

■ 2. Add § 886.5300 to subpart F to read as follows:

**§ 886.5300 Tear electrostimulation device.**

(a) *Identification.* A tear electrostimulation device is a non-implantable, electrostimulation device intended to increase tear production.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Non-clinical performance testing must assess the following electrical output specifications: waveforms, output modes, maximum output voltage, maximum output current, pulse duration, frequency, net charge per pulse, maximum phase charge at 500 ohms, maximum current density, maximum average current, and maximum average power density.

(2) Patient-contacting components of the device must be demonstrated to be biocompatible.

(3) Performance testing must demonstrate the electrical, thermal, and mechanical safety along with electromagnetic compatibility (EMC) of the device in the intended use environment.

(4) Software verification, validation, and hazard analysis must be performed.

(5) Physician and patient labeling must include:

(i) Summaries of electrical stimulation parameters;

(ii) Instructions on how to correctly use and maintain the device;

(iii) Instructions and explanations of all user-interface components;

(iv) Information related to electromagnetic compatibility classification; and

(v) Instructions on how to clean the device.

Dated: December 13, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2017-1026]

**Drawbridge Operation Regulation; Newark Bay, Newark, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating

schedule that governs the Lehigh Valley Railroad Bridge across the Newark Bay, mile 4.3, at Newark, New Jersey. The deviation is necessary to test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation allows the Lehigh Valley RR Bridge to operate under an alternate schedule for ninety (90) days to alleviate high volume of rail service across the Lehigh Valley RR Bridge and to better accommodate vessel traffic.

**DATES:** This deviation is effective from 12:01 a.m. on January 1, 2018 to 11:59 p.m. on March 31, 2018.

Comments and related material must reach by the Coast Guard on or before March 31, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG-2017-1026 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Judy K. Leung-Yee, Project Officer, First Coast Guard District; telephone 212-514-4336, email [Judy.K.Leung-Yee@uscg.mil](mailto:Judy.K.Leung-Yee@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Background, Purpose and Legal Basis**

The Lehigh Valley Railroad Bridge across the Newark Bay, mile 4.3, at Newark, New Jersey is a lift bridge with a vertical clearance of 35 feet at mean high water and 39 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.5 and 33 CFR 117.735.

The owner of the bridge, Consolidated Rail Corporation, requested a change to the Drawbridge Operation Regulations because the volume of train traffic and maneuvering of train movements from the adjacent rail yard across the bridge cause significant delays to marine traffic.

The waterway users are seasonal recreational vessels and commercial vessels of various sizes.

The Coast Guard is publishing this temporary deviation to test the proposed regulation change to determine whether a permanent change to the schedule is necessary to better balance the needs of marine and rail traffic.

Under this deviation, in effect from 12:01 a.m. on January 1, 2018 to 11:59 p.m. on March 31, 2018, the Lehigh Valley Railroad Bridge will open on

signal if at least one hour advance notice is given.

Vessels able to pass through the bridge in the closed position may do so at anytime. There are no alternate routes. The bridge will be able to open for emergencies.

The Coast Guard contacted the waterway users regarding this proposed temporary deviation to test a proposed change to the Drawbridge Operation Regulations and no objections were received. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners and other appropriate local media of the change in operating schedule for the bridge so that vessel operators may arrange their transits to minimize any impact 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 effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

**II. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicating the specific section of this document to which each comment applies, and provide reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any person information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this notice as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: December 14, 2017.

**Christopher J. Bisignano,**  
*Supervisory Bridge Management Specialist,  
First Coast Guard District.*

[FR Doc. 2017-27298 Filed 12-18-17; 8:45 am]

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## POSTAL SERVICE

### 39 CFR Part 501

#### Revisions to the Requirements for Authority To Manufacture and Distribute Postage Evidencing Systems; Customized Postage Products

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** In January, 2017, the Postal Service proposed to amend its Postage Evidencing Systems regulations to standardize requirements for the authorization to produce Customized Postage, a Special Service approved by the Postal Regulatory Commission. Comments were received by all authorized providers of Customized Postage products and the Alliance of Nonprofit Mailers. The Postal Service considered these comments and addresses them below.

Customized Postage products are provided through authorized Postage Evidencing System manufacturer-distributors or through companies affiliated with authorized Postage Evidencing System manufacturer-distributors and approved by the Postal Service. During the development of the Customized Postage program, requirements for authorization to produce Customized Postage products were described in **Federal Register** notices and in individual approval letters issued to providers. These final rules give regulatory form to the existing requirements for authorization to produce Customized Postage products, and incorporate procedures for the protection of Postal Service business interests. Existing providers of Customized Postage products may continue provision of Customized Postage products subject to these final rules upon their effective date, which coincides with renewal of the product year, and any requirements set forth in individual authorization letters.

**DATES:** These amendments take effect on May 15, 2018.

**FOR FURTHER INFORMATION CONTACT:** Christy Noel, Legal Policy & Legislative Advice, U.S. Postal Service, (202) 268-3484.

**SUPPLEMENTARY INFORMATION:** The Postal Reorganization Act authorizes the Postal

Service to provide such evidence of postage payment “as may be necessary or desirable.” 39 U.S.C. 404(a)(4). The Postal Service exercises this authority through 39 CFR part 501, which protects postal revenues by regulation of manufacturer-distributors of Postage Evidencing Systems. Customized Postage products were developed through market tests allowing Authorized Postage Evidencing System providers to combine evidence of prepayment of postage with a customer-selected or customer-provided graphic image for printing and fulfillment. *See*, 70 FR 21821 (April 27, 2005); 71 FR 12718 (March 13, 2006). Subsequently, Customized Postage was approved as a Special Service by the Postal Regulatory Commission. *See*, 75 FR 11452, 11459 (March 11, 2010). The amendments to 39 CFR part 501 create standardized definitions, requirements, and procedures applicable to the authorization to provide Customized Postage products, and incorporate protections for the Postal Service’s legal, financial, and brand interests.

All comments received in response to the proposed rules published at 82 FR 1294 (January 5, 2017) requested the creation of a nonprofit category of content in addition to the strictly commercial or limited social categories of content designated as eligible for customer-provided or customer-selected images. All comments claimed that the inclusion of an eligible nonprofit content category would increase program revenues, and the Alliance of Nonprofit Mailers specifically alleged that excluding nonprofit content from the categories of eligible content would constitute unlawful discrimination against nonprofit mailers. The Postal Service disagrees on both counts. Customized Postage products are not U.S. stamps; they are a specialized form of evidence of prepayment of postage offered through statutory authority contained in 39 U.S.C. 404(a)(4). Because they share the function and appearance of U.S. stamps, however, the Postal Service must limit eligible private content to protect its own business and brand interests against dilution, false attribution, appearances of endorsement, and other potential impacts. The First Amendment requires that such content- or speaker-based restrictions be reasonable and viewpoint-neutral. *See, Matal v. Tam*, 137 S.Ct. 1744, 1763 (2017). Selective acceptance of only those nonprofit causes or organizations that do not present threats to the Postal Service’s brand would constitute impermissible viewpoint discrimination, which would

endanger the entire program. Such legal risks would offset any potential revenue increases attributable to the eligibility of nonprofit content. Excluding entire categories of content altogether to help avoid unlawful viewpoint discrimination is an eminently reasonable limitation made in accordance with First Amendment principles. This exclusion does not constitute unlawful discrimination against nonprofit mailers, who may purchase Customized Postage products subject to the same terms and conditions as other users of the mail.

Comments from existing providers argued that Customized Postage restrictions should be uniformly applied across other Postal Service programs or products that allow some degree of customization. However, tailoring content restrictions to the unique context of each of its various customizable products or programs is necessary to serve the Postal Service’s diverse interests and goals and is consistent with First Amendment forum analysis.

Comments from Authorized Postage Evidencing System providers also requested acceptance of otherwise eligible images containing incidental depictions of certain prohibited content. For alcohol, tobacco, gambling, and weapons, the Postal Service agrees that allowing incidental depictions of these prohibited categories of content contained within otherwise eligible images would be consistent with program purposes while maintaining or increasing revenues. For example, an image of toasting wedding celebrants may remain eligible despite depictions of alcohol, an image of an armed services member may remain eligible despite depictions of weaponry, and so on. However, for religious, violent, or political content, the Postal Service does not agree that incidental depictions of these prohibited categories of content contained within otherwise eligible images would be consistent with program purposes. Such an expansion would delegate unduly fine-grained distinctions to providers and increase First Amendment and brand liability.

The eligibility of alcoholic beverage logos in the commercial content category was requested. Although allowing incidental depictions of alcohol in a commercial or social context, as explained above, is acceptable under the final rules, allowing the non-incidental display of logos promoting alcoholic beverage sales creates more brand risks, and arguably opens other commercial categories that the Postal Service may be compelled to accept by First