

concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: As used in this section, *designated representative*, means any commissioned, warrant, or petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, State, or Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Communications Center (COMCEN). The COMCEN may be contacted via VHF-FM Channel 16 or (619) 278-7033.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

(5) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: September 21, 2009.

T. H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

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POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009-42 and CP2009-63; Order No. 305]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding the Priority Mail Contract 18 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 October 7, 2009 and is applicable beginning September 28, 2009.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel, at 202-789-6820 or stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 74 FR 48323 (September 22, 2009).

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

I. Introduction

The Postal Service seeks to add a new product identified as Priority Mail Contract 18 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

II. Background

On September 11, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Priority Mail Contract 18 to the Competitive Product List.¹ The Postal Service asserts that the Priority Mail Contract 18 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. MC2009-42.

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. CP2009-63.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors’ Decision, filed in Docket No MC2009-25, authorizing the Priority Mail Contract Group;² (2) a redacted version of the contract;³ (3) a requested change in the Mail Classification Schedule product list;⁴ (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁵ (5) a certification of compliance with 39 U.S.C. 3633(a);⁶ and (6) an application for nonpublic treatment of the materials filed under seal.⁷ The redacted version of the contract provides that the contract is terminable on 30 days’ notice by either

party, but could continue until March 11, 2012 without modification except as to price adjustments. Request, Attachment B, Article III.

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 D, at 1. W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *Id.*, Attachment E.

The Postal Service filed much of the supporting materials, including the supporting data and the unredacted contract, under seal. The Postal Service maintains that the contract and related financial information, including the customer’s name and the accompanying analyses that provide prices, certain terms and conditions, and financial projections, should remain confidential. *Id.*, Attachment F at 2-3.

In Order No. 298, the Commission gave notice of the two dockets, appointed a public representative, sought supplemental information, and provided the public with an opportunity to comment.⁸ The Postal Service filed its Response for supplemental information pertaining to the sufficiency of spreadsheets of the partially superseded agreement, and related data.⁹

III. 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 comports with title 39 and the relevant Commission rules. Public Representative Comments at 1. He further states that the agreement

⁸ PRC Order No. 298, Notice and Order Concerning Priority Mail Contract 18 Negotiated Service Agreement, September 15, 2009 (Order No. 298).

⁹ Response of the United States Postal Service to Request for Supplemental Information in Order No. 298 (Questions 1 and 2), September 21, 2009 (Response).

¹⁰ Public Representative Comments in Response to United States Postal Service Request to Add Priority Mail Contract 18 Negotiated Service Agreement to the Competitive Product List, September 25, 2009 (Public Representative Comments). The Public Representative also filed a Motion of the Public Representative for Late Acceptance of Comments in Response to United States Postal Service Request to Add Priority Mail Contract 18 to the Competitive Products List, September 25, 2009. That motion is granted.

¹ Request of the United States Postal Service to Add Priority Mail Contract 18 to Competitive Product List, September 11, 2009 (Request).

² Attachment A to the Request, reflecting Governors’ Decision No. 09-6, April 27, 2009.

³ Attachment B to the Request.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ Attachment E to the Request.

⁷ Attachment F to the Request.

appears to be beneficial to the general public since “[i]n addition to having the mailer prepare mailings for less costly handling by the Postal Service, the contract employs pricing incentives favorable to the Postal Service and thereby, the public.” *Id.* at 4. The Public Representative notes that the Postal Service has provided adequate justification for maintaining confidentiality in this case. *Id.* at 3.

IV. 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.

Statutory requirements. The Commission’s statutory responsibilities in this instance entail assigning Priority Mail Contract 18 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 18 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, 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.*, 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.*, para. (h).

No commenter opposes the proposed classification of Priority Mail Contract 18 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Priority Mail Contract 18 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 18 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 18 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 18 indicates that it comports with the provisions applicable to rates for competitive products.

Agreements amending previous negotiated service agreements. In its Request, the Postal Service did not clearly identify the existing contract that the new one effectively modifies. The new contract supersedes, in part, a contract for Express Mail and Priority Mail, only with respect to Priority Mail terms.¹¹ In the future, if it is amending or changing an existing contract in a new filing, the Postal Service shall identify the contract and docket number of the contract being amended or changed in the new filing and describe the changes. In addition, assuming the existing contract is to continue, in part, as modified, the Postal Service must also certify, as part of its filing, that the

¹¹ The existing contract became effective March 11, 2009. Request, Attachment B, at 1.

amended contract still complies with the requirements of 39 U.S.C. 3633(a).

Application for non-public treatment. The Postal Service believes that the 10-year period of non-public treatment, as specified in 39 U.S.C. 3007.30, is insufficient to protect customer-identifying information. Request, Attachment F, at 7. It asserts that such information should be protected permanently and requests that the Commission enter an order extending that duration indefinitely.

The request is premature. Should the need for non-public treatment remain due to ongoing business relationships, the Postal Service may submit a motion to the Commission to extend the duration at the appropriate time.¹²

Other considerations. Following the scheduled termination date of the agreement, the Commission will remove the product from the Competitive Product List.

In conclusion, the Commission approves Priority Mail Contract 18 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.

V. Ordering Paragraphs

It is ordered:

1. Priority Mail Contract 18 (MC2009–42 and CP2009–63) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission if termination occurs prior to the scheduled termination date.

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.

Shoshana M. Grove,
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:

¹² See Docket Nos. MC2009–40 and CP2009–61, Order Concerning Parcel Select & Parcel Return Service Contract 2 Negotiated Service Agreement, September 4, 2009, at 7.

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

Part A—Market Dominant Products	[Reserved for Product Description]	[Reserved for Product Description]
1000 Market Dominant Product List	Carrier Route	International Certificate of Mailing
First-Class Mail	[Reserved for Product Description]	[Reserved for Product Description]
Single-Piece Letters/Postcards	Letters	International Registered Mail
Bulk Letters/Postcards	[Reserved for Product Description]	[Reserved for Product Description]
Flats	Flats	International Return Receipt
Parcels	[Reserved for Product Description]	[Reserved for Product Description]
Outbound Single-Piece First-Class Mail	Not Flat-Machinables (NFM)/Parcels	International Restricted Delivery
International	[Reserved for Product Description]	[Reserved for Product Description]
Inbound Single-Piece First-Class Mail	Periodicals	Address List Services
International	[Reserved for Class Description]	[Reserved for Product Description]
Standard Mail (Regular and Nonprofit)	Within County Periodicals	Caller Service
High Density and Saturation Letters	[Reserved for Product Description]	[Reserved for Product Description]
High Density and Saturation Flats/Parcels	Outside County Periodicals	Change-of-Address Credit Card
Carrier Route	[Reserved for Product Description]	Authentication
Letters	Package Services	[Reserved for Product Description]
Flats	[Reserved for Class Description]	Confirm
Not Flat-Machinables (NFM)/Parcels	Single-Piece Parcel Post	[Reserved for Product Description]
Periodicals	[Reserved for Product Description]	International Reply Coupon Service
Within County Periodicals	Inbound Surface Parcel Post (at UPU rates)	[Reserved for Product Description]
Outside County Periodicals	[Reserved for Product Description]	International Business Reply Mail Service
Package Services	Bound Printed Matter Flats	[Reserved for Product Description]
Single-Piece Parcel Post	[Reserved for Product Description]	Money Orders
Inbound Surface Parcel Post (at UPU rates)	Bound Printed Matter Parcels	[Reserved for Product Description]
Bound Printed Matter Flats	[Reserved for Product Description]	Post Office Box Service
Bound Printed Matter Parcels	Media Mail/Library Mail	[Reserved for Product Description]
Media Mail/Library Mail	[Reserved for Product Description]	Negotiated Service Agreements
Special Services	Special Services	[Reserved for Class Description]
Ancillary Services	[Reserved for Class Description]	HSBC North America Holdings Inc.
International Ancillary Services	Ancillary Services	Negotiated Service Agreement
Address List Services	[Reserved for Product Description]	[Reserved for Product Description]
Caller Service	Address Correction Service	Bookspan Negotiated Service Agreement
Change-of-Address Credit Card	[Reserved for Product Description]	[Reserved for Product Description]
Authentication	Applications and Mailing Permits	Bank of America Corporation Negotiated
Confirm	[Reserved for Product Description]	Service Agreement
International Reply Coupon Service	Business Reply Mail	The Bradford Group Negotiated Service
International Business Reply Mail Service	[Reserved for Product Description]	Agreement
Money Orders	Bulk Parcel Return Service	Part B—Competitive Products
Post Office Box Service	[Reserved for Product Description]	2000 Competitive Product List
Negotiated Service Agreements	Certified Mail	Express Mail
HSBC North America Holdings Inc.	[Reserved for Product Description]	Express Mail
Negotiated Service Agreement	Certificate of Mailing	Outbound International Expedited Services
Bookspan Negotiated Service Agreement	[Reserved for Product Description]	Inbound International Expedited Services
Bank of America corporation Negotiated	Collect on Delivery	Inbound International Expedited Services 1
Service Agreement	[Reserved for Product Description]	(CP2008–7)
The Bradford Group Negotiated Service	Delivery Confirmation	Inbound International Expedited Services 2
Agreement	[Reserved for Product Description]	(MC2009–10 and CP2009–12)
Inbound International	Insurance	Priority Mail
Canada Post—United States Postal Service	[Reserved for Product Description]	Priority Mail
Contractual Bilateral Agreement for	Merchandise Return Service	Outbound Priority Mail International
Inbound Market Dominant Services	[Reserved for Product Description]	Inbound Air Parcel Post
Market Dominant Product Descriptions	Parcel Airlift (PAL)	Royal Mail Group Inbound Air Parcel Post
First-Class Mail	[Reserved for Product Description]	Agreement
[Reserved for Class Description]	Registered Mail	Parcel Select
Single-Piece Letters/Postcards	[Reserved for Product Description]	Parcel Return Service
[Reserved for Product Description]	Return Receipt	International
Bulk Letters/Postcards	[Reserved for Product Description]	International Priority Airlift (IPA)
[Reserved for Product Description]	Return Receipt for Merchandise	International Surface Airlift (ISAL)
Flats	[Reserved for Product Description]	International Direct Sacks—M-Bags
[Reserved for Product Description]	Restricted Delivery	Global Customized Shipping Services
Parcels	[Reserved for Product Description]	Inbound Surface Parcel Post (at non-UPU
[Reserved for Product Description]	Shipper-Paid Forwarding	rates)
Outbound Single-Piece First-Class Mail	[Reserved for Product Description]	Canada Post—United States Postal service
International	Signature Confirmation	Contractual Bilateral
[Reserved for Product Description]	[Reserved for Product Description]	Agreement for Inbound Competitive
Inbound Single-Piece First-Class Mail	Special Handling	Services (MC2009–8 and CP2009–9)
International	[Reserved for Product Description]	International Money Transfer Service
[Reserved for Product Description]	Stamped Envelopes	International Ancillary Services
Inbound Single-Piece First-Class Mail	[Reserved for Product Description]	Special Services
International	Stamped Cards	Premium Forwarding Service
[Reserved for Product Description]	[Reserved for Product Description]	Negotiated Service Agreements
Standard Mail (Regular and Nonprofit)	Premium Stamped Stationery	Domestic
[Reserved for Class Description]	[Reserved for Product Description]	Express Mail Contract 1 (MC2008–5)
High Density and Saturation Letters	Premium Stamped Cards	Express Mail Contract 2 (MC2009–3 and
[Reserved for Product Description]	[Reserved for Product Description]	CP2009–4)
High Density and Saturation Flats/Parcels	International Ancillary Services	

Express Mail Contract 3 (MC2009–15 and CP2009–21)
 Express Mail Contract 4 (MC2009–34 and CP2009–45)
 Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
 Express Mail & Priority Mail Contract 2 (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)
 Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)
 Express Mail & Priority Mail Contract 7 (MC2009–32 and CP2009–43)
 Express Mail & Priority Mail Contract 8 (MC2009–33 and CP2009–44)
 Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61)
 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)
 Priority Mail Contract 14 (MC2009–30 and CP2009–40)
 Priority Mail Contract 15 (MC2009–35 and CP2009–54)
 Priority Mail Contract 16 (MC2009–36 and CP2009–55)
 Priority Mail Contract 17 (MC2009–37 and CP2009–56)
 Priority Mail Contract 18 (MC2009–42 and CP2009–63)
 Outbound International
 Direct Entry Parcels Contracts
 Direct Entry Parcels 1 (MC2009–26 and CP2009–36)
 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 Expedited Package Services 2 (CP2009–50)
 Global Plus Contracts

Global Plus 1 (CP2008–8, CP2008–46 and CP2009–47)
 Global Plus 2 (MC2008–7, CP2008–48 and CP2008–49)
 Inbound International
 Inbound Direct Entry Contracts with Foreign Postal Administrations
 Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and MC2008–15)
 Inbound Direct Entry Contracts with Foreign Postal Administrations 1 (MC2008–6 and CP2009–62)
 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]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0490; FRL–8439–1]

Sodium and Ammonium Naphthalenesulfonate Formaldehyde Condensates; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the sodium and ammonium naphthalenesulfonate formaldehyde condensates, herein referred to in this document as the SANFCs, when used as inert ingredients in pesticide formulations applied pre-harvest and post-harvest. The Joint Inerts Task Force (JITF), Cluster Support Team Number 11 and Akzo Nobel Surface Chemistry, LLC, submitted petitions to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of the SANFCs.

DATES: This regulation is effective October 7, 2009. Objections and requests for hearings must be received on or before December 7, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0490. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., 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 in the electronic docket at <http://www.regulations.gov>, or, if only