

(8) There may be times that the Ninth District Commander or the COTP finds it necessary to close the RNA to vessel traffic. During times of limited closure, persons and vessels may request permission to enter the RNA by contacting the COTP or a designated representative via VHF-16 or telephone 906-635-3319.

(d) *Definitions.* As used in this RNA:

(1) *Captain of the Port* means the United States Coast Guard Captain of the Port (COTP) of Sault Sainte Marie, Michigan.

(2) *Straits of Mackinac* means the navigable waters of the Great Lakes connecting Lake Huron to Lake Michigan passing between the upper and lower peninsulas of Michigan.

(3) *Loiter* means to linger aimlessly in or about a place making purposeless stops in the course of a trip, journey, or errand. Loitering does not include brief stops for sight-seeing, ferry, or tourism purposes.

(e) *Notification.* The Coast Guard will rely on the methods described in § 165.7 to notify the public of the time and duration of any closure of the RNA. Reports of violations of this RNA should go to COTP Sault Sainte Marie at 906-635-3319 or on VHF-Channel 16.

(f) *Waiver.* For any vessel, the COTP or a designated representative may waive any of the requirements of this section, upon finding that circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or environmental safety.

Dated: September 24, 2018.

**J.M. Nunan,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

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## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3050

[Docket No. RM2018-2; Order No. 4836]

#### Periodic Reporting Requirements

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission adopts final rules revising periodic reporting requirements codified in our regulations. The final rules amend several existing sections of our regulations, and add several subsections to our regulations.

**DATES:** *Effective:* October 31, 2018.

**FOR FURTHER INFORMATION CONTACT:**

David A. Trissell, General Counsel, at 202-789-6820.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

83 FR 33879 (Jul. 18, 2018)

83 FR 1320 (Jan. 11, 2018)

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#### I. Introduction

In this Order, the Commission adopts final rules revising periodic reporting requirements codified in 39 CFR part 3050. The final rules adopted by this Order amend existing rules by adjusting the deadlines of certain quarterly and monthly reports, modifying the format of the Monthly Summary Financial Report, and adding or removing certain reporting requirements. The final rules amend several existing sections of 39 CFR part 3050, and add several subsections to § 3050.21.

#### II. Background

On December 27, 2017, the Postal Service requested that the Commission initiate a rulemaking proceeding to consider revisions to the periodic reporting requirements codified in 39 CFR part 3050.<sup>1</sup> On January 5, 2018, the Commission established this docket and invited comments and reply comments regarding the Postal Service's proposed revisions.<sup>2</sup> The Commission received comments from the Public Representative<sup>3</sup> and the United Parcel Service, Inc. (UPS).<sup>4</sup> The Commission received reply comments from the Postal Service<sup>5</sup> and the Parcel Shippers Association (PSA).<sup>6</sup>

The Postal Service's petition contained three requests. First, the Postal Service requested that the Commission adjust deadlines for the

<sup>1</sup> United States Postal Service Petition for Rulemaking on Periodic Reporting, December 27, 2017 (Petition).

<sup>2</sup> Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, January 5, 2018 (Order No. 4374). The Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements was published in the **Federal Register** on January 11, 2018. See 83 FR 1320 (January 11, 2018).

<sup>3</sup> Public Representative Comments on Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, March 7, 2018 (March 7 PR Comments).

<sup>4</sup> Comments of United Parcel Service, Inc. on Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, March 7, 2018 (March 7 UPS Comments).

<sup>5</sup> Reply Comments of the United States Postal Service, April 6, 2018 (Postal Service Reply Comments).

<sup>6</sup> Reply Comments of the Parcel Shippers Association (PSA), April 6, 2018.

quarterly Revenue, Pieces, and Weight (RPW) report; the Quarterly Statistics Report (QSR); the quarterly Billing Determinants report; and the monthly National Consolidated Trial Balance and Revenue and Expense Summary (Trial Balance) report to align the deadlines with other financial reporting deadlines. Petition at 1. The Postal Service stated that aligning the deadlines would be more effective, as the current rules require the reports to be submitted before key information is available. *Id.* at 3-5.

Second, the Postal Service requested that the Commission change the format of the Monthly Summary Financial Report. *Id.* at 6. The Postal Service sought to revise § 3050.28(b)(1), Table 1 and Table 2. For Table 1, the Postal Service requested a change of the term "Operating Revenue" to "Revenue," and to remove a breakdown of types of operating revenue. *Id.* at 6-8. For Table 2, the Postal Service requested to update the product name for USPS Marketing Mail, as the previous format used the old product name of Standard Mail. *Id.* at 8.

Third, the Postal Service requested that the Commission remove any requirements deemed unnecessary to the Commission's evaluation of compliance with title 39. *Id.* at 9-10.

The Commission considered the comments it received in response to Order No. 4706 and reviewed its periodic reporting rules to determine if updates were warranted, and as a result proposed revisions to the rules.<sup>7</sup> The revisions incorporated the Postal Service's proposal to adjust the filing date for the RPW, QSR, Billing Determinants, and Trial Balance reports.<sup>8</sup>

The proposed rules also changed the format of the Monthly Summary Financial Report. In § 3050.28(b)(1), Table 1, the existing input for "Operating Revenue" remains, but component inputs "Mail and Services Revenue" and "Government Appropriations" were removed. A new heading, "Revenue," contains an input for "Operating Revenue," a new input for "Other Revenue," and an input for their combined "Total Revenue."<sup>9</sup>

<sup>7</sup> Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements, July 12, 2018 (Order No. 4706). The Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements was published in the **Federal Register** on July 18, 2018. See 83 FR 33879 (July 18, 2018).

<sup>8</sup> See Order No. 4706 at 8-10, part IV.B, proposed sections 3050.25(c)-(e), 3050.28(c).

<sup>9</sup> *Id.* at 10-11, part IV.C. Although Order No. 4706 explained this change, the proposed Table 1 inadvertently failed to reflect the change, omitting the new "Total Revenue" input.

Proposed changes to Table 2 included a replacement of the current input “Standard Mail” to “USPS Marketing Mail,” and the replacement of the “Total All Mail” input and its components with distinct inputs for “Total Volume” and “Total Operating Revenue.”<sup>10</sup>

In Order No. 4706, the Commission also explained several modifications to the existing rules that the Commission deemed necessary to increase the efficiency and decrease the administrative burden, for both the Postal Service and the Commission, of the Annual Compliance Determination (ACD) process. *Id.* at 13. The proposed rules added a requirement that the Postal Service file documentation with its Annual Compliance Report (ACR) showing that non-compensatory market dominant negotiated service agreements (NSAs) improve the Postal Service’s net financial position or enhance the performance of mail preparation, processing, transportation, or other functions.<sup>11</sup>

Proposed § 3050.21(j) replaced the existing section requiring the Postal Service to provide any information it believes will assist the Commission in evaluating compliance with title 39. The Commission’s proposed rules renumbered that requirement as § 3050.21(n), and revised § 3050.21(j) to require that the Postal Service provide a distribution breakdown of mail fees for market dominant and competitive products.<sup>12</sup>

Proposed § 3050.21(k) added a requirement that the Postal Service provide in its annual filing any third-party service performance results where a financial penalty or bonus is applied, and to provide the amount of any forfeited revenue.<sup>13</sup>

Proposed § 3050.21(l) added a requirement that the Postal Service provide all total workhour data and data sources, showing workhour measurements by Labor Distribution Code.<sup>14</sup>

In proposed § 3050.21(m), the Commission added a requirement that the Postal Service provide with its ACR Inbound Letter Post<sup>15</sup> revenue, volume, attributable cost, and contribution data aggregated by Universal Postal Union (UPU) country group and by shape for the preceding five fiscal years.<sup>16</sup>

The Commission’s proposed rules also removed a requirement from § 3050.60. *Id.* at 19. The current § 3050.60(c) requires the Postal Service to provide hard and electronic copies of any publications or handbooks, data collection forms, and training handbooks whenever they are changed. The Commission, finding that providing a hard-copy form might create unnecessary administrative effort, proposed to remove the requirement of providing those publications in hard-copy form.<sup>17</sup>

In Order No. 4706, the Commission invited comments on the proposal from interested parties. *Id.*

### III. Comments

In response to Order No. 4706, the Commission received comments from the Postal Service,<sup>18</sup> UPS,<sup>19</sup> the Public Representative,<sup>20</sup> the U.S. Chamber of Commerce,<sup>21</sup> and the National Association of Manufacturers (NAM).<sup>22</sup>

*Postal Service Comments.* The Postal Service supports the proposed rules regarding deadlines for periodic reports, the format of the Monthly Summary Financial Report, and the removal of the requirement that the Postal Service produce hard copies of updated publications or handbooks.<sup>23</sup>

The Postal Service agrees in theory that including in the initial ACR filing certain information it routinely provides in response to information requests would improve efficiency. *Id.* at 4. The Postal Service notes that for information regarding non-compensatory bilateral agreements, international product third-party service performance, and total workhour and related data by Labor Distribution Code, the Postal Service has provided the reports as additional

components of existing ACR folders. *Id.* at 4–5. However, for fee distribution information required by proposed § 3050.21(j), the Postal Service notes that in Docket Nos. ACR2015, ACR2016, and ACR2017, the format of the information varied. *Id.* at 5. The Postal Service states that the format varied due to foreseeable changes in circumstances, including new products, new product names, price adjustments, and transfers. *Id.* The Postal Service suggests that if the Commission desires to specify the format for fee distribution report each year, the existing Chairman’s Information Request procedure would be most appropriate. *Id.* at 6. Alternatively, the Postal Service suggests that under the proposed rule, it could make a good-faith effort to make appropriate adjustments to the report’s format. *Id.*

The Postal Service states that the Commission should exclude proposed § 3050.21(m), requiring Inbound Letter Post revenue, volume, attributable cost, and contribution data by UPU country group and by shape. *Id.* at 7. The Postal Service contends that the rule seeks information that is “unrelated to the Commission’s performance of its annual compliance determination, would encourage an incomplete and misleading analysis of the financial performance of [inbound letter post,<sup>24</sup>] and create a risk of significant harm from disclosure of commercially sensitive data.” *Id.*

The Postal Service states that there is no justification for separation of information by UPU country group or by shape for ACR purposes. *Id.* The Postal Service states that the Commission’s observations in previous ACR dockets on Inbound Letter Post are “inapplicable to the current and future financial performance of Inbound Letter Post,” and do not justify the proposed reporting requirements. *Id.* at 8. The Postal Service states that the proposed rule’s 5-year reporting period is inappropriate because of the year-to-year changes in UPU country groups, and the limited availability of shape-based data. *Id.* at 9.

The Postal Service also argues that the information sought will not present all revenue sources for inbound letter post. *Id.* The Postal Service states that it receives inbound letter post revenue from a number of other sources, including NSAs, supplemental UPU remuneration for signature confirmation

<sup>24</sup> The Postal Service appears to distinguish the product, Inbound Letter Post, from a group of related products comprising “inbound letter post.” For clarity, this Order capitalizes the name of the product, and does not capitalize when referring to the Postal Service’s group of related products.

<sup>17</sup> *Id.* at 19, proposed § 3050.60(c).

<sup>18</sup> United States Postal Service Comments Regarding Order No. 4706, August 17, 2018 (Postal Service Comments).

<sup>19</sup> Comments of United Parcel Service, Inc. on Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements, August 17, 2018 (August 17 UPS Comments).

<sup>20</sup> Public Representative Comments on Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, August 17, 2018 (August 17 PR Comments).

<sup>21</sup> Comments of the U.S. Chamber of Commerce, August 17, 2018 (Chamber of Commerce Comments).

<sup>22</sup> Comments of National Association of Manufacturers, August 17, 2018 (NAM Comments).

<sup>23</sup> Postal Service Comments at 3–4. The Postal Service identifies two minor issues with proposed § 3050.28(b)(1), Table 1. In Order No. 4706, the Commission indicated it would include an input for “Total Revenue” but the input is not in the proposed Table 1. Also, existing input “Net Operating Income” appears as “New Operating Income” in the proposed Table 1. The Postal Service recommends correcting Table 1 consistent with the explanation in Order No. 4706. *Id.* at 4.

<sup>10</sup> *Id.* at 12, proposed section 3050.28(b)(1), Table 2.

<sup>11</sup> *Id.* at 13–14, proposed § 3050.21(f)(6).

<sup>12</sup> *Id.* at 14, proposed § 3050.21(j).

<sup>13</sup> *Id.* at 15, proposed § 3050.21(k).

<sup>14</sup> *Id.* at 15–16, proposed § 3050.21(l).

<sup>15</sup> “Inbound Letter Post” as defined in the Mail Classification Schedule (MCS) section 1130.

<sup>16</sup> *Id.* at 16–18, proposed § 3050.21(m).

and tracking, PRIME multilateral agreements, negotiated rates under bilateral agreements, air conveyance dues, and base terminal dues. *Id.* at 9–10. The Postal Service argues that proposed § 3050.21(m) relies only on the MCS section 1130 Inbound Letter Post revenue from base terminal dues and air conveyance dues, without taking into account these other sources of revenue for inbound letter post. *Id.* at 10.

The Postal Service suggests revising proposed § 3050.21(m) to include inbound revenue and costs for other MCS products including the Inbound Registered Mail, the PRIME Exprés Service Agreement, the PRIME Tracked Service Agreement, the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1, and the PRIME Registered Service Agreement. *Id.* at 10–11.

Finally, the Postal Service suggests that producing the Inbound Letter Post information would put sensitive non-public material at risk. *Id.* at 11–12.

*UPS Comments.* UPS supports the proposed modifications to reporting deadlines, noting that the deadlines are reasonable and should relieve the reporting burden on the Postal Service, ultimately allowing it to provide better data. August 17 UPS Comments at 2.

Regarding changes to the Monthly Summary Financial Report, UPS urges the Commission to require the Postal Service to produce two versions of the affected tables for the next 12 months (alternatively 6 months if 12 months were found burdensome). *Id.* at 4. UPS requests that the Commission confirm that the only permitted departures from the current *de facto* reporting format of Table 2 are those described in Order No. 4607. *Id.* at 5. UPS states that any future changes to the reporting format should include a reproduction of past monthly reports using new definitions, or the production of both new and old versions of the reports for a period. *Id.*

UPS supports all of the additional requirements in the proposed rules. *Id.* at 5–8. UPS asks the Commission to clarify that the Postal Service should report Inbound Letter Post information according to proposed § 3050.21(m) in a public filing or library reference. *Id.* at 8. UPS renews its request for the Commission to consider requiring segment-level reporting for competitive products in order to promote transparency. *Id.*

*Public Representative Comments.* The Public Representative supports the proposed changes to reporting deadlines, and does not object to changes to the format of the Monthly

Summary Financial Report.<sup>25</sup> She notes, as the Postal Service does, that the input for “Total Revenue” mentioned in Order No. 4706 is not in the proposed regulatory text. August 17 PR Comments at 4. She also notes that the proposed regulatory text replaces the input “Other Expenses” with “Other Services” without explanation. *Id.*

Regarding proposed § 3050.21(f)(6), and (j) through (m), the Public Representative supports the Commission’s efforts to improve and streamline ACR dockets by requiring certain reports be included in an initial filing. *See id.* at 1. However, she suggests that the Commission can improve the proposed rules by using clearer, consistent, and precise terminology. *Id.* She provides line-by-line revisions with suggested terminology and minor reorganization. *Id.* at 5–6; Attachment A.

The Public Representative proposes that because both proposed § 3050.21(j) and (k) apply to “all market dominant and competitive products,” both requirements are better nested as subparagraphs, below a paragraph stating that both requirements apply to all market dominant and competitive products. *Id.* at 2–3 (emphasis in original). She notes, for example, that the proposed rules unnecessarily include the phrase “including all negotiated service agreements” for proposed paragraph (k) of this section, but not for proposed paragraph (j) of this section, despite both requirements being applicable to NSAs. *Id.* at 2.

The Public Representative also recommends clarifying proposed § 3050.21(m), which requires Inbound Letter Post data for “the preceding five fiscal years.” *Id.* at 3. She notes that, as written, the rule appears to require data for the five years *preceding* the year of the ACR filing, without including the year of the filing. *Id.* at 3–4 (emphasis added). She also states that the proposed rule was unclear as to whether the rule requires the Postal Service to provide data for each of the five years, or the five years in aggregate. *Id.* at 4. Therefore, she suggests changing the language of the rule to require data “for the fiscal year subject to review and each of the preceding four fiscal years.” *Id.* at 4, 6.

The Public Representative includes a list of line-by-line revisions to the proposed rules, and a redlined version of the regulatory text. *Id.* at 5–6; Attachment A.

*U.S. Chamber of Commerce Comments.* The U.S. Chamber of

Commerce supports requiring the reporting of Inbound Letter Post data. The Chamber of Commerce suggests that the Postal Service should provide public data “so long as delivery rates for inbound letter post are established by intergovernmental agreement and not equally available to domestic mailers and private international carriers.” Chamber of Commerce Comments.

*National Association of Manufacturers Comments.* NAM supports requiring data on Inbound Letter Post, stating that such data would “allow the Commission to draw meaningful inferences from trends in global postal traffic and to spot the nature and severity of problems with regard to net-losses incurred by the [Postal Service].” NAM Comments at 1. NAM suggests that the UPU terminal dues system is “prime for abuse.” *Id.* NAM states that there is a compelling public interest in requiring the data and that the burden on the Postal Service is “non-existent.” *Id.* NAM suggests that the Commission require the Postal Service to “disclose more granular and useful data over time.” *Id.* at 1–2.

#### IV. Commission Analysis

##### A. Deadlines for Certain Periodic Reports

No commenter objects to the proposed deadlines for the filing of quarterly RPW, QSR, and Billing Determinants reports. Neither does any commenter object to the proposed deadlines for the Monthly Summary Financial Report or the Trial Balance.

Accordingly, the Commission makes no changes to the deadlines set forth at proposed §§ 3050.25(c)–(e), and 3050.28(b), (c). The Commission adopts those rules as set forth in Order No. 4706.

##### B. Format of Monthly Summary Financial Report

The proposed revisions to the Monthly Summary Financial Report utilize a definition of “operating revenue” that is consistent with the definition used for Form 10–K reporting.<sup>26</sup>

While no commenter objects to the format changes as proposed, UPS requests that the Commission require the Postal Service to either: (1) Reproduce figures in past monthly reports using the new proposed definitions; or (2) produce monthly reports using both the old and new versions of the affected tables. August 17 UPS Comments at 3–4. UPS states that without a device enabling direct

<sup>25</sup> August 17 PR Comments at 1–2; March 7 PR Comments at 5, 6 (incorporating prior comments).

<sup>26</sup> United States Postal Service, 2017 Report on Form 10–K, November 14, 2017, at 19.

comparison of reports completed under the old format to reports completed under the new format, “it will be difficult for the Commission and interested parties to compare certain data across different time periods.” *Id.* at 4. UPS argues that there is “negligible burden on the Postal Service” in producing the comparable data, and that in the interest of transparency the Commission should require its production for 12 months. *Id.* Alternatively, to the extent that the Commission finds such production to be too burdensome, UPS suggests that the Commission require production of both versions for only six months. *Id.*

In its reply comments, the Postal Service avers that requiring parallel reporting of the Monthly Summary Financial Report, “would be unwarranted given the modest nature of the proposed changes.” Postal Service Reply Comments at 5. The Postal Service also noted that the Public Representative identified alternative sources of the data in the removed sub-inputs.<sup>27</sup> UPS states that although “Government Appropriation” data are available, it is unclear whether the corresponding “Mail and Service Revenue” data are available from other sources. August 17 UPS Comments at 4.

The Commission finds that the revised format, as proposed, will improve the quality, accuracy, and completeness of the Postal Service data pursuant to 39 U.S.C. 3652(e)(2). While the Commission recognizes the minimal burden on the Postal Service in producing duplicate tables under the current format and under the new format, it also finds that the proposal represents only a modest format change, and that the itemized data remain available. The “Government Appropriations” data, which refers to amounts incurred in providing free and reduced rate mail, are available in the Monthly Trial Balance. The former “Mail Services Revenue” line input represents the remainder of the new line input “Operating Revenue” on Table 1 and “Total Operating Revenue” on Table 2, and is now included in “Operating Revenue” combined with the “Government Appropriations” amount. The Commission declines to order that the Postal Service provide the Tables of the Monthly Summary Financial Report in both formats as the change itself is minor, and the data are available by other means.

Both the Postal Service and the Public Representative note that the Commission’s proposed rules do not precisely match the explanations set

forth in Order No. 4706. Postal Service Comments at 3–4; August 17 PR Comments at 4–5. Both the Postal Service and Public Representative note the omission of the line input for “Total Revenue” in proposed § 3050.28(b)(1), Table 1. *Id.*; August 17 PR Comments at 4–6.

The Public Representative also notes that the proposed Table 1 also replaces the existing line input for “Other Expenses” with “Other Services.” August 17 PR Comments at 4. She also notes a duplicative heading row in proposed Table 1, and an underlined heading, “Total Volume” in proposed Table 2. *Id.* at 6.

The Postal Service notes that the line input for “Net Operating Income” in existing Table 1 appears to have changed to “New Operating Income.” Postal Service Comments at 4. The Postal Service suggests that the Commission correct the change. *Id.*

The Commission acknowledges the errors identified by the Postal Service and the Public Representative, and makes appropriate corrections in the final rules.

#### C. Additional Requirements—Proposed § 3050.21(f)(6), (j)–(m)

##### 1. Public Representative’s Clarification Recommendations

The Public Representative identifies that proposed § 3050.21(j) and (k) both apply to all market dominant products. August 17 PR Comments at 2–3. She proposes revising paragraph (j) of this section to include both requirements set forth in proposed paragraphs (j) and (k) of this section, with the requirements—the distribution breakdown of fee revenues and third-party performance results and forfeited revenue—as subparagraphs (1) and (2). *Id.*

The Public Representative suggests revising the requirement in proposed § 3050.21(j) of “a distribution breakdown of mail fees” with “a distribution breakdown of fee revenues” stating that her suggestion is more precise and inclusive of non-mail products. *Id.* at 3.

The Public Representative suggests a number of other changes, including those reflecting her proposed renumbering. *Id.* at 5–6. She suggests hyphenating the word “non-compensatory” in paragraph (f)(6) of this section. *Id.* at 5. She suggests revising the 5-year reporting requirement in paragraph (m) of this section, replacing “the preceding five fiscal years” with “for the fiscal year subject to review and each of the preceding four fiscal years.” *Id.* at 6.

The Commission acknowledges that the Public Representative’s suggested revisions are a more concise and effective alternative to achieving the intent of the proposed rules. The Commission finds that adopting the minor changes creates more precise requirements and will improve the quality, accuracy, and completeness of the Postal Service’s reporting. Accordingly, the Commission adopts the Public Representative’s suggested reorganization and rewording in its final rules.

##### 2. Comments Regarding Proposed § 3050.21(m)

The U.S. Chamber of Commerce, NAM, and UPS, each support proposed § 3050.21(m), requiring the Postal Service to provide Inbound Letter Post revenue, volume, attributable cost, and contribution data by UPU country group and shape.<sup>28</sup> Those commenters note the importance of transparency and public access to Inbound Letter Post data, and identify particular public interest in the Inbound Letter Post product.

The Postal Service opposes the proposed reporting requirement, arguing that information sought: (1) Is unrelated to the Commission’s performance of its annual compliance determination; (2) would encourage incomplete and misleading analysis of Inbound Letter Post performance; and (3) would create a risk of harm from disclosure of commercially sensitive data of third parties. Postal Service Comments at 7. For the reasons set forth below, the Commission declines to make any additional modifications to proposed § 3050.21(m).

##### a. The Requirement Is Related to the Commission’s ACD

The Postal Service suggests that the Commission’s conclusions on the Inbound Letter Post product are “inapplicable to the current and future performance” of the product. *Id.* at 8. The Postal Service also states that those conclusions provide no justification for the disaggregation of Inbound Letter Post data by UPU country group and shape. *Id.*

As noted in Order No. 4706, it is not uncommon for the Commission to seek enhanced information about products of particular concern. For example, in the FY 2017 ACD report, the Commission chose to analyze Periodicals volume, revenue, attributable cost, and contribution, as well as unit revenue, unit attributable cost, and unit

<sup>27</sup> See *id.* at 1–4; March 7 PR Comments at 6–7.

<sup>28</sup> Chamber of Commerce Comments; NAM Comments at 1–2; August 17 UPS Comments at 8.

contribution for fiscal years 2007 through 2017.<sup>29</sup> The Commission, noting a year-after-year trend for the Periodicals class, requested this enhanced disaggregated data in order to address ongoing issues with the class. The past performance of the Periodicals class, while not *directly* at issue in the ACD, showed a trend of insufficient Periodicals revenues to cover attributable costs.

When the Commission determines the noncompliance of a product, pursuant to 39 U.S.C. 3653(c), it must order that the Postal Service “take such action as the Commission considers appropriate in order to achieve compliance.” 39 U.S.C. 3662(c). Conducting a trend analysis, as done for the Periodicals class during the FY 2017 annual compliance review, best allows the Commission to determine the appropriate remedial actions. Past performance of the product, particularly where it shows a trend of continued failure to cover its attributable costs, is relevant when determining the appropriate corrective action in an ACD.

As noted in Order No. 4706, there is a well-documented history of concern about Inbound Letter Post’s ongoing negative contribution, both in Commission orders and in stakeholder comments.<sup>30</sup> Additionally, a recent Presidential Memorandum directed the

executive branch to seek reforms within the UPU’s terminal dues system that provides: (1) Fair and nondiscriminatory terminal dues that promote unrestricted and undistorted competition; (2) terminal dues that cover the costs of delivering Inbound Letter Post mailpieces; (3) and terminal dues that avoid favoring foreign mailers over domestic mailers or favoring postal operators over private sector entities.<sup>31</sup> This Presidential Memorandum highlights the Administration’s focus on the Inbound Letter Post product. Accordingly, the Commission finds that providing enhanced data for the purposes of conducting a trend analysis across a period of years is appropriate, particularly where the prices for a product or products have routinely been non-compensatory.

The Postal Service notes that a new terminal dues system that charges higher prices for bulky letters and small packets than for letters and flats may improve the Inbound Letter Post product’s financial performance. Postal Service Comments at 8. The Postal Service avers that the past performance of Inbound Letter Post under the former terminal dues rate structure is not relevant to the Commission ACD dockets under a new rate structure. *Id.* at 7–8.

The revenue, volume, attributable cost, and contribution data—even for past years under a different terminal dues rate structure—are of significant value in the Commission’s ACD. The Commission’s analysis of these data assists in identifying the cause or causes of the product’s negative contribution. If for example, under the new rate structure, the product continues to display similar trends, the Commission might identify problems with the product unrelated to price structure. Price structure is not singularly determinative of a product’s financial performance. Other factors might contribute to the product’s performance. For example, in its trend analysis on the Periodicals class, the Commission identified declining productivity of mail processing operations as a reason for the negative trend. *See* FY 2017 ACD at 50. The data required by proposed § 3050.21(m) will assist the Commission’s efforts to identify the

challenges facing the product, and to make appropriate recommendations.

The new rate structure has separate rates for letters/flats and bulky letters/small packets, which vary by UPU country group.<sup>32</sup> The Commission’s ability to identify which rates account for what portion of the product’s contribution is critical to assessing how to improve overall product cost coverage. To the extent that a new price structure does improve Inbound Letter Post performance, such improvement will be reflected in the data reporting, and more easily attributed to the changes in price structure, due to the fuller picture provided by the enhanced reporting.

Given the public interest and the Commission’s recurring findings that Inbound Letter Post revenue fails to cover the product’s costs, the Commission finds that it is necessary and appropriate to require reporting at this additional level of aggregation. The Postal Service’s current reporting format does not disaggregate by shape and UPU country group so it is difficult to determine what particular aspect or aspects of the terminal dues system are responsible for most of the negative contribution. Providing this disaggregated information will aid the Commission in determining the appropriate remedial action to prescribe.

Furthermore, the legislative history underlying the Postal Accountability and Enhancement Act (PAEA) indicates that enhanced transparency was a key motivation in the enactment of the PAEA.<sup>33</sup> The Commission, consistent with this goal, aims to be transparent in its issuance of regulatory decisions and encourages public participation in its dockets.<sup>34</sup> In fact, the PAEA requires the Commission to consider whether the public has access to “timely, adequate information” when prescribing the content and form of the ACR. 39 U.S.C. 3652(e)(1)(A). The additional Inbound Letter Post data required under proposed § 3050.21(m) will not only improve the completeness of information available to the

<sup>29</sup> Order No. 4706 at 17; Docket No. ACR2017, Annual Compliance Determination Report, Fiscal Year 2017, March 29, 2018, at 44–45 (FY 2017 ACD).

<sup>30</sup> Order No. 4706 at 18 n.35. *See* Docket No. IM2016–1, Congressional Letter to Secretary of State Rex Tillerson and Postmaster General Megan Brennan, November 8, 2017; Docket No. ACR2017, Comments of James Smaldone, Founder & CEO, Mighty Mug, Inc., January 25, 2018, at 1–2; Docket No. ACR2017, Comments of National Association of Manufacturers on Order No. 4377, January 24, 2018, at 2; Docket No. ACR2017, Comments of United Parcel Service, Inc. in Response to Notice of Preliminary Determination to Unseal the Material Filed in Response to Chairman’s Information Request No. 1, Question 1, January 24, 2018, at 2–3; Docket No. ACR2017, Comments of the Honorable Kenny Marchant on Determination to Unseal the Material Filed in Response to Chairman’s Information Request No. 1, Question 1, January 25, 2018, at 1–2; Docket No. ACR2017, Comments of U.S. Chamber of Commerce, January 25, 2018, at 1–2; Docket No. ACR2017, Comments of SBE Council Related to Inbound Letter Post, February 20, 2018, at 1–2; Docket No. ACR2017, Comments of United Parcel Service, Inc. in Response to Notice of Preliminary Determination to Unseal the Postal Service’s Response to Chairman’s Information Request No. 15, February 23, 2018, at 3–4; Docket No. ACR2017, Reply Comments of United Parcel Service, Inc. on United States Postal Service Motion for Reconsideration of Order No. 4551, April 13, 2018, at 4; Docket No. ACR2017, Comments of U.S. Chamber of Commerce, April 13, 2018, at 1; Docket No. IM2018–1, Comments Received from U.S. Representatives Kenny Marchant and Ralph Abraham, July 3, 2018, at 1; Docket No. IM2018–1, Comment Received from U.S. Senator Bill Cassidy, M.D., July 3, 2018, at 1.

<sup>31</sup> *See* Presidential Memorandum for the Secretary of State, Secretary of the Treasury, Secretary of Homeland Security, Postmaster General, and Chairman of the Postal Regulatory Commission, August 23, 2018, available at: <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/>.

<sup>32</sup> *See* Universal Postal Union, Decisions of the 2016 Istanbul Conference, Universal Postal Convention, Final Protocol, Section VII, Article 29, October 6, 2016.

<sup>33</sup> Public Law 109–435, 120 Stat. 3198 (2006). Both the committee report accompanying S. 2468, the Senate’s 2004 postal reform bill, and the committee report accompanying H.R. 22, the House of Representatives’ 2005 postal reform bill, noted that enhanced transparency and accountability were essential aspects of postal reform. S. Rep. No. 108–318 at 5 (2004), H.R. Rep. No. 109–66, pt. 1 at 43 (2005).

<sup>34</sup> *See* Postal Regulatory Commission, Guiding Principles, Openness, available at: [www.prc.gov/mission](http://www.prc.gov/mission).

Commission for its determination, but will also enhance public participation by presenting more comprehensive and understandable data for a product of substantial public interest.

The Postal Service also states that the proposed rule's 5-year reporting period is inappropriate because of the year-to-year changes in the composition of UPU country groups, and that data limitations may reduce the Postal Service's ability to produce shape-based data for previous years. Postal Service Comments at 9.

The Commission acknowledges that changes to the composition of UPU country groups create year-to-year comparison challenges. However, the Commission has experience in analyzing changes within and among products. For example, the Commission has been able to account for previous changes to the composition of UPU country groups in previous ACDs.<sup>35</sup> Thus, the Commission is prepared to address these challenges. To the extent that the Postal Service lacks a full 5-year accounting of shape-based data, the Commission notes that the Postal Service is able to request the exclusion or partial exclusion of that component of the reporting requirement until such time that shape-based data becomes available for an entire 5-year period. *See* 39 CFR 3055.3(a).

**b. The Requirement Does Not Encourage Incomplete or Misleading Analysis of Inbound Letter Post Performance**

The Postal Service states that proposed § 3050.21(m), if implemented, will "encourage the use of data that support an incomplete and inaccurate evaluation of the financial performance of inbound letter post." Postal Service Comments at 9. The Postal Service's concern is that because proposed § 3050.21(m) requires reporting on the Inbound Letter Post product<sup>36</sup> it will not reflect the financial performance of other products the Postal Service classifies as "inbound letter post."<sup>37</sup>

<sup>35</sup> *See* Docket No. ACR2016, Annual Compliance Determination Report, Fiscal Year 2016, March 28, 2017, at 63–64.

<sup>36</sup> MCS section 1130.

<sup>37</sup> The Postal Service identifies these products as MCS sections 1510.2.2 (International Ancillary Services, Inbound International Registered Mail), 1602.5 (Negotiated Service Agreements, International, Inbound Market Dominant Exprés Service Agreement 1), 1602.4 (Negotiated Service Agreements, International, Inbound Market Dominant Exprés Service Agreement 1), 1602.6 (Negotiated Service Agreements, International, Inbound Market Dominant PRIME Tracked Service Agreement, 1602.3 (Negotiated Service Agreements, International, Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1), July 15, 2018. Postal Service Comments at 10–11.

The Postal Service suggests that for an accurate assessment of the financial performance of "inbound letter post," the Commission should consider volume and supplemental revenue derived from those other products. The Postal Service proposes an alternative reporting requirement for inbound revenues and costs for MCS sections 1130, 1510.2, and 1602. Postal Service Comments at 10–11. Notably, the Postal Service's proposal does not require that the Postal Service report the alternative data by UPU country group and shape. *See id.*

The Commission finds the Postal Service's concerns about misleading data unpersuasive. The Postal Service made a similar argument during the FY 2017 ACD proceeding.<sup>38</sup> In Docket No. ACR2017, the Postal Service asserted that the analysis for the Inbound Letter Post product should include analysis of "the volume and revenue for supplemental UPU remuneration for signature confirmation and tracking on registered items as well as for bilateral market dominant NSAs and the PRIME multilateral market dominant NSAs." FY 2017 ACD at 66. The Postal Service stated that the Public Representative's analysis of the Inbound Letter Post product was incomplete because it was limited to the volume and revenue for the Inbound Letter Post product. *Id.* In the FY 2017 ACD report, the Commission rejected the Postal Service's suggested analysis and stated that "[t]he Commission has consistently evaluated compliance at the product level because products, by definition, reflect distinct cost or market characteristics to which a rate or rates are applied." *Id.* at 67.

In each ACD, the Commission reviews each product, including those identified by the Postal Service as "inbound letter post," for cost coverage and compliance. For example, in FY 2017, the Commission found that "International Ancillary Services did not cover its attributable cost due to the failure of International Registered Mail to cover its attributable cost." *Id.* at 71. The Commission also reviewed Market Dominant NSA products, finding that Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1, Inbound Market Dominant Exprés Service Agreement 1, and Inbound Market Dominant Registered Service Agreement 1 products satisfied 39 U.S.C. 3622(c)(10), while Inbound Market Dominant PRIME Tracked

<sup>38</sup> *See* Docket No. ACR2017, Reply Comments of the United States Postal Service on Inbound Letter Post, February 27, 2018.

Service Agreement product did not. *Id.* at 74.

The Commission fulfills its mandate to determine whether the rates or fees in effect comply with 39 U.S.C. 3622 at the product level. 39 U.S.C. 3653(b)(1). The Postal Service provides no compelling basis for the Commission to depart from the reasonable practice of evaluating compliance for each market dominant international mail product at the product level. The other products the Postal Service classifies as "inbound letter post" are in fact distinct products from the Inbound Letter Post product, and the performances of those products speak for themselves. The Commission reviews those products for compliance transparently in its ACD. Because the Commission makes a determination of compliance for each of those products individually, increased granularity will not give rise to a misleading representation of Inbound Letter Post performance. In contrast, the Postal Service's suggestion would mask the data by aggregating it with other products' data, which would be less transparent and potentially misleading. Accordingly, the Commission declines to remove the proposed reporting requirement for the Inbound Letter Post product on the basis that the additional data will be incomplete or misleading.

**c. The Potential Risk of Commercial Harm Resulting From Disclosing Commercially Sensitive Data of Third Parties is Outside the Scope of This Rulemaking Proceeding**

The Postal Service states that requiring reporting of additional data by UPU country group and shape would put commercially sensitive third-party information at risk of disclosure.<sup>39</sup> The Postal Service acknowledges it would file the Inbound Letter Post data required under proposed § 3050.21(m) under seal, but suggests that a non-public filing would likely be challenged. *Id.*

The Postal Service acknowledges that the PAEA and the Commission rules outline a procedure for application for non-public treatment of information. *See id.* To the extent that the Postal Service believes that public disclosure of Inbound Letter Post data separated by UPU country group and shape would

<sup>39</sup> Postal Service Comments at 11–12. The Postal Service incorporates by reference its discussion in Docket No. ACR2017. *See* Docket No. ACR2017, United States Postal Service Motion for Reconsideration of Order No. 4451, April 6, 2018; Docket No. ACR2017, Response of the United States Postal Service to Order No. 4409, February 23, 2018; Docket No. ACR2017, United States Postal Service Notice of Filing Nonpublic Folder USPS–FY17–NP40 and Application for Nonpublic Treatment, February 14, 2018.

cause a commercial harm, it could file an application for non-public treatment pursuant to §§ 3007.200 and 3007.201 of this chapter. As noted in Order No. 4707, the application must particularly identify “the nature and extent of the harm alleged and the likelihood of each harm.”<sup>40</sup> The Commission’s regulations also outlines a procedure for participants or the Commission to seek to unseal material filed non-publicly by the Postal Service. See 39 CFR 3007.103; see also 39 CFR 3007.104. Accordingly, the Commission will address the non-public status of data filed under proposed § 3050.21(m), if and when the Postal Service files the data under seal and if the Commission issues a preliminary determination concerning the appropriate degree of protection, if any, to be accorded to materials filed under seal.

The Commission finds that rules regarding non-public treatment of commercially sensitive information are sufficient in addressing the Postal Service’s concerns. The Postal Service’s assertion that a challenge to a non-public disclosure would put the information “at risk” is not itself enough reason to support removing the proposed reporting requirement altogether. Accordingly, the Commission declines to remove proposed § 3050.21(m) on the basis of hypothetical risk to commercially sensitive information.

### 3. Concerns Regarding Proposed § 3050.21(j)

The Postal Service states that it agrees, in theory, that including material routinely requested in ACR proceedings in the initial filing is likely to be more efficient. Postal Service Comments at 4. The Postal Service notes, however, that for fee distribution data, the Commission’s requests have sought the information in different formats in each of the past three years. *Id.* at 5. The Postal Service correctly attributes these format changes to continuing adjustments to products lists. *Id.* The Postal Service, anticipating that those adjustments will continue going forward, offers two suggestions for determining the format of fee distribution data. *Id.* at 6.

The Postal Service suggests that the Commission might determine that it is most efficient to continue the current practice of using an information request specifying the format for the fee distribution data. *Id.* Such a

determination would obviate the need to adopt proposed § 3050.21(j) as a final rule. The Postal Service suggests that alternatively, the Commission could allow the Postal Service to make reasonable updates to the format of the report each year, pursuant to the anticipated product adjustments. *Id.*

The Commission is satisfied with the Postal Service’s proposal to make efforts to make appropriate changes to the format of fee distribution data based on product adjustments. In its annual submission, the Postal Service should identify any such product adjustments and corresponding format changes.

#### D. Removal of Unnecessary Requirement in § 3050.60(c)

No commenter objects to the removal of the requirement that the Postal Service provide hard-copy updates of publications and handbooks. The Postal Service supports the modification. *Id.* at 3. Accordingly, the Commission does not make any changes to proposed § 3050.60(c).

#### E. Other Comments—Segment-Level Data

UPS requests that the Commission reconsider its position on a proposal to require segment-level reporting for competitive products. August 17 UPS Comments at 8. In Order No. 4706, the Commission explained that it declined to propose such requirements, because the current single segment reporting is adequate for determining compliance. Order No. 4706 at 12–13. The PAEA allows the Commission to consider the adequacy of information provided in determining the lawfulness of rates charged, and can revise the reporting requirements to “improve the quality, accuracy, or completeness of Postal Service data.” 39 U.S.C. 3652(e)(2). UPS states that requiring segment-level reporting “would promote transparency and represent an improvement over the status quo.” August 17 UPS Comments at 8.

The Commission finds that UPS has not shown that the current single-level reporting practices are inaccurate or inadequate. UPS must show that the data, “[ha]ve become significantly inaccurate or can be *significantly* improved.” 39 U.S.C. 3652(e)(2)(A) (emphasis added). The proposal for segment-level reporting may be appropriate for review in another docket devoted toward the question. In the instant docket, however, UPS has not demonstrated the inadequacy in the current reporting method or how it would be significantly improved for determining compliance. In fact, the Commission finds that the current

single-level reporting is sufficiently accurate and adequate for the purposes of assessing compliance. Accordingly, the Commission declines to adopt rules requiring segment-level reporting for competitive products.

### V. Changes to the Proposed Rules

The final rules incorporate many of the commenters’ suggestions. The final rules contain the correction of some omissions from the proposed rules, adjust the language of proposed rules, and restructure and renumber proposed rules. The substance of the rules initially proposed in Order No. 4706 largely remains the same. Below, the Commission describes the differences between the proposed and final rules.

#### A. Section 3050.21

Proposed § 3050.21(f)(6) is revised to hyphenate the word “non-compensatory” pursuant to the suggestion of the Public Representative. Also, because of the addition of paragraph (f)(6) of this section, the word “and” at the end of paragraph (f)(4) of this section is moved to the end of paragraph (f)(5) of this section. The Commission adopts this revision pursuant to the Public Representative’s suggestion.

Proposed § 3050.21(j) and (k) are revised as paragraphs (j)(1) and (j)(2) of this section. Paragraph (j) of this section now reads “For all market dominant and competitive products.” Proposed paragraph (j) of this section, now located at paragraph (j)(1) of this section, required the distribution breakdown of mail fees. The final rule replaces “mail fees” with “fee revenues” to more accurately reflect that the requirement applies to some non-mail products. Proposed paragraph (k) of this section, now located at paragraph (j)(2) of this section required the Postal Service to “provide . . . the amount of any forfeited revenue.” Final § 3050.21(j)(2) revises the proposed rule, now requiring that the Postal Service “identify” the amount of forfeited revenue.

Because the final rules combine proposed paragraphs (j) and (k) of this section, the final rules require a minor restructuring and renumbering. Proposed paragraphs (l) through (n) of this section are revised and renumbered as paragraphs (k) through (m) of this section, respectively.

The Commission also revises proposed § 3050.21(m), renumbered to § 3050.21(l) in the final rules, pursuant to the Public Representative’s suggestion. The proposed rule required Inbound Letter Post Date “for the preceding five fiscal years.” Final

<sup>40</sup> Docket No. ACR2017, Order Denying Motion for Reconsideration of Order No. 4451 as Moot, July 12, 2018, at 15 (Order No. 4707); see 39 CFR 3007.201(b)(4).

§ 3050.21(l) more precisely defines this requirement as “the fiscal year subject to review and each of the preceding four fiscal years.”

Because of the renumbering, the Commission also adopts a revision to proposed § 3050.21(a), listing the required content of the Postal Service’s section 3652 report. The proposed rule states that the report shall provide the items listed in paragraphs (b) through (n) of this section. Consistent with the renumbering, the final rule states that the report shall provide the items listed in paragraphs (b) through (m) of this section.

The Commission also revises the amendatory instructions for the **Federal Register**, consistent with the revisions made to § 3050.21.

#### B. Section 3050.25

The Commission does not revise § 3050.25 as proposed in Order No. 4706.

#### C. Section 3050.28

In consideration of the comments of the Postal Service and the Public Representative, the Commission makes several revision to proposed § 3050.28(b)(1), Table 1 and Table 2.

The final rules add the input “Total Revenue” beneath the sub-inputs for “Operating Revenue” and “Other Revenue” and above “Operating Expenses” in Table 1. This revision is consistent with the explanation of changes in Order No. 4706. Pursuant to the Postal Service’s suggestion, the Commission revises the input “New Operating Income” in proposed Table 1. The final rules correct the input to “Net Operating Income.” The final rules also remove a duplicative heading row in Table 1 and extraneous underlining within certain cells in Table 2.

The Commission, pursuant to the Public Representative’s suggestion, revises the amendatory instructions preceding final § 3050.28, to indicate that the introductory language in paragraph (b) of this section also contains revisions. The content of the introductory text of paragraph (b) of this section remains unchanged from that proposed in Order No. 4706.

#### D. Section 3050.60(c)

The Commission does not revise § 3050.50(c) as proposed in Order No. 4706.

### VI. Ordering Paragraphs

*It is ordered:*

1. Part 3050 of title 39, Code of Federal Regulations, is revised as set forth below the signature of this Order,

effective 30 days after publication in the **Federal Register**.

2. The Postal Service shall make a good-faith effort to make appropriate adjustments to the format of the fee distribution in each year’s Annual Compliance Report, as necessary to reflect product changes.

3. 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 3050

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Commission amends Chapter III of title 39 of the Code of Federal Regulations as follows:

#### PART 3050—PERIODIC REPORTING

■ 1. The authority citation for part 3050 continues to read as follows:

**Authority:** 39 U.S.C. 503, 3651, 3652, 3653.

■ 2. Amend § 3050.21 by:

■ a. Revising paragraphs (a) and (f)(4) and (5),

■ b. Adding paragraph (f)(6),

■ c. Revising paragraph (j), and

■ d. Adding paragraphs (k), (l), and (m).

The revisions and additions read as follows:

#### § 3050.21 Content of the Postal Service’s section 3652 report.

(a) No later than 90 days after the close of each fiscal year, the Postal Service shall submit a report to the Commission analyzing its costs, volume, revenue, rate, and service information in sufficient detail to demonstrate that all products during such year comply with all applicable provisions of title 39 of the United States Code. The report shall provide the items in paragraphs (b) through (m) of this section.

\* \* \* \* \*

(f) \* \* \*

(4) Analyze the contribution of the agreement to institutional costs for its most recent year of operation. The year analyzed shall end on the anniversary of the negotiated service agreement that falls within the fiscal year covered by the Postal Service’s annual periodic reports to the Commission and include the 12 preceding months. The analysis shall show all calculations and fully identify all inputs. Inputs used to estimate the effect on total contribution to the Postal Service, such as unit costs and price elasticities, shall be updated using fiscal year values;

(5) Analyze the effect of the negotiated service agreement (and other functionally equivalent negotiated service agreements) on the marketplace. If there were harmful effects, explain why those effects were not unreasonable; and

(6) Provide financial or other supporting documentation that demonstrates that non-compensatory market dominant negotiated service agreements improve the net financial position of the Postal Service over default rates or enhance the performance of mail preparation, processing, transportation, or other functions.

\* \* \* \* \*

(j) For all market dominant and competitive products:

(1) Provide a distribution breakdown of fee revenues, including all underlying calculations and source workpapers; and

(2) Provide any third-party service performance results upon which any financial penalty or bonus is determined, and identify the amount of any forfeited revenue;

(k) Provide all total workhour data and data sources showing workhour measurements by Labor Distribution Code;

(l) For the Inbound Letter Post product, provide revenue, volume, attributable cost, and contribution data by Universal Postal Union country group and by shape for the preceding the fiscal year subject to review and each of the preceding four fiscal years; and

(m) Provide any other information that the Postal Service believes will help the Commission evaluate the Postal Service’s compliance with the applicable provisions of title 39 of the United States Code.

■ 3. Amend § 3050.25 by revising paragraphs (c), (d), and (e) to read as follows:

#### § 3050.25 Volume and revenue data.

\* \* \* \* \*

(c) Revenue, pieces, and weight by rate category and special service by quarter, within 40 days of the close of Quarters 1, 2, and 3 of the fiscal year and 60 days after Quarter 4, but no later than the filing of reports filed pursuant to section 3050.40(a) or 3050.40(b);

(d) Quarterly Statistics Report, including estimates by shape, weight, and indicia, within 40 days of the close of Quarters 1, 2, and 3 of the fiscal year and 60 days after Quarter 4 but no later than the filing of reports filed pursuant to section 3050.40(a) or 3050.40(b); and

(e) Billing determinants within 60 days of the close of Quarters 1, 2, and



3 of the fiscal year and 90 days after Quarter 4.

■ 4. Amend § 3050.28 by revising paragraph (b) introductory text, tables 1 and 2 in paragraph (b)(1), and paragraph (c) to read as follows:

**§ 3050.28 Monthly and pay period reports.**

\* \* \* \* \*

(b) Monthly Summary Financial Report on the 24th day of the following month, except that the reports for the last months of Quarters 1, 2, and 3 of the fiscal year shall be provided at the time

that the Form 10-Q report is provided and the report for the last month of Quarter 4 of the fiscal year shall be provided at the time that the Form 10-K report is provided;

(1) \* \* \*

**TABLE 1—USPS MONTHLY FINANCIAL STATEMENT**  
MONTH, FISCAL YEAR  
[\$ millions]

	Current Period					Year-to-Date				
	Actual	Plan	SPLY	% Plan Var	% SPLY Var	Actual	Plan	SPLY	% Plan Var	% SPLY Var
Revenue:										
Operating Revenue										
Other Revenue										
Total Revenue										
Operating Expenses										
Personnel Compensation and Benefits										
Transportation										
Supplies and Services										
Other Services										
Total Operating Expenses										
Net Operating Income										
Interest Income										
Interest Expense										
Total Net Income										
Other Operating Statistics										
Mail Volume (Millions)										
Total Market Dominant Volumes										
Total Competitive Product Volumes										
Total Mail Volumes										
Total Workhours (Millions)										
Total Career Employees										
Total Non-Career Employees										

**TABLE 2—MAIL VOLUME AND MAIL REVENUE**  
MONTH, FISCAL YEAR  
[Thousands]

	Current Period			Year-to-Date		
	Actual	SPLY	% SPLY Var	Actual	SPLY	% SPLY Var
Market Dominant Products:						
First Class:						
Volume						
Revenue						
Periodicals:						
Volume						
Revenue						
USPS Marketing Mail:						
Volume						
Revenue						
Package Services:						
Volume						
Revenue						
All Other Market Dominant Mail:						
Volume						
Revenue						
Total Market Dominant Products:						
Volume						
Revenue						
Total Competitive Products:						
Volume						
Revenue						
Total Operating Revenue:						
Total Volume						

\* \* \* \* \*

(c) National Consolidated Trial Balances and the Revenue and Expense Summary on the 24th day of the following month, except that the reports for the last month of Quarters 1, 2, and 3 of the fiscal year shall be provided at the time that the Form 10–Q report is provided and the report for the last month of Quarter 4 of the fiscal year shall be provided at the time that the Form 10–K report is provided;

\* \* \* \* \*

■ 5. Amend § 3050.60 by revising paragraph (c) to read as follows:

**§ 3050.60 Miscellaneous reports and documents.**

\* \* \* \* \*

(c) The items listed in paragraph (b) of this section in electronic form;

\* \* \* \* \*

[FR Doc. 2018–21249 Filed 9–28–18; 8:45 am]

BILLING CODE 7710–FW–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 9 and 721**

[EPA–HQ–OPPT–2018–0567; FRL–9983–14]

RIN 2070–AB27

**Significant New Use Rules on Certain Chemical Substances**

*Correction*

In rule document 2018–19950, appearing on pages 47004 through 47025, in the issue of Monday, September 17, 2018, make the following correction:

**§ 9.1, §§ 721.11124–11125, §§ 721.11130–11140 [Corrected]**

■ In the regulatory text for Part 9 and Part 721, beginning on page 47017, remove “14;” and where it appears after the section mark symbol (§) in amendatory paragraph instructions 2, 4, 5, and 10–20.

[FR Doc. C1–2018–19950 Filed 9–28–18; 8:45 am]

BILLING CODE 1301–00–D

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R01–OAR–2018–0138; FRL–9984–61–Region 1]

**Air Plan Approval; Maine; Infrastructure State Implementation Plan Requirements for the 2012 PM<sub>2.5</sub> NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision addresses the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 fine particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS). EPA is conditionally approving the SIP revision for infrastructure requirements related to State Boards and Conflicts of Interest. The intended effect of this action is to approve the infrastructure requirements of Maine’s air quality management program with respect to this NAAQS into the Maine SIP. This action is being taken in accordance with the Clean Air Act.

**DATES:** This rule is effective on October 31, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2018–0138. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, 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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square, Suite 100 (Mail code: OEP05–2), Boston, MA 02109–3912, telephone number: (617) 918–1684, email: [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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- II. Response to Comments
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**I. Background and Purpose**

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2012 PM<sub>2.5</sub> NAAQS. On July 6, 2016, Maine submitted an infrastructure SIP revision for the 2012 PM<sub>2.5</sub> NAAQS, including an enclosure to address the “Good Neighbor” (or “transport”) provisions of the Act. *See* CAA section 110(a)(2)(D)(i)(I). On August 13, 2018 (83 FR 39957), EPA published a Notice of Proposed Rulemaking (NPRM), in which EPA proposed full approval of all elements of Maine’s infrastructure SIP revision for the 2012 PM<sub>2.5</sub> NAAQS, except for requirements regarding State Boards and Conflicts of Interest, which we proposed to conditionally approve. The NPRM includes the rationale for approval, and EPA will not restate it here.

This rulemaking does not cover three substantive areas that are not integral to acting on a state’s infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (SSM) at sources that may be contrary to the CAA and EPA’s policies addressing such excess emissions; (ii) existing provisions related to “director’s variance” or “director’s discretion” that purport to permit revisions to SIP-approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA; and, (iii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA’s “Final New Source Review (NSR) Improvement Rule,” 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007). Instead, EPA has the authority to address each of these substantive areas separately. A detailed history, interpretation, and rationale for EPA’s approach to infrastructure SIP requirements can be found in EPA’s May 13, 2014, proposed rule entitled, “Infrastructure SIP Requirements for the 2008 Lead NAAQS” in the section, “What is the scope of this rulemaking?” *See* 79 FR 27241 at 27242–45.

**II. Response to Comments**

During the comment period, EPA received one comment, which discusses subjects outside the scope of this SIP action, does not explain (or provide a legal basis for) how the proposed action