member of the House of Representatives argued that the legislation would ''empower'' Commerce ''to be able to disregard prices or costs of inputs that foreign producers purchase if the Department of Commerce'' determined that those input values were ''subsidized'' or otherwise outside the ordinary course of trade.[1] Likewise, on the United States Senate floor, a Senator explained that the proposed legislation would ''guarantee that Americans can find a more level playing field as we compete in the world economy. . . .'' [2] The Senator emphasized that this legislation would help stop United States workers and manufacturers from ''being cheated'' by foreign industries that were not playing fair and ''illegally subsidizing'' the production of certain products.[3]

Since the Act was amended, Commerce has in certain instances identified a PMS and adjusted its calculations in response, which has been challenged before both the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit (CAFC). One matter which has been at issue before the courts is the information Commerce should consider in determining the existence of a PMS. That matter came before the CAFC this past year in *Nexteel* v. *United States,* in which the CAFC held that Commerce's finding that a PMS existed in Korea during the period of review was unsupported by substantial evidence.[4] In analyzing Commerce's PMS determination, the CAFC appeared to reach at least four conclusions. First, a PMS which distorts costs, as referenced in the Act, must cause costs to deviate from what they would have otherwise been in the ordinary course of trade.[5] Second, a PMS must be particular to certain producers or exporters, inputs, or the market where the inputs are manufactured.[6] Third, if there is a claim of a subsidy or government interference, there should be evidence that the producer or seller of the input at issue received, or should have received, that subsidy or government assistance, and that there is some form of impact on the price of the input as a result of that subsidy or government interference.[7] Finally, Commerce is not required to quantify a distortion in costs by the PMS to find the existence of a PMS, but if Commerce is able to quantify the distortion, such a quantification may help support a finding of the existence of a PMS.[8]

In light of the CAFC's holding and analysis in *Nexteel,* as well as our experience in administering the PMS provision over the past several years, we have determined it is appropriate to revisit Commerce's approach in certain instances to analyzing and determining the existence of a PMS that distorts costs of production. In revisiting Commerce's approach, we have considered that the public and Commerce may benefit from the issuance of a regulation that addresses the information which Commerce should consider, or need not consider, in determining if a PMS exists that distorts costs of production. We also believe that a regulation that addresses the adjustments Commerce may make to its calculations if it determines the existence of a PMS that distorts costs of production might prove beneficial. We are therefore soliciting public comments on certain aspects of our PMS analysis pursuant to that exercise.

Request for Comments

We are issuing this advanced notice of proposed rulemaking to inform the public that Commerce is considering issuing a PMS regulation and to invite comments on that new regulation. Specifically, Commerce is inviting parties to provide comments on three issues: (1) identify information which they believe Commerce should consider in determining if a PMS exists which distorts the costs of production if that information is reasonably available and relevant to the PMS allegation; (2) identify information which they believe Commerce should not be required to consider when determining if a PMS exists, regardless of the PMS allegation; and (3) provide comments on adjustments which Commerce may make to its calculations when it determines the existence of a PMS, but the record before it does not allow for the quantification of cost distortions.

Dated: November 15, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–25216 Filed 11–17–22; 8:45 am]

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[1] *See* Congressional Record-House, H4666, H4690 (June 25, 2015).

[2] *See* Congressional Record-Senate, S2899, S2900 (May 14, 2015).

[3] *Id.*

[4] *See Nexteel Co.* v. *United States,* 28 F.4th 1226 (Fed. Cir. 2022).

[5] *Id.* at 1234.

[6] *Id.* at 1234, 1236.

[7] *Id.* at 1235–36.

[8] *Id.* at 1234.

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2022–0008]

RIN 0651–AD60

Standardization of the Patent Term Adjustment Statement Regarding Information Disclosure Statements

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) is reopening the comment period for the proposed rule titled ''Standardization of the Patent Term Adjustment Statement Regarding Information Disclosure Statements'' that was published in the **Federal Register** on July 12, 2022. The proposed rule's comment period, which ended on September 12, 2022, is extended until December 2, 2022. In addition, the USPTO will treat as timely any comment that was received between September 12, 2022, and November 18, 2022.

DATES: The USPTO is reopening the comment period for the proposed rule that published at 87 FR 41267 on July 12, 2022, and that requested comments by July 12, 2022. Comments on this proposed rule must be received on or before December 2, 2022. The USPTO will also treat as timely any comments received between September 12, 2022, and November 18, 2022.

ADDRESSES: For reasons of government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, enter docket number PTO–P–2022–0008 on the homepage and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this document and click on the ''Comment'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted as various file types, including Adobe® portable document format (PDF) and Microsoft Word® format. Because comments will be made available for public inspection, information the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal for additional instructions on providing

comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below (at **FOR FURTHER INFORMATION CONTACT**) for special instructions.

FOR FURTHER INFORMATION CONTACT: Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7757. You can also send inquiries to *patentpractice@uspto.gov.*

SUPPLEMENTARY INFORMATION: On July 12, 2022, the USPTO published a proposed rule, ''Standardization of the Patent Term Adjustment Statement Regarding Information Disclosure Statements,'' to revise the rules of practice pertaining to patent term adjustment to require that the patent term adjustment statement regarding information disclosure statements be submitted on a USPTO form (87 FR 41267, July 12, 2022). After the comment deadline for the proposed rule closed, USPTO became aware of some continued stakeholder interest in submitting comments on the proposal. Therefore, the USPTO is reopening the written comment period for the proposed rule to ensure that all stakeholders have a sufficient opportunity to submit comments on the proposal. The USPTO will also treat as timely any comments received between the original comment period deadline of September 12, 2022, and November 18, 2022.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–25156 Filed 11–17–22; 8:45 am]

BILLING CODE 3510–16–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3030

[Docket No. RM2020–5; Order No. 6325]

RIN 3211–AA27

Market Dominant Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes amendments to its regulations concerning rate incentives for Market Dominant products and republishes additional rules. The Commission invites public comment.

DATES: *Comments are due:* December 19, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Background

In its general Market Dominant rate adjustment filings, the Postal Service routinely proposes to offer rate incentives in the form of promotions that reduce rates by providing discounts, rebates, or credits to participating mailers of certain types of mailpieces. Typically, such promotions are offered for several months during a particular calendar year for certain mailpieces in the First-Class Mail and USPS Marketing Mail classes. If the Commission approves, then the promotion may be offered again, with or without modifications, in the next calendar year. Each rate incentive offered by the Postal Service is either a rate of general applicability or a rate not of general applicability. A rate incentive of general applicability may be eligible for inclusion in the percentage change in rates calculation (provided that it satisfies all the applicable criteria under the Commission rules), which will allow for the Postal Service to generate price cap authority for the applicable class of mail. By contrast, a rate incentive not of general applicability is ineligible for inclusion in the percentage change in rates calculation; it may not be used to generate price cap authority for the applicable class of mail.

The Commission previously adopted regulations concerning rate incentives for Market Dominant products.[1] However, in connection with an appeal, the Commission stated that it would reconsider Order No. 5510 and that it ''does not intend to enforce Order No. 5510 during the reconsideration period.'' [2] Having reconsidered, the Commission proposes modifying certain of those rules as well as republishing and enforcing certain other of those rules.

II. Basis for Proposed Rule Change

The Commission proposes to clarify its rules by making one revision and by beginning to enforce two revisions that it made in Order No. 5510. First, the Commission proposes to amend § 3030.101(j) to clarify that to qualify as a rate of general applicability, a rate incentive cannot be based on historical mail volumes or prior participation in a rate incentive or promotion. Second, the Commission proposes to begin enforcing the changes that it made to § 3030.128(f)(2) in Order No. 5510 (including the additional criterion that a rate incentive must be made available to all mailers equally on the same terms and conditions to be eligible for inclusion in the percentage change in rates calculation). Third, the Commission proposes to begin enforcing the changes that it made to § 3030.123(j), including additional requirements intended to ensure that the Postal Service provides sufficient information at the outset of a Market Dominant rate adjustment proceeding.

The proposed revision of the definition of ''rate of general applicability'' in § 3030.101(j) is designed to clarify what rate incentives may qualify for inclusion in the percentage change in rates calculation as rates of general applicability. Under the Commission's existing rules ''[a] rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies[.]'' 39 CFR 3030.101(j). A characteristic of the mail is a feature of the mail sent, not of the mailer sending the mail. Thus, the proposed rule adds an additional sentence to clarify that a rate incentive is not a rate of general applicability if eligibility for the rate is dependent in whole or in part on the volume of mail sent by a mailer in a past year or years or on the participation by a mailer in a rate incentive or promotion in a past year or years. Revising the Commission's definition of ''rate of general applicability'' will provide other benefits. These other benefits include promoting fairness, avoiding unharmonious situations in the application of the Commission's rules, limiting situations in which the Postal Service could obtain undue rate authority, and maintaining streamlined calculations.

The Commission also proposes republishing and beginning to enforce the requirement of § 3030.128(f)(2)(iv) that rate incentives included in the percentage change in rates calculation

[1] Docket No. RM2020–5, Order Adopting Final Rules Regarding Rate Incentives for Market Dominant Products, May 15, 2022 (Order No. 5510).

[2] Docket No. RM2020–5, Notice of Intent to Reconsider, August 26, 2020, at 2 (Order No. 5655); *see U.S. Postal Serv.* v. *Postal Reg. Comm'n,* Joint Motion for Voluntary Dismissal and Vacatur, No. 20–1208 (D.C. Cir. Sept. 11, 2020).