

# Proposed Rules

Federal Register

Vol. 79, No. 226

Monday, November 24, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Bureau of Safety and Environmental Enforcement

#### 30 CFR Part 250

[Docket ID: BSEE–2014–0001; 15XE1700DX EX1SF0000.DAQ000 EEEE500000]

RIN 1014–AA22

#### Oil and Gas and Sulphur Operations on the Outer Continental Shelf (OCS); Helideck and Aviation Fuel Safety for Fixed Offshore Facilities

**AGENCY:** Bureau of Safety and Environmental Enforcement (BSEE), Interior.

**ACTION:** Extension of comment period for an advance notice of proposed rulemaking (ANPR).

**SUMMARY:** BSEE is extending the public comment period on the ANPR on Helideck and Aviation Fuel Safety for Fixed Offshore Facilities, which was published in the **Federal Register** on September 24, 2014 (79 FR 57008). The original public comment period would end on November 24, 2014. However, BSEE has received a request from an offshore oil and gas industry association to extend the comment period. The BSEE has reviewed the extension request and determined that a 30-day comment period extension—to December 24, 2014—is appropriate.

**DATES:** Written comments must be received by the extended due date of December 24, 2014. The BSEE may not fully consider comments received after this date.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1014–AA22 as an identifier in your message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the entry titled Enter Keyword or ID, enter BSEE–2014–0001 then click search. Follow the instructions to submit public comments and view supporting and related

materials available for this rulemaking. The BSEE may post all submitted comments.

- *Mail or hand-carry comments to the Department of the Interior (DOI); Bureau of Safety and Environmental Enforcement; Attention: Regulations and Standards Branch; 381 Elden Street, HE3313; Herndon, Virginia 20170–4817.* Please reference “Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Helideck and Aviation Fuel Safety for Fixed Offshore Facilities, 1014–AA22” in your comments and include your name and return address.

- **Public Availability of Comments—** Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### FOR FURTHER INFORMATION CONTACT:

Ralph Colleli, Regulations and Standards Branch, 703–787–1831, email address: [regs@bsee.gov](mailto:regs@bsee.gov).

**SUPPLEMENTARY INFORMATION:** The BSEE published an ANPR on Helideck and Aviation Fuel Safety for Fixed Offshore Facilities on September 24, 2014 (79 FR 57008). The BSEE is seeking comments on improving safety for operations related to helicopters and helidecks on fixed offshore facilities. Specifically, BSEE invites comments on whether to incorporate in its regulations certain industry and/or international standards for design, construction, and maintenance of offshore helidecks, as well as standards for aviation fuel quality, storage and handling. The BSEE also invites comments on whether it should incorporate existing standards, with or without modifications, and/or develop and propose new government regulatory standards for safety of helidecks and aviation fuel systems on OCS facilities. The BSEE also seeks information on past accidents or other incidents involving helidecks, helicopters, or aviation fuel on or near fixed OCS facilities. After publication of the ANPR, BSEE received a request from an oil and gas industry group asking BSEE to extend the comment period on

the ANPR by 60 days. Although BSEE does not agree that a 60-day extension is appropriate, BSEE is extending its original 60-day comment period by an additional 30 days to provide additional time for review of and comment on the ANPR. Accordingly, written comments must be submitted by the extended due date of December 24, 2014. The BSEE may not fully consider comments received after this date.

Dated: November 18, 2014.

**David E. Haines II,**

*Deputy Assistant Secretary, Land and Minerals Management.*

[FR Doc. 2014–27761 Filed 11–21–14; 8:45 am]

**BILLING CODE 4310–VH–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 252

[Docket ID: DOD–2012–OS–0170]

RIN 0790–AI98

#### Professional U.S. Scouting Organization Operations at U.S. Military Installations Overseas

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** This rule updates policy and outlines fiscal and logistical support the DoD may provide to qualified scouting organizations operating on U.S. military installations overseas based on Executive Order 12715, Support of Overseas Scouting Activities for Military Dependents and appropriate statute as discussed below. It is DoD policy to cooperate with and assist qualified scouting organizations in establishing and providing facilities and services, within available resources, at locations outside the United States to support DoD personnel and their families.

**DATES:** Comments must be received by January 23, 2015.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chris Wright, 703–588–0172.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

**I. Purpose of the Regulatory Action**

This rule proposes that support provided by DoD is documented in a written agreements and signed by the appropriate regional combatant commander. Also, it would require installation-specific support and services to be based on a written agreement and signed by the installation commander or designee. These agreements will replace the need for these organizations to submit individual articles of incorporation, written constitutions, charters, or articles of agreement to gain approval from the installation commander to operate on the installation. In addition to Executive Order 12715, Title 10 of the United States Code specifies the DoD's authority to issue rules in this area.

Title 10, U.S.C., section 2606 states: The Secretary may collaborate with qualified scouting organizations in establishing and providing facilities and services for members of the armed forces and their dependents, and civilian employees of the Department of Defense and their dependents, at locations outside the United States. Qualified scouting organizations may be furnished support such as some transportation support, available office space, warehousing, utilities, supplies and a means of communication, without charge. The Secretary may reimburse a qualified scouting organizations for all or part of the pay of an employee of that organization for any period during which the employee was performing services, however any such reimbursement may not be made from appropriated funds. Employees of a qualified scouting organization will not be considered to be employees of the United States, and the term “qualified scouting organization” means the Girl

Scouts of the United States of America and the Boy Scouts of America.

Title 10, U.S.C., section 2554 states: The Secretary of Defense is authorized to lend to the Boy Scouts of America, for the use and accommodation of Scouts, Scouters, and officials who attend any national or world Boy Scout Jamboree, items such as cots, blankets, commissary equipment, flags, refrigerators, and other equipment and without reimbursement. Additionally, expendable medical supplies and services, as may be necessary or useful to the extent that items are in stock and items or services are available, can be provided at no expense to the United States Government for the delivery, return, rehabilitation, or replacement of such items. Before delivering such property, the Secretary of Defense will take good and sufficient bond for the safe return of such property in good order and condition, and the whole without expense to the United States. The Secretary of Defense is also authorized to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America at any national or world Boy Scout Jamboree to the extent that such transportation will not interfere with the requirements of military operations. The Secretary of Defense shall take from the Boy Scouts of America, a good and sufficient bond for the reimbursement to the United States, of the actual costs of transportation. If a Boy Scout Jamboree is held on a military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support previously stated. Other departments of the Federal Government are authorized, under such regulations as may be prescribed by the Secretary thereof, to provide to the Boy Scouts of America equipment and other services under the same conditions and restrictions prescribed in the preceding subsections for the Secretary of Defense. The Secretary of Defense shall provide at least the same level of support for a national or world Boy Scout Jamboree as was provided for the preceding national or world Boy Scout Jamboree. The Secretary of Defense may waive all support if it determines that providing the support would be detrimental to the national security of the United States.

Title 10, U.S.C., section 2555 provides: The Secretary of Defense is authorized to provide, without expense

to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Air Mobility Command for Girl Scouts and officials certified by the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States. Support is also authorized for United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and for the equipment and property of Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations. Before furnishing any transportation, the Secretary of Defense shall take from the Girl Scouts of the United States of America a good and sufficient bond for the reimbursement to the United States by the Girl Scouts of the United States of America, of the actual costs of transportation furnished. Amounts paid to the United States to reimburse it for the actual costs of transportation furnished will be credited to the current applicable appropriations or funds to which such costs were charged and shall be available for the same purposes as such appropriations or funds.

Executive Order 12715, May 3, 1990, 55 FR 19051, discusses the cooperation and assistance authorized by section 2606(a) of title 10, and requires the Secretary of Defense to issue regulations concerning support.

**II. Summary of the Major Provisions of the Regulatory Action in Question**

This rule discusses the types of support DoD installation commanders are authorized to provide, ensures appropriated fund (APF) and non-appropriated fund (NAF) assets are used correctly, and requires the cost of the support provided to be shared by each of the Military Services in proportion to benefits derived by their members from overseas scouting programs.

**III. Costs and Benefits**

Program costs are less than \$700,000 per year, consisting primarily of salaries, transportation costs, and supplies to support scouting programs that directly complement and improve quality of life programming for military families overseas.

*Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"*

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

*Sec. 202, Public Law 104-4, "Unfunded Mandates Reform Act"*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately \$141 million. This proposed rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

*Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)*

This rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

*Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)*

This rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

*Executive Order 13132, "Federalism"*

DoD has determined this proposed rule would not have federalism implications under Executive Order 13132. It does not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

## List of Subjects in 32 CFR Part 252

Military installations, Military personnel, Scout organizations.

Accordingly 32 CFR part 252 is proposed to be added to read as follows:

### PART 252—PROFESSIONAL U.S. SCOUTING ORGANIZATION OPERATIONS AT U.S. MILITARY INSTALLATIONS OVERSEAS

Sec.

- 252.1 Purpose.
- 252.2 Applicability.
- 252.3 Definitions.
- 252.4 Policy.
- 252.5 Responsibilities.
- 252.6 Procedures.

**Authority:** Executive Order 12715, 10 U.S.C. 2606, 2554, and 2555.

#### § 252.1 Purpose.

This part updates policy and outlines fiscal and logistical support that the DoD may provide to qualified scouting organizations operating on U.S. military installations overseas.

#### § 252.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the combatant commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this part as "the DoD Components").

#### § 252.3 Definitions.

These terms and their definitions are for the purposes of this part.

**DoD personnel and their families.** Members of the Military Services and their family members and DoD civilian employees and their family members.

**Military Services.** The Army, Navy, Air Force, and Marine Corps.

**Qualified scouting organization.** The Girl Scouts of the United States of America (GSUSA) and the Boy Scouts of America (BSA).

**Sponsored organization or sponsored council.** Scouting organizations or councils authorized to operate as scouting affiliates on military installations.

#### § 252.4 Policy.

It is DoD policy to cooperate with and assist qualified scouting organizations in establishing and providing facilities and services, within available resources, at locations outside the United States to support DoD personnel and their families in accordance with 10 U.S.C. 2606, 2554, and 2555 and Executive Order 12715, "Support of Overseas

Scouting Activities for Military Dependents".

#### § 252.5 Responsibilities.

(a) The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) oversees development and implementation of this part.

(b) *DoD Component Heads.* The DoD Component heads implement this part and comply with its provisions.

(c) *Secretary of the Army.* In addition to the responsibilities in paragraph (b) of this section and acting as the DoD Executive Agent for DoD support to the BSA and GSUSA local councils and organizations in areas outside of the United States in accordance with DoD Directive 1000.26E, "Support for Non-Federal Entities Authorized to Operate on DoD Installations" (available at <http://www.dtic.mil/whs/directives/corres/pdf/100026p.pdf>), the Secretary of the Army:

(1) Makes policy determinations in coordination with the other Military Department Secretaries regarding topics including, but not limited to, support that:

(i) DoD installation commanders are authorized to provide to the scouting program and personnel.

(ii) The scouting organization provides to DoD.

(2) Ensures accountability for appropriated fund (APF) and non-appropriated fund (NAF) assets used in the support of qualified scouting organizations.

(3) Provides input for and works with the scouting organizations in establishing the extent and scope of the annual scouting programs in support of DoD personnel and their families within the parameters established in this part and available resources.

(4) Ensures that the cost of the support provided is shared by each of the Military Services in proportion to benefits derived by their members from scouting programs overseas.

#### § 252.6 Procedures.

(a) *General Guidance.* (1) Support provided by DoD and services provided by qualified scouting organizations is documented in a written agreement and signed by the appropriate regional combatant commander. Installation-specific support and services are documented in a written agreement and signed by the installation commander. This agreement replaces the need for qualified scouting organizations to submit individual articles of incorporation, written constitutions, charters, or articles of agreement to gain approval from the installation commander to operate on the

installation as required by DoD Instruction 1000.15, "Procedures and Support for Non-Federal Entities Authorized to Operate on DoD Installations" (available at <http://www.dtic.mil/whs/directives/corres/pdf/100015p.pdf>).

(2) Overseas installation commanders may authorize DoD support for qualified scouting organizations outside the United States when:

(i) Support is permitted under international agreements with the host nation, if applicable.

(ii) Support is permitted pursuant to law and DoD issuances.

(iii) Such support is within the capabilities of their respective installations.

(iv) Providing such support will not impede fulfillment of the military mission.

(3) Committees composed of representatives of the Military Services will be formed to review annual qualified scouting organization budget requirements.

(4) Overseas scouting committees will provide the overseas scouting organizations with information on the scouting requirements of DoD personnel and will monitor and evaluate the scouting organizations' efforts to satisfy those requirements.

(5) Funds raised by the scouting organizations, as a non-Federal entity, cannot be commingled with NAF funds and will be made available for annual audits.

(6) Employees of a qualified scouting organization are not considered to be U.S. employees, nor an instrumentality of the United States for the purpose of benefits or entitlements.

(i) APF is not used to reimburse their salaries and benefits.

(ii) They are not entitled to participate in the NAF retirement fund.

(iii) Serving in those positions does not constitute NAF employment credit or produce rehire priority.

(7) These organizations generally are not covered under the terms of United States' Status of Forces or other relevant agreements with host nations.

(i) Questions regarding whether employees of the scouting organization are covered under such agreements should be referred to the legal office servicing the applicable command. Applicability of any relevant agreements would be addressed with the host nation only by the applicable command, and not the organization.

(ii) To the extent the organization is not covered under any relevant agreement, host nation laws apply. In all cases, the host nation will determine the

scope and extent of the applicability of host nation laws to these employees.

(b) *Funding Guidance.* (1) Any APF and NAF support provided will be programmed and approved on an annual basis by the DoD Components. NAF support is authorized for youth activities programs in accordance with DoD Instruction 1015.15, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources" (available at <http://www.dtic.mil/whs/directives/corres/pdf/101515p.pdf>) and for qualified scouting organizations in accordance with paragraph (b)(5) of this section.

(2) APF may be used in conjunction with overseas scouting organizations. The following services may be provided on a non-reimbursable basis:

(i) Transportation of executive personnel (to include household goods and baggage) of qualified scouting organizations:

(A) When on invitational travel orders.

(B) To and from overseas assignments.

(C) While providing scouting support to DoD personnel and their families. Transportation of supplies of qualified scouting organizations necessary to provide such support may also be provided.

(ii) Office space where regular meetings can be conducted, and space for recreational activities.

(iii) Warehousing.

(iv) Utilities.

(v) Means of communication.

(3) DoD may provide the following additional support to scouting executives assigned overseas:

(i) Pursuant to section API 3.18 of DoD 4525.6-M, "Department of Defense Postal Manual" (available at <http://www.dtic.mil/whs/directives/corres/pdf/452506m.pdf>), access to use Military Services postal services is authorized.

(ii) Pursuant to section 4.3.2.2.2 of Department of Defense Education Activity Regulation 1342.13, "Eligibility Requirements for Education of Elementary and Secondary School-age Dependents in Overseas Areas" (available at <http://www.dodea.edu/Offices/Regulations/index.cfm>), access to DoD Dependents Schools (overseas) may be provided on a space-available, tuition-paying basis.

(iii) Pursuant to DoD Instruction 1000.11, "Financial Institutions on DoD Installations" (available at <http://www.dtic.mil/whs/directives/corres/pdf/100011p.pdf>), use of military banking facilities operated under DoD contracts is authorized.

(iv) Pursuant to DoD Instruction 1015.10, "Military Morale, Welfare, and Recreation (MWR) Programs" (available at <http://www.dtic.mil/whs/directives/corres/pdf/101510p.pdf>), the use of morale, welfare, and recreation programs may be provided.

(v) Pursuant to DoD Instruction 1000.13, "Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals" (available at <http://www.dtic.mil/whs/directives/corres/pdf/100013p.pdf>), medical care in uniformed services facilities on a space-available basis at rates specified in uniformed services instructions, with charges collected locally, is authorized.

(vi) Pursuant to Office of Management and Budget Circular A-45, "Rental and Construction of Government Quarters" (available at <http://www.whitehouse.gov/omb/circulars/a045>) and subparagraph 2.c(1)(e) of DoD 4165.63-M, "DoD Housing Management" (available at <http://www.dtic.mil/whs/directives/corres/pdf/416563m.pdf>), when DoD-sponsored civilian personnel serving DoD military installations at foreign locations cannot obtain suitable housing in the vicinity of an installation, they and their families may occupy DoD housing on a rental basis. The Military Service determines the priority of such leasing actions. These civilians are required to pay the established rental rate in accordance with DoD 4165.63-M and Military Service guidance.

(vii) Pursuant to DoD Instruction 1330.17, "Armed Forces Commissary Operations" (available at <http://www.dtic.mil/whs/directives/corres/pdf/133017p.pdf>), overseas installation commanders or Secretaries of the Military Departments may extend commissary access through official support agreements.

(viii) Pursuant to DoD Instruction 1330.21, "Armed Forces Exchange Regulations" (available at <http://www.dtic.mil/whs/directives/corres/pdf/133021p.pdf>), the Secretaries of the Military Departments may grant Armed Forces Exchange deviations with regard to authorized patron privileges for individuals or classes and groups of persons at specific installations when based on alleviating individual hardships.

(4) NAF may be used in conjunction with qualified scouting organizations to:

(i) Reimburse for salaries and benefits of employees of those organizations for periods during which their professional scouting employees perform services in overseas areas in direct support of DoD personnel and their families.

(ii) Reimburse travel to and from official meetings of the overseas scouting committee upon approval from the appropriate combatant commander.

(5) The total amount of NAF support for the scouting program must not exceed 70 percent of the total cost of the scouting program.

Dated: November 18, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014-27665 Filed 11-21-14; 8:45 am]

BILLING CODE 5001-06-P

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3020

[Docket No. RM2015-6; Order No. 2250]

#### Changes or Corrections to Mail Classification Schedule

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commission is proposing rules addressing changes and corrections to the Mail Classification Schedule (MCS). The proposed rules establish separate procedures for material changes in services offered in connection with products and corrections to product descriptions. The primary purposes of the proposed rules are to ensure that the MCS accurately describes the current product offerings of the Postal Service and to ensure compliance with the relevant statutory provisions when material changes to product offerings are made. The Commission invites public comment on the proposals.

**DATES:** *Comments are due:* December 24, 2014. *Reply comments are due:* January 8, 2015.

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

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

#### SUPPLEMENTARY INFORMATION:

#### Regulatory History

72 FR 63662, November 9, 2007.

#### Table of Contents

I. Introduction  
II. Background

#### III. Proposed Rules

#### IV. Explanation of Proposed Rules

#### V. Comments Requested

#### VI. Ordering Paragraphs

### I. Introduction

With this Notice of Proposed Rulemaking, the Commission requests comments and suggestions on proposed rules regarding requests to change or correct the Mail Classification Schedule (MCS).

The primary purposes of this rulemaking are to ensure that the MCS accurately describes the current product offerings of the Postal Service and to ensure compliance with the relevant provisions of title 39 of the United States Code when material changes to product offerings are made. The proposed rules also are intended to provide the Commission with additional flexibility to ensure that the Postal Service is filing under the appropriate subpart of part 3020 of title 39 of the Code of Federal Regulations.

After the passage of the Postal Accountability and Enhancement Act (PAEA) in 2006,<sup>1</sup> the Commission issued regulations to implement PAEA's modern system of rate regulation, including regulations on the procedures to follow in changing the product lists and MCS.<sup>2</sup> In proposing the modern system of rate regulation, the Commission cautioned that the intent is that these regulations provide a reasonable starting point and that will they evolve over time.<sup>3</sup>

As the Postal Service and Commission have used the current regulatory scheme to make modifications to the product lists and changes to the MCS, a procedural gap has been identified. Remedying this procedural gap should make the process operate better.

The current regulations have not satisfactorily addressed MCS changes that are more significant than minor corrections to the MCS but do not rise to the level of a product list modification. In these cases, the current regulations regarding the filing requirements sometimes do not provide the Commission with sufficient information to make the necessary determination as to whether an MCS change is appropriate. As a result, the Commission has undertaken additional questioning during the proceedings, leading to the expenditure of additional

resources by the Commission, the Postal Service, and other interested persons. The use of this additional inquiry process in such cases has also complicated the Commission's review.

These regulations are designed to clarify and streamline the process by specifying that the Postal Service provide all of the necessary information for the Commission to make its determination on such requests at the outset of the proceeding.

### II. Background

The Commission is charged with maintaining accurate product lists. See 39 U.S.C. 3642. In Docket No. RM2007-1, the Commission promulgated rules establishing the MCS as the vehicle for presenting the product lists with necessary descriptive content. Order No. 26 at 85. Those rules are codified at 39 CFR part 3020. Subpart A describes the contents of the MCS and provides for its publication in the **Federal Register**. Subparts B, C, and D specify the procedures whereby the Postal Service, mail users, and the Commission may seek to modify the product lists in the MCS. Subpart E specifies procedures that allow the Postal Service to update provisions of the MCS with minimal Commission review. Order No. 26 at 97. Subpart F establishes that size and weight limitations appear in the MCS and provides procedures for Postal Service updates to those limits.

This proposed rulemaking concerns subpart E. In its order proposing the rules that are codified at part 3020, the Commission explained that subpart E requires the Postal Service to ensure that product descriptions in the MCS accurately reflect the current offerings of Postal Service products and services. *Id.* The Commission accordingly proposed procedures whereby the Postal Service could submit corrections to product descriptions so that the Commission could update the MCS. *Id.* The Commission recognized that there are inherent limits in the scope or magnitude of an update allowable under subpart E. It indicated that updates that would modify the market dominant or the competitive product lists are specifically excluded from subpart E.<sup>4</sup> The Commission concluded that a proposed update may not change the nature of a service to such an extent that it effectively creates a new product or eliminates an existing product. *Id.*

In comments on the proposed rules, McGraw-Hill and Valpak expressed

<sup>1</sup> Postal Accountability and Enhancement Act (PAEA), Pub. L. 10-435, 120 Stat. 3198 (2006).

<sup>2</sup> Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

<sup>3</sup> Docket No. RM2007-1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at 2 (Order No. 26).

<sup>4</sup> The Commission also observed there were implicit exclusions as well, such as updates that might be governed by other rules such as changes to rates and fees. *Id.*