

Dated: May 1, 2009.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Sector San Francisco.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2009-0327]

Safety Zone; Vallejo Fourth of July Fireworks, Vallejo, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Vallejo Fourth of July Fireworks Display safety zone for the city of Vallejo, from 8 p.m. through 10 p.m. on July 4, 2009, in the Mare Island Strait in position 38°5'46" N, 122°15'54" W (NAD83). This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 8 p.m. through 10 p.m. on July 4, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Lieutenant Junior Grade Simone Mausz, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415-399-7442, e-mail simone.mausz@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Vallejo Fourth of July Fireworks in 33 CFR 165.1191 on July 4, 2009, from 8 p.m. through 10 p.m. The fireworks launch site is on the shore line of Mare Island in Vallejo, CA and will be launched from position 38°5'46" N, 122°15'54" W (NAD83).

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order of direction. The

PATCOM is empowered to forbid and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 1, 2009.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Sector San Francisco.

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POSTAL REGULATORY COMMISSION

39 CFR Part 3001

[Docket No. RM2009-4; Order No. 214]

Updates to Rules of Practice

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is removing obsolete rules of practice from the Code of Federal Regulations. The removed rules have been overtaken by rulemakings implementing a new postal law.

DATES: Effective May 18, 2009.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel, 202-7689-6824 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends part 3001 of the Postal Regulatory Commission's rules of practice and procedure, 39 CFR part 3001, by removing subparts B, C, F, G, I, J, K, and L. As explained below, these rules have been rendered obsolete by the passage of the Postal Accountability and Enhancement Act (PAEA), Public Law No. 109-435, 120 Stat. 3218 (2006).

The PAEA transformed the Postal Rate Commission into the Postal Regulatory Commission (Commission);

repealed several key sections of title 39 of the United States Code; and added a number of new statutory provisions to title 39. The result was a major change in the Commission's regulatory responsibilities and authorities. In response to the changes made by the PAEA, the Commission, on October 29, 2007, established a new system of ratemaking which was markedly different from the prior regulatory regime. Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2009 (Order No. 43).

Because of changes made by the PAEA and Order No. 43, subparts B, C, F, G, I, J, K, and L of part 3001 of the Commission's rules of practice are obsolete and are being removed to avoid uncertainty and confusion.

II. Discussion

A. 39 CFR Part 3001, Subpart B—Rules Applicable to Requests for Changes in Rates or Fees

Part 3001, subpart B, was adopted in 1971 and covered requests by the Postal Service for the issuance of recommended decisions by the Postal Rate Commission on proposed changes in rates and fees. 36 FR 396 (January 12, 1971). Subpart B implemented section 3622 of the Postal Reorganization Act (PRA). Section 201(a) of the PAEA struck PRA §§ 3621 and 3622 from title 39 of the United States Code and replaced those two sections with the following new sections: §§ 3621 and 3622 (applicable to market dominant products) and §§ 3631 through 3634 (applicable to competitive products).

To implement these statutory changes, the Commission, in Order No. 43, promulgated new regulations as parts 3010 and 3015. Those latter parts now govern rate changes for market dominant and competitive products, respectively.

The repeal of 39 U.S.C. 3621 and 3622; the addition of new §§ 3621, 3622, and 3631 through 3634 to title 39; and the adoption of parts 3010 and 3015 to the Commission's rules of practice and procedure have, together, rendered subpart B of part 3001 obsolete. Accordingly, the Commission is removing subpart B.

B. 39 CFR Part 3001 Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule; Subpart I—Rules for Expedited Review to Allow Market Tests of Proposed Mail Classification Changes; Subpart J—Rules for Expedited Review of Requests for Provisional Service Changes of Limited Duration; and Subpart K—Rules for Use of Multi-Year Test Periods

Subparts C, I, J, and K of part 3001 of the Commission's rules of practice and procedure cover requests for establishing or changing the Mail Classification Schedule (MCS); requests for expedited review of market tests of proposed mail classification changes; requests for expedited review of proposed provisional service changes of limited duration that will supplement, but not alter, existing mail classifications and rates; and requests for multi-year test periods for proposed services. All four of these subparts implemented PRA § 3623, which dealt with the establishment and modification of the MCS. Subpart C was originally adopted in 1971. 36 FR 396 (January 12, 1971). Subpart C was amended, and subparts I, J, and K were adopted by Order No. 1110 issued by the Postal Rate Commission on May 7, 1996. 61 FR 24447 (May 15, 1996).¹

Section 201(b) of the PAEA repealed PRA § 3623. On October 29, 2007, the Commission established a new MCS that categorized products as either market dominant or competitive. The Commission viewed the new MCS as a “vehicle for presenting the product lists with necessary descriptive content.” Order No. 43, at 101, *citing* Docket No. RM2007–1, Order Proposing Regulations to Establish a System of Rate-making, August 15, 2007, para. 4003 (Order No. 26). The authority to establish a new MCS was derived from the Commission's power under 39 U.S.C. 3642 to consider modifications to the market dominant and competitive product lists. *See* Order No. 26, para. 4001. Regulations governing the market dominant and competitive product lists are contained in part 3020 of the Commission's rules.

The repeal of 39 U.S.C. 3623; the enactment by the PAEA of 39 U.S.C.

3642; and the adoption of the new MCS by Order No. 43 have rendered subparts C, I, J, and K of part 3001 of the rules of practice and procedure obsolete. Accordingly, the Commission is removing those subparts.

C. Subpart F—Rules Applicable to the Filing of Testimony by Intervenor

Subpart F of part 3001 was originally adopted in 1973 and provides rules for the filing by intervenors of relevant and material evidence in rate and classification proceedings. 38 FR 7536 (March 22, 1973).

The enactment of the PAEA and the adoption of regulations governing rate and classification changes in parts 3010, 3015, and 3020 render subpart F of part 3001 obsolete. Unless otherwise ordered by the Commission or a Presiding Officer, evidence can be filed in a Commission proceeding pursuant to rule 31 in subpart A to part 3001.

D. Subpart G—Rules Applicable to the Filing of Reports by the U.S. Postal Service

PRC Order No. 203, Docket No. RM2008–4, April 16, 2009, adopted new periodic reporting rules and placed those rules in a new part 3050. That same order removed rules 3001.102 and 3001.103 from subpart G of part 3001. Through inadvertence, rule 3001.101, the sole remaining rule in subpart G, was left unaffected. Since rule 3001.101 serves no remaining purpose, subpart G is being removed.

E. Subpart L—Rules Applicable to Negotiated Service Agreements

Subpart L of part 3001 was adopted by the Postal Rate Commission during 2004 and provided rules for negotiated service agreements. 69 FR 7574 (February 18, 2004). Subpart L implemented PRA §§ 3622 and 3623.

In addition to repealing §§ 3622 and 3623, the PAEA enacted a new § 3622 to title 39. Section 3622(c)(10) provides the current basis for market dominant negotiated service agreements. New part 3010 adopted by Order No. 43 includes a new subpart D containing rules for rate adjustments for market dominant negotiated service agreements.

The repeal of 39 U.S.C. §§ 3622 and 3623; the enactment by the PAEA of a new § 3622 to title 39; and the adoption of the new subpart D to part 3001 have rendered subpart L of part 3001 obsolete. Accordingly, the Commission is removing subpart L.

III. Effective Date

Notice and comment are not required under the Administrative Procedure Act when a rulemaking involves

“interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice[.]” 5 U.S.C. 553(b)(A). The elimination of subparts B, C, F, G, I, J, K, and L of part 3001 of the Commission's rules of practice and procedure therefore does not require notice and the opportunity for public comment.

Generally, a rule becomes effective not less than 30 days after publication in the **Federal Register**. A rule may become effective sooner if it is an interpretative rule, a statement of policy, or if the agency finds good cause to make it effective sooner. 5 U.S.C. 553(d). Since the statutory bases for the rules of practice being eliminated have been repealed and since new rules reflecting the current statutory scheme have been adopted, the Commission finds that good cause exists to make the rule promulgated by this order effective upon its publication in the **Federal Register**.

IV. Conclusion

In consideration of the foregoing, the Commission removes subparts B, C, F, G, I, J, K, and L of part 3001 of its rules of practice and procedure.

V. Ordering Paragraphs

It is Ordered:

1. Subpart 3001, subparts B, C, F, G, I, J, K, and L are hereby removed from the Commission's rules of practice and procedure.

2. Removal of the subparts referred to in paragraph 1 is effective upon publication of this order in the **Federal Register**.

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

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure; Postal Service.

By the Commission.

Steven W. Williams,
Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR chapter III as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 3001 is revised to read as follows:

Authority: 39 U.S.C. 404(d); 503; 3661.

Subparts B–C [Removed and reserved]

■ 2. Remove and reserve subparts B and C.

¹ These subparts were initially subject to a sunset provision and expired on May 15, 2001. On September 24, 2001, the Postal Rate Commission reissued each of the three subparts for an additional 5 years. Docket No. RM2001–3, Notice and Order Adopting Final Rule, September 24, 2001; 66 FR 54436 (October 29, 2001). On November 8, 2006, the Postal Rate Commission again reissued these three subparts for an additional 5 years. *See* Docket No. RM2006–1, Order Adopting Amendments to the Rules of Practice and Procedure, November 8, 2006; 71 FR 66675 (November 16, 2006).

Subparts F–G [Removed and reserved]

- 3. Remove and reserve subparts F and G.

Subparts I–L [Removed and reserved]

- 4. Remove and reserve subparts I through L.

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DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8075]

Suspension of Community Eligibility**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: Effective Dates: The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return,

communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be

suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

- Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

- 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

- 2. The tables published under the authority of § 64.6 are amended as follows: