otherwise placed together so as to form an enclosure of two or more sides, etc.

(xi) No permit will be issued for a demonstration on the White House Sidewalk and in Lafayette Park at the same time except when the organization, group, or other sponsor of such demonstration undertakes in good faith all reasonable action, including the provision of sufficient marshals, to insure good order and self-discipline in conducting such demonstration and any necessary movement of persons, so that the numerical limitations and waiver provisions described in paragraphs (g)(5)(ix) and (x) of this section are observed.

(xii) In addition to the general limitations in this paragraph (g)(5), sound systems shall be directed away from the Vietnam Veterans Memorial at all times.

(6) *Permit revocation.* The Regional Director or the ranking U.S. Park Police supervisory official in charge may revoke a permit or part of a permit for any violation of its terms or conditions, or if the event presents a clear and present danger to the public safety, good order, or health, or for any violation of applicable law or regulation. Any such revocation shall be in writing.

* * * * *

**David L. Bernhardt,**

*Deputy Secretary.*

[FR Doc. 2018–17386 Filed 8–14–18; 8:45 am]

**BILLING CODE 4312–52–P**

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3010

**[Docket No. RM2018–11; Order No. 4750]**

### Mail Preparation Changes

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Commission is initiating a review to determine when a mail preparation change is a rate change. This document informs the public of the docket's initiation, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due on or before* October 15, 2018.

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

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

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

The Commission initiates this advance notice of proposed rulemaking (ANPR) to seek proposals for a standard and process to determine when a mail preparation change is a ''changes in rates'' under 39 U.S.C. 3622 in accordance with the recent decision in *United States Postal Serv.* v. *Postal Reg. Comm'n,* 886 F.3d 1253 (D.C. Cir. 2018) (*IMb Opinion*).

## II. Background

The Commission continues to maintain that certain mail preparation changes are rate changes, and those changes should be regulated under 39 U.S.C. 3622. As participants in past associated dockets are aware, the issues involved in regulating mail preparation changes as ''changes in rates'' under 39 U.S.C. 3622 are varied and complex. The process involved in crafting a workable standard for regulating mail preparation changes under the price cap has been difficult and time-consuming. However, this difficulty does not necessarily render the efforts to create a standard futile. Accordingly, the Commission issues this ANPR requesting proposals from commenters for a standard and process to determine when an individual mail preparation change is a ''change in rates'' under 39 U.S.C. 3622 that is consistent with the recent guidance set forth in the *IMb Opinion.*

In Docket No. R2013–10R, the Commission determined that a change to the Intelligent Mail barcoding (IMb) requirements was a rate change requiring compliance with the price cap under 39 U.S.C. 3622.[1] The Postal Service appealed the Commission's determination to the United States Court of Appeals for the District of Columbia (the Court). In *United States Postal Serv.* v. *Postal Reg. Comm'n,* 785 F.3d 740, 751 (D.C. Cir. 2015), the Court affirmed the Commission's conclusion that ''changes in rates'' under 39 U.S.C. 3622 could include changes to mail preparation requirements and were not limited to ''only changes to the official posted prices of each product.'' However, the Court remanded the matter to the Commission so that it could articulate an intelligible standard to determine when a mail preparation change was a ''change in rates'' subject to the price cap. *Id.* at 744.

In response to the Court's remand, the Commission initiated proceedings to establish a standard to be used for the regulation of mail preparation changes as ''changes in rates.''[2] As a result of those proceedings, the Commission issued Order No. 3047, which set forth a standard to determine when a mail preparation change requires compliance with the price cap. The standard established in Order No. 3047 provided that a mail preparation change could have a rate effect when it resulted in the deletion or redefinition of rate cells as set forth by § 3010.23(d)(2).

In establishing the standard set forth in Order No. 3047, the Commission used its regulation, § 3010.23(d)(2), to provide the framework. Section 3010.23(d)(2) provides that a classification change will have a rate effect when it results in the introduction, deletion, or redefinition of a rate cell. Under the Commission's rules, the Postal Service must include the effects of those classification changes in its calculation of the percentage change in rates under the price cap. 39 CFR 3010.23(d)(2). The standard in Order No. 3047 defined when a mail preparation change would be considered a classification change with rate effects under § 3010.23(d)(2). The standard set forth that deletion of a rate cell occurs when a mail preparation change caused the elimination of a rate, or the functional equivalent of an elimination of a rate by making the rate cell inaccessible to mailers. Order No. 3047 at 15. The standard defined redefinition of a rate cell to occur when a mail preparation change caused a significant change to a basic characteristic of a mailing, effectively changing the nature of the rate cell. For redefinition, the Commission stated that it would apply a significance analysis to determine at what point on the spectrum a mail preparation change caused a rate cell to be redefined under § 3010.23(d)(2). *Id.*

[1] Docket No. R2013–10, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 21, 2013, at 5–35 (Order No. 1890). In this docket, the Commission briefly sets out the relevant history supporting the request for comment. For a complete history of the Commission proceedings leading up to this docket, please see Order No. 1890; Docket No. R2013–10R, Order Resolving Issues on Remand, January 22, 2016 (Order No. 3047); Docket No. R2013–10R, Order Resolving Motion for Reconsideration of Commission Order No. 3047, July 20, 2016 (Order No. 3441).

[2] Docket No. R2013–10R, Order Establishing Procedures on Remand and Requesting Public Comment, July 15, 2015 (Order No. 2586).

at 16–17. Using these parameters, when a mail preparation change caused a rate cell to be deleted or redefined, it would constitute a rate change requiring compliance with the price cap.[3]

After Order No. 3047 was issued, the Postal Service requested the Commission reconsider its decision.[4] In response, the Commission issued Order No. 3441 resolving the Postal Service's request for reconsideration and maintaining the standard as articulated in Order No. 3047. The Postal Service then petitioned the Court for review of the revised standard set forth in Order Nos. 3047 and 3441.[5]

The Court issued its decision and vacated the Commission's standard in Order Nos. 3047 and 3441. *IMb Opinion* at 1255. In its decision, the Court concluded that the Commission's standard to determine when a mail preparation change was a rate change rested on an unreasonable interpretation of ''changes in rates'' under 39 U.S.C. 3622 that went beyond the meaning of the statute. *Id.*

In its opinion, the Court referred to its previous decision in 2015 to remand the matter to the Commission, stating that this decision ''laid down a marker for what might qualify as rates and 'changes in rates.' Time and again [it] tied 'rates' to payments by mailers to the Postal Service, and 'changes in rates' to changes in those payments.'' *Id.* at 1256. The Court explained that its 2015 decision affirmed the Commission's authority to regulate changes in posted prices and changes in mail preparation requirements because both could cause a change in rates paid by the mailer. *Id.* However, the Court vacated the Commission's standard set forth in Order No. 3047 because it viewed the standard as improperly regulating changes to mailers' costs as opposed to the price mailers pay. The Court stated that the standard cannot look ''solely to mailer costs . . . without comparing those costs to the additional payment a mailer would *avoid* by making the mail preparation change'' in order to predict whether mailers will pay a higher rate. *Id.* at 1260 (emphasis in original).

Although the Court's *IMb Opinion* vacated the standard set forth by the Commission, it did not abrogate the Commission's authority to regulate mail preparation as ''changes in rates'' under the statute. Rather, the Court disagreed with the Commission's approach and found that the Commission's standard did not answer the question of whether a change to a mail preparation change would cause a mailer to pay a higher rate. The Court did not endorse any particular method to determine when a mail preparation change is a ''change in rates'' under 39 U.S.C. 3622, but provided its views on approaches that could potentially conform to the statute.

In order to find that a mail preparation change is a rate change under 39 U.S.C. 3622, the Court indicated that the standard should be able to ''single out mail preparation changes that induce mailers to shift to a higher-priced service.'' *Id.* at 1259. The Court suggested that the Commission could have ''tried to integrate mail preparation requirements into its authority over 'changes in rates' with the following argument: Where an increase in mail preparation requirements for one cell will *drive* mailers to use a *higher-priced cell,* the resulting increase in volume in the latter should count against the rate cap.'' *IMb Opinion* at 1256 (emphasis in original). The Court qualified this opinion by stating that it identified ''this approach not in order to offer any final judgment on it but to indicate how treating a change in mail preparation requirements as a rate change might, as a matter of arithmetic, be integrated with the Commission's system of volumetric assessment.'' *Id.*

As suggested by the Court, the standard must look to predict mailer behavior in response to the mail preparation change in order to ''single out mail preparation changes that induce mailers to shift to a higher-priced service.'' *Id.* at 1259. To do so, the Court indicated that the Commission would have to compare mailers' compliance costs with the offsetting rate benefit in order to determine whether mailers would be driven to a higher rate cell and pay a higher rate. *Id.* at 1260. The Court acknowledged the complexity of this potential approach, especially where the mailer ''costs (however estimated) would have to be compared with a benchmark—the rate increment faced by mailers—that would be quite precise.'' *Id.*

In response to the *IMb Opinion,* the Commission is continuing to explore whether a workable standard can be developed in order to determine when a mail preparation change is a rate change. The Commission seeks comment on the possibility of crafting a standard that would not only comport with the Court's decision but also be workable in the context of the Commission's proceedings.

## III. Request for Comments

The Commission requests comments from interested parties to propose a standard and process to determine when a mail preparation change is a rate change under 39 U.S.C. 3622 that comports with the *IMb Opinion.* In proposing a new standard, commenters should respond to the parameters and guidance set forth by the Court in the recent *IMb Opinion* and explain how the suggested standard is consistent with those parameters. Specifically, commenters should propose a standard that could be used to predict ''possible mailer migration to higher-priced products'' to determine when a mail preparation change results in a ''change in rates'' under 39 U.S.C. 3622. In addition to comments proposing a standard in line with the *IMb Opinion,* commenters should propose a practical process for the Commission to determine and resolve disputes over whether a mail preparation change is a rate change.

In creating a new docket for this proceeding, the Commission acknowledges that although the issue before the Commission centered on the Postal Service's change to the IMb requirements in Docket No. R2013–10, the standard eventually adopted by the Commission will apply to all future mail preparation changes. The Commission appreciates the complex nature of this issue and the input provided by commenters in previous attempts to establish a workable standard to regulate mail preparation changes as rate changes.

Initial comments are due no later than 60 days after the date of publication of this document in the **Federal Register**. After reviewing the initial comments, the Commission will decide if reply comments are necessary. Commission rules require that comments (including reply comments) be filed online according to the process outlined at 39 CFR 3001.9(a), unless a waiver is

[3] In conjunction with Order No. 3047, the Commission initiated a separate rulemaking proceeding to develop a procedural rule that would ensure the Postal Service properly accounted for the rate effects of mail preparation changes in accordance with the Commission's standard articulated in Order No. 3047. Docket No. RM2016–6, Notice of Proposed Rulemaking on Motions Concerning Mail Preparation Changes, January 22, 2016, at 1–2 (Order No. 3048). The Notice of Proposed Rulemaking on Motions Concerning Mail Preparation Changes was published in the **Federal Register** on February 1, 2016. *See* 81 FR 5085 (February 1, 2016). The rulemaking resulted in a final procedural rule concerning mail preparation changes. *See* Docket No. RM2016–6, Order Adopting Final Procedural Rule for Mail Preparation Changes, at 22–23, January 25, 2018 (Order No. 4393). The Order Adopting Final Procedural Rule for Mail Preparation Changes was published in the **Federal Register** on March 5, 2018. *See* 83 FR 4585 (March 5, 2018). That rule is being revised as a result of the *IMb Opinion.*

[4] Docket No. R2013–10R, Motion for Reconsideration of Order No. 3047, February 22, 2016.

[5] Petition for Review, *United States Postal Serv.* v. *Postal Reg. Comm'n,* 886 F.3d 1253 (D.C. Cir. 2018).

obtained. Additional information regarding how to submit comments online can be found at: *http://www.prc.gov/how-to-participate.* All comments accepted will be made available on the Commission's website, *http://www.prc.gov.*

Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

*It is ordered:*

1. Interested persons may submit initial comments no later than 60 days from the date of the publication of this document in the **Federal Register**.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

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

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2018–17498 Filed 8–14–18; 8:45 am]

**BILLING CODE 7710–FW–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2015–0700; FRL–9982–28—Region 5]**

## Air Plan Approval; Indiana; Attainment Plan for Indianapolis, Southwest Indiana, and Terre Haute $SO_2$ Nonattainment Areas

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve as a State Implementation Plan (SIP) revision an Indiana submission to EPA dated October 2, 2015. The submission addresses attainment of the 2010 sulfur dioxide ($SO_2$) national ambient air quality standard (NAAQS) for the Indianapolis (Marion County), Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas. Indiana also submitted a SIP revision request for the Morgan County area. In this proposed action, EPA is not addressing the Morgan County portion of the SIP revision request, and will address it separately in a future action. This plan (herein called a ''nonattainment plan'') includes Indiana's attainment demonstration and other elements required under the Clean Air Act (CAA). In addition to an attainment demonstration, the nonattainment plan addresses the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), base-year and projection-year emission inventories, enforceable emissions limitations and control measures, and contingency measures. EPA proposes to conclude that Indiana has appropriately demonstrated that the plan provisions provide for attainment of the 2010 $SO_2$ NAAQS in the Indianapolis, Southwest Indiana, and Terre Haute areas by the applicable attainment date and that the plan meets the other applicable requirements under the CAA.

**DATES:** Comments must be received on or before September 14, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0700 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3901, *becker.michelle@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

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### I. Why was Indiana required to submit an $SO_2$ plan for Indianapolis, Southwest Indiana, and Terre Haute?

On June 22, 2010, EPA promulgated a new 1-hour primary $SO_2$ NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a)–(b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 $SO_2$ NAAQS, including the Indianapolis (Marion County), Morgan County, Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas within Indiana. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the $SO_2$ NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015 in this case. Under CAA section 192(a), the states are required to