be filed in duplicate with the Commission or the presiding officer and shall state (1) the name, identification, and post office address of the witness, (2) the subject matter of the testimony, (3) the time and place of taking the deposition, (4) the name, identification, and post office address of the officer before whom the deposition is to be taken, and (5) the reasons why the testimony of such witness should be taken by deposition.

(c) *Authorization.* If the application so warrants, the Commission or the presiding officer will issue and serve or cause to be served on the participants

within a reasonable time in advance of the time fixed for taking testimony, an authorization for the taking of such testimony by deposition. Such authorization shall name the witness, and the time, place, and officer before whom the deposition shall be taken, and shall specify the number of copies of the deposition to be submitted to the Commission. The authorization may include such terms and conditions as the Commission or the presiding officer deems fair and reasonable.

(d) *Qualifications of officer before whom taken.* Such deposition may be taken before a presiding officer or other authorized representative of the Commission, or any officer, not being counsel or attorney for any participant or having an interest in the proceeding, authorized to administer oaths by the laws of the United States or of the place where the deposition is to be taken.

(e) *Oath and reduction to writing.* The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by some one acting under his/her direction and in his/her presence, record the examination of the witness. The examination shall be transcribed in the form specified in § 3001.10(a), signed by the witness, and certified in the usual form by the officer. The original of the deposition, together with the number of copies required by the authorization to be made by such officer, shall be forwarded by the officer to the Secretary by personal delivery or registered mail. Upon receipt the Secretary shall hold the original for use in the hearing upon request by any participant and shall make copies available for public inspection.

(f) *Scope and conduct of examination.* Unless otherwise directed in the authorization, the witness may be questioned regarding any matter which is relevant to the issues involved in the proceeding. Participants shall have the right of cross-examination and objection. In lieu of participation in the oral examination, participants may transmit written interrogatories to the officer who shall propound them to the witness.

(g) *Objections.* The officer before whom the deposition is taken shall not

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have the power to rule upon procedural matters or the competency, materiality, or relevancy of questions. Procedural objections or objections to questions of evidence shall be stated briefly and recorded in the deposition without argument. Objections not stated before the officer shall be deemed waived.

(h) *When a part of the record.* No portion of a deposition shall constitute a part of the record in the proceeding unless received in evidence by the presiding officer. If only a portion of the deposition is offered in evidence by a participant, any other participant may require him/her to introduce all of it which is relevant to the part introduced, and any participant may offer in evidence any other portions.

(i) *Fees.* Witnesses whose depositions are taken and the officer taking the same shall be entitled to the same fees as are paid for like services in the District Courts of the United States to be paid directly by the participant or participants on whose application the deposition was taken.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38976, July 21, 1993; 58 FR 38976, July 21, 1993]

§ 3001.34 Briefs.

(a) *When filed.* At the close of the taking of testimony in any proceeding, the Commission or the presiding officer shall fix the time for the filing and service of briefs, giving due regard to the timely issuance of a recommended decision or advisory opinion to the Postal Service within the contemplation of sections 3641(a) and 3661 of the Act. In addition, subject to such consideration, due regard shall be given to the nature of the proceeding, the complexity and importance of the issues involved, and the magnitude of the record. In cases subject to a limitation on the time available to the Commission for decision, the Commission shall generally direct that each participant shall file a single brief at the same time. In cases where, because of the nature of the issues and the record or the limited number of participants involved, the filing of initial and reply briefs, or the filing of initial, answering, and reply briefs, will not unduly delay the conclusion of the proceeding and will aid in the proper disposition of the proceeding, the participants may

be directed to file more than one brief and at different times rather than a single brief at the same time. The presiding officer or the Commission may also order the filing of briefs during the course of the proceeding.

(b) *Contents.* Each brief filed with the Commission shall be as concise as possible, within any page limitation specified by the Commission or the presiding officer, and shall include the following in the order indicated:

(1) A subject index with page references, and a list of all cases and authorities relied upon, arranged alphabetically, with references to the pages where the citation appears;

(2) A concise statement of the case from the viewpoint of the filing participant;

(3) A clear, concise and definitive statement of the position of the filing participant as to the proposals of the Postal Service, the subject matter of the complaint, or recommended decision, advisory opinion, or public report to be issued;

(4) A discussion of the evidence, reasons, and authorities relied upon with exact references to the record and the authorities; and

(5) Proposed findings and conclusions with appropriate references to the record or the prior discussion of the evidence and authorities relied upon.

(c) *Incorporation by references.* Briefs before the Commission or a presiding officer shall be completely self-contained and shall not incorporate by reference any portion of any other brief, pleading or document.

(d) *Excerpts from the record.* Testimony and exhibits shall not be quoted or included in briefs except for short excerpts pertinent to the argument presented.

(e) *Filing and service.* Briefs shall be filed in the form and manner and served as required by §§ 3001.9 to 3001.12.

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4328, Feb. 13, 1973; 51 FR 8827, Mar. 14, 1986]

§ 3001.35 Proposed findings and conclusions.

The Commission or the presiding officer may direct the filing of proposed findings and conclusions with a brief

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statement of the supporting reasons for each proposed finding and conclusion.

[38 FR 4329, Feb. 13, 1973; 51 FR 8827, Mar. 14, 1986]

§ 3001.36 Oral argument before the presiding or other designated officer.

In any case in which the presiding officer is to issue an initial or recommended decision, or another designated officer of the Commission is to issue a recommended decision, such officer may permit the presentation of oral argument when, in his/her opinion, time permits, and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the public interest warrants hearing such argument. Such officer shall determine the time and place for oral argument. He may specify the issue or issues on which oral argument is to be presented, the order in which the presentations shall be made, and the amount of time allowed each participant. A request for oral argument before the issuance of an intermediate decision shall be made during the course of the hearing on the record.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38976, July 21, 1993]

§ 3001.37 Oral argument before the Commission.

(a) *When ordered.* In any proceeding before the Commission for decision, the Commission, upon the request of any participant or on its own initiative, may order oral argument when, in the Commission's discretion, time permits, and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and public interest warrants such argument.

(b) *How requested.* Any participant in a proceeding before the Commission for decision may request oral argument before the Commission by filing a timely motion pursuant to § 3001.21. In a proceeding before the Commission on exceptions to an intermediate decision, such motion shall be filed no later than the date for the filing of briefs on exceptions. Motions requesting oral argument may be included in briefs or briefs on exceptions or in a separate document.

(c) *Notice of oral argument.* The Commission shall rule on requests for oral argument, and if argument is allowed, the Commission shall notify the participants of the time and place set for argument, the amount of time allowed each participant, and the issue or issues on which oral argument is to be heard. Unless otherwise ordered by the Commission, oral argument shall be limited to matters properly raised on the record and in the briefs before the Commission.

(d) *Use of documents at oral argument.* Charts, graphs, maps, tables and other written material may be presented to the Commission at oral argument only if limited to facts in the record of the case being argued and if copies of such documents are filed with the Secretary and served on all parties at least 7 days in advance of the argument. Enlargements of such charts, graphs, maps and tables may be used at the argument provided copies are filed and served as required by this paragraph.

§ 3001.38 Omission of intermediate decisions.

(a) *Basis of omission.* In any proceeding noticed pursuant to § 3001.17, the Commission, on the motion of any participant or on its own initiative, may direct the certification of the record to the Commission and omit any intermediate decision upon a finding on the record that due and timely execution of its functions imperatively and unavoidably so requires. In proceedings in which all participants concur in a request by any participant that any intermediate decision be omitted, the Commission shall direct the certification of the record to the Commission and forthwith render a final decision unless the Commission denies such request within 10 days next following its filing or referral by the presiding officer.

(b) *Requests for omission.* Requests for omission of the intermediate decision in any proceeding shall be made by motion pursuant to § 3001.21 or made orally on the record before the presiding officer who shall promptly refer the same to the Commission. Such requests shall specify (1) the concurrence of other parties and (2) whether opportunity for

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filing briefs or presenting oral argument to the Commission is desired or waived. Failure of any party to object to such request shall constitute a waiver of any objections.

§ 3001.39 Intermediate decisions.

(a) *Initial decision by presiding officer.* In any proceedings in which a Commissioner or hearing officer has presided at the reception of evidence, such presiding officer, as soon as practicable after the conclusion of the hearing and the filing of briefs, shall certify and file with the Secretary, a copy of the record of the hearing and his/her initial decision on the matters and issues presented for decision in such proceeding.

(b) *Tentative decision.* Prior to the issuance of an initial decision by the presiding officer, the Commission, with notice to the participants or by order in specific cases or by general rule for a class of cases, may direct the certification of the record to the Commission for the purpose of the issuance of a tentative decision. In such cases, the Commission may issue a tentative decision or require that the presiding officer or any designated responsible officer of the Commission recommend a decision.

(c) *Contents.* All intermediate decisions (initial, recommended or tentative) shall include (1) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record, and (2) the appropriate recommended decision, advisory opinion or public report pursuant to the Act. An intermediate decision in a proceeding under section 3622 or 3623 of the Act shall include a statement specifically responsive to the criteria established under section 3622 or 3623 of the Act, as the case may be; and an intermediate decision in a proceeding under section 3661 of the Act shall include a determination of the question of whether or not the proposed change in the nature of postal service conforms to the policies established under the Act.

(d) *Service and Commission review.* All intermediate decisions shall be part of the record, shall be served on the participants to the proceeding by the Secretary pursuant to § 3001.12 and shall be subject to review by the Commission

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on its own initiative, or the filing of exceptions by the participants pursuant to § 3001.40.

(e) *Unavailability of presiding officer.* In any proceeding in which the intermediate decision is not omitted pursuant to § 3001.38, if a presiding officer becomes unavailable to issue an intermediate decision on a timely basis, the Commission shall, by a notice served on the participants require the record to be certified to it and it shall either designate a qualified responsible officer of the Commission to issue a recommended decision or will itself issue a tentative decision, as the Commission may deem appropriate.

(f) *Effect of intermediate decision.* Unless briefs on exceptions are filed to an intermediate decision pursuant to § 3001.40 or unless the Commission issues an order to review an intermediate decision on its own initiative, the intermediate decision shall become the final action of the Commission after 30 days from the date of issuance thereof. If briefs on exceptions are timely filed or the Commission initiates review on its own motion, the intermediate decision is stayed until further order of the Commission.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38976, July 21, 1993]

§ 3001.40 Exceptions to intermediate decisions.

(a) *Briefs on exceptions and opposing exceptions.* Any participant in a proceeding may file exceptions to any intermediate decision by filing a brief on exceptions with the Commission within 30 days after the date of issuance of the intermediate decision or such other time as may be fixed by the Commission. Any participant to a proceeding may file a response to briefs on exceptions within 20 days after the time limited for the filing of briefs on exceptions or such other time as may be fixed by the Commission. No further response will be entertained unless the Commission, upon motion for good cause shown or on its own initiative, so orders.

(b) *Filing and contents.* Briefs on exceptions and briefs opposing exceptions shall be filed in accordance with § 3001.34. In briefs on exceptions, the

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discussion of evidence, reasons and authorities shall be specifically directed to the findings, conclusions and recommendations in the intermediate decision to which exception is taken. Briefs on exceptions should not include a discussion of evidence and authorities on matters and issues to which no exception to the intermediate decision is taken. Briefs on exceptions and briefs opposing exceptions need not contain a statement of the case to the extent that it was correctly stated in either the intermediate decision or the brief on exceptions of another participant to which reference is made.

(c) *Failure to except results in waiver.* Any participant who fails to except or object to any part of an intermediate decision in its brief on exceptions may not thereafter raise such exceptions or objections which shall be deemed to have been waived.

(84 Stat. 759-761, 764; 39 U.S.C. 3603, 3622-3624, 3661, 3662)

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4329, Feb. 13, 1973]

§ 3001.41 Rulemaking proceedings.

(a) *General notice.* Before the adoption of any rule of general applicability, or the commencement of any hearing on any such proposed rulemaking, the Commission will cause general notice to be given by publication in the FEDERAL REGISTER, such notice to be published therein not less than 30 days prior to the date fixed for the consideration of the adoption of a proposed rule or rules or for the commencement of the hearing, if any, on the proposed rulemaking, except where a shorter period is reasonable and good cause exists therefor. However, where the Commission, for good cause, finds it impracticable, unnecessary, or contrary to the public interest to give such notice, it may proceed with the adoption of rules without notice by incorporating therein a finding to such effect and a concise statement of the reasons therefor. Advance notice shall not be required for rules subject to 5 U.S.C. 553(d).

(b) *Contents of notice.* The notice shall include (1) a statement of the time, place and nature of the public rulemaking proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the

terms or substance of the proposed rule or a description of the subjects and issues involved.

(c) *Participation.* After notice given as provided in paragraph (a) of this section, the Commission shall give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation.

(d) *General statement as to basis and purpose.* After consideration of the relevant matter presented, the Commission shall incorporate in the rules adopted a concise general statement of their basis and purpose.

(e) *Exceptions.* Except when notice or hearing is required by statute, the Commission may issue at any time rules of organization, procedure or practice, or interpretive rules, or statements of policy, without notice or public procedure, and this section is not to be construed as applicable to the extent that there may be involved any military, naval or foreign affairs function of the United States, or any matter relating to the Commission's management or personnel, or to U.S. property, loans, grants, benefits, or contracts.

(84 Stat. 759-761, 764; 39 U.S.C. 3603, 3622-3624, 3661, 3662)

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4329, Feb. 13, 1973]

§ 3001.42 Public information and requests.

This section prescribes the rules governing: Publication of recommended decisions, advisory opinions, and public reports; and records of the Commission.

(a) *Notice and publication.* Service of intermediate and recommended decisions, advisory opinions and public reports upon parties to the proceedings is provided for in §§ 3001.12(c) and 3001.39(d). Descriptions of the Commission's organization, its methods of operation, statements of policy and interpretations, procedural and substantive rules, and amendments thereto will be filed with and published in the FEDERAL REGISTER, and are available on the Commission's Web site, <http://www.prc.gov>. Commission recommended decisions, advisory opinions

and public reports, orders, and intermediate decisions will be released to the press and made available to the public promptly by posting on the Commission's Web site.

(b) *Public records.* Except as provided in §3001.31a of this chapter, the public records of the Commission include:

(1) All submittals and filings as follows:

(i) Requests of the Postal Service for recommended decisions or advisory opinions, public reports, complaints (both formal and informal), and other papers seeking Commission action;

(ii) Financial, statistical and other reports to the Commission, and other filings and submittals to the Commission in compliance with the requirements of any statute, Executive order, or Commission rule, regulation, or order;

(iii) All answers, replies, responses, objections, protests, motions, stipulations, exceptions, other pleadings, notices, depositions, certificates, proofs of service, transcripts, and briefs in any matter or proceeding;

(iv) All exhibits, attachments and appendices to, amendments and corrections of, supplements to, or transmittals or withdrawals of, any of the foregoing;

(v) Any Commission correspondence relating to any of the foregoing.

(2) All other parts of the formal record in any matter or proceeding set for formal or statutory hearing and any Commission correspondence related thereto. "Formal record" includes in addition to all the filings and submittals, any notice or Commission order initiating the matter or proceeding, and, if a hearing is held, the following: the designation of the presiding officer, transcript of hearings, all exhibits received in evidence, offers of proof, motions, stipulations, proofs of service, referrals to the Commission, and determination made by the Commission thereon, certifications to the Commission, and anything else upon which action of the presiding officer or the Commission may be based; it does not include any unaccepted offer of settlement made by a party in the course of a proceeding and not formally submitted to the Commission.

(3) Any proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence.

(4) All presiding officer actions and all presiding officer correspondence and memoranda to or from others except within his own office.

(5) All Commission orders, notices, findings, determinations, and other actions in any matter or proceeding and all Commission minutes which have been approved.

(6) All Commission correspondence relating to any furnishing of data or information by the Postal Service.

(7) Commission correspondence with respect to the furnishing of data, information, comments, or recommendations to or by another branch, department, or agency of the Government where furnished to satisfy a specific requirement of a statute or where made public by that branch, department or agency.

(8) Commission correspondence and reports on legislative matters under consideration by the Office of Management and Budget or Congress but only if and after made public or released for publication by that Office or the Commission or Member of Congress involved.

(9) Commission correspondence on the interpretation or applicability of any statute, rule, regulation, recommended decision, advisory opinion, or public report issued or administered by the Commission and letters of opinion on that subject signed by the General Counsel and sent to others than the Commission, a Commissioner, or any of the staff.

(10) Copies of all filings by the Commission, and all orders, judgments, decrees, and mandates directed to the Commission in Court proceedings involving Commission action and all correspondence with the courts or clerks of court.

(11) The Commission's administrative and operating manuals as issued.

(12) All other records of the Commission except for those that are:

(i)(a) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (b) are in fact properly classified pursuant to such Executive order;

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(ii) Related solely to the internal personnel rules and practices of the Commission;

(iii) Specifically exempted from disclosure by statute;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Commission;

(vi) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(vii) Investigatory records compiled for law enforcement purposes, to the extent specified in 5 U.S.C. 552(b)(7).

(13) The following are examples of information which is not part of the public records of the Commission:

(i) Written communications between or among the Commission, members of the Commission, the Secretary, and expressly designated members of the staff while particularly assigned, in accordance with all applicable legal requirements, to aid the Commission in the drafting of any recommended decision, advisory opinion or public report and findings, with or without opinion, or report in any matter or proceeding;

(ii) Unaccepted offers of settlement in any matter or proceeding unless or until made public by act of the offeror.

(c) *Procedure in event of subpoena.* If an officer or employee of the Commission is served with a subpoena duces tecum, material which is not part of the public files and records of the Commission shall be produced only as authorized by the Commission. Service of such a subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it deems advisable.

(84 Stat. 759-761, 764; 39 U.S.C. 3603, 3622-3624, 3661, 3662)

[38 FR 4329, Feb. 13, 1973, as amended at 40 FR 6972, Feb. 18, 1975; 42 FR 25729, May 19, 1977; 44 FR 33881, June 13, 1979; 52 FR 13443, 13444, Apr. 23, 1987; 58 FR 38976, July 21, 1993; 64 FR 58337, Oct. 29, 1999; 67 FR 67563, Nov. 6, 2002]

§ 3001.43 Public attendance at Commission meetings.

(a) *Open Commission meetings.* (1) Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in paragraph (c) of this section, every portion of every meeting of the Commission shall be open to public observation. Access to documents being considered at Commission meetings shall be obtained in the manner set forth in § 3001.42.

(2) Members of the public may not participate in open meetings. They may record the proceedings, provided they use battery-operated recording devices at their seats. Cameras may be used by observers to photograph proceedings, provided it is done from their seats and no flash or lighting equipment is used. Persons may electronically record or photograph a meeting, as long as such activity does not impede or disturb the members of the Commission in the performance of their duties, or members of the public attempting to observe, or to record or photograph, the Commission meeting.

(b) *Physical arrangements for open meetings.* The Secretary shall be responsible for seeing that ample space, sufficient visibility, and adequate acoustics are provided for public observation of the Commission meetings.

(c) *Closed Commission meetings.* Except in a case where the Commission finds that the public interest requires otherwise, the second sentence of paragraph (a) shall not apply to any portion of a Commission meeting, and the requirements of paragraphs (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the Commission properly determines that such portion or portions of its meetings or the disclosure of such information is likely to

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

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(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5), provided that such statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action, except that paragraph (c)(9) shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Com-

mission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal Commission adjudication pursuant to the procedures in section 554 of title 5 or otherwise involving a determination on the record after opportunity for a hearing as provided by section 3624(a) of title 39.

(d) *Procedures for closing meetings.* (1) Action under paragraph (c) of this section shall be taken only when three Commissioners vote to take such action. A separate vote of the Commissioners shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to paragraph (c) of this section, or with respect to any information which is proposed to be withheld under paragraph (c) of this section. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph (c) (5), (6), or (7) of this section, the Commission upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within 1 day of any vote taken pursuant to paragraph (d)(1) or (2) of this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of

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a meeting is to be closed to the public, the Commission shall, within 1 day of the vote taken pursuant to paragraph (d)(1) or (2) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any person may protest a Commission decision to hold a closed meeting under paragraph (d)(1) or (2) of this section by filing a motion to open the meeting. Such motion shall be addressed to the Commission and shall set forth with particularity the statutory or other authority relied upon, the reasons for which the movant believes the meeting should not be closed, and the reasons for which the movant believes that the public interest requires the meeting to be open. Such motion shall be filed with the Secretary no later than 24 hours prior to the time for which the closed meeting is scheduled.

(5) The Commission has determined that a majority of its meetings may be closed to the public pursuant to paragraph (c)(4), (8) or (10) of this section or any combination thereof. Therefore, pursuant to 5 U.S.C. 552b(d)(4), Commission meetings shall be closed to the public pursuant to paragraph (c)(4), (8) or (10) of this section or any combination thereof when three Commissioners vote by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each Commissioner on the question, is made available to the public. The provisions of paragraphs (d) (1), (2), (3), and (e) of this section shall not apply to any portion of a meeting to which paragraph (d)(5) of this section applies: Provided, that the Commission shall, except to the extent that such information is exempt from disclosure under the provisions of paragraph (c) of this section, provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e) *Scheduling and public announcement.* (1) In the case of each meeting, the Commission shall make public an-

nouncement, at least 1 week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless three Commissioners determine by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Commission shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (e)(1) of this section only if the Commission publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or a portion of a meeting, to the public, may be changed following the public announcement required by paragraph (e)(1) only if (i) three Commissioners determine by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (ii) the Commission publicly announces such change and the vote of each Commissioner upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by paragraph (e) of this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

(4) The public announcement required by this section may consist of the Secretary:

(i) Publicly posting a copy of the document in the office of the Secretary of the Commission at 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001;

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(ii) Mailing a copy to all persons whose names are on a mailing list maintained for this purpose;

(iii) Operating a recorded telephone announcement, giving the announcement; and

(iv) Any other means which the Secretary believes will serve to further inform any persons who might be interested.

(f) *Certification of closed meetings; transcripts, electronic recordings, and minutes.* (1) Before any meeting to be closed pursuant to paragraphs (c) (1) through (10) of this section, the General Counsel of the Commission, or in the General Counsel's absence, the senior advisory staff attorney available, should publicly certify that, in his/her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (c)(8) or (10) of this section, the Commission shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The Commission shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (f)(1) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony

as the Commission determines by a majority vote of all its members (i) contains information which may be withheld under paragraph (c) of this section, and (ii) is not required by the public interest to be made available. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least 2 years after such meeting, or until 1 year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(g) *Requests to open or close Commission meetings.* (1)(i) Any person may request in writing that the Commission open to public observation discussion of a matter which it has earlier decided to close.

(ii) Such requests shall be captioned "Request to open _____ (date) Commission meeting on item _____ (number or description)." The request shall state the reason(s) therefor, the name and address of the person making the request and, if desired, a telephone number.

(iii) Ten copies of such requests must be received by the office of the Secretary no later than three working days after the issuance of the notice of meeting to which the request pertains. Requests received after that time will be returned to the requester with a statement that the request was untimely received and that copies of any nonexempt portions of the transcript or minutes for the meeting in question will ordinarily be available in the office of the Secretary 10 working days after the meeting.

(2)(i) Any person whose interests may be directly affected may request in writing that the Commission close to public observation discussion of a matter which it has earlier decided to open as provided for in paragraph (d)(2) of this section.

(ii) Such requests shall be captioned "Request to Close _____ (date)

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Commission meeting on item _____ (number or description),” shall state the reason(s) therefor, the name and address of the person making the request and, if desired, a telephone number.

(iii) Ten copies of such requests should be filed with the office of the Secretary as soon as possible after the issuance of the notice of meeting to which the request pertains. However, a single copy of the request will be accepted. Requests to close meetings must be received by the office of the Secretary no later than the time scheduled for the meeting to which such a request pertains.

(3) The Secretary shall retain one copy of timely requests and forward one copy to each Commissioner, one copy to the interested Office, and two copies to the Docket Section, one for entry in the appropriate docket file, if any, and one to be posted on the Public Notice Board located in that section as an attachment to the Notice of Meeting to which it pertains.

(4) Pleadings replying to requests to open or close shall not be accepted.

(5) Any Commissioner may require that the Commission vote upon the request to open or close. If the request is supported by the votes of a majority of the agency membership, notice of change in meeting shall be issued and the Secretary shall immediately notify the requester and, before the close of business the next working day, have posted such vote and other material required by paragraphs (d) and (e) of this section on the Commission’s Public Notice Board.

(6) If no Commissioner requests that a vote be taken on a request to open or close a Commission meeting, the Secretary shall by the close of the next working day after the meeting to which such request pertains certify that no vote was taken. The Secretary shall forward one copy of that certification to the requester and two copies of that certification to the Docket Section, one to be placed in the appropriate docket file, if any, and one to be

posted on the Public Notice Board, where it will be displayed for one week.

[42 FR 13290, Mar. 10, 1977, as amended at 42 FR 25729, May 19, 1977; 58 FR 38976, July 21, 1993; 62 FR 45530, Aug. 28, 1997; 65 FR 6544, Feb. 10, 2000]

Subpart B—Rules Applicable to Requests for Changes in Rates or Fees

§ 3001.51 Applicability.

The rules in this subpart govern the procedure with regard to requests of the Postal Service pursuant to section 3622 of the Act that the Commission submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for postal service if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of the Act. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart. For requests of the Postal Service based on Negotiated Service Agreements, the rules applicable to Negotiated Service Agreements, subpart L, supersede the otherwise applicable rules of this subpart.

[69 FR 7593, Feb. 18, 2004]

§ 3001.52 Filing of formal requests.

Whenever the Postal Service determines to request that the Commission submit a recommended decision on changes in rates or fees subject to this subpart, the Postal Service shall file with the Commission a formal request for a recommended decision. Such request shall be filed in accordance with the requirements of §§3001.9 to 3001.11 and 3001.54. Within 5 days after the Postal Service has filed a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the Director of the Federal Register for publication in the FEDERAL REGISTER.

[38 FR 4330, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.53 Filing of prepared direct evidence.

(a) *General requirements.* Simultaneously with the filing of the formal

request for a recommended decision under this subpart, the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding on the record before the Commission to establish that the proposed changes or adjustments in rates or fees are in the public interest and are in accordance with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits which shall be filed in accordance with §3001.31.

(b) *Overview of filing.* As part of its direct evidence, the Postal Service shall include a single piece of testimony that provides an overview of its filing, including identifying the subject matter of each witness's testimony, explaining how the testimony of its witnesses interrelates, and describing changes in cost methodology, volume estimation, or rate design, as compared to the manner in which they were calculated by the Commission to develop recommended rates and fees in the most recent general rate proceeding. This testimony should also identify, with reference to the appropriate testimony, each witness responsible for addressing any methodological change described in paragraph (c) of this section.

(c) *Proposed changes.* As part of its direct evidence, the Postal Service shall submit testimony that identifies and explains each material change in cost methodology, volume estimation, or rate design, compared to the method employed by the Commission in the most recent general rate proceeding. This requirement shall not apply to any such change adopted by the Commission in an intervening proceeding. The testimony required in this paragraph (c) shall also include a discussion of the impact of each such change on the levels of attributable costs, projected volumes, and rate levels.

[68 FR 48299, Aug. 13, 2003]

§ 3001.54 Contents of formal requests.

(a) *General requirements.* (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission

and the parties of the nature, scope, significance, and impact of the proposed changes or adjustments in rates or fees and to show that the changes or adjustments in rates or fees are in the public interest and in accordance with the policies of the Act and the applicable criteria of the Act. To the extent information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (r) of this section. If a request proposes to change the cost attribution principles applied by the Commission in the most recent general rate proceeding in which its recommended rates were adopted, the Postal Service's request shall include an alternate cost presentation satisfying paragraph (h) of this section that shows what the effect on its request would be if it did not propose changes in attribution principles.

(2) If any information required by paragraphs (b) through (r) of this section is not available and cannot be made available without undue burden, the request shall provide where reference is made to this paragraph, in lieu of such information, a statement explaining with particularity:

(i) The information which is not available or cannot be made available without undue burden;

(ii) The reason or reasons that each such item of information is not available and cannot be made available without undue burden;

(iii) The steps or actions which would be needed to make each such item of information available, together with an estimate of the time and expense required therefor;

(iv) Whether it is contemplated that each such item of information will be supplied in the future and, if so, at what time; and

(v) Whether reliable estimates are available where such information cannot be furnished and, if so, the specifics of such estimates.

(3) The provisions of paragraph (a)(2) of this section for the Postal Service to include in its formal request certain alternative information in lieu of that specified by paragraphs (b) through (r) of this section are not in derogation of

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the Commission's and the presiding officer's authority, pursuant to §§ 3001.23 through 3001.28, respecting the provision of information at a time following receipt of the formal request.

(4) The Commission may request information in addition to that required by paragraphs (b) through (r) of this section.

(b) *Rates and standards information.* (1) Every formal request shall include schedules of the then effective rate or rates of postage and fee or fees for all postal services, and, arranged in legislative format, schedules of the rate or rates of postage and fee or fees for all postal services proposed by the Postal Service, as they would appear in the Domestic Mail Classification Schedule. The schedules shall show the full rate and where applicable the phased rate under section 3626 of the Act and any proposed adjustment to such phased rates under section 3627 of the Act indicated by circumstances known at the time of filing.

(2) The schedules required by paragraph (b)(1) of this section shall, for all classes and subclasses of mail and service, be in summary fashion and tariff-like form. (E.g., there shall be a specification of those rules, regulations and practices which establish the conditions of mailability and the standards of service.) As a part thereof, the schedules shall specifically be addressed to such functions as mail pick-up and delivery, processing and other similar functions.

(3) Subject to paragraph (a)(2) of this section, the schedules required by paragraph (b)(1) of this section shall also contain a statement identifying the degree of economic substitutability between the various classes and subclasses, e.g., a description of cross-elasticity of demand as between various classes of mail.

(4) Subject to paragraph (a)(2) of this section, the schedules required by paragraph (b)(1) of this section shall be accompanied by an identification of all nonpostal services.

(c) *Mail characteristics.* Subject to paragraph (a)(2) of this section, every formal request shall include an identification of the characteristics of the mailer and recipient, and a description of the contents of items mailed within

the various classes and subclasses of mail and service.

(d) *Physical attributes of mail.* Subject to paragraph (a)(2) of this section, every formal request shall include an identification of the physical attributes of the items mailed by class and subclass, including shape, weight, and distance.

(e) *Special service arrangements.* Subject to paragraph (a)(2) of this section, every formal request shall contain, to the extent the following information is not expressly included under paragraph (b)(2) of this section, a summary statement describing special service arrangements provided to, or requested or required of, mailers by the Postal Service which bear upon the cost of service or the value of the mail service to both the sender and the recipient, e.g., services relating to mailer preparations in excess of requirements specified by the Postal Service Manual, pick-up and delivery, expedited or deferred processing, and other similar activities performed.

(f) *Total functionalized accrued costs.* (1) Subject to paragraph (a)(2) of this section, every formal request shall set forth the total actual accrued costs during the most recent fiscal year for which they are reasonably available. In the event final total actual accrued costs are not yet available for the fiscal year immediately preceding the fiscal year in which the filing is made, a preliminary or pro forma statement of such actual accrued costs shall be furnished. Any preliminary statement shall use, as appropriate, quarterly or accounting period reports for the preceding fiscal year. A final complete statement shall be substituted for any preliminary statement when the former becomes available.

(2) Subject to paragraph (a)(2) of this section, every formal request shall also set forth (i) the estimated total accrued costs of the Postal Service for the fiscal year in which the filing is made and (ii) the estimated total accrued costs of the Postal Service as specified in section 3621 of the Act which form the basis for proposed change in rates or fees. Estimated accrued costs referred to in paragraph (f)(2)(ii) of this section shall be for a fiscal year beginning not more than 24

months subsequent to the filing date of the formal request. These two estimates of accrued costs shall be calculated on two bases: First, assuming the pre-filing rates and fees and, second, assuming the suggested rates and fees. Estimated accrued costs shall be accompanied by an explanation of the methods and procedures used for cost projections. The analyses of estimated costs shall include, but need not be limited to:

(a) An explanation of the projection of total volumes;

(b) An explanation of the effect of the projected volume levels on estimated total costs;

(c) The specification of the cost savings which will be realized from gains and improvements in total productivity, indicating such factors as operational and technological advances and innovations; and

(d) The identification of abnormal costs which are expected to be incurred in the forecasted test period.

(3) Each cost presentation required by paragraphs (f)(1) and (2) of this section shall, subject to paragraph (a)(2) of this section:

(i) Show operating costs in sufficient detail as to the accounting and functional classifications and with such reasonable explanation so that the actual or estimated amount for each item of expense may be readily understood;

(ii) State and fully explain the amounts included for:

(a) Depreciation on capital facilities and equipment;

(b) Debt service;

(c) Contingencies; and

(d) Extraordinary or nonrecurring expenses;

(iii) Assign and distribute costs to each of the functions comprising the mail process. Such presentations shall include:

(a) An itemization of costs by the major accounts as reflected by the Service's books of accounts for all cost segments, such as postmasters, supervisors, etc.;

(b) An itemization of costs by functions such as collection, acceptance, general overheads, etc.;

(c) An assignment and distribution of the costs by account, exemplified in paragraph (f)(3)(iii) (a) of this section,

together with related mail volumes, to the functions exemplified in paragraph (f)(3)(iii) (b) of this section;

(d) An assignment and distribution of the costs by account, together with related mail volumes, to such subfunctions within each category for which information is available or can be developed; and

(e) An explanation of the method by which the costs by accounts are assigned and distributed to functions.

(g) *Costs of prior fiscal years.* Subject to paragraph (a)(2) of this section, every formal request shall present the total actual accrued costs for each fiscal year since the last filing pursuant to this section. Such submission should be in a form as nearly consistent as possible with the filing under paragraph (f) of this section, together with explanations of any departures from such form and the effect of such departures.

(h) *Separation, attribution, and assignment of certain costs.* (1) Every formal request shall separate the Service's actual and estimated total costs, for the fiscal years specified in paragraph (f) of this section, as between postal services (including international mail) and nonpostal services. The presentation shall show the methodology for separating postal costs as between postal services and nonpostal services, and shall be in sufficient detail to allow a determination that no nonpostal costs have been assigned or allocated to postal services.

(2) Subject to paragraph (a)(2) of this section, the costs for postal services, as set forth by functions pursuant to paragraph (f), shall be separated as between:

(i) Those direct costs which can be attributed to each class of mail or type of mail service;

(ii) Those indirect costs which can be attributed to each class of mail or type of mail service;

(iii) Any other costs of the Service which can be reasonably assigned to each class of mail or type of mail service; and

(iv) Any costs which cannot be attributed or reasonably assigned.^a

(3) The methodology used to derive the costs requested in paragraphs (h)(2)(i) through (iv) of this section shall be set forth in detail.

(4) The attributable and other costs reasonably assignable as provided in paragraphs (h)(2)(i) through (iii) of this section shall separately be attributed to mail classes, subclasses, special services, and, to the extent practical, rate categories of mail service. The submission shall identify the methodology used to attribute or assign each type of such costs and, subject to paragraph (a)(2) of this section, shall also include an analysis of the effect on costs of:

- (i) Volume;
- (ii) Peaking patterns;
- (iii) Priority of handling;
- (iv) Mailer preparations;
- (v) Quality of service;
- (vi) The physical nature of the item mailed;
- (vii) Expected gains in total productivity, indicating such factors as operational and technological advances and innovations; and
- (viii) Any other factor affecting costs.

(5) The cost forecasting or "roll-forward" model shall be provided. It shall include the following items:

(i) For each cost segment component, a listing of all forecasting factors used in the cost level, mail volume, non-volume workload, additional workday, productivity and other programs effects.

(ii) For each "ripple-affected" cost segment component, a listing of those segments and components that determine its level of attribution or its dis-

tribution to mail class, subclass, rate category and service.

(iii) For each longer-run cost segment component:

(a) A listing of all factors used in determining its overall level of attribution, and

(b) A listing of the specific cost segment components used in determining its level of attribution, and its distribution to mail class, subclass, rate category and service.

(iv) Workpapers showing the application of the forecasting factors and procedures to each cost segment component for each time period used in the forecasting process. Such workpapers shall include the quantification, and distribution to mail class, subclass, rate category, and service, of each cost segment component, separating the short-run from the longer-run portions. Such workpapers shall conform to the requirements of paragraph (o) of this section. Compliance with the citation requirements of paragraph (o)(4) of this section shall be achieved by providing citations in "roll-forward" workpapers in the following cases:

(a) Workpapers showing the application of the forecasting factors and computational procedures (i.e., computer subroutines described in paragraph (h)(5)(iv)(b) of this section) to representative short-run cost segment components and to representative longer run cost segment components for representative time periods used in the forecasting process.

(b) Workpapers showing the application of a computational procedure to a cost segment component, if the application of a forecasting factor or computational procedure to a particular cost segment component deviates from the application of that forecasting factor or computational procedure as presented in the workpapers required by paragraph (h)(5)(iv)(a) of this section.

(v) If the "roll forward" model is submitted in the form of a computer-generated model, it shall include:

(a) An annotated glossary of input data files, to include, for each time period:

- (1) The name of each input data file,
- (2) A general description of each file in relation to the "roll forward" process,

^aIn his initial decision in Docket R71-1 the presiding officer noted two possible interpretations of 39 U.S.C. 3622(b)(3)—first, that all costs are either "attributable" or "reasonably assignable" and, second, that there are some "remaining costs which cannot be attributed or reasonably assigned to classes of mail". See Docket R71-1, Vol. I, 1-9. If the first interpretation is deemed to be correct, no costs would be reported in the category denominated by §3001.54(h)(2)(iv). The Commission was cognizant in writing the rules of the presiding officer's belief that it was not necessary to adopt either reading as exclusive.

(3) The format for each kind of data record in the file,

(4) For each distinct format type used in the file, a brief description of each data item included in the format.

(b) A hard-copy description, in the form of a mathematical equation, of each subroutine in the program.

(c) A copy of the Base Year attributable cost matrix on a 5-inch floppy diskette in MS-DOS format.

(6) Attributable cost final adjustments by mail class, subclass, rate category and service, details of the development of those adjustments, and an explanation of each adjustment shall be provided.

(7) "Other services" adjustments by mail class, subclass, rate category and service, details of the development of those adjustments, and an explanation of each adjustment shall be provided.

(8) An overall summary cost table shall be provided. It shall show by mail class, subclass, rate category and service, short-run attributable costs, longer-run attributable costs, assignable costs by category, and all adjustments made to each of the foregoing.

(9) For each cost segment, base-year amounts for each included account and subaccount shall be provided.

(10) The minimum level of disaggregation required for presenting evidence on a cost segment or component is that employed by the Commission in its most recently completed section 3624 proceeding establishing a methodological precedent for that segment or component. This requirement shall not apply:

(i) To presentations that propose to define, attribute, assign, or distribute to mail classes segment or component costs by a method not employed or recommended by the Commission in such proceeding, and the Postal Service has demonstrated that the proposed methodological departure makes the level of disaggregation most recently employed or recommended by the Commission inappropriate.

(ii) Where the Postal Service has demonstrated that changes in mail operations make the level of disaggregation most recently employed or recommended by the Commission inappropriate.

(11) Any nonattributed or unassigned costs specified in paragraph (h)(2)(iv) of this section shall be clearly and separately identified. An explanation shall be furnished as to why such costs cannot be attributed or assigned. To the extent possible, the presentation shall identify all such costs which benefit more than one class of mail or type of service (but not all classes or types), together with the mail classes or types of services so benefited.

(12) The Service shall furnish the data relevant to its analysis of the effect on costs of the factors specified in paragraphs (h)(4) (i) through (viii) of this section.

(i) *Criteria for rate schedule.* There shall be included in every formal request a statement of the criteria employed in constructing the proposed rate schedule. The submission shall include:

(1) The identification of the relationship between the revenues derived from the rates and fees for a particular class and subclass of mail or service and the costs attributed or assigned to that class and subclass or service;

(2) The identification of the procedures and methods used to apportion (to postal services) that part of the total revenue requirement, if any, which is in excess of costs attributed or assigned.^b

(3) Such other studies, information and data relevant to the criteria established by section 3622 of the Act with appropriate explanations as will assist the Commission in determining whether or not the proposed rates or fees are in accordance with such criteria.

(j) *Revenues and volumes.* (1) Subject to paragraph (a)(2) of this section, every formal request shall set forth the actual and estimated revenues of the Postal Service from the then effective postal rates and fees for the fiscal years selected for the presentation of cost information submitted pursuant to paragraphs (f) and (g) of this section.

(2) Subject to paragraph (a)(2) of this section, every formal request shall set forth the estimated revenues based on the suggested rates and fees for the fiscal years selected for the presentation

^b See footnote a, supra.

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of cost information submitted pursuant to paragraph (f)(2) of this section.

(3) Subject to paragraph (a)(2) of this section, the actual and estimated revenues referred to in paragraphs (j) (1) and (2) of this section shall be shown in total and separately for each class and subclass of mail and postal service and for all other sources of revenue. Revenues derived from classes and subclasses of mail shall be disaggregated to each unique rate element.

(4) Each revenue presentation required by paragraphs (j)(1), (j)(2), and (j)(3) of this section shall, subject to paragraph (a)(2) of this section, be documented in sufficient detail to allow independent replication. Revenue estimates shall be supported by exhibits or workpapers that reference the source of all data used, including volume levels, billing determinants, and adjustment factors. References may be to published documents, library references, or companion testimony, and shall include document identity, page, and line, as appropriate. All assumptions used to estimate revenue for new or redesigned rate elements shall be identified and explained.

(5) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request, for each class and subclass of mail and postal service, the following:

(i) An econometric demand study relating postal volumes to their economic and noneconomic determinants including postal rates, discounts and fees, personal income, business conditions, competitive and complementary postal services, competitive and complementary nonpostal activities, population, trend, seasonal patterns and other factors.

(ii) The actual or estimated volume of mail at the prefiled rates for each postal quarter beginning with the first quarter of the most recent complete fiscal year and ending one year beyond the last quarter of the future fiscal year.

(iii) The estimated volume of mail assuming the effectiveness of the suggested rates for each postal quarter beginning with the quarter in which the rates are assumed to become effective and ending one year beyond the last quarter of the future fiscal year.

(6) The estimated volumes and revenues referred to in paragraphs (j)(2), (j)(3), and (j)(5) of this section shall be derived from the econometric demand study referred to in paragraph (j)(5)(i) of this section. Supporting rationale shall be provided for any departure from the assumptions and specifications in the demand study made in estimating volumes of any class, subclass, or rate category of mail. Supporting rationale shall be provided for using billing determinants to estimate revenues for any class, subclass, or rate category of mail that differ from the billing determinants implicit in the estimate of volumes for that class, subclass, or rate category.

(i) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request a detailed explanation of the methodology employed to forecast volumes for each class and subclass of mail and postal service. Representative derivations of these forecasts from the econometric demand study shall be presented in detail for two major mail classes, showing each intermediate value or factor employed. For remaining classes and subclasses of mail, such derivations may be summarized, except where their derivations depart from the representative methods presented.

(ii) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request a detailed explanation of the methodology employed to forecast changes in revenues for each class and subclass of mail and postal service resulting from changes in rates and fees.

(iii) Subject to paragraph (a)(2) of this section, there shall be furnished in every formal request a computer implementation of the methodology employed to forecast volumes and revenues for each class and subclass of mail and postal service.

(iv) The computer implementation described in paragraph (j)(6)(iii) of this section shall be able to compute forecasts of volumes and revenues compatible with those referred to in paragraphs (j)(2), (j)(3), and (j)(5) of this section for:

(a) Any set of rates and fees within a reasonable range of the prefiled and suggested rates,

(b) any date of implementation within the range spanned by the assumed date and the start of the future fiscal year,

(c) alternative forecasts of the economic determinants of postal volumes other than postal rates and fees, and

(d) alternative values of any parameters with assigned values that are based upon unverifiable judgments.

(v) The computer implementation described in paragraph (j)(6)(iii) of this section shall comply with §3001.31(k)(3).

(7) Subject to paragraph (a)(2) of this section, there shall be made available at the offices of the Commission with every formal request, in a form that can be read directly by a standard digital computer, the following:

(i) All of the input files and programs needed to replicate the econometric demand study referred to in paragraph (j)(5)(i) of this section;

(ii) Any input files and programs employed to derive a price index for any class or subclass of mail or postal service from postal rates, discounts and fees;

(iii) Any input files and programs used to prepare data for use in the econometric demand study referred to in paragraph (j)(5)(i) of this section.

(k) *Financial statements and related information.* (1) Subject to paragraph (k)(3) of this section, every formal request shall include, for the 2 fiscal years immediately preceding the fiscal year in which the date of formal filing occurs, the Balance Sheet, the Statement of Income and Expense, basic statistical information and the Statement of Income and Expense by budget categories of the Postal Service. This information shall include data with respect to:

(i) Balance Sheet and a supporting schedule for each item appearing thereon;

(ii) Statement of Income and Expense and a supporting schedule for each item appearing thereon;

(iii) As appropriate, statistical data with respect to revenue, pieces (by physical attributes, showing separately amounts of mail identified as stamped, metered, and imprinted, or other), weight, distance, postal employees (number, total payroll, productivity,

etc.), postal space, post offices (number, classes, etc.), and any other pertinent factors which have been utilized in the development of the suggested rate schedule;

(iv) Statement of Income and Expense by cost segment.

(2) A reconciliation of the budgetary information with actual accrued costs shall be provided for the most recent fiscal year.

(3) If the fiscal information for the immediately preceding fiscal year is not fully available on the date of filing, a preliminary or pro forma submittal shall be made and upon final completion an updated report shall be filed in substitution therefor.

(1)(1) *Billing determinants.* A statement, which can be in workpaper form, indicating for each class and subclass of mail and postal service the relevant billing determinants (e.g., the volume of mail related to each rate element in determining revenues) separately for the current rates and the proposed rates. Proposed changes in rate design and the related adjustments of billing determinants should be explained in detail.

(2) For third-class bulk mail, subject to paragraph (a)(2) of this section, every formal request shall set forth separately for regular and preferred, by presort level, the base year volume by ounce increment for each shape (letter-size, flat, irregular parcels, parcels).

(m) *Continuing and phasing appropriations.* A statement, which can be in workpaper form, presenting detailed calculations of continuing appropriations according to 39 U.S.C. 2401(c) and phasing appropriations under 39 U.S.C. 3626 and any proposed adjustment to such phased rates under 39 U.S.C. 3627 indicated by circumstances known at the time of the filing. Calculation of all the phased rates for the entire applicable phasing period should be explained in detail.

(n) *Performance goals.* (1) Every formal request shall identify any performance goals which have been established for the classes and subclasses of mail.

(2) Subject to paragraph (a)(2) of this section, the request shall identify the achieved levels of service for those classes and subclasses of mail and mail services for which performance goals

have been set. This information may be provided by reference to published documents or otherwise.

(o) *Workpapers.* (1) Whenever the Service files a formal request it shall accompany the request with seven sets of workpapers, five for use by the Commission staff and two which shall be available for use by the public at the Commission's offices.

(2) Workpapers shall contain:

(i) Detailed information underlying the data and submissions for paragraphs (b) through (n) of this section in such fashion and content so as to permit independent analysis of each cost component and an independent attribution or assignment of costs to classes and subclasses and the assignment of nonattributed or unassigned costs to classes and subclasses;

(ii) A description of the methods used in collecting, summarizing and expanding the data used in the various submissions;

(iii) Summaries of sample data, allocation factors and other data used for the various submissions;

(iv) The expansion ratios used (where applicable); and

(v) The results of any special studies used to modify, expand, project, or audit routinely collected data.

(3) Workpapers shall be neat and legible and shall indicate how they relate to the data and submissions supplied in response to paragraphs (b) through (n) of this section.

(4) Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc. With the exception of workpapers that follow a standardized and repetitive format, the required citations themselves, or a cross-reference to a specific page, line, and column of a table of citations, shall appear on each page of each workpaper. Workpapers that follow a standardized and repetitive format shall include the citations described in this paragraph for a sufficient number of representa-

tive examples to enable a reviewer to trace numbers directly or by analogy.

(p) *Certification by officials.* (1) Every formal request shall include one or more certifications stating that the cost statements and supporting data submitted as a part of the formal request, as well as the accompanying workpapers, which purport to reflect the books of the Postal Service, accurately set forth the results shown by such books.

(2) The certificates required by paragraph (p)(1) of this section shall be signed by one or more representatives of the Postal Service authorized to make such certification. The signature of the official signing the document constitutes a representation that the official has read the document and that, to the best of his/her knowledge, information and belief, every statement contained in the instrument is proper.

(q) *Opinion of independent public accountant.* Every formal request shall include an opinion from an independent public accountant to the extent and as required by 39 U.S.C. 2008(e).

(r) *Special waiver provision for minor rate cases.* The Commission may, upon the filing of a proper motion by the Postal Service, together with a showing of good cause therefor, waive certain of the filing requirements of paragraphs (b) through (q) of this section if in the Commission's judgment it has been demonstrated that the proposed change in a rate or rates of postage and a fee or fees for postal service does not significantly change the then effective rates and fees or alter the cost-revenue relationships of the various classes and types of postal services.

(s) *Rejection of requests.* The Commission may reject any request under this subpart that patently fails to substantially comply with any requirements of this subpart.

[38 FR 7532, Mar. 22, 1973, as amended at 42 FR 8143, Feb. 9, 1977; 42 FR 18076, Apr. 5, 1977; 44 FR 26075, May 4, 1979; 45 FR 65575 and 65580, Oct. 3, 1980; 48 FR 3733, Jan. 27, 1983; 48 FR 50717, Nov. 3, 1983; 50 FR 43392, Oct. 25, 1985; 51 FR 8827, Mar. 14, 1986; 51 FR 14993, Apr. 22, 1986; 54 FR 35495, Aug. 28, 1989; 58 FR 38976, 38977, July 21, 1993; 59 FR 8542, Feb. 23, 1994; 62 FR 30250, June 3, 1997; 68 FR 48299, Aug. 13, 2003]

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§ 3001.55 Service by the Postal Service.

Immediately after the issuance of an order or orders by the Commission designating an officer of the Commission to represent the interests of the general public in a proceeding before the Commission under this subpart, the Postal Service shall serve copies of its formal request for a recommended decision and its prepared direct evidence upon such officer and the intervenors as provided in §3001.12. Service shall also be made on persons who are limited participators.

[38 FR 3511, Feb. 7, 1973; 51 FR 8827, Mar. 14, 1986, as amended at 58 FR 38977, July 21, 1993]

§ 3001.56 Failure to comply.

If the Postal Service fails to provide any information specified by this subpart, or otherwise required by the presiding officer or the Commission, the Commission, upon its own motion, or upon motion of any participant to the proceeding, may stay the proceeding until satisfactory compliance is achieved. The Commission will stay proceedings only if it finds that failure to supply adequate information interferes with the Commission's ability promptly to consider the request and to conduct its proceedings with expedition in accordance with the Act.

[38 FR 7535, Mar. 22, 1973; 51 FR 8827, Mar. 14, 1986]

§ 3001.57 Market response rate requests for express mail service—purpose and duration of rules.

(a) This section and §§3001.58 through 3001.60 only apply in cases in which the Postal Service requests an expedited recommended decision pursuant to section 3622 of the Postal Reorganization Act on changes in rates and fees for Express Mail service, where the proposed changes are intended to respond to a change in the market for expedited delivery services for the purpose of minimizing the loss of Express Mail contribution to institutional costs recommended in the most recent omnibus rate case. These rules set forth the requirements for filing data in support of such rate proposals and for providing notice of such requests, and establish an expedited procedural schedule for evaluating Market Response Rate Re-

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quests. These rules may not be used when the Postal Service is requesting changes in Express Mail rates as part of an omnibus rate case.

(b) This section and §§3001.58 through 3001.60 are effective November 28, 2001 through November 28, 2006.

[66 FR 54433, Oct. 29, 2001]

§ 3001.58 Market response rate requests—data filing requirements.

(a) Each formal request made under the provisions of §§3001.57 through 3001.60 shall be accompanied by such information and data as are necessary to inform the Commission and the parties of the nature and expected impact of the change in rates proposed. Except for good cause shown, the information specified in paragraphs (c) through (i) shall also be provided with each request.

(b) Except as otherwise expressly provided in this section, the information required by §3001.54 (b) through (r) must be filed only for those subclasses and services for which the Postal Service requests a change in rates or fees. Test period volume, cost, and revenue estimates presented in satisfaction of rule 58 shall be for four postal quarters beginning after the filing date of the request. The cost roll-forward may be developed by extending the cost forecasting model used in the last omnibus rate case (utilizing available actual data). Volume and revenue estimates required by these rules shall utilize, to the extent practicable, the factors identified in rule 54(j)(6), and must be fully explained, with all available supporting documentation supplied, but they need not be econometrically derived.

(c) Every formal request made under the provisions of §§3001.57 through 3001.60 shall contain an explanation of why the change proposed by the Postal Service is a reasonable response to the change in the market for expedited delivery services to which it is intended to respond.

(d) Every formal request made under the provisions of §§3001.57 through 3001.60 shall be accompanied by the then effective Domestic Mail Classification Schedule sections which would have to be altered in order to implement the changes proposed by the

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Postal Service, and, arranged in a legislative format, the text of the replacement Domestic Mail Classification Schedule sections the Postal Service proposes.

(e) In addition to the required test period cost estimates, every formal request made under the provisions of §§3001.57 through 3001.60 shall be accompanied by a statement of the attributable costs by segment and component for Express Mail service determined in accordance with the attributable cost methodology adopted by the Commission in the most recent omnibus rate case, for the base year used in that case, and for each fiscal year thereafter for which cost data is available. If the Postal Service believes that an adjustment to that methodology is warranted it may also provide costs using alternative methodologies as long as a full rationale for the proposed changes is provided.

(f) Each formal request made under the provisions of §§3001.57 through 3001.60 shall include a description of all operational changes, occurring since the most recent omnibus rate case, having an important impact on the attributable cost of Express Mail. Postal Service shall include an analysis and estimate of the cost impact of each such operational change.

(g) Every formal request made under the provisions of §§3001.57 through 3001.60 shall be accompanied by a statement of the actual Express Mail revenues of the Postal Service from the then effective Express Mail rates and fees for the most recent four quarters for which information is available.

(h) Each formal request made under the provisions of §§3001.57 through 3001.60 shall be accompanied by a complete description of the change in the market for expedited delivery services to which the Postal Service proposal is in response, a statement of when that change took place, the Postal Service's analysis of the anticipated impact of that change on the market, and a description of characteristics and needs of customers and market segments affected by this change which the proposed Express Mail rates are designed to satisfy.

(i) Each formal request made under the provisions of §§3001.57 through

3001.60 shall include estimates, on a quarterly basis, of test period volumes, revenues, and attributable costs determined in accordance with the attributable cost methodology adopted by the Commission in the most recent omnibus rate case for each Express Mail service for which rate changes are proposed assuming:

(1) rates remain at their existing levels, and

(2) rates are changed after 90 days to the levels suggested in the request.

(j)(1) Each formal request made under the provisions of §§3001.57 through 3001.60 shall be accompanied by the following information, for each quarter following the base year in the most recent omnibus rate case:

(i) Estimated volume by rate cell, for each Express Mail service;

(ii) Total postage pounds of Express Mail rated at:

(A) up to ½ pound,

(B) ½ pound up to 2 pounds,

(C) 2 pounds up to 5 pounds; and

(iii) Total pounds of Express Mail and of each other subclass of mail carried on hub contracts.

(2) In each instance when rates change based on a proceeding under the provisions of §§3001.57 through 3001.60 the Postal Service shall provide, one year after the conclusion of the test period, the data described in section 3001.58(j)(1)(i-iii), for each of the four quarters of the test period.

(k) Each formal request made under the provisions of §§3001.57 through 3001.60 shall include analyses to demonstrate:

(1) that the proposed rates are consistent with the factors listed in 39 U.S.C. 3622(b),

(2) that the proposed rate changes are in the public interest and in accordance with the policies and applicable criteria of the Act, and

(3) that the proposed rates will preserve, or minimize erosion of, the Express Mail contribution to institutional costs recommended in the most recent omnibus rate case.

(l) Each formal request made under the provisions of §§3001.57 through

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§ 3001.60 shall be accompanied by a certificate that service of the filing in accordance with § 3001.59(c) has been made.

[66 FR 54438, Oct. 29, 2001]

§ 3001.59 Market Response Rate Requests—expedited of public notice and procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings when a trial-type hearing is required in a proceeding in which the Postal Service proposes to adjust rates for Express Mail service in order to respond to a change in the market for expedited delivery services.

(b) The Postal Service shall not propose for consideration under the provisions of §§ 3001.57 through 3001.60 rates lower than:

(1) The average per piece attributable cost for Express Mail service determined in the most recent omnibus rate case, or

(2) The average per piece attributable cost for Express Mail service as determined by the Postal Service in accordance with section 3001.58(e) for the most recent fiscal year for which information is available, whichever is higher. Neither shall the Postal Service propose a rate for any rate cell which is lower than the estimated test period attributable cost of providing that rate cell with service.

(c)(1) Persons who are interested in participating in Express Mail Market Response Rate Request cases may intervene pursuant to § 3001.20 within 28 days of the filing of a formal request made under the provisions of §§ 3001.57 through 3001.60. Parties may withdraw from a case by filing a notice with the Commission.

(2) When the Postal Service files a request under the provisions of §§ 3001.57 through 3001.60 it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(3) When the Postal Service files a request under the provisions of §§ 3001.57 through 3001.60, it shall on that same day file a notice that briefly describes its proposal. Such notice shall indicate on its first page that it is a notice of an Express Mail Market Response Rate Request to be considered under §§ 3001.57 through 3001.60, and identify

the last day for filing a notice of intervention with the Commission.

(d) In the absence of a compelling showing of good cause, the Postal Service and parties shall calculate Express Mail costs in accordance with the methodologies used by the Commission in the most recent omnibus rate case. In the analysis of customers' reactions to the change in the market for expedited delivery services which prompts the request, the Postal Service and parties may estimate the demand for segments of the expedited delivery market and for types of customers which were not separately considered when estimating volumes in the most recent omnibus rate case.

(e)(1) In the event that a party wishes to dispute as an issue of fact whether the Postal Service properly has calculated Express Mail costs or volumes (either before or after its proposed changes), or wishes to dispute whether the change in the market for expedited delivery services cited by the Postal Service has actually occurred, or wishes to dispute whether the rates proposed by the Postal Service are a reasonable response to the change in the market for expedited delivery services or are consistent with the policies of the Postal Reorganization Act, that party shall file with the Commission a request for a hearing within 28 days of the date that the Postal Service files its request. The request for hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position.

(2) The Commission will not hold hearings on a request made pursuant to §§ 3001.57 through 3001.60 unless it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve this issue.

(3) Whether or not a hearing is held, the Commission may request briefs and/or argument on an expedited schedule, but in any circumstance it will issue its recommended decision as promptly as is consistent with its statutory responsibilities.

(4) In order to assist in the rapid development of an adequate evidentiary

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record, all participants may file appropriate discovery requests on other participants as soon as an Express Mail Market Response Rate Request is filed. Answers to such discovery requests will be due within 10 days. Objections to such discovery requests must be filed within 10 days in the form of a Motion to Excuse from Answering. Responses to Motions to Excuse from Answering must be filed within 7 days, and should such a motion be denied, the answers to the discovery in question are due within 7 days of the denial thereof. It is the Commission's intention that parties resolve discovery disputes informally between themselves whenever possible. The Commission, therefore, encourages the party receiving discovery requests considered to be unclear or objectionable to contact counsel for the party filing the discovery requests whenever further explanation is needed, or a potential discovery dispute might be resolved by means of such communication.

(5) If, either on its own motion, or after having received a request for a hearing, the Commission concludes that there exist one or more genuine issues of material fact and that a hearing is needed, the Commission shall expedite the conduct of such record evidentiary hearings to meet both the need to respond promptly to changed circumstances in the market and the standards of 5 U.S.C. 556 and 557. The procedural schedule, subject to change as described in paragraph (e)(6) of this section, is as follows: Hearings on the Postal Service case will begin 35 days after the filing of an Express Mail Market Response rate request; parties may file evidence either in support of or in opposition to the Postal Service proposal 49 days after the filing; hearings on the parties' evidence will begin 56 days after the filing; briefs will be due 70 days after the filing; and reply briefs will be due 77 days after the filing.

(6) The presiding officer may adjust any of the schedule dates prescribed in (e)(5) of this section in the interests of fairness, or to assist in the development of an adequate evidentiary record. Requests for the opportunity to present evidence to rebut a submission by a participant other than the Postal Service should be filed within three

working days of the receipt of that material into the evidentiary record, and should include a description of the evidence to be offered and the amount of time needed to prepare and present it. Requests for additional time will be reviewed with consideration as to whether the requesting participant has exercised due diligence, and whether the requesting participant has been unreasonably delayed from fully understanding the proposal.

[66 FR 54438, Oct. 29, 2001, as amended at 68 FR 12589, Mar. 17, 2003]

§ 3001.60 Express mail market response—rule for decision.

The Commission will issue a recommended decision in accordance with the policies of 39 U.S.C., and which it determines would be a reasonable response to the change in the market for expedited delivery services. The purpose of §§ 3001.57 through 3001.60 is to allow for consideration of Express Mail Market Response rate requests within 90 days, consistent with the procedural due process rights of interested persons.

[66 FR 54438, Oct. 29, 2001]

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

§ 3001.61 Applicability.

The rules in this subpart govern the procedure with regard to requests of the Postal Service pursuant to section 3623 of the Act that the Commission submit a recommended decision on establishing or changing the mail classification schedule. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart. For requests of the Postal Service based on Negotiated Service Agreements, the rules applicable to Negotiated Service Agreements, subpart L, supersede the otherwise applicable rules of this subpart.

[69 FR 7593, Feb. 18, 2004]

§ 3001.62 Filing of formal requests.

Whenever the Postal Service determines to request that the Commission submit a recommended decision on establishing or changing the mail classification schedule, the Postal Service shall file with the Commission a formal request for a recommended decision. Such request shall be filed in accordance with the requirements of §§ 3001.9 to 3001.11 and § 3001.64. Within 5 days after the Postal Service has filed a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the Director of the Federal Register for publication in the FEDERAL REGISTER.

[38 FR 4330, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.63 Filing of prepared direct evidence.

(a) *General requirements.* Simultaneously with the filing of the formal request for a recommended decision under this subpart, the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding on the record before the Commission to establish that the mail classification schedule or changes therein proposed by the Postal Service are in accordance with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits which shall be filed in accordance with § 3001.31.

(b) *Requests affecting more than one subclass.* Each formal request filed under this subpart affecting more than one subclass or special service is subject to the requirements of § 3001.53(b) and (c).

[68 FR 48299, Aug. 13, 2003]

§ 3001.64 Contents of formal requests.

(a) *General requirements.* (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance, and impact of the proposed new mail classification schedule or the proposed changes therein and to

show that the mail classification schedule as proposed to be established or changed is in accordance with the policies and the applicable criteria of the Act. To the extent the information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (h) of this section. If the required information is set forth in the Postal Service's prepared direct evidence, it shall be deemed to be part of the formal request without restatement.

(2) If any information required by paragraphs (b) through (h) of this section is not available and cannot be made available without undue burden, the request shall provide where reference is made to this paragraph, in lieu of such information, a statement explaining with particularity:

(i) The information which is not available or cannot be made available without undue burden;

(ii) The reason or reasons that each such item of information is not available and cannot be made available without undue burden;

(iii) The steps or actions which would be needed to make each such item of information available, together with an estimate of the time and expense required therefor;

(iv) Whether it is contemplated that each such item of information will be supplied in the future and, if so, at what time; and

(v) Whether reliable estimates are available where such information cannot be furnished and, if so, the specifics of such estimates.

(3) The provisions of paragraph (a)(2) of this section for the Postal Service to include in its formal request certain alternative information in lieu of that specified by paragraphs (b) through (h) of this section are not in derogation of the Commission's and the presiding officer's authority, pursuant to §§ 3001.23 through 3001.28, respecting the provision of information at a time following receipt of the formal request.

(4) The Commission may request information in addition to that required by paragraphs (b) through (h) of this section.

(b) *Classification and standards information.* (1) Every formal request shall

include copies of the then effective Domestic Mail Classification Schedule and the proposed changes therein, including, in legislative format, all proposed changes in the schedules of rate or rates of postage and fee or fees for postal services that appear therein.

(2) The schedules required by paragraph (b)(1) of this section shall, for all classes and subclasses of mail and service, be in summary fashion and tariff-like form. (E.g., there shall be a specification of those rules, regulations, and practices which establish the conditions of mailability and the standards of service.) As a part thereof, the schedules shall specifically be addressed to such functions as mail pick-up and delivery, processing, and other similar functions.

(3) The schedules required by paragraph (b)(1) of this section shall also contain a statement identifying the degree of economic substitutability between the various classes and subclasses, e.g., a description of cross-elasticity of demand as between various classes of mail.

(4) The schedules required by paragraph (b)(1) of this section shall be accompanied by an identification of all nonpostal services.

(c) *Mail characteristics.* Every formal request shall include such studies, information and data on the characteristics of the users of the Postal Service, the nature of the items mailed and the nature of the methods of mailing, which will assist the Commission in determining whether or not the proposed mail classification schedule or the proposed changes therein are in accordance with the policies and the applicable criteria of the Act. Included, subject to paragraph (a)(2) of this section, shall be:

(1) An identification of the characteristics of the mailer and recipient, and a description of the contents of items mailed within the various classes and subclasses of mail and service;

(2) An identification of the physical attributes of the items mailed by class and subclass, including shape, weight, and distance;

(3) To the extent the following information is not expressly included under paragraph (b)(2) of this section, a summary statement describing special

service arrangements provided to, or requested or required of, mailers by the Postal Service which bear upon the cost of service or the value of the mail service to both the sender and the recipient, e.g., services relating to mailer preparations in excess of requirements specified by the Postal Service Manual, pick-up and delivery, expedited or deferred processing, and other similar activities performed.

(d) *Effects of proposed changes.* (1) Subject to paragraph (a)(2) of this section, every formal request shall include a statement showing the effects of the proposed changes in the then effective classification schedule upon:

(i) The costs attributed and assigned to each class and subclass of mail or service as developed pursuant to §3001.54(h);

(ii) The total accrued costs of the Postal Service developed pursuant to §3001.54(f); and

(iii) The total revenues of the Postal Service and the revenues of each class and subclass of mail or service developed pursuant to §3001.54(j).

(e) *Interclass changes.* Subject to paragraph (a)(2) of this section, whenever it is proposed that a portion of one existing class or subclass of mail or service be reassigned to another existing class or subclass of mail or service, every formal request shall include a comparison of the before and after costs and revenues associated with handling the relevant classes or subclasses of mail or service, and the before and after costs and revenues of the portion which is to be reassigned.

(f) *Statement of reasons.* Every formal request shall include a complete statement of the reasons and bases for the Postal Service's proposed mail classification schedule or proposed changes therein.

(g) *Workpapers.* (1) Whenever the Service files a formal request it shall accompany the request with seven sets of workpapers, five for use by the Commission staff and two which shall be available for use by the public at the Commission's offices.

(2) Workpapers shall contain:

(i) Detailed information underlying the data and submissions for paragraphs (b) through (f) of this section;

(ii) A description of the methods used in collecting, summarizing and expanding the data used in the various submissions;

(iii) Summaries of sample data, allocation factors and other data used for the various submissions;

(iv) The expansion ratios used (where applicable); and

(v) The results of any special studies used to modify, expand, project, or audit routinely collected data.

(3) Workpapers shall be neat and legible and shall indicate how they relate to the data and submissions supplied in response to paragraphs (b) through (f) of this section.

(4) Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc. With the exception of workpapers that follow a standardized and repetitive format, the required citations themselves, or a cross-reference to a specific page, line, and column of a table of citations, shall appear on each page of each workpaper. Workpapers that follow a standardized and repetitive format shall include the citations described in this paragraph for a sufficient number of representative examples to enable a reviewer to trace numbers directly or by analogy.

(h) *Matters affecting rates and fees.* (1) This paragraph applies to any proposed change in the then effective classification schedule which would result:

(i) In a change in the rates or fees for any existing class or subclass of mail and service, or

(ii) In the establishment of a new class or subclass of mail or service for which rates or fees are to be established, or

(iii) In a change in the relationship of the costs attributed or assigned to any class or subclass of mail or service to the revenues of that class or subclass of mail or service, or

(iv) In a change in the relationship of the total costs of the Postal Service to the total revenues.

(2) In the case of any proposed change in the then effective classification schedule covered by paragraph (h)(1) of this section, every formal request shall include, subject to paragraph (a)(2) of this section:

(i) The information required by paragraphs (b) through (h), (j) through (l), and (o) through (p) of §3001.54, together with the statement and opinion required by paragraphs (q) and (r) of §3001.54; and

(ii) A statement explaining to what extent the Postal Service has considered the criteria of section 3622 of the Act as justifying the rate consequences of the proposed classifications. The submission shall also include the identification of the relationship between the rates and fees for a particular class and subclass or service, the identification of the procedures and methods used to relate the residual costs which have not been attributed to any class and subclass of mail or service or groups thereof, and such other studies, information, and data relevant to the criteria established by section 3622 of the Act with appropriate explanations.

(3) The Commission may, upon the filing of a proper motion by the Postal Service, together with a showing of good cause therefor, waive certain of the above requirements if in the Commission's judgment it has been demonstrated that the proposed change in the classification schedule does not significantly change the rates and fees or the cost-revenue relationships referred to in paragraphs (h)(1)(i) through (iv) of this section.

(i) *Rejection of requests.* The Commission may reject any request under this subpart that patently fails to substantially comply with the requirements of this subpart.

[38 FR 7535, Mar. 22, 1973, as amended at 42 FR 18076, Apr. 5, 1977; 44 FR 26075, May 4, 1979; 45 FR 65575, Oct. 3, 1980; 50 FR 43393, Oct. 25, 1985; 51 FR 8827, Mar. 14, 1986; 58 FR 38977, July 21, 1993]

§ 3001.65 Service by the Postal Service.

Immediately after the issuance of an order or orders by the Commission designating an officer of the Commission to represent the interests of the general public in a proceeding before the Commission under this subpart, the

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Postal Service shall serve copies of its formal request for a recommended decision and its prepared direct evidence upon such officer and the intervenors as provided in §3001.12. Service shall also be made on persons who are limited participators.

[38 FR 3511, Feb. 7, 1973, as amended at 51 FR 8827, Mar. 14, 1986; 58 FR 38977, July 21, 1993]

§ 3001.66 Failure to comply.

If the Postal Service fails to provide any information specified by this subpart, or otherwise required by the presiding officer or the Commission, the Commission, upon its own motion, or upon motion of any participant to the proceeding, may stay the proceeding until satisfactory compliance is achieved. The Commission will stay proceedings only if it finds that failure to supply adequate information interferes with the Commission's ability promptly to consider the request and to conduct its proceedings with expedition in accordance with the Act.

[38 FR 7536, Mar. 22, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.67 Requests involving experimental changes.

(a) This section and §§3001.67a through 3001.67d apply in cases where the Postal Service requests a recommended decision pursuant to section 3623 of the Postal Reorganization Act and denominates the new service or change in an existing service as experimental in character. These sections do not apply to the situation in which a request not denominated as experimental by the Postal Service, either at the time of its filing or subsequently, is found to be justified by the Commission only on an experimental basis, following analysis of the record made in the proceedings on such a request.

(b) This section and §§3001.67a through 3001.67d are not intended to substitute for the rules generally governing requests for changes in the Domestic Mail Classification Schedule in cases where the treatment of the proposed changes as experimental is not justified by the character of those changes. The Commission reserves the right, in appropriate cases, to require that the normal procedures prescribed

for nonexperimental cases under section 3623 be used. In determining whether the procedures for experimental cases may be used in a particular case, the Commission will consider:

(1) The novelty of the proposed change;

(2) The magnitude of the proposed change, including its effect on postal costs, postal revenues, mailing costs and practices of users of the mails, and persons or firms offering services competitive with or alternative to the service offerings of the Postal Service;

(3) The ease or difficulty of generating or gathering data with respect to the proposed change; and

(4) The desired duration of the experiment as indicated by the Postal Service in its request and, specifically, in its proposed Domestic Mail Classification Schedule language.

(c) In the case of a proposal denominated as an experiment by the Postal Service, the Commission will entertain representations by parties to the case that the proposal should not be considered as an experiment and should follow the normal mail classification change procedures. The Commission does not contemplate entertaining representations by parties to a case filed under the normal procedures that the matter should be treated as an experiment under this section and §§3001.67a through 3001.67d.

[45 FR 83226, Dec. 18, 1980]

§ 3001.67a Requests involving experimental changes—procedures for limitation of issues.

(a) The purpose of this section is to provide a mechanism for the limiting of issues on which a trial-type hearing is required. It recognizes that in a proceeding properly designated as experimental under §3001.67, some issues will be appropriate for determination on the basis of a less formal type of presentation and counterpresentation. It is the policy of this section to identify these issues at the earliest possible time and to employ less formal procedures to resolve them where the interests of expedition will be served thereby.

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(b) At the earliest possible time following the filing of a request designated as experimental, or following the determination of any question as to whether such designation is proper, holding that such designation is proper, the parties will be required to file statements of the issues they perceive in the case. Each such statement shall designate with particularity those issues the party believes to be or involve genuine issues of material fact. Any party designating an issue as a genuine issue of material fact wholly or in part because of the Postal Service's statement that data called for by §3001.64 are unavailable shall comply with the requirements of §3001.67b. Responsive statements will be permitted within 10 days of the filing of initial statements.

(c) Following the exchange of statements of issues called for by paragraph (b) of this section, the Commission will determine which issues constitute genuine issues of material fact and concomitantly order the limitation of trial-type hearing procedures to those issues. The order issued for this purpose will also set forth to the greatest extent feasible the procedures to be followed in disposing of issues not found to be genuine issues of material fact. According to the nature of the individual issue, these procedures may include.

- (1) Filing of written comments and reply comments;
- (2) Conference procedures, followed or accompanied by the filing of written comments and reply comments; and
- (3) Briefing and argument.

In determining the procedures to be followed with respect to issues not requiring a trial-type hearing, the Commission will seek to accommodate the needs of expedition and procedural fairness in accordance with section 3624(b) of the Act.

[45 FR 83226, Dec. 18, 1980]

§ 3001.67b Requests involving experimental changes—unavailability of data.

If the Postal Service believes that data required to be filed under §3001.64 are unavailable, it shall explain their unavailability as required by §3001.64(a)(2)(i), (ii), and (iv). In par-

ticular, if the experimental character of the request bears on the unavailability of the data in question, the Postal Service shall explain in detail the nexus between these circumstances. A satisfactory explanation of the unavailability of data will be grounds for excluding from the proceeding a contention that the absence of the data should form a basis for rejection of the request, unless the party desiring to make such contention (a) demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the data which are unavailable, or (b) demonstrates other compelling and exceptional circumstances requiring that the absence of the data in question be treated as bearing on the merits of the proposal.

[45 FR 83227, Dec. 18, 1980]

§ 3001.67c Requests involving experimental changes—plans for data collection.

(a) In any instance in which the Postal Service designates as unavailable data called for by §3001.64, it shall, as part of its initial filing under that rule, either

- (1) Describe with particularity the means it proposes to employ to collect those data, or
- (2) State with particularity the reasons it believes establish that such data are unnecessary.

The Commission may by order require data to be collected during the course of the experiment which the Postal Service has not planned to collect, if it finds that a statement under paragraph (a)(2) of this section does not justify the omission to collect the particular data in issue.

(b) In the case of data which are not required to be filed under §3001.64, but which the Postal Service intends to collect during and for the purposes of the proposed experimental change, the Postal Service shall include in its initial filing a detailed description of the data involved, the uses to which they would be put, and the methods to be employed in collecting them.

[45 FR 83227, Dec. 18, 1980]

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§ 3001.67d Requests involving experimental changes—time limit.

The Commission will treat cases falling under §§ 3001.67 through 3001.67d as subject to the maximum expedition consistent with procedural fairness. The schedule for adoption of a recommended decision will therefore be established, in each such case, to allow for issuance of such decision not more than 150 days from the determination of any issue as to the propriety of experimental treatment under § 3001.67 (b) and (c) in a sense favorable to such treatment, or from the date of the filing of the request, whichever occurs later. Nothing in this section shall be construed to affect the rights of the Postal Service or of other parties with respect to the temporary implementation of changes pursuant to section 3641 of the Act.

[45 FR 83227, Dec. 18, 1980]

§ 3001.68 Text of the Domestic Mail Classification Schedule.

The Domestic Mail Classification Schedule established in accordance with subchapter II of chapter 36 of title 39 of the United States Code appears (with blank rate schedules) as appendix A to this subpart.

[50 FR 28144, July 10, 1985]

§ 3001.69 Expedited minor classification cases—applicability.

(a) This section and §§ 3001.69a through 3001.69c apply in cases where the Postal Service requests a recommended decision pursuant to section 3623 and seeks expedited review on the ground that the requested change in mail classification is minor in character. The requirements and procedures specified in these sections apply exclusively to the Commission's consideration of requested mail classification changes which the Postal Service denominates as, and the Commission finds to be, minor in character. A requested classification change may be considered to be minor in character if it:

- (1) Would not involve a change in any existing rate or fee;
- (2) Would not impose any restriction in addition to pre-existing conditions of eligibility for the entry of mail in an

existing subclass or category of service, or for an existing rate element or work sharing discount; and

(3) Would not significantly increase or decrease the estimated institutional cost contribution of the affected subclass or category of service.

(b) This section and §§ 3001.69a through 3001.69c are effective November 28, 2001 through November 28, 2006.

[66 FR 54440, Oct. 29, 2001]

§ 3001.69a Expedited minor classification cases—filing of formal request and prepared direct evidence.

(a) Whenever the Postal Service determines to request that the Commission submit a decision recommending a mail classification change, and to seek expedited review on the ground that the requested change is minor in character, it shall file a request for a change in mail classification pursuant to section 3623 that comports with the requirements of this section and of subpart C of this part. Each such formal request shall include the following particular information:

(1) A description of the proposed classification change or changes, including proposed changes in the text of the Domestic Mail Classification Schedule and any pertinent rate schedules;

(2) A thorough explanation of the grounds on which the Postal Service submits that the requested change in mail classification is minor in character; and

(3) An estimate, prepared in the greatest level of detail practicable, of the overall impact of the requested change in mail classification on postal costs and revenues, mail users, and competitors of the Postal Service.

(b) If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability, as required by § 3001.64(a)(2)(i), (ii), and (iv). If the Postal Service believes that any of the data or other information required to be filed under § 3001.64 should not be required in light of the minor character of the requested change in mail classification, it shall move for a waiver of that requirement, stating with particularity the reasons why the character of

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the request and its circumstances justify a waiver of the requirement. A satisfactory explanation of the unavailability of information required under § 3001.64, or of why it should not be required to support a particular request, will be grounds for excluding from the proceeding a contention that the absence of the information should form a basis for rejection of the request, unless the party desiring to make such contention

(1) Demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the information and submitted it in accordance with § 3001.64; or

(2) Demonstrates other compelling and exceptional circumstances requiring that the absence of the information in question be treated as bearing on the merits of the proposal.

[66 FR 54440, Oct. 29, 2001]

§ 3001.69b Expedited minor classification cases—expedition of procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings in which the Postal Service requests that the Commission recommend a change in mail classification and expedite consideration of that request on the ground that the change is minor in character.

(b) Persons who are interested in participating in proceedings to consider Postal Service requests for minor changes in mail classification may intervene pursuant to § 3001.20. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a request for a minor change in mail classification to be considered under §§ 3001.69 through 3001.69c, and

identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request invoking the operation of §§ 3001.69 through 3001.69c, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. The notice of proceeding shall state that the Postal Service has denominated the mail classification change it requests a minor change, and has requested expedited consideration pursuant to §§ 3001.69 through 3001.69c. The notice shall further state the grounds on which the Postal Service submits that the requested change in mail classification is minor in character, and shall afford all interested parties 26 days after filing of the Postal Service's request within which to intervene, submit responses to the Postal Service's request for consideration of its proposed mail classification change under the terms of §§ 3001.69 through 3001.69c, and request a hearing.

(f) Within 28 days after publication of the notice of proceeding pursuant to subsection (e), the Commission shall decide whether to consider the request of the Postal Service as a minor classification change request under §§ 3001.69 through 3001.69c, and shall issue an order in the proceeding incorporating that ruling. The Commission shall order a request to be considered under §§ 3001.69 through 3001.69c if it finds that:

(1) The requested classification change is minor in character, and

(2) The effects of the requested change are likely to be appropriately limited in scope and overall impact.

(g) If the Commission determines that the request of the Postal Service is not appropriate for consideration as a minor classification change request, no further procedures under §§ 3001.69 through 3001.69c shall be ordered, and the request will be considered in accordance with other appropriate provisions of Subpart C of this part.

(h) If the Commission determines that the Postal Service request is appropriate for consideration under §§ 3001.69 through 3001.69c, those respondents who request a hearing shall be directed to state with specificity within 14 days after publication of the

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notice the issues of material fact that require a hearing for resolution. Respondents shall also identify the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position.

(i) The Commission will hold hearings on a Postal Service request which is considered under §§3001.69 through 3001.69c when it determines that there are genuine issues of material fact to be resolved, and that a hearing is needed to resolve those issues. Hearings on the Postal Service request will commence within 21 days after issuance of the Commission order pursuant to subsection (f). Testimony responsive to the Postal Service request will be due 14 days after the conclusion of hearings on the Postal Service request.

[66 FR 54440, Oct. 29, 2001, as amended at 68 FR 12590, Mar. 17, 2003]

§ 3001.69c Expedited minor classification cases—time limits.

The Commission will treat cases to which §§3001.69 through 3001.69c apply as subject to the maximum expedition consistent with procedural fairness. The schedule for adoption of a recommended decision will therefore be established, in each such case, to allow for issuance of such decision not more than 90 days after the filing of the request of the Postal Service if no hearing is held, and not more than 120 days after the filing of the request if a hearing is scheduled.

[66 FR 54440, Oct. 29, 2001]

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EXPEDITED MAIL CLASSIFICATION SCHEDULE

110 DEFINITION

Expedited Mail is mail matter entered as Express Mail under the provisions of this Schedule. Any matter eligible for mailing may, at the option of the mailer, be mailed as Express Mail. Insurance is either included in Express Mail postage or is available for an additional charge, depending on the value and nature of the item sent by Express Mail.

120 DESCRIPTION OF SERVICES**121 SAME DAY AIRPORT SERVICE**

Same Day Airport service is available between designated airport mail facilities.

122 CUSTOM DESIGNED SERVICE

122.1 General. Custom Designed service is available between designated postal facilities or other designated locations for mailable matter tendered under a service agreement between the Postal Service and the mailer. Service under a service agreement shall be offered in a manner consistent with 39 U.S.C. 403(c).

122.2 Service Agreement. A service agreement shall set forth the following:

a. The scheduled place for each shipment tendered for service to each specific destination;

b. Scheduled place for claim, or delivery, at destination for each scheduled shipment;

c. Scheduled time of day for tender at origin and for claim or delivery at destination.

122.3 Pickup and Delivery. Pickup at the mailer's premises, and/or delivery at an address other than the destination postal facility is provided under terms and conditions as specified by the Postal Service.

122.4 Commencement of Service Agreement. Service provided pursuant to a service agreement shall commence not more than 10 days after the signed service agreement is tendered to the Postal Service.

122.5 Termination of Service Agreement

122.51 Termination by Postal Service. Express Mail service provided pursuant to a service agreement may be terminated by the Postal Service upon 10 days prior written notice to the mailer if:

a. Service cannot be provided for reasons beyond the control of the Postal Service or because of changes in Postal Service facilities or operations, or

b. The mailer fails to adhere to the terms of the service agreement or this schedule.

122.52 Termination by Mailers. The mailer may terminate a service agreement, for any reason, by notice to the Postal Service.

123 NEXT DAY SERVICE AND SECOND DAY SERVICE

123.1 Availability of Services. Next Day and Second Day Services are available at

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designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times specified by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

123.2 Pickup Service. Pickup service is available for Next Day and Second Day Services under terms and conditions as specified by the Postal Service. Service shall be offered in a manner consistent with 39 U.S.C. 403(c).

130 PHYSICAL LIMITATIONS

Express Mail may not exceed 70 pounds or 108 inches in length and girth combined.

140 POSTAGE AND PREPARATION

Except as provided in Rate Schedules 121, 122 and 123, postage on Express Mail is charged on each piece. For shipments tendered in Express Mail pouches under a service agreement, each pouch is a piece.

150 DEPOSIT AND DELIVERY

151 DEPOSIT

Express Mail must be deposited at places designated by the Postal Service.

152 RECEIPT

A receipt showing the time and date of mailing will be provided to the mailer upon acceptance of Express Mail by the Postal Service. This receipt serves as evidence of mailing.

153 SERVICE

Express Mail service provides a high speed, high reliability service. Same Day Airport Express Mail will be dispatched on the next available transportation to the destination airport mail facility. Custom Designed Express Mail will be available for claim or delivery as specified in the service agreement.

154 FORWARDING AND RETURN

When Express Mail is returned, or forwarded, as specified by the Postal Service, there will be no additional charge.

160 ANCILLARY SERVICES

The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

Service	Schedule
a. Address correction	911
b. Return receipts	945
c. COD	944
d. Express Mail Insurance	943

170 RATES AND FEES

The rates for Express Mail are set forth in the following rate schedules:

	Schedule
a. Same Day Airport	121
b. Custom Designed	122
c. Next Day Post Office-to-Post Office	123
d. Second Day Post Office-to-Post Office	123
e. Next Day Post Office-to-Addressee	123
f. Second Day Post Office-to-Addressee	123

180 REFUNDS

181 PROCEDURE

Claims for refunds of postage must be filed within the period of time and under terms and conditions specified by the Postal Service.

182 AVAILABILITY

182.1 Same Day Airport. The Postal Service will refund the postage for Same Day Airport Express Mail not available for claim by the time specified, unless the delay is caused by:

- a. Strikes or work stoppage;
- b. Delay or cancellation of flights; or
- c. Governmental action beyond the control of Postal Service or air carriers.

182.2 Custom Designed. Except where a service agreement provides for claim, or delivery, of Custom Designed Express Mail more than 24 hours after scheduled tender at point of origin, the Postal Service will refund postage for such mail not available for claim, or not delivered, within 24 hours of mailing, unless the item was delayed by strike or work stoppage.

182.3 Next Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Next Day Express Mail not available for claim or not delivered:

- a. By 10:00 a.m., or earlier time(s) specified by the Postal Service, of the next delivery day in the case of Post Office-to-Post Office service;
- b. By 3:00 p.m., or earlier time(s) specified by the Postal Service, of the next delivery day in the case of Post Office-to-Addressee service.

182.4 Second Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

- a. By 10:00 a.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Post Office service;
- b. By 3:00 p.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

FIRST-CLASS MAIL CLASSIFICATION SCHEDULE

210 DEFINITION

Any matter eligible for mailing may, at the option of the mailer, be mailed as First-Class Mail. The following must be mailed as First-Class Mail, unless mailed as Express Mail or exempt under title 39, United States Code, or except as authorized under sections 344.12, 344.23 and 443:

- a. Mail sealed against postal inspection as set forth in section 5000;
- b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 312, 313, 323, 344.22, and 446;
- c. Matter having the character of actual and personal correspondence except as specifically permitted by sections 312, 313, 323, 344.22, and 446; and
- d. Bills and statements of account.

220 DESCRIPTION OF SUBCLASSES

221 LETTERS AND SEALED PARCELS SUBCLASS

221.1 General. The Letters and Sealed Parcels subclass consists of First-Class Mail weighing 13 ounces or less that is not mailed under section 222 or 223.

221.2 Regular Rate Categories. The regular rate categories consist of Letters and Sealed Parcels subclass mail not mailed under section 221.3.

221.21 Single-Piece Rate Category. The single-piece rate category applies to regular rate Letters and Sealed Parcels subclass mail not mailed under section 221.22 or 221.24.

221.22 Presort Rate Category. The presort rate category applies to Letters and Sealed Parcels subclass mail that:

- a. Is prepared in a mailing of at least 500 pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service; and
- c. Meets the addressing and other preparation requirements prescribed by the Postal Service.

221.23 [Reserved]

221.24 Qualified Business Reply Mail Rate Category. The qualified business reply mail rate category applies to Letters and Sealed Parcels subclass mail that:

- a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;
- b. Bears the recipient's preprinted machine-readable return address, a barcode representing not more than 11 digits (not including "correction" digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and
- c. Meets the letter machinability and other preparation requirements specified by the Postal Service.

221.25 [Reserved]

221.26 Nonstandard Size Surcharge. Regular rate category Letters and Sealed Parcels subclass mail is subject to a surcharge if it is nonstandard size mail, as defined in section 232.

221.27 Presort Discount for Pieces Weighing More Than Two Ounces. Presort rate category Letters and Sealed Parcels subclass mail is eligible for an additional presort discount on each piece weighing more than two ounces.

221.3 Automation Rate Categories—Letters and Flats

221.31 General. The automation rate categories consist of Letters and Sealed Parcels subclass mail weighing 13 ounces or less that:

- a. Is prepared in a mailing of at least 500 pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service;
- c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service; and
- d. Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.

221.32 Basic Rate Category. The basic rate category applies to letter-size automation rate category mail not mailed under section 221.33, 221.34, or 221.35.

221.33 Three-Digit Rate Category. The three-digit rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

221.34 Five-Digit Rate Category. The five-digit rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

221.35 Carrier Route Rate Category. The carrier route rate category applies to letter-size automation rate category mail presorted to carrier routes. It is available only for those carrier routes specified by the Postal Service.

221.36 Basic Flats Rate Category. The basic flats rate category applies to flat-size automation rate category mail not mailed under section 221.37.

221.37 Three- and Five-Digit Flats Rate Category. The three- and five-digit flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

221.38 Nonstandard Size Surcharge. Flat-size automation rate category pieces are subject to a surcharge if they are nonstandard size mail, as defined in section 232.

221.39 Presort Discount for Pieces Weighing More Than Two Ounces. Presorted automation rate category mail is eligible for an

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additional presort discount on each piece weighing more than two ounces.

222 CARDS SUBCLASS

222.1 Definition

222.11 Cards. The Cards subclass consists of Stamped Cards, defined in section 962.11, and postcards. A postcard is a privately printed mailing card for the transmission of messages. To be eligible to be mailed as a First-Class postcard, a card must be of uniform thickness and must not exceed any of the following dimensions:

- a. 6 inches in length;
- b. 4¼ inches in width;
- c. 0.016 inch in thickness.

222.12 Double Cards. Double Stamped Cards or double postcards may be mailed as Stamped Cards or postcards. Double Stamped Cards are defined in section 962.12. A double postcard consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single postcard.

222.2 Restriction. A mailpiece with any of the following characteristics is not mailable as a Stamped Card or postcard unless it is prepared as specified by the Postal Service:

- a. Numbers or letters unrelated to postal purposes appearing in the address portion of the card;
- b. Punched holes;
- c. Vertical tearing guide;
- d. An address portion which is smaller than the remainder of the card.

222.3 Regular Rate Categories

222.31 Single-Piece Rate Category. The single-piece rate category applies to regular rate Cards subclass mail not mailed under section 222.32 or 222.34.

222.32 Presort Rate Category. The presort rate category applies to Cards subclass mail that:

- a. Is prepared in a mailing of at least 500 pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service; and
- c. Meets the addressing and other preparation requirements specified by the Postal Service.

222.33 [Reserved]

222.34 Qualified Business Reply Mail Rate Category. The qualified business reply mail rate category applies to Cards subclass mail that:

- a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;
- b. Bears the recipient's preprinted machine-readable return address, a barcode representing not more than 11 digits (not including "correction" digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the card machinability and other preparation requirements specified by the Postal Service.

222.4 Automation Rate Categories

222.41 General. The automation rate categories consist of Cards subclass mail that:

- a. Is prepared in a mailing of at least 500 pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service;
- c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service; and
- d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

222.42 Basic Rate Category. The basic rate category applies to automation rate category cards not mailed under section 222.43, 222.44, or 222.45.

222.43 Three-Digit Rate Category. The three-digit rate category applies to automation rate category cards presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

222.44 Five-Digit Rate Category. The five-digit rate category applies to automation rate category cards presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

222.45 Carrier Route Rate Category. The carrier route rate category applies to automation rate category cards presorted to carrier routes. It is available only for those carrier routes specified by the Postal Service.

223 PRIORITY MAIL SUBCLASS

223.1 General. The Priority Mail subclass consists of:

- a. First-Class Mail weighing more than 13 ounces; and
- b. Any mailable matter which, at the option of the mailer, is mailed for expeditious mailing and transportation.

223.2 Single-Piece Priority Mail Rate Category. The single-piece Priority Mail rate category applies to Priority Mail subclass mail not mailed under section 223.4.

223.3-223.4 [Reserved]

223.5 Flat Rate Envelope. Priority Mail subclass mail sent in a "flat rate" envelope provided by the Postal Service is charged the two-pound rate.

223.6 Pickup Service. Pickup service is available for Priority Mail subclass mail under terms and conditions specified by the Postal Service.

223.7 Bulky Parcels. Priority Mail subclass mail weighing less than 15 pounds, and measuring over 84 inches in length and girth combined, is charged a minimum rate equal to that for a 15-pound parcel for the zone to which the piece is addressed.

230 PHYSICAL LIMITATIONS

231 SIZE AND WEIGHT

First-Class Mail may not exceed 70 pounds or 108 inches in length and girth combined. Additional size and weight limitations apply to individual First-Class Mail subclasses.

232 NONSTANDARD SIZE MAIL

Letters and Sealed Parcels subclass mail weighing one ounce or less is nonstandard size if:

- a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or
- b. It exceeds any of the following dimensions:
 - i. 11.5 inches in length;
 - ii. 6.125 inches in width; or
 - iii. 0.25 inch in thickness.

240 POSTAGE AND PREPARATION

Postage on First-Class Mail must be paid as set forth in section 3000. Postage is computed separately on each piece of mail. Pieces not within the same postage rate increment may be mailed at other than a single-piece rate as part of the same mailing only when specific methods approved by the Postal Service for determining and verifying postage are followed. All mail mailed at other than a single-piece rate must have postage paid in a manner not requiring cancellation.

250 DEPOSIT AND DELIVERY

251 DEPOSIT

First-Class Mail must be deposited at places and times designated by the Postal Service.

252 SERVICE

First-Class Mail receives expeditious handling and transportation, except that when First-Class Mail is attached to or enclosed with mail of another class, the service of that class applies.

253 FORWARDING AND RETURN

First-Class Mail that is undeliverable-as-addressed is forwarded or returned to the sender without additional charge.

260 ANCILLARY SERVICES

First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of the fees prescribed in the corresponding schedule:

Service	Schedule
a. Address correction ...	911
b. Business reply mail ...	931
c. Certificates of mailing ...	947

Service	Schedule
d. Certified mail	941
e. COD	944
f. Insurance ...	943
g. Registered mail	942
h. Return receipt (limited to merchandise sent by Priority Mail)	945
i. Merchandise return	932
j. Delivery Confirmation (limited to Priority Mail)	948

270 RATES AND FEES

271 The rates for First-Class Mail are set forth in the following schedules:

	Schedule
a. Letters and Sealed Parcels	221
b. Cards	222
c. Priority Mail	223

272 Keys and Identification Devices. Keys, identification cards, identification tags, or similar identification devices that:

- a. Weigh no more than 2 pounds;
- b. Are mailed without cover; and
- c. Bear, contain, or have securely attached the name and address information, as specified by the Postal Service, of a person, organization, or concern, with instructions to return to the address and a statement guaranteeing the payment of postage due on delivery; are subject to the following rates and fees:
 - i. The applicable single-piece rates in schedules 221 or 223;
 - ii. The fee set forth in fee schedule 931 for payment of postage due charges if an active business reply mail advance deposit account is not used, and
 - iii. If applicable, the surcharge for non-standard size mail, as defined in section 232.

280 AUTHORIZATIONS AND LICENSES

The fee set forth in Schedule 1000 must be paid once each year at each office of mailing by any person who mails other than single-piece First-Class Mail or courtesy envelope mail. Payment of the fee allows the mailer to mail at any First-Class rate.

STANDARD MAIL CLASSIFICATION SCHEDULE

310 DEFINITION

311 GENERAL

Any mailable matter may be mailed as Standard Mail except:

- a. Matter required to be mailed as First-Class Mail;

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b. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail (currently Periodicals class mail) forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

312 PRINTED MATTER

Printed matter, including printed letters which according to internal evidence are being sent in identical terms to several persons, but which do not have the character of actual or personal correspondence, may be mailed as Standard Mail. Printed matter does not lose its character as Standard Mail when the date and name of the addressee and of the sender are written thereon. For the purposes of the Standard Mail Classification Schedule, "printed" does not include reproduction by handwriting or typewriting.

313 WRITTEN ADDITIONS

Standard Mail may have the following written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article:

- a. Marks, numbers, name, or letters descriptive of contents;
- b. "Please Do Not Open Until Christmas," or words of similar import;
- c. Instructions and directions for the use of an article in the package;
- d. Manuscript dedication or inscription not in the nature of personal correspondence;
- e. Marks to call attention to any word or passage in text;
- f. Corrections of typographical errors in printed matter;
- g. Manuscripts accompanying related proof sheets, and corrections in proof sheets to include: corrections of typographical and other errors, alterations of text, insertion of new text, marginal instructions to the printer, and rewrites of parts if necessary for correction;
- h. Handstamped imprints, except when the added matter is itself personal or converts the original matter to a personal communication;
- i. An invoice.

320 DESCRIPTION OF SUBCLASSES

321 [RESERVED]

321.1 Single Piece Subclass

321.11 Definition. The Single Piece subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.2, 321.3, 321.4, 321.5 or 323.

321.12 Basic Rate Category. The basic rate category applies to Single Piece subclass mail not mailed under section 321.13.

321.13 Keys and Identification Devices Rate Category. The keys and identification devices rate category applies to keys, identification cards, identification tags, or similar identification devices mailed without cover, and which bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return to such address and a statement guaranteeing the payment of postage due on delivery.

321.14 Nonstandard Size Surcharge. Single Piece subclass mail, other than that mailed under section 321.13, is subject to a surcharge if it is nonstandard size mail, as defined in section 333.

321.2 Regular Subclass

321.21 General. The Regular subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.3, 321.4, 321.5 or 323.

321.22 Presort Rate Categories

321.221 General. The presort rate categories apply to Regular subclass mail that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service; and
- c. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

321.222 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.223.

321.223 Three- and Five-Digit Rate Categories. The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

321.23 Automation Rate Categories

321.231 General. The automation rate categories apply to Regular subclass mail that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service;
- c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service;
- d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

321.232 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.233 or 321.234.

321.233 Three-Digit Barcoded Rate Category. The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

321.234 Five-Digit Barcoded Rate Category. The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

321.235 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.236.

321.236 Three- and Five-Digit Barcoded Flats Rate Category. The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

321.24 Destination Entry Discount. The destination entry discounts apply to Regular subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.25 Residual Shape Surcharge. Regular subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.3 Enhanced Carrier Route Subclass

321.31 Definition. The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.2, 321.4, 321.5 or 323, and that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is prepared, marked, and presented as specified by the Postal Service;
- c. Is presorted to carrier routes as specified by the Postal Service;
- d. Is sequenced as specified by the Postal Service; and
- e. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

321.32 Basic Rate Category. The basic rate category applies to Enhanced Carrier Route subclass mail not mailed under section 321.33, 321.34 or 321.35.

321.33 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service, and which meets the machinability, addressing, and barcoding speci-

fications and other preparation requirements specified by the Postal Service.

321.34 High Density Rate Category. The high density rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements specified by the Postal Service.

321.35 Saturation Rate Category. The saturation rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements specified by the Postal Service.

321.36 Destination Entry Discounts. Destination entry discounts apply to Enhanced Carrier Route subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.37 Residual Shape Surcharge. Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.4 Nonprofit Subclass

321.41 General. The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.2, 321.3, 321.5 or 323, and that is mailed by authorized nonprofit organizations or associations of the following types:

- a. Religious, as defined in section 1009,
- b. Educational, as defined in section 1009,
- c. Scientific, as defined in section 1009,
- d. Philanthropic, as defined in section 1009,
- e. Agricultural, as defined in section 1009,
- f. Labor, as defined in section 1009,
- g. Veterans', as defined in section 1009,
- h. Fraternal, as defined in section 1009,
- i. Qualified political committees,
- j. State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.

321.411 Qualified Political Committees. The term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee:

- a. The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and
- b. The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

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321.412 Limitation on Authorization. An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at nonprofit Standard rates to any other person, organization or association.

321.42 Presort Rate Categories

321.421 General. The presort rate categories apply to Nonprofit subclass mail that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service; and
- c. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

321.422 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.423.

321.423 Three-and Five-Digit Rate Categories. The three-and five-digit rate categories apply to presort rate category mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

321.43 Automation Rate Categories

321.431 General. The automation rate categories apply to Nonprofit subclass mail that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service;
- c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service;
- d. Meets the machinability, addressing, barcoding, and other preparation requirements specified by the Postal Service.

321.432 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.433 or 321.434.

321.433 Three-Digit Barcoded Rate Category. The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

321.434 Five-Digit Barcoded Rate Category. The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

321.435 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.436.

321.436 Three- and Five-Digit Barcoded Flats Rate Category. The three- and five-

digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

321.44 Destination Entry Discounts. Destination entry discounts apply to Nonprofit subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility) or sectional center facility (SCF) at which it is entered, as defined by the Postal Service.

321.45 Residual Shape Surcharge. Nonprofit subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.5 Nonprofit Enhanced Carrier Route Subclass

321.51 Definition. The Nonprofit Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.2, 321.3, 321.4 or 323, that is mailed by authorized nonprofit organizations or associations (as defined in section 321.41) under the terms and limitations stated in section 321.412, and that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is prepared, marked, and presented as specified by the Postal Service;
- c. Is presorted to carrier routes as specified by the Postal Service;
- d. Is sequenced as specified by the Postal Service; and
- e. Meets the machinability, addressing, and other preparation requirements specified by the Postal Service.

321.52 Basic Rate Category. The basic rate category applies to Nonprofit Enhanced Carrier Route subclass mail not mailed under section 321.53, 321.54 or 321.55.

321.53 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Nonprofit Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including "correction" digits), as specified by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

321.54 High Density Rate Category. The high density rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements specified by the Postal Service.

321.55 Saturation Rate Category. The saturation rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements specified by the Postal Service.

321.56 Destination Entry Discounts. Destination entry discounts apply to Nonprofit Enhanced Carrier Route subclass mail prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.57 Residual Shape Surcharge. Non-profit subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

322 SUBCLASSES LIMITED TO MAIL WEIGHING 16 OUNCES OR MORE

322.1 Parcel Post Subclass

322.11 Definition. The Parcel Post subclass consists of Standard Mail weighing 16 ounces or more that is not mailed under sections 322.3, 323.1, or 323.2.

322.12 Description of Rate Categories.

322.121 Inter-BMC Rate Category. The Inter-BMC rate category applies to all Parcel Post subclass mail not mailed under section 322.122, 322.123, 322.124, or 322.125.

322.122 Intra-BMC Rate Category. The Intra-BMC rate category applies to Parcel Post subclass mail originating and destined within a designated BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.

322.123 Destination Bulk Mail Center (DBMC) Rate Category. The destination bulk mail center rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces entered at a designated destination BMC, auxiliary service facility, or other equivalent facility, as specified by the Postal Service.

322.124 Destination Sectional Center Facility (DSCF) Rate Category. The destination sectional center facility rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces sorted to five-digit destination ZIP Codes as specified by the Postal Service and entered at a designated destination processing and distribution center or facility, or other equivalent facility, as specified by the Postal Service.

322.125 Destination Delivery Unit (DDU) Rate Category. The destination delivery unit rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces, and entered at a designated destination delivery unit, or other equivalent facility, as specified by the Postal Service.

322.13 Bulk Parcel Post. Bulk Parcel Post mail is Parcel Post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2,000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined or pieces measuring over 108 inches in length

and girth combined are not mailable as Bulk Parcel Post mail.

322.131 Barcoded Discount. The barcoded discount applies to Bulk Parcel Post mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service, and meets all other preparation and machinability requirements of the Postal Service.

322.14 Bulk Mail Center (BMC) Presort Discounts.

322.141 BMC Presort Discount. The BMC presort discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of 50 or more pieces, entered at a facility authorized by the Postal Service, and sorted to destination BMCs, as specified by the Postal Service.

322.142 Origin Bulk Mail Center (OBMC) Discount. The origin bulk mail center discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of at least 50 pieces, entered at the origin BMC, and sorted to destination BMCs, as specified by the Postal Service.

322.15 Barcoded Discount. The barcoded discount applies to Inter-BMC, Intra-BMC, and DBMC Parcel Post subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

322.16 Oversize Parcel Post.

322.161 Excessive Length and Girth. Parcel Post subclass mail pieces exceeding 108 inches in length and girth combined, but not greater than 130 inches in length and girth combined, are mailable.

322.162 Balloon Rate. Parcel Post subclass mail pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

322.17 Nonmachinable Surcharge. Inter-BMC Parcel Post subclass mail that does not meet machinability criteria specified by the Postal Service is subject to a nonmachinable surcharge.

322.18 Pickup Service. Pickup service is available for Parcel Post subclass mail under terms and conditions specified by the Postal Service.

322.2 [Reserved]

322.3 Bound Printed Matter Subclass

322.31 Definition. The Bound Printed Matter subclass consists of Standard Mail weighing at least 16 ounces, but not more than 15 pounds, which:

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a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching; loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence;

e. Is not stationery, such as pads of blank printed forms.

322.32 Single-Piece Rate Category. The single-piece rate category applies to Bound Printed Matter subclass mail which is not mailed under section 322.33 or 322.34.

322.33 Bulk Rate Category. The bulk rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces, prepared and presorted as specified by the Postal Service.

322.34 Carrier Route Presort Rate Category. The carrier route presort rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces of carrier route presorted mail, prepared and presorted as specified by the Postal Service.

322.35 Barcoded Discount. The barcoded discount applies to single-piece rate and bulk rate Bound Printed Matter subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

323 SUBCLASSES WITH NO 16-OUNCE LIMITATION

323.1 Special Subclass

323.11 Definition. The Special subclass consists of Standard Mail of the following types:

a. Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a postcard. These order forms each time it appears subsection are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

b. 16 millimeter or narrower width films which must be positive prints in final form for viewing, and catalogs of such films, of 24

pages or more, at least 22 of which are printed, except when sent to or from commercial theaters;

c. Printed music, whether in bound form or in sheet form;

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests and other mental and personal qualities with or without answers, test scores or identifying information recorded thereon in writing or by mark;

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a postcard. These order forms are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

f. Playscripts and manuscripts for books, periodicals and music;

g. Printed educational reference charts, permanently processed for preservation;

h. Printed educational reference charts, including but not limited to;

i. Mathematical tables;

ii. Botanical tables;

iii. Zoological tables; and

iv. Maps produced primarily for educational reference purposes;

i. Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; and

j. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

323.12 Single-Piece Rate Category. The single-piece rate category applies to Special subclass mail not mailed under section 323.13 or 323.14.

323.13 Level A Presort Rate Category. The Level A presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to five-digit destination ZIP Codes as specified by the Postal Service.

323.14 Level B Presort Rate Category. The Level B presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to destination Bulk Mail Centers as specified by the Postal Service.

323.15 Barcoded Discount. The barcoded discount applies to single-piece rate and Level B presort rate Special subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

323.2 Library Subclass

323.21 Definition

323.211 General. The Library subclass consists of Standard Mail of the following types, separated or presorted as specified by the Postal Service:

a. Matter designated in section 323.213, loaned or exchanged (including cooperative processing by libraries) between:

- i. Schools or colleges, or universities;
- ii. Public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, or between such organizations and their members, readers or borrowers.

b. Matter designated in section 323.214, mailed to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations; or

c. Matter designated in section 323.215, mailed from a publisher or a distributor to a school, college, university or public library.

323.212 Definition of Nonprofit Organizations and Associations. Nonprofit organizations or associations are defined in section 1009.

323.213 Library subclass mail under subsection a of section 323.211. Matter eligible for mailing as Library subclass mail under subsection a of section 323.211 consists of:

a. Books consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books;

b. Printed music, whether in bound form or in sheet form;

c. Bound volumes of academic theses in typewritten or other duplicated form;

d. Periodicals, whether bound or unbound;

e. Sound recordings;

f. Other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

g. Museum materials, specimens, collections, teaching aids, printed matter and interpretative materials intended to inform and to further the educational work and interest of museums and herbaria.

323.214 Library subclass mail under subsection b of section 323.211. Matter eligible for mailing as Library subclass mail under subsection b of section 323.211 consists of:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing;

b. Sound recordings;

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform

and to further the educational work and interests of museums and herbaria;

d. Scientific or mathematical kits, instruments or other devices;

e. Catalogs of the materials in subsections a through d of section 323.214 and guides or scripts prepared solely for use with such materials.

323.215 Library subclass mail under section 323.211c. Matter eligible for mailing as Library subclass mail under subsection c of section 323.211 consists of books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books.

323.22 Single-Piece Rate Category. The single-piece rate category applies to Library subclass mail not mailed under section 323.23 or 323.24.

323.23 Level A Presort Rate Category. The Level A presort rate category applies to mailing of at least 500 pieces of Library subclass mail, prepared and presorted to five-digit destination ZIP Codes as specified by the Postal Service.

323.24 Level B Presort Rate Category. The Level B presort rate category applies to mailing of at least 500 pieces of Library subclass mail, prepared and presorted to destination Bulk Mail Centers as specified by the Postal Service.

323.25 Barcoded Discount. The barcoded discount applies to Library subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

330 PHYSICAL LIMITATIONS

331 SIZE

Except as provided in section 322.161, Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Standard Mail subclasses. The maximum size for mail presorted to carrier route in the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness. For merchandise samples mailed with detached address cards, the carrier route maximum dimensions apply to the detached address cards and not to the samples.

332 WEIGHT

Standard Mail may not weigh more than 70 pounds. Additional weight limitations apply to individual Standard Mail subclasses.

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340 POSTAGE AND PREPARATION

341 POSTAGE

Postage must be paid as set forth in section 3000. When the postage computed at a Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route Standard rate is higher than the rate prescribed in any of the Standard subclasses listed in 322 or 323 for which the piece also qualifies (or would qualify, except for weight), the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

342 PREPARATION

All pieces in a Standard mailing must be separately addressed. All pieces in a Standard mailing must be identified as specified by the Postal Service, and must contain the ZIP Code of the addressee when specified by the Postal Service. All Standard mailings must be prepared and presented as specified by the Postal Service. Two or more Standard mailings may be commingled and mailed only when specific methods approved by the Postal Service for determining and verifying postage are followed.

343 NON-IDENTICAL PIECES

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for determining and verifying postage are followed.

344 ATTACHMENTS AND ENCLOSURES

344.1 Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

344.11 General. First-Class Mail may be attached to or enclosed in Standard books, catalogs, and merchandise entered under section 321. The piece must be marked as specified by the Postal Service. Except as provided in section 344.12, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

344.12 Incidental First-Class Attachments and Enclosures. First-Class Mail, as defined in subsections b through d of section 210, may be attached to or enclosed with Standard merchandise entered under section 321, including books but excluding merchandise samples, with postage paid on the combined piece at the applicable Standard rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

344.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

344.21 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 (Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed in Standard Mail mailed under sections 322 and 323. The piece must be marked as specified by the Postal Service. Except as provided in sections 344.22 and 344.23, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class or section 321 Standard rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

344.22 Specifically Authorized Attachments and Enclosures. Standard Mail mailed under sections 322 and 323 may contain enclosures and attachments as specified by the Postal Service and as described in subsections a and e of section 323.11, with postage paid on the combined piece at the Standard rate applicable to the host piece.

344.23 Incidental First-Class Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in subsections b through d of section 210, may be attached to or enclosed with Standard Mail mailed under section 322 or 323, with postage paid on the combined piece at the Standard rate applicable to the host piece, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

350 DEPOSIT AND DELIVERY

351 DEPOSIT

Standard Mail must be deposited at places and times designated by the Postal Service.

352 SERVICE

Standard Mail may receive deferred service.

353 FORWARDING AND RETURN

353.1 Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as specified by the Postal Service. Except as provided in section 935, the applicable First-Class Mail

rate is charged for each piece receiving return only service. Except as provided in section 936, charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in sections 935 and 936, the charge for those returned pieces is the appropriate First-Class Mail rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

353.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

Undeliverable-as-addressed Standard Mail mailed under sections 322 and 323 will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer. Pieces which combine Standard Mail from one of the subclasses described in 322 and 323 with First-Class Mail or Standard Mail from one of the subclasses described in 321 will be forwarded if undeliverable-as-addressed, and returned if undeliverable, as specified by the Postal Service. When Standard Mail mailed under sections 322 and 323 is forwarded or returned from one post office to another, additional charges will be based on the applicable single-piece Standard Mail rate under 322 or 323.

360 ANCILLARY SERVICES

361 ALL SUBCLASSES

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	911
b. Certificates of mailing indicating that a specified number of pieces have been mailed.	947

Certificates of mailing are not available for Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail when postage is paid with permit imprint.

362 PARCEL POST, BOUND PRINTED MATTER, SPECIAL, AND LIBRARY SUBCLASSES PARCEL POST, BOUND PRINTED MATTER, SPECIAL, AND LIBRARY SUBCLASS MAIL WILL RECEIVE THE FOLLOWING ADDITIONAL SERVICES UPON PAYMENT OF THE APPROPRIATE FEES:

Service	Schedule
a. Certificates of mailing	947
b. COD	944
c. Insurance	943
d. Special handling	952
e. Return receipt (merchandise only)	945
f. Merchandise return	932

Service	Schedule
g. Delivery Confirmation	948

Insurance, special handling, and COD services may not be used selectively for individual pieces in a multi-piece Standard Mail mailing unless specific methods approved by the Postal Service for determining and verifying postage are followed.

363 REGULAR AND NONPROFIT

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	935
b. Shipper-Paid Forwarding	936

370 RATES AND FEES

The rates and fees for Standard Mail are set forth as follows:

	Schedule
a. Regular subclass	321.2
b. Enhanced Carrier Route subclass	321.3
c. Nonprofit subclass	321.4
d. Nonprofit Enhanced Carrier Route subclass ..	321.5
e. Parcel Post subclass:	
Inter-BMC	322.1A
Intra-BMC	322.1B
Destination BMC	322.1C
Destination SCF	322.1D
Destination Delivery Unit	322.1E
f. Bound Printed Matter subclass:	
Single-Piece ...	322.3A
Bulk and Carrier Route	322.3B
g. Special subclass	323.1
h. Library subclass	323.2
i. Fees	1000

380 AUTHORIZATIONS AND LICENSES

381 REGULAR, ENHANCED CARRIER ROUTE, NONPROFIT AND NONPROFIT ENHANCED CARRIER ROUTE SUBCLASSES

A mailing fee as set forth in Schedule 1000 must be paid once each year by mailers of Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail.

382 SPECIAL AND LIBRARY SUBCLASSES

A presort mailing fee as set forth in Schedule 1000 must be paid once each year at each office of mailing by or for any person who

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mails presorted Special or Library subclass mail. Any person who engages a business concern or other individuals to mail presorted Special or Library subclass mail must pay the fee.

383 PARCEL POST SUBCLASS

A mailing fee as set forth in Schedule 1000 must be paid once each year by mailers of Destination BMC Destination SCF or Destination Delivery Unit rate category mail in the Parcel Post subclass.

PERIODICALS CLASSIFICATION SCHEDULE

410 DEFINITION

411 GENERAL REQUIREMENTS

411.1 Definition. A publication may qualify for mailing under the Periodicals Classification Schedule if it meets all the requirements in sections 411.2 through 411.5 and the requirements for one of the qualification categories in sections 412 through 415. Eligibility for specific Periodicals rates is prescribed in section 420.

411.2 Periodicals. Periodicals class mail isailable matter consisting of newspapers and other periodical publications. The term "periodical publications" includes, but is not limited to:

a. Any catalog or other course listing including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

411.3 Issuance

411.31 Regular Issuance. Periodicals class mail must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively.

411.32 Separate Publication. For purposes of determining Periodicals rate eligibility, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication when the following conditions exist:

a. The issue is published at a regular frequency more often than once a month either on (1) the same day as another regular issue of the same publication; or (2) on a day different from regular issues of the same publication, and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of

any other issue distributed to nonsubscribers or nonrequesters on that same day, or, if no other issue that day, any other issue distributed during the same period. "During the same period" shall be defined as the periods of time ensuing between the distribution of each of the issues whose eligibility is being examined. Such separate publications must independently meet the qualifications for Periodicals eligibility.

411.4 Office of Publication. Periodicals class mail must have a known office of publication. A known office of publication is a public office where business of the publication is transacted during the usual business hours. The office must be maintained where the publication is authorized original entry.

411.5 Printed Sheets. Periodicals class mail must be formed of printed sheets. It may not be reproduced by stencil, mimeograph, or hectograph processes, or reproduced in imitation of typewriting. Reproduction by any other printing process is permissible. Any style of type may be used.

412 GENERAL PUBLICATIONS

412.1 Definition. To qualify as a General Publication, Periodicals class mail must meet the requirements in section 411 and in sections 412.2 through 412.4.

412.2 Dissemination of Information. A General Publication must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry.

412.3 Paid Circulation

412.31 Total Distribution. A General Publication must be designed primarily for paid circulation. At least 50 percent or more of the copies of the publication must be distributed to persons who have paid above a nominal rate.

412.32 List of Subscribers. A General Publication must be distributed to a legitimate list of persons who have subscribed by paying or promising to pay at a rate above nominal for copies to be received during a stated time. Copies mailed to persons who are not on a legitimate list of subscribers are nonsubscriber copies.

412.33 Nominal Rates. As used in section 412.31, nominal rate means:

a. A token subscription price that is so low that it cannot be considered a material consideration;

b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail

value, or the represented value, whichever is highest.

412.34 Nonsubscriber Copies

412.341 Up to Ten Percent. Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to subscribers during the calendar year are mailable at the rates that apply to subscriber copies provided that the nonsubscriber copies would have been eligible for those rates if mailed to subscribers.

412.342 Over Ten Percent. Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to subscribers during the calendar year which are presorted and commingled with subscriber copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to subscribers during the calendar year.

412.35 Advertiser's Proof Copies. One complete copy of each issue of a General Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to subscriber copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as subscriber copies.

412.36 Expired Subscriptions. For six months after a subscription has expired, copies of a General Publication may be mailed to a former subscriber at the rates that apply to copies mailed to subscribers, if the publisher has attempted during that six months to obtain payment, or a promise to pay, for renewal. These copies do not count as subscriber copies.

412.4 Advertising Purposes

A General Publication may not be designed primarily for advertising purposes. A publication is "designed primarily for advertising purposes" if it:

- a. Has advertising in excess of 75 percent in more than one-half of its issues during any 12-month period;
- b. Is owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it;
- c. Consists principally of advertising and editorial write-ups of the advertisers;
- d. Consists principally of advertising and has only a token list of subscribers, the circulation being mainly free;
- e. Has only a token list of subscribers and prints advertisements free for advertisers

who pay for copies to be sent to a list of persons furnished by the advertisers; or

f. Is published under a license from individuals or institutions and features other businesses of the licensor.

413 REQUESTER PUBLICATIONS

413.1 Definition. A publication which is circulated free or mainly free may qualify for Periodicals class as a Requester Publication if it meets the requirements in sections 411, and 413.2 through 413.4.

413.2 Minimum Pages. It must contain at least 24 pages.

413.3 Advertising Purposes

413.31 Advertising Percentage. It must devote at least 25 percent of its pages to non-advertising and not more than 75 percent to advertisements.

413.32 Ownership and Control. It must not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it.

413.4 Circulated to Requesters

413.41 List of Requesters. It must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for, including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration, provided that mere receipt of the publication is not material consideration.

413.42 Nonrequester Copies

413.421 Up to Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to requesters during the calendar year are mailable at the rates that apply to requester copies provided that the nonrequester copies would have been eligible for those rates if mailed to requesters.

413.422 Over Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to requesters during the calendar year which are presorted and commingled with requester copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of

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all copies of that publication mailed to requesters during the calendar year.

413.43 Advertiser's Proof Copies. One complete copy of each issue of a Requester Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to requester copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as requester copies.

414 PUBLICATIONS OF INSTITUTIONS AND SOCIETIES

414.1 Publisher's Own Advertising. Except as provided in section 414.2, a publication which meets the requirements of sections 411 and 412.4, and which contains no advertising other than that of the publisher, qualifies for Periodicals class as a publication of an institution or society if it is:

- a. Published by a regularly incorporated institution of learning;
- b. Published by a regularly established state institution of learning supported in whole or in part by public taxation;
- c. A bulletin issued by a state board of health or a state industrial development agency;
- d. A bulletin issued by a state conservation or fish and game agency or department;
- e. A bulletin issued by a state board or department of public charities and corrections;
- f. Published by a public or nonprofit private elementary or secondary institution of learning or its administrative or governing body;
- g. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof, or by a nonprofit educational radio or television station;
- h. Published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;
- i. Published by or under the auspices of a trade(s) union;
- j. Published by a strictly professional, literary, historical, or scientific society; or,
- k. Published by a church or church organization.

414.2 General Advertising. A publication published by an institution or society identified in sections 414.1 h through k, may contain advertising of other persons, institutions, or concerns, if the following additional conditions are met:

- a. The publication is originated and published to further the objectives and purposes of the society;
- b. Circulation is limited to:
 - i. Copies mailed to members who pay either as a part of their dues or assessment or

otherwise, not less than 50 percent of the regular subscription price;

- ii. Other actual subscribers; and
- iii. Exchange copies.

c. The circulation of nonsubscriber copies, including sample and complimentary copies, does not exceed 10 percent of the total number of copies referred to in 414.2b.

415 PUBLICATIONS OF STATE DEPARTMENTS OF AGRICULTURE

A publication which is issued by a state department of agriculture and which meets the requirements of sections 411 qualifies for Periodicals class as a publication of a state department of agriculture if it contains no advertising and is published for the purpose of furthering the objects of the department.

416 FOREIGN PUBLICATIONS

Foreign newspapers and other periodicals of the same general character as domestic publications entered as Periodicals class mail may be accepted on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

420 DESCRIPTION OF SUBCLASSES

421 REGULAR SUBCLASS

421.1 Definition. The Regular subclass consists of Periodicals class mail that is not mailed under section 423 and that:

- a. Is presorted, marked, and presented as specified by the Postal Service; and
- b. Meets machinability, addressing, and other preparation requirements specified by the Postal Service.

421.2 Regular Pound Rates

An unzoned pound rate applies to the non-advertising portion of Regular subclass mail. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge.

421.3 Regular Piece Rates

421.31 Basic Rate Category. The basic rate category applies to all Regular subclass mail not mailed under section 421.32, 421.33, or 421.34.

421.32 Three-Digit Rate Category. The three-digit rate category applies to Regular subclass mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

421.33 Five-Digit Rate Category. The five-digit rate category applies to Regular subclass mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

421.34 Carrier Route Rate Category. The carrier route rate category applies to Regular subclass mail presorted to carrier routes as specified by the Postal Service.

421.4 Regular Subclass Discounts

421.41 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Regular subclass mail mailed under sections 421.31, 421.32, and 421.33 which bears a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

421.42 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Regular subclass mail mailed under sections 421.31, 421.32, 421.33 which bear a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

421.43 High Density Discount. The high density discount applies to Regular subclass mail mailed under section 421.34, presented in walk sequence order, and meeting the high density and preparation requirements specified by the Postal Service.

421.44 Saturation Discount. The saturation discount applies to Regular subclass mail mailed under section 421.34, presented in walk-sequence order, and meeting the saturation and preparation requirements specified by the Postal Service.

421.45 Destination Entry Discounts. Destination entry discounts apply to Regular subclass mail which is destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

421.46 Nonadvertising Discount. The nonadvertising discount applies to all Regular subclass mail and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

422 [RESERVED]

423 PREFERRED RATE PERIODICALS

423.1 Definition. Periodicals class mail, other than publications qualifying as Requirer Publications, may qualify for Preferred Rate Periodicals rates if it meets the

applicable requirements for those rates in sections 423.2 through 423.5.

423.2 Within County Subclass

423.21 Definition. Within County mail consists of Preferred Rate Periodicals class mail mailed in, and addressed for delivery within the county where published and originally entered, from either the office of original entry or additional entry. In addition, a Within County publication must meet one of the following conditions:

- a. The total paid circulation of the issue is less than 10,000 copies; or
- b. The number of paid copies of the issue distributed within the county of publication is at least one more than one-half the total paid circulation of such issue.

423.22 Entry in an Incorporated City. For the purpose of determining eligibility for Within County mail, when a publication has original entry at an independent incorporated city which is situated entirely within a county or which is contiguous to one or more counties in the same state, such incorporated city shall be considered to be within the county with which it is principally contiguous. Where more than one county is involved, the publisher will select the principal county.

423.3 Nonprofit Subclass

Nonprofit mail is Preferred Rate Periodicals class mail entered by authorized nonprofit organizations or associations of the following types:

- a. Religious, as defined in section 1009,
- b. Educational, as defined in section 1009,
- c. Scientific, as defined in section 1009,
- d. Philanthropic, as defined in section 1009,
- e. Agricultural, as defined in section 1009,
- f. Labor, as defined in section 1009,
- g. Veterans', as defined in section 1009,
- h. Fraternal, as defined in section 1009, and
- i. Associations of rural electric cooperatives,
- j. One publication, which contains no advertising (except advertising of the publisher) published by the official highway or development agency of a state,
- k. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station.
- l. One conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

423.4 Classroom Subclass

Classroom mail is Preferred Rate Periodicals class mail which consists of religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes.

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423.5 Science of Agriculture

Science of Agriculture mail consists of Preferred Rate Periodicals class mail devoted to the science of agriculture if the total number of copies of the publication furnished during any 12-month period to subscribers residing in rural areas amounts to at least 70 percent of the total number of copies distributed by any means for any purpose.

423.6 Preferred Rate Pound Rates

For Preferred Rate Periodicals entered under sections 423.3, 423.4 and 423.5, and un-zoned pound rate applies to the nonadvertising portion. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge. For Preferred Rate Periodicals entered under section 423.2, one pound rate applies to the pieces presorted to carrier route to be delivered within the delivery area of the originating post office, and another pound rate applies to all other pieces.

423.7 Preferred Rate Piece Rates

423.71 Basic Rate Category. The basic rate category applies to all Preferred Rate Periodicals not mailed under section 423.72, 423.73, or 423.74.

423.72 Three-Digit Rate Category. The three-digit rate category applies to Preferred Rate Periodicals entered under sections 423.2, 423.3, 423.4, or 423.5 that are presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

423.73 Five-Digit Rate Category. The five-digit category applies to Preferred Rate Periodicals entered under sections 423.2, 423.3, 423.4, or 423.5 that are presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

423.74 Carrier Route Rate Category. The carrier route rate category applies to Preferred Rate Periodicals presorted to carrier routes as specified by the Postal Service.

423.8 Preferred Rate Discounts

423.81 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Preferred Rate Periodicals mailed under sections 423.71, 423.72, and 423.73 which bear a barcode representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

423.82 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Preferred Rate Periodicals mailed under sections 423.71, 423.72, and 423.73 which bear a barcode

representing not more than 11 digits (not including "correction" digits) as specified by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements specified by the Postal Service.

423.83 High Density Discount. The high density discount applies to Preferred Rate Periodicals mailed under section 423.74, presented in walk-sequence order, and meeting the high density and preparation requirements specified by the Postal Service, except that mailers of Within County mail may qualify for such discount also by presenting otherwise eligible mailings containing pieces addressed to a minimum of 25 percent of the addresses per carrier route.

423.84 Saturation Discount. The saturation discount applies to Preferred Rate Periodicals mailed under section 423.74, presented in walk-sequence order, and meeting the saturation and preparation requirements specified by the Postal Service.

423.85 Destination Entry Discounts. Destination entry discounts apply to Preferred Rate Periodicals which are destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which they are entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail; the SCF discount is not available for mail entered under section 423.2.

423.86 Nonadvertising Discount. The nonadvertising discount applies to Preferred Rate Periodicals entered under sections 423.3, 423.4, 423.5 and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedules 421.423.3 or 423.4 and subtracting that amount from the applicable piece rate.

430 PHYSICAL LIMITATIONS

There are no maximum size or weight limits for Periodicals class mail.

440 POSTAGE AND PREPARATION

441 POSTAGE. POSTAGE MUST BE PAID ON PERIODICALS CLASS MAIL AS SET FORTH IN SECTION 3000.

442 PRESORTATION. PERIODICALS CLASS MAIL MUST BE PRESORTED AS SPECIFIED BY THE POSTAL SERVICE.

443 ATTACHMENTS AND ENCLOSURES

443.1 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 (Regular, Enhanced Carrier Route Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed with Periodicals class mail. The piece must be marked as specified by the Postal Service.

Except as provided in section 443.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the appropriate First-Class or section 321 Standard Mail rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

443.2 Incidental First-Class Mail Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in subsections b through d of section 210 may be attached to or enclosed with Periodicals class mail, with postage paid on the combined piece at the applicable Periodicals rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

444 IDENTIFICATION

Periodicals class mail must be identified as required by the Postal Service. Nonsubscriber and nonrequester copies, including sample and complimentary copies, must be identified as required by the Postal Service.

445 FILING OF INFORMATION

Information relating to Periodicals class mail must be filed with the Postal Service under 39 U.S.C. 3685.

446 ENCLOSURES AND SUPPLEMENTS

Periodicals class mail may contain enclosures and supplements as specified by the Postal Service. An enclosure or supplement may not contain writing, printing or sign thereof or therein, in addition to the original print, except as authorized by the Postal Service, or as authorized under section 443.2.

450 DEPOSIT AND DELIVERY

451 DEPOSIT

Periodicals class mail must be deposited at places and times designated by the Postal Service.

452 SERVICE

Periodicals class mail is given expeditious handling insofar as is practicable.

453 FORWARDING AND RETURN

Undeliverable-as-addressed Periodicals class mail will be forwarded or returned to the mailer, as specified by the Postal Service. Undeliverable-as-addressed combined First-Class and Periodicals class mail pieces will be forwarded or returned, as specified by the Postal Service. Additional charges when Periodicals class mail is returned will be based on the applicable First-Class Mail rate.

470 RATES AND FEES

The rates and fees for Periodicals class mail are set forth as follows:

	Schedule
a. Regular	421
b. Within County	423.2
c. Nonprofit	423.3
d. Classroom	423.4
e. Science of Agriculture	421
f. Fees	1000

480 AUTHORIZATIONS AND LICENSES

481 ENTRY AUTHORIZATIONS

Prior to mailing at Periodicals rates, a publication must be authorized for entry as Periodicals class mail by the Postal Service. Each authorized publication will be granted one original entry authorization at the post office where the office of publication is maintained. An authorization for the establishment of an account to enter a publication at an additional entry office may be granted by the Postal Service upon application by the publisher. An application for re-entry must be made whenever the publisher proposes to change the publication's title, frequency of issue or office of original entry.

482 PREFERRED RATE AUTHORIZATION

Prior to mailing at Nonprofit, Classroom, and Science of Agriculture rates, a publication must obtain an additional Postal Service entry authorization to mail at those rates.

483 MAILING BY PUBLISHERS AND NEWS AGENTS

Periodicals class mail may be mailed only by publishers or registered news agents. A news agent is a person or concern engaged in selling two or more Periodicals publications published by more than one publisher. News agents must register at all post offices at which they mail Periodicals class mail.

484 FEES

Fees for original entry, additional entry, re-entry, and registration of a news agent are set forth in Schedule 1000.

SPECIAL SERVICES

910 ADDRESSING

911 ADDRESS CORRECTION SERVICE

911.1 Definition.

911.11 Address correction service is a service which provides the mailer with a method of obtaining the correct address, if available to the Postal Service, of the addressee or the reason for nondelivery.

911.2 Description of Service.

911.21 Address correction service is available to mailers of postage prepaid mail of all

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classes. Periodicals class mail will receive address correction service.

911.22 Address correction service is not available for items addressed for delivery by military personnel at any military installation.

911.23 Address correction provides the following service to the mailer:

a. If the correct address is known to the Postal Service, the mailer is notified of both the old and the correct address.

b. If the item mailed cannot be delivered, the mailer will be notified of the reason for nondelivery.

911.3 Requirements of the Mailer.

911.31 Mail, other than Periodicals class mail, sent under this section must bear a request for address correction service.

911.4 Fees.

911.41 There is no charge for address correction service when the correction is provided incidental to the return of the mailpiece to the sender.

911.42 A fee, as set forth in Fee Schedule 911, is charged for all other forms of address correction service.

912 MAILING LIST SERVICES

912.1 Definition.

912.11 Mailing list services include:

- a. Correction of mailing lists;
- b. Change-of-address information for election boards and registration commissions;
- c. ZIP coding of mailing lists; and
- d. Arrangement of address cards in the sequence of delivery.

912.12 Correction of mailing list service provides current information concerning name and address mailing lists or correct information concerning occupant mailing lists.

912.13 ZIP coding of mailing lists service is a service identifying ZIP Code addresses in areas served by multi-ZIP coded postal facilities.

912.2 Description of Service.

912.21 Correction of mailing list service is available only to the following owners of name and address or occupant mailing lists:

- a. Members of Congress;
- b. Federal agencies;
- c. State government departments;
- d. Municipalities;
- e. Religious organizations;
- f. Fraternal organizations;
- g. Recognized charitable organizations;
- h. Concerns or persons who solicit business by mail.

912.22 The following corrections will be made to name and address lists:

- a. Names to which mail cannot be delivered or forwarded will be deleted;
- b. Incorrect house, rural, or post office box numbers will be corrected;
- c. When permanent forwarding orders are on file for customers who have moved, new addresses including ZIP Codes will be furnished;

d. New names will not be added to the list.

912.23 The following corrections will be made to occupant lists:

a. Numbers representing incorrect or non-existent street addresses will be deleted;

b. Business or rural route addresses will be distinguished if known;

c. Corrected cards or sheets will be grouped by route;

d. Street address numbers will not be added or changed.

912.24 Corrected lists will be returned to customers at no additional charge.

912.25 Residential change-of-address information is available only to election boards or registration commissions for obtaining, if known to the Postal Service, the current address of an addressee.

912.26 ZIP coding or mailing list service provides that addresses will be sorted to the finest possible ZIP Code sortation.

912.27 Gummed labels, wrappers, envelopes, Stamped Cards, or postcards indicative of one-time use will not be accepted as mailing lists.

912.28 Sequencing of address cards service provides for the removal of incorrect addresses, notation of missing addresses and addition of missing addresses.

912.3 Requirements of Customer.

912.31 A customer desiring correction of a mailing list or arrangement of address cards in sequence of carrier delivery must submit the list or cards as specified by the Postal Service.

912.4 Fees.

912.41 The fees for mailing list services are set forth in Fee Schedule 912.

920 Delivery Alternatives

921 POST OFFICE BOX AND CALLER SERVICE

921.1 Caller Service.

921.11 Definition.

921.111 Caller service is a service which permits a customer to obtain mail addressed to the customer's box number through a call window or loading dock.

921.12 Description of Service.

921.121 Caller service uses post office box numbers as the address medium but does not actually use a post office box.

921.122 Caller service is not available at certain postal facilities.

921.123 Caller service is provided to customers on the basis of mail volume received and number of post office boxes used at any one facility.

921.124 A customer may reserve a caller number.

921.125 Caller service cannot be used when the sole purpose is, by subsequently filing change-of-address orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

921.13 Fees.

921.131 Fees for caller service are set forth in Fee Schedule 921.

921.2 Post Office Box Service.

921.21 Definition.

921.211 Post office box service is a service which provides the customer with a private, locked receptacle for the receipt of mail during the hours when the lobby of a postal facility is open.

921.22 Description of Service.

921.221 The Postal Service may limit the number of post office boxes occupied by any one customer.

921.222 A post office boxholder may ask the Postal Service to deliver to the post office box all mail properly addressed to the holder. If the post office box is located at the post office indicated on the piece, it will be transferred without additional charge, under existing regulations.

921.223 Post office box service cannot be used when the sole purpose is, by subsequently filing change-of-address orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

921.23 Fees.

921.231 Fees for post office box service are set forth in Fee Schedule 921.

921.232 In postal facilities primarily serving academic institutions or the students of such institutions, fees for post office boxes are:

Period of box use	Fee
95 days or less	1/2 semiannual fee.
96 to 140 days	3/4 semiannual fee.
141 to 190 days	Full semiannual fee.
191 to 230 days	1 1/4 semiannual fee.
231 to 270 days	1 1/2 semiannual fee.
271 days to full year	Full annual fee.

921.233 No refunds will be made for post office box fees paid under section. 921.232. For purposes of this section, the full annual fee is twice the amount of the semi-annual fee.

930 Payment Alternatives

931 BUSINESS REPLY MAIL

931.1 Definitions.

931.11 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

931.12 A business reply mail piece is nonletter-size for purposes of this section if it meets addressing and other preparation requirements, but does not meet the machinability requirements specified by the Postal Service for mechanized or automated letter sortation. This provision expires June 7, 1999.

931.2 Description of Service.

931.21 The distributor guarantees payment on delivery of postage and fees for all returned business reply mail. Any distributor of business reply cards, envelopes, cartons and labels under any one license for return to several addresses guarantees to pay postage and fees on any returns refused by any such addressee.

931.3 Requirements of the Mailer.

931.31 Business reply cards, envelopes, cartons and labels must be preaddressed and bear business reply markings.

931.32 Handwriting, typewriting or handstamping are not acceptable methods of preaddressing or marking business reply cards, envelopes, cartons, or labels.

931.4 Fees.

931.41 The fees for business reply mail are set forth in Fee Schedule 931.

931.42 To qualify as an active business reply mail advance deposit trust account, the account must be used solely for business reply mail and contain sufficient postage and fees due for returned business reply mail.

931.43 An accounting fee as set forth in Fee Schedule 931 must be paid each year for each advance deposit business reply account at each facility where the mail is to be returned.

931.5 Experimental Reverse Manifest Fees.

931.51 A set-up/qualification fee as set forth in Fee Schedule 931 must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a reverse manifest method approved by the Postal Service for determining and verifying postage. A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested. This provision expires June 7, 1999.

931.52 A nonletter-size reverse manifest monthly fee as set forth in Fee Schedule 931 must be paid each month during which the distributor's reverse manifest account is active. This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the reverse manifest nonletter-size business reply mail experiment and which utilize reverse manifest accounting methods approved by the Postal Service for determining and verifying postage and fees. This provision expires June 7, 1999.

931.6 Experimental Weight Averaging Fees.

931.61 A set-up/qualification fee as set forth in Fee Schedule 931 must be paid by each business reply mail advance deposit trust account holder at each destination

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postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a weight averaging method approved by the Postal Service for determining and verifying postage. A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested. This provision expires June 7, 1999.

931.62 A nonletter-size weight averaging monthly fee as set forth in Fee Schedule 931 must be paid each month during which the distributor's weight averaging account is active. This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the weight averaging nonletter-size business reply mail experiment. This provision expires June 7, 1999.

931.7 Authorizations and Licenses.

931.71 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in Fee Schedule 931.

931.72 Except as provided in section 931.73, the license to distribute business reply cards, envelopes, cartons, or labels must be obtained at each office from which the mail is offered for delivery.

931.73 If the business reply mail is to be distributed from a central office to be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all business reply mail.

931.74 The license to mail business reply mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes that do not conform to prescribed form, style or size.

931.75 Authorization to pay experimental nonletter-size business reply mail fees as set forth in Fee Schedule 931 may be canceled for failure of a business reply mail advance deposit trust account holder to meet the standards specified by the Postal Service for the applicable reverse manifest or weight averaging accounting method. This provision expires June 7, 1999.

932 Merchandise Return Service

932.1 Definition.

932.11 Merchandise return service provides a method whereby a shipper may authorize its customers to return a parcel with the postage paid by the shipper. A shipper is the holder of a merchandise return permit.

932.2 Description of Service.

932.21 Merchandise return service is available to all shippers who obtain the necessary permit and who guarantee payment of postage and fees for all returned parcels.

932.22 Merchandise return service is available for the return of any parcel under the following classification schedules:

- a. First-Class Mail;
- b. Standard Mail.

932.3 Requirements of the Mailer.

932.31 Merchandise return labels must be prepared at the shipper's expense to specifications set forth by the Postal Service.

932.32 The shipper must furnish its customer with an appropriate merchandise return label.

932.4 Other Services.

932.41 The following services may be purchased in conjunction with Merchandise Return Service:

Service	Fee schedule
a. Certificate of mailing	947
b. Insurance	943
c. Registered mail	942
d. Special handling	952

932.42 Only the shipper may purchase insurance service for the merchandise return parcel by indicating the amount of insurance on the merchandise return label before providing it to the customer. The customer who returns a parcel to the shipper under merchandise return service may not purchase insurance.

932.5 Fees.

932.51 The fee for the merchandise return service is set forth in Fee Schedule 932. This fee is paid by the shipper.

932.6 Authorizations and Licenses.

932.61 A permit fee as set forth in Schedule 1000 must be paid once each calendar year by shippers utilizing merchandise return service.

932.62 The merchandise return permit may be canceled for failure to maintain sufficient funds in a trust account to cover postage and fees on returned parcels or for distributing merchandise return labels that do not conform to Postal Service specifications.

933 On-Site Meter Setting

933.1 Definition.

933.11 On-site meter setting or examination service is a service whereby the Postal Service will service a postage meter at the mailer's or meter manufacturer's premises.

933.2 Description of Service.

933.21 On-site meter setting or examination service is available on a scheduled basis, and meter setting may be performed on an emergency basis for those customers enrolled in the scheduled on-site meter setting or examination program.

933.3 Fees.

933.31 The fees for on-site meter setting or examination service are set forth in Fee Schedule 933.

934 [Reserved]

935 Bulk Parcel Return Service

935.1 Definition.

935.11 Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have undeliverable-as-addressed machinable parcels returned to designated postal facilities for pickup by the mailer at a predetermined frequency specified by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency specified by the Postal Service.

935.2 Description of Service.

935.21 Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

935.3 Requirements of the Mailer.

935.31 Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

935.32 To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

935.33 Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

935.34 Mail for which Bulk Parcel Return Service is requested must bear endorsements specified by the Postal Service.

935.35 Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

935.4 Other Services.

935.41 The following services may be purchased in conjunction with Bulk Parcel Return Service:

Service	Fee schedule
a. Address Correction Service	911
b. Certificate of Mailing	947
c. Shipper-Paid Forwarding	936

935.5 Fee.

935.51 The fee for Bulk Parcel Return Service is set forth in Fee Schedule 935.

935.6 Authorizations and Licenses.

935.61 A permit fee as set forth in Schedule 1000 must be paid once each calendar year by mailers utilizing Bulk Parcel Return Service.

935.62 The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on re-

turned parcels or for failure to meet the specifications of the Postal Service.

936 Shipper-Paid Forwarding

936.1 Definition.

936.11 Shipper-Paid Forwarding provides a method whereby mailers may have undeliverable-as-addressed machinable parcels forwarded at applicable First-Class Mail rates for up to one year from the date that the addressee filed a change-of-address order. If the parcel, for which Shipper-Paid Forwarding is elected, is returned, the mailer will pay the applicable First-Class Mail rate, or the Bulk Parcel Return Service fee, if that service was elected.

936.2 Description of Service.

936.21 Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

936.3 Requirements of the Mailer.

936.31 Shipper-Paid Forwarding is available only in conjunction with automated Address Correction Service in section 911.

936.32 Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

936.33 Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

936.34 Mail for which Shipper-Paid Forwarding is requested must bear endorsements specified by the Postal Service.

936.4 Other Services.

936.41 The following services may be purchased in conjunction with Shipper-Paid Forwarding:

Service	Fee schedule
a. Certificate of Mailing	947
b. Bulk Parcel Return Service	935

936.5 Applicable Rates.

936.51 Except as provided in section 935, single-piece rates under the Letters and Sealed Parcels subclass or the Priority Mail subclass of First-Class Mail, as set forth in Rate Schedules 221 and 223, apply to pieces forwarded or returned under this section.

940 Accountability & Receipts

941 Certified Mail

941.1 Definition.

941.11 Certified mail service is a service that provides a mailing receipt to the sender and a record of delivery at the office of delivery.

941.2 Description of Service.

941.21 Certified mail service is provided for matter mailed as First-Class Mail.

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941.22 If requested by the mailer, the time of acceptance by the Postal Service will be indicated on the receipt.

941.23 A record of delivery is retained at the office of delivery for a specified period of time.

941.24 If the initial attempt to deliver the mail is not successful, a notice of attempted delivery is left at the mailing address.

941.25 A receipt of mailing may be obtained only if the article is mailed at a post office, branch or station, or given to a rural carrier.

941.26 Additional copies of the original mailing receipt may be obtained by the mailer.

941.3 Deposit of Mail.

941.31 Certified mail must be deposited in a manner specified by the Postal Service.

941.4 Other Services.

941.41 The following services may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. Restricted Delivery	946
b. Return Receipt	945

941.5 Fees.

941.51 The fees for certified mail service are set forth in Fee Schedule 941.

942 Registered Mail

942.1 Definition.

942.11 Registered mail is a service that provides added protection to mail sent under this section and indemnity in case of loss or damage.

942.2 Description of Service.

942.21 Registered mail service is available to mailers of prepaid mail sent as First-Class Mail except that registered mail must meet the minimum requirements for length and width regardless of thickness.

942.22 Registered mail service provides insurance up to a maximum of \$25,000, depending upon the actual value at the time of mailing, except that insurance is not available for articles of no value.

942.23 There is no limit on the value of articles sent under this section.

942.24 Registered mail service is not available for:

- a. All delivery points because of the high security required for registered mail; in addition, not all delivery points will be available for registry and liability is limited in some geographic areas;
- b. Mail of any class sent in combination with First-Class Mail;
- c. Two or more articles tied or fastened together, unless the envelopes are enclosed in the same envelope or container.

942.25 The following services are provided as part of registered mail service at no additional cost to the mailer:

- a. A receipt;
- b. A record of delivery, retained by the Postal Service for a specified period of time;
- c. A notice of attempted delivery will be left at the mailing address if the initial delivery attempt is unsuccessful;
- d. When registered mail is undeliverable-as-addressed and cannot be forwarded, a notice of nondelivery is provided.

942.26 A claim for complete loss of insured articles may be filed by the mailer only. A claim for damage or for partial loss of insured articles may be filed by either the mailer or addressee.

942.27 Indemnity claims for registered mail must be filed within a period of time, specified by the Postal Service, from the date the article was mailed.

942.3 Deposit of Mail.

942.31 Registered mail must be deposited in a manner specified by the Postal Service.

942.4 Service.

942.41 Registered mail is provided maximum security.

942.5 Forwarding and Return.

942.51 Registered mail is forwarded and returned without additional registry charge.

942.6 Other Services.

942.61 The following services may be obtained in conjunction with mail sent under this section upon payment of applicable fees:

Service	Fee schedule
a. Collect on delivery	944
b. Restricted delivery	946
c. Return receipt	945
d. Merchandise return (shippers only)	932

942.7 Fees

942.71 The fees for registered mail are set forth in Fee Schedule 942.

943 Insurance

943.1 Express Mail Insurance.

943.11 Definition.

943.111 Express Mail Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to items sent by Express Mail.

943.12 Description of Service.

943.121 Express Mail Insurance is available only for Express Mail.

943.122 Insurance coverage is provided, for no additional charge, up to \$500 per piece for document reconstruction, up to \$5,000 per occurrence regardless of the number of claimants. Insurance coverage is also provided, for no additional charge, up to \$500 per piece for merchandise. Insurance coverage for merchandise valued at more than \$500 is available for an additional fee, as set forth in Fee Schedule 943. The maximum liability for

merchandise is \$5,000 per piece. For negotiable items, currency, or bullion, the maximum liability is \$15.

943.123 Indemnity claims for Express Mail must be filed within a specified period of time from the date the article was mailed.

943.124 Indemnity will be paid under terms and conditions specified by the Postal Service.

943.125 Among other limitations specified by the Postal Service, indemnity will not be paid by the Postal Service for loss, damage or rifling:

- a. Of nonmailable matter;
- b. Due to improper packaging;
- c. Due to seizure by any agency of government; or
- d. Due to war, insurrection or civil disturbances.

943.13 Fees.

943.131 The fees for Express Mail Insurance service are set forth in Fee Schedule 943.

943.2 General Insurance.

943.21 Retail Insurance.

943.211 Retail Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to mailed items.

943.212 The maximum liability of the Postal Service for Retail Insurance is \$5000.

943.213 Retail Insurance is available for mail sent under the following classification schedules:

- a. First-Class Mail, if containing matter that may be mailed as Standard Mail;
- b. Parcel Post, Bound Printed Matter, Special, and Library subclasses of Standard Mail.

943.214 Retail Insurance is not available for matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

943.215 For Retail Insurance, the mailer is issued a receipt for each item mailed. For items insured for more than \$50, a receipt of delivery is obtained by the Postal Service.

943.216 For items insured for more than \$50, a notice of attempted delivery is left at the mailing address when the first attempt at delivery is unsuccessful.

943.217 Retail insurance provides indemnity for the actual value of the article at the time of mailing.

943.22 Bulk Insurance.

943.221 Bulk Insurance service is available for mail entered in bulk at designated facilities and in a manner specified by the Postal Service, including the use of electronic manifesting, and sent under the following classification schedules:

- a. First-Class Mail, if containing matter that may be mailed as Standard Mail;
- b. Parcel Post, Bound Printed Matter, Special, and Library subclasses of Standard Mail.

943.222 Bulk Insurance bears endorsements and identifiers specified by the Postal Service. Bulk Insurance mailers must meet the documentation requirements of the Postal Service.

943.223 Bulk Insurance provides indemnity for the lesser of the actual value of the article at the time of mailing, or the wholesale cost of the contents to the sender.

943.23 Claims.

943.231 For Retail Insurance, a claim for complete loss may be filed by the mailer only, and a claim for damage or for partial loss may be filed by either the mailer or addressee. For Bulk Insurance, all claims must be filed by the mailer.

943.232 A claim for damage or loss on a parcel sent merchandise return under section 932 may be filed only by the purchaser of the insurance.

943.233 Indemnity claims must be filed within a specified period of time from the date the article was mailed.

943.24 Deposit of Mail.

943.241 Mail insured under section 943.2 must be deposited as specified by the Postal Service.

943.25 Forwarding and Return.

943.251 By insuring an item, the mailer guarantees forwarding and return postage unless instructions on the piece mailed indicate that it not be forwarded or returned.

943.252 Mail undeliverable as addressed will be returned to the sender as specified by the sender or by the Postal Service.

943.26 Other Services.

943.261 The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. Parcel Airlift	951
b. Restricted delivery (for items insured for more than \$50)	946
c. Return receipt (for items insured for more than \$50)	945
d. Special handling	952
e. Merchandise return (shippers only)	932

943.27 Fees.

943.271 The fees for Insurance are set forth in Fee Schedule 943.

944 Collect on Delivery

944.1 Definition

944.11 Collect on Delivery (COD) service is a service that allows a mailer to mail an article for which full or partial payment has not yet been received and have the price, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

944.2 Description of Service.

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944.21 COD service is available for collection of \$600 or less upon the delivery of postage prepaid mail sent under the following classification schedules:

- a. Express Mail;
- b. First-Class Mail;
- c. Parcel Post; Bound Printed Matter, Special, and Library subclasses of Standard Mail.

944.22 Service under this section is not available for:

- a. Collection agency purposes;
- b. Return of merchandise about which some dissatisfaction has arisen, unless the new addressee has consented in advance to such return;
- c. Sending only bills or statements of indebtedness, even though the sender may establish that the addressee has agreed to collection in this manner; however, when the legitimate COD shipment consisting of merchandise or bill of lading, is being mailed, the balance due on a past or anticipated transaction may be included in the charges on a COD article, provided the addressee has consented in advance to such action;
- d. Parcels containing moving-picture films mailed by exhibitors to moving-picture manufacturers, distributors, or exchanges;
- e. Goods that have not been ordered by the addressee.

944.23 COD service provides the mailer with insurance against loss, rifling and damage to the article as well as failure to receive the amount collected from the addressee. This provision insures only the receipt of the instrument issued to the mailer after payment of COD charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order.

944.24 A receipt is issued to the mailer for each piece of COD mail. Additional copies of the original mailing receipt may be obtained by the mailer.

944.25 Delivery of COD mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a delivery attempt is unsuccessful, a notice of attempted delivery will be left at the mailing address.

944.26 The mailer may receive a notice of nondelivery if the piece mailed is endorsed appropriately.

944.27 The mailer may designate a new addressee or alter the COD charges by submitting the appropriate form and by paying the appropriate fee as set forth in Fee Schedule 944.

944.28 A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

944.29 COD indemnity claims must be filed within a specified period of time from the date the article was mailed.

944.3 Requirements of the Mailer.

944.31 COD mail must be identified as COD mail.

944.4 Deposit of Mail.

944.41 COD mail must be deposited in a manner specified by the Postal Service.

944.5 Forwarding and Return.

944.51 A mailer of COD mail guarantees to pay any return postage, unless otherwise specified on the piece mailed.

944.52 For COD mail sent as Standard Mail, postage at the applicable rate will be charged to the addressee:

- a. When an addressee, entitled to delivery to the mailing address under Postal Service regulations, requests delivery of COD mail that was refused when first offered for delivery;
- b. For each delivery attempt, to an addressee entitled to delivery to the mailing address under Postal Service regulations, after the second such attempt.

944.6 Other Services.

944.61 The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fee:

Service	Fee schedule
a. Registered mail, if sent as First-Class	942
b. Restricted delivery	946
c. Special handling	952

944.7 Fees.

944.71 Fees for COD service are set forth in Fee Schedule 944.

945 Return Receipt

945.1 Definition.

945.11 Return receipt service is a service that provides evidence to the mailer that an article has been received at the delivery address.

945.2 Description of Service.

945.21 Return receipt service is available for mail sent under the following sections or classification schedules:

a. Certified mail	941
b. COD mail	944
c. Insurance (if insured for more than \$50)	943
d. Registered mail	942
e. Delivery Confirmation	948
f. Express Mail.	
g. Priority Mail (merchandise only).	
h. Standard Mail (limited to merchandise sent by Parcel Post, Bound Printed Matter, Special, and Library subclasses).	

945.22 Return receipt service is available at the time of mailing or, when purchased in conjunction with certified mail, COD, Insurance (if for more than \$50), registered mail, or Express Mail, after mailing.

945.23 Mailers requesting return receipt service at the time of mailing will be provided, as appropriate, the signature of the addressee or addressee's agent, the date delivered, and the address of delivery, if different from the address on the mailpiece.

945.24 Mailers requesting return receipt service after mailing will be provided the date of delivery and the name of the person who signed for the article.

945.25 If the mailer does not receive a return receipt within a specified period of time from the date of mailing, the mailer may request a duplicate return receipt. No fee is charged for a duplicate return receipt.

945.3 Fees.

945.31 The fees for return receipt service are set forth in Fee Schedule 945.

946 Restricted Delivery

946.1 Definition.

946.11 Restricted delivery service is a service that provides a means by which a mailer may direct that delivery will be made only to the addressee or to someone authorized by the addressee to receive such mail.

946.2 Description of Service.

946.21 This service is available for mail sent under the following sections:

a. Certified Mail	941
b. COD Mail	944
c. Insurance (if insured for more than \$50)	943
d. Registered Mail	942

946.22 Restricted delivery is available to the mailer at the time of mailing or after mailing.

946.23 Restricted delivery service is available only to natural persons specified by name.

946.24 A record of delivery will be retained by the Postal Service for a specified period of time.

946.25 Failure to provide restricted delivery service when requested after mailing, due to prior delivery, is not grounds for refund of the fee or communications charges.

946.3 Fees.

946.31 The fees for restricted delivery service are set forth in Fee Schedule 946.

947 Certificate of Mailing

947.1 Definition.

947.11 Certificate of mailing service is a service that furnishes evidence of mailing.

947.2 Description of Service.

947.21 Certificate of mailing service is available to mailers of matter sent under the classification schedule to any class of mail.

947.22 A receipt is not obtained upon delivery of the mail to the addressee. No record of mailing is maintained at the post office.

947.23 Additional copies of certificates of mailing may be obtained by the mailer.

947.3 Other Services.

947.31 The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

Service	Fee schedule
a. Parcel airlift	951
b. Special handling	952

947.4 Fees.

947.41 The fees for certificate of mailing service are set forth in Fee Schedule 947.

948 Delivery Confirmation

948.1 Definition.

948.11 Delivery confirmation service provides electronic confirmation to the mailer that an article was delivered or that a delivery attempt was made.

948.2 Description of Service.

948.21 Delivery confirmation service is available for Priority Mail and the Parcel Post, Bound Printed Matter, Special and Library subclasses of Standard Mail.

948.22 Delivery confirmation service may be requested only at the time of mailing.

948.23 Mail for which delivery confirmation service is requested must meet preparation requirements established by the Postal Service, and bear a barcode specified by the Postal Service.

948.24 Matter for which delivery confirmation service is requested must be deposited in a manner specified by the Postal Service.

948.3 Fees.

948.31 Delivery confirmation service is subject to the fees set forth in Fee Schedule 948.

950 Parcel Handling

951 Parcel Airlift (PAL)

951.1 Definition.

951.11 Parcel airlift service is a service that provides for air transportation of parcels on a space available basis to or from military post offices outside the contiguous 48 states.

951.2 Description of Service.

951.21 Parcel airlift service is available for mail sent under the Standard Mail Classification Schedule.

951.3 Physical Limitations.

951.31 The minimum physical limitations established for the mail sent under the classification schedule for which postage is paid apply to parcel airlift mail. In no instance may the parcel exceed 30 pounds in weight, or 60 inches in length and girth combined.

951.4 Requirements of the Mailer.

951.41 Mail sent under this section must be endorsed as specified by the Postal Service.

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951.5 Deposit of Mail.
 951.51 PAL mail must be deposited in a manner specified by the Postal Service.
 951.6 Forwarding and Return.
 951.61 PAL mail sent for delivery outside the contiguous 48 states is forwarded as set forth in section 2030 of the General Definitions, Terms and Conditions. PAL mail sent for delivery within the contiguous 48 states is forwarded or returned as set forth in section 353 as appropriate.
 951.7 Other Services.
 951.71 The following services, if applicable to the subclass of mail, may be obtained in conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee Schedule
a. Certificate of mailing	947
b. Insurance	943
c. Restricted delivery (if insured for more than \$50)	946
d. Return receipt (if insured for more than \$50) ...	945
e. Special handling	952

951.8 Fees.
 951.81 The fees for parcel airlift service are set forth in Fee Schedule 951.

952 Special Handling

952.1 Definition.
 952.11 Special handling service is a service that provides preferential handling to the extent practicable during dispatch and transportation.
 952.2 Description of Service.
 952.21 Special handling service is available for mail sent under the following classification schedules:
 a. First-Class Mail;
 b. Parcel Post; Bound Printed Matter; Special, and Library subclasses of Standard Mail.
 952.22 Special handling service is mandatory for matter that requires special attention in handling, transportation and delivery.
 952.3 Requirements of the Mailer.
 952.31 Mail sent under this section must be identified as specified by the Postal Service.
 952.4 Deposit of Mail.
 952.41 Mail sent under this section must be deposited in a manner specified by the Postal Service.
 952.5 Forwarding and Return.
 952.51 If undeliverable as addressed, special handling mail that is forwarded to the addressee is given special handling without requiring payment of an additional handling fee. However, additional postage at the applicable Standard Mail rate is collected on delivery.
 952.6 Other Services.
 952.61 The following services, if applicable to the subclass of mail, may be obtained in

conjunction with mail sent under this section upon payment of the applicable fees:

Service	Fee schedule
a. COD mail	944
b. Insurance	943
c. Parcel airlift	951
d. Merchandise return (shippers only)	932

952.7 Fees.
 952.71 The fees for special handling service are set forth in Fee Schedule 952.

960 Stamped Paper

961 Stamped Envelopes

961.1 Definition.
 961.11 Plain stamped envelopes and printed stamped envelopes are envelopes with postage thereon offered for sale by the Postal Service.
 961.2 Description of Service.
 961.21 Stamped envelopes are available for:
 a. First-Class Mail within the first rate increment.
 b. Standard Mail mailed at a minimum per piece rate as specified by the Postal Service.
 961.22 Printed stamped envelopes may be obtained by special request.
 961.3 Fees.
 961.31 The fees for stamped envelopes are set forth in Fee Schedule 961.

962 Stamped Cards

962.1 Definition.
 962.11 Stamped Cards. Stamped Cards are cards with postage imprinted or impressed on them and supplied by the Postal Service for the transmission of messages.
 962.12 Double Stamped Cards. Double Stamped Cards consist of two attached cards, one of which may be detached by the receiver and returned by mail as a single Stamped Card.
 962.2 Description of Service. Stamped Cards are available for First-Class Mail.
 962.3 Fees. The fees for Stamped Cards are set forth in Fee Schedule 962.

970 Postal Money Orders

971 Domestic Postal Money Orders

971.1 Definition.
 971.11 Money order service is a service that provides the customer with an instrument for payment of a specified sum of money.
 971.2 Description of Service.
 971.21 The maximum value for which a domestic postal money order may be purchased is \$700. Other restrictions on the number or dollar value of postal money order sales, or both, may be imposed by law or under regulations prescribed by the Postal Service.

971.22 A receipt of purchase is provided at no additional cost.

971.23 The Postal Service will replace money orders that are spoiled or incorrectly prepared, regardless of who caused the error, without charge if replaced on the date originally issued.

971.24 If a replacement money order is issued after the date of original issue because the original was spoiled or incorrectly prepared, the applicable money order fee may be collected from the customer.

971.25 Inquiries or claims may be filed by the purchaser, payee, or endorsee.

971.3 Fees.

971.31 The fees for domestic postal money orders are set forth in Fee Schedule 971.

GENERAL DEFINITIONS, TERMS AND CONDITIONS

1000 GENERAL DEFINITIONS

As used in this Domestic Mail Classification Schedule, the following terms have the meanings set forth below.

1001 ADVERTISING

Advertising includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. If an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be advertising. Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be advertising. If a publisher advertises his own services or publications, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be advertising.

1002 ASPECT RATIO

Aspect ratio is the ratio of width to length.

1003 BILLS AND STATEMENTS OF ACCOUNT

1003.1 A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.

1003.2 A statement of account is the assertion of the existence of a debt in a definite amount but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

1003.3 A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount required for acquittal of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

1003.4 A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

1004 GIRTH

Girth is the measurement around a piece of mail at its thickest part.

1005 INVOICE

An invoice is a writing showing the nature, quantity, and cost or price of items shipped or sent to a purchaser or consignor.

1006 PERMIT IMPRINTS

Permit imprints are printed indicia indicating postage has been paid by the sender under the permit number shown.

1007 PREFERRED RATES

Preferred rates are the reduced rates established pursuant to 39 U.S.C. 3626.

1008 ZIP CODE

The ZIP Code is a numeric code that facilitates the sortation, routing, and delivery of mail.

1009 NONPROFIT ORGANIZATIONS AND ASSOCIATIONS

Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations that may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;

ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

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iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;

ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations that are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agriculture pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The

term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization that meets all the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

2000 DELIVERY OF MAIL

2010 DELIVERY SERVICES

The Postal Service provides the following modes of delivery:

a. Caller service. The fees for caller service are set forth in Fee Schedule 921.

b. Carrier delivery service.

c. General delivery.

d. Post office box service. The fees for post office box service are set forth in Fee Schedule 921.

2020 CONDITIONS OF DELIVERY

2021 General. Except as provided in section 2022, mail will be delivered as addressed unless the Postal Service is instructed otherwise by the addressee in writing.

2022 Refusal of Delivery. The addressee may control delivery of his mail. The addressee may refuse to accept a piece of mail that does not require a delivery receipt at the time it is offered for delivery or after delivery by returning it unopened to the Postal Service. For mail that requires a delivery receipt, the addressee or his representative may read and copy the name of the sender of registered, insured, certified, COD, return receipt, and Express Mail prior to accepting delivery. Upon signing the delivery receipt the piece may not be returned to the Postal Service without the applicable postage and fees affixed.

2023 Receipt. If a signed receipt is required, mail will be delivered to the addressee (or competent member of his family),

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to persons who customarily receive his mail or to one authorized in writing to receive the addressee's mail.

2024 Jointly Addressed Mail. Mail addressed to several persons may be delivered to any one of them. When two or more persons make conflicting orders for delivery for the same mail, the mail shall be delivered as determined by the Postal Service.

2025 Commercial Mail Receiving Agents. Mail may be delivered to a commercial mail receiving agency on behalf of another person. In consideration of delivery of mail to the commercial agent, the addressee and the agent are considered to agree that:

a. No change-of-address order will be filed with the post office when the agency relationship is terminated;

b. When remailed by the commercial agency, the mail is subject to payment of new postage.

2026 Mail Addressed to Organizations. Mail addressed to governmental units, private organizations, corporations, unincorporated firms or partnerships, persons at institutions (including but not limited to hospitals and prisons), or persons in the military is delivered as addressed or to an authorized agent.

2027 Held Mail. Mail will be held for a specified period of time at the office of delivery upon request of the addressee, unless the mail:

- a. Has contrary retention instructions;
- b. Is perishable; or
- c. Is registered, COD, insured, return receipt, certified, or Express Mail for which the normal retention period expires before the end of the specified holding period.

2030 FORWARDING AND RETURN

2031 Forwarding. Forwarding is the transfer of undeliverable-as-addressed mail to an address other than the one originally placed on the mailpiece. All post offices will honor change-of-address orders for a period of time specified by the Postal Service.

2032 Return. Return is the delivery of undeliverable-as-addressed mail to the sender.

2033 Applicable provisions. The provisions of sections 150, 250, 350 and 450, 935 and 936 apply to forwarding and return.

2034 Forwarding for Postal Service Adjustments. When mail is forwarded due to Postal Service adjustments (such as, but not limited to, the discontinuance of the post office of original address, establishment of rural carrier service, conversion to city delivery service from rural, readjustment of delivery districts, or renumbering of houses and renaming of streets), it is forwarded without charge for a period of time specified by the Postal Service.

3000 POSTAGE AND PREPARATION

3010 PACKAGING

Mail must be packaged so that:

a. The contents will be protected against deterioration or degradation;

b. The contents will not be likely to damage other mail, Postal Service employees or property, or to become loose in transit;

c. The package surface must be able to retain postage indicia and address markings;

d. It is marked by the mailer with a material that is neither readily water soluble nor easily rubbed off or smeared, and the marking will be sharp and clear.

3020 ENVELOPES

Paper used in the preparation of envelopes may not be of a brilliant color. Envelopes must be prepared with paper strong enough to withstand normal handling.

3030 PAYMENT OF POSTAGE AND FEES

Postage must be fully prepaid on all mail at the time of mailing, except as authorized by law or this Schedule. Except as authorized by law or this Schedule, mail deposited without prepayment of sufficient postage shall be delivered to the addressee subject to payment of deficient postage, returned to the sender, or otherwise disposed of as specified by the Postal Service. Mail deposited without any postage affixed will be returned to the sender without any attempt at delivery.

3040 METHODS FOR PAYING POSTAGE AND FEES

Postage for all mail may be prepaid with postage meter indicia, adhesive stamps, or permit imprint, unless otherwise limited or specified by the Postal Service. The following methods of paying postage and fees require prior authorization from the Postal Service:

- a. Permit imprint,
- b. Postage meter,
- c. Precanceled stamps, precanceled envelopes, and mailer's precanceled postmarks.

3050 AUTHORIZATION FEES

Fees for authorization to use a permit imprint are set forth in Fee Schedule 1000. No fee is charged for authorization to use a postage meter. Fees for setting postage meters are set forth in Fee Schedule 933. No fee is charged for authorization to use precanceled stamps, precanceled envelopes or mailer's precanceled postmark.

3060 SPECIAL SERVICE FEES

Fees for special services may be prepaid in any manner appropriate for the class of mail indicated or as otherwise specified by the Postal Service.

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3070 MARKING OF UNPAID MAIL

Matter authorized for mailing without prepayment of postage must bear markings identifying the class of mail service. Matter so marked will be billed at the applicable rate of postage set forth in this Schedule. Matter not so marked will be billed at the applicable First-Class rate of postage.

3080 REFUND OF POSTAGE

When postage and special service fees have been paid on mail for which no service is rendered for the postage or fees paid, or collected in excess of the lawful rate, a refund may be made. There shall be no refund for registered, COD, general insurance, and Express Mail Insurance fees when the article is withdrawn by the mailer after acceptance. In cases involving returned articles improperly accepted because of excess size or weight, a refund may be made.

3090 CALCULATION OF POSTAGE

When a rate schedule contains per piece and per pound rates, the postage shall be the sum of the charges produced by those rates. When a rate schedule contains a minimum per piece rate and a pound rate, the postage shall be the greater of the two. When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

4000 POSTAL ZONES

4010 GEOGRAPHIC UNITS OF AREA

In the determination of postal zones, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones.

4020 MEASUREMENT OF ZONE DISTANCES

The distance upon which zones are based shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP coded post offices, but this shall not cause two post offices to be regarded as within the same local zone.

4030 DEFINITION OF ZONES

4031 Local Zone. The local zone applies to mail mailed at any post office for delivery at that office; at any city letter carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural

route for delivery at the office from which the route starts or on any rural route starting from that office.

4032 First Zone. The first zone includes all territory within the quadrangle of entry in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately 50 miles from the center of a given unit of area. The first zone also applies to mail between two post offices in the same sectional center.

4033 Second Zone. The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately 150 miles from the center of a given unit of area.

4034 Third Zone. The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately 300 miles from the center of a given unit of area.

4035 Fourth Zone. The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius of approximately 600 miles from the center of a given unit of area.

4036 Fifth Zone. The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately 1,000 miles from the center of a given unit of area.

4037 Sixth Zone. The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately 1,400 miles from the center of a given unit of area.

4038 Seventh Zone. The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately 1,800 miles from the center of a given unit of area.

4039 Eighth Zone. The eighth zone includes all units of area outside the seventh zone.

4040 ZONED RATES

Except as provided in section 4050, rates according to zone apply for zone-rated mail sent between Postal Service facilities including armed forces post offices, wherever located.

4050 APO/FPO MAIL

4051 General. Except as provided in section 4052, the rates of postage for zone-rated mail transported between the United States, or the possessions or territories of the United States, on the one hand, and Army, Air Force and Fleet Post Offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet Post Office concerned.

4052 Transit Mail. The rates of postage for zone-rated mail that is mailed at or addressed to an Armed Forces post office and is transported directly to or from Armed Forces post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate; provided, however, that if the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word "transiting" does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

5000 PRIVACY OF MAIL

5010 FIRST-CLASS AND EXPRESS MAIL

Matter mailed as First-Class Mail or Express Mail shall be treated as mail which is sealed against postal inspection and shall not be opened except as authorized by law.

5020 ALL OTHER MAIL

Matter not paid at First-Class Mail or Express Mail rates must be wrapped or secured in the manner specified by the Postal Service so that the contents may be examined. Mailing of sealed items as other than First-Class Mail or Express Mail is considered consent by the sender to the postal inspection of the contents.

6000 MAILABLE MATTER

6010 GENERAL

Mailable matter is any matter which:

- a. Is not mailed in contravention of 39 U.S.C. Chapter 30, or of 17 U.S.C. 109;
- b. While in the custody of the Postal Service is not likely to become damaged itself, to

damage other pieces of mail, to cause injury to Postal Service employees or to damage Postal Service property; and

- c. Is not mailed contrary to any special conditions or limitations placed on transportation or movement of certain articles, when imposed under law by the U.S. Department of the Treasury; U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Health and Human Services; U.S. Department of Transportation; and any other Federal department or agency having legal jurisdiction.

6020 MINIMUM SIZE STANDARDS

The following minimum size standards apply to all mailable matter:

- a. All items must be at least 0.007 inches thick, and
- b. all items, other than keys and identification devices, which are 0.25 inch thick or less must be
 - i. rectangular in shape,
 - ii. at least 3.5 inches in width, and
 - iii. at least 5 inches in length.

6030 MAXIMUM SIZE AND WEIGHT STANDARDS

Where applicable, the maximum size and weight standards for each class or subclass of mail are set forth in sections 130, 230, 322.16, 330 and 430. Additional limitations may be applicable to specific subclasses, and rate and discount categories as provided in the eligibility provisions for each subclass or category.

RATE SCHEDULES

Calculation of Postage

When a rate schedule contains per-piece and per pound rates, the postage shall be the sum of the charges produced by those rates.

When a rate schedule contains a minimum-per-piece rate and a pound rate, the postage shall be the greater of the two.

When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

EXPRESS MAIL SCHEDULES 121, 122 AND 123

[Dollars]

Weight not exceeding (Pounds)	Schedule 121 same day airport service	Schedule 122 custom designed	Schedule 123 next day and second day PO to PO	Schedule 123 next day and second day PO to addressee
1/2				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				

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EXPRESS MAIL SCHEDULES 121, 122 AND 123—Continued
[Dollars]

Weight not exceeding (Pounds)	Schedule 121 same day airport serv- ice	Schedule 122 custom designed	Schedule 123 next day and second day PO to PO	Schedule 123 next day and second day PO to addressee
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
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67				
68				
69				
70				

¹The applicable 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service
²Add \$ _____ for each pickup stop.
³Add \$ _____ for each Custom Designed delivery stop.

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FIRST-CLASS MAIL RATE SCHEDULE 221—
LETTERS AND SEALED PARCELS

	Rate (cents)
Regular	
Single Piece: First Ounce Presort ¹ Qualified Business Reply Mail Additional Ounce ² Nonstandard Surcharge Single Piece Presort	
Automation—Presort¹	
Letters ³ Basic Presort ⁴ 3-Digit Presort ⁵ 5-Digit Presort ⁶ Carrier Route Presort ⁷	
Flats ⁸ Basic Presort ⁹ 3/5-Digit Presort ¹⁰ Additional Ounce ² Nonstandard Surcharge	

¹ A mailing fee of \$ _____ must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate. For presorted mailings weighing more than 2 ounces, subtract \$ _____ cents per piece.

² Rate applies through 13 ounces. Heavier pieces are subject to Priority Mail rates.

³ Rates apply to bulk-entered mailings of at least 500 letter-size pieces, which must be delivery point barcoded and meet other preparation requirements specified by the Postal Service.

⁴ Rate applies to letter-size Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

⁵ Rate applies to letter-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by Postal Service.

⁶ Rate applies to letter-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.

⁷ Rate applies to letter-size Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

⁸ Rates apply to bulk-entered mailings of at least 500 flat-size pieces, each of which must be delivery-point barcoded or bear a ZIP+4 barcode, and must meet other preparation requirements specified by the Postal Service.

⁹ Rate applies to flat-size Automation-Presort category mail not mailed at the 3/5-Digit rate.

¹⁰ Rate applies to flat-size Automation-Presort category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

FIRST-CLASS MAIL RATE SCHEDULE 222—
CARDS

	Rate (cents)
Regular	
Single Piece Presort ¹ Qualified Business Reply Mail	
Automatic-Presort^{1,2}	
Basic Presort ³ 3-Digit Presort ⁴ 5-Digit Presort ⁵ Carrier Route Presort ⁶	

¹ A mailing fee of \$ _____ must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.

² Rates apply to bulk-entered mailings of at least 500 pieces, which must be barcoded and meet other preparation requirements specified by the Postal Service.

³ Rate applies to Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

⁴ Rate applies to Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

⁵ Rate applies to Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

⁶ Rate applies to Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

FIRST-CLASS MAIL SCHEDULE 223—PRIORITY MAIL SUBCLASS

[Dollars]

Weight not exceeding (pounds)	L, 1, 2, 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
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21						
22						
23						
24						
25						

Postal Rate Commission

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FIRST-CLASS MAIL SCHEDULE 223—PRIORITY MAIL SUBCLASS—Continued

[Dollars]

Weight not exceeding (pounds)	L, 1, 2, 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36						
37						
38						
39						
40						
41						
42						
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57						
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59						
60						
61						
62						
63						
64						
65						
66						
67						
68						
69						
70						

¹ The 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.

² Add \$ _____ for each pickup stop.

³ Exception: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

STANDARD MAIL RATE SCHEDULE 321.2A—
REGULAR SUBCLASS PRESORT CATEGORY ¹

	Rate (cents)
Letter Size	
Piece Rate	
Basic	
3/5-Digit	
Destination Entry Discount per Piece	
BMC	
SCF	
Non-Letter Size ²	
Piece Rate	
Minimum per Piece ³	
Basic	
3/5 Digit	

STANDARD MAIL RATE SCHEDULE 321.2A—
REGULAR SUBCLASS PRESORT CATEGORY ¹—
Continued

	Rate (cents)
Destination Entry Discount per Piece	
BMC	
SCF	
Pound Rate ³	
Plus per Piece Rate	
Basic	
3/5-Digit	
Destination Entry Discount per Pound	
BMC	

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**STANDARD MAIL RATE SCHEDULE 321.2A—
REGULAR SUBCLASS PRESORT CATEGORY¹—
Continued**

	Rate (cents)
SCF	

¹A fee \$ _____ must be paid each 12-month period for each bulk mailing permit.
²Residual shape pieces are subject to a surcharge of \$ _____ per piece.
³Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

**STANDARD MAIL RATE SCHEDULE 321.2B—
REGULAR SUBCLASS AUTOMATION CATEGORY¹**

	Rate (cents)
Letter Size²	
Piece Rate	
Basic Letter ³	
3-Digit Letter ⁴	
5-Digit Letter ⁵	
Destination Entry Discount per Piece	
BMC	
SCF	
Flat Size⁶	
Piece Rate	
Minimum per Piece ⁷	
Basic Flat ⁸	
3/5-Digit Flat ⁹	
Destination Entry Discount per Piece	
BMC	
SCF	
Pound Rate ⁷	
Plus per piece Rate	
Basic Flat ⁸	
3/5-Digit Flat ⁹	
Destination Entry Discount per Pound	
BMC	
SCF	

¹A fee of \$ _____ must be paid once each 12-month period for each bulk mailing permit.
²For letter-size automation pieces meeting applicable Postal Service regulations.
³Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.
⁴Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.
⁵Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.
⁶For flat-size automation mail meeting applicable Postal Service regulations.
⁷Mailer pays either the minimum piece rate or the pound rate, whichever is higher.
⁸Rate applies to flat-size automation mail not mailed at 3/5-digit rate.
⁹Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

**STANDARD MAIL RATE SCHEDULE 321.3—
ENHANCED CARRIER ROUTE SUBCLASS¹**

	Rate (cents)
Letter Size	
Piece Rate	
Basic	
Basic Automated Letter ²	

**STANDARD MAIL RATE SCHEDULE 321.3—EN-
HANCED CARRIER ROUTE SUBCLASS¹—Con-
tinued**

	Rate (cents)
High Density Saturation	
Destination Entry Discount per Piece	
BMC	
SCF	
DDU	
Non-Letter Size³	
Piece Rate	
Minimum per Piece ⁴	
Basic	
High Density	
Saturation	
Destination Entry Discount per Piece	
BMC	
SCF	
DDU	
Pound Rate ⁴	
Plus per Piece Rate	
Basic	
High Density	
Saturation	
Destination Entry Discount per Pound	
BMC	
SCF	
DDU	

¹A fee of \$ _____ must be paid each 12-month period for each bulk mailing permit.
²Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
³Residual shape pieces are subject to a surcharge of \$ _____ per piece.
⁴Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

**STANDARD MAIL RATE SCHEDULE 321.4A—
NONPROFIT SUBCLASS PRESORT CATEGORIES¹
[Full rates]**

	Rates (cents)
Letter Size	
Piece Rate	
Basic	
3/5-Digit	
Destination Entry Discount per Piece	
BMC	
SCF	
Non-Letter Size²	
Piece Rate	
Minimum per Piece ³	
Basic	
3/5-Digit	
Destination Entry Discount per Piece	
BMC	
SCF	
Pound Rate ³	
Plus per Piece Rate	
Basic	
3/5-Digit	
Destination Entry Discount per Pound	
BMC	
SCF	

¹A fee of \$ _____ must be paid once each 12-month period for each bulk mailing permit.
²Residual shape pieces are subject to a surcharge off \$ _____ per piece.

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³ Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321.5—NON-PROFIT ENHANCED CARRIER ROUTE SUBCLASS¹

STANDARD MAIL RATE SCHEDULE 321.4B—NONPROFIT SUBCLASS AUTOMATION CATEGORIES¹

[Full rates]

[Full rates]	Rates (cents)
Letter Size²	
Piece Rate	
Basic Letter ³	
3-Digit Letter ⁴	
5-Digit Letter ⁵	
Destination Entry Discount per Piece	
BMC	
SCF	
Flat Size⁶	
Piece Rate	
Minimum per Piece ⁷	
Basic Flat ⁸	
3/5-Digit Flat ⁹	
Destination Entry Discount per Piece	
BMC	
SCF	
Pound Rate ⁷	
Plus per Piece Rate	
Basic Flat ⁸	
3/5-Digit Flat ⁹	
Destination Entry Discount per Pound	
BMC	
SCF	

[Full rates]	Rates (cents)
Letter Size	
Piece Rate	
Basic	
Basic Automated Letter ²	
High Density	
Saturation	
Destination Entry Discount per Piece	
BMC	
SCF	
DDU	
Non-Letter Size³	
Piece Rate	
Minimum per Piece ⁴	
Basic	
High Density	
Saturation	
Destination Entry Discount per Piece	
BMC	
SCF	
DDU	
Pound Rate ⁴	
Plus per Piece Rate	
Basic	
High Density	
Saturation	
Destination Entry Discount per Pound	
BMC	
SCF	
DDU	

¹ A fee of \$ _____ must be paid once each 12-month period for each bulk mailing permit.

² For letter-size automation pieces meeting applicable Postal Service regulations.

³ Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

⁴ Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.

⁵ Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.

⁶ For flat-size automation mail meeting applicable Postal Service regulations.

⁷ Mail pays either the minimum piece rate or the pound rate, whichever is higher.

⁸ Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

⁹ Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

¹ A fee of \$ _____ must be paid once each 12-month period for each bulk mailing permit.

² Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.

³ Residual shape pieces are subject to a surcharge off \$ _____ per piece.

⁴ Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 322.1A *—PARCEL POST SUBCLASS INTER-BMC RATES

[Dollars]

Weight not exceeding (pounds)	Zone 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							

STANDARD MAIL RATE SCHEDULE 322.1A*—PARCEL POST SUBCLASS INTER-BMC RATES—
Continued
[Dollars]

Weight not exceeding (pounds)	Zone 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
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63							
64							
65							
66							
67							
68							
69							
70							
Oversize parcels ⁶							

*NOTES:
¹ For nonmachinable Inter-BMC parcels, add: \$ _____ per piece.
² For each pickup stop, add: \$ _____
³ For Origin Bulk Mail Center Discount, deduct \$ _____ per piece.
⁴ For BMC Presort, deduct \$ _____ per piece.
⁵ For Barcoded Discount, deduct \$ _____ per piece.
⁶ See DMCS section 322.161 for oversize Parcel Post.
⁷ Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

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STANDARD MAIL RATE SCHEDULE 322.1B*—PARCEL POST SUBCLASS INTRA-BMC RATES
[Dollars]

Weight not exceeding (pounds)	Local	Zone 1 & 2	Zone 3	Zone 4	Zone 5
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
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61					
62					
63					
64					
65					
66					
67					
68					
69					
70					
Oversize parcels ³					

* NOTES:

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- ¹ For each pickup stop, add \$ _____.
- ² For Barcoded Discount, deduct \$ _____.
- ³ See DMCS section 322.161 for oversize Parcel Post.
- ⁴ Parcel Post pieces exceeding 94 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

STANDARD MAIL RATE SCHEDULE 322.1C*—PARCEL POST SUBCLASS DESTINATION BMC RATES
 [Dollars]

Weight not exceeding (pounds)	Zone 1 & 2	Zone 3	Zone 4	Zone 5
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
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65				
66				

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STANDARD MAIL RATE SCHEDULE 322.1C*—PARCEL POST SUBCLASS DESTINATION BMC RATES—
Continued
[Dollars]

Weight not exceeding (pounds)	Zone 1 & 2	Zone 3	Zone 4	Zone 5
67				
68				
69				
70				
Oversize parcels ²				

* NOTES:
¹ For Barcoded Discount, deduct \$ _____.
² See DMCS section 322.161 for oversize Parcel Post.
³ Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
⁴ A fee of _____ must be paid each for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.ID*—
PARCEL POST SUBCLASS DESTINATION SCF
RATES

[Dollars]

Weight (pounds)	Weight (pounds)
2	36
3	37
4	38
5	39
6	40
7	41
8	42
9	43
10	44
11	45
12	46
13	47
14	48
15	49
16	50
17	51
18	52
19	53
20	54
21	55
22	56
23	57
24	58
25	59
26	60
27	61
28	62
29	63
30	64
31	65
32	66
33	67
34	68
35	69
	70
	Oversize parcels ¹

* NOTES:
¹ See DMCS section 322.161 for oversize Parcel Post.
² Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15-pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
³ A fee of \$ _____ must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.1E*—
PARCEL POST SUBCLASS DESTINATION DELIV-
ERY UNIT RATES

[Dollars]

Weight (pounds)	Weight (pounds)
2	36
3	37
4	38
5	39
6	40
7	41
8	42
9	43
10	44
11	45
12	46
13	47
14	48
15	49
16	50
17	51
18	52
19	53
20	54
21	55
22	56
23	57
24	58
25	59
26	60
27	61
28	62
29	63
30	64
31	65
32	66
33	67
34	68
35	69
	70
	Oversize parcels ¹

* NOTES:
¹ See DMCS section 322.161 for oversize Parcel Post.
² Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15-pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.
³ A fee of \$ _____ must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.3A*—BOUND PRINTED MATTER SUBCLASS SINGLE PIECE RATES ¹
[Dollars]

Weight not exceeding (pounds)	Local	Zones						
		1 & 2	3	4	5	6	7	8
1.5								
2								
2.5								
3								
3.5								
4								
4.5								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
Per Piece Rate								
Per Pound Rate								

*NOTES:
¹Includes both catalogs and similar bound printed matter.
²For barcoded discount, deduct \$ _____ per piece.

STANDARD MAIL RATE SCHEDULE 322.3B—BOUND PRINTED MATTER SUBCLASS BULK AND CARRIER ROUTE PRESORT RATES ¹
[Dollars]

Zone	Per piece ³	Carrier route ²	Per pound
Local			
1&2			
3			
4			
5			
6			
7			
8			

¹ Includes both catalogs and similar bound printed matter.
² Applies to mailings of at least 300 pieces presorted to carrier route as specified by the Postal Service.
³ For Barcoded Discount, deduct \$ _____ per piece.

STANDARD MAIL RATE SCHEDULES 323.1 AND 323.2 SPECIAL AND LIBRARY RATE SUBCLASSES

	Rates (cents)
Schedule 323.1: Special	
First Pound.	
Not presorted ⁴ .	
LEVEL A Presort (5-digits) ^{1,2} .	
LEVEL B Presort (BMC) ^{1,3,4} .	
Each additional pound through 7 pounds.	
Each additional pound over 7 pounds.	
Schedule 323.2: Library	
First Pound.	

STANDARD MAIL RATE SCHEDULES 323.1 AND 323.2 SPECIAL AND LIBRARY RATE SUBCLASSES—Continued

	Rates (cents)
Not presorted ⁴ .	
LEVEL A Presort (5-digits) ^{1,2} .	
LEVEL B Presort (BMC) ^{1,3,4} .	
Each additional pound through 7 pounds.	
Each additional pound over 7 pounds.	

¹ A fee of \$ _____ must be paid once 12-month period for each permit.
² For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
³ For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.
⁴ For Barcoded Discount, deduct \$ _____ per-piece.

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PERIODICALS RATE SCHEDULE 421—REGULAR SUBCLASS 1,2

	Postage rate unit	Rates (cents)
Per Pound:		
Nonadvertising Portion	Pound.	
Advertising Portion:		
Delivery Office ⁴	Pound.	
SCF ⁵	Pound.	
1&	Pound.	
3	Pound.	
4	Pound.	
5	Pound.	
6	Pound.	
7	Pound.	
8	Pound.	
Science of Agriculture:		
Delivery Office	Pound.	
SCF	Pound.	
Zones 1&2	Pound.	
Per Piece:		
Less Nonadvertising Factor ⁶ .		
Required Preparation ⁷	Piece.	
Presorted to 3-digit	Piece.	
Presorted to 5-digit	Piece.	
Presorted to Carrier Route	Piece.	
Discounts:		
Prepared to Delivery Office ⁴	Piece.	
Prepared to SCF ⁵	Piece.	
High Density ⁸	Piece.	
Saturation ⁹	Piece.	
Automation Discounts for Automation Compatible Mail¹⁰		
From Required:		
Prebarcoded letter size	Piece.	
Prebarcoded flats	Piece.	
From 3-Digit:		
Prebarcoded letter size	Piece.	
Prebarcoded flats	Piece.	
From 5-Digit:		
Prebarcoded letter size	Piece.	
Prebarcoded flats	Piece.	

¹ The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, non-profit, and classroom periodicals.

² Rated do not apply to otherwise regular rate mail that qualifies for the Within County rates in Schedule 423.2.

³ Changes are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

⁴ Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

⁵ Applies to Mail delivered with the SCF area of the originating SCF office.

⁶ For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

⁷ Mail not eligible for carrier-route, 5-digit or 3-digit rates.

⁸ Applicable to high density mail, deducted from carrier route presort rate.

⁹ Applicable to saturation mail, deducted from carrier route presort rate.

¹⁰ For automation compatible mail meeting applicable Postal Service regulations.

PERIODICALS RATE SCHEDULE 423.2—WITHIN COUNTY
[Full rates]

PERIODICALS RATE SCHEDULE 423.2—WITHIN COUNTY—Continued
[Full rates]

	Rate (cents)		Rate (cents)
Per Pound		High Density (formerly 125 piece) ³	
General		Saturation	
Delivery Office ¹		Automation Discounts for Automation Compatible Mail ⁴	
Per Piece		From Required:	
Required Presort		Prebarcoded Letter size	
Presorted to 3-digit		Prebarcoded Flat size	
Presorted to 5-digit		From 3-digit:	
Carrier Route Presort		Prebarcoded Letter size	
Per Piece Discount		Prebarcoded Flat size	
Delivery Office ²		From 5-digit:	
		Prebarcoded Letter size	

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PERIODICALS RATE SCHEDULE 423.2—WITHIN COUNTY—Continued
[Full rates]

	Rate (cents)
Prebarcoded Flat size	

²Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.

³Applicable to high density mail, deducted from carrier route presort rate. Mailers also may qualify for this discount on an alternative basis as provided in DMCS section 423.83.

⁴For automation compatible pieces meeting applicable Postal Service regulations.

¹Applicable only to carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.

PERIODICALS RATE SCHEDULE 423.3—PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS ¹⁰
[Full rates]

	Postage rate unit	Rate ¹ (cents)
Per Pound:		
Nonadvertising portion	Pound.	
Advertising portion: ⁹		
Delivery Office ²	Pound.	
SCF ³	Pound.	
1&2	Pound.	
3	Pound.	
4	Pound.	
5	Pound.	
6	Pound.	
7	Pound.	
8	Pound.	
Per Piece:		
Less Nonadvertising Factor ⁴ .		
Required Preparation ⁵	Piece.	
Presorted to 3-digit	Piece.	
Presorted to 5-digit	Piece.	
Presorted to Carrier Route	Piece.	
Discounts:		
Prepared to Delivery Office ²	Piece.	
Prepared to SCF ³	Piece.	
High Density (formerly 125-Piece) ⁶	Piece.	
Saturation ⁷	Piece.	
Automation Discounts for Automation Compatible Mail ⁸		
From Required:		
Prebarcoded letter size	Piece.	
Prebarcoded flats	Piece.	
From 3-Digit:		
Prebarcoded letter size	Piece.	
Prebarcoded flats	Piece.	
From 5-Digit:		
Prebarcoded letter size	Piece.	
Prebarcoded flats	Piece.	

¹Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

²Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

³Applies to mail delivered within the SCF area of the originating SCF office.

⁴For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

⁵Mail not eligible for carrier route, 5-digit or 3-digit rates.

⁶Applicable to high density mail, deducted from carrier route presort rate.

⁷Applicable to saturation mail, deducted from carrier route presort rate.

⁸For automation compatible mail meeting applicable Postal Service regulations.

⁹Not applicable to publications containing 10 percent or less advertising content.

¹⁰If qualified, nonprofit publications may use Within County rates for applicable portions of a mailing.

PERIODICALS RATE SCHEDULE 423.4—CLASSROOM PUBLICATIONS ¹⁰
[Full rates]

	Postage rate unit	Rate ¹ (cents)
Per Pound:		
Nonadvertising Portion	Pound.	
Advertising Portion: ⁹		
Delivery Office ²	Pound.	
SCF ³	Pound.	

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PERIODICALS RATE SCHEDULE 423.4—CLASSROOM PUBLICATIONS ¹⁰—Continued

[Full rates]

	Postage rate unit	Rate ¹ (cents)
1&2	Pound.	
3	Pound.	
4	Pound.	
5	Pound.	
6	Pound.	
7	Pound.	
8	Pound.	
Per Piece:		
Less Nonadvertising Factor: ⁴		
Required Preparation ⁵	Piece.	
Presorted to 3-digit	Piece.	
Presorted to 5-digit	Piece.	
Presorted to Carrier Route	Piece.	
Discounts:		
Prepared to Delivery Office ²	Piece.	
Prepared to SCF	Piece.	
High Density (formerly 125-Piece) ⁶	Piece.	
Saturation ⁷	Piece.	
Automation Discounts for Automation Compatible Mail ⁸		
From Required:		
Prebarcoded Letter size	Piece.	
Prebarcoded Flats	Piece.	
From 3-Digit:		
Prebarcoded Letter size	Piece.	
Prebarcoded Flats	Piece.	
From 5-Digit:		
Prebarcoded Letter Size	Piece.	
Prebarcoded Flats	Piece.	

¹ Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

² Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.

³ Applies to mail delivered within the SCF area of the originating SCF office.

⁴ For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

⁵ Mail not eligible for carrier route, 5-digit, or 3-digit rates.

⁶ For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.

⁷ Applicable to saturation mail; deducted from carrier route presort rate.

⁸ For automation compatible mail meeting applicable Postal Service regulations.

⁹ Not applicable to publications containing 10 percent or less of advertising content.

¹⁰ If qualified, classroom publication may use Within County rates for applicable portions of a mailing.

FEE SCHEDULE 911—ADDRESS CORRECTIONS

Description	Fee
Per manual correction	
Per automated correction	

FEE SCHEDULE 912

	Fee
Zip Coding of Mailing Lists: Per thousand addresses	
Correction of Mailing Lists: Per submitted address	

FEE SCHEDULE 912—Continued

	Fee
Minimum charge per list corrected	
Address Changes for Election Boards and Registration Commissions: Per change of address	
Corrections Associated With Arrangement of Address Cards in Carrier Delivery Sequence: Per Correction	

NOTE: When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

FEE SCHEDULE 921—POST OFFICE BOXES AND CALLER SERVICE

	Fee Group				
	A	B	C	D	E
I. Semi-annual Box Fees ¹ :					
Box Size ² :					
1					
2					
3					
4					

FEE SCHEDULE 921—POST OFFICE BOXES AND CALLER SERVICE—Continued

	Fee Group				
	A	B	C	D	E
5 II. Semi-annual Caller Service Fees: Fee Group: A B C D III. Annual Call Number Reservation Fee: (All applicable Fee Groups)					

¹ A customer ineligible for carrier delivery may obtain a post office box at Group E fees, subject to administrative decisions regarding customer's proximity to post office.
² Box Size 1=under 296 cubic inches; 2=296-499 cubic inches; 3=500-999 cubic inches; 4=1000-1999 cubic inches; 5=2000 cubic inches and over.

FEE SCHEDULE 931¹ BUSINESS REPLY MAIL

	Fee
Active business reply advance deposit account: Per piece: Qualified Nonletter-size, using reverse manifest (experimental) Nonletter-size, using weight averaging (experimental) Other. Payment of postage due charges if active business reply mail advance deposit account not used: Per piece Annual License and Accounting Fees: Accounting Fee for Advance Deposit Account Permit fee (with or without Advance Deposit Account) Monthly Fees for customers using a reverse manifest or weight averaging for nonletter-size business reply: Nonletter-size, using reverse manifest (experimental) Nonletter-size, using weight averaging (experimental) Set-up/Qualification fee for customers using a reverse manifest or weight averaging for nonletter-size business reply: Nonletter-size, using reverse manifest (experimental) Nonletter-size, using weight averaging (experimental)	

¹ Experimental per piece, monthly, and set-up/qualification fees are applicable only to participants selected by the Postal Service for the nonletter-size business reply mail experiment. The experimental fees expire June 7, 1999.

FEE SCHEDULE 932—MERCHANDISE RETURN

	Fee
Per Transaction: Shipper must have an advance deposit account (see DMCS Schedule 1000)	

FEE SCHEDULE 933—ON-SITE METER SETTING

	Fee
First Meter: By appointment Unscheduled request Additional meters: Checking meter in or out of service (per meter)	

Fee Schedule 934 [Reserved]

FEE SCHEDULE 935—BULK PARCEL RETURN SERVICE

	Fee
Per Returned Piece	

FEE SCHEDULE 941—CERTIFIED MAIL

Description	Fee (in addition to postage)
Service (per mailpiece)	

FEE SCHEDULE 942—REGISTERED MAIL

Declared value of article ¹ (in dollars)	Fee (in addition to postage)	Handling charge
0	None.
0.01 to 100	None.
100.01 to 500	None.
500.01 to 1,000	None.
1,000.01 to 2,000	None.
2,000.01 to 3,000	None.
3,000.01 to 4,000	None.
4,000.01 to 5,000	None.

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FEE SCHEDULE 942—REGISTERED MAIL—Continued

Declared value of article ¹ (in dollars)	Fee (in addition to postage)	Handling charge
5,000.01 to 6,000	None.
6,000.01 to 7,000	None.
7,000.01 to 8,000	None.
8,000.01 to 9,000	None.
9,000.01 to 10,000	None.
10,000.01 to 11,000	None.
11,000.01 to 12,000	None.
12,000.01 to 13,000	None.
13,000.01 to 14,000	None.
14,000.01 to 15,000	None.
15,000.01 to 16,000	None.
16,000.01 to 17,000	None.
17,000.01 to 18,000	None.
18,000.01 to 19,000	None.
19,000.01 to 20,000	None.
20,000.01 to 21,000	None.
21,000.01 to 22,000	None.
22,000.01 to 23,000	None.
23,000.01 to 24,000	None.
24,000.01 to 25,000	None.
25,000 to 1 million	Plus _____ cents for each \$1000 (or fraction thereof) over \$25,000.
Over \$1 million to 15 million	Plus _____ cents for each \$1000 (or fraction thereof) over \$1 million.
Over 15 million	Plus amount determined by the Postal Service based on weight, space and value.

¹Articles with a declared value of more than \$25,000 can be registered, but compensation for loss or damage is limited to \$25,000.

FEE SCHEDULE 943—INSURANCE

Coverage	Fee (in addition to postage)
Express Mail Insurance	
Document Reconstruction: \$0.01 to \$500	no charge
Merchandise: \$0.01 to \$500	no charge
500.01 to 5000	\$ _____ for each \$100 (or fraction thereof) over \$500 in value.
General Insurance¹	
\$0.01 to \$50	
50.01 to 100	
100.01 to 5000	\$ _____ plus \$ _____ for each \$100 (or fraction thereof) over \$100 in coverage.

¹ For bulk insurance, deduct \$ _____ per piece.

FEE SCHEDULE 944—COLLECT ON DELIVERY

	Fee (in addition to postage)
Amount to be collected, or Insurance Coverage Desired: \$0.01 to \$50 50.01 to 100 100.01 to 200 200.01 to 300 300.01 to 400 400.01 to 500 500.01 to 600 Notice of nondelivery of COD	

FEE SCHEDULE 944—COLLECT ON DELIVERY—Continued

	Fee (in addition to postage)
Alteration of COD charges or designation of new addressee Registered COD	

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FEE SCHEDULE 945—RETURN RECEIPTS

Description	Fee (in addition to postage)
Receipt Issued at Time of Mail: ¹ Items other than Merchandise Merchandise (without another special service)	
Receipt Issued after Mailing: ²	

¹This receipt shows the signature of the person to whom the mailpiece was delivered, the date of delivery and the delivery address, if such address is different from the address on the mailpiece.
²This receipt shows to whom the mailpiece was delivered and the date of delivery.

FEE SCHEDULE 946—RESTRICTED DELIVERY

Per Piece	Fee (in addition to postage)

FEE SCHEDULE 947—CERTIFICATE OF MAILING

	Fee (in addition to postage)
Individual Pieces: Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece) Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece) Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	
Bulk Pieces: Identical pieces of First-Class and Regular, Enhanced Carrier Route, Non-profit, and Nonprofit Enhanced Carrier Route Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees: Up to 1,000 pieces (one certificate for total number) Each additional 1,000 pieces or fraction Duplicate copy	

FEE SCHEDULE 948—DELIVERY CONFIRMATION

Service	Fee (in addition to postage)
Used in Conjunction with Priority Mail: Electronic Manual	

FEE SCHEDULE 948—DELIVERY CONFIRMATION—Continued

Service	Fee (in addition to postage)
Used in Conjunction with Parcel Post, Bound Printed Matter, Library, and Special Standard Mail: Electronic Manual	

FEE SCHEDULE 951—PARCEL AIR LIFT

	Fee (in addition to Parcel Post postage)
Up to 2 pounds Over 2 up to 3 pounds Over 3 up to 4 pounds Over 4 pounds	

FEE SCHEDULE 952—SPECIAL HANDLING

	Fee (in addition to postage)
Not more than 10 pounds More than 10 pounds	

FEE SCHEDULE 961—STAMPED ENVELOPES

Description	Fee (in addition to postage)
Single Sale Single Sale Hologram PLAIN BULK (500) #6¾ size: Regular Window PRINTED BULK (500) #6¾ size: Regular Window BANDED (500) #6¾ size PLAIN BULK (500) size >#6¾ through #10: ¹ Regular Window Hologram PRINTED BULK (500) size >#6¾ through #10: Regular Window Savings Bond Hologram BANDED (500) size >#6¾ size through #10 Multi-Color Printing (500): #6¾ size #10 size ¹ Printing Charge per 500 Envelopes (for each type of printed envelope): Minimum Order (500 envelopes) Order for 1,000 or more envelopes Double Window (500) size >#6¾ through #10 ¹ Household (50): Size #6¾: Regular	

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FEE SCHEDULE 961—STAMPED ENVELOPES—
Continued

Description	Fee (in addition to postage)
Window Size >#6¾ through #10: Regular Window Hologram	

¹ Fee for precancelled envelopes is the same.

FEE SCHEDULE 962—STAMPED CARDS

Description	Fee (in addition to postage)
Stamped Card	
Double Stamped Card	

FEE SCHEDULE 971—MONEY ORDERS

	Fee
Domestic: \$0.01 to \$700	
APO-FPO: \$0.01 to \$700	
Inquiry Fee, which includes the issuance of copy of a paid money order	

SCHEDULE 1000

	Fee
First-Class Presorted Mailing	
Periodicals:	
A. Original Entry	
B. Additional Entry	
C. Re-entry	
D. Registration for News Agents	
Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route Standard Mail Bulk Mailing	
Parcel Post: Destination BMC, SCF, and DDU	
Special and Library Standard Mail Presorted Mailing	
Authorization to Use Permit Imprint	
Merchandise Return (per facility receiving merchandise return labels)	
Business Reply Mail Permit (see Fee Schedule 931)	
Authorization to Use Bulk Parcel Return Service	

[61 FR 32657, June 25, 1996; 61 FR 37316, July 17, 1996, as amended at 61 FR 55100, 55102, Oct. 24, 1996; 62 FR 35425, 35426, July 1, 1997; 63 FR 35140, June 29, 1998; 63 FR 39030, July 21, 1998; 64 FR 1392, Jan. 8, 1999; 64 FR 4493, Jan. 28, 1999]

Subpart D—Rules Applicable to Requests for Changes in the Nature of Postal Services

§ 3001.71 Applicability.

The rules in this subpart govern the procedure with regard to proposals of the Postal Service pursuant to section 3661 of the Act requesting from the Commission an advisory opinion on changes in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart.

§ 3001.72 Filing of formal requests.

Whenever the Postal Service determines to request that the Commission issue an advisory opinion on a proposed change in the nature of postal services subject to this subpart, the Postal Service shall file with the Commission a formal request for such an opinion in accordance with the requirements of §§ 3001.9 to 3001.11 and 3001.74. Such request shall be filed not less than 90 days in advance of the date on which the Postal Service proposes to make effective the change in the nature of postal services involved. Within 5 days after the Postal Service has filed a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the Director of the Federal Register for publication in the FEDERAL REGISTER.

[38 FR 4330, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.73 Filing of prepared direct testimony.

Simultaneously with the filing of a formal request for an advisory opinion under this subpart, the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding on the record before the Commission to establish that the proposed change in the nature of postal services is in accordance with and conforms to the policies of the Act. Such prepared direct evidence shall be in the form of prepared written testimony

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and documentary exhibits which shall be filed in accordance with § 3001.31.

§ 3001.74 Contents of formal requests.

(a) *General requirements.* Each formal request filed under this subpart shall include such information and data and such statements of reasons and basis as are necessary and appropriate to fully inform the Commission and the parties of the nature, scope, significance and impact of the proposed change in the nature of postal services and to show that such change in the nature of postal service is in accordance with and conforms to the policies established under the Act. Detailed data and information and statements of reasons or basis set forth in the Postal Service's prepared direct evidence may be relied upon for purposes of the formal request without restatement therein by reference in the request to the portions of the prepared direct evidence relied upon.

(b) *Specific information.* Subject to the right of the Commission to request additional information, each formal request shall include the following:

(1) A detailed statement of the present nature of the postal services proposed to be changed and the change proposed;

(2) The proposed effective date for the proposed change in the nature of postal services;

(3) A full and complete statement of the reasons and basis for the Postal Service's determination that the proposed change in the nature of postal services is in accordance with and conforms to the policies of the Act.

§ 3001.75 Service by the Postal Service.

Immediately after the issuance of an order or orders by the Commission designating an officer of the Commission to represent the interests of the general public in a proceeding before the Commission under this subpart, the Postal Service shall serve copies of its formal request for an advisory opinion and its prepared direct evidence upon such officer and the intervenors as provided by § 3001.12. Service shall also be made on persons who are limited participants.

[38 FR 3511, Feb. 7, 1973, as amended at 51 FR 8827, Mar. 14, 1986; 58 FR 38977, July 21, 1993]

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Subpart E—Rules Applicable to Rate and Service Complaints

§ 3001.81 Applicability.

The rules in this subpart govern the procedure with regard to rate and service complaints filed under section 3662 of the Act. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on such complaints.

§ 3001.82 Scope and nature of complaints.

Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in the Act, or who believe that they are not receiving postal service in accordance with the policies of such title, may file and serve a written complaint with the Commission in the form and manner required by §§ 3001.9 to 3001.12. The Commission shall entertain only those complaints which clearly raise an issue concerning whether or not rates or services contravene the policies of the Act; thus, complaints raising a question as to whether the Postal Service has properly applied its existing rates and fees or mail classification schedule to a particular mail user or with regard to an individual, localized, or temporary service issue not on a substantially nationwide basis shall generally not be considered as properly raising a matter of policy to be considered by the Commission. The Commission shall, in the exercise of its discretion, decline to entertain a complaint during the period the complainant is continuing to pursue the general subject matter of the complaint before an Administrative Law Judge or the judicial officer of the Postal Service.

[36 FR 396, Jan. 12, 1971, as amended at 37 FR 25027, Nov. 25, 1972]

§ 3001.83 Contents of complaints.

Subject to the right of the Commission to require the furnishing of additional information, each complaint shall include the following information:

(a) The full name and address of the complainant(s);

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(b) A full and complete statement of the grounds for such complaint, including specific reference to the postal rates or services involved and the policies to which it is claimed they do not conform;

(c) A list or description of all persons or classes of persons known or believed to be similarly affected by the rates or services involved in the complaint;

(d) A statement of the specific relief or redress requested;

(e) Copies of all correspondence or written communications between the complainant, his/her agent, representative, or attorney, and the Postal Service or any officer, employee or instrumentality thereof, and which relates to the subject matter of the complaint; provided, however, that any such documents which are a part of a public file in any proceeding before an Administrative Law Judge or the Judicial Officer of the Postal Service need not be included if the complaint states the title, docket reference, nature, current status, and disposition of such proceeding.

[36 FR 396, Jan. 12, 1971, as amended at 37 FR 25027, Nov. 25, 1972; 58 FR 38976, 38977, July 21, 1993]

§ 3001.84 Answers by the Postal Service.

Within 30 days after the filing of a complaint with the Commission (unless more time is allowed under § 3001.85(a)), the Postal Service shall file and serve an answer. Such answer shall be in the form and manner required by §§ 3001.9 to 3001.12, and shall include the following:

(a) Specific admission, denial or explanation of each fact alleged in the complaint or, if the Postal Service is without knowledge thereof, a statement to that effect. Each fact alleged in a complaint not thus specifically answered shall be deemed to have been admitted;

(b) A statement as to the position of the Postal Service on the allegations in the complaint that the rates or service involved are not in accord with the policies of the Act, and the facts and reasons in support of such position;

(c) The position of the Postal Service on the specific relief or redress requested by the complainant, the dis-

position of the complaint recommended by the Postal Service, including whether or not a hearing should be held, and a statement of any facts and reasons in support of such position.

[36 FR 396, Jan. 12, 1971, as amended at 49 FR 6490, Feb. 22, 1984; 51 FR 8827, Mar. 14, 1986]

§ 3001.85 Informal procedures.

(a) In case of a complaint alleging service not in accordance with the policies of the Act, the Commission, acting through such appropriate Commission employees as the Chairman shall designate, may use correspondence, conferences, or other appropriate informal inquiry methods to define the issues, further the exchange of information and explanations between the Postal Service and the complainant, and facilitate negotiated settlement. On receiving a service complaint, the Commission will give a notice of whether or not it intends to use informal procedures. In either case, it will give the Postal Service such additional time to answer the complaint as is just and appropriate. After expeditiously conducting informal inquiries, it will issue an order summarizing the results. All correspondence and other documents issued by or lodged with the Commission during informal inquiries will be part of the public record of the case.

(b) It shall be the general policy and practice of the Commission to encourage the resolution and settlement of complaints by informal procedures, including correspondence, conferences between the parties, and the conduct of proceedings off the record with the consent of the parties.

[36 FR 396, Jan. 12, 1971, as amended at 49 FR 6490, Feb. 22, 1984; 51 FR 8827, Mar. 14, 1986]

§ 3001.86 Proceedings on the record.

If a complaint is not resolved or settled under informal procedures, the Commission shall consider whether or not, in its discretion, a proceeding on the record with an opportunity for hearing should be held on such complaint. If the Commission has reason to believe that the complaint may be justified and that a hearing may otherwise be appropriate in the exercise of its discretion, the Commission shall

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issue a notice of proceeding pursuant to §3001.17, and further formal proceedings shall then be held as appropriate under the Commission's rules in subpart A of this part.

§ 3001.87 Commission determinations.

If the Commission determines, after the completion of proceedings which provide an opportunity for hearing, that a complaint is justified in whole or in part, the Commission shall issue a recommended decision to the Postal Service if the complaint involves a matter of rates and fees or mail classification and shall render a public report if the complaint involves other matters. The Commission shall notify the complainant, the Postal Service, and any other parties in each complaint proceeding of the action taken or the final disposition of the complaint.

Subpart F—Rules Applicable to the Filing of Testimony by Intervenors

§ 3001.91 Applicability and general policy.

(a) The rules in this subpart identify those areas in which intervenors in rate and classification proceedings could assist the Commission. Intervenors are free to file any relevant and material evidence which is not unduly repetitious or cumulative.

(b) Intervenors are invited to submit the information specified in §3001.92 (a) through (1) on a voluntary basis as part of their own direct cases. The Commission's request that intervenors voluntarily file such information is not in derogation of the Commission's and the presiding officer's authority, pursuant to §§3001.23 through 3001.28, respecting the provision of such or other information. Intervenors, particularly those making contentions under section 3622(b)(4) of the Act, shall be aware that their failure to provide relevant and material information will be taken into account in determining the weight which the Commission accords to their arguments and evidence.

(c) All evidence shall be filed in accordance with §3001.31. The rules of general applicability of subpart A of

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this part are also applicable to filings subject to this subpart.

[38 FR 7536, Mar. 22, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.92 Submissions by intervenors.

In addition to any other direct testimony submitted by an intervenor in a rate or classification proceeding, and in addition to further requests for information by the Commission, the Commission requests that the following information be submitted where applicable and where it is within the ability of the intervenor to produce it. If it is alleged that such information is representative of a significant segment of a rate-category of mail or of the users thereof it should be accompanied by a demonstration to that effect.

(a) *Description of intervenor.* A statement as to the nature of the business and operations of the intervenor. If the intervenor is an association, the names of the members of the association and a general description of their business and operations.

(b) *Usage of postal services.* An identification of the extent to and method by which the postal services are used including an estimated itemization of the postage cost by class and rate.

(c) *Intervenor's mailing operations.* A description of the mailing and handling operations of the intervenor for items which are to pass through the Postal Service. Descriptions of premailing operations should include the details as to any special arrangements with the Postal Service. Also, a statement as to the total mail handling costs exclusive of Postal Service payments including a breakdown of such costs by, and identification of, the functions for which the costs are incurred.

(d) *Intervenor's postage costs.* A statement of the relative importance of postage costs to other expenses. An estimated itemization of postage costs by class of mail as related to total operating expenses. If more than one major product is affected by postage costs, data should be presented for each, e.g., each periodical of a firm in the publishing business.

(e) *Financial impact of rate or classification changes.* An estimate of the financial impact of the proposed rate or

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classification changes on the intervenor, or aggregate data for members of mail user associations, together with details of the basis of estimates and supporting data.

(f) *Absorption/avoidance of rate changes.* An analysis as to the ability or inability of the intervenor to absorb, avoid, or pass on postal rate changes, to customer groups (or advertisers or sponsoring organizations, if any). The analysis should include an analysis of the intervenor's customers' demand for the product of the intervenor's industry.

(g) *Demand for postal services.* An indication of the demand of the intervenor's industry for postal services including an estimate of the elasticity of such demand.

(h) *Competitor operations.* If the intervenor is a competitor of the Postal Service, a definition of the areas of competition between the intervenor and the Postal Service and a demonstration of the intervenor's ability or inability to meet postal competition. Include a brief historical description of the company's operations during the past 5 years, showing growth in each major segment of the company's business and a statement of the current rates and all conditions of service applicable to the portion of the intervenor's operations which is affected by comparable service of the Postal Service. The statement should include data on the costs of the services which the intervenor contends are competitive with services of the Postal Service. The statement of costs should identify by character and amount those attributed to the competitive service and the intervenor's rationale (i.e., cost and pricing hypothesis) for such attribution.

(i) *Impact of rate changes on users' suppliers.* If the intervenor is a manufacturer or supplier of goods or services provided to users of the Postal Service, a statement of the impact on expenses and revenues resulting from postage changes, together with statistical or other accounting data and the reasons supporting such statement.

(j) *Statement of revenues, volumes, costs, and profits.* For all intervenors, a certified statement of the total revenues, costs, and profits for each of the last 5 years together with an estimate

of the impact of the proposed postal changes on total revenues, costs, and profits. Also the intervenor's volume of mail passing through the Postal Service (by class and subclass) and the comparable volume of traffic moving by competitive services (or the volume of services performed in competition with the Postal Service, or the volume of materials manufactured for or supplied to the Postal Service or users of the Postal Service). Volume data should be presented for each of the 5 years for which total revenues, costs, and profits are reported. An estimate of the impact on volume resulting from the proposed postal increases should be included.

(k) *User studies of Postal Service.* Any studies of the Postal Service's costs, revenues, or operations which would be of help to the Commission in evaluating the merits of the Postal Service's request.

(1) *Workpapers.* (1) Whenever an intervenor presents evidence it shall accompany such evidence with seven sets of workpapers, five for use by the Commission staff and two which shall be available for use by the public at the Commission offices. Two additional sets shall be delivered to counsel for the U.S. Postal Service.

(2) Workpapers shall contain the data and analyses underlying the submissions, including:

(i) A description of the methods used in collecting, summarizing and expanding the data and a clear indication of how the workpapers relate to the various submissions;

(ii) Summaries of sample data and other data used; and

(iii) Any special studies made.

(3) Workpapers shall be neat and legible.

(4) Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document,

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page, line, column, etc. With the exception of workpapers that follow a standardized and repetitive format, the required citations themselves, or a cross-reference to a specific page, line, and column of a table of citations, shall appear on each page of each workpaper. Workpapers that follow a standardized and repetitive format shall include the citations described in this paragraph for a sufficient number of representative examples to enable a reviewer to trace numbers directly or by analogy.

[38 FR 7536, Mar. 22, 1973, as amended at 50 FR 43393, Oct. 25, 1985; 51 FR 8827, Mar. 14, 1986]

Subpart G—Rules Applicable to the Filing of Periodic Reports by the U.S. Postal Service

§ 3001.101 Applicability and general policy.

The rules in this subpart identify reports¹ financial statements and cost analyses which the Postal Service will file with the Secretary of the Commission on a periodic basis.

[41 FR 47438, Oct. 29, 1976, as amended at 51 FR 24531, July 7, 1986; 58 FR 38977, July 21, 1993]

§ 3001.102 Filing of reports.

Each report listed in this section shall be filed with the Secretary of the Commission within two weeks of its presentation for use by postal management, unless otherwise noted. Each report should be provided in a form that can be read by publicly available PC software. A processing program that was developed specifically to produce an accompanying workpaper must be provided in a form that can be executed by publicly available PC software. COBOL processing programs in use prior to FY 2003 are exempt from this requirement. The reports and information required to be provided by this subpart need not include matters that are exempt from disclosure by law. Whenever a specific source is cited in

¹It is realized that some items, characterized as “reports,” are not reports in the true sense of the word since they are not published and heretofore have only been intended for internal use.

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this section, that citation includes any successor or substituted source.

(a) *Annual reports.* The following information will be filed by the Postal Service annually. If it is presented for use by postal management at more frequent intervals, it shall be filed at those intervals:

(1) All input data and all processing programs that have changed since the most recently completed general rate proceeding, if they are used to produce the Cost and Revenue Analysis Report (CRA). Each change in attribution principles or methods from the previous report will be identified. The Postal Service shall submit a CRA-USPS Version, followed within two weeks by a CRA-PRC Version. Documentation of both versions of the CRA shall include, but not be limited to, the following:

(i) Spreadsheet workpapers underlying the development of segment costs by cost component. These workpapers should include the updated factors, and data from the supporting data systems used, including the In-Office Cost System (IOCS), Management Operating Data System (MODS), City Carrier Cost System (CCCS), Rural Carrier Cost System (RCCS), and National Mail Count.

(ii) Documentation of any special study that has a substantial effect on estimated costs in any cost segment and was not documented in the most recently completed general rate proceeding.

(A) Documentation shall consist of all input data and all processing programs used to obtain the results of the special study.

(B) The Postal Service may elect to provide a written or oral presentation describing the data and the estimating techniques used, as well as the results of the special study, and to apply for a waiver of the requirement in paragraph (a) of this section.

(2) Cost Segments and Components Report. Documentation shall include, but not be limited to, the following:

(i) Cost segments and components reconciliation to financial statements and account reallocations.

(ii) The Manual Input Requirement, the “A” report, and the “B” report;

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(iii) The control string commands for the “A” report, the “B” report (including the PESSA factor calculations), and the “C” report;

(iv) The master list of cost segment components, including the components used as distribution keys in the development of the “B” report and the “C” report.

(3) City delivery information, including the number of routes by type, the number of possible deliveries by type, the number of collection boxes, and the number of businesses served (120 days from the close of the fiscal year).

(4) Rural carrier information, including the number of routes by type and miles, stops, boxes served, and mail pieces by route type (120 days from the close of the fiscal year).

(5) Civil Service Retirement Fund Deficit Report (two weeks after release of the Annual Report of the Postmaster General).

(6) Worker’s Compensation Report, including summary workpapers (two weeks after release of the Annual Report of the Postmaster General).

(7) Annual Report of the Postmaster General.

(8) Congressional Budget Submission, including workpapers. The Postal Service will also file concurrently Summary Tables SE 1, 2, and 6 (coinciding with their submission to Congress).

(9) Audit Adjustment Vouchers, if any.

(10) Billing Determinants, at the level of detail employed in the most recent formal request for a change in rates or fees. The provision of billing determinants for Express Mail, Priority Mail, and parcel post may be delayed up to 12 months from the close of the fiscal year to which they apply.

(11) USPS Integrated Financial Plan.

(12) Input data and calculations used to produce annual Total Factor Productivity estimates.

(b) *Quarterly reports.* The following information will be filed by the Postal Service quarterly:

(1) Revenue, Pieces, and Weight, by rate category and special service.

(2) Origin/Destination Information Report National Service Index.

(c) *Accounting period reports.* The following information will be filed by the Postal Service each accounting period:

(1) Summary Financial and Operating Report.

(2) National Consolidated Trial Balances and the Revenue and Expense Summary.

(3) National Payroll Hours Summary.

(4) On-Roll and Paid Employee Statistics (OPRES).

(5) Postal Service Active Employee Statistical Summary (HAT report).

(d) *Miscellaneous reports.* The following information will be filed by the Postal Service:

(1) Before/After Pay Increase Reports.

(2) Before/After COLA Cost Reports.

(3) A master list of publications and handbooks including those related to internal information procedures, when changed.

(4) Data collection forms and corresponding training handbooks, when changed.

(5) Notice of changes in data reporting systems, 90 days before those changes are implemented.

[68 FR 65373, Nov. 19, 2003]

§ 3001.103 Filing of reports required by 39 U.S.C. 3663(b).

Each report listed in this section shall be filed with the Secretary of the Commission on or before March 15th of each year unless a later date is specified, and shall cover the most recent full fiscal year. Information contained in these reports that is considered to be commercially sensitive should be identified as such, and will not be publicly disclosed except as required by applicable law. Specific sources cited in this section should be understood to include any successor or substituted source.

(a) The International Cost and Revenue Analysis—PRC Version.

(b) The International Cost and Revenue Analysis—USPS Version, by May 15.

(c) The Cost and Revenue Analysis Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15. The audited version shall include a statement describing all adjustments that affect international mail.

(d) The Cost Segments and Components Report—PRC Version. If an

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unaudited version is provided on March 15, provide an audited version no later than May 15. The audited version shall include a statement describing all adjustments that affect international mail.

(e) Documentation and workpapers for the ICRA, including those related to:

- (1) Terminal dues.
- (2) Air conveyance dues.
- (3) Transit charges.
- (4) Imbalance charges.
- (5) Inward land charges.
- (6) Description of cost allocation procedures.
- (7) Identification of costs that are exclusive to international mail.
- (8) The cost of joint ventures with other postal administrations.
- (9) International billing determinants.
- (10) The data for Direct Entry separated between inbound and outbound as in the Postal Service's response to Item 1 of order no. 1246.
- (11) The attributable costs for ValuePost/Canada developed in accordance with the procedure described in the Postal Service's response to Item 2 of order no. 1251, or any alternative procedure deemed appropriate as a basis for setting the rates for ValuePost/Canada. Costs for ValuePost/Canada should be separated between publications and all other printed matter.
- (12) Revenues and volumes for Value Post/Canada separated between publications and all other printed matter.

(f) Handbooks pertaining to the collection of volume and revenue data (MIDAS, SIRVO, SIRVI, Other) if they were revised or replaced since they were last submitted.

(g) International CRA manual input, A, B, C, and factor reports on a CD-ROM.

(h) A hard copy of the International CRA manual input and the C report International CRA manual input, A, B, C, and factor reports on a CD-ROM.

(i) Cost Segment 3 CRA Worksheets and all supporting files, including the MODS-Based Costing Studies—PRC Version. Include all databases, SAS and other programs, and output worksheets.

(j) Cost Segment 7 CRA Worksheets and all supporting files.

(k) The number of weighted tallies by international service separately for clerks and mailhandlers, and for city delivery carriers in-office; clerk and mailhandler tallies should be further separated for mail processing, window service, and all other.

(1) Coefficients of variation for:

(1) IOCS clerk and mailhandler tallies by mail processing, window service, and all other.

(2) IOCS city delivery carriers in-office.

(3) TRACS for purchased transportation by international, air, railroad, and other.

(4) Outbound volume by international service.

(5) Inbound volume by international service.

(m) The percentage of household and the percentage of non-household mail for each outbound mail service.

(n) The percentage of single-piece mail and bulk mail for each outbound service.

[65 FR 10021, Feb. 25, 2000]

Subpart H—Rules Applicable to Appeals of Postal Service Determinations To Close or Consolidate Post Offices

SOURCE: 42 FR 10993, Feb. 25, 1977, unless otherwise noted.

§ 3001.110 Applicability.

Rules in this subpart govern the procedure regarding the appeal of a determination of the Postal Service to close or consolidate a post office by patrons of the post office in question. Pursuant to section 404(b) of the Act any decision to close or consolidate a post office must be preceded by 60 days notice to persons served by such post office, the opportunity for such persons to present their views, and a written determination based upon consideration of each of the factors listed in section 404(b)(2) of the Act. This notice must include a provision stating that, pursuant to Pub. L. 94-421, a final Postal Service determination to close or consolidate a post office may be appealed to the Postal Rate Commission at 901

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New York Avenue NW., Suite 200, Washington, DC 20268-0001, within 30 days after the issuance of a written determination by the Postal Service. The rules of general applicability in subpart A of this part, which do not relate solely to evidentiary proceedings on the record, are also applicable to proceedings subject to this subpart.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38977, July 21, 1993]

§ 3001.111 Initiation of review proceedings.

(a) *Petition for review.* Review of a determination of the Postal Service to close or consolidate a post office shall be obtained by filing a petition for review with the Secretary of this Commission. Such petition must be received by the Commission within 30 days after the Service has made available to persons served by that post office the written determination to close or consolidate required by 39 U.S.C. 404(b) (3) through (4). The petition shall specify the parties seeking review, all of whom must be persons served by the post office proposed to be closed or consolidated and shall identify the Postal Service as respondent. The Commission encourages parties seeking review to attach a copy of the Postal Service written determination, as the appeal process is thereby expedited. If two or more persons are entitled to petition for review of the same determination and their interests are such as to make joinder practicable, they may file a joint petition for review and may thereafter proceed as a single petitioner.

(b) *Intervention.* A person served by the post office to be closed or consolidated pursuant to the Postal Service written determination under review who desires to intervene in the proceeding, or any other interested person, or any counsel, agent or other person authorized or recognized by the Postal Service as such interested person's representative or the representative of such interested person's recognized group, such as Postmasters, shall file with the Secretary of the Commission and serve upon all parties a notice of intervention in a form prescribed by § 3001.20. The notice shall contain a concise statement of the interest of the

moving party and the grounds upon which intervention is sought. A notice of intervention shall be filed within 25 days of the date on which the notice for review is filed. The provisions of § 3001.20 (c) through (f) of Subpart A of this part shall apply to notices of intervention in review proceedings.

[48 FR 33707, July 25, 1983, as amended at 58 FR 38977, July 21, 1993]

§ 3001.112 The record on review.

The written determination sought to be reviewed or enforced, the conclusions and findings upon which it must be based under section 404(b)(3) of the Act, the notices to local patrons and the evidence contained in the entire administrative record before the Postal Service shall constitute the record on review. The record shall contain all evidence considered by the Postal Service in making its determination and shall contain no evidence not previously considered by the Postal Service.

§ 3001.113 Filing of the record.

(a) *Time for filing of the record by the Postal Service.* The Postal Service shall file the record with the Secretary of the Commission within 15 days after the date on which the petition for review is filed with the Commission. The Commission may shorten or extend the time prescribed above. The Secretary shall give notice to all parties of the date on which the record is filed.

(b) *Composition of the filing.* The Postal Service may file the entire record or such parts thereof as the parties may designate by stipulation filed with the Postal Service. The original papers in the Postal Service proceeding or certified copies thereof may be filed. All parts of the record retained by the Postal Service shall be a part of the record on review for all purposes.

§ 3001.114 Suspension pending review.

(a) *Application.* Application for suspension of a determination of the Postal Service to close or consolidate any post office pending the outcome of an appeal to the Postal Rate Commission shall be made at the time of the filing of a petition for review or of the filing of a notice of intervention in an extant appellate proceeding. The application

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shall show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by affidavits or other sworn statements or copies thereof. The applicant must be a person served by the affected post office. Immediate notice of the application shall be given to all parties to the proceeding. The application shall be filed with the Secretary of the Commission.

(b) *Answer and filing of the relevant record by the U.S. Postal Service.* Within 10 days after the application for suspension is filed, the Postal Service shall file with the Secretary of the Commission and serve on the petitioners an answer to the application supported by affidavits or other sworn statements or copies thereof. The Postal Service, within 10 days from the date of filing of the application, shall file with the Secretary such parts of the record as are relevant to the relief sought.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38977, July 21, 1993]

§ 3001.115 Participant statement or brief.

(a) *Participant statement.* Upon the filing of the petition for review of a decision to close or consolidate a post office, the Secretary shall furnish the petitioner with a copy of PRC Form 61, a form designed to permit the appellant to make a concise statement of his/her arguments in support of the petition and the instructions regarding its use. In addition to eliciting this information, the instructions for Form 61 shall provide: (1) Notification that, if the appellant prefers, he or she may file a brief as described in paragraph (b) of this section presenting the arguments, in lieu of completing PRC Form 61; (2) a concise explanation of the purpose of the form; and (3) notification that the completed form, or a brief as described in paragraph (b) of this section, in lieu thereof, must be filed with the Commission not more than 35 days following the date of filing of the petition (which date shall be set forth, as it appears in the Commission's records).

(b) *Appellant's initial brief.* The initial brief of the appellant shall be filed with the Secretary of the Commission

and served on all parties 35 days after the filing of the petition for review of a decision to close or consolidate a post office. The brief will be limited in length to 30 pages, typewritten and double spaced, and shall include the following in the order indicated:

(1) A subject index with page references, and a list of all cases and authorities relied upon, arranged alphabetically, with references to the pages where the citation appears (which need not be included in the page count);

(2) A concise statement of the case from the viewpoint of the filing participant;

(3) A clear, concise and definitive statement of the position of the author as to the merits of the determination under review;

(4) A discussion of the evidence, reasons, and authorities relied upon with exact references to the record and the authorities; and

(5) Proposed holding with appropriate references to the record or the prior discussion of the evidence and authorities relied upon, and to the appellate criteria of section 404(b)(5) of the Act.

Briefs before the Commission shall be completely self-contained and shall not incorporate by reference any portion of any other brief, pleading or document. Testimony and exhibits shall not be quoted or included in briefs except for short excerpts pertinent to the argument presented.

(c) *Answering brief of the Postal Service.* The answering brief of the Postal Service shall be filed 20 days after the date designated for filing of the appellant's brief and shall follow the format detailed in paragraph (b) of this section.

(d) *Reply by appellant.* The appellant may file a written response to the brief of the Postal Service 15 days after the date designated for filing of that brief, which shall be strictly limited in content to reply to arguments made by the Postal Service. If presented as a brief, such reply brief shall conform to the format detailed in paragraph (b) of this section.

(e) *Intervenor statements or briefs.* An intervenor shall file its brief within the time allowed for initial and reply, or answering, briefs, as appropriate. The

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Secretary shall furnish to each intervenor a copy of PRC Form 61 as soon as intervenor status is granted. If the intervenor chooses to file a brief, the brief shall follow the format detailed in paragraph (b) of this section.

[42 FR 10993, Feb. 25, 1977, as amended at 48 FR 33707, July 25, 1983; 58 FR 38976, 38977, July 21, 1993]

§ 3001.116 Oral argument.

Oral argument will be held in these appeal cases only when a party has made a showing that, owing to unusual circumstances, oral argument is a necessary addition to the written filings. Any request for oral argument shall be filed within 7 days of the date on which reply briefs are due. If a request for oral argument is granted, it will be held at the Postal Rate Commission's offices at 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001.

[48 FR 33708, July 25, 1983, as amended at 58 FR 38977, July 21, 1993]

§ 3001.117 Posting of documents by Postal Service for inspection by affected postal patrons.

In all proceedings conducted pursuant to this subpart H, the Postal Service shall cause to be displayed prominently, in the post office or offices serving the patrons affected by the determination to close or consolidate a post office which is under review, a copy of the service list and all pleadings, notices, orders, briefs and opinions filed in such proceedings. Failure by the Postal Service to display prominently any such document shall be deemed sufficient reason to suspend the effectiveness of the Postal Service determination under review until final disposition of the appeal.

[42 FR 10993, Feb. 25, 1977. Redesignated at 48 FR 33708, July 25, 1983]

Subpart I—Rules for Expedited Review To Allow Market Tests of Proposed Mail Classification Changes

SOURCE: 66 FR 54441, Oct. 29, 2001, unless otherwise noted.

§ 3001.161 Applicability.

(a) This section and §§ 3001.162 through 3001.166 apply in cases in which the Postal Service requests a recommended decision pursuant to section 3623 preceded by testing in the market in order to develop information necessary to support a permanent change. The requirements and procedures specified in these sections apply exclusively to the Commission's determination to recommend in favor of or against a market test proposed by the Postal Service, and do not supersede any other rules applicable to the Postal Service's request for recommendation of a permanent change in mail classification. In administering this subpart, it shall be the policy of the Commission to recommend market tests that are reasonably calculated to produce information needed to support a permanent change in mail classification, and that are reasonably limited in scope, scale, duration, and potential adverse impact. Except in extraordinary circumstances and for good cause shown, the Commission shall not recommend market tests of more than one year in duration; however, this limitation is not intended to bar the Postal Service from conducting more than one market test in support of a potential permanent change in mail classification in appropriate circumstances.

(b) This section and §§ 3001.162 through 3001.166 are effective November 28, 2001 through November 28, 2006.

§ 3001.162 Filing of market test proposal and supporting direct evidence.

Whenever the Postal Service determines to request that the Commission submit a recommended decision on a change in mail classification preceded by testing in the market, the Postal Service shall file with the Commission, in addition to its request for a permanent change in mail classification pursuant to section 3623, a request for a recommended decision in favor of its proposed market test of the requested change in mail classification. Each formal request filed under this subpart shall include such information and data and such statements of reasons

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and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance and impact of the proposed market test, and to show that it is in the public interest and in accordance with the policies of the Act and the applicable criteria of the Act. Each formal request shall also include the following particular information:

(a) A description of the services to be provided in the market test, and the relationship between the services to be provided and the permanent change or changes in the mail classification schedule requested by the Postal Service;

(b) A statement of each rate or fee to be charged for each service to be provided during the market test, together with all information relied upon to establish consistency of those rates and fees with the factors specified in section 3622(b);

(c) A description of the number and extent of the service areas in which the market test will be conducted, including the number and type of postal facilities which will be used;

(d) A statement of the planned duration of the market test;

(e) Proposed Domestic Mail Classification Schedule provisions which incorporate the information required in paragraphs (a) through (d) of this section;

(f) A statement of the goals and objectives of the proposed market test, supported by quantitative projections of anticipated results to the extent practicable.

(g) A statement of those features of the proposed market test that, in the opinion of the Postal Service, cannot be modified without significantly impairing the value of the test;

(h) An estimate of the number of customers who will participate in the market test to the extent that such an estimate is practicable, together with a description of the means by which the Postal Service plans to provide equal access to all potential users in the test market service areas; and

(i) A plan for testing the proposed change or changes in the market, including a plan for gathering the data needed to support a permanent change in mail classification and for reporting

the test data to the Commission. If periodic reporting of the test data would be harmful to the purposes of the test, such as by revealing information that might encourage competitors or mailers to take actions that would affect the test results, the plan may provide for presentation of the test data as part of the subsequent filing of data supporting a permanent mail classification change.

§ 3001.163 Procedures—expedition of public notice and procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings in which the Postal Service proposes to conduct a market test of a requested change in mail classification it has submitted to the Commission pursuant to section 3623.

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to conduct a market test may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day file a notice that briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a Market Test Request to be considered under §§ 3001.161 through 3001.166, and identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request, that party shall file with the Commission a request for a hearing within the time allowed in

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the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

[66 FR 54441, Oct. 29, 2001, as amended at 68 FR 12590, Mar. 17, 2003]

§ 3001.164 Rule for decision.

The Commission will issue a decision on the Postal Service's proposed market test in accordance with the policies of the Postal Reorganization Act, but will not recommend modification of any feature of the proposed market test which the Postal Service has identified in accordance with § 3001.162(g). The purpose of this subpart is to allow for consideration of proposed market tests within 90 days, consistent with the procedural due process rights of interested persons.

§ 3001.165 Data collection and reporting requirements.

In any case in which the Commission has issued a recommended decision in favor of a market test requested by the Postal Service, and the Board of Governors has put the market test recommended by the Commission into effect, the Postal Service shall gather test data and report them to the Commission in accordance with the plan submitted pursuant to § 3001.162(h). If the Postal Service's plan for reporting test data does not provide for periodic reporting during the conduct of the test, the Postal Service shall submit all test data to the Commission no later than 60 days following the conclusion of the test.

§ 3001.166 Suspension, continuation or termination of proceeding.

(a) In any case in which the Commission has issued a recommended decision in favor of a market test requested by the Postal Service, and the Board of Governors has put the market test rec-

ommended by the Commission into effect, the Postal Service may move for suspension of the proceeding in which its request for a permanent change in mail classification is to be considered. The Commission shall grant the Postal Service's motion for suspension if, in the Commission's opinion, it would be reasonable under the circumstances to defer consideration of the request until the information to be produced in connection with the market test becomes available.

(b) At any time during the pendency of a market test recommended by the Commission pursuant to this subpart, or following the completion of such a market test, the Postal Service may move to revise or withdraw its request for a permanent change in mail classification. If the Postal Service moves to revise its request, it shall file with the Commission all data necessary to support its amended request. If the Postal Service moves to withdraw its request, it shall explain the circumstances leading to its motion, but need not produce the test data that would otherwise be submitted pursuant to § 3001.165.

Subpart J—Rules for Expedited Review of Requests for Provisional Service Changes of Limited Duration

SOURCE: 66 FR 54443, Oct. 29, 2001, unless otherwise noted.

§ 3001.171 Applicability.

(a) This section and §§ 3001.172 through 3001.176 apply in cases in which the Postal Service requests that the Commission recommend the establishment of a provisional service which will supplement, but will not alter, existing mail classifications and rates for a limited and fixed duration. The requirements and procedures specified in these sections apply exclusively to the Commission's determination to recommend in favor of or against a provisional service proposed by the Postal Service, and do not supersede the rules applicable to requests for permanent changes in rates, fees, mail classifications, and in the nature of postal services. In administering this subpart, it shall be the policy of the Commission

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to recommend the introduction of provisional services that enhance the range of postal services available to the public, without producing a material adverse effect overall on postal revenues or costs, and without causing unnecessary or unreasonable harm to competitors of the Postal Service. Except in extraordinary circumstances and for good cause shown, the Commission shall not recommend provisional services of more than two years in duration; however, the Commission may grant a request to extend a provisional service for an additional year if a Postal Service request to establish the provisional service as a permanent mail classification is pending before the Commission.

(b) This section and §§3001.172 through 3001.176 are effective November 28, 2001 through November 28, 2006.

§ 3001.172 Filing of formal request and prepared direct evidence.

(a) Whenever the Postal Service determines to request that the Commission submit a decision recommending the establishment of a provisional service of limited and fixed duration, it shall file a request for a change in mail classification pursuant to section 3623 that comports with the requirements of this subpart and of subpart C of the rules of practice. Each formal request shall include the following particular information:

(1) A description of the proposed classification, including proposed Domestic Mail Classification Schedule language and rate schedules;

(2) A statement of the goals and objectives of introducing the proposed provisional service, supported by quantitative projections of anticipated results to the extent practicable.

(3) A statement of those features of the proposed provisional service that, in the opinion of the Postal Service, cannot be modified without significantly reducing the benefits of introducing the proposed service;

(4) An explanation and complete documentation of the development of the rates proposed for the provisional service;

(5) A termination date on which the proposed provisional service will be discontinued;

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(6) An estimate of the effect of implementing the proposed provisional service on overall Postal Service costs and revenues during the period in which it is in effect; and

(7) A plan for meeting the data collection and reporting requirements specified in § 3001.175.

(b) If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability, as required by § 3001.64(a)(2)(i), (ii), and (iv). In particular, if the provisional character of the request bears on the unavailability of the data in question, the Postal Service shall explain in detail the nexus between these circumstances. A satisfactory explanation of the unavailability of data will be grounds for excluding from the proceeding a contention that the absence of the data should form a basis for rejection of the request, unless the party desiring to make such contention

(1) Demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the data which are unavailable, or

(2) Demonstrates other compelling circumstances requiring that the absence of the data in question be treated as bearing on the merits of the proposal.

§ 3001.173 Procedures—expedition of public notice and procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings in which the Postal Service requests that the Commission recommend the establishment of a provisional service which will supplement, but will not alter, existing mail classifications and rates for a limited and fixed duration.

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to establish a provisional service may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart.

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Parties may withdraw from a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall comply with the standard Filing Online procedures of §§ 3001.9 through 3001.12.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day file a notice that briefly describes its proposal. Such notice shall indicate on its first page that it is a notice of a Request for Establishment of a Provisional Service to be considered under §§ 3001.171 through 3001.176, and identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request, that party shall file with the Commission a request for a hearing within the time allowed in the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

[66 FR 54443, Oct. 29, 2001, as amended at 68 FR 12590, Mar. 17, 2003]

§ 3001.174 Rule for decision.

The Commission will issue a decision on the Postal Service's proposed provisional service in accordance with the policies of the Postal Reorganization Act, but will not recommend modification of any feature of the proposed service which the Postal Service has identified in accordance with § 3001.172(a)(iii). The purpose of this subpart is to allow for consideration of

proposed provisional services within 90 days, consistent with the procedural due process rights of interested persons.

§ 3001.175 Data collection and reporting requirements.

In any case in which the Commission has issued a recommended decision in favor of a provisional service of limited duration requested by the Postal Service, and the Board of Governors has put the provisional service recommended by the Commission into effect, the Postal Service shall collect and report data pertaining to the provisional service during the period in which it is in effect in accordance with the periodic reporting requirements specified in § 3001.102. If the Postal Service's regular data reporting systems are not revised to include the provisional service during the period of its effectiveness, the Postal Service shall perform, and provide to the Commission on a schedule corresponding to § 3001.102 reports, special studies to provide equivalent information to the extent reasonably practicable.

§ 3001.176 Continuation or termination of provisional service.

At any time during the period in which a provisional service recommended by the Commission and implemented by the Board of Governors is in effect, the Postal Service may submit a formal request that the provisional service be terminated, or that it be established, either as originally recommended by the Commission or in modified form, as a permanent mail classification. Following the conclusion of the period in which the provisional service was effective, the Postal Service may submit a request to establish the service as a mail classification under any applicable subpart of the Commission's rules.

Subpart K—Rules for Use of Multi-Year Test Periods

SOURCE: 66 FR 54444, Oct. 29, 2001, unless otherwise noted.

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§ 3001.181 Use of multi-year test period for proposed new services.

(a) The rules in §§ 3001.181 and 3001.182 apply to Postal Service requests pursuant to section 3623 for the establishment of a new postal service, with attendant rates, which in the estimation of the Postal Service cannot generate sufficient volumes and revenues to recover all costs associated with the new service in the first full fiscal year of its operation. In administering these rules, it shall be the Commission's policy to adopt tests periods of up to 5 fiscal years for the purpose of determining breakeven for newly introduced postal services where the Postal Service has presented substantial evidence in support of the test period proposed.

(b) This section and § 3001.182 are effective November 28, 2001 through November 28, 2006.

§ 3001.182 Filing of formal request and prepared direct evidence.

In filing a request for establishment of a new postal service pursuant to section 3623, the Postal Service may request that its proposal be considered for a test period of longer duration than the test period prescribed in § 3001.54(f)(2). Each such request shall be supported by the following information:

(a) The testimony of a witness on behalf of the Postal Service, who shall provide:

(1) A complete definition of the multi-year test period requested for the proposed new service;

(2) A detailed explanation of the Postal Service's preference of a multi-year test period, including the bases of the Service's determination that the test period prescribed in § 3001.54(f)(2) would be inappropriate; and

(3) A complete description of the Postal Service's plan for achieving an appropriate contribution to institutional costs from the new service by the end of the requested test period.

(b) Complete documentary support for, and detail underlying, the test period requested by the Postal Service, including:

(1) Estimated costs, revenues, and volumes of the proposed new service for the entire requested test period;

(2) Return on investment projections and all other financial analyses prepared in connection with determining the cost and revenue impact of the proposed new service; and

(3) Any other analyses prepared by the Postal Service that bear on the overall effects of introducing the proposed new service during the requested test period.

Subpart L—Rules Applicable to Negotiated Service Agreements

SOURCE: 69 FR 7593, Feb. 18, 2004, unless otherwise noted.

§ 3001.190 Applicability.

(a) The rules in this subpart govern requests of the Postal Service for recommended decisions pursuant to sections 3622 or 3623 of the Act that are based on Negotiated Service Agreements. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart. The requirements and procedures specified in these sections apply exclusively to requests predicated on Negotiated Service Agreements. Except where specifically noted, this subpart does not supersede any other rules applicable to Postal Service requests for recommendation of changes in rates, fees, or mail classifications.

(b) In administering this subpart, it shall be the policy of the Commission to recommend Negotiated Service Agreements that are consistent with statutory criteria, and benefit the Postal Service, without causing unreasonable harm to the marketplace. Except in extraordinary circumstances and for good cause shown, the Commission shall not recommend Negotiated Service Agreements of more than three years duration; however, this limitation is not intended to bar the Postal Service from requesting:

(1) The renewal of the terms and conditions of a previously recommended Negotiated Service Agreement, see § 3001.197; or

(2) Recommendation of a Negotiated Service Agreement that is functionally equivalent to a previously recommended Negotiated Service Agreement, see § 3001.196.

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§ 3001.191 Filing of formal requests.

(a) Whenever the Postal Service proposes to establish or change rates or fees and/or the mail classification schedule based on a Negotiated Service Agreement, the Postal Service shall file with the Commission a formal request for a recommended decision. The request shall clearly state whether it is a request for a recommended decision pursuant to:

(1) The review of a baseline Negotiated Service Agreement, see § 3001.195;

(2) The review of a Negotiated Service Agreement that is functionally equivalent to a previously recommended Negotiated Service Agreement, see § 3001.196;

(3) The renewal of the terms and conditions of a previously recommended Negotiated Service Agreement, see § 3001.197; or

(4) The modification of the terms and conditions of a previously recommended Negotiated Service Agreement, see § 3001.198. Such request shall be filed in accordance with the requirements of §§ 3001.9 through 3001.12. Within 5 days after the Postal Service has filed a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the director of the Office of the Federal Register for publication in the FEDERAL REGISTER.

(b) The Postal Service shall clearly identify all parties to the Negotiated Service Agreement. Identification by the Postal Service shall serve as Notice of Intervention for such parties. Parties to the Negotiated Service Agreement are to be considered co-proponents, procedurally and substantively, during the Commission's review of the proposed Negotiated Service Agreement.

§ 3001.192 Filing of prepared direct evidence.

(a) Simultaneously with the filing of the formal request for a recommended decision under this subpart, the Postal Service and its co-proponents shall file all of the prepared direct evidence upon which they propose to rely in the proceeding on the record before the Commission to establish that the proposed Negotiated Service Agreement is in the public interest and is in accordance

with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits, which shall be filed in accordance with § 3001.31.

(b) Direct evidence may be filed in support of the Negotiated Service Agreement prepared by, or for, any party to the Negotiated Service Agreement. Direct evidence in support of the Negotiated Service Agreement prepared by, or for, any party to the Negotiated Service Agreement shall not be accepted without prior Postal Service review. The Postal Service shall affirm that it has reviewed such testimony and that such testimony may be relied upon in presentation of the Postal Service's direct case.

§ 3001.193 Contents of formal requests.

(a) *General requirements.* (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance, and impact of the proposed changes or adjustments in rates, fees, and/or the mail classification schedule(s) associated with the Negotiated Service Agreement, and to show that the changes or adjustments are in the public interest and in accordance with the policies and the applicable criteria of the Act. To the extent information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (k) of this section. If the required information is set forth in the Postal Service's prepared direct evidence, it shall be deemed to be part of the formal request without restatement.

(2) If any information required by paragraphs (b) through (k) of this section is not available and cannot be made available without undue burden, the request shall include a request for waiver of that requirement supported by a statement explaining with particularity:

(i) The information which is not available or cannot be made available without undue burden;

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(ii) The reason or reasons that each such item of information is not available and cannot be made available without undue burden;

(iii) The steps or actions which would be needed to make each such item of information available, together with an estimate of the time and expense required therefor;

(iv) Whether it is contemplated that each such item of information will be supplied in the future and, if so, at what time; and

(v) Whether sufficiently reliable estimates are available to mitigate the need for such information, and if so, the specifics of such estimates.

(3) If the Postal Service believes that any of the data or other information required to be filed under §3001.193 should not be required in light of the character of the request, it shall move for a waiver of that requirement, stating with particularity the reasons why the character of the request and its circumstances justify a waiver of the requirement.

(4) Grant of a waiver under paragraphs (a)(2) or (a)(3) of this section will be grounds for excluding from the proceeding a contention that the absence of the information should form a basis for rejection of the request, unless the party desiring to make such contention:

(i) Demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the information and submitted it in accordance with §3001.193; or

(ii) Demonstrates other compelling and exceptional circumstances requiring that the absence of the information in question be treated as bearing on the merits of the proposal.

(5) The provisions of paragraphs (a)(2) and (a)(3) of this section for the Postal Service to include in its formal request certain alternative information in lieu of that specified by paragraphs (b) through (k) of this section are not in derogation of the Commission's and the presiding officer's authority, pursuant to §§3001.23 through 3001.28, respecting the provision of information at a time following receipt of the formal request.

(6) The Commission may request information in addition to that required by paragraphs (b) through (k) of this section.

(b) *Negotiated Service Agreement.* Every formal request shall include a copy of the Negotiated Service Agreement.

(c) *Rates and standards information.* Every formal request shall include a description of the proposed rates, fees, and/or classification changes, including proposed changes, in legislative format, to the text of the Domestic Mail Classification Schedule and any associated rate or fee schedule.

(d) *Description of agreement.* Every formal request shall include a statement describing and explaining the operative components of the Negotiated Service Agreement. The statement shall include the reasons and bases for including the components in the Negotiated Service Agreement.

(e) *Financial analysis.* Every formal request shall include an analysis, as described in §3001.193(e)(1), of the effects of the Negotiated Service Agreement on Postal Service volumes, costs and revenues in a one-year period intended to be representative of the first year of the proposed agreement. If the agreement is proposed to extend beyond one year, the request shall also include an analysis of the effects of the agreement on Postal Service volumes, costs and revenues in each subsequent year of the proposed agreement, as described in §3001.193(e)(2). For each year, the analysis shall provide such detail that the analysis of each component of a Negotiated Service Agreement can be independently reviewed, and shall be prepared in sufficient detail to allow independent replication, including citation to all referenced material.

(1) The financial analysis for the one-year period intended to be representative of the first year of the proposed agreement shall:

(i) Set forth the estimated mailer-specific costs, volumes, and revenues of the Postal Service for that year, assuming the then effective postal rates and fees absent the implementation of the Negotiated Service Agreement;

(ii) Set forth the estimated mailer-specific costs, volumes, and revenues of the Postal Service for that year which

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result from implementation of the Negotiated Service Agreement;

(iii) Include an analysis of the effects of the Negotiated Service Agreement on contribution to the Postal Service for that year (including consideration of the effect on contribution from mailers who are not parties to the agreement);

(iv) Utilize mailer-specific costs for that year, and provide the basis used to determine such costs, including a discussion of material variances between mailer-specific costs and system-wide average costs; and

(v) Utilize mailer-specific volumes and elasticity factors for that year, and provide the bases used to determine such volumes and elasticity factors. If mailer-specific costs or elasticity factors are not available, the bases of the costs or elasticity factors that are proposed shall be provided, including a discussion of the suitability of the proposed costs or elasticity factors as a proxy for mailer-specific costs or elasticity factors.

(2) The financial analysis for each subsequent year covered by the agreement (if the proposed duration of the agreement is greater than one year) shall:

(i) Identify each factor known or expected to operate in that subsequent year which might have a material effect on the estimated costs, volumes, or revenues of the Postal Service, relative to those set forth in the financial analysis provided for the first year of the agreement in response to § 3001.193(e)(1). Such relevant factors might include (but are not limited to) cost level changes, anticipated changes in operations, changes arising from specific terms of the proposed agreement, or potential changes in the level or composition of mail volumes;

(ii) Discuss the likely impact in that subsequent year of each factor identified in § 3001.193(e)(2)(i), and quantify that impact to the maximum extent practical; and

(iii) Estimate the cumulative effect in that subsequent year of all factors identified in § 3001.193(e)(2)(i) on the estimated costs, volumes, and revenues of the Postal Service, relative to those presented for the first year of the

agreement in response to § 3001.193(e)(1).

(f) *Impact analysis.* (1) Every formal request shall include an analysis of the impact over the duration of the Negotiated Service Agreement on:

(i) Competitors of the parties to the Negotiated Service Agreement other than the Postal Service;

(ii) Competitors of the Postal Service; and

(iii) Mail users.

(2) The Postal Service shall include a copy of all completed special studies that were used to make such estimates. If special studies have not been performed, the Postal Service shall state this fact and explain the alternate bases of its estimates.

(g) *Data collection plan.* Every formal request shall include a proposal for a data collection plan, which shall include a comparison of the analysis presented in § 3001.193(e)(1)(ii) and § 3001.193(e)(2)(iii) with the actual results ascertained from implementation of the Negotiated Service Agreement. The results shall be reported to the Commission on an annual or more frequent basis.

(h) *Workpapers.* (1) Whenever the Service files a formal request it shall accompany the request with seven sets of workpapers, five for use by the Commission staff and two which shall be available for use by the public at the Commission's offices.

(2) Workpapers shall contain:

(i) Detailed information underlying the data and submissions for paragraphs (b) through (k) of this section;

(ii) A description of the methods used in collecting, summarizing and expanding the data used in the various submissions;

(iii) Summaries of sample data, allocation factors and other data used for the various submissions;

(iv) The expansion ratios used (where applicable); and

(v) The results of any special studies used to modify, expand, project, or audit routinely collected data.

(3) Workpapers shall be neat and legible and shall indicate how they relate to the data and submissions supplied in response to paragraphs (b) through (k) of this section.

(4) Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, *e.g.*, by reference to document, page, line, column, etc. With the exception of workpapers that follow a standardized and repetitive format, the required citations themselves, or a cross-reference to a specific page, line, and column of a table of citations, shall appear on each page of each workpaper. Workpapers that follow a standardized and repetitive format shall include the citations described in this paragraph for a sufficient number of representative examples to enable a reviewer to trace numbers directly or by analogy.

(i) *Certification by officials.* (1) Every formal request shall include one or more certifications stating that the cost statements and supporting data submitted as a part of the formal request, as well as the accompanying workpapers, which purport to reflect the books of the Postal Service, accurately set forth the results shown by such books.

(2) The certificates required by paragraph (i)(1) of this section shall be signed by one or more representatives of the Postal Service authorized to make such certification. The signature of the official signing the document constitutes a representation that the official has read the document and that, to the best of his/her knowledge, information and belief, every statement contained in the instrument is proper.

(j) *Rejection of requests.* The Commission may reject any request under this subpart that patently fails to substantially comply with any requirements of this subpart.

§ 3001.194 Failure to comply.

If the Postal Service fails to provide any information specified by this subpart, or otherwise required by the presiding officer or the Commission, the Commission, upon its own motion, or upon motion of any participant to the proceeding, may stay the proceeding

until satisfactory compliance is achieved. The Commission will stay proceedings only if it finds that failure to supply adequate information interferes with the Commission's ability promptly to consider the request and to conduct its proceedings with expedition in accordance with the Act.

§ 3001.195 Requests to recommend a baseline Negotiated Service Agreement.

(a) This section governs Postal Service requests for a recommended decision in regard to a baseline Negotiated Service Agreement, *i.e.*, a Negotiated Service Agreement that is not predicated on a functionally equivalent Negotiated Service Agreement currently in effect. The purpose of this section is to establish procedures which provide for maximum expedition of review consistent with procedural fairness, and which allows for the recommendation of a baseline Negotiated Service Agreement. The Postal Service request shall include:

(1) A written justification for requesting a Negotiated Service Agreement classification as opposed to a more generally applicable form of classification; and

(2) A description of the operational bases of the Negotiated Service Agreement, including activities to be performed and facilities to be used by both the Postal Service and the mailer under the agreement.

(b) The Commission will treat requests predicated on a baseline Negotiated Service Agreement as subject to the maximum expedition consistent with procedural fairness. A schedule will be established, in each case, to allow for prompt issuance of a decision.

§ 3001.196 Requests to recommend a Negotiated Service Agreement that is functionally equivalent to a previously recommended Negotiated Service Agreement.

(a) This section governs Postal Service requests for a recommended decision in regard to a Negotiated Service Agreement that is proffered as functionally equivalent to a Negotiated

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Service Agreement previously recommended by the Commission and currently in effect. The previously recommended Negotiated Service Agreement shall be referred to as the baseline agreement. The purpose of this section is to establish procedures that provide for accelerated review of functionally equivalent Negotiated Service Agreements. The Postal Service request shall include:

(1) A detailed description of how the proposed Negotiated Service Agreement is functionally equivalent to the baseline agreement;

(2) A detailed description of how the proposed Negotiated Service Agreement is different from the baseline agreement;

(3) Identification of the record testimony from the baseline agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including specific citation to the locations of such testimony;

(4) All available special studies developing information pertinent to the proposed Negotiated Service Agreement;

(5) If applicable, the identification of circumstances unique to the request; and

(6) If applicable, a proposal for limitation of issues in the proceeding, except that the following issues will be relevant to every request predicated on a functionally equivalent Negotiated Service Agreement:

(i) The financial impact of the Negotiated Service Agreement on the Postal Service over the duration of the agreement;

(ii) The fairness and equity of the Negotiated Service Agreement in regard to other users of the mail; and

(iii) The fairness and equity of the Negotiated Service Agreement in regard to the competitors of the parties to the Negotiated Service Agreement.

(b) When the Postal Service submits a request predicated on a functionally equivalent Negotiated Service Agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the baseline agreement.

(c) The Commission will schedule a prehearing conference for each request.

Participants shall be prepared at the prehearing conference to address whether or not it is appropriate to proceed under § 3001.196, and to identify any issue(s) that would indicate the need to schedule a hearing. After consideration of the material presented in support of the request, and the argument presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under § 3001.196. If the Commission's decision is to not proceed under § 3001.196, the request will proceed under § 3001.195.

(d) The Commission will treat requests predicated on functionally equivalent Negotiated Service Agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under § 3001.196, a schedule will be established which allows a recommended decision to be issued not more than:

(1) 60 days after the determination is made to proceed under § 3001.196, if no hearing is held; or

(2) 120 days after the determination is made to proceed under § 3001.196, if a hearing is scheduled.

§ 3001.197 Requests to renew previously recommended negotiated service agreements with existing participant(s).

(a) This section governs Postal Service requests for a recommended decision seeking to extend the duration of a previously recommended and currently in effect negotiated service agreement (existing agreement). The purpose of this section is to establish procedures that provide for accelerated review of Postal Service requests to extend the duration of an existing agreement under substantially identical obligations. In addition to extending the duration of the existing agreement, modifications may be entertained that do not materially alter the nature of the existing agreement for the purposes of: correcting a technical defect, updating the schedule of rates and fees, or accounting for an intervening event since the recommendation of the existing agreement. The Postal Service request shall include:

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(1) Identification of the record testimony from the existing agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including citation to the locations of such testimony;

(2) A detailed description of all proposed modifications to the existing agreement;

(3) A detailed description of any technical defect, rationale for revising the schedule of rates and fees, or intervening event since the recommendation of the existing agreement, to substantiate the modifications proposed in paragraph (a)(2) of this section;

(4) All special studies developing information pertinent to the request completed since the recommendation of the existing agreement;

(5) A comparison of the analysis presented in § 3001.193(e)(1)(ii) and § 3001.193(e)(2)(iii) applicable to the existing agreement with the actual results ascertained from implementation of the existing agreement, together with the most recent available projections for the remaining portion of the existing agreement, compared on an annual or more frequent basis;

(6) The financial impact of the proposed negotiated service agreement on the Postal Service in accordance with § 3001.193(e) over the extended duration of the agreement utilizing the methodology employed by the Commission in its recommendation of the existing agreement; and

(7) If applicable, the identification of circumstances unique to the request.

(b) When the Postal Service submits a request to renew a negotiated service agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the original agreement.

(c) The Commission will schedule a prehearing conference for each request. Participants shall be prepared to address at that time whether or not it is appropriate to proceed under § 3001.197, and whether or not any material issues of fact exist that require discovery or evidentiary hearings. After consideration of the material presented in support of the request, and the argument

presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under § 3001.197. If the Commission's decision is to not proceed under § 3001.197, the docket will proceed under § 3001.195 or § 3001.196, as appears appropriate.

(d) The Commission will treat requests to renew negotiated service agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under § 3001.197, a schedule will be established which allows a recommended decision to be issued not more than:

(1) Forty-five (45) days after the determination is made to proceed under § 3001.197, if no hearing is held; or

(2) Ninety (90) days after the determination is made to proceed under § 3001.197, if a hearing is scheduled.

[70 FR 32497, June 3, 2005]

§ 3001.198 Requests to modify previously recommended negotiated service agreements.

(a) This section governs Postal Service requests for a recommended decision seeking a modification to a previously recommended and currently in effect negotiated service agreement (existing agreement). The purpose of this section is to establish procedures that provide for accelerated review of Postal Service requests to modify an existing agreement where the modification is necessary to correct a technical defect, to account for unforeseen circumstances not apparent when the existing agreement was first recommended, or to account for an intervening event since the recommendation of the existing agreement. This section is not applicable to requests to extend the duration of a negotiated service agreement. The Postal Service request shall include:

(1) Identification of the record testimony from the existing agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including citation to the locations of such testimony;

(2) A detailed description of all proposed modifications to the existing agreement;

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(3) A detailed description of the technical defect, unforeseen circumstance, or intervening event since the recommendation of the existing agreement, to substantiate the modifications proposed in paragraph (a)(2) of this section;

(4) All special studies developing information pertinent to the request completed since the recommendation of the existing agreement;

(5) If applicable, an update of the financial impact of the negotiated service agreement on the Postal Service in accordance with §3001.193(e) over the duration of the agreement utilizing the methodology employed by the Commission in its recommendation of the existing agreement; and

(6) If applicable, the identification of circumstances unique to the request.

(b) When the Postal Service submits a request to modify a negotiated service agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the original agreement.

(c) The Commission will schedule a prehearing conference for each request. Participants shall be prepared to address at that time whether or not it is appropriate to proceed under §3001.198, and whether or not any material issues of fact exist that require discovery or evidentiary hearings. After consideration of the material presented in support of the request, and the argument presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under §3001.198. If the Commission's decision is to not proceed under §3001.198, the docket will proceed under §3001.195 or §3001.196, as appears appropriate.

(d) The Commission will treat requests to modify negotiated service agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under §3001.198, a schedule will be established which allows a recommended decision to be issued not more than:

(1) Forty-five (45) days after the determination is made to proceed under §3001.198, if no hearing is held; or

(2) Ninety (90) days after the determination is made to proceed under §3001.198, if a hearing is scheduled.

[70 FR 32497, June 3, 2005]

PART 3002—ORGANIZATION

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3002.7 Office of the Consumer Advocate.

3002.8 Official seal.

APPENDIX A TO PART 3002—POSTAL RATE COMMISSION, MISSION STATEMENT OF THE OFFICE OF THE CONSUMER ADVOCATE

AUTHORITY: 39 U.S.C. 3603; 5 U.S.C. 552.

EDITORIAL NOTE: Nomenclature changes for Part 3002 appear at 70 FR 48277, Aug. 17, 2005.

§ 3002.1 Purpose.

This part is published in compliance with 5 U.S.C. 552(a)(1) and constitutes a general description of the Postal Rate Commission.

[36 FR 21994, Nov. 18, 1971]

§ 3002.2 Statutory functions.

(a) *Areas of jurisdiction.* The Commission has jurisdiction over changes in postal rates and fees under 39 U.S.C. 3622, and over mail classifications under 39 U.S.C. 3623. It issues recommended decisions to the Governors of the Postal Service on these matters. It also acts on postal patrons' appeals from Postal Service decisions to close or consolidate post offices under 39 U.S.C. 404(b). Further, the Commission investigates complaints of substantial national scope concerning postal rates, fees, mail classifications or services under 39 U.S.C. 3662. It also responds to requests of the Postal Service for advisory opinions on changes in the nature of postal services under 39 U.S.C. 3661. Because of the Commission's expertise, Congress occasionally asks it to undertake special studies on postal issues.

(b) *Public participation.* Interested persons may elect to participate in Commission rate and mail classification proceedings as formal intervenors (§3001.20), limited participators (§3001.20a), or commenters (§3001.20b).

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Interested parties who believe the Postal Service is charging rates which do not conform with the policies of the Postal Reorganization Act, or who believe that they are not receiving postal service in accordance with the policies of title 39, may lodge a complaint with the Commission under section 3001.82. Persons served by post offices that the Postal Service decides to close or consolidate with other post offices may appeal such determinations under § 3001.111.

[64 FR 58337, Oct. 29, 2000]

§ 3002.3 The Commission and its offices.

(a) The Commissioners. The Postal Rate Commission is an independent establishment of the executive branch of the U.S. Government created by the Postal Reorganization Act (84 Stat. 719, title 39, U.S.C.). The Commission consists of five Commissioners appointed by the President and confirmed by the Senate, one of whom is designated as Chairman by the President.

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

(c) The Commission's offices are located at 901 New York Avenue NW., Suite 200, Washington, DC 20268. On these premises, the Commission maintains offices for Commissioners and the staff components described in §§ 3001.4, 3001.5, 3001.6 and 3001.7; a docket room

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where documents may be filed with the Commission pursuant to § 3001.9 and examined by interested persons; a public reading room where the Commission's public records are available for inspection and copying; a library containing legal and technical reference materials; and a hearing room where formal evidentiary proceedings are held on matters before the Commission. The Commission also maintains an electronic reading room accessible through the Internet, on its website at www.prc.gov.

[48 FR 13167, Mar. 30, 1983. Redesignated and amended at 64 FR 58337, Oct. 29, 1999]

§ 3002.4 Administrative Office.

(a) The incumbent head of the office is responsible for exercising two executive functions of the Commission and utilizes the title of either "Secretary" or "Chief Administrative Officer", as appropriate.

(b) As Secretary of the Commission, the incumbent head shall have custody of the Commission's seal, the minutes of all action taken by the Commission, its rules and regulations, its administrative and other orders, and records. All orders and other actions of the Commission shall be authenticated or signed by the Secretary or any such other person as may be authorized by the Commission.

(c) As Chief Administrative Officer the incumbent head is also responsible, subject to the policy guidelines of the Commission, for: Development, implementation, and administration of the Commission's financial management system and accounting activities including those relating to the budget and the payroll; development and administration in conjunction with the Personnel Officer of a personnel program designed to meet the needs of the Commission and its employees; development and administration, subject to the supervision of the Chairman, of a public information program appropriate to the agency mission; provision of facilities and operating and support services essential to the efficient and effective conduct of operations; acquisition, planning and assignment of office space; procurement and supply; serving as the contracting officer for

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the Commission and controlling the obligation of Commission funds, as authorized by the Commission.

(d) The personnel management functions set out above are the immediate responsibility of the Personnel Officer, whose position is located in the Administrative Office.

(e) The Administrative Office is also responsible for the maintenance of the Commission's public information resources, including the docket room, the physical reading room, and the library on the premises of the Commission's offices, as well as the electronic reading room accessible on the Commission's website at *www.prc.gov*. The information available on the Commission's website is, in general, coextensive with that available from the Commission's docket room and physical reading room, and includes: Commission decisions, rules, orders and notices; testimony, pleadings and reference materials filed in Commission proceedings; and current information concerning Commission activities, employment opportunities, and a calendar of upcoming events.

[48 FR 13167, Mar. 30, 1983. Redesignated and amended at 64 FR 58337, Oct. 29, 1999]

§ 3002.5 Office of Rates, Analysis, and Planning.

(a) The Office of Rates, Analysis, and Planning is responsible for technical (as opposed to legal) analysis and the formulation of policy recommendations for the Commission.

(b) This office provides the analytic support to the Commission for reviewing the record of rate and classification requests, post office closings and other issues which come before the Commission. The functional areas of expertise within this office are:

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

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

(3) The analysis of the costs of operating the Postal Service and how such costs are influenced by the operational characteristics.

(c) These functional activities are combined in the evaluation of the revenue requirements of the Postal Service under possible alternative operating circumstances for the purpose of developing rate structures. They are also used to evaluate the impact of various proposed changes to the Domestic Mail Classification Schedule and the consequences of these changes upon the mailers and upon the revenue requirements and rate structure of the Postal Service.

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

[48 FR 13168, Mar. 30, 1983, as amended at 62 FR 45530, Aug. 28, 1997. Redesignated at 64 FR 58337, Oct. 29, 1999]

§ 3002.6 Office of the General Counsel.

The General Counsel directs and coordinates the functions of the Office of the General Counsel and is directly responsible for the counseling and advisory services set forth in 39 CFR 3000.735-203. In accordance with § 3001.8 of the rules of practice, the General Counsel does not appear as an attorney in hearings in any proceeding before the Commission and takes no part in the preparation of evidence or argument presented in such hearings. The General Counsel represents the Commission in court proceedings and performs legal research on issues coming before the Commission; advises the Commission on the legal aspects of proposed legislation and rulemaking, the legal aspects of proposed action and policies on procurement, contracting, personnel matters, and other internal legal questions.

[48 FR 13168, Mar. 30, 1983]

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§ 3002.7 Office of the Consumer Advocate.

(a) The Office of the Consumer Advocate provides representation for the interests of the general public in Commission proceedings. The office prepares and litigates before the Commission legal and evidentiary presentations in all formal Commission dockets under chapter 36 of title 39, U.S. Code. It also is responsible for maintaining a continuing litigation capability including preparation for consideration of issues likely to reflect the interests of the general public in subsequent proceedings.

(b) The head of this office is responsible for directing both legal and technical personnel to fulfill its functions. The office includes both litigation attorneys and a broad spectrum of technical expertise to analyze and evaluate the diverse economic, cost and market issues before the Commission. During the pendency of a proceeding, personnel serving in the Office of the Consumer Advocate are prohibited from participating or advising as to any intermediate or Commission decision in that proceeding pursuant to the Commission Rules of Practice.

(c) A mission statement regarding the Office of the Consumer Advocate is contained as appendix A to this part.

[48 FR 13168, Mar. 30, 1983, as amended at 64 FR 37402, July 12, 1999]

§ 3002.8 Official seal.

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

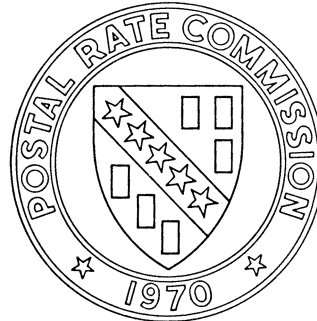
(b) *Description.* (1) On a white disc within a blue border with inner and outer rims gold and inscribed at top POSTAL RATE COMMISSION and in base, between two small five-pointed stars, 1970, all in gold, the shield of the coat of arms in full color blazoned as follows:

Five blue stars on a white stripe running from the upper left to the lower right of the shield, with three white billets on each of the upper and lower sections of the shield, the former blue and the latter red.

(2) The official seal of the Postal Rate Commission is modified when re-

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produced in black and white and when embossed, as it appears in this section.



(c) *Custody and authorization to affix.*

(1) The seal is the official emblem of the Postal Rate Commission and its use is therefore permitted only as provided in this part.

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

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

[39 FR 2481, Jan. 22, 1974. Redesignated at 42 FR 3646, Jan. 19, 1977, and 48 FR 13168, Mar. 30, 1983]

APPENDIX A TO PART 3002—POSTAL RATE COMMISSION, MISSION STATEMENT OF THE OFFICE OF THE CONSUMER ADVOCATE

The mission of the Office of the Consumer Advocate is to be a vigorous, responsive, and effective advocate for reasonable and equitable treatment of the general public in proceedings before the Postal Rate Commission.

In furtherance of this mission, the Office of the Consumer Advocate will:

1. Give a strong and consistent voice to the views of consumers, especially those that are not otherwise represented in Commission proceedings;

2. Argue for equity on behalf of individuals and small businesses, both as senders and as recipients of mail and mail services;

3. Utilize all means and procedures available under the Commission's rules and applicable law to present evidence and arguments on behalf of consumers in Commission proceedings;

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4. Assist in the development of a complete record on issues pending before the Commission;

5. Engage in dialogue with parties or participants in proceedings before the Commission to advance the interests of consumers;

6. Encourage the equitable settlement of issues among the parties and participants in proceedings whenever possible;

7. Promote fair competition between the United States Postal Service and its competitors for the ultimate benefit of consumers;

8. Seek out responsible advocates of consumer interests and encourage their participation in Commission cases;

9. Maintain the highest standards of competence and quality in all evidence and pleadings submitted to the Commission; and

10. Maintain separation and independence from the Commission and its advisory staff in the course of proceedings before the Commission.

[64 FR 37402, July 12, 1999]

PART 3003—PRIVACY ACT RULES

Sec.

3003.1 Purpose and scope.

3003.2 Definitions.

3003.3 Procedures for requesting inspection, copying, or correction.

3003.4 Response to a request.

3003.5 Appeals of denials of access or amendment.

3003.6 Fees.

3003.7 Exemptions.

AUTHORITY: Privacy Act of 1974 (Pub. L. 93-579), 5 U.S.C. 552a.

SOURCE: 64 FR 57982, Oct. 28, 1999, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes for Part 3003 appear at 70 FR 48277, Aug. 17, 2005.

§ 3003.1 Purpose and scope.

This part implements the Privacy Act of 1974 (5 U.S.C. 552a) by establishing Commission policies and procedures that permit individuals to obtain access to and request amendment of information about themselves that is maintained in systems of records. This part does not expand or restrict any rights granted under the Privacy Act of 1974.

§ 3003.2 Definitions.

For purposes of this part:

(a) *Commission* means the Postal Rate Commission.

(b) *Individual, record, and system of records* have the meanings specified in 5 U.S.C. 552a(a).

(c) *Day* means a calendar day and does not include Saturdays, Sundays, and legal holidays.

§ 3003.3 Procedures for requesting inspection, copying, or correction.

(a) An individual who—

(1) Wishes to know whether a Commission system of records contains a record about him or her,

(2) Seeks access to a Commission record about him or her that is maintained in a system of records (including the accounting of disclosures), or

(3) Seeks to amend a record about him or her that is maintained in a system of records, may file a written request with the chief administrative officer of the Commission at the Commission's current address (901 New York Avenue NW., Suite 200, Washington, DC 20268-0001). The request should state on the outside of the envelope and in the request that it is a Privacy Act request.

(b) A request for amendment must describe the information sought to be amended and the specific reasons for the amendment.

(c) A requester—

(1) May request an appointment to inspect records at the Commission's offices between the hours of 8 a.m. and 4:30 p.m. on any day;

(2) Must present suitable identification, such as a driver's license, employee identification card, or Medicare card;

(3) If accompanied by another individual, must sign a statement, if requested by the chief administrative officer, authorizing discussion of his or her record in the presence of that individual;

(4) Who files a request by mail must include his or her date of birth, dates of employment at the Commission (if applicable), and suitable proof of identity, such as a facsimile of a driver's license, employee identification card, or Medicare card; and

(5) Must, if requested by the chief administrative officer, provide additional proof of identification.

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§ 3003.4 Response to a request.

(a) In the case of a request for notice of the existence of a record, the chief administrative officer shall respond within 10 days of receipt of a request and shall inform the individual whether a system of records maintained by the Commission contains such a record.

(b) In the case of a request for access to a record or for a copy of a record, the chief administrative officer shall acknowledge the request within 10 days and shall promptly thereafter—

(1) Fulfill the request by mail or arrange for an inspection by the requester in the Commission's offices; or

(2) If the request is denied, notify the requester of the denial, the reasons for the denial, the procedures for appealing the refusal, and the name and address of the Chairman of the Commission who will consider an appeal.

(c) In the case of a request for amendment, the chief administrative officer shall:

(1) Acknowledge the request in writing within 10 days;

(2) Promptly review the record; and

(3)(i) Make any requested amendment of a record found to be not accurate, relevant, timely, or complete; notify the requester of the change and provide a copy of the corrected record; and notify any previous recipient of the record (excluding Commission staff who obtained the record in the performance of their duties and recipients under the Freedom of Information Act) of any change; or

(ii) Inform the requester of a refusal to amend the record, the reasons for the refusal, the procedures for appealing the refusal, and the name and address of the Chairman of the Commission who will consider an appeal.

§ 3003.5 Appeals of denials of access or amendment.

(a) If a request for access to or amendment of a record is denied, the requester may file a written appeal with the Chairman of the Commission. The Chairman will decide each appeal within 30 days of receipt unless the Chairman has, for good cause, extended the period for another 30 days.

(b) If an appeal is denied, the requester will be notified of the decision,

the reasons for the denial, the right to file a concise statement of disagreement, the procedures for filing a statement of disagreement, the subsequent uses of a statement of disagreement, and of the right to seek judicial review in accordance with subsection (g) of the Privacy Act.

§ 3003.6 Fees.

The first copy of any record furnished under the Privacy Act of 1974 will be provided without charge. Additional copies will be charged at the cost of reproduction.

§ 3003.7 Exemptions.

The Postal Rate Commission has not established any exempt system of records.

PART 3004—FREEDOM OF INFORMATION RULES

Sec.

3004.1 Purpose.

3004.2 Reading room.

3004.3 Requests for records and or expedited processing.

3004.4 Response to requests.

3004.5 Appeals.

3004.6 Fees.

3004.7 Aggregation of requests.

3004.8 Submission of business information.

AUTHORITY: 39 U.S.C. 3603; 5 U.S.C. 552, 552a.

SOURCE: 64 FR 58337, Oct. 29, 1999, unless otherwise noted.

§ 3004.1 Purpose.

(a) This part is published pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, to describe the procedures by which a person can request copies of Commission records. It also describes how a submitter of trade secrets or confidential business information can identify information that the submitter believes to be exempt from disclosure under 5 U.S.C. 552(b).

(b) An individual seeking access to a record about himself or herself that is subject to the Privacy Act of 1974 should also consult the Commission's Privacy Act rules in part 3003 for the procedures that apply to requests for records under that Act. Requests for first-party access can be made under

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both the FOIA and the Privacy Act of 1974.

(c) Information required to be published or made available pursuant to 5 U.S.C. 552(a)(1) and (a)(2) may be found in part 3002, elsewhere in this chapter, in the FEDERAL REGISTER, or on the Commission's website at *www.prc.gov*. The Commission's guide to the FOIA, all required FOIA indexes, and any available annual FOIA reports, are also available at the website in the electronic reading room or elsewhere on the site.

(d) Section 3001.42(b) of this chapter identifies records that the Commission has determined to be public.

§ 3004.2 Reading room.

(a) The Commission maintains a public reading room at its offices at 1333 H Street NW., Washington, DC 20268. The reading room is open from 8:00 a.m. until 4:30 p.m. during business days.

(b) The records available for public inspection and copying in the reading room include: final opinions, statements of policy, administrative staff manuals and instructions that affect a member of the public, copies of selected records released under the FOIA, and indexes required to be maintained under the FOIA, and records described in 39 CFR 3001.42(b) relating to any matter or proceeding before the Commission.

(c) The Commission's electronic reading room is maintained at its website at *www.prc.gov*. Commission decisions, orders, rules of practice, and other directives affecting the public are available from the electronic reading room. To the extent practicable, other documents available in the reading room are also posted and available on the website.

§ 3004.3 Requests for records and for expedited processing.

(a) A request for records must be in writing and must reasonably describe the records sought. A request should be addressed or delivered to the Secretary of the Commission at the offices of the Commission at 1333 H Street NW., Washington, DC 20268. A request should be clearly identified as "Freedom of Information Act Request" both in the text of the request and on the envelope.

A requester should include a daytime telephone number.

(b) A request for expedited processing may be made in cases in which the requester demonstrates a compelling need as defined in 5 U.S.C. 552(a)(6)(E)(v). The Commission may otherwise grant requests for expedited processing at its discretion. A request for expedited processing should be clearly identified as "Expedited Freedom of Information Act Request" both in the text of the request and on the envelope.

(c) A demonstration of compelling need by a requester seeking expedited processing must be made by a statement certified by the requester to be true and correct to the best of the requester's knowledge and belief. At its discretion, the Commission may waive the requirement for certification.

(d) A request for expedited processing may be made at the time of an initial request (or appeal) or at a later time.

§ 3004.4 Response to requests.

(a) Within 20 days (excluding Saturdays, Sundays, and legal public holidays) after receipt of a request for a Commission record, the Secretary of the Commission will:

(1) Determine to comply with the request and immediately notify the requester of the determination and of any fees that must be paid; or

(2) Deny the request in writing. The denial letter will explain the reason for the denial, including each exemption used as a basis for withholding of the records sought. The denial letter will include an estimate of the volume of requested matter that was denied. If disclosure of a record has been partially denied, the amount of information deleted will be indicated on the released portion if technically feasible. If revealing the amount or location of a denied record will harm an interest protected by an exemption, then the description of the amount or location of deleted information may be withheld. The denial letter will inform the requester that he/she may, within one year, appeal the denial to the Commission.

(b) A denial is any form of adverse determination, including: a determination to withhold any requested record

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in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA; an adverse decision on any disputed fee matter, including a denial of a requested fee waiver; and a denial of a request for expedited treatment.

(c) Within ten days after the receipt of a request for expedited processing, the Secretary will:

(1) Grant the request for expedited processing and process the request for records as soon as practicable; or

(2) Deny a request for expedited processing in writing. Any request for records that has been denied expedited processing will be processed in the same manner as a request that did not seek expedited processing. The denial letter will inform the requestor that he/she may, within five days, appeal the denial to the Commission.

(d) If warranted by the unusual circumstances specified in 5 U.S.C. 552(a)(6)(B)(iii), the Secretary may extend the time for a response for up to ten working days. The Secretary will notify the requester of any extension, and the reason for the extension, in writing. The Secretary will also provide the requester with an opportunity to limit the scope of the request or to arrange an alternative time frame for processing the request or a modified request.

§ 3004.5 Appeals.

(a) A requester who seeks to appeal any denial must file an appeal in writing with the Commission. The Commission may review any decision of the Secretary on its own initiative. The Commission will grant or deny the appeal in writing, within 20 days (excluding Saturdays, Sundays and legal public holidays) of the date the appeal is received. If on appeal the denial of the request for records is upheld, the Commission will notify the person making such request of the provisions for judicial review of that determination pursuant to 5 U.S.C. 552(c). The Commission will expeditiously consider an appeal of a denial of expedited processing.

(b) If warranted by the unusual circumstances specified in 5 U.S.C. 552(a)(6)(B)(iii), the Commission may extend the time for a response to an appeal for up to ten working days. The Commission will notify the requester of any extension, and the reason for the extension, in writing. The Commission will also provide the requester with an opportunity to limit the scope of the request or to arrange an alternative time frame for processing the request or a modified request.

§ 3004.6 Fees.

(a) Definitions pertaining to fees:

(1) *Direct costs* means expenditures the Commission actually incurs in searching for, duplicating, and, where applicable, reviewing documents to respond to a request. They include (without limitation) the salary of the employee performing work (the basic pay rate of such employee plus 16 percent to cover benefits) and the cost of operating required machinery.

(2) *Search* includes all time spent looking for material responsive to a request, including identification of pages or lines within documents. The term covers both manual and computerized searching.

(3) *Duplication* means making copies of documents necessary to respond to a request. Such copies may be paper, microform, audiovisual, or machine-readable.

(4) *Review* means examining documents located in response to a commercial-use request to determine whether any portion is exempt from mandatory disclosure, and processing or preparing documents for release, but not determination of general legal or policy issues regarding application of exemptions.

(5) *Commercial use request* means a request from or on behalf of one seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. In determining the applicability of this term, the use to which a requester will put the document is considered first; where reasonable doubt exists as to the use, the Commission may seek clarification before assigning the request to a category.

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(6) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate or undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) *Noncommercial scientific institution* means an institution, not operated on a *commercial* basis (as referenced above), which is operated solely for the purpose of conducting scientific research whose results are not intended to promote any particular product or industry.

(8) *Representative of the news media* means any person actively gathering news for an entity organized and operated to publish or broadcast news to the public. *News* means information about current events or that would be of current interest to the public. Freelance journalists will be regarded as working for a news medium if they demonstrate (for example, by a publication contract or a past record of publication) a solid basis for expecting publication through such organization even though not actually employed by it.

(b) Except in the case of commercial-use requesters, the first 100 pages of duplication and the first two hours of search time are provided without charge. A *page* for these purposes is a letter- or legal-size sheet, or the equivalent amount of information in a medium other than paper copy. *Search time* for these purposes refers to manual searching; if the search is performed by computer, the amount not charged for will be the search cost equivalent to two hours' salary of the person performing the search. No requester will be charged a fee when the Commission determines that the cost of collecting the fee would equal or exceed the fee itself. In determining whether cost of collection would equal or exceed the fee, the allowance for two hours' search or 100 pages of duplication will be made before comparing the remaining fee and the cost of collection.

(c) Fees will be charged in accordance with the following provisions:

(1) The level of fee charged depends on the category of requester:

(i) A request appearing to be for commercial use will be charged the full direct costs of searching for, reviewing, and duplicating the records sought.

(ii) A request from an educational or noncommercial scientific institution will be charged for the cost of duplication only (excluding charges for the first 100 pages). To be eligible for this category, a requester must show that the request is made under the auspices of a qualifying institution and that the records are not sought for commercial use but are in furtherance of scholarly (in the case of educational institutions) or scientific (in the case of noncommercial scientific institutions) research.

(iii) A request from a representative of the news media will be charged the cost of duplication only (excluding charges for the first 100 pages).

(iv) A request from any other requester will be charged the full direct cost of searching for and duplicating records responsive to the request, except that the first 100 pages of duplication and the first two hours of search will be furnished without charge.

(v) A request from a record subject for records about himself or herself filed in a Commission Privacy Act system of records will be charged fees as provided under the Commission's Privacy Act regulations in part 3003 of this chapter.

(2) Fees will be calculated as follows:

(i) Manual search: At the salary rate (basic pay plus 16 percent) of the employee(s) making the search. Search time may be charged for even if the Commission fails to locate records or if records located are exempt from disclosure.

(ii) Computer search: At the actual direct cost of providing the search, including computer search time directly attributable to searching for records responsive to the request, runs, and operator salary apportionable to the search.

(iii) Review (commercial-use requests): At the salary rate (basic pay plus 16 percent) of the employee(s) conducting the review. Charges are imposed only for the review necessary at

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the initial administrative level to determine the applicability of any exemption, and not for review at the administrative appeal level of an exemption already applied.

(iv) Duplication: At 15 cents per page for paper copy, which the Commission has found to be the reasonable direct cost thereof. For copies of records prepared by computer (such as tapes or printouts), the actual cost of production, including operator time, will be charged.

(v) Additional services: Postage, insurance, and other additional services that may be arranged for by the requester will be charged at actual cost.

(d) Interest at the rate prescribed in 31 U.S.C. 3717 will be charged on unpaid fee bills, starting on the 31st day after the bill was sent. Receipt of a fee by the Commission, whether processed or not, will stay the accrual of interest.

(e) Advance payment may be required only when the allowable fees are likely to exceed \$250, in which case advance payment in part or in full may be required of requesters with no history of prompt payment, and satisfactory assurance of payment from requesters with such history; or when the requester has previously failed to pay a fee timely (within 30 days of the billing date), in which case the Commission may require full payment of the amount owed, plus applicable interest, or a demonstration that the fee has in fact been paid, together with full advance payment of the estimated fee. When advance payment is required, the administrative time limits prescribed in subsection (a)(6) of the FOIA begin only after such payment has been received.

(f) Records will be provided without charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

§ 3004.7 Aggregation of requests.

Should the Secretary or the Commission reasonably believe that a requester or a group of requesters acting in concert, have attempted to evade

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fees or to seek a procedural advantage over other requesters by breaking down a request into a series of requests, the Commission may aggregate the separate requests and treat them as a single request. Multiple requests involving unrelated subjects will not be aggregated.

§ 3004.8 Submission of business information.

(a) Any person who submits to the Commission a trade secret or commercial or financial information that the submitter reasonably believes to be exempt from disclosure under 5 U.S.C. 552(b) must designate the exempt information by appropriate markings at the time of submission or at a reasonable time after submission. The submission should be accompanied by a brief written statement explaining why the information is exempt. Any designation will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer period.

(b) Before disclosing, in response to a FOIA request, any information properly designated under this part, the Commission will provide the submitter with written notice that a request seeks disclosure of the information. The Commission may also provide notice when it has reason to believe that business information possibly exempt from disclosure may fall within the scope of any FOIA request. The requester will be provided a copy of any notice sent to the submitter.

(c) A submitter has seven days to submit written objections to the disclosure specifying all grounds for withholding the information under the FOIA. If the submitter fails to respond to the notice, the submitter will be considered to have no objection to the disclosure of the information.

(d) If, after considering the submitter's objections to disclosure, the Commission decides to disclose the information, it will give the submitter written notice of the decision and a brief explanation of the reasons for not sustaining the submitter's objections. The actual disclosure will not be made before five days after the submitter has received the notice.

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(e) A submitter may not receive notice if the Commission determines that the information should not be disclosed; if the information has been lawfully published or officially made available to the public; or if a statute (other than the FOIA) or a regulation requires disclosure.

(f) Protection of information made available pursuant to proceedings subject to the rules in 39 CFR part 3001, including information provided pursuant to that subpart requiring the filing of periodic reports, is provided upon request to the Commission as described in § 3001.31a.