

10 p.m. on August 21, 2009; and from 9:30 p.m. through 10 p.m. on September 11–12, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail BM2 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI; telephone 414-747-7154, e-mail Adam.D.Kraft@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone, Milwaukee Harbor, Milwaukee, WI, as listed in 33 CFR 165.935 for the following events, dates, and times:

(1) *Arab World Fest fireworks display* on August 8, 2009, from 9:30 p.m. through 10 p.m.;

(2) *Irish Fest fireworks display* on August 16, 2009, from 10:15 p.m. through 10:45 p.m.;

(3) *Mexican Fiesta fireworks display* on August 21, 2009, from 9:30 p.m. through 10 p.m.; and

(4) *Indian Summer fireworks display* on September 11–12, 2009, from 9:30 p.m. through 10 p.m.

All vessels must obtain permission from the Captain of the Port or a designated on-scene representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI, and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. The Captain of the Port or the designated on-scene representative may be contacted via VHF-FM Channel 16.

Dated: July 16, 2009.

L. Barndt,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E9-18161 Filed 7-29-09; 8:45 am]

BILLING CODE 4910-15-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009–29 and C2009–39; Order No. 233]

Priority Mail Contract

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding the Priority Mail Contract 13 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective July 30, 2009 and is applicable beginning July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-7889-6820 or stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION:

Regulatory History, 74 FR 30647 (June 26, 2009).

- I. Background
- II. Comments
- III. Commission Analysis
- IV. Ordering Paragraphs

I. Background

The Postal Service seeks to add a new product identified as Priority Mail Contract 13 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

On June 15, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, announcing that it has entered into an additional contract (Priority Mail Contract 13), which it attempts to classify within the previously proposed Priority Mail Contract Group product.¹ In support, the Postal Service filed the proposed contract and referenced Governors' Decision 09–6 filed in Docket No. MC2009–25. *Id.* at 1. The Notice has been assigned Docket No. CP2009–39.

In response to Order No. 224,² and in accordance with 39 U.S.C. 3642 and 39 CFR part 3020 subpart B, the Postal Service filed a formal request to add Priority Mail Contract 13 to the Competitive Product List as a separate

product.³ The Postal Service asserts that the Priority Mail Contract 13 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2009–29.

In support of its Notice and Request, the Postal Service filed the following materials: (1) A redacted version of the contract which, among other things, provides that the contract will expire 3 years from the effective date, which is proposed to be the day that the Commission issues all regulatory approvals;⁴ (2) requested changes in the Mail Classification Schedule product list;⁵ (3) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁶ and (4) certification of compliance with 39 U.S.C. 3633(a).⁷

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Request, Attachment B, at 1. W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). Notice, Attachment B.

The Postal Service filed much of the supporting materials, including the unredacted contract, under seal. In its Notice, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections, should remain confidential. Notice at 2–3.

In Order No. 224, the Commission gave notice of the two dockets, requested supplemental information, appointed a public representative, and provided the public with an opportunity to comment.⁸ On June 23, 2009, the Postal Service filed the supplemental information requested.⁹

³ Request of the United States Postal Service to Add Priority Mail Contract 13 to Competitive Product List, June 23, 2009 (Request).

⁴ Attachment A to the Notice.

⁵ Attachment A to the Request.

⁶ Attachment B to the Request.

⁷ Attachment B to the Notice.

⁸ Order No. 224 at 1–4.

⁹ Response of the United States Postal Service to Commission's Request for Supplemental Information in Order No. 224, June 23, 2009.

¹ Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 13), June 15, 2009 (Notice).

² PRC Order No. 224, Notice and Order Concerning Filing of Priority Mail Contract 13 Negotiated Service Agreement, June 17, 2009 (Order No. 224).

II. Comments

Comments were filed by the Public Representative.¹⁰ No comments were submitted by other interested parties. The Public Representative states that the Postal Service's filing complies with applicable Commission rules of practice and procedure, and concludes that the Priority Mail Contract 13 agreement comports with the requirements of title 39 and is appropriately classified as competitive. *Id.* at 3.

The Public Representative believes that the Postal Service has provided adequate justification for maintaining confidentiality in this case. *Id.* at 2–3. He indicates that the contractual provisions are mutually beneficial to the parties and general public. *Id.* at 4.

III. Commission Analysis

The Commission has reviewed the Notice, the Request, the contract, the financial analysis provided under seal that accompanies it, the Postal Service's responses to Chairman's Information Request No. 1, the Postal Service's response to the Commission's request for supplemental information, and the comments filed by the Public Representative.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning Priority Mail Contract 13 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

Product list assignment. In determining whether to assign Priority Mail Contract 13 as a product to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product will be categorized as market dominant.

The competitive category of products shall consist of all other products.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to private companies. Request, Attachment B, para. (d). The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. *Id.* It further states that the contract partner supports the addition of the contract to the Competitive Product List to effectuate the negotiated contractual terms. *Id.* at para. (g). Finally, the Postal Service states that the market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. It indicates that large carriers serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for this customer. *Id.* at para. (h).

No commenter opposes the proposed classification of Priority Mail Contract 13 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Priority Mail Contract 13 is appropriately classified as a competitive product and should be added to the Competitive Product List.

Cost considerations. The Postal Service presents a financial analysis showing that Priority Mail Contract 13 results in cost savings while ensuring that the contract covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products.

Based on the data submitted, the Commission finds that Priority Mail Contract 13 should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of proposed Priority Mail Contract 13 indicates that it comports with the provisions applicable to rates for competitive products.

Other considerations. The Postal Service shall promptly notify the Commission of the scheduled termination date of the agreement. If the agreement terminates earlier than anticipated, the Postal Service shall inform the Commission prior to the new termination date. The Commission will then remove the product from the Mail Classification Schedule at the earliest possible opportunity.

In conclusion, the Commission approves Priority Mail Contract 13 as a new product. The revision to the Competitive Product List is shown below the signature of this Order and is effective upon issuance of this order.

IV. Ordering Paragraphs

It is ordered:

1. Priority Mail Contract 13 (MC2009–29 and CP2009–39) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission of the scheduled termination date and update the Commission if termination occurs prior to that date, as discussed in this order.

3. The Motion of the Public Representative for Late Acceptance of Comments on United States Postal Service Notice of Establishment of Rates and Class Not of General Applicability (Priority Contract 13), filed on June 29, 2009, is granted.

4. The Secretary shall arrange for the publication of this order in the **Federal Register**.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

By the Commission.

Issued: July 1, 2009.

Judith M. Grady,

Acting Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR part 3020 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. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List
First-Class Mail

¹⁰ Public Representative Comments in Response to United States Postal Service Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 13), June 29, 2009 (Public Representative Comments). The Public Representative filed a Motion for Late Acceptance of his comments. That motion is granted.

Single-Piece Letters/Postcards	[Reserved for Product Description]	[Reserved for Product Description]
Bulk Letters/Postcards	Not Flat-Machinables (NFM)/Parcels	International Restricted Delivery
Flats	[Reserved for Product Description]	[Reserved for Product Description]
Parcels	Periodicals	Address List Services
Outbound Single-Piece First-Class Mail	[Reserved for Class Description]	[Reserved for Product Description]
International	Within County Periodicals	Caller Service
Inbound Single-Piece First-Class Mail	[Reserved for Product Description]	[Reserved for Product Description]
International	Outside County Periodicals	Change-of-Address Credit Card
Standard Mail (Regular and Nonprofit)	[Reserved for Product Description]	Authentication
High Density and Saturation Letters	Package Services	[Reserved for Product Description]
High Density and Saturation Flats/Parcels	[Reserved for Class Description]	Confirm
Carrier Route	Single-Piece Parcel Post	[Reserved for Product Description]
Letters	[Reserved for Product Description]	International Reply Coupon Service
Flats	Inbound Surface Parcel Post (at UPU rates)]	[Reserved for Product Description]
Not Flat-Machinables (NFM)/Parcels	[Reserved for Product Description]	International Business Reply Mail Service
Periodicals	Bound Printed Matter Flats	[Reserved for Product Description]
Within County Periodicals	[Reserved for Product Description]	Money Orders
Outside County Periodicals	Bound Printed Matter Parcels	[Reserved for Product Description]
Package Services	[Reserved for Product Description]	Post Office Box Service
Single-Piece Parcel Post	Media Mail/Library Mail	[Reserved for Product Description]
Inbound Surface Parcel Post (at UPU rates)	[Reserved for Product Description]	Negotiated Service Agreements
Bound Printed Matter Flats	Special Services	[Reserved for Class Description]
Bound Printed Matter Parcels	[Reserved for Class Description]	HSBC North America Holdings Inc.
Media Mail/Library Mail	Ancillary Services	Negotiated Service Agreement
Special Services	[Reserved for Product Description]	[Reserved for Product Description]
Ancillary Services	Address Correction Service	Booksapn Negotiated Service Agreement
International Ancillary Services	[Reserved for Product Description]	[Reserved for Product Description]
Address List Services	Applications and Mailing Permits	Bank of America Corporation Negotiated
Caller Service	[Reserved for Product Description]	Service Agreement
Change-of-Address Credit Card	Business Reply Mail	The Bradford Group Negotiated Service
Authentication	[Reserved for Product Description]	Agreement
Confirm	Bulk Parcel Return Service	
International Reply Coupon Service	[Reserved for Product Description]	Part B—Competitive Products
International Business Reply Mail Service	Certified Mail	Competitive Product List
Money Orders	[Reserved for Product Description]	Express Mail
Post Office Box Service	Certificate of Mailing	Express Mail
Negotiated Service Agreements	[Reserved for Product Description]	Outbound International Expedited Services
HSBC North America Holdings Inc.	Collect on Delivery	Inbound International Expedited Services
Negotiated Service Agreement	[Reserved for Product Description]	Inbound International Expedited Services 1
Booksapn Negotiated Service Agreement	Delivery Confirmation	(CP2008–7)
Bank of America Corporation Negotiated	[Reserved for Product Description]	Inbound International Expedited Services 2
Service Agreement	Insurance	(MC2009–10 and CP2009–12)
The Bradford Group Negotiated Service	[Reserved for Product Description]	Priority Mail
Agreement	Merchandise Return Service	Priority Mail
Inbound International	[Reserved for Product Description]	Outbound Priority Mail International
Canada Post—United States Postal Service	Parcel Airlift (PAL)	Inbound Air Parcel Post
Contractual Bilateral Agreement for	[Reserved for Product Description]	Royal Mail Group Inbound Air Parcel Post
Inbound Market Dominant Services	Registered Mail	Agreement
Market Dominant Product Descriptions	[Reserved for Product Description]	Parcel Select
First-Class Mail	Return Receipt	Parcel Return Service
[Reserved for Class Description]	[Reserved for Product Description]	International
Single-Piece Letters/Postcards	Return Receipt for Merchandise	International Priority Airlift (IPA)
[Reserved for Product Description]	[Reserved for Product Description]	International Surface Airlift (ISAL)
Bulk Letters/Postcards	Restricted Delivery	International Direct Sacks—M—Bags
[Reserved for Product Description]	[Reserved for Product Description]	Global Customized Shipping Services
Flats	Shipper-Paid Forwarding	Inbound Surface Parcel Post (at non-UPU
[Reserved for Product Description]	[Reserved for Product Description]	rates)
Parcels	Signature Confirmation	Canada Post—United States Postal Service
[Reserved for Product Description]	[Reserved for Product Description]	Contractual Bilateral Agreement for
Outbound Single-Piece First-Class Mail	Special Handling	Inbound Competitive Services (MC2009–
International	[Reserved for Product Description]	8 and CP2009–9)
[Reserved for Product Description]	Stamped Envelopes	International Money Transfer Service
Inbound Single-Piece First-Class Mail	[Reserved for Product Description]	International Ancillary Services
International	Stamped Cards	Special Services
[Reserved for Product Description]	[Reserved for Product Description]	Premium Forwarding Service
Standard Mail (Regular and Nonprofit)	Premium Stamped Stationery	Negotiated Service Agreements
[Reserved for Class Description]	[Reserved for Product Description]	Domestic
High Density and Saturation Letters	Premium Stamped Cards	Express Mail Contract 1 (MC2008–5)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail Contract 2 (MC2009–3 and
High Density and Saturation Flats/Parcels	International Ancillary Services	CP2009–4)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail Contract 3 (MC2009–15 and
Carrier Route	International Certificate of Mailing	CP2009–21)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 1
Letters	International Registered Mail	(MC2009–6 and CP2009–7)
[Reserved for Product Description]	[Reserved for Product Description]	Express Mail & Priority Mail Contract 2
Flats	International Return Receipt	(MC2009–12 and CP2009–14)

Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
 Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
 Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
 Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
 Priority Mail Contract 1 (MC2008–8 and CP2008–26)
 Priority Mail Contract 2 (MC2009–2 and CP2009–3)
 Priority Mail Contract 3 (MC2009–4 and CP2009–5)
 Priority Mail Contract 4 (MC2009–5 and CP2009–6)
 Priority Mail Contract 5 (MC2009–21 and CP2009–26)
 Priority Mail Contract 6 (MC2009–25 and CP2009–30)
 Priority Mail Contract 7 (MC2009–25 and CP2009–31)
 Priority Mail Contract 8 (MC2009–25 and CP2009–32)
 Priority Mail Contract 9 (MC2009–25 and CP2009–33)
 Priority Mail Contract 10 (MC2009–25 and CP2009–34)
 Priority Mail Contract 11 (MC2009–27 and CP2009–37)
 Priority Mail Contract 12 (MC2009–28 and CP2009–38)
 Priority Mail Contract 13 (MC2009–29 and CP2009–39)
 Outbound International
 Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)
 Global Expedited Package Services (GEPS) Contracts
 GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)
 Global Plus Contracts
 Global Plus 1 (CP2008–9 and CP2008–10)
 Global Plus 2 (MC2008–7, CP2008–16 and CP2008–17)
 Inbound International
 Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and CP2008–15)
 International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)
 Competitive Product Descriptions
 Express Mail
 [Reserved for Group Description]
 Express Mail
 [Reserved for Product Description]
 Outbound International Expedited Services
 [Reserved for Product Description]
 Inbound International Expedited Services
 [Reserved for Product Description]
 Priority
 [Reserved for Product Description]
 Priority Mail
 [Reserved for Product Description]
 Outbound Priority Mail International
 [Reserved for Product Description]
 Inbound Air Parcel Post
 [Reserved for Product Description]
 Parcel Select
 [Reserved for Group Description]
 Parcel Return Service
 [Reserved for Group Description]
 International

[Reserved for Group Description]
 International Priority Airlift (IPA)
 [Reserved for Product Description]
 International Surface Airlift (ISAL)
 [Reserved for Product Description]
 International Direct Sacks—M—Bags
 [Reserved for Product Description]
 Global Customized Shipping Services
 [Reserved for Product Description]
 International Money Transfer Service
 [Reserved for Product Description]
 Inbound Surface Parcel Post (at non-UPU rates)
 [Reserved for Product Description]
 International Ancillary Services
 [Reserved for Product Description]
 International Certificate of Mailing
 [Reserved for Product Description]
 International Registered Mail
 [Reserved for Product Description]
 International Return Receipt
 [Reserved for Product Description]
 International Restricted Delivery
 [Reserved for Product Description]
 International Insurance
 [Reserved for Product Description]
 Negotiated Service Agreements
 [Reserved for Group Description]
 Domestic
 [Reserved for Product Description]
 Outbound International
 [Reserved for Group Description]

Part C—Glossary of Terms and Conditions
 [Reserved]

Part D—Country Price Lists for International Mail [Reserved]

[FR Doc. E9–18143 Filed 7–29–09; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–8933–4]

Approval and Promulgation of Air Quality Implementation Plans; Nebraska; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Nebraska that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

DATES: *Effective Date:* This action is effective July 30, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101; or at <http://www.epa.gov/region07/programs/artd/air/rules/fedapprv.htm>; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation Docket at (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT:

Evelyn VanGoethem at (913) 551–7659, or by e-mail at vangoethem.evelyn@epa.gov.

SUPPLEMENTARY INFORMATION: The SIP is a living document which the state revises as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of Federal Register. The description of the revised SIP document, IBR procedures and “Identification of plan” format are discussed in further detail in the May 22, 1997, **Federal Register** document.

On February 12, 1999, EPA published a document in the **Federal Register** (64 FR 7091) beginning the new IBR procedure for Nebraska. On December 1, 2003 (68 FR 67045), EPA published an update to the IBR material for Nebraska.

In this document, EPA is doing the following:

1. Announcing the update to the IBR material as of July 1, 2009.
2. Correcting the date format in the “State effective date” or “State Submittal date” and “EPA approval date” columns in § 52.1420 paragraphs (c), (d) and (e). Dates are numerical month/day/year without additional zeros.
3. Modifying the **Federal Register** citation in § 52.1420 paragraphs (c), (d)