

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. E8–30420 Filed 12–19–08; 8:45 am]

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POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009–11 and CP2009–13;
 Order No. 148]

New Domestic Mail Product

AGENCY: Postal Regulatory Commission.
ACTION: Final rule.

SUMMARY: The Commission is adding Parcel Select & Parcel Return Service Contract 1 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations and a recent Postal Service request. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective December 22, 2008.

FOR FURTHER INFORMATION CONTACT:
 Stephen L. Sharfman, General Counsel,
 202–789–6820 and
stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 73 FR 74212 (December 5, 2008).

I. Background

The Postal Service seeks to add a new product identified as Parcel Select & Parcel Return Service Contract 1 to the Competitive Product List. For the

reasons discussed below, the Commission approves the Request.

On November 25, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Parcel Select & Parcel Return Service Contract 1 to the Competitive Product List.¹ The Postal Service asserts that the Parcel Select & Parcel Return Service Contract 1 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. MC2009–11.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009–13.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors’ Decision authorizing the new product which also includes an analysis of Parcel Select & Parcel Return Service Contract 1 and certification of the Governors’ vote;² (2) a redacted version of the contract which, among other things, provides that the contract will expire on May 31, 2011, and will become effective 1 day after the Commission issues all regulatory approvals;³ (3) requested changes in the Mail Classification Schedule product list;⁴ (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁵ and (5) certification of compliance with 39 U.S.C. 3633(a).⁶

In the Statement of Supporting Justification, Daniel J. Barrett, Acting Manager, Product & Business Development, Ground Shipping Services, 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 D, at 1. W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies

¹ Request of the United States Postal Service to Add Parcel Select & Parcel Return Service Contract 1 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, November 25, 2008 (Request).

² Attachment A to the Request. The analysis that accompanies the Governors’ Decision notes, among other things, that the agreement remains profitable regardless of the discount level and results in a positive contribution impact of the Postal Service under all conditions.

³ Attachment B to the Request.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ Attachment E to the Request.

that the contract complies with 39 U.S.C. 3633(a). *See id.* Attachment E.

The Postal Service filed much of the supporting materials, including the unredacted Governors’ Decision and the unredacted contract, under seal. In its Request, 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. *Id.* at 2–3.

In Order No. 142, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment.⁷

II. Comments

Comments were filed by the Public Representative and Newgistics, Inc.⁸ The Public Representative Comments focus principally on the adequacy of cost coverage, appropriate classification of the product, and overall transparency. Public Representative Comments at 1–2. He concludes that the agreement meets the important public interest in adequate cost coverage and believes the agreement is properly classified as a competitive product. *Id.*

The Public Representative also raises an issue with respect to transparency and the method that the Postal Service uses in this case to redact its filings. He notes that the Commission’s rules contemplate text-based pdf files where possible. *Id.* at 5; accord 39 CFR 3001.10. Despite these minor caveats, the Public Representative believes that the Postal Service should be commended for continuing to proceed diligently toward accommodating transparency concerns in a very competitive business environment.

Newgistics’ comments focus on the financial gain to the Postal Service. It believes that the contract must demonstrate that it will provide “new volumes and revenues” to the Postal Service. It wants to ensure that the Postal Service does not take volume from other postal mail service providers. It notes that shifting mail from one Postal Service customer to another does not result in a contribution gain for the Postal Service. Newgistics also contends

⁷ PRC Order No. 142, Notice and Order Concerning Parcel Select Parcel Return Service Contract 1 Negotiated Service Agreement, December 2, 2008 (Order No. 142).

⁸ Public Representative Comments in Response to Order No. 142, December 10, 2008 (Public Representative Comments); Response from Bill Razzouk, Newgistics to Postal Regulatory Commission Notice and Order Concerning Parcel Select & Parcel Return Service Contract 1 Negotiated Service Agreement Order No. 142, December 10, 2008 (Newgistics Comments).

that contract rates should not provide an unfair advantage to one company over another.

III. Commission Analysis

The Commission has reviewed the Request, the contract, the financial analysis provided under seal that accompanies it, and the comments filed by the Public Representative and Newgistics.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning Parcel Select & Parcel Return Service Contract 1 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 Parcel Select & Parcel Return Service Contract 1 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 D, at 2. The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar 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 3. Finally, the Postal Service states that the market for

ground 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.*

No commenter opposes the proposed classification of Parcel Select & Parcel Return Service Contract 1 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Parcel Select & Parcel Return Service Contract 1 is appropriately classified as a competitive product and should be added to the Competitive Product List.

Cost considerations. The Commission's library reference PRC-CP2009-13-NP-LR-1 analyzes the financial impact of this of this contract. Library Reference PRC-CP2009-13-NP-LR-1 updates the original data submitted by the Postal Service and provides calculations for revenue per piece for each of the negotiated service agreement's rate categories. The results show that the updated data do not cause the financial results to vary significantly.

Based on the data submitted and the Commission's analysis shown in Library Reference PRC-CP2009-13-NP-LR-1, the Commission finds that Parcel Select & Parcel Return Service Contract 1 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 the proposed Parcel Select & Parcel Return Service Contract 1 indicates that it comports with the provisions applicable to rates for competitive products.

The Postal Service shall promptly notify the Commission when the contract terminates, but no later than the actual termination date. The Commission will then remove the contract from the Mail Classification Schedule at the earliest possible opportunity.

Public Representative comments. As evidenced by filings in other recent negotiated service agreement dockets, it appears that the Postal Service typically has the ability to properly redact files using blackouts while maintaining the documents' "searchability" characteristics. The Postal Service should strive to ensure that all redacted documents are properly redacted using blackouts unless it specifically justifies

the use of other redaction methods in its filings.

Newgistics comments. For the Commission to approve new competitive products and their accompanying rates not of general applicability, the law requires that the contracts meet the requirements of 39 U.S.C. 3633, 3642 and accompanying regulatory criteria. The Postal Service should strive to obtain new volumes and revenues, but the law does not require new volumes and revenues for the Postal Service to enter into negotiated service agreements for competitive products. Additionally, section 403(c) bars undue discrimination and unreasonable preferences. However, no evidence of undue discrimination or unreasonable preferences has been shown here. If Newgistics believes that such a violation exists, it may file a complaint with the Commission pursuant to 39 U.S.C. 3662 to explore the issue.

In conclusion, the Commission approves Parcel Select & Parcel Return Service Contract 1 as a new competitive product. The revision to the Competitive Product List is shown below the signature of this Order and is effective upon issuance of this Order.

It is Ordered:

1. Parcel Select & Parcel Return Service Contract 1 (MC2009-11 and CP2009-13) 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 termination date of the contract as discussed in this Order.

3. 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.

Steven W. Williams,
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 to read as follows:

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

Part A—Market Dominant Products	Not Flat-Machinables (NFM)s/Parcels [Reserved for Product Description]	Address List Services [Reserved for Product Description]
1000 Market Dominant Product List	Periodicals [Reserved for Class Description]	Caller Service [Reserved for Product Description]
First-Class Mail	Within County Periodicals [Reserved for Product Description]	Change-of-Address Credit Card Authentication [Reserved for Product Description]
Single-Piece Letters/Postcards	Outside County Periodicals [Reserved for Product Description]	Confirm [Reserved for Product Description]
Bulk Letters/Postcards	Package Services [Reserved for Class Description]	International Reply Coupon Service [Reserved for Product Description]
Flats	Single-Piece Parcel Post [Reserved for Product Description]	International Business Reply Mail Service [Reserved for Product Description]
Parcels	Inbound Surface Parcel Post (at UPU rates) [Reserved for Product Description]	Money Orders [Reserved for Product Description]
Outbound Single-Piece First-Class Mail International	Bound Printed Matter Flats [Reserved for Product Description]	Post Office Box Service [Reserved for Product Description]
Inbound Single-Piece First-Class Mail International	Bound Printed Matter Parcels [Reserved for Product Description]	Negotiated Service Agreements [Reserved for Class Description]
Standard Mail (Regular and Nonprofit)	Media Mail/Library Mail [Reserved for Product Description]	HSBC North America Holdings Inc. Negotiated Service Agreement [Reserved for Product Description]
High Density and Saturation Letters	Special Services [Reserved for Class Description]	Bookspan Negotiated Service Agreement [Reserved for Product Description]
High Density and Saturation Flats/Parcels	Ancillary Services [Reserved for Product Description]	Bank of America Corporation Negotiated Service Agreement
Carrier Route	Address Correction Service [Reserved for Product Description]	The Bradford Group Negotiated Service Agreement
Letters	Applications and Mailing Permits [Reserved for Product Description]	Part B—Competitive Products
Flats	Business Reply Mail [Reserved for Product Description]	2000 Competitive Product List
Not Flat-Machinables (NFM)s/Parcels	Bulk Parcel Return Service [Reserved for Product Description]	Express Mail
Periodicals	Certified Mail [Reserved for Product Description]	Express Mail
Within County Periodicals	Certificate of Mailing [Reserved for Product Description]	Outbound International Expedited Services
Outside County Periodicals	Collect on Delivery [Reserved for Product Description]	Inbound International Expedited Services
Package Services	Delivery Confirmation [Reserved for Product Description]	Inbound International Expedited Services 1 (CP2008-7)
Single-Piece Parcel Post	Insurance [Reserved for Product Description]	Priority Mail
Inbound Surface Parcel Post (at UPU rates)	Merchandise Return Service [Reserved for Product Description]	Priority Mail
Bound Printed Matter Flats	Parcel Airlift (PAL) [Reserved for Product Description]	Outbound Priority Mail International
Bound Printed Matter Parcels	Registered Mail [Reserved for Product Description]	Inbound Air Parcel Post
Media Mail/Library Mail	Return Receipt [Reserved for Product Description]	Parcel Select
Special Services	Return Receipt for Merchandise [Reserved for Product Description]	Parcel Return Service
Ancillary Services	Restricted Delivery [Reserved for Product Description]	International
International Ancillary Services	Shipper-Paid Forwarding [Reserved for Product Description]	International Priority Airlift (IPA)
Address List Services	Signature Confirmation [Reserved for Product Description]	International Surface Airlift (ISAL)
Caller Service	Special Handling [Reserved for Product Description]	International Direct Sacks—M-Bags
Change-of-Address Credit Card Authentication	Stamped Envelopes [Reserved for Product Description]	Global Customized Shipping Services
Confirm	Stamped Cards [Reserved for Product Description]	Inbound Surface Parcel Post (at non-UPU rates)
International Reply Coupon Service	Premium Stamped Stationery [Reserved for Product Description]	Canada Post-United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009-8 and CP2009-9)
International Business Reply Mail Service	Premium Stamped Cards [Reserved for Product Description]	International Money Transfer Service
Money Orders	International Ancillary Services [Reserved for Product Description]	International Ancillary Services
Post Office Box Service	International Certificate of Mailing [Reserved for Product Description]	Special Services
Negotiated Service Agreements	International Registered Mail [Reserved for Product Description]	Premium Forwarding Service
HSBC North America Holdings Inc. Negotiated Service Agreement	International Return Receipt [Reserved for Product Description]	Negotiated Service Agreements
Bookspan Negotiated Service Agreement	International Restricted Delivery [Reserved for Product Description]	Domestic
Bank of America Corporation Negotiated Service Agreement		Express Mail Contract 1 (MC2008-5)
The Bradford Group Negotiated Service Agreement		Express Mail Contract 2 (MC2009-3 and CP2009-4)
Market Dominant Product Descriptions		Express Mail & Priority Mail Contract 1 (MC2009-6 and CP2009-7)
First-Class Mail [Reserved for Class Description]		Parcel Return Service Contract 1 (MC2009-1 and CP2009-2)
Single-Piece Letters/Postcards [Reserved for Product Description]		Parcel Select & Parcel Return Service Contract 1 (MC2009-11 and CP2009-13)
Bulk Letters/Postcards [Reserved for Product Description]		Priority Mail Contract 1 (MC2008-8 and CP2008-26)
Flats [Reserved for Product Description]		Priority Mail Contract 2 (MC2009-2 and CP2009-3)
Parcels [Reserved for Product Description]		Priority Mail Contract 3 (MC2009-4 and CP2009-5)
Outbound Single-Piece First-Class Mail International [Reserved for Product Description]		Priority Mail Contract 4 (MC2009-5 and CP2009-6)
Inbound Single-Piece First-Class Mail International [Reserved for Product Description]		Outbound International
Standard Mail (Regular and Nonprofit) [Reserved for Class Description]		
High Density and Saturation Letters [Reserved for Product Description]		
High Density and Saturation Flats/Parcels [Reserved for Product Description]		
Carrier Route [Reserved for Product Description]		
Letters [Reserved for Product Description]		
Flats [Reserved for Product Description]		

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 Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and CP2008–15)
 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. E8–30373 Filed 12–19–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0472; FRL–8755–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Stafford County Reasonably Available Control Technology Under the 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This SIP revision fulfills Virginia's reasonably available control technology (RACT) requirements under the Clean Air Act (CAA or the Act) with respect to the 8-hour ozone national ambient air quality standard (NAAQS) in Stafford County. Virginia has fulfilled these requirements by submitting a certification that 1-hour ozone NAAQS RACT controls for sources in the Commonwealth subject to control technology guidelines (CTGs) and for a single major source not subject to any CTG, continue to represent RACT under the 8-hour NAAQS, and submitting a negative declaration demonstrating that no facilities exist in Stafford County that are subject to certain enumerated CTGs that have not been adopted by Virginia.

DATES: *Effective Date:* This final rule is effective on January 21, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2008–0472. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through <http://www.regulations.gov> or in hard copy for public inspection 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 Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 2008 (73 FR 45925), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Stafford County's requirements of RACT under the 8-hour ozone NAAQS set forth by the CAA. The formal SIP revision was submitted by the Virginia Department of Environmental Quality on April 21, 2008.

II. Summary

Sections 172(c)(1) and 182(b)(2) of the CAA require that all SIPs satisfy the nitrogen oxides (NO_x) and volatile organic compounds (VOCs) RACT requirements that apply in areas that have not attained the NAAQS for ozone. See 42 U.S.C. 7502(c)(1), 42 U.S.C. 7511a(b)(2), and 42 U.S.C. 7511a(f). EPA has determined that States that have RACT provisions approved in their SIPs for 1-hour ozone nonattainment areas have several options for fulfilling the RACT requirements for the 8-hour ozone NAAQS. If a State meets certain conditions, it may certify that previously adopted 1-hour ozone RACT controls in the SIP continue to represent RACT control levels for purposes of fulfilling 8-hour ozone RACT requirements. See *Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline* (Phase 2 Rule) 70 FR 71612, 71655, November 29, 2005. Alternatively, a State may adopt new or more stringent regulations that represent RACT control levels, either in lieu of or in conjunction with a certification.

The Commonwealth of Virginia has submitted a certification that previously adopted RACT controls in Virginia's SIP that were approved by EPA under the 1-hour ozone NAAQS continue to represent RACT for the 8-hour implementation purposes. This previously adopted RACT consists of Virginia's adoption of EPA promulgated CTGs for those source categories that apply to existing sources in Stafford County. Virginia has also submitted a negative declaration demonstrating that no facilities exist in Stafford County for