

remain in the closed position at different times on November 7, 1999, to facilitate the running of the New York City Marathon. Vessels that can pass under the bridges without bridge openings may do so at all times during these bridge closures.

### Regulatory Evaluation

This temporary 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 the requested closures are of short duration and on Sunday when there have been few requests to open these bridges.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this temporary 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 the reasons discussed 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 temporary 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 temporary final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this temporary 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 temporary final rule and concluded that, under Section 2.B.2., Figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this temporary 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 temporary 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. From 10 a.m. through 5 p.m. on November 7, 1999, § 117.789 is temporarily amended by suspending paragraph (c) and adding a new paragraph (g) to read as follows:

#### § 117.789 Harlem River.

\* \* \* \* \*

(g) The draws of the bridges at 103rd Street, mile 0.0, 3rd Avenue, mile 1.9, 145th Street, mile 2.8, Macombs Dam, mile 3.2, 207th Street, mile 6.0, and the two Broadway Bridges, mile 6.8, shall open on signal if at least four hours notice is given to the New York City Highway Radio (Hotline) Room. The Willis Avenue Bridge, mile 1.5, and Madison Avenue Bridge, mile 2.3, may remain in the closed position.

3. From 10:30 a.m. through 3 p.m. on November 7, 1999, § 117.801 is temporarily amended by suspending paragraph (a)(4) and adding a new paragraph (a)(5) and a new paragraph (f) to read as follows:

#### § 117.801 Newtown Creek, Dutch Kills, English Kills, and their tributaries.

(a) \* \* \* \* \*

(5) Except as provided in paragraphs (b) through (f) of this section, each draw shall open on signal.

\* \* \* \* \*

(f) The draw of the Pulaski Bridge, mile 0.6, across Newtown Creek, may remain closed.

Dated: October 8, 1999.

**Robert F. Duncan,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District*

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### POSTAL SERVICE

#### 39 CFR Part 776

#### Floodplain and Wetland Procedures

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is changing its procedures regarding the acquisition and management of real property and construction of facilities in floodplains and wetlands. These changes simplify and clarify the responsibilities of the Postal Service with regard to public notification and procedures to be followed when evaluating postal facility actions that may involve construction projects in floodplains or wetlands.

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

**FOR FURTHER INFORMATION CONTACT:**

Technical information: Hank Burmeister, (201) 714-5431. Legal information: Jeff Meadows, (202) 268-3009.

**SUPPLEMENTARY INFORMATION:** In 64 FR 48124, September 2, 1999, the Postal Service published a notice of proposed changes to its floodplain and wetland regulations that clarify and simplify the internal evaluation and decision-making processes for constructing facilities in floodplain and wetland areas, while ensuring public input and notice of these decisions. The Postal Service proposed to separate the requirements regarding floodplains, based upon Executive Order (EO) 11988, from the requirements regarding wetlands, based upon EO 11990. Experience over the years demonstrated that the prior procedures did not adequately balance the needs of local communities with the Postal Service's mandate to provide universal, prompt and efficient mail service while complying with environmental protection policies.

The floodplain procedures apply to construction of new postal facilities in floodplains. They also apply to other construction projects, including the expansion or renovation of existing facilities, that would increase the amount of impervious area in a floodplain, such as paving over a dirt and gravel parking lot. However, the procedural requirement to conduct a no practicable alternatives analysis will not apply to every construction project

located in a floodplain. The no practicable alternatives analysis also will not apply where the entire preferred area for the location of a postal facility, whether expanded, renovated or replaced, is in the floodplain.

The wetland procedures apply to construction of postal facilities in wetlands. For example, if construction is proposed in a wetland, the Postal Service must issue a written determination that there is no practicable alternative to such construction and that the proposed action includes all practicable mitigation measures.

The Postal Service will continue to review the potential environmental impacts and effects of facility actions even if a construction activity is not subject to the no practicable alternative review process and will incorporate appropriate mitigation measures into facilities projects.

The Postal Service requested that comments on the proposal be submitted by October 4, 1999. No comments were received by that date. The Postal Service is changing the language proposed in § 776.5(f) from "local newspaper reporters" to "local newspapers" due to an editing error. In light of the foregoing, the Postal Service has decided to implement the proposed changes to its floodplain and wetland procedures.

#### List of Subjects in 39 CFR Part 776

Floodplains, Postal Service.

For the reasons stated in the preamble, the Postal Service revises 39 CFR part 776 to read as follows:

### PART 776—FLOODPLAIN AND WETLAND PROCEDURES

#### Subpart A—General Provisions

- Sec.  
776.1 Purpose and policy.  
776.2 Responsibility.  
776.3 Definitions.

#### Subpart B—Floodplain Management

- Sec.  
776.4 Scope.  
776.5 Review procedures.  
776.6 Design requirements for construction.  
776.7 Lease, easement, right-of-way, or disposal of property to non-federal parties.

#### Subpart C—Wetlands Protection

- Sec.  
776.8 Scope.  
776.9 Review procedures.  
776.10 Lease, easement, right-of-way, or disposal of property to non-Federal parties.

Authority: 39 U.S.C. 401.

#### Subpart A—General Provisions

##### § 776.1 Purpose and policy.

(a) The regulations in this part implement the goals of Executive Orders 11990, Protection of Wetlands, and 11988, Floodplain Management, and are adopted pursuant to the Postal Reorganization Act, as the Postal Service does not meet the definition of the term "agency" used in the Executive Orders.

(b) The Postal Service intends to exercise leadership in the acquisition and management of real property, construction of facilities, and disposal of real property, located in floodplains and wetlands. Consistent with the goals of the Executive Orders, the regulations in this part are not intended to prohibit floodplain and wetland development in all circumstances, but rather to create a consistent policy to minimize adverse impacts.

##### § 776.2 Responsibility.

The appropriate Manager, Facilities Service Office, or functional equivalent within the Postal Service's facilities organization, in conjunction with the appropriate Vice President, Area Operations, or functional equivalent within the Postal Service's operations organization, are responsible for overall compliance with the regulations in this part pertaining to facilities projects. The Vice President, Area Operations, is responsible for compliance with these regulations for those projects within the Vice President's delegated authority.

##### § 776.3 Definitions.

*Construction* means construction, alterations, renovations, and expansions of buildings, structures and improvements.

*Contending site* means a site or existing building for a proposed postal facility action, which meets the requirements of the Postal Service as determined by the operations organization.

*Facility* means any building, appurtenant structures, or associated infrastructure.

*Floodplain* means the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including, at a minimum, that area subject to a one percent or greater chance of flooding in any given year (also known as a 100-year floodplain).

*Practicable* means capable of being accomplished within existing constraints. The test of what is practicable depends on the situation and includes consideration of many factors, such as environment, cost,

technology, implementation time, and postal operational needs.

*Preferred area* means the specific geographical area proposed for a new postal facility, as developed by the operations organization within the Postal Service. A preferred area's boundaries are unique for each proposed facility based on the operational and customer service needs of the Postal Service.

*Preferred site* means the most advantageous site for a proposed facility, taking into consideration postal operational and customer service needs, cost, and availability, as determined by the operations organization within the Postal Service.

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

#### Subpart B—Floodplain Management

##### § 776.4 Scope.

(a) The regulations in this subpart are applicable to the following proposed postal facility actions located in a floodplain:

- (1) New construction, owned or leased; or
- (2) Construction projects at an existing facility that would increase the amount of impervious surface at the site.

(b) These procedures are not applicable to the following postal facility actions:

- (1) Those actions identified in paragraphs (a)(1) and (a)(2) of this section, when the entire preferred area, or all contending sites, for such actions lies within a floodplain;
- (2) Incidental construction, such as construction of athletic fields, recreational facilities, sidewalks, and other minor alteration projects;
- (3) Construction at existing postal facilities pursuant to the Architectural Barriers Act or postal accessibility standards;
- (4) Any facility construction project deemed necessary to comply with federal, state, or local health, sanitary, or safety code standards to ensure safe working conditions;
- (5) Construction of facilities that are functionally dependent on water, such as piers, docks, or boat ramps;
- (6) Maintenance, repair, or renovation of existing facilities; or
- (7) Leasing or other use of space for not more than one year.

**§ 776.5 Review procedures.**

Officials shall follow the decision-making process outlined in paragraphs (a) through (f) of this section, when a facility action may involve floodplain issues. Under certain circumstances, this process may be carried out with fewer steps if all objectives of the decision-making process can be achieved. A general principle underlying this process is that a postal facility action requiring construction in a floodplain may be considered only when there is no practicable alternative.

(a) *Analysis of alternatives.* If a postal facility action would involve construction in a floodplain, alternative actions shall be considered.

(b) *Early public notice.* If a facility action at the contending site(s) could require construction in a floodplain, public notice must be provided.

(c) *Floodplain location and information.* (1) Personnel shall determine whether construction would occur within a floodplain. The determination shall be made by reference to appropriate Department of Housing and Urban Development (HUD) floodplain maps (sometimes referred to as Floodplain Insurance Rate Maps (FIRM)), or Federal Emergency Management Agency (FEMA) maps, or more detailed maps if available. If such maps are not available, floodplain location must be determined based on the best available information.

(2) Once the preferred site has been identified, potential floodplain impacts must be determined. As part of this determination process, specific floodplain information should be developed, which is to consider:

(i) Whether the proposed action will directly or indirectly support floodplain development;

(ii) Flood hazard and risk to lives and property;

(iii) Effects on natural and beneficial floodplain values, such as water quality maintenance, groundwater recharge, and agriculture; and

(iv) Possible measures to minimize harm to, or impact on, the floodplain.

(d) *Reevaluation.* After the above steps have been followed, if the determination is that there appears to be no practicable alternative to constructing in a floodplain, a further review of alternatives must be conducted by the facilities organization in conjunction with the operations organization requesting the construction of the facility. The further review of alternatives must be conducted by the operations organization for projects within the delegated authority of the Vice President, Area Operations.

(e) *Final public notice.* As a result of the reevaluation, if it is determined that there is no practicable alternative to constructing in a floodplain, public notice shall be provided as soon as possible for the proposed action. The notice should be publicized and should include:

(1) Identification of the project's location;

(2) Provision for a 30-day public commenting period before irrevocable action is taken by the Postal Service; and

(3) Name and complete address of a postal contact person responsible for providing further information on the decision to proceed with a facility action or construction project in a floodplain. Upon request, that person shall provide further information as follows:

(i) A description of why the proposed action must be located in a floodplain;

(ii) A listing of alternative actions considered in making the determination; and

(iii) A statement indicating whether the action conforms to applicable state and local floodplain protection standards.

(f) *Distribution.* The above public notice will be sent to appropriate officials, local newspapers, and other parties who express interest in the project.

(g) *NEPA coordination.* If either an Environmental Impact Statement or an Environmental Assessment is required under the Postal Service's National Environmental Policy Act (NEPA) regulations, the above review procedures must be incorporated into and evaluated in that document.

**§ 776.6 Design requirements for construction.**

If structures impact, are located in, or support development in a floodplain, construction must conform, at a minimum, to the standards and criteria of the National Flood Insurance Program (NFIP), except where those standards are demonstrably inappropriate for postal purposes.

**§ 776.7 Lease, easement, right-of-way, or disposal of property to non-federal parties.**

When postal property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties, the Postal Service shall:

(a) Reference in the conveyance document that the parcel is located in a floodplain and may be restricted in use pursuant to federal, state, or local floodplain regulations; or

(b) Withhold the property from conveyance.

**Subpart C—Wetlands Protection****§ 776.8 Scope.**

(a) The regulations in this subpart are applicable to the following proposed postal facility actions located in a wetland:

(1) New construction, owned or leased; or

(2) Construction projects at an existing facility that would alter the external configuration of the facility.

(b) These procedures are not applicable to the following postal facility actions:

(1) Construction of foot and bike trails, or boardwalks, including signs, the primary purposes of which are public education, interpretation, or enjoyment of wetland resources;

(2) Construction at existing postal facilities pursuant to the Architectural Barriers Act or postal accessibility standards;

(3) Any facility construction project deemed necessary to comply with federal, state, or local health, sanitary, or safety code standards to ensure safe working conditions;

(4) Construction of facilities that are functionally dependent on water, such as piers, docks, or boat ramps; or

(5) Maintenance, repair, or renovation of existing facilities.

**§ 776.9 Review procedures.**

(a) *Early public notice.* If a facility action at the contending site(s) could require construction in a wetland, public notice must be provided.

(b) *Finding of no practicable alternative.* The Postal Service shall avoid construction located in a wetland unless it issues a finding of no practicable alternative. The facilities organization, in conjunction with the operations organization, or, for projects within the delegated authority of the Vice President, Area Operations, the operations organization, shall make a written determination that:

(1) There is no practicable alternative to such construction; and

(2) The proposed action includes all practicable measures to minimize harm to wetlands.

(c) *NEPA coordination.* If either an Environmental Impact Statement or an Environmental Assessment is required under the Postal Service's National Environmental Policy Act (NEPA) regulations, the above review procedures must be incorporated into and evaluated in that document.

**§ 776.10 Lease, easement, right-of-way, or disposal of property to non-federal parties.**

When postal-owned wetlands or portions of wetlands are proposed for

lease, easement, right-of-way, or disposal to non-federal public or private parties, the Postal Service shall:

(a) Reference in the conveyance document that the parcel contains wetlands and may be restricted in use pursuant to federal, state, or local wetlands regulations; or

(b) Withhold the property from conveyance.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

#### Identification and Listing of Hazardous Waste

##### *CFR Correction*

In Title 40 of the Code of Federal Regulations, parts 260 to 265, revised as of July 1, 1999, page 101, part 261, Appendix IX, Table 1 is corrected by removing the entry for "Bethlehem Steel Corporation, Lackawanna, New York" and correctly adding it to Table 2 of Appendix IX on page 118 preceding "BF Goodrich Intermediates Company, Inc.". Also, on page 116, the entry for "Bethlehem Steel Corp. Steelton, PA" is transferred below "Bethlehem Steel, Corporation, Lackawanna, New York".

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 64

[Docket No. FEMA-7723]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, FEMA.

**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 suspended 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 be withdrawn by publication in the **Federal Register**.

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

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Shea Jr., Division Director, Program Support Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646-3619.

**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 National Flood Insurance Program, 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 *et seq.* 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, the Federal Emergency Management Agency has identified the special flood hazard areas 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 the identified special

flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency'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 Associate Director 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 a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been 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 Associate Director 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 they take remedial action.

#### 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.

#### 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.*