

A new Part 3025, Rules for Appeals of Postal Service Determinations to Close or Consolidate Post Offices, is adopted as follows:

**§ 3025.1 Definitions.** The following definitions apply in this Part 3025:

(a) “Final determination” means the written determination and findings required by 39 U.S.C. § 404(d)(3).

(b) “Petitioner” means a person who files a petition for review.

(c) “Petition for Review” means a written document that the Commission accepts as an appeal of a post office closing or consolidation.

**§ 3025.2 Applicability.**

(a) The rules in this part apply when (1) the Postal Service decides to close or consolidate a post office, and (2) a patron of that post office appeals the closing or consolidation.

(b) The following rules in Part 3001, subpart A apply to appeals of post office closings or consolidations: rules 1-9, 11(a), 11(c)-(f), 12-17, and 21-22.

(c) Answers to motions filed by the Postal Service are due within 10 days.

**§ 3025.3 Notice by the Postal Service.**

(a) Pursuant to section 404(d) of title 39, United States Code, any decision to close or consolidate a post office must be preceded by 60 days notice to persons served by such post office, the opportunity for such persons to present their views, and a written determination based upon consideration of each of the factors listed in section 404(d)(2).

(b) This notice must include a provision stating that, pursuant to section 404(d)(5) of title 39, United States Code, a final Postal Service determination to close or consolidate a post office may be appealed by any person served by such office to the Postal Regulatory Commission at 901 New York Avenue NW, Suite 200, Washington,

DC 20268–0001, within 30 days after such determination is made available to such person by the Postal Service.

**§ 3025.10 Starting an appeal.**

(a) A Postal Service decision to close or consolidate a post office may be appealed only by a person served by that office. An appeal is commenced by submitting a Petition for Review to the Postal Regulatory Commission.

(b) The Petition for Review must state that the person(s) submitting it are served by the post office that the Postal Service has decided to close or consolidate. The petition should include the name(s) and address(es) of the person(s) filing it and the name or location of the post office to be closed or consolidated. A petitioner may include other information deemed pertinent.

**§ 3025.11 Submitting appeal and other documents.**

Petitions for Review, comments, motions, answers, and other documents may be submitted by persons other than the Postal Service by mail, electronically through the Commission's website, *www.prc.gov*, or by delivery to the Commission's offices at 901 New York Avenue NW, Suite 200, Washington DC 20268-0001.

**§ 3025.12 Duplicate appeals.**

If the Commission receives more than one Petition for Review of the same post office closing or consolidation, the petitions will be considered in a single docket.

### **§ 3025.13 Deadlines for appeals.**

(a) *In general.* If the Postal Service has issued a final determination to close or consolidate a post office, an appeal is due within 30 days of the final determination being made available in conformance with section 3025.3(b).

(b) *Appeals sent by mail.* If sent by mail, a Petition for Review must be postmarked no later than 30 days after the final determination has been made available.

(c) *Appeals sent by other physical delivery.* If sent by some other form of physical delivery, a Petition for Review must be received in the Commission's docket section no later than 4:30 pm, eastern time, on the 30<sup>th</sup> day after the final determination has been made available.

(d) *Appeals sent electronically.* If submitted electronically, a Petition for Review must be received in the Commission's docket section no later than 4:30 pm, eastern time, on the 30<sup>th</sup> day after the final determination has been made available.

### **§ 3025.14 Participation by others.**

(a) A person served by the post office to be closed or consolidated pursuant to the Postal Service written determination under review who desires to intervene in the proceeding, or any other interested person, or any counsel, agent or other person authorized or recognized by the Postal Service as such interested person's representative or the representative of such interested person's recognized group, such as Postmasters, may participate in an appeal by sending written comments to the Postal Regulatory Commission in the manner described in section 3025.11.

(b) Persons may submit comments supporting or opposing a Commission order returning the entire matter to the Postal Service for further consideration. Comments must be filed in accordance with the deadlines established in sections 3025.41 through .43 of this Part. Commenters may use PRC Form 61, which is available on the Commission's website, <http://www.prc.gov>.

**§ 3025.20 The record on review.**

- (a) The record on review includes:
  - (1) the final determination;
  - (2) the notices to persons served by the post office to be closed or consolidated;
  - (3) the administrative record; and
  - (4) all documents submitted in the appeal proceeding.
- (b) The record shall contain all evidence considered by the Postal Service in making its determination and shall contain no evidence not previously considered by the Postal Service.

**§ 3025.21 Filing of the administrative record.**

The Postal Service shall file the administrative record within 10 days of the date of posting of a Petition for Review on the Commission's website. The Commission may alter this time for good cause. The Secretary will notify participants that they may view the administrative record at post offices where the final determination was posted.

**§ 3025.22 Making documents available for inspection by the public.**

Copies of all filings (including the administrative record) related to an appeal shall be available for public inspection at the post offices where the final determination was posted. The Secretary will notify participants that they may view copies of filings at post offices where the final determination was posted.

### **§ 3025.30 Suspension pending review.**

(a) *Application.* Application for suspension of a determination of the Postal Service to close or consolidate any post office pending the outcome of an appeal to the Postal Regulatory Commission shall be made at the time of the filing of a Petition for Review. The application shall show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by affidavits or other sworn statements or copies thereof. The applicant must be a person served by the affected post office. Immediate notice of the application shall be given to all parties to the proceeding. The application shall be filed with the Secretary of the Commission.

(b) *Answer and filing of the relevant record by the U.S. Postal Service.* Within 10 days after the application for suspension is filed, the Postal Service shall file with the Secretary of the Commission and serve on the petitioners an answer to the application supported by affidavits or other sworn statements or copies thereof.

### **§ 3025.40 Participant statement.**

When a timely Petition for Review of a decision to close or consolidate a post office is filed, the Secretary shall furnish petitioner with a copy of PRC Form 61. This form is designed to inform petitioners on how to make a statement of his/her arguments in support of the petition. The instructions for Form 61 shall provide:

- (1) a concise explanation of the purpose of the form;
- (2) a copy of section 404(d)(2)(A) of title 39, United States Code; and
- (3) notification that, if petitioner prefers, he or she may file a brief in lieu of or in addition to completing PRC Form 61.

**§ 3025.41 Due date for participant statement.**

The statement or brief of petitioner, and of any other participant seeking to have the Commission return the entire matter to the Postal Service for further consideration, shall be filed not more than 20 days after the filing of the administrative record.

**§ 3025.42 Due date for Postal Service response.**

The statement or brief of the Postal Service, and of any other participant opposing return of the matter for further consideration, shall be filed not more than 14 days after the date for filing of petitioner's statement.

**§ 3025.43 Due date for replies to the Postal Service.**

Petitioner, and any other participant seeking to have the Commission return the matter for further consideration, may file a reply to the Postal Service response not more than 10 days after the date of the Postal Service response. Replies are limited to issues discussed in the responses of the Postal Service and other participants seeking affirmation of the Postal Service determination.