

be able to open for emergencies. The bridge normally operates in accordance with 33 CFR 117.460 on signal with at least a four hour advance notice except that it need not open on weekdays except holidays from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m. This deviation will allow the bridge to remain in the closed-to-navigation position from 9 a.m. to 6 p.m. and will open on signal if at least 24 hour notice is given from 6 p.m. to 9 a.m. starting January 31, 2009 through February 14, 2009. During the closure periods the wire ropes used for lifting the movable span will all be changed. Navigation on the waterway consists of tugs with tows, fishing vessels and recreational craft. Due to prior experience, as well as coordination with waterway users, and an alternate route, it has been determined that this closure will not have a significant effect on these vessels.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 12, 2009.

David M. Frank,
Bridge Administrator.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2009-0023]

Drawbridge Operation Regulations; Nanticoke River, Seaford, DE

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the SR 13 Bridge, at mile 39.6, across Nanticoke River, in Seaford, Delaware. Under this temporary deviation, the drawbridge will be allowed to operate on an advance notice basis on particular dates and times. The deviation is necessary to perform inspections of the electrical and mechanical systems.

DATES: This deviation is effective from 8 a.m. on February 6, 2009, to 5 p.m. on May 1, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0023 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: 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, and the Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION: Hardesty and Hanover LLP Engineering, on behalf of the Delaware Department of Transportation (who owns and operates this swing-type drawbridge) requested a temporary deviation from the current operating schedule to perform inspections of the electrical and mechanical systems.

The SR 13 Bridge, at mile 39.6, across Nanticoke River in Seaford, DE, has a vertical clearance of three feet, above mean high water in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.243(b).

Vessel openings will be provided each day from 8 a.m. to 5 p.m. on February 6, 2009, and from April 27 to May 1, 2009, if at least two hours notice is given.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to minimize transiting delays caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 21, 2009.

Waverly W. Gregory, Jr.,
Chief, Bridge Administration Branch Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2009-0022]

Drawbridge Operation Regulations; Cedar Creek, Cedar Beach, DE

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the SR 36 Bridge, at mile 0.5, across Cedar Creek, in Cedar Beach, Delaware. Under this temporary deviation, the drawbridge will be allowed to operate on an advance notice basis on particular dates and times. The deviation is necessary to perform inspections of the electrical and mechanical systems.

DATES: This deviation is effective from 8 a.m. on February 5, 2009, to 5 p.m. on April 3, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0022 and are available online at www.regulations.gov. They are also available for inspection or copying at two locations: 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, and the Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222.

SUPPLEMENTARY INFORMATION: Hardesty and Hanover LLP Engineering, on behalf of the Delaware Department of Transportation (who owns and operates this swing-type drawbridge) requested a temporary deviation from the current operating schedule to perform inspections of the electrical and mechanical systems.

The SR 36 Bridge, at mile 0.5, across Cedar Creek in Cedar Beach, DE, has a vertical clearance of two feet, above mean high water, in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.234.

Vessel openings will be provided each day from 8 a.m. to 5 p.m. on February 5, 2009, and from April 1 to April 3, 2009, if at least two hours' notice is given.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to minimize transiting delays caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 21, 2009.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E9-2498 Filed 2-5-09; 8:45 am]

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POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009-15 and CP2009-21; Order No. 176]

New Domestic Mail Product

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding Express Mail Contract 3 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations and a recent Postal Service request. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective February 6, 2009, and is applicable beginning January 27, 2009.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel, 202-789-6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 74 FR 1262 (January 12, 2009).

The Postal Service seeks to add a new product identified as Express Mail Contract 3 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

I. Background

On December 31, 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 Contract 3

to the Competitive Product List.¹ The Postal Service asserts that the Express Mail Contract 3 product is a competitive product "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2009-15.

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. CP2009-21.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision authorizing the new product which also includes an analysis of Express Mail Contract 3 and certification of the Governors' vote;² (2) a redacted version of the contract which, among other things, provides that the contract will expire 1 year from the effective date, which is proposed to be the day the Commission issues all regulatory approvals;³ (3) requested changes in the Mail Classification Schedule product list;⁴ (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁵ and (5) certification of compliance with 39 U.S.C. 3633(a).⁶

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 coverage of institutional costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Request, Attachment D, at 1. W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *See id.* Attachment E.

The Postal Service filed much of the supporting materials, including the unredacted Governors' Decision and the unredacted Express 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

¹ Request of the United States Postal Service to Add Express Mail Contract 3 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, December 31, 2008 (Request).

² Attachment A to the Request. The analysis that accompanies the Governors' Decision notes, among other things, that the contract is not risk free, but concludes that the risks are manageable.

³ Attachment B to the Request.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ Attachment E to the Request.

projections, should remain confidential. *Id.* at 2-3. It further believes that it would be inappropriate in this case to redact information through the "blackout" method since it could provide information or clues about the name of the customer, the length and breadth of price charts, the complexity of annual adjustment mechanisms, or other similar sensitive information. Accordingly, it redacts the sensitive information using ellipses. *Id.* at 3.

In Order No. 165, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment.⁷

II. Comments

Comments were filed by the Public Representative.⁸ No filings were submitted by other interested parties. The Public Representative states that the Postal Service's filing complies with applicable Commission rules of practice and procedure, and concludes that the Express Mail Contract 3 agreement comports with the requirements of title 39. Public Representative Comments at 4. He further states that the agreement appears beneficial to the general public. *Id.* at 1. He notes that the Postal Service redacted information using ellipses rather than by the "blackout" method because the blackout method might provide information or clues regarding the name of the customer, the length and breadth of the price charts, the complexity of annual adjustment mechanisms, or other similar sensitive information. He believes that in this case the increased care might be warranted, but suggests that the Commission address this issue in its forthcoming rules regarding treatment of confidential information in Docket No. RM2008-1.

III. Commission Analysis

The Commission has reviewed the Request, the contract, the financial analysis provided under seal that accompanies it, and the comments filed by the Public Representative.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning Express Mail Contract 3 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C.

⁷ PRC Order No. 165, Notice and Order Concerning Express Mail Contract 3 Negotiated Service Agreement, January 5, 2009 (Order No. 165).

⁸ Public Representative Comments in Response to United States Postal Service Request to Add Express Mail Contract 3 to Competitive Product List, January 15, 2009 (Public Representative Comments).