

governments, the potential effects on Federally-recognized Indian tribes have been evaluated, and it has been determined at this time that there are no potential effects that have not been addressed in prior decision documents.

While the consultation agreements noted above have not resulted in findings of potential effects, review of this rule has been facilitated by the relationships established through government-to-government consultation.

Drafting Information: The principal contributors to this rule are: Vic Knox, Chuck Passek, Jane Hendrick, Andee Sears and Paul Hunter, Alaska Regional Office; and Jerry Case, Regulations Program Manager, NPS, Washington, DC.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; Subpart N also issued under 16 U.S.C. 1a-2(h), 20, 1361, 1531, 3197; Pub. L. 105-277, 112 Stat. 2681-259, October 21, 1998; Pub. L. 106-31, 113 Stat. 72, May 21, 1999; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104-333, 110 Stat. 4240.

Subpart L—[Amended]

■ 2. Revise § 13.902 to read as follows:

§ 13.902 Subsistence resident zone.

The following communities and areas are included within the resident zone for Denali National Park addition: Cantwell (limited to the area within a 3-mile radius of the Cantwell post office as shown on a map available at the park visitor center), Minchumina, Nikolai, and Telida.

■ 3. Add § 13.903 to subpart L to read as follows:

§ 13.903 Subsistence use of off-road vehicles.

Operating a motor vehicle off road is prohibited except by authorized residents as defined in this section when engaged in subsistence uses. For purposes of this section, “authorized residents” means residents of the Cantwell resident zone community as defined by this subpart or those residents of Alaska Game Management Unit 13E holding a permit issued under

§ 13.440 of this part. Operating a motor vehicle off road for subsistence purposes outside any trail or area designated by this section is prohibited. A map and GPS coordinates of designated trails and areas are available on the park website and at the park visitor center.

(a) Authorized residents may operate vehicles off road only in the following designated areas and trails:

- (1) The Windy Creek Trail;
- (2) The Cantwell Airstrip Trail;
- (3) The Pyramid Trail;
- (4) The Cantwell Creek Floodplain Trail/Corridor; and

(5) A trail or area along the Bull River Floodplain designated by the superintendent under paragraph (b) of this section.

(b) The superintendent may designate a trail or area along the Bull River Floodplain Corridor for motor vehicle use by authorized residents if the superintendent determines that the following conditions are met:

- (1) Access across adjacent non-NPS lands has been secured;
- (2) An NPS-approved trail has been constructed on NPS lands; and
- (3) Off-road vehicle use continues to be necessary for reasonable access to the Bull River for subsistence resources by authorized residents.

(c) All of the following are prohibited:

- (1) Motor vehicles greater than 5.5 feet wide;
- (2) Motor vehicles exceeding 1,000 pounds curb (unloaded) weight;
- (3) Motor vehicles that steer by locking or skidding a wheel or track; and

(4) Operating a motor vehicle in violation of § 13.460(d) of this part.

(d) The superintendent may restrict or prohibit motor vehicle use authorized by this section in accordance with § 13.460(b) of this part. The Superintendent will notify the public of the proposed restriction or closure by issuing a press release, posting at local post offices, posting on the park website, posting signs at designated trails or areas if appropriate, use of electronic media, and via other appropriate means.

■ 4. Revise § 13.904 to read as follows:

§ 13.904 Camping.

Camping without a permit in designated areas in the former Mount McKinley National Park or the Kantishna area is prohibited. A map showing areas where a permit is required for camping is available at the park visitor center and on the park website. Violating terms and conditions of the permit is prohibited.

■ 5. Add § 13.905 to subpart L to read as follows:

§ 13.905 Group size.

(a) The following are prohibited:

(1) Group sizes exceeding 12 individuals on the east side of the park outside the Frontcountry Developed Area as defined by this subpart.

(2) Group sizes exceeding 6 individuals on the west side of the park outside the Frontcountry Developed Area as defined by this subpart.

(b) A map showing the east and west boundaries is available at the park visitor center.

(c) The superintendent may authorize larger groups on a case-by-case basis.

■ 6. Revise § 13.910 to read as follows:

§ 13.910 Mountain climbing.

(a) Climbing Mount McKinley or Mount Foraker without a permit is prohibited. The superintendent will establish procedures for applying for a permit. The superintendent may authorize a maximum of 1500 climbers on Mount McKinley from April 1 through August 1 each calendar year.

(b) Violating terms and conditions of the permit is prohibited.

Dated: October 28, 2008.

Lyle Lavery,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. E8-27049 Filed 11-13-08; 8:45 am]

BILLING CODE 4310-EF-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009-1 and CP2009-2; Order No. 128]

Administrative Practice and Procedure, Postal Service

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

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

DATES: Effective November 14, 2008.

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

SUPPLEMENTARY INFORMATION: *Regulatory History*, 73 FR 64370 (October 29, 2008).

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

below, the Commission approves the request.

I. Background

On October 15, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Parcel Return Service Contract 1 to the Competitive Product List. The Postal Service asserts that the Parcel Return Service Contract 1 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This request has been assigned Docket No. MC2009–1.¹

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009–2. The Postal Service represents that the contract fits within the proposed Mail Classification Schedule (MCS) language.

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

In the Statement of Supporting Justification, Daniel J. Barrett, Acting Manager, Product & Business Development, Ground Shipping Services, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. Request, Attachment D, at 1. W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies, based on the financial analysis provided

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

The Postal Service filed much of the supporting materials, including the Governors’ Decision and the specific Parcel Return Service Contract 1, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer’s name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2.

In Order No. 119, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment. In addition, the Commission posed questions to the Postal Service seeking supplemental information.

II. Comments

Comments were filed by the Public Representative.⁷ No filings were submitted by other interested parties. The Public Representative’s comments focus principally on confidentiality and pricing under the contract. Public Representative Comments at 2–4.

The Public Representative states that a sufficient rationale for maintaining the confidentiality of the documents under seal has been provided by the Postal Service. Also, based upon a review of materials filed by the Postal Service in this proceeding, the Public Representative concludes that the contract reduces costs for both parties. *Id.* at 2–3.

The Public Representative notes that the contract is intended to promote new volumes for the Postal Service and provide incentives for the shipper. He concludes, *inter alia*, that the contract should generate sufficient revenue to cover the product’s attributable costs, and contribute to the recovery of total institutional costs assigned to competitive products. *Id.* at 4.

III. Commission Analysis

The Commission’s statutory responsibilities in this instance entail assigning Parcel Service Return Contract 1 to either the Market Dominant Product List or the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposals for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions

applicable to rates for competitive products. 39 U.S.C. 3633.

Product list assignment. 39 U.S.C. 3642 governs the assignment of new products to the Market Dominant or Competitive Product List. In this case, Parcel Return Service Contract 1 is being proposed by the Postal Service to be added to the Competitive Product List.

The statutory standard that the Commission must consider is whether the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product must be categorized as market dominant. The competitive category of products shall consist of all other products.

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

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services. Thus, the market precludes the Postal Service from taking unilateral action to increase prices without the risk of losing volume to private companies. Request, Attachment D, at 2–3. The Postal Service also contends that the Postal Service may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. *Id.* at 2. It further states that the contract partner supports the addition of the contract to the product list to effectuate the negotiated contractual terms. *Id.* at 3. Finally, the Postal Service states that due to the fact that the market for ground shipping services requires a substantial infrastructure to support a national network, only large shippers serve the market under consideration. Accordingly, the Postal Service is unaware of any small business concerns that could offer comparable service for this customer. *Id.*

No commenter opposes the proposed classification of Parcel Return Service Contract 1 as competitive. Having considered the statutory requirements and the support offered by the Postal Service and the public comment, the Commission finds that Parcel Return Service Contract 1 is appropriately classified as a competitive product and

¹ Request of the United States Postal Service to Add Parcel Return Service Contract to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, October 15, 2008 (Request).

² Attachment A to the Request. The analysis that accompanies the Governor’s Decision notes, among other things, that the cost estimates may vary but the risks reviewed and evaluated are limited.

³ Attachment B to the Request.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ Attachment E to the Request.

⁷ Public Representative Comments in Response to United States Postal Service Request to Add Parcel Return Service Contract to Competitive Product List, October 29, 2008.

should be added to the Competitive Product List.

Cost considerations. The Commission has reviewed the contract, the financial analysis provided under seal that accompanies the agreement including the responses to the questions posed in PRC Order No. 119, as well as the comments by the Public Representative. Based on an analysis of the information submitted, the cost accounting methods proposed in Docket No. RM2008–6 are to be used for updating costs for subsequent years of the contract.⁸ The analysis of the Commission is included as part of the record of these proceedings in Library Reference PRC–CP2009–2–NP–LR–1.

Library Reference PRC–CP2009–2–NP–LR–1 is the analysis of the Postal Service data which updates the original data with the supplemental data filed by the Postal Service on October 27, 2008, and provides calculations for revenue per piece for each of the negotiated service agreement's rate categories. The analysis finds that the updated data do not cause financial results to vary significantly.

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

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

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

It is ordered:

1. Parcel Return Service Contract 1 (MC2009–1 and CP2009–2) is added to the Competitive Product List as a new product under Negotiated Service Agreement, Domestic.

2. The Postal Service shall notify the Commission of the termination date of the contract as discussed in this Order.

3. The Secretary shall arrange for the publication of this Order in the **Federal Register**.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure, Postal Service.

By the Commission.

Steven W. Williams,
Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR part 3020 as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to subpart A of part 3020—Mail Classification to read as follows:

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

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail

Single-Piece Letters/Postcards

Bulk Letters/Postcards

Flats

Parcels

Outbound Single-Piece First-Class Mail

International

Inbound Single-Piece First-Class Mail

International

Standard Mail (Regular and Nonprofit)

High Density and Saturation Letters

High Density and Saturation Flats/Parcels

Carrier Route

Letters

Flats

Not Flat-Machinables (NFM)/Parcels

Periodicals

Within County Periodicals

Outside County Periodicals

Package Services

Single-Piece Parcel Post

Inbound Surface Parcel Post (at UPU rates)

Bound Printed Matter Flats

Bound Printed Matter Parcels

Media Mail/Library Mail

Special Services

Ancillary Services

International Ancillary Services

Address List Services

Caller Service

Change-of-Address Credit Card

Authentication

Confirm

International Reply Coupon Service

International Business Reply Mail Service

Money Orders

Post Office Box Service

Negotiated Service Agreements

HSBC North America Holdings Inc.

Negotiated Service Agreement

Bookspan Negotiated Service Agreement

Bank of America Corporation Negotiated Service Agreement

The Bradford Group Negotiated Service Agreement

Market Dominant Product Descriptions

First-Class Mail [Reserved for Class

Description]

Single-Piece Letters/Postcards [Reserved for Product Description]

Bulk Letters/Postcards [Reserved for Product Description]

Flats [Reserved for Product Description]

Parcels [Reserved for Product Description]

Outbound Single-Piece First-Class Mail

International [Reserved for Product Description]

Inbound Single-Piece First-Class Mail

International [Reserved for Product Description]

Standard Mail (Regular and Nonprofit) [Reserved for Class Description]

High Density and Saturation Letters

[Reserved for Product Description]

High Density and Saturation Flats/Parcels [Reserved for Product Description]

Carrier Route [Reserved for Product Description]

Letters [Reserved for Product Description]

Flats [Reserved for Product Description]

Not Flat-Machinables (NFM)/Parcels [Reserved for Product Description]

Periodicals [Reserved for Class Description]

Within County Periodicals [Reserved for Product Description]

Outside County Periodicals [Reserved for Product Description]

Package Services [Reserved for Class Description]

Single-Piece Parcel Post [Reserved for Product Description]

Inbound Surface Parcel Post (at UPU rates) [Reserved for Product Description]

Bound Printed Matter Flats [Reserved for Product Description]

Bound Printed Matter Parcels [Reserved for Product Description]

Media Mail/Library Mail [Reserved for Product Description]

Special Services [Reserved for Class Description]

Ancillary Services [Reserved for Product Description]

Address Correction Service [Reserved for Product Description]

Applications and Mailing Permits [Reserved for Product Description]

Business Reply Mail [Reserved for Product Description]

Bulk Parcel Return Service [Reserved for Product Description]

Certified Mail [Reserved for Product Description]

Certificate of Mailing [Reserved for Product Description]

Collect on Delivery [Reserved for Product Description]

Delivery Confirmation [Reserved for Product Description]

Insurance [Reserved for Product Description]

Merchandise Return Service [Reserved for Product Description]

Parcel Airlift (PAL) [Reserved for Product Description]

⁸In its supplemental filing, the Postal Service indicated its intent to do so. See Response of the United States Postal Service to Commission's Inquiries in Order No. 119, section IV, October 27, 2008.

Registered Mail [Reserved for Product Description]
 Return Receipt [Reserved for Product Description]
 Return Receipt for Merchandise [Reserved for Product Description]
 Restricted Delivery [Reserved for Product Description]
 Shipper-Paid Forwarding [Reserved for Product Description]
 Signature Confirmation [Reserved for Product Description]
 Special Handling [Reserved for Product Description]
 Stamped Envelopes [Reserved for Product Description]
 Stamped Cards [Reserved for Product Description]
 Premium Stamped Stationery [Reserved for Product Description]
 Premium Stamped Cards [Reserved for Product Description]
 International Ancillary Services [Reserved for Product Description]
 International Certificate of Mailing [Reserved for Product Description]
 International Registered Mail [Reserved for Product Description]
 International Return Receipt [Reserved for Product Description]
 International Restricted Delivery [Reserved for Product Description]
 Address List Services [Reserved for Product Description]
 Caller Service [Reserved for Product Description]
 Change-of-Address Credit Card Authentication [Reserved for Product Description]
 Confirm [Reserved for Product Description]
 International Reply Coupon Service [Reserved for Product Description]
 International Business Reply Mail Service [Reserved for Product Description]
 Money Orders [Reserved for Product Description]
 Post Office Box Service [Reserved for Product Description]
 Negotiated Service Agreements [Reserved for Class Description]
 HSBC North America Holdings Inc. Negotiated Service Agreement [Reserved for Product Description]
 Bookspan Negotiated Service Agreement [Reserved for Product Description]
 Bank of America Corporation Negotiated Service Agreement
 The Bradford Group Negotiated Service Agreement

Part B—Competitive Products

Competitive Product List

Express Mail
 Express Mail
 Outbound International Expedited Services
 Inbound International Expedited Services
 Inbound International Expedited Services 1 (CP2008–7)
 Priority Mail
 Priority Mail
 Outbound Priority Mail International
 Inbound Air Parcel Post
 Parcel Select
 Parcel Return Service
 International
 International Priority Airlift (IPA)

International Surface Airlift (ISAL)
 International Direct Sacks—M-Bags
 Global Customized Shipping Services
 Inbound Surface Parcel Post (at non-UPU rates)
 International Money Transfer Service
 International Ancillary Services
 Special Services
 Premium Forwarding Service
 Negotiated Service Agreements
 Domestic
 Express Mail Contract 1 (MC2008–5)
 Express Mail Contract 2 (MC2009–3 and CP2009–4)
 Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
 Priority Mail Contract 1 (MC2008–8 and CP2008–26)
 Outbound International
 Global Expedited Package Services (GEPS) Contracts
 GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)
 Global Plus Contracts
 Global Plus 1 (CP2008–9 and CP2008–10)
 Global Plus 2 (MC2008–7, CP2008–16 and CP2008–17)
 Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and CP2008–15)
 Competitive Product Descriptions
 Express Mail [Reserved for Group Description]
 Express Mail [Reserved for Product Description]
 Outbound International Expedited Services [Reserved for Product Description]
 Inbound International Expedited Services [Reserved for Product Description]
 Priority [Reserved for Product Description]
 Priority Mail [Reserved for Product Description]
 Outbound Priority Mail International [Reserved for Product Description]
 Inbound Air Parcel Post [Reserved for Product Description]
 Parcel Select [Reserved for Group Description]
 Parcel Return Service [Reserved for Group Description]
 International [Reserved for Group Description]
 International Priority Airlift (IPA) [Reserved for Product Description]
 International Surface Airlift (ISAL) [Reserved for Product Description]
 International Direct Sacks—M-Bags [Reserved for Product Description]
 Global Customized Shipping Services [Reserved for Product Description]
 International Money Transfer Service [Reserved for Product Description]
 Inbound Surface Parcel Post (at non-UPU rates) [Reserved for Product Description]
 International Ancillary Services [Reserved for Product Description]
 International Certificate of Mailing [Reserved for Product Description]
 International Registered Mail [Reserved for Product Description]
 International Return Receipt [Reserved for Product Description]
 International Restricted Delivery [Reserved for Product Description]

International Insurance [Reserved for Product Description]
 Negotiated Service Agreements [Reserved for Group Description]
 Domestic [Reserved for Product Description]
 Outbound International [Reserved for Group Description]
 Part C—Glossary of Terms and Conditions [Reserved]
 Part D—Country Price Lists for International Mail [Reserved]

[FR Doc. E8–26960 Filed 11–13–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2007–93; FRL–8740–4]

Withdrawal of Direct Final Rule Removing the Federal Antidegradation Policy Applicable to Waters of the United States Within the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: EPA is withdrawing a direct final rule that the Agency published on September 15, 2008. The direct final rule would have removed from the Code of Federal Regulations a rule that EPA promulgated in 1996 making provisions of the federal antidegradation policy directly applicable for all waters of the United States within the Commonwealth of Pennsylvania. EPA published the direct final rule with a parallel proposal to remove the federal antidegradation rule as it applies to waters in Pennsylvania. In a separate action today, EPA is also re-opening the comment period of the proposed rule to ensure all parties have adequate opportunity to express their views to the Agency prior to taking final action on the proposed rule.

DATES: Effective on November 14, 2008, EPA withdraws the direct final rule published at 73 FR 53140, on September 15, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2007–0093. All documents in the docket are listed on the www.regulations.gov Web site. Although listed on the web site, some information is not publicly available, e.g., 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.