

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132. Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one and a half hours on two nights that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L60(a) in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09-0228 to read as follows:

#### § 165.T09-0228 Safety Zone; Harbor Beach Fireworks, Lake Huron, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of Lake Huron, Harbor Beach, within a 200-yard radius of position 43°50.77' N, 082°38.63' W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 10 p.m. until 11 p.m. on July 10, 2020 and July 11, 2020. In the case of inclement weather on July 10, 2020 or July 11, 2020, this safety zone will be enforced from 10 p.m. to 11 p.m. on July 12, 2020.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or

anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his on-scene representative.

(3) The “on-scene representative” of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at (313) 568-9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: May 13, 2020.

**Jeffrey W. Novak,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2020-11302 Filed 6-11-20; 8:45 am]

**BILLING CODE 9110-04-P**

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3030

[Docket No. RM2020-5; Order No. 5510]

#### Market Dominant Postal Products

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Final rule.

**SUMMARY:** The Commission is revising its rules concerning rate incentives for market dominant products to clarify the definition of “rate of general applicability” within the context of a market dominant rate adjustment proceeding; to add an additional criterion for a rate incentive to be included in a percentage change in rates calculation at discounted prices; and to state clearly what information the Postal Service must file to support a claim that a rate incentive meets the necessary criteria to be included in a percentage change in rates calculation at discounted prices.

**DATES:** *Effective:* July 13, 2020.

**ADDRESSES:** For additional information, Order No. 5510 can be accessed electronically through the Commission’s website at <https://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Background
- II. Basis for Rule Changes
- III. Final Rules

**I. Background**

The Commission's rules permit the Postal Service, when adjusting market dominant rates as part of a market dominant rate adjustment proceeding, to include discounted prices for rate incentives that the Postal Service plans to offer in the percentage change in rates calculation, as long as the rate incentive meets certain criteria. 39 CFR

3030.523(e). These criteria are: (1) That the rate incentive is in the form of a discount or can be easily translated into a discount; (2) that sufficient billing determinants are available for the rate incentive to be included in the percentage change in rates calculation; and (3) that the rate incentive is a rate of general applicability. 39 CFR 3030.523(e)(2). The Commission's rules also require the Postal Service to provide "sufficient information to demonstrate that the rate incentive is a rate of general applicability." 39 CFR 3030.512(b)(9)(i).

When the Commission previously promulgated rules with regard to the treatment of market dominant rate incentives, it included a specific definition of "rate of general applicability" in the context of market dominant rate adjustments which provided, *inter alia*, that "[a] rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies." 39 CFR 3030.501(g). The Commission explained that mail volume sent by a mailer in a previous year is not a characteristic of the mail to which rates under an incentive program apply.<sup>1</sup>

In the most recent market dominant rate adjustment proceeding that the Commission conducted, a question arose regarding the extent to which a particular rate incentive proposed by the Postal Service constituted a "rate of general applicability" appropriate for inclusion in the percentage change in rates calculation at discounted prices.<sup>2</sup> After determining that a potential ambiguity existed in the Commission's rules concerning whether a rate

incentive featuring a mailer-specific volume threshold based on historical volume data could constitute a "rate of general applicability," the Commission permitted the rate incentive to be included in the percentage change in rates calculation in Docket No. R2020-1, but indicated that it would initiate a rulemaking proceeding to clarify the issue. *Id.* at 23-24. The Commission then opened Docket No. RM2020-5 and issued a Notice of Proposed Rulemaking proposing amendments to its rules regarding rate incentives for market dominant products and soliciting comments from the public.<sup>3</sup>

**II. Basis for Rule Changes**

In Order No. 5433, the Commission proposed to clarify its rules by making three revisions. First, the Commission proposed to amend § 3030.501(g) to clarify that in order to qualify as a rate of general applicability, a rate cannot be based on mailer-specific data, such as historical mailer volume. Order No. 5433 at 8, 10, 13. Second, the Commission proposed to amend § 3030.523(e)(2) to add an additional criterion for a rate incentive to be eligible for inclusion in a percentage change in rates calculation at discounted prices—the rate incentive must be made available to all mailers equally on the same terms and conditions. Order No. 5433 at 8, 10, 14-15.

The Commission explained that its basis for proposing these revisions was twofold. The Commission was concerned that interpreting "rate of general applicability" to permit volume thresholds based on historical volume data would contravene the policy reasons underlying the general applicability requirement, because, as the Commission has found before, "volume sent by a mailer in a previous year is not a characteristic of the mail to which rates under [an] incentive program apply[.]" due to the fact that past behavior by mailers bears no relationship to mail being sent in the present.<sup>4</sup> The Commission stated that it was equally concerned about the fairness of permitting mailer-specific thresholds for determining eligibility for market dominant rate incentives. Where a rate incentive is not made available to all mailers on the same terms and conditions, the potential exists for non-qualifying mailers to be forced to

subsidize the rate incentives received by qualifying mailers.

The third and final revision the Commission proposed was to amend § 3030.512(b)(9) to add additional requirements intended to ensure that the Postal Service provides sufficient information at the outset of a market dominant rate adjustment proceeding to permit the Commission and stakeholders to verify that all rate incentives included in a percentage change in rates calculation comply with the definition of "rates of general applicability" and are made available to all mailers equally on the same terms and conditions.

The Commission received four sets of comments with regard to its proposed rule revisions. Order No. 5510 at 7. In general, commenters other than the Postal Service were supportive of the changes. *Id.* at 7-8. The Postal Service argued that mailer-specific volume thresholds promote fairness among mailers because more mailers would participate in such promotions than would participate under a static volume threshold. *Id.* at 8-9. However, the Commission found that this did not address its primary concern, which is fairness among all mailers in a class, including those not eligible to participate in promotions. *Id.* at 9-10. The Commission determined that from a policy standpoint it is necessary to have bright-line rules with regard to what promotions can and cannot be included in a percentage change in rates calculation. *Id.* at 10. Therefore, the Commission adopted the proposed rules without modification. *Id.* at 11.

**III. Final Rules**

*Final § 3030.501(g).* Final § 3030.501(g) is revised to state clearly that the definition of "rate of general applicability" within the context of a market dominant rate adjustment proceeding means a rate incentive that is not based on mailer-specific data, such as historical volume data.

*Final § 3030.512(b)(9).* Final § 3030.512(b)(9) is revised to state clearly what information the Postal Service must file to support its claim that a rate incentive meets the necessary criteria to be included in a percentage change in rates calculation.

*Final § 3030.523(e)(2)(iv).* Final § 3030.523(e)(2)(iv) is added to make it a criterion for a market dominant rate incentive to be included in a percentage change in rates calculation that the incentive be available to all mailers equally on the same terms and conditions.

<sup>1</sup> See Docket No. RM2014-3, Order Adopting Final Rules on the Treatment of Rate Incentives and De Minimis Rate Increases for Price Cap Purposes, June 3, 2014, at 15-16 (Order No. 2086).

<sup>2</sup> Docket No. R2020-1, Order on Price Adjustments for USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 22, 2019, at 17, 19-24 (Order No. 5321).

<sup>3</sup> Docket No. RM2020-5, Notice of Proposed Rulemaking to Amend Rules Regarding Rate Incentives for Market Dominant Products, February 14, 2020 (Order No. 5433).

<sup>4</sup> Order No. 5433 at 8-9 (citing Order No. 2086 at 15).

**List of Subjects for 39 CFR Part 3030**

Administrative practice and procedure.

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

**PART 3030—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS**

■ 1. The authority citation for part 3030 continues to read as follows:

**Authority:** 39 U.S.C. 503; 3622.

■ 2. Amend § 3030.501 by revising paragraph (g) to read as follows:

**§ 3030.501 Definitions.**

\* \* \* \* \*

(g) Rate of general applicability means a rate applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic Mail Manual, and the International Mail Manual. A rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies, including the volume of mail sent by a mailer in a past year or years. A rate is not a rate of general applicability if it benefits a single mailer. A rate that is only available upon the written agreement of both the Postal Service and a mailer, a group of mailers, or a foreign postal operator is not a rate of general applicability.

■ 3. Amend § 3030.512 by revising paragraph (b)(9) to read as follows:

**§ 3030.512 Contents of notice of rate adjustment.**

\* \* \* \* \*

(b) \* \* \*

(9) For a notice that includes a rate incentive:

(i) Whether the rate incentive is being treated under § 3030.523(e)(2) or under §§ 3030.523(e)(1) and 3030.524.

(ii) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3030.523(e)(2), whether the rate incentive is available to all mailers equally on the same terms and conditions.

(iii) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3030.523(e)(2), sufficient information to demonstrate that the rate incentive is a rate of general applicability, which at a minimum includes: The terms and conditions of the rate incentive; the factors that determine eligibility for the rate incentive; a statement that affirms that the rate incentive will not benefit a

single mailer; and a statement that affirms that the rate incentive is not only available upon the written agreement of both the Postal Service and a mailer, or group of mailers, or a foreign postal operator.

■ 4. Amend § 3030.523 by revising paragraph (e)(2) to read as follows:

**§ 3030.523 Calculation of percentage change in rates.**

\* \* \* \* \*

(e) \* \* \*

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can easily be translated into a discount;

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior);

(iii) The rate incentive is a rate of general applicability; and

(iv) The rate incentive is made available to all mailers equally on the same terms and conditions.

By the Commission.

**Erica A. Barker,**  
*Secretary.*

[FR Doc. 2020–10902 Filed 6–11–20; 8:45 am]

**BILLING CODE 7710–FW–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

**[EPA–R08–OAR–2019–0696; FRL–10009–49–Region 8]**

**Approval and Promulgation of Air Quality State Implementation Plans; Provo, Utah Second 10-Year Carbon Monoxide Maintenance Plan**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on January 14, 2019. This submittal includes a Clean Air Act (CAA) section 175A(b) second 10-year limited maintenance plan (LMP) for the Provo area for the Carbon Monoxide (CO) National Ambient Air Quality Standard (NAAQS) and revisions to R307–110–12, which incorporates the

LMP into the Utah SIP, Section IX, Part C, Carbon Monoxide into Air Quality rules. The EPA is taking this action pursuant to the CAA.

**DATES:** This rule is effective on July 13, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2019–0696. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6103, [singh.amrita@epa.gov](mailto:singh.amrita@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever “we,” “us” or “our” is used, we mean the EPA.

**I. Background**

On March 2, 2020 (85 FR 12241), the EPA proposed approval of the Provo, second 10-year maintenance plan; which is located at Section IX, Part C.6 of the Utah SIP. The CAA section 175A(b) requires that eight years after an area is redesignated to attainment, the state must submit a subsequent maintenance plan to the EPA, covering a second 10-year period.<sup>1</sup> This second 10-year maintenance plan must demonstrate continued compliance with the NAAQS during this second 10-year period. To fulfill this requirement of the CAA, the Governor of Utah, submitted the second 10-year update of the Provo CO maintenance plan (hereafter; “revised Provo Maintenance Plan”) to us on January 14, 2019. Additionally, Utah submitted revisions to R307–110–12, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, which incorporates the revised CO LMP.

For the revised Provo Maintenance Plan, the State used the LMP option to demonstrate continued maintenance of the CO NAAQS in the Provo area. The

<sup>1</sup> In this case, the initial maintenance period extended through 2015.