

Excise Taxes. Part 51 provides guidance on the annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs by section 9008 of the ACA. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the new part.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory flexibility assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect large corporations. Thus, Treasury Department and the IRS do not expect a substantial number of small entities to be effected. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are requested on all aspects of the proposed regulations. In addition, the IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of these regulations is Celia Gabrysh, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 51

Drugs, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, and under the authority of 26 U.S.C. 7805 (sec. 9008, Pub. L. 111-347 (124 Stat. 119)), 26 CFR part 51 is proposed to be added to read as follows:

#### PART 51—BRANDED PRESCRIPTION DRUGS

[The text of proposed §§ 51.1 through 51.11 is the same as the text of §§ 51.1T through 51.11T published elsewhere in this issue of the **Federal Register**.]

[The text of proposed § 51.6302-1 is the same as the text of paragraphs (a) and (b) of § 51.6302-1T published elsewhere in this issue of the **Federal Register**.]

**Sarah Hall Ingram,**

*Deputy Commissioner for Services and Enforcement.*

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**BILLING CODE 4830-01-P**

### POSTAL REGULATORY COMMISSION

#### 39 CFR Part 3020

[Docket No. RM2011-8; Order No. 666]

#### Administrative Practice and Procedure, Postal Service

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** A Federal statute directs the Commission to implement a modern classification system. This proposal responds to that directive by presenting a comprehensive Mail Classification Schedule. Issuance of this document will allow the Commission to consider comments and, if appropriate, to make revisions prior to adoption of a final schedule.

**DATES:** *Comments are due:* September 6, 2011.

**ADDRESSES:** Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (<http://www.prc.gov>) or by directly accessing

the Commission's Filing Online system at <https://www.prc.gov/prc-pages/filing-online/login.aspx>. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

#### FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel, at 202-789-6820 (case-related information) or [DocketAdmins@prc.gov](mailto:DocketAdmins@prc.gov) (electronic filing assistance).

#### SUPPLEMENTARY HISTORY: *Regulatory History:*

72 FR 29284, May 25, 2007;  
72 FR 33261, June 15, 2007;  
72 FR 50744, September 4, 2007.

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#### I. Introduction

The Postal Regulatory Commission (Commission) establishes a rulemaking docket pursuant to its responsibilities under the Postal Accountability and Enhancement Act (PAEA), Public Law 109-435, 120 Stat. 3198, December 20, 2006, to consider modifications to the Commission's rules governing the Mail Classification Schedule (MCS). Modifications are proposed to add material describing some Postal Service products and make conforming changes. The Commission provides this notice and opportunity for comment on whether the Commission should incorporate the proposed modifications by final rule into the Commission's rules at 39 CFR 3020, Subpart A—Mail Classification Schedule.

For products currently being offered by the Postal Service, this rulemaking does not add products to, remove products from, or transfer products between the existing market dominant or competitive product lists. However, this rulemaking does reorganize how products appear within each individual list. This reorganization is most apparent within the competitive product list where, at the suggestion of the Postal Service, the vestiges of "class" groupings have been replaced with functional product groupings.

Additionally, the currently published product lists require updating to remove

products no longer offered (certain negotiated service agreements) and otherwise to correct for inaccuracies as a better understanding of how the Postal Service's product structure has developed under the PAEA. This task is incorporated into the rulemaking.

The Commission has consulted with the Postal Service as the proposed MCS was developed and has found the Postal Service's input invaluable in concisely and accurately describing all product offerings.

## II. Background

On August 15, 2007, the Commission initiated the process of developing an MCS with a request to the Postal Service to develop language describing individual products.<sup>1</sup> The Postal Service was requested to draw from existing material provided in the Domestic Mail Classification Schedule (DMCS) and the International Mail Manual to develop a model MCS at a comparable level of detail as provided in the DMCS. The Postal Service complied with this request and provided a MCS proposal on September 24, 2007.<sup>2</sup>

An initial MCS was published on October 29, 2007.<sup>3</sup> This publication met the requirements of publishing market dominant and competitive product lists necessary for operation of the regulatory system. However, the initial MCS did not include descriptions of individual products.

The publication of the initial product lists, which for the first time included international products and a division of products into market dominant and competitive categories, generated a need for additional descriptive material to more accurately describe the then-current state of the product lists. The Commission again asked the Postal Service to provide additional proposals for MCS language. Order No. 26 at 4002-4. The additional material focused on treatment of negotiated service agreements, certain international products, and the final categorization of products as either market dominant or competitive. The Postal Service complied with this request and provided additional proposals on November 20, 2007.<sup>4</sup>

In the interim, the Commission developed a "draft" MCS which included material describing each product. As various market dominant product price adjustments, competitive product price adjustments, and classification changes have been reviewed and approved by the Commission, the Commission has kept this draft version of the MCS up to date. Price and classification changes have been incorporated into the proposed MCS as of December 31, 2010. The Commission intends to incorporate any subsequently approved rate or classification changes that occur prior to issuing the final rule in this docket into the final rule in this docket. This proceeding shall consider formal incorporation of all draft material describing each market dominant and competitive product into the official MCS, and conforming language to the Commission's rules governing the MCS.

## III. Accessibility of the Mail Classification Schedule

The Commission intends to make two versions of the MCS available. The first version will be posted to the Commission's Web site in a format that will allow interested persons the ability to search and copy sections of the MCS for use in Commission proceedings. The Postal Service, and others, may find this version most convenient for communicating proposals to the Commission. The second version will appear in the Code of Federal Regulations (CFR). The organization and appearance of the MCS in the CFR will be different to meet CFR publication requirements. However, there should be no difference in substantive material between the Web site and the CFR versions.<sup>5</sup>

The electronic documentation appearing on the Commission's Web site with this order will contain both versions of the MCS. The Commission would find it helpful if comments addressing the contents of the MCS refer to the version of the MCS that will appear on the Commission's Web site.

## IV. Mail Classification Schedule Structure

The revised MCS, as proposed, consists of preface material followed by four substantive sections. The preface material includes a Revision History, which is intended to comply with the 39 U.S.C. 3642(d)(2) requirement to "indicate how and when" product lists

Classification Schedule Information in Response to Order No. 43, November 20, 2007.

<sup>5</sup> If any substantive discrepancies inadvertently appear, the CFR version will govern, until such time as both versions again can be made consistent.

are modified, Trademark Notices, and a Table of Contents. The four substantive sections that follow are titled Part A—Market Dominant Products, Part B—Competitive Products, Part C—Glossary of Terms and Conditions, and Part D—Country Price Lists for International Mail.

Part A—Market Dominant Products, is divided into two major sections: the Market Dominant Product List, and the Market Dominant Product Descriptions. Both sections retain the "class" structure for categorizing products developed under the Postal Reorganization Act with the classes including: First-Class Mail, Standard Mail (Commercial and Nonprofit), Periodicals, Package Services, and Special Services.<sup>6</sup> Three new separate categories are added to this part to contain market dominant Negotiated Service Agreements, market dominant Nonpostal Services, and market dominant Market Tests. International products, which did not appear in the former DMCS, now are included within the appropriate associated class.

Each class subsection in Part A follows a similar structure. The individual class subsections first provide a description of class-wide characteristics and a list of all products in the class. This is followed by information about each product in the class. The individual product descriptions generally include the following topics in the following order: (1) Product description (where necessary); (2) size and weight limitations; (3) minimum volume requirements; (4) price categories; (5) optional features; and (6) prices. The Special Services subsection requires less detail and generally includes the following topics in the following order: (1) Product description; and (2) prices.

Part B—Competitive Products also is divided into two major sections: the Competitive Product List, and the Competitive Product Descriptions. As originally published in Order No. 43, the competitive product list retained a class-like structure for organizing competitive products. In informal discussions, the Postal Service appropriately pointed out that a class-like structure has lost much of its meaning for competitive products under the PAEA. The Postal Service proposed that the products in the competitive product list be reorganized into three subsections: Domestic Products, International Products, and Negotiated Service Agreements. The proposed organization better aligns competitive

<sup>6</sup> Special Services is treated as a class for MCS purposes.

<sup>1</sup> Docket No. RM2007-1. Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at paras. 4008-9 (Order No. 26).

<sup>2</sup> Docket No. RM2007-1. United States Postal Service Submission of Initial Mail Classification Schedule in response to Order No. 26, September 24, 2007.

<sup>3</sup> Docket No. RM2007-1. Order Establishing Regulations to Establish a System of Ratemaking and Competitive Products, October 29, 2007 (Order No. 45); see also 72 FR 63662 (November 9, 2007).

<sup>4</sup> Docket No. RM2007-1. United States Postal Service Submission of Additional Mail

products with the separate domestic and international business functions of the Postal Service. It also allows all products that are not of general applicability to be grouped within a Negotiated Service Agreement section. This concept is reflected in the proposed MCS. Note that the Negotiated Service Agreement subsection is further subdivided into Domestic, Outbound International, and Inbound International. Two additional separate subsections are added to this part, one for competitive Special Services, and one for competitive Nonpostal Services.

Part B has a similar structure to Part A, except that class separations are not made in competitive products. Thus, there is no need for class descriptions. Each subsection contains a list of all products appearing within that heading. Descriptions applicable to several related products are provided where appropriate. This is followed by information about each product in the subsection. The product descriptions generally include the following topics in the following order: (1) Product description (where necessary); (2) size and weight limitations; (3) minimum volume requirements; (4) price categories; (5) optional features; and (6) prices. The competitive Special Services subsection requires less detail and generally includes the following topics in the following order: (1) Product description; and (2) prices. Note that many of the Negotiated Service Agreement products merely reference the product name, associated dockets, PRC order numbers, and termination dates due to the confidential nature of these agreements.

Part C—Glossary of Terms and Conditions is self explanatory. Part D—Country Price Lists for International Mail contains the country codes used to identify individual countries in the various international product price lists appearing in Parts A and B.

## V. Rule Modifications

The Commission's rules concerning the MCS currently are codified at 39 CFR 3020, Subpart A—Mail Classification Schedule. The existing MCS itself is codified at Appendix A to Subpart A—Mail Classification Schedule of 39 CFR 3020.

This rulemaking proposes changes to the rules governing the MCS and replaces the existing Appendix A with four more administratively manageable appendices. The intent of the rule changes are to incorporate the market dominant product list and the competitive product list into the Commission's rules so that the lists are prominently available for examination,

and to incorporate the majority of the material describing individual products into four appendices.

Rule 3020.2 General (old rule 3020.10) is revised to describe the proposed new format of the MCS.

Rule 3020.11 Initial Mail Classification Schedule is being deleted. It only was applicable to the initial MCS that is now being replaced.

Rule 3020.3 Publication of the Mail Classification Schedule (old rule 3020.12), paragraph (a), is revised to indicate that the MCS is being incorporated into the rules themselves, *i.e.*, the MCS no longer will be contained solely in Appendix A. Paragraph (b) is modified to indicate that the Commission only will be making the most recent version of the MCS available to the public. With almost weekly revisions to the MCS, it would be administratively burdensome, and confusing to the public, to make multiple, mainly outdated, versions readily available. In any event, all changes will be published in the **Federal Register** for interested persons to reference if the need arises to reconstruct earlier versions.

Rule 3020.4 Notice of change (old rule 3020.14) is revised to indicate that any changes to the material describing products will cause notice to be published in the **Federal Register**.

Rule 3020.5 Contents of the Mail Classification Schedule (old rule 3020.13) will contain the MCS. The same information contained within the MCS version proposed to appear on the Commission's Web site will be divided among paragraphs (b) through (h) of this rule.

Paragraph (b) will provide a revision history as required by 39 U.S.C. 3642(d)(2).

Paragraph (c) will provide trademark notices.

Paragraph (d) will provide a table of contents by section numbers. The section numbers will correspond to the section numbers appearing in the Appendices.

Paragraph (e) will provide information concerning market dominant products. This paragraph is divided into (e)(1), which contains the list of market dominant products, and (e)(2), which specifies the market dominant product descriptive information that is to be provided and references Appendix A where that information is provided.

Paragraph (f) will provide information concerning competitive products. This paragraph is divided into (f)(1), which contains the list of competitive products, and (f)(2), which specifies the competitive product descriptive

information that is to be provided and references Appendix B where that information is provided.

Paragraph (g) references Appendix C, which provides a glossary of terms of conditions.

Paragraph (h) references Appendix D, which provides the country price lists for international mail.

The four appendices will contain the majority of the descriptive material. Appendix A will contain the description of market dominant products. This corresponds to Part A, Section 1001, Market Dominant Product Descriptions provided in the proposed Web version of the MCS. Appendix B will contain the description of competitive products. This corresponds to Part B, Section 2001, Competitive Product Descriptions provided in the proposed Web version of the MCS. Appendix C will contain a glossary of terms and conditions. This corresponds to Part C, Section 3000, Glossary of Terms and Conditions provided in the proposed Web version of the MCS. Appendix D, Section 4000, will contain the country price lists for international mail. This corresponds to Part D, Country Price Lists for International Mail provided in the proposed Web version of the MCS.

## VI. Public Representative

Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

## VII. Public Comments

Comments concerning the proposed modifications to the MCS by interested persons are due September 6, 2011.<sup>7</sup> Interested persons previously filing comments in response to this Notice appearing on the Commission's Web site with an earlier due date may file supplemental comments, if necessary. All comments previously filed in this docket shall be considered and need not be re-filed.

## VIII. Directions for Federal Register Publication and Access to Unpublished Material

An abbreviated version of this notice shall be published in the **Federal Register**. This version shall include the material appearing up to the signature of this notice. This material includes among other items "a description of the subjects and issues involved" with the

<sup>7</sup> All references to August 5, 2011 in Order No. 666 issued February 7, 2011 will be replaced with September 6, 2011.

proposed rule as required by 5 U.S.C. 553(b)(3).

The abbreviated version shall also include pages 1 through 13 of the material titled "Mail Classification Schedule" appearing after the signature in Order No. 666 issued on February 7, 2011. This material describes the textual changes proposed to existing 39 CFR part 3020, subpart A.

As previously stated in paragraph III of this notice, all material, including the proposed four new appendices, appears on the Commission's Web site. For interested persons without access to the Internet, a copy of all material is available for inspection at the Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268-0001. Reasonable alternative access also may be arranged by contacting the Commission's docket section at 202-789-6846.

*It is ordered:*

1. Docket No. RM2011-8 is established for the purpose of receiving comments on the Commission's proposal.

2. The Commission proposes to amend its rules of practice and procedure. The proposed amendments involve amending 39 CFR part 3020 Subpart A—Mail Classification Schedule.

3. Kenneth E. Richardson is designated as an officer of the Commission representing the interests of the general public in this docket.

4. Interested persons may submit comments by September 6, 2011.

5. The Secretary shall arrange for publication of this notice in the **Federal Register** as directed in the body of this notice.

#### List of Subjects in 39 CFR Part 3020

Administrative practice and procedure, Postal Service.

By the Commission.

**Ruth Ann Abrams,**

*Acting Secretary.*

[FR Doc. 2011-21015 Filed 8-17-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2011-0610; FRL-9452-9]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Adoption of Drum and Pail Coating Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland (Maryland). This SIP revision includes amendments to the Code of Maryland (COMAR) 26.11.19.13, Volatile Organic Compounds from Specific Processes, Drum and Pail Coating. Maryland's SIP revision meets the requirement to adopt Reasonably Available Control Technology (RACT) for sources covered by EPA's Control Techniques Guidelines (CTG) for Miscellaneous Metal and Plastic Parts Coatings and will help Maryland attain and maintain the National Ambient Air Quality Standard (NAAQS) for ozone. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before September 19, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0610 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2011-0610, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2011-0610. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly

to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:** On June 22, 2011, the Maryland Department of the Environment (MDE) submitted to EPA a SIP revision concerning the adoption of the drum and pail coating standards found in the Miscellaneous Metal and Plastic Parts Coatings CTG.

#### I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACT), including RACT for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment.

CTGs are intended to provide state and local air pollution control