



**POSTAL REGULATORY COMMISSION**

**39 CFR Part 3020**

**[Docket No. RM2019-3; Order No. 5088]**

**Mail Classification Schedule**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commission is proposing an amendment to its rules involving the information the Postal Service must provide when updating the size and weight limitations applicable to market dominant mail matter. The Commission invites public comment on the proposed revisions.

**DATES:** *Comments are due:* **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** For additional information, Order No. 5088 can be accessed electronically through the Commission's Web site at <https://www.prc.gov>. Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

## **SUPPLEMENTARY INFORMATION:**

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#### **I. Background**

The Commission initiated this proceeding to explore updating its regulations to address proposed classification changes to product descriptions in the Mail Classification Schedule (MCS) that may modify the market dominant and/or competitive product lists. The Commission sought comments from interested parties on whether it should update its regulations to require information pursuant to section 3642 when changes to the size and weight limitations appear to modify the product lists.

#### **II. Basis and Purpose of Proposed Rules**

Currently, § 3020.111(a) requires the Postal Service to file a notice with the Commission 45 days prior to the effective date of the proposed update to size and weight limitations for market dominant mail matter. The notice must include a copy of the applicable sections of the MCS and the proposed updates therein in legislative format. 39 CFR 3020.111(a). The Commission evaluates the proposals in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code. 39 CFR 3020.111(c). To assist the Commission in its review, the Postal Service has explained in previous notices

how the proposed update is in accordance with the policies and applicable criteria of chapter 36 of title 39 of the United States Code.<sup>1</sup>

The Commission instituted this proceeding to evaluate whether this information is sufficient to address instances where a proposed update to size and weight limitations appears to modify the product lists without proper Commission oversight. In particular, the Commission is concerned with changes that may camouflage an unreasonable price increase, materially harm users or competitors, or otherwise constitute an abuse of market power. Accordingly, the Commission proposes that § 3020.111(a) be amended to include the requirement that the Postal Service explain if a proposed update to a size or weight limitation will adversely affect users and competitors. The Commission also proposes to add a requirement that the Postal Service explain how a size and weight limitation change is in accordance with the policies and applicable criteria of chapter 36 of title 39 of the United States Code, as consistent with the Postal Service's current practice.

The proposed amendment would not be overly burdensome to the Postal Service, as it does not require the information necessary for a section 3642 review, such as establishing a lack of market power over the volume of mail that would be affected by the change. In practice, the Postal Service already explains how a size and weight limitation change complies with the statutes and rules. The requirement to explain the potential effects of the change on users and

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<sup>1</sup> See, e.g., Docket No. MC2019-3, Notice of the United States Postal Service of Update to the Maximum Weight Limit for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats) in the Mail Classification Schedule, October 10, 2018, at 3-6.

competitors in its notice is consistent with the requirements for material changes to product descriptions. See 39 CFR 3020.81(c).

By requiring the Postal Service to explain the potential effects of a size and weight limitation change, the proposed amendment addresses the concern that updates to size and weight limitations could materially impact users of the product and competitors. The proposed amendment also allows the Commission to evaluate whether the size and weight limitation update effectively modifies the product lists. Furthermore, although it would be required to explain the potential effects of the size/weight limitation, the Postal Service could also describe any mitigating factors or explain explicitly why the change would not modify the product lists.

Receiving this information at the outset of the proceeding promotes transparency with the Commission and the public on the potential effects of a size and weight limitation change. Moreover, by receiving this information in the notice, the Commission can more efficiently evaluate a size/weight limitation change within the 45-day statutory deadline by limiting information requests on potential harm to users and competitors. Thus, the proposed amendment will assist the Commission in evaluating whether a size and weight limitation is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.

### **III. Proposed Rules**

The Commission proposes to revise § 3020.111(a) to require additional information that the Postal Service must file with a notice of an update to size and weight limitations for market dominant mail matter.

### **List of Subjects for 39 CFR Part 3020**

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend chapter III of title 39 of the Code of Federal Regulations as follows:

### **PART 3020—PRODUCT LISTS**

1. The authority citation for part 3020 continues to read as follows:

**Authority:** 39 U.S.C. 503, 3622, 3631, 3642, 3682.

2. Amend § 3020.111, by revising paragraph (a) to read as follows:

#### **§ 3020.111 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.

\* \* \* \* \*

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

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