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products collectively, at a minimum, will be calculated using the following formula:

$$AS_{t+1} = AS_t * (1 + \% \Delta CCM_{t-1} + CGD_{t-1})$$

Where,

AS = Appropriate Share, expressed as a percentage and rounded to one decimal place

CCM = Competitive Contribution Margin

CGD = Competitive Growth Differential

t = Fiscal Year

If t = 0 = FY 2007, AS = 5.5 percent

(2) The Commission shall, as part of each Annual Compliance Determination, calculate and report competitive products' appropriate share for the upcoming fiscal year using the formula set forth in paragraph (c)(1) of this section.

[72 FR 63697, Nov. 9, 2007, as amended at 81 FR 88123, Dec. 7, 2016; 84 FR 539, Jan. 31, 2019. Redesignated at 85 FR 9615, Feb. 19, 2020]

**PART 3040—PRODUCT LISTS AND THE MAIL CLASSIFICATION SCHEDULE**

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AUTHORITY: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

SOURCE: 72 FR 63698, Nov. 9, 2007, unless otherwise noted. Redesignated at 85 FR 9615, Feb. 19, 2020.

**Subpart A—Product Lists and the Mail Classification Schedule**

SOURCE: 81 FR 38954, June 15, 2016, unless otherwise noted.

**§ 3040.101 Applicability.**

(a) The rules in this part require the Postal Regulatory Commission to establish and maintain lists of Postal Service products and a Mail Classification Schedule.

(b) The product lists shall categorize postal products as either market dominant or competitive. As established, the market dominant and competitive product lists shall be consistent with

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the market dominant products identified in 39 U.S.C. 3621(a) and the competitive products identified in 39 U.S.C. 3631(a). The market dominant and competitive product lists shall also include products identified as market tests pursuant to 39 U.S.C. 3641 and non-postal pursuant to 39 U.S.C. 404(e).

(c) The Mail Classification Schedule shall provide current price and classification information applicable to the products appearing on the market dominant and competitive product lists.

(d) Once established, the product lists and the Mail Classification Schedule may be modified subject to the procedures specified in this part.

[81 FR 38954, June 15, 2016. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.102 Product lists.

(a) *Market dominant product list.* The market dominant product list shall be published in the FEDERAL REGISTER at appendix A to subpart A of part 3040—Market Dominant Product List.

(b) *Competitive product list.* The competitive product list shall be published in the FEDERAL REGISTER at appendix B to subpart A of part 3040—Competitive Product List.

[85 FR 9658, Feb. 19, 2020]

### § 3040.103 Notice of product list change.

(a) Whenever the Postal Regulatory Commission issues a final order that modifies the list of products in the market dominant category or the competitive category, it shall cause notice of such change to be published in the FEDERAL REGISTER.

(b) Notice shall be submitted to the FEDERAL REGISTER for publication within 6 months of the issue date of the applicable final order that affects the change.

(c) Modifications pending publication in the FEDERAL REGISTER are effective immediately upon written direction from the Postal Regulatory Commission.

(d) The FEDERAL REGISTER document shall:

(1) Identify modifications to the current list of market dominant products and the current list of competitive products; and

(2) Indicate how and when the previous product lists have been modified.

[81 FR 38954, June 15, 2016. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.104 Mail Classification Schedule.

(a) The Postal Regulatory Commission shall publish a Mail Classification Schedule (including both current and previous versions) on its website at <http://www.prc.gov>. Copies of the Mail Classification Schedule also shall be available during regular business hours for reference and public inspection at the Postal Regulatory Commission located at 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001.

(b) The Mail Classification Schedule shall include, but shall not be limited to:

(1) Front matter, including:

(i) A cover page identifying the title of the document as the Mail Classification Schedule, the source of the document as the Postal Regulatory Commission (including Commission seal), and the publication date;

(ii) A table of contents;

(iii) A table specifying the revision history of the Mail Classification Schedule; and

(iv) A table identifying Postal Service trademarks; and

(2) Information concerning market dominant products, including:

(i) A copy of the Market Dominant Product List;

(ii) Descriptions of each market dominant product organized by the class of product, including:

(A) Where applicable, the general characteristics, size and weight limitations, minimum volume requirements, price categories, and available optional features of each market dominant product;

(B) A schedule listing the rates and fees for each market dominant product;

(C) Where applicable, the identification of a product as a special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(D) Where applicable, the identification of a product as an experimental product undergoing a market test; and

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(E) Where applicable, the identification of a product as a nonpostal product; and

(3) Information concerning competitive products, including:

(i) A copy of the competitive product list; and

(ii) Descriptions of each competitive product, including:

(A) Where applicable, the general characteristics, size and weight limitations, minimum volume requirements, price categories, and available optional features of each competitive product;

(B) A schedule listing the current rates and fees for each competitive product of general applicability;

(C) The identification of each product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3) for competitive products;

(D) Where applicable, the identification of a product as an experimental product undergoing a market test; and

(E) Where applicable, the identification of a product as a nonpostal product; and

(4) A glossary of terms and conditions; and

(5) A list of country codes for international mail prices.

[81 FR 38954, June 15, 2016. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

**§ 3040.105 Modifications to the Mail Classification Schedule.**

(a) Whenever the Postal Regulatory Commission issues a final order that modifies the Mail Classification Schedule, it shall update the Mail Classification Schedule appearing on its website at *http://www.prc.gov* in accordance with paragraph (b) of this section.

(b) Modification to the Mail Classification Schedule shall be incorporated within 3 months of the issue date of the final order.

(c) Modifications pending incorporation into the Mail Classification Schedule are effective immediately upon written direction from the Postal Regulatory Commission.

[81 FR 38954, June 15, 2016. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

**APPENDIX A TO SUBPART A OF PART 3040—MARKET DOMINANT PRODUCT LIST**

(An asterisk (\*) indicates an organizational class or group, not a Postal Service product.)

**FIRST-CLASS MAIL \***

Single-Piece Letters/Postcards  
Presorted Letters/Postcards  
Flats  
Outbound Single-Piece First-Class Mail International  
Inbound Letter Post

**USPS MARKETING MAIL (COMMERCIAL AND NONPROFIT) \***

High Density and Saturation Letters  
High Density and Saturation Flats/Parcels  
Carrier Route Letters  
Flats  
Parcels  
Every Door Direct Mail—Retail

**PERIODICALS \***

In-County Periodicals  
Outside County Periodicals

**PACKAGE SERVICES \***

Alaska Bypass Service  
Bound Printed Matter Flats  
Bound Printed Matter Parcels  
Media Mail/Library Mail

**SPECIAL SERVICES \***

Ancillary Services  
International Ancillary Services  
Address Management Services  
Caller Service  
Credit Card Authentication  
International Reply Coupon Service  
International Business Reply Mail Service  
Money Orders  
Post Office Box Service  
Customized Postage  
Stamp Fulfillment Services

**NEGOTIATED SERVICE AGREEMENTS \***

Domestic\*  
International\*  
Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators

**NONPOSTAL SERVICES \***

Alliances with the Private Sector to Defray Cost of Key Postal Functions  
Philatelic Sales

**MARKET TESTS \***

Plus One  
[85 FR 27304, May 8, 2020]

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APPENDIX B TO SUBPART A OF PART  
3040—COMPETITIVE PRODUCT LIST

(An asterisk (\*) indicates an organizational class or group, not a Postal Service product.)

DOMESTIC PRODUCTS \*

Priority Mail Express  
Priority Mail  
Parcel Select  
Parcel Return Service  
First-Class Package Service  
USPS Retail Ground

INTERNATIONAL PRODUCTS \*

Outbound International Expedited Services  
Inbound Parcel Post (at UPU rates)  
Outbound Priority Mail International  
International Priority Airmail (IPA)  
International Surface Air Lift (ISAL)  
International Direct Sacks—M-Bags  
Outbound Single-Piece First-Class Package International Service  
Inbound Letter Post Small Packets and Bulky Letters

NEGOTIATED SERVICE AGREEMENTS \*

Domestic \*

Priority Mail Express Contract 46  
Priority Mail Express Contract 47  
Priority Mail Express Contract 48  
Priority Mail Express Contract 53  
Priority Mail Express Contract 54  
Priority Mail Express Contract 55  
Priority Mail Express Contract 56  
Priority Mail Express Contract 57  
Priority Mail Express Contract 60  
Priority Mail Express Contract 61  
Priority Mail Express Contract 62  
Priority Mail Express Contract 64  
Priority Mail Express Contract 65  
Priority Mail Express Contract 74  
Priority Mail Express Contract 75  
Priority Mail Express Contract 77  
Priority Mail Express Contract 78  
Priority Mail Express Contract 79  
Priority Mail Express Contract 80  
Parcel Return Service Contract 6  
Parcel Return Service Contract 11  
Parcel Return Service Contract 13  
Parcel Return Service Contract 14  
Parcel Return Service Contract 15  
Parcel Return Service Contract 16  
Parcel Return Service Contract 17  
Priority Mail Contract 80  
Priority Mail Contract 125  
Priority Mail Contract 150  
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Priority Mail Contract 591  
Priority Mail Contract 592  
Priority Mail Contract 593  
Priority Mail Contract 594  
Priority Mail Contract 595  
Priority Mail Contract 596  
Priority Mail Express & Priority Mail Contract 13  
Priority Mail Express & Priority Mail Contract 39  
Priority Mail Express & Priority Mail Contract 45  
Priority Mail Express & Priority Mail Contract 48  
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Priority Mail Express & Priority Mail Contract 108  
Priority Mail Express & Priority Mail Contract 109  
Priority Mail Express & Priority Mail Contract 110  
Priority Mail Express & Priority Mail Contract 111  
Priority Mail Express & Priority Mail Contract 112  
Parcel Select & Parcel Return Service Contract 3  
Parcel Select & Parcel Return Service Contract 7  
Parcel Select & Parcel Return Service Contract 8  
Parcel Select & Parcel Return Service Contract 9  
Parcel Select & Parcel Return Service Contract 10  
Parcel Select Contract 9  
Parcel Select Contract 20  
Parcel Select Contract 25  
Parcel Select Contract 27  
Parcel Select Contract 29  
Parcel Select Contract 32  
Parcel Select Contract 34  
Parcel Select Contract 35  
Parcel Select Contract 36  
Parcel Select Contract 37  
Priority Mail—Non-Published Rates  
Priority Mail—Non-Published Rates 1  
First-Class Package Service Contract 45  
First-Class Package Service Contract 55  
First-Class Package Service Contract 75  
First-Class Package Service Contract 78  
First-Class Package Service Contract 79









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Royal Mail Group Inbound Air Parcel Post Agreement

Inbound Competitive Multi-Service Agreements with Foreign Postal Operators

Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1

### SPECIAL SERVICES \*

Address Enhancement Services

Greeting Cards, Gift Cards, and Stationery

International Ancillary Services

International Money Transfer Service—Outbound

International Money Transfer Service—Inbound

Premium Forwarding Service

Shipping and Mailing Supplies

Post Office Box Service

Competitive Ancillary Services

### NONPOSTAL SERVICES \*

Advertising

Licensing of Intellectual Property other than Officially Licensed Retail Products (OLRP)

Mail Service Promotion

Officially Licensed Retail Products (OLRP)

Passport Photo Service

Photocopying Service

Rental, Leasing, Licensing or other Non-Sale

Disposition of Tangible Property

Training Facilities and Related Services

USPS Electronic Postmark (EPM) Program

### MARKET TESTS \*

[85 FR 27304, May 8, 2020]

## Subpart B—Requests Initiated by the Postal Service To Modify the Product Lists

### § 3040.130 General.

The Postal Service, by filing a request with the Commission, may propose a modification to the market dominant product list or the competitive product list. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or moving a product from one list to the other list.

[81 FR 38957, June 15, 2016. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.131 Contents of a request.

A request to modify the market dominant product list or the competitive product list shall:

(a) Provide the name, and class if applicable, of each product that is the subject of the request;

(b) Provide a copy of the Governor's decision supporting the request, if any;

(c) Indicate whether the request proposes to add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or transfer a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;

(d) Indicate whether each product that is the subject of the request is:

(1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3) for competitive products; or

(3) A non-postal product.

(e) Provide all supporting justification upon which the Postal Service proposes to rely; and

(f) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.132 Supporting justification.

Supporting justification shall be in the form of a statement from one or more knowledgeable Postal Service official(s) who sponsors the request and attests to the accuracy of the information contained within the statement. The justification shall:

(a) Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code;

(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633;

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of

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business to other firms offering similar products:

- (1) Set the price of such product substantially above costs;
- (2) Raise prices significantly;
- (3) Decrease quality; or
- (4) Decrease output.
- (e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;
- (f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;
- (g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification;
- (h) Provide a description of the likely impact of the proposed modification on small business concerns; and
- (i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.133 Docket and notice.**

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its website. The notice shall include:

- (a) The general nature of the proceeding;
- (b) A reference to legal authority to which the proceeding is to be conducted;
- (c) A concise description of the proposals for changes in the Mail Classification Schedule;
- (d) The identification of an officer of the Commission to represent the interests of the general public in the docket;
- (e) A specified period for public comment; and
- (f) Such other information as the Commission deems appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

**§ 3040.134 Review.**

The Commission shall review the request and responsive comments. The Commission shall either:

- (a) Approve the request to modify the market dominant and competitive product lists;
- (b) Institute further proceedings to consider all or part of the request if it finds that there is substantial likelihood that the modification is inconsistent with statutory policies or Commission rules, and explain its reasons for not approving the request to modify the market dominant and competitive product lists;
- (c) Provide an opportunity for the Postal Service to modify its request; or
- (d) Direct other action as the Commission may consider appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.135 Further proceedings.**

If the Commission determines that further proceedings are necessary, a conference shall be scheduled to consider the concerns expressed by the Commission. Written statements commenting on the Commission's concerns shall be requested, to be filed 7 days prior to the conference. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

- (a) Provide for a period of discovery to obtain further information;
- (b) Schedule a hearing on the record for further consideration of the request;
- (c) Explain the reasons for not going forward with additional proceedings and approve the request to modify the market dominant and competitive product lists; or
- (d) Direct other action as the Commission may consider appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**Subpart C—Requests Initiated by Users of the Mail to Modify the Product Lists**

**§ 3040.150 General.**

Users of the mail, by filing a request with the Commission, may propose a modification to the market dominant product list or the competitive product

list. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or transferring a product from one list to the other list.

[81 FR 38957, June 15, 2016. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.151 Contents of a request.**

A request to modify the market dominant product list or the competitive product list shall:

(a) Provide the name, and class if applicable, of each product that is the subject of the request;

(b) Indicate whether the request proposes to add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or move a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;

(c) Indicate whether each product that is the subject of the request is:

(1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b) for competitive products; or

(3) A non-postal product.

(d) Provide all supporting justification upon which the proponent of the request proposes to rely; and

(e) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.152 Supporting justification.**

Supporting justification shall be in the form of a statement from a knowledgeable proponent of the request who attests to the accuracy of the information contained within the statement. The justification shall:

(a) Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C.;

(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the

objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

(1) Set the price of such product substantially above costs;

(2) Raise prices significantly;

(3) Decrease quality; or

(4) Decrease output.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly, as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;

(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;

(g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification;

(h) Provide a description of the likely impact of the proposed modification on small business concerns; and

(i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.153 Docket and notice.**

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its website. The notice shall include:

(a) The general nature of the proceeding;

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

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(c) A concise description of the proposals for changes in the Mail Classification Schedule;

(d) The identification of an Office of the Commission to represent the interests of the general public in the docket;

(e) A specified period for public comment; and

(f) Such other information as the Commission deems appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

### § 3040.154 Postal Service notice and reply.

The Secretary of the Commission shall forward to the Postal Service a copy of the request. Within 28 days of the filing of the request, the Postal Service shall provide its preliminary views in regard to the request. The Postal Service may include suggestions for appropriate Commission action in response to the request.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.155 Review.

The Commission shall review the request, the Postal Service reply, and any public comment to determine whether the proposed modification to the market dominant and competitive product lists complies with applicable statutory requirements and the Commission's rules, and whether the proposed modification is consistent with the position of the Postal Service as expressed in its reply. The Commission shall either:

(a) Approve the request to modify the market dominant and competitive product lists, but only to the extent the modification is consistent with the position of the Postal Service;

(b) Reject the request;

(c) Institute further proceedings to consider the request to modify the market dominant and competitive product lists; or

(d) Direct other action as the Commission may consider appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.156 Further proceedings.

If the Commission determines that further proceedings are necessary, a

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conference shall be scheduled to consider the merits of going forward with the request. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

(a) Provide for a period of discovery to obtain further information;

(b) Schedule a hearing on the record for further consideration of the request;

(c) Explain the reasons for not going forward with formal proceedings; or

(d) Direct other action as the Commission may consider appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

## Subpart D—Proposal of the Commission to Modify the Product Lists

### § 3040.170 General.

The Commission, of its own initiative, may propose a modification to the market dominant product list or the competitive product list. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or transferring a product from one list to the other list.

[81 FR 38957, June 15, 2016. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.171 Contents of a proposal.

A proposal to modify the market dominant product list or the competitive product list shall:

(a) Provide the name, and class if applicable, of each product that is the subject of the proposal;

(b) Indicate whether the proposal would add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or move a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;

(c) Indicate whether each product that is the subject of the proposal is:

(1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b) for competitive products; or

- (3) A non-postal product.
- (d) Provide justification supporting the proposal; and
- (e) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

#### § 3040.172 Supporting justification.

Supporting justification shall:

- (a) Provide an explanation for initiating the docket;
- (b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);
- (c) Explain why, as to competitive products, the addition, subtraction, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633;
- (d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:
  - (1) Set the price of such product substantially above costs;
  - (2) Raise prices significantly;
  - (3) Decrease quality; or
  - (4) Decrease output.
- (e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;
- (f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;
- (g) Provide any information available on the views of those who use the product involved on the appropriateness of the proposed modification;
- (h) Provide a description of the likely impact of the proposed modification on small business concerns; and
- (i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Postal Serv-

ice and users of the mail of the nature, scope, significance, and impact of the proposed modification.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

#### § 3040.173 Docket and notice.

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its website. The notice shall include:

- (a) The general nature of the proceeding;
- (b) A reference to legal authority to which the proceeding is to be conducted;
- (c) A concise description of the proposals for changes in the Mail Classification Schedule;
- (d) The identification of an officer of the Commission to represent the interests of the general public in the docket;
- (e) A specified period for public comment; and
- (f) Such other information as the Commission deems appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

#### § 3040.174 Postal Service notice and reply.

The Secretary of the Commission shall forward to the Postal Service a copy of the notice of proposal. Within 28 days of the filing of the proposal, the Postal Service shall provide its preliminary views in regard to the proposal. The Postal Service may include suggestions for appropriate further procedural steps.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

#### § 3040.175 Review.

The Commission shall review the Postal Service reply and public comment. The Commission shall either:

- (a) Approve the proposal to modify the market dominant and competitive product lists, but only to the extent the modification is consistent with the position of the Postal Service;
- (b) Withdraw the proposal;

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(c) Institute further proceedings to consider the proposal, identifying relevant issues that may require further development; or

(d) Direct other action as the Commission may consider appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.176 Further proceedings.**

If the Commission determines that further proceedings are appropriate, a conference shall be scheduled to consider the merits of going forward with the proposal. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

(a) Provide for a period of discovery to obtain further information;

(b) Schedule a hearing on the record for further consideration of the proposal;

(c) Explain the reasons for not going forward with formal proceedings; or

(d) Direct other action as the Commission may consider appropriate.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

**Subpart E—Requests Initiated by the Postal Service To Make Material Changes or Minor Corrections to the Mail Classification Schedule**

SOURCE: 80 FR 35575, June 22, 2015, unless otherwise noted.

**§ 3040.180 Material changes to product descriptions.**

(a) Whenever the Postal Service proposes material changes to a product description in the Mail Classification Schedule, no later than 30 days prior to implementing the proposed changes, it shall submit to the Commission a request to change the product description in the Mail Classification Schedule.

(b) The request shall:

(1) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format; and

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(2) Provide all supporting justification for the changes upon which the Postal Service proposes to rely.

[80 FR 35575, June 22, 2015. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§ 3040.181 Supporting justification for material changes to product descriptions.**

(a) Supporting justification for changes to a product description in the Mail Classification Schedule shall include a description of, and rationale for, the proposed changes to the product description; and the additional material in paragraphs (b) and (c) of this section.

(b)(1) As to market dominant products, explain why the changes are not inconsistent with each requirement of 39 U.S.C. 3622(d) and part 3030 of this chapter; or

(2) As to competitive products, explain why the changes will not result in the violation of any of the standards of 39 U.S.C. 3633 and part 3035 of this chapter.

(c) Describe the likely impact that the changes will have on users of the product and on competitors.

[80 FR 35575, June 22, 2015. Redesignated and amended at 85 FR 9615, 9658, Feb. 19, 2020]

**§ 3040.182 Docket and notice of material changes to product descriptions.**

(a) The Commission shall take the actions identified in paragraphs (b) through (e) of this section.

(b) Establish a docket for each request to change a product description in the Mail Classification Schedule;

(c) Publish notice of the request on its website;

(d) Designate an officer of the Commission to represent the interests of the general public in the docket; and

(e) Provide interested persons with an opportunity to comment on whether the proposed changes are consistent with title 39 and applicable Commission regulations.

[80 FR 35575, June 22, 2015. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

**Postal Regulatory Commission**

**§ 3040.210**

**§ 3040.183 Commission review of material changes to product descriptions.**

(a) The Commission shall review the request and any comments filed. The Commission shall take one of the actions identified in paragraphs (b) through (g) of this section.

(b) Approve the proposed changes, subject to editorial corrections, and change the Mail Classification Schedule to coincide with the effective date of the proposed change;

(c) Reject the proposed changes;

(d) Provide the Postal Service with an opportunity to amend the proposed changes;

(e) Direct the Postal Service to make an appropriate filing under a different section;

(f) Institute further proceedings; or

(g) Direct other action that the Commission considers appropriate.

[80 FR 35575, June 22, 2015. Redesignated at 85 FR 9615, Feb. 19, 2020]

**§§ 3040.184–3040.189 [Reserved]**

**§ 3040.190 Minor corrections to product descriptions.**

(a) The Postal Service shall ensure that product descriptions in the Mail Classification Schedule accurately represent the current offerings of the Postal Service.

(b) The Postal Service shall submit minor corrections to product descriptions in the Mail Classification Schedule by filing notice with the Commission no later than 15 days prior to the effective date of the proposed corrections.

(c) The notice shall:

(1) Explain why the proposed corrections do not constitute material changes to the product description for purposes of § 3040.180;

(2) Explain why the proposed corrections are consistent with any applicable provisions of title 39; and

(3) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed corrections therein in legislative format.

[80 FR 35575, June 22, 2015. Redesignated and amended at 85 FR 9615, 9659, Feb. 19, 2020]

**§ 3040.191 Docket and notice of minor corrections to product descriptions.**

(a) The Commission shall take the actions identified in paragraphs (b) through (e) of this section.

(b) Establish a docket for each proposal to correct a product description in the Mail Classification Schedule;

(c) Publish notice of the proposal on its website;

(d) Designate an officer of the Commission to represent the interests of the general public in the docket; and

(e) Provide interested persons with an opportunity to comment on whether the proposed corrections are consistent with title 39 and applicable Commission regulations.

[80 FR 35575, June 22, 2015. Redesignated and amended at 85 FR 9615, 9660, Feb. 19, 2020]

**§ 3040.192 Commission review of minor corrections to product descriptions.**

(a) The Commission shall review the notice and any comments filed. The Commission shall take one of the actions identified in paragraphs (b) through (g) of this section.

(b) Approve the proposed corrections, subject to editorial corrections, and change the Mail Classification Schedule to coincide with the effective date of the proposed change;

(c) Reject the proposed corrections;

(d) Provide the Postal Service with an opportunity to amend the proposed corrections;

(e) Direct the Postal Service to make an appropriate filing under a different section;

(f) Institute further proceedings; or

(g) Direct other action that the Commission considers appropriate.

[80 FR 35575, June 22, 2015. Redesignated at 85 FR 9615, Feb. 19, 2020]

**Subpart F—Size and Weight Limitations for Mail Matter**

**§ 3040.210 General.**

Applicable size and weight limitations for mail matter shall appear in the Mail Classification Schedule as part of the description of each product.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]



## § 3040.211

### § 3040.211 Limitations applicable to market dominant mail matter.

(a) The Postal Service shall inform the Commission of updates to size and weight limitations for market dominant mail matter by filing notice with the Commission 45 days prior to the effective date of the proposed update. The notice shall:

(1) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed updates therein in legislative format;

(2) Describe the likely impact that the proposed update will have on users of the product(s) and on competitors; and

(3) Describe how the proposed update is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.

(b) The Commission shall provide notice of the proposed update in the FEDERAL REGISTER and seek public comment on whether the proposed update is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.

(c) If the Commission finds the proposed update in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C., the Commission shall review the proposed Mail Classification Schedule language for formatting and conformance with the structure of the Mail Classification Schedule, and subject to editorial changes, shall change the Mail Classification Schedule to coincide with the effective date of the proposed update.

(d) If the Commission finds the proposed update not in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code, the Commission may direct other action as deemed appropriate.

[72 FR 63698, Nov. 9, 2007, as amended at 84 FR 32317, July 8, 2019. Redesignated at 85 FR 9615, Feb. 19, 2020]

### § 3040.212 Limitations applicable to competitive mail matter.

The Postal Service shall notify the Commission of updates to size and weight limitations for competitive

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mail matter pursuant to subpart E of this part.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

## PART 3045—RULES FOR MARKET TESTS OF EXPERIMENTAL PRODUCTS

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3045.20 Data collection and reporting requirements.

AUTHORITY: 39 U.S.C. 503; 3641.

SOURCE: 79 FR 54563, Sept. 11, 2014, unless otherwise noted. Redesignated at 85 FR 9615, Feb. 19, 2020.

### § 3045.1 Applicability.

The rules in this part apply to market tests of experimental products undertaken pursuant to 39 U.S.C. 3641.

### § 3045.2 Advance notice.

The Postal Service shall file notice with the Commission of its determination to initiate a market test at least 30 days before initiating the market test.

### § 3045.3 Contents of notice.

(a) Notices of proposed market tests shall include:

(1) The basis for the Postal Service's determination that the market test is governed by 39 U.S.C. 3641, which shall:

(i) Describe, from the viewpoint of mail users, how the experimental product is significantly different from all products offered by the Postal Service within the 2 fiscal years preceding the start of the market test;