

this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 926**

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 25, 2008.

**Allen D. Klein,**

*Regional Director, Western Region.*

■ For the reasons set out in the preamble, 30 CFR 926 is amended as set forth below:

**PART 926—MONTANA**

■ 1. The authority citation for part 926 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 926.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 926.15 Approval of Montana's regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *		
July 7, 2008 .....	January 5, 2009 .....	Montana Strip and Underground Mine Reclamation Act 82-4-232(3) and (4), 82-4-232 (5)(k), 82-4-232(5)(l).

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**POSTAL REGULATORY COMMISSION**

**39 CFR Part 3020**

[Docket Nos. MC2009-13 and CP2009-17; Order No. 158]

**New Competitive Product**

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently filed Postal Service request to add Express Mail & Priority Mail Contract 3 to the Competitive Product List. The Postal Service has also filed one related contract. This notice addresses procedural steps associated with these filings.

**DATES:** Comments due January 5, 2008.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6820 and [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On December 19, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Express Mail & Priority Mail Contract 3 to the Competitive Product List.<sup>1</sup> The Postal Service asserts that the Express Mail & Priority Mail Contract 3 product is a competitive product "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2009-13. 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. CP2009-17.

**Request.** The Request incorporates (1) A redacted version of the Governors' Decision authorizing the new product; (2) a redacted version of the contract; (3) requested changes in the Mail Classification Schedule product list; (4) a statement of supporting justification as

required by 39 CFR 3020.32; and (5) certification of compliance with 39 U.S.C. 3633(a).<sup>2</sup> Substantively, the Request seeks to add Express Mail & Priority Mail Contract 3 to the Competitive Product List. *Id.* at 1-2.

In the statement of supporting justification, Kim Parks, Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment D. Thus, Ms. Parks contends there will be no issue of subsidization of competitive products

<sup>2</sup> Attachment A to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Express Mail and Priority Mail Services (Governors' Decision No. 08-23). The Governors' Decision includes an attachment which provides an analysis of the proposed Express Mail and Priority Mail Contract 3 and certification of the Governors' vote. Attachment B is the redacted version of the contract. Attachment C shows the requested changes to the Mail Classification Schedule product list. Attachment D provides a statement of supporting justification for the Request. Attachment E provides the certification of compliance with 39 U.S.C. 3633(a).

<sup>1</sup> Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 3 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, December 19, 2008 (Request).

by market dominant products as a result of this contract. *Id.*

**Related contract.** A redacted version of the specific Express Mail & Priority Mail Contract 3 is included with the Request. The contract is for 3 years and is to be effective 1 day after the Commission provides all necessary regulatory approvals. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a) and 39 CFR 3015.7(c). *See id.*, Attachment A and Attachment E. It notes that actual performance under this contract could vary from estimates, but concludes that the contract will remain profitable. *Id.*, Attachment A.

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Express Mail & Priority Mail Contract 3, 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 2–3.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2009–13 and CP2009–17 for consideration of the Request pertaining to the proposed Express Mail & Priority Mail Contract 3 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR part 3020 subpart B. Comments are due no later than January 5, 2009. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

### *It is Ordered:*

1. The Commission establishes Docket Nos. MC2009–13 and CP2009–17 for consideration of the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 5, 2008.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

Dated: December 23, 2008.

By the Commission.

**Steven W. Williams,**

*Secretary.*

[FR Doc. E8–31252 Filed 1–2–09; 8:45 am]

**BILLING CODE 7710–FW–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 401

[Docket No. USCG–2007–0039]

RIN 1625–AB23

#### 2008 Rates for Pilotage on the Great Lakes

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final Rule.

**SUMMARY:** The Coast Guard is revising and finalizing the March 2008 interim rule, which updated rates for pilotage service on the Great Lakes by increasing rates an average of 8.17% over the last ratemaking that was completed in September 2007. In response to new contract provisions and to public comments on our rulemaking, this final rule increases rates an additional 9.95%, for a total average increase of 18.92% since 2007.

**DATES:** This final rule is effective February 4, 2009.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2007–0039 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** For questions on this final rule, please call Mr. Paul Wasserman, Chief, Great Lakes Pilotage Branch, Commandant (CG–54122), U.S. Coast Guard, at 202–372–1535, by fax 202–372–1929, or e-mail [Paul.M.Wasserman@uscg.mil](mailto:Paul.M.Wasserman@uscg.mil). For questions on viewing or submitting material to the docket, call Renee V.

Wright, Chief, Dockets, Department of Transportation, telephone 202–493–0402.

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### I. Abbreviations

AMOU American Maritime Officer union  
GLPAC Great Lakes Pilotage Advisory Committee  
MISLE Coast Guard Marine Inspection, Safety, and Law Enforcement  
MOA Memorandum of Agreement  
NAICS North American Industry Classification System  
NPRM Notice of Proposed Rulemaking  
NTTAA National Technology Transfer and Advancement Act  
OMB Office of Management and Budget

### II. Background

The Great Lakes Pilotage Act of 1960, codified in Title 46, Chapter 93, of the United States Code (U.S.C.), requires foreign-flag vessels and U.S.-flag vessels in foreign trade to use Federal Great Lakes registered pilots while transiting the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302, 9308. The Coast Guard is responsible for administering this pilotage program, which includes setting rates for pilotage service. 46 U.S.C. 9303.

The Coast Guard pilotage regulations require annual reviews of pilotage rates and the creation of a new rate at least once every five years, or sooner, if annual reviews show a need. 46 CFR part 404. 46 U.S.C. 9303(f) requires these reviews and, where deemed appropriate, that adjustments be established by March 1 of every shipping season.

To assist in calculating pilotage rates, the three Great Lakes pilots' associations are required to submit to the Coast Guard annual financial statements prepared by certified public accounting firms. In addition, every fifth year, in connection with the full ratemaking, the