

described in paragraph (b) of this section, the Commission will provide notice to the participants that such relief is being considered. It will allow the participants a reasonable opportunity to comment and present aggravating and mitigating factors for its consideration.

PART 3031—RULES FOR RATE OR SERVICE INQUIRIES

Subpart A—Rate or Service Inquiry Forms and Procedures

Sec.

- 3031.10 Rate or service inquiry contents.
- 3031.11 Rate or service inquiry procedures.
- 3031.12 Treatment as a complaint.

Subpart B [Reserved]

AUTHORITY: 39 U.S.C. 503, 3662.

SOURCE: 74 FR 16746, Apr. 10, 2009, unless otherwise noted.

Subpart A—Rate or Service Inquiry Forms and Procedures

§ 3031.10 Rate or service inquiry contents.

(a) A rate or service inquiry shall be in writing and should contain:

- (1) The name, address, and telephone number of the inquiring party;
- (2) Details regarding the Postal Service's action or inaction;
- (3) A statement of facts supporting the inquiring party's allegations; and
- (4) The specific relief being sought, if any.

(b) The Commission may waive any of the requirements listed in paragraph (a) of this section to serve the interests of justice.

§ 3031.11 Rate or service inquiry procedures.

(a) The Commission will forward rate or service inquiries to the Postal Service for investigation. The Postal Service will, within 45 days of receipt of such inquiry, advise the Commission in writing, with a copy to the inquiring party, of its resolution of the inquiry or its refusal or inability to do so.

(b) The Commission will monitor all rate or service inquiries to determine if

Commission action under § 3031.12 is appropriate.

(c) Where there are clear indications from the Postal Service's report or from other communications between the parties that the inquiry has been resolved, the Commission may, in its discretion, consider such proceeding to be resolved, without response to the inquiring party.

§ 3031.12 Treatment as a complaint.

If the Commission receives a volume of rate or service inquiries on the same or similar issue such that there may be cause to warrant treatment as a complaint, it may appoint an investigator to review the matter under § 3030.21 of this chapter or appoint a public representative representing the interests of the general public to pursue the matter.

Subpart B [Reserved]

PART 3032—SPECIAL RULES FOR COMPLAINTS ALLEGING VIOLATIONS OF 39 U.S.C. 404^a

Subpart A—General

Sec.

- 3032.1 Applicability.
- 3032.2–3032.4 [Reserved]

Subpart B—Requirements and Defenses

- 3032.5 Postal Service rules that create an unfair competitive advantage.
- 3032.6 Disclosure, transfer, and licensing of intellectual property.
- 3032.7 Unlawfully obtaining information.
- 3032.8 Statutorily authorized affirmative defense.

AUTHORITY: 39 U.S.C. 404a; 3662.

SOURCE: 79 FR 62294, Oct. 16, 2014, unless otherwise noted.

Subpart A—General

§ 3032.1 Applicability.

The rules in this part govern proceedings filed under 39 U.S.C. 3662 alleging violations of 39 U.S.C. 404a that meet the requirements of §§ 3030.2 and 3030.10 of this chapter.

§§ 3032.2–3032.4 [Reserved]

Subpart B—Requirements and Defenses**§ 3032.5 Postal Service rules that create an unfair competitive advantage.**

(a) A complaint alleging a violation of 30 U.S.C. 404(a)(1) must show that a Postal Service rule, regulation, or standard has the effect of:

(1) Precluding competition; or

(2) Establishing the terms of competition.

(b) As an affirmative defense to a complaint under 39 U.S.C. 404(a)(1), the Postal Service may demonstrate that the rule, regulation, or standard at issue does not create an unfair competitive advantage for itself or any entity funded, in whole or in part, by the Postal Service.

(c) As used in this section, the term *rule, regulation, or standard* includes, among other things, documents or policies issued by the Postal Service to exercise its regulatory authority or otherwise act as a governmental entity.

§ 3032.6 Disclosure, transfer, and licensing of intellectual property.

(a) A complaint alleging a violation of 39 U.S.C. 404(a)(2) must show that the Postal Service has compelled or attempted to compel the disclosure, transfer, or licensing of the intellectual property of the person filing the complaint to a third party.

(b) As used in this section, the term *intellectual property* includes, among other things, patents, copyrights, trademarks, trade secrets, and proprietary information.

(c) As used in this section, the term *disclosure, transfer, or licensing of intellectual property* includes, among other things, an action that has an adverse effect on the value of intellectual property.

§ 3032.7 Unlawfully obtaining information.

(a) A complaint alleging a violation of 39 U.S.C. 404(a)(3) must show that:

(1) The person filing the complaint has provided or sought to provide a product;

(2) The Postal Service obtained information about such product from the person filing the complaint; and

(3) The Postal Service offers or offered a postal service that uses or is based, in whole or in part, on the information obtained from the person filing the complaint.

(b) As an affirmative defense to a complaint under 39 U.S.C. 404(a)(3), the Postal Service may demonstrate that substantially the same information was obtained (or was obtainable) from an independent source or is otherwise obtained (or obtainable) through lawful means.

(c) As an affirmative defense to a complaint under 39 U.S.C. 404(a)(3), the Postal Service may show that the information obtained was provided by written consent.

§ 3032.8 Statutorily authorized affirmative defense.

(a) As an affirmative defense to an allegation of a violation of 39 U.S.C. 404(a), the Postal Service may demonstrate that it is specifically authorized by law to take the action or inaction alleged to be a violation of that section.

(b) Authority under 39 U.S.C. 401 or 39 U.S.C. 404 may not form the basis of an affirmative defense under paragraph (a) of this section.

(c) Paragraph (b) of this section does not preclude the Postal Service from arguing that a particular Postal Service regulation or other action (or inaction) does not have the requisite effect to violate 39 U.S.C. 404(a).

PART 3035—RULES FOR MARKET TESTS OF EXPERIMENTAL PRODUCTS

Sec.

3035.1 Applicability.

3035.2 Advance notice.

3035.3 Contents of notice.

3035.4 Review.

3035.5 Commission action.

3035.6 Changes in market test.

3035.7–3035.9 [Reserved]

3035.10 Duration.

3035.11 Extension of market test.

3035.12 Cancellation of market test.

3035.13–3035.14 [Reserved]

3035.15 Dollar amount limitation.

3035.16 Exemption from dollar amount limitation.

3035.17 Prevention of market disruption.