FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: September 12, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–20217 Filed 9–17–18; 8:45 am]

BILLING CODE 4164–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3035

[Docket No. RM2018–12; Order No. 4822]

Market Tests

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing revisions to its rules governing market tests of experimental products. This document informs the public of the docket's initiation, invites public comment, and takes other administrative steps.

DATES: *Comments are due on or before* October 18, 2018.

ADDRESSES: 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:

Table of Contents

I. Introduction
II. Proposed Amendments
III. Section-by-Section Analysis
IV. Administrative Actions
V. Ordering Paragraphs

I. Introduction

Pursuant to 39 U.S.C. 503 and 3641, this order establishes a rulemaking docket that proposes amendments to the Commission's regulations governing market tests of experimental products appearing in existing 39 CFR part 3035. The proposed amendments would revise regulations concerning market test revenue limitations and requests to add a non-experimental product or price category based on an experimental product to the market dominant or competitive product list.[1] The proposed rules reflect lessons learned through the Commission's experiences with the existing regulations and current practice before the Commission. The proposed rules appear after the signature of this order in Attachment A.

II. Proposed Amendments

Section 3641 of title 39 of the United States Code authorizes the Postal Service to conduct market tests of experimental products. In accordance with its specific authority to regulate market tests under 39 U.S.C. 3641 and its general authority under 39 U.S.C. 503 to promulgate regulations and establish procedures, the Commission codified existing 39 CFR part 3035 to establish procedures for conducting market tests of experimental products.[2] The Commission establishes this proceeding to consider amendments to the existing market test regulations.

The proposed amendments are discussed below. The first set of amendments intend to revise the method for calculating applicable revenue limitations for market tests appearing in existing §§ 3035.15 and 3035.16 to be consistent with the current level of precision used in calculating the annual limitation on the percentage change in rates for market dominant products (price cap). The second set of proposed amendments aim to clarify the process under existing § 3035.18 for adding a non-experimental product or price category based on an experimental product to the market dominant or competitive product list and to emphasize the necessity of receiving specific detailed information in those instances.

A. Market Test Revenue Limitations

Unless the Commission grants an exemption, total revenues anticipated or in fact received by the Postal Service from an experimental product must not exceed $10 million in any year. 39 U.S.C. 3641(e)(1). Upon written application of the Postal Service, the Commission may exempt the market test from the $10 million revenue limitation if certain requirements are met. 39 U.S.C. 3641(e)(2). If the Commission grants an exemption, total revenues anticipated, or in fact received by, the Postal Service from a market test may not exceed $50 million in any year. *Id.* These amounts must be adjusted annually by the change in the Consumer Price Index for such year, as determined under the regulations of the Commission. 39 U.S.C. 3641(g). Existing § 3035.15(a) uses the Consumer Price Index—All Urban Customers (CPI–U index), as specified by §§ 3010.21(a) and 3010.22(a) of this chapter, to calculate these amounts.

Existing § 3035.15(d) explains the method for calculating the $10 million revenue limitation on a fiscal year basis, as adjusted for the change in the CPI–U index ($10 Million Adjusted Limitation). Calculating the $10 Million Adjusted Limitation involves three steps. First, a simple average CPI–U index was calculated for Fiscal Year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12. 39 CFR 3035.15(d); *see* 39 U.S.C. 3641(g). The result is a Base Average of 214.5. 39 CFR 3035.15(d). Second, a second simple average CPI–U index is calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 to obtain a Recent Average. *Id.* Third, the revenue limitation for the current fiscal year is calculated by multiplying $10 million by the Recent Average divided by the Base Average of 214.5. *Id.* The result is the $10 Million Adjusted Limitation, rounded to the nearest dollar. *Id.* Existing § 3035.16(c) sets forth corresponding steps for calculating the $50 million revenue limitation, as adjusted for the change in the CPI–U index ($50 Million Adjusted Limitation).

Under existing §§ 3035.15 and 3035.16, the Base Average for both the $10 Million and $50 Million Adjusted Limitations is calculated using one decimal place (214.5). In Order No. 303, the Commission amended the price cap rules appearing in §§ 3010.21 and 3010.22 of this chapter to calculate the CPI–U price cap using three decimal places instead of one.[3] The Commission

[1] Product lists categorize postal products as either market dominant or competitive. 39 CFR 3020.1(b). Each experimental product during a market test is identified on the applicable product list under the organizational group heading ''Market Tests'' in accordance with 39 U.S.C. 3641(b)(3) and existing §§ 3020.4(b)(2)(ii)(D) and 3020.4(b)(3)(ii)(D) of this chapter. The intent of existing § 3035.18 and the revisions proposed in this order apply only to a request to offer a proposed product or price category in non-experimental status, that is—subject to the applicable requirements of 39 U.S.C. 3622, 3633, or 3642, and the applicable regulations promulgated thereunder.

[2] *See* Docket No. RM2013–5, Order Adopting Final Rules for Market Tests of Experimental Products, August 28, 2014 (Order No. 2173).

[3] Docket No. RM2009–8, Order Amending the Cap Calculation in the System of Ratemaking, September 22, 2009, at 1–2 (Order No. 303); *see* Docket No. RM2009–8, Notice of Proposed Rulemaking to Amend the Cap Calculation in the System of Ratemaking, July 10, 2009 (Order No. 246).

explained that rounding to three decimal places was appropriate for several reasons. The Postal Service previously proposed small rate adjustments that required a greater degree of precision when calculating the price cap. Order No. 246 at 2; Order No. 303 at 1. Available data allowed the price cap to be calculated to three decimal places, which was not possible when the Commission established its regulations governing rates and classes for market dominant and competitive products.[4] Calculating the price cap to three decimal places was also consistent with how the Commission calculated the Postal Service's unused rate adjustment authority.[5]

Consistent with the price cap rules, the proposed amendments would calculate the Base Average for the $10 Million Adjusted Limitation and $50 Million Adjusted Limitation using three decimal places (214.463). The proposed amendments would replace ''214.5'' with ''214.463'' in paragraphs (d) and (e) of existing § 3035.15 and in paragraphs (c) and (d) of existing § 3035.16. This change would slightly increase the current $10 Million and $50 Million Adjusted Limitations, which were calculated using one decimal place.[6] For FY 2018, the $10 Million Adjusted Limitation would increase from $11,365,967 to $11,367,928, and the $50 Million Adjusted Limitation would increase from $56,829,837 to $56,839,641. Thus, the proposed amendments would have limited substantive effect, but would enhance consistency across the Commission's rules.

B. Request To Add a Non-Experimental Product or Price Category Based on an Experimental Product to the Product List

1. Background

Generally, each product offered by the Postal Service must comply with 39 U.S.C. 3622 (governing market dominant products), 39 U.S.C. 3633 (governing competitive products), or 39 U.S.C. 3642 (governing changes to the lists of market dominant and competitive products), and applicable regulations. Experimental products, however, are not subject to 39 U.S.C. 3622, 3633 or 3642, or the associated regulations. 39 U.S.C. 3641(a)(2).

The Postal Service may decide to add a non-experimental product or price category to the product list based on its performance or other factors. Accordingly, existing § 3035.18 sets forth procedures for filing a request to add a current or former experimental product to the market dominant or competitive product list in non-experimental status, that is—subject to the applicable requirements of 39 U.S.C. 3622, 3633, or 3642, and the applicable regulations promulgated thereunder. *See* Order No. 2173 at 24. Existing § 3035.18 uses the term ''permanent'' to describe the non-experimental status of the proposed product or price category. *See id.* Existing § 3035.18(a) states that if the Postal Service decides to make an experimental product permanent, it must file a request under 39 U.S.C. 3642 and part 3020, subpart B of this chapter to add a new product or price category to the market dominant or competitive product list. Existing § 3035.18(a) requires the Postal Service to file such requests at least 60 days before the market test expires or the market test exceeds any authorized adjusted limitation in any fiscal year, whichever is earlier.

Under existing § 3035.18(b), requests must quantify the product specific costs associated with developing the market test, which are the costs incurred before the market test was implemented. Under existing § 3035.18(c), the Postal Service must also file a notice of the request in the market test proceeding's docket that includes the applicable docket number(s) for the proceeding evaluating the request.

Since the market test rules were implemented, the Postal Service has filed requests for the Customized Delivery and Metro Post experimental products.[7] Customized Delivery was a package delivery service offering that provided customers with delivery of groceries and other prepackaged goods within a customized delivery window.[8] Metro Post was a package delivery service that provided customers with same-day delivery within a defined metropolitan area.[9] The Postal Service proposed to add non-experimental products based on both the Customized Delivery and Metro Post experimental products to the competitive product list as NSAs, which are written contracts between the Postal Service and a mailer for customer-specific rates and fees that are effective for a defined period of time. 39 CFR 3001.5(r). The Customized Delivery and Metro Post Requests raised issues about the applicability of existing § 3035.18, as well as the information necessary for the Commission to evaluate such requests. The proposed amendments are intended to address these issues by clarifying when existing § 3035.18 applies and what information a request must include. Each issue is discussed below, along with the proposed amendments to existing § 3035.18.

2. Applicability of Existing § 3035.18

The Customized Delivery and Metro Post Requests raised questions about the applicability of existing § 3035.18. The Postal Service filed both of these requests under regulations applicable to new competitive NSAs[10] rather than under existing § 3035.18. Existing § 3035.18 is ambiguous as to whether it applies to proposed NSAs in light of the fact that it refers to ''permanent'' products, and NSAs, as defined by existing § 3001.5(r) of this chapter, are not permanent but rather are in effect for a defined period of time.

These filings were problematic because the Postal Service did not

[4] Order No. 246 at 2; Order No. 303 at 1–2; *see* Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

[5] Order No. 246 at 2; Order No. 303 at 1–2; *see* 39 CFR 3010.26 and 3010.27.

[6] The market test revenue limitations for the fiscal year are published on the Commission's website available at *http://www.prc.gov;* hover over ''References'' and follow ''CPI Figures'' hyperlink.

[7] Docket Nos. MC2018–13 and CP2018–26, USPS Request to Add Parcel Select Contract 24 to Competitive Product List and Notice of Filing Materials Under Seal, October 18, 2017 (Customized Delivery Request). The requests to add Metro Post to the competitive product list (Metro Post Requests) were filed as separate proposed negotiated service agreements (NSAs). Docket Nos. MC2016–39 and CP2016–48, Request of the United States Postal Service to Add Priority Mail Contract 165 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–40 and CP2016–49, Request of the United States Postal Service to Add Priority Mail Contract 166 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–41 and CP2016–50, Request of the United States Postal Service to Add Priority Mail Contract 167 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–42 and CP2016–51, Request of the United States Postal Service to Add Priority Mail Contract 168 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–43 and CP2016–52, Request of the United States Postal Service to Add Priority Mail Contract 169 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 15, 2015; Docket Nos. MC2016–52 and CP2016–67, Request of the United States Postal Service to Add Priority Mail Contract 174 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 23, 2015.

[8] Docket No. MT2014–1, Order Authorizing Customized Delivery Market Test, October 23, 2014, at 1 (Order No. 2224).

[9] Docket No. MT2013–1, Order Approving Metro Post Market Test, November 14, 2012, at 1 (Order No. 1539).

[10] *See* 39 U.S.C. 3642; 39 CFR part 3020, subpart B; and 39 CFR 3015.5.

provide 60 days' notice of the Customized Delivery and Metro Post Requests as required by existing § 3035.18(a). Instead, the Postal Service filed the Metro Post Requests under provisions applicable to new competitive NSAs, which are generally reviewed within 15 days. *See* 39 U.S.C. 3632(b)(3). The Postal Service filed the Customized Delivery Request on October 18, 2017, two weeks before the market test expired. Customized Delivery Request at 1. The Postal Service noted that the Customized Delivery market test would expire on October 31, 2017, but asked the Commission to expedite its review and issue a decision before November 1, 2017. *Id.* The Postal Service acknowledged that ''it is seeking the Commission's approval on a shorter timeline than provided for in the statute and the Commission's rules[]'' because of the complexity of the contract. *Id.* at 1 n.1.

The Commission conditionally approved the Customized Delivery Request.[11] However, the Commission expressed concern that the timing of the request ''frustrates the purpose of the Commission's rules for making experimental products permanent'' and could be interpreted as disregarding the requirements of existing § 3035.18. Order No. 4196 at 7. The Commission stated that it will review the existing market test regulations and revise them as necessary. *Id.*

The 60-day notice requirement in existing § 3035.18(a) ensures that both the Commission and interested persons have adequate time to evaluate and respond to a request. *See* Order No. 2173 at 27. Failing to provide adequate notice frustrates the intent of this rule.

The Postal Service also failed to file notices of the Customized Delivery and Metro Post Requests in the applicable market test proceeding's docket as required by existing § 3035.18(c). These notices are important for providing transparency into the Commission's review of requests by helping mailers and the general public track a market test's progress from an experimental product to a non-experimental market dominant or competitive product. *See id.* at 25–26. Failing to file notices in the applicable market test proceeding's docket hinders transparency and the public's ability to comment on the request.

To address these issues, the proposed amendments would clarify that existing § 3035.18 applies to any non-experimental product or price category based on a former or current experimental product that the Postal Service seeks to add to the market dominant or competitive product list, whether permanent or temporary. The proposed amendments would remove the word ''permanent'' from existing § 3035.18 and instead refer to a request to add a non-experimental product or price category based on an experimental product to the applicable product list. The proposed amendments would clarify that existing § 3035.18 applies to the addition of all non-experimental products or price categories that were based on an experimental product.

To ensure that the Postal Service files under the appropriate regulation, the proposed amendments would identify specific instances when the Postal Service must file a request under existing § 3035.18. Proposed § 3035.18(b) would require the Postal Service to file a request if the proposed non-experimental product or price category: offers the same (or similar) service as a former or current experimental product; has the same distinct cost or market characteristic as a former or current experimental product; or uses (or is based on) data or assumptions from a former or current market test proceeding.

The proposed rules would also require the Postal Service to provide advance notice of requests. If the Postal Service seeks a Commission decision by a certain date, the Postal Service must provide adequate notice to ensure the Commission and interested persons have sufficient time to obtain necessary information and evaluate the request. Proposed § 3035.18(d) would require the Postal Service to file a request at least 60 days before the requested decision date. For example, for the Customized Delivery and Metro Post Requests, the Postal Service asked the Commission to issue its decision before or when the market test ends to ensure continuity between the market test and proposed NSAs. In those cases, proposed § 3035.18(d) would require the Postal Service to file the request at least 60 days before the applicable market test ends.

The Commission retains the substance of existing § 3035.18(c), but the proposed amendments would move paragraph (c) to proposed § 3035.18(e). Proposed § 3035.18(e) would delete the phrase ''to make an experimental product permanent.'' This proposed rule works in conjunction with proposed § 3035.18(c)(1), discussed in more detail below, which would require a request to identify the market test and docket number that the proposed non-experimental product or price category is based on.

Existing § 3035.18(a) requires the Postal Service to file a request under 39 U.S.C. 3642 and part 3020, subpart B of this chapter. Because of the unique nature of market tests and experimental products, existing § 3035.18(b) requires the Postal Service to include additional information to help facilitate the Commission's review of requests. As a result of the Commission's review of the Metro Post and Customized Delivery Requests, the Commission has identified additional information that should be provided with a request. The public versions of the Metro Post Requests did not reveal the connection between the proposed NSAs and the Metro Post experimental product. The proposed NSAs offered same-day delivery service just like the Metro Post experimental product. However, the Metro Post Requests redacted information stating that the proposed NSAs allow for same-day delivery of packages and were developed from Metro Post market test data.[12] The Commission found that redacting this information delayed the proceeding and the public's ability to prepare comments. Order No. 3069 at 6. The Commission also stated that the redactions hindered transparency because interested persons reviewing the requests lacked important information that would inform their comments: that the NSAs offered the same service as the Metro Post experimental product. *Id.*

To address this issue, proposed § 3035.18(c)(1) would require a request to identify the market test and docket number that the proposed non-experimental product or price category is based on. Proposed § 3035.18(c)(2) would require a request to explain how the proposed non-experimental product or price category relates to a market test or an experimental product. For example, the Customized Delivery Request clearly stated that the proposed NSA ''is modeled off the Customized Delivery market test. . . .'' Customized Delivery Request at 1. Proposed § 3035.18(c)(2) would require the Postal Service to provide a similar statement in future requests.

Another issue with the Metro Post and Customized Delivery Requests was that the requests did not include all of the information necessary for the Commission to evaluate them. During a market test, the Postal Service collects

[11] Docket Nos. MC2018–13 and CP2018–26, Order Conditionally Adding Parcel Select Contract 24 to the Competitive Product List, October 31, 2017 (Order No. 4196).

[12] *See, e.g.,* Docket Nos. MC2016–39 and CP2016–48, Order Adding Priority Mail Contract 165 to the Competitive Product List, February 12, 2016, at 6 (Order No. 3069).

and reports information for each quarter in data collection reports. *See* 39 CFR 3035.20. Data collection reports are intended to form the basis upon which the Postal Service may file a request to add a non-experimental product or price category based on an experimental product to the product list. Essentially, the data generated from the market test should minimize the reliance on proxy data and untested assumptions in the financial model used to support the request. However, the financial models for the Metro Post and Customized Delivery Requests were based on data and assumptions that deviated from the applicable market test data collection reports. This necessitated the issuance of several information requests, which prolonged the proceedings and the Commission's review.

To address this issue, proposed § 3035.18(c)(3) would require a request to identify any assumptions from the market test that the request uses or is based on. Proposed § 3035.18(c)(4) would require financial models supporting the request to include all data from data collection reports or separately identify and explain any differences between the data collection reports and the data provided in the requests.

Existing § 3035.18(b) requires the request to quantify the product specific costs associated with developing the market test, which refers to the costs incurred before the market test was implemented. The Commission retains the substance of this rule, but the proposed amendments would make clarifying edits and move it to proposed § 3035.18(c)(5).

III. Section-by-Section Analysis

Proposed Authority Citation in part 3035. The Commission proposes to add a cross-reference to 39 U.S.C. 503 in the existing authority citation for part 3035. This proposed change aims to clarify the statutory provisions granting the Commission authority to promulgate regulations concerning market tests.

Proposed § 3035.15(d). Proposed § 3035.15(d) replaces ''214.5'' with ''214.463'' in two places.

Proposed § 3035.15(e). Proposed § 3035.15(e) replaces ''214.5'' with ''214.463.''

Proposed § 3035.16(c). Proposed § 3035.16(c) replaces ''214.5'' with ''214.463'' in two places.

Proposed § 3035.16(d). Proposed § 3035.16(d) replaces ''214.5'' with ''214.463.''

Proposed § 3035.18. The Commission proposes to change the heading of existing § 3035.18 to ''Request to add a non-experimental product or price category based on an experimental product to the product list.'' This change reflects the proposed amendments to the regulatory text.

Proposed § 3035.18(a). Proposed § 3035.18(a) contains the substance of the first sentence of existing § 3035.18(a), but replaces the word ''permanent'' with general language about adding a non-experimental product or price category based on an experimental product to the applicable product list.

Proposed § 3035.18(b). Proposed § 3035.18(b) identifies instances when the Postal Service must file a request compliant with the remaining paragraphs of the section.

Proposed § 3035.18(c). Proposed § 3035.18(c) lists the information that the Postal Service must include in a request.

Proposed § 3035.18(d). The second sentence of existing § 3035.18(a) is revised and moved to proposed § 3035.18(d). If the Postal Service seeks a Commission decision by a certain date, proposed § 3035.18(d) requires that the Postal Service file a request at least 60 days before the requested decision date.

Proposed § 3035.18(e). Existing § 3035.18(c) is moved to proposed § 3035.18(e), but deletes the phrase ''to make an experimental product permanent.''

IV. Administrative Actions

The Regulatory Flexibility Act requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. *See* 5 U.S.C. 601, *et seq.* (1980). If the proposed or final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities, the head of the agency may certify that the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply. *See* 5 U.S.C. 605(b).

In the context of this rulemaking, the Commission's primary responsibility is in the regulatory oversight of the United States Postal Service. The rules that are the subject of this rulemaking have a regulatory impact on the Postal Service, but do not impose any regulatory obligation upon any other entity. Based on these findings, the Chairman of the Commission certifies that the rules that are the subject of this rulemaking will not have a significant economic impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Interested persons are invited to provide written comments concerning the proposed amendments to the market test regulations in 39 CFR part 3035. Comments are due no later than 30 days after the date of publication of this notice in the **Federal Register**. All comments and suggestions received will be available for review on the Commission's website, *http://www.prc.gov.*

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

V. Ordering Paragraphs

It is ordered:

1. Docket No. RM2018–12 is established for the purpose of receiving comments on the proposed amendments to 39 CFR part 3035, as discussed in this order.

2. Interested persons may submit comments no later than 30 days from the date of publication of this notice in the **Federal Register**.

3. Pursuant to 39 U.S.C. 505, Katharine L. Primosch is appointed to serve as Public Representative in this proceeding.

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

By the Commission.

Stacy L. Ruble,

Secretary.

List of Subjects in 39 CFR Part 3035

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend 39 CFR part 3035 as follows:

PART 3035—RULES FOR MARKET TESTS OF EXPERIMENTAL PRODUCTS

■ 1. The authority citation for part 3035 is revised to read as follows:

Authority: 39 U.S.C. 503; 3641.

■ 2. Amend § 3035.15 by revising paragraphs (d) and (e) to read as follows:

§ 3035.15 Dollar amount limitation.

* * * * *

(d) The calculation of the $10 Million Adjusted Limitation involves the following steps. First, a simple average CPI–U index was calculated for fiscal year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12 (Base Average). The resulting Base Average is 214.463. Then,

a second simple average CPI–U index is similarly calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 (Recent Average). Finally, the annual limitation for the current fiscal year is calculated by multiplying $10,000,000 by the Recent Average divided by 214.463. The result is expressed as a number, rounded to the nearest dollar.

(e) The formula for calculating the $10 Million Adjusted Limitation is as follows: $10 Million Adjusted Limitation = $10,000,000 * (Recent Average/214.463).

■ 3. Amend § 3035.16 by revising paragraphs (c) and (d) to read as follows:

§ 3035.16 Exemption from dollar amount limitation.

* * * * *

(c) The calculation of the $50 Million Adjusted Limitation involves the following steps. First, a simple average CPI–U index was calculated for fiscal year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12 (Base Average). The resulting Base Average is 214.463. Then, a second simple average CPI–U index is similarly calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 (Recent Average). Finally, the annual limitation for the current fiscal year is calculated by multiplying $50,000,000 by the Recent Average divided by 214.463. The result is expressed as a number, rounded to the nearest dollar.

(d) The formula for calculating the $50 Million Adjusted Limitation is as follows: $50 Million Adjusted Limitation = $50,000,000 * (Recent Average/214.463).

■ 4. Revise § 3035.18 to read as follows:

§ 3035.18 Request to add a non-experimental product or price category based on an experimental product to the product list.

(a) If the Postal Service seeks to add a non-experimental product or price category based on a former or current experimental product to the market dominant or competitive product list, the Postal Service shall file a request, pursuant to 39 U.S.C. 3642 and part 3020, subpart B of this chapter, to add a non-experimental product or price category to the applicable product list.

(b) The Postal Service shall comply with the requirements specified in paragraphs (c) through (e) of this section of this section if the proposed non-experimental product or price category:

(1) Offers the same (or similar) service as a former or current experimental product;

(2) Has the same distinct cost or market characteristic as a former or current experimental product; or

(3) Uses (or is based on) data or assumptions from a former or current market test proceeding.

(c) A request filed under this section shall:

(1) Identify the market test and docket number that the proposed non-experimental product or price category is based on;

(2) Explain the relationship between the proposed non-experimental product or price category and market test or experimental product;

(3) Identify any assumptions from the market test that the request uses or is based on;

(4) Include all data from data collection reports in the financial model, or separately identify and explain any differences between the data collection reports and the data used to support the financial model; and

(5) Quantify the product specific costs associated with the development of the market test; that is, costs incurred before the market test was implemented.

(d) If the Postal Service seeks a Commission decision by a certain date, the Postal Service shall file a request under this section at least 60 days before the requested decision date.

(e) The Postal Service shall also file a notice of its request under this section in the market test proceeding's docket. This notice shall include the applicable docket number(s) for the proceeding evaluating the request.

[FR Doc. 2018–20287 Filed 9–17–18; 8:45 am]

BILLING CODE 7710–FW–P

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Petition No. P3–18]

Petition of the World Shipping Council for an Exemption From Certain Provisions of the Shipping Act of 1984, as Amended, and for a Rulemaking Proceeding; Notice of Filing and Request for Comments

Notice is hereby given that the World Shipping Council (''Petitioner'') has petitioned the Commission pursuant to 46 CFR 502.92 ''. . . for an exemption from the service contract filing and essential terms publication requirements set forth at 46 U.S.C. 40502(b) and (d), respectively . . .'' Petitioner ''. . . further petitions the Commission for the initiation of a rulemaking proceeding to amend its service contract regulations set forth at 46 CFR part 530 in a manner consistent with the requested exemption.'' Petitioner alleges that ''[t]he filing of service contracts and amendments, and the publication of essential terms, represent a substantial administrative and regulatory burden'' to its ''ocean common carrier members.''

In order for the Commission to make a thorough evaluation of the requested exemption and rulemaking presented in the Petition, pursuant to 46 CFR 502.92, interested parties are requested to submit views or arguments in reply to the Petition no later than November 19, 2018. Replies shall be sent to the Secretary by email to *Secretary@fmc.gov* or by mail to Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001, and replies shall be served on Petitioner's counsel, Wayne R. Rhode, Cozen O' Connor, 1200 19th St. NW, Suite 300, Washington, DC 20036, *wrohde@cozen.com.*

Non-confidential filings may be submitted in hard copy to the Secretary at the above address or by email as a PDF attachment to *Secretary@fmc.gov* and include in the subject line: P3–18 (Commenter/Company). Confidential filings should not be filed by email. A confidential filing must be filed with the Secretary in hard copy only, and be accompanied by a transmittal letter that identifies the filing as ''Confidential-Restricted'' and describes the nature and extent of the confidential treatment requested. The Commission will provide confidential treatment to the extent allowed by law for confidential submissions, or parts of submissions, for which confidentiality has been requested. When a confidential filing is submitted, there must also be submitted a public version of the filing. Such public filing version shall exclude confidential materials, and shall indicate on the cover page and on each affected page ''Confidential materials excluded.'' Public versions of confidential filings may be submitted by email. The Petition will be posted on the Commission's website at *http://www.fmc.gov/P3-18.* Replies filed in response to the Petition will also be posted on the Commission's website at this location.

Rachel E. Dickon,

Secretary.

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