

## Background and Purpose

The S46 Bridge, at mile 14.0, in Little Ferry, New Jersey, has a vertical clearance of 35 feet at mean high water and 40 feet at mean low water. The existing operating regulations for the S46 Bridge, listed at § 117.723(f), require the bridge to open on signal, if at least six (6) hours advance notice is given.

The Coast Guard is changing the regulations to require that the S46 Bridge open on signal after a twenty four hour notice is given. The bridge owner, the New Jersey Department of Transportation, asked the Coast Guard to change the regulations to require a twenty four hour notice for bridge openings because there have been no requests to open this bridge since 1978. The Coast Guard believes this change to the regulations is reasonable because the bridge owner has not received a request to open the bridge since 1978.

## Discussion of Comments and Changes

The Coast Guard received no letters commenting on the notice of proposed rulemaking and no changes have been made to this final rule.

## Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; Feb. 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that no requests to open this bridge have been made since 1978.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic

impact on a substantial number of small entities.

## Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Section 2.B.2, Figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.723(f) is revised to read as follows:

#### § 117.723 Hackensack River.

\* \* \* \* \*

(f) Except as provided in paragraph (a)(1) of this section, the draw of the S46 Bridge, at mile 14.0, in Little Ferry, shall open on signal if at least a twenty four hour advance notice is given by calling the number posted at the bridge.

\* \* \* \* \*

Dated: June 30, 1999.

**R.M. Larrabee,**

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

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## POSTAL SERVICE

### 39 CFR Part 111

#### Domestic Mail Manual Changes To Implement Nonprofit and Classroom Periodicals Classification Changes and Notice of Refund Procedures

AGENCY: Postal Service.

ACTION: Final rule.

**SUMMARY:** This document sets forth the changes to the Domestic Mail Manual to implement the July 12, 1999, Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission (PRC) on Periodicals Classification Changes. In addition, it contains procedures for obtaining refunds for the difference between postage paid on certain mailings at Periodicals Nonprofit or Classroom rates and postage computed at Periodicals Regular rates on those same mailings.

**EFFECTIVE DATE:** August 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jerry Lease, 202-268-5188.

**SUPPLEMENTARY INFORMATION:** On April 9, 1999, the Postal Service filed with the PRC a request for a recommended decision on Periodicals classification changes designed to provide a remedy to a rate anomaly resulting from the last omnibus rate case, Docket No. R97-1. The PRC designated the filing as Docket No. MC99-3. On April 23, 1999, the PRC published a notice of the filing, with a description of the Postal Service's proposal, in the **Federal Register** (64 FR 13613).

On June 23, 1999, the PRC issued to the Governors of the Postal Service its recommended decision on the Postal Service's request. The PRC recommended the changes proposed by the Postal Service. On July 12, 1999, the Governors of the United States Postal Service voted to approve the PRC's recommendations, and the Board of Governors set an effective date of August 1, 1999.

This final rule contains the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Governors' decision. The revised DMM standards take effect on August 1, 1999.

Because of the unusual circumstances of this anomaly, the Postal Service has also decided to make refunds available for the excess of postage paid using Nonprofit or Classroom rate schedules over postage computed using the Regular rate schedule. These circumstances include the following. The anomaly was an unintended byproduct of the highly complex Periodicals rate design process,

resulting in higher postage for Preferred rate publications than Regular rate publications for certain mail with the same characteristics. Moreover, both the Regular and Preferred rates were available to the publications affected by the anomaly at the time of mailing; and mailers would have qualified for the lower Regular rates if they had surrendered their Nonprofit or Classroom authorizations.

For mailings made prior to August 1, a publisher of a Nonprofit or Classroom Periodicals publication may request a refund for the difference between postage paid at Nonprofit or Classroom rates and postage computed at Regular rates, if the Regular postage is lower. On April 26, 1999, the Postal Service published a notice in the **Federal Register** (see 64 FR 20340–20341) of procedures for tracking differences in postage between Regular rates and Nonprofit or Classroom rates, for the purpose of making refunds for mailings made starting April 9, 1999. The Postal Service has decided that appropriate refunds may be made back to January 10, 1999.

An application for a refund will consist of a written statement that the mailer is currently authorized to use either Classroom or Nonprofit Periodicals rates and wishes to retain that authorization, but also wishes to be considered under these procedures for a refund to be calculated with reference to Regular rate postage statements to be submitted with the refund application and Preferred rate postage statements on file at the post office. Mailers must use the instructions published in the April 26, 1999, **Federal Register** notice. Some publishers may have already submitted refund requests for mailings made between April 9, 1999, and August 1, 1999. Refund requests must be submitted according to published instructions and received no later than September 15, 1999. No refunds will be given for mailings entered on or after August 1, 1999, regardless of whether a mailer could have claimed a lower postage rate.

Under the new rules, the mailer must choose either Regular or Preferred rates for each issue of a publication and complete the applicable postage statement, except that a supplemental mailing at least 10 calendar days after other mailings for the issue can be treated separately. All postage statements for a particular issue should be provided with an application for a refund, but a supplemental mailing at least 10 calendar days after other mailings does not need to be included in calculating refunds.

## List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

### PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as follows:

#### E Eligibility

##### E200 Periodicals

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##### E270 Preferred Periodicals

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### 2.0 NONPROFIT RATE—BASIC INFORMATION:

\* \* \* \* \*

[Add new 2.4 as follows:]

#### 2.4 Rate Anomaly

When the Nonprofit postage computed for a single issue is higher than the Regular postage computed for the same issue, that issue is eligible for postage at Regular rates. Mailers cannot use different rate schedules for the same issue, except for a supplemental mailing for a particular issue entered at least 10 calendar days after other mailings for that issue. Publications claimed at Regular rates under this section with an advertising percentage of 10% or less are considered 100% nonadvertising for Regular rate purposes. Those publications may use “0” as the “advertising percentage” when computing the nonadvertising adjustment to be applied to outside-county piece rate charges.

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### 5.0 CLASSROOM RATES

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[Add new 5.5 as follows:]

#### 5.5 Rate Anomaly

When the Classroom postage computed for a single issue is higher than the Regular postage computed for the same issue, that issue is eligible for postage at Regular rates. Mailers cannot use different rate schedules for the same issue, except for a supplemental mailing for a particular issue entered at least 10 calendar days after other mailings for that issue. Publications claimed at Regular rates under this section with an advertising percentage of 10% or less are considered 100% nonadvertising for

Regular rate purposes. Those publications may use “0” as the “advertising percentage” when computing the nonadvertising adjustment to be applied to outside county-piece rate charges.

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 105–153a; FRL–6378–7]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Mojave Desert Air Quality Management District; Ventura County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Kern County Air Pollution Control District (KCAPCD), the Mojave Desert Air Quality Management District (MDAQMD), and the Ventura County Air Pollution Control District (VCAPCD). The rules control oxides of nitrogen (NO<sub>x</sub>) from cement kilns and electric power generating facilities. This approval action will incorporate these three rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** These rules are effective on September 20, 1999 without further notice, unless EPA receives adverse comments by August 19, 1999. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.