

environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

#### 12. Energy Effects

This proposed rule is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule involves a safety zone that will be enforced for only two hours. This rule is categorically excluded, under, paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0086 to read as follows:

**§ 165.T07–0086 Safety Zone, Corp. Event Finale UHC, St. Thomas Harbor; St. Thomas, U.S. Virgin Islands.**

(a) *Regulated Areas.* The following regulated area is established as a safety zone: All waters within an 800 foot radius of 18°18.205 N, 64°55.556 W. All coordinates are North American Datum 1983. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port San Juan.

(b) *Definition.* The term “designated representative” means U.S. Coast Guard Patrol Commanders, including U.S. Coast Guard coxswains, petty officers, and other officers operating U.S. Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone, unless authorized by the Captain of the Port San Juan or those participating in the firework display.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port San Juan by telephone at (787) 289–2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative.

(3) The U.S. Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced on Wednesday, April 24, 2013 from 8:00 p.m. until 10:00 p.m.

Dated: March 3, 2013.

**D.W. Pearson,**

*Captain, U.S. Coast Guard, Captain of the Port San Juan.*

[FR Doc. 2013–05905 Filed 3–13–13; 8:45 am]

**BILLING CODE 9110–04–P**

### POSTAL SERVICE

#### 39 CFR Part 111

#### Refunds and Exchanges

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service™ proposes to revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 604.9, and other DMM sections, to remove obsolete standards pertaining to postage refunds and stamp exchanges; standardize processes for requesting refunds for PC Postage® labels and extra service refunds; and change the methods for calculating refund assessment amounts.

**DATES:** Submit comments on or before April 15, 2013.

**ADDRESSES:** Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service®, 475 L’Enfant Plaza SW., Room 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L’Enfant Plaza SW., 11th Floor N., Washington, DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1–202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: [ProductClassification@usps.gov](mailto:ProductClassification@usps.gov), with a subject line of “Refunds and Exchanges.” Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:**

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Karen Key, [karen.f.key@usps.gov](mailto:karen.f.key@usps.gov), 202–268–2282

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**SUPPLEMENTARY INFORMATION:**

Technological advances have facilitated expansion of authorized methods for paying postage and requesting postage refunds. As a result, certain manual

refund processes have become unnecessary and inefficient. As new postage payment methods options were adopted, some refund and appeals time periods were inadvertently omitted. No changes are proposed to the claims process for indemnity for Insured and COD articles. If adopted, these proposed changes will correct earlier revisions, provide clarity, and remove obsolete standards as follows:

- Standards for refunds for postage stamps affixed to Business Reply Mail® (BRM) pieces, and for annual presort mailing fees, would be revised so that the permit holder may request a credit to an advance deposit account. A direct refund could be requested for postage affixed to BRM only if an advance deposit account is not used or is unavailable under 604.9.2.6.

- The refund amount for postage stamps affixed to BRM pieces would be aligned with other forms of postage refunds by eliminating the assessment for the USPS work hours used to process the refund. Refunds may not exceed 90 percent of the indicia's face value.

- The amount granted for refunds for dated or undated, unused postage meter indicia, when the total face value of the indicia is more than \$350, would be aligned with the process used when the total face value is less than \$350, which is 90 percent of the face value of the indicia. This would include eliminating assessments for work hours used to process the refund.

- Clarifications would be made that meter postage refunds are not given for: A decertified meter or a meter which is reported lost by the provider and recovered after 365 days.

- We propose to remove the following obsolete standards from the DMM: Converting stamps to other postage forms, the former Special Delivery service, and providing refunds for adhesive stamps affixed to unmailed matter in connection with an authorized marketing program. Additionally, as a result of removing obsolete stamp conversions, only exchanges of Semipostal stamps would be permitted.

- We propose additional language in the standards for extra service refunds to clarify that proof of receipt by the Postal Service must be included with the refund request, regardless of the postage payment method used. Proof of acceptance can be a valid USPS acceptance or mail processing scan, a USPS postmarked (round-dated) mailing receipt or retail Post Office mailing receipt. Evidence that postage was paid is not proof the article was presented for mailing or was inducted into the mailstream.

- Prior to the availability of electronic scanning data, signatures were routinely captured for mailpieces being returned to the sender as undeliverable.

Additionally, when mailpieces with extra services that do not include indemnity, such as Certified Mail® and Signature Confirmation™, are designed to capture the signature of the recipient indicated by the sender in the delivery address. We propose new standards to clarify that if the sender or the sender's agent is not available to sign for returned, undeliverable Certified Mail, Signature Confirmation items, capturing the sender's signature is not required. Return to sender scans will still be provided in these cases.

- Consistent with existing delivery record retention periods, language is being incorporated to state that refund requests for extra services not rendered should be made by the mailer not less than 10 days, or not more than 18 months (i.e. before the two year record retention period expires), from date that the service was purchased.

- Duplicate references to Express Mail® refunds not given provided in DMM sections 114.2.0, 214.3.0, 314.3.0, and 414.3.0, along with other related refund standards, will be relocated to existing section 604.9.5, *Express Mail Postage Refunds*.

- We propose a minimum threshold of \$50 per mailing for mailers requesting Value Added Refunds (VAR). Data shows that approximately 10 percent of all VAR refunds requested are below \$50. More specifically, 2.44 percent are for amounts less than \$10 and 1 percent is for amounts less than \$1. The administrative costs, associated to both the mailer and the Postal Service, will generally exceed \$50 making such requests a negative return on investment.

- The Postal Service provides customers with an appeals process for unfavorable rulings on postage refund requests made to an authorized PC Postage provider. These appeals require a manual, detailed review of the denial that was not previously accounted for in refunds standards. Therefore, we propose to align the refund standards for PC Postage appeals with the standards for meter indicia refunds. If an appeal of an unfavorable refund request regarding PC Postage results in a refund, its amount would not exceed 90 percent of the indicia's face value.

Customers are reminded that, except in the event of a service failure on a guaranteed product or for an extra service, refund requests for postage purchased through an authorized PC Postage provider must be made directly through that provider. Only appeals to

an adverse ruling on such requests made by a provider within the allotted time period may be directed to the Postal Service through the manager, Payment Technology, USPS Headquarters as provided in DMM 608.8.

If the proposed rules in this article are adopted, PS Form 3533, *Application for Refund of Fees*, will be revised to reflect the changes.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

#### List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

#### PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), as follows:

#### Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

##### 100 Retail Letters, Cards, Flats, and Parcels

\* \* \* \* \*

##### 110 Express Mail

##### 113 Prices and Eligibility

\* \* \* \* \*

#### 2.0 Basic Eligibility Standards for Express Mail

##### 2.1 Definition

[Revise the first sentence of 2.1 and then add a new second sentence as follows:]

Express Mail is an expedited service for shipping any mailable matter, with a money-back guarantee, subject to the standards below. Refunds standards for domestic Express Mail Next Day and Second Day Delivery are provided in 604.9.5. \* \* \*

\* \* \* \* \*

**4.0 Service Features of Express Mail**

\* \* \* \* \*

**4.2 Express Mail Next Day Delivery**

\* \* \* \* \*

*[Delete 4.2.6 Refunds in its entirety.]*

\* \* \* \* \*

**4.3 Express Mail Second Day Delivery**

\* \* \* \* \*

*[Delete 4.3.5 Refunds in its entirety.]*

\* \* \* \* \*

**4.4 Express Mail Military Service (EMMS)****4.4.1 Objectives***[Replace the third sentence of 4.4.1 as follows:]*

\* \* \*. For EMMS, the USPS refunds standards are provided in 604.9.5.

\* \* \* \* \*

**114 Postage Payment Methods**

\* \* \* \* \*

*[Delete 2.0, Postage Refunds, in its entirety.]*

\* \* \* \* \*

**200 Commercial Letters and Cards**

\* \* \* \* \*

**210 Express Mail****213 Prices and Eligibility**

\* \* \* \* \*

**3.0 Basic Standards for Express Mail****3.1 Definition***[Revise the first sentence of 3.1 then add a new second sentence as follows:]*

Express Mail is an expedited service for shipping any mailable matter, with a money-back guarantee, subject to the standards below. Refunds standards for domestic Express Mail are provided in 604.9.5. \* \* \*

\* \* \* \* \*

**4.0 Service Features of Express Mail**

\* \* \* \* \*

**4.2 Express Mail Next Day Delivery**

\* \* \* \* \*

*[Delete 4.2.5 Refunds in its entirety.]*

\* \* \* \* \*

**4.3 Express Mail Second Day Delivery**

\* \* \* \* \*

*[Delete 4.3.5 Refunds in its entirety.]***4.4 Express Mail Custom Designed***[Delete 4.4.8 Refunds]*

\* \* \* \* \*

**4.5 Express Mail Military Service (EMMS)****4.5.1 Objectives***[Replace the third sentence of 4.5.1 as follows:]*

\* \* \*. For EMMS, the USPS refunds standards are provided in 604.9.5.

\* \* \* \* \*

**214 Postage Payment and Documentation**

\* \* \* \* \*

*[Delete 3.0, Postage Refunds, in its entirety.]*

\* \* \* \* \*

**300 Commercial Flats**

\* \* \* \* \*

**310 Express Mail****313 Prices and Eligibility**

\* \* \* \* \*

**3.0 Basic Standards for Express Mail****3.1 Definition***[Revise the first sentence of 3.1 and then insert a new second sentence as follows:]*

Express Mail is an expedited service for shipping any mailable matter, with a money-back guarantee, subject to the standards below. Refunds standards for domestic Express Mail are provided in 604.9.5. \* \* \*

\* \* \* \* \*

**4.0 Service Features of Express Mail**

\* \* \* \* \*

**4.2 Express Mail Next Day Delivery**

\* \* \* \* \*

*[Delete 4.2.5 Refunds in its entirety.]***4.3 Express Mail Second Day Delivery**

\* \* \* \* \*

*[Delete 4.3.5 Refunds in its entirety.]***4.4 Express Mail Custom Design**

\* \* \* \* \*

*[Delete 4.4.8 Refunds in its entirety.]***4.5 Express Mail Military Service (EMMS)****4.5.1 Objectives***[Replace the third sentence of 4.5.1 as follows:]*

\* \* \*. For EMMS, the USPS refunds standards are provided in 604.9.5.

\* \* \* \* \*

**314 Postage Payment and Documentation**

\* \* \* \* \*

*[Delete 3.0, Postage Refunds, in its entirety.]*

\* \* \* \* \*

**400 Commercial Parcels**

\* \* \* \* \*

**410 Express Mail****413 Prices and Eligibility**

\* \* \* \* \*

**3.0 Basic Standards for Express Mail****3.1 Definition***[Revise the first sentence of 3.1 and then insert a new second sentence as follows:]*

Express Mail is an expedited service for shipping any mailable matter, with a money-back guarantee, subject to the standards below. Refunds standards for domestic Express Mail are provided in 604.9.5. \* \* \*

\* \* \* \* \*

**4.0 Service Features of Express Mail**

\* \* \* \* \*

**4.2 Express Mail Next Day Delivery**

\* \* \* \* \*

*[Delete 4.2.5 Refunds in its entirety.]*

\* \* \* \* \*

**4.3 Express Mail Second Day Delivery**

\* \* \* \* \*

*[Delete 4.3.5 Refunds in its entirety.]*

\* \* \* \* \*

**4.4 Express Mail Custom Designed***[Delete 4.4.9 Refunds]***4.5 Express Mail Military Service (EMMS)****4.5.1 Objectives***[Replace the third sentence of 4.5.1 as follows:]*

\* \* \*. For EMMS, the USPS refunds standards are provided in 604.9.5.

\* \* \* \* \*

**414 Postage Payment and Documentation**

\* \* \* \* \*

*[Delete 3.0, Postage Refunds, in its entirety.]*

\* \* \* \* \*

**500 Additional Mailing Services**

\* \* \* \* \*

**505 Return Services****1.0 Business Reply Mail (BRM)**

\* \* \* \* \*

**1.6 Postage, Per Piece Fees, and Account Maintenance Fees**

\* \* \* \* \*

**1.6.6 With Postage Affixed***[Revise the fourth sentence of 1.6.6 as follows:]*

\* \* \* The permit holder may request a credit to the advance deposit account for postage affixed to BRM. A refund may be requested under 604.9.2 for postage affixed to BRM only if an advance deposit is not used.

\* \* \* \* \*

**500 Additional Mailing Services**

\* \* \* \* \*

**507 Mailer Services**

\* \* \* \* \*

**1.8 Returning Mail**

**1.8.5 Extra Services**

[Revise 1.8.5 by revising the text of the fourth sentence and adding a new fifth sentence as follows:]

\* \* \* The sender must sign a delivery receipt for returned Express Mail and for Registered Mail, COD articles, mail insured for more than \$200, and any mail sent with return receipt for merchandise service. Returned Express Mail (when waiver of signature is requested by sender), Certified Mail, and mail with Signature Confirmation service, USPS Tracking/Delivery Confirmation service, or return receipt for merchandise service may be returned to the sender without obtaining a signature when those mailpieces are properly returned to sender as undeliverable.

\* \* \* \* \*

**600 Basic Standards for All Mailing Services**

\* \* \* \* \*

**604 Postage Payment Methods**

\* \* \* \* \*

**4.0 Postage Meters and PC Postage Products (“Postage Evidencing Systems”)**

\* \* \* \* \*

**4.7 Authorization to Produce and Distribute Postage Evidencing Systems**

[Revise the second sentence of 4.7 as follows:]

\* \* \* Additional information may be obtained from the manager, Payment Technology (see 608.8.1 for address).

\* \* \* \* \*

[Revise the title of 9.0 as follows:]

**9.0 Exchanges and Refunds**

**9.1 Stamp Exchanges**

**9.1.1 USPS Fault**

\* \* \* \* \*

**9.1.2 Damaged in Customer’s Possession**

[Revise 9.1.2 as follows:]

Stamps, including stamped paper (cards and envelopes), that are damaged (because of humidity, moisture, or other causes) while in a customer’s possession may be exchanged only for an equal number of stamps of the same denomination or if applicable, unusable stamped paper may be exchanged for stamped paper under 9.1.2a through 9.1.2d. Unused precanceled stamps in full coils and in full sheets redeemed from precanceled permit holders: 90% of postage value. Unusable stamps, including stamped paper, accepted from a customer under these conditions must be those on sale at Post Offices within 12 months before the transaction.

Quantities of the same denomination over \$10 must be returned in the same configuration as when bought (i.e., sheets, coils, booklets). Each such transaction is limited to \$100 worth of postage from each customer. These additional conditions apply to exchanges of stamped paper:

a. Only the buyer may exchange stamped paper with a printed return address or other matter printed by the buyer.

b. Stamped envelopes (mutilated no more than is necessary to remove contents): Postage value plus value of postage added because of a price increase or for additional service.

c. Unmutilated single and double stamped cards: 85% of postage value, plus full value of postage added. Unused double stamped cards printed for reply should not be separated but, if they are separated in error and the buyer presents both halves, the cards may be redeemed. Reply halves of double stamped cards returned to sender outside of the mail are not redeemable by the original buyer, even though the reply half received no postal service.

d. Stamps affixed to commercial envelopes and postcards: 90% of postage value. Envelopes and postcards must be in substantially whole condition and in lots of at least 50 of the same denomination and value.

\* \* \* \* \*

[ReNUMBER current 9.1.4 as new 9.1.8.]

[ReNUMBER current 9.1.5 as new 9.1.4.]

[Add new 9.1.5 (renumbered from current 9.2.8) and revise the text as follows:]

**9.1.5 Semipostal Stamps**

Customers may exchange semipostal stamps for their postage value (i.e., the price of the stamps less the contribution amount) to the extent that exchange of postage stamps is permitted. The postage the customer exchanges is equal

to the First-Class Mail single-piece one-ounce letter price in effect at the time of exchange. However, if the customer provides a receipt showing the date of purchase, the postage exchanged is equal to the postage price in effect at the time of purchase. The contribution amount is not refundable and is not included in the exchange value.

[Delete 9.1.6, Exchange of Spoiled and Unused Postal Matter, in its entirety.]

[Delete current 9.1.7, Stamps Converted to Other Postage Forms, in its entirety.]

[ReNUMBER current 9.1.8 as new 9.1.7 and revise the introductory text of renumbered 9.1.7 as follows:]

**9.1.7 Not Exchangeable**

The following postage items cannot be exchanged:

[Revise the text of renumbered 9.1.7 item a. as follows:]

a. Adhesive stamps, unless mistakes were made in buying (9.1.4), stamps were defective or stamps were affixed to commercial envelopes and postcards.

\* \* \* \* \*

[Revise the title of renumbered 9.1.8 as follows:]

**9.1.8 Appeal of Denied Exchange**

\* \* \* \* \*

**9.2 Postage and Fee Refunds**

[Revise the title of 9.2.1 as follows:]

**9.2.1 General Standards**

A refund of postage and fees may be made:

\* \* \* \* \*

[Revise item 9.2.1b by deleting the second sentence and revising the text of the first sentence as follows:]

Under 9.3 for postage evidencing systems refund requests (4.0), which includes postage meters and PC Postage products. \* \* \*

[Revise item 9.2.1c as follows:]

c. Under 9.4 for Value Added Refund (VAR) requests made at the time of mailing.

[Delete item 9.2.1e (relocated as part of renumbered 9.2.3 item m).]

[Delete current 9.2.3, Torn or Defaced Mail, in its entirety (relocated as part of renumbered 9.2.3, item l).]

[ReNUMBER current 9.2.4 through 9.2.7 as new 9.2.3 through 9.2.6.]

**9.2.3 Full Refund**

A full (100%) refund or credit may be made when:

\* \* \* \* \*

[Delete redesignated item 9.2.3e and redesignate items 9.2.3f through 9.2.3l as new items 9.2.3e through 9.2.3k.]

[Revise renumbered item h by adding a new second sentence as follows:]

h. \* \* \* The permit holder should request a credit to its advance deposit account, unless an advance deposit account is not used or is unavailable and a refund is requested.

*[Add new items 9.2.3l and 9.2.3m as follows:]*

l. If a First-Class Mail, First-Class Package Service, Standard Post or Package Services mailpiece is torn or defaced during USPS handling so that the addressee or intended delivery point cannot be identified. Where possible, the damaged item is returned with the postage refund.

m. Under the terms of a contract between a contract postal unit (CPU) and the USPS for unused postage printed by the CPU.

*[Revise the title of 9.2.4 as follows:]*

#### **9.2.4 Postage Refunds Not Available**

\* \* \* No refunds may be made for the following:

\* \* \* \* \*

*[Revise renumbered item 9.2.4e as follows:]*

e. Unused Priority Mail Forever Prepaid Flat Rate packaging. Exact exchanges are made directly through the Express and Priority Mail Supply Center (EPMSC) by calling 800-610-8734 and are only authorized when the unused packaging purchased by credit card from [www.usps.com](http://www.usps.com) arrives in damaged condition.

*[Add new items 9.2.4f, 9.2.4g and 9.2.4h as follows:]*

f. For postage (and/or fees for extra services not rendered) when a postmarked (round-dated) mailing receipt or a valid USPS acceptance or mail processing scan is not available.

g. For extra service fees, when a refund is requested less than 10 days, or more than 18 months, from the date that the service was purchased.

h. For extra service fees, when the service could not be provided and the mailpieces are properly returned to sender as undeliverable.

#### **9.2.5 Applying for Refund**

*[Revise the text of renumbered 9.2.5 as follows:]*

For refunds under 9.2, the customer must apply for a refund on Form 3533; submit it to the postmaster; and provide the envelope, wrapper (or a part of it) showing the names and addresses of the sender and addressee, canceled postage and postal markings, or other evidence of postage and fees paid. The local postmaster grants or denies refund requests under 9.2. If the request is granted, the amount refunded may not exceed 90% of the indicia's face value. Payment processing is through USPS Accounting Services. Adverse rulings

may be appealed through the postmaster to the manager, Pricing and Classification Service Center (see 608.8.0), who issues the final agency decision. Refunds for postage evidencing systems postage are submitted under 9.3.

*[Delete renumbered 9.2.6.]*

*[Renumber current 9.2.9 as new 9.2.6 and revise the title and text as follows:]*

#### **9.2.6 Postage Affixed to Business Reply Mail**

The permit holder may request a credit to an advance deposit account for postage affixed to BRM. A refund may be requested for postage affixed to BRM only if an advance deposit is not used or is unavailable. Refunds are not given for foreign postage affixed to BRM. The permit holder must submit a completed Form 3533 to the postmaster documenting the excess postage payment for which a credit or refund is desired. The permit holder also must present properly faced and banded bundles of 100 identical BRM pieces with identical amounts of postage affixed when quantities allow. Once processed, the amount credited or refunded for postage affixed on BRM may not exceed 90% of the face value. Credits or refunds are not given for any BRM or QBRM per piece charges, annual accounting fees, quarterly fees, or monthly maintenance fees.

\* \* \* \* \*

*[Revise the title of 9.3 as follows:]*

#### **9.3 Refunds for Postage Evidencing Systems**

*[Renumber current 9.3.1 as new 9.3.7.]*

*[Add new item 9.3.1 as follows:]*

##### **9.3.1 Description**

Postage meters and PC Postage products are collectively identified as "postage evidencing systems." A postage evidencing system is a device or system of components a customer uses to print evidence that required postage has been paid. Refunds for postage and fees when payment is made by postage evidencing system indicia are granted as applicable in 9.3.2 through 9.3.12 and as follows:

a. Refund requests must include the entire envelope or wrapper or a sufficient portion of the container showing the indicia must be included to validate that the item was never deposited with the USPS. Unused metered postage must not be removed from the mailpiece (including unmailed meter reply mail).

b. Indicia printed on labels or tapes not adhered to wrappers or envelopes must be submitted loose and must not

be stapled together or attached to any paper or other medium. Self-adhesive labels printed without a backing may be submitted on a plain sheet of paper.

c. If a part of one indicium is printed on one envelope or card and the remaining part on one or others, the envelopes or cards must be fastened together to show that they represent one indicium.

d. Refunds are allowable for indicia on metered reply envelopes only when it is obvious that an incorrect amount of postage was printed on them.

*[Revise the title and text of 9.3.2 as follows:]*

#### **9.3.2 General Standards for Metered Indicia Refunds**

Unused metered indicia are postage amounts (which may include fees) already imprinted onto any mailpiece, shipping label or meter strip (stamp) that was never mailed. Such meter indicia are considered for refund only if complete, legible, and valid. Authorized users must submit requests within 60 days of the date(s) shown in the indicia. Requests must include proof (such as a copy of the lease or contract) that the person or entity requesting the refund is the authorized user of the postage meter that printed the indicia. See 9.3.3 for additional standards applicable to dated, unused metered indicia and 9.3.4 for additional standards applicable to undated, unused metered indicia. For both types of unused metered indicia, submit refund requests as follows:

a. The items with unused postage must be sorted by meter used and then by postage value shown in the indicia, and must be properly faced and bundled in groups of 100 identical items when quantities allow.

b. Submit a refund request with a separate Form 3533 for each meter for which a refund is requested. Complete all identifying information and sections of the form. Refunds are processed as follows:

1. If the request is granted, the amount refunded may not exceed 90% of the face value.

2. If a request is denied, the authorized user may appeal within 30 days of the ruling to the Manager, Pricing and Classification Center (see 608.8.0), who issues the final agency decision. The original meter indicia must be submitted with the appeal.

*[Renumber current 9.3.3 as new 9.3.10.]*

*[Add new 9.3.3 as follows:]*

#### **9.3.3 Dated, Unused Meter Indicia**

Refund requests for dated, unused meter indicia must be submitted to the local Post Office, under 9.3.1 and 9.3.2.

The request is processed by the local Postmaster, who grants or denies the refund.

*[Revise the title and text of 9.3.4 as follows:]*

#### **9.3.4 Undated, Unused Meter Indicia**

Authorized users, or the commercial entity that prepared the mailing for the authorized user, must submit refund requests for undated, unused meter indicia under 9.3.1 and as follows:

a. The request must include a letter signed by the authorized user, or by the commercial entity that prepared the mailing, explaining why the mailpieces were not mailed.

b. The minimum quantity of unused, undated metered postage that may be submitted for refund is 500 pieces from a single mailing or indicia with a total postage value of at least \$500 from a single mailing.

c. Supporting documentation must be submitted to validate the date. Examples of supporting documentation include the job order from the customer, production records, the USPS qualification report, spoilage report, and reorders created report, as well as customer billing records, postage statements, and a sample mailpiece.

d. The request must be submitted (with the items bearing unused postage and the documentation) to the manager, business mail entry at the USPS district overseeing the mailer's local Post Office, or to a designee authorized in writing. The manager or designee approves or denies the refund request.

*[Renumber current 9.3.5 as new 9.3.9.]*

*[Renumber current 9.3.6 as new 9.3.5.]*

#### **9.3.5 Ineligible Metered Postage Items**

The following metered postage items are ineligible for refunds:

*[Revise renumbered item 9.3.5a as follows:]*

a. Meter reply pieces unless an incorrect postage price was printed.

\* \* \* \* \*

*[Revise renumbered item 9.3.5c as follows:]*

c. Loose indicia printed on labels or tape that have been stapled together or attached to paper or other medium, except under 9.3.2c.

*[Revise renumbered item 9.3.5e as follows:]*

e. Indicia printed on mail returned to sender as undeliverable as addressed.

*[Delete current 9.3.7, Refunds for Metered Postage, in its entirety and renumber current 9.3.8 as new 9.3.6.]*

#### **9.3.6 Rounding Numerical Values**

*[Revise the text of renumbered 9.3.6 as follows:]*

Any fraction of a cent in the total to be refunded is rounded down to the whole cent. Any such rounding is unrelated to calculating a 90% maximum.

*[Revise the title and text of renumbered 9.3.7 as follows:]*

#### **9.3.7 Unused Postage Value in Meter**

The unused postage value remaining in a meter system when withdrawn from service may be refunded, depending upon the circumstance and the ability of the USPS to make a responsible determination of the actual or approximate amount of the unused postage value. When postage meters are withdrawn because of faulty operation, a final postage adjustment or refund will be withheld pending the system provider's report of the cause. Once provided, the USPS will make the determination of whether a refund is warranted and any refund amount, if applicable.

When a meter damaged by fire, flood, or similar disaster is returned to the provider, postage may be refunded or transferred when the registers are legible and accurate, or the register values can be reconstructed by the provider based on adequate supporting documentation. When the damaged meter is not available for return, postage may be refunded or transferred only if the provider can accurately determine the remaining postage value based on adequate supporting documentation. The authorized user may be required to provide a statement as to the cause of the damage and the absence of any reimbursement by insurance or otherwise, and that the authorized user will not also seek such reimbursement. No refund is given for faulty operation caused by the authorized user, for a decertified meter, or if a meter is reported lost by the provider and recovered after 365 days. Refunds for unused postage value in meter systems are provided as follows:

a. Authorized users must notify their provider to withdraw the meter and to refund any unused postage value remaining on it.

b. The meter must be examined to verify the amount before any funds are cleared from the meter. Based on what is found, a refund or credit may be initiated for unused postage value, or additional money owing for postage value used.

c. The provider forwards the refund request to the USPS for payment or credit to the authorized user's mailing account.

d. The USPS will not issue individual customer refunds for unused postage

value less than \$25.00 remaining in a meter.

*[Add new 9.3.8 as follows:]*

#### **9.3.8 General Standards for PC Postage Indicia Refunds**

Unused PC Postage indicia are considered for refund only if complete, legible, valid and documented pursuant to 9.3.1. See 9.3.9 for additional standards applicable to requests for undated unused PC Postage indicia and 9.3.10 and 9.3.11 for additional standards applicable to requests for refunds of dated unused PC Postage indicia. For all types of unused PC Postage indicia, submit refund requests as follows:

a. Only authorized PC Postage users may request a refund.

b. The PC Postage system provider grants or denies a request for a refund for PC Postage indicia using established USPS criteria.

c. If a request is denied, the authorized user may appeal within 30 days of the ruling through the manager, Payment Technology, USPS Headquarters (see 608.8) who issues the final agency decision. Requests for appeal must include the physical submission of the original label. If the exact numerical value of postage paid is not displayed in the indicia, the customer must submit the corresponding transaction log. The customer's specific reason for requesting the appeal must be included. If the appeal to an unfavorable refund request ruling results in a refund being granted, the amount refunded may not exceed 90% of the indicia's face value.

*[Revise the text of renumbered 9.3.9 as follows:]*

#### **9.3.9 Unused, Undated PC Postage Indicia**

Refunds will not normally be provided for valid, undated, serialized PC Postage indicia containing commonly used postage values. If the authorized user believes extraordinary circumstances justify an exception, requests for such refunds must include a detailed explanation. Requests will be considered by the PC Postage system provider on a case by case basis and as provided in 9.3.1 and, 9.3.8.

*[Revise the text of renumbered 9.3.10 as follows:]*

#### **9.3.10 Unused, Dated PC Postage Indicia With PIC**

The refund request should reflect any package identification code (PIC). Requests for refund of international mail postage (domestic origin only) and fees may include valid PICs for any form of USPS Tracking/Delivery Confirmation,

Signature Confirmation, or Express Mail service, and include those PICs available through the Track & Confirm service on usps.com. Requests for refund of PC Postage indicia that contain a valid Postal Identification Code (PIC) are provided as follows:

- a. Requests must be submitted by authorized users to their provider electronically in accordance with procedures available from their provider. Physical submission of labels to the provider is not permitted.
- b. Requests must be initiated for within ten (10) days of printing the indicia.
- c. If a postage refund is granted, the original physical shipping label must be destroyed by the authorized user.
- d. The provider may, at its discretion, charge for processing a refund request. *[Add new items 9.3.11 and 9.3.12 as follows:]*

**9.3.11 Unused, Dated PC Postage Indicia Without PIC**

- Requests for refund of dated, unused PC Postage indicia which do not have an associated PIC must be submitted as provided in 9.3.1 and as follows:
- a. Must be physically submitted by authorized users to their provider, along with the items bearing the unused postage, in accordance with procedures available from their provider. Authorized users must submit the refund request within sixty (60) days of the date(s) shown in the indicia.
  - b. The provider may, at its discretion, charge for processing a refund request.

**9.3.12 Unused Postage Value in PC Postage Systems**

Authorized users must notify their PC Postage provider to withdraw a system and to refund any unused postage value remaining in that account. The provider refunds the unused postage value remaining in the user's system on behalf of the USPS. Individual customer refunds are not issued for unused postage value less than \$25.00 remaining in a PC Postage system. *[Revise the title of 9.4 as follows:]*

**9.4 Value Added Refunds**

\* \* \* \* \*

**9.4.14 Criteria for Mailing**

A mailing for which a VAR request is submitted must meet these criteria:  
\* \* \* \* \*  
*[Add a new item 9.4.14f as follows:]*  
f. Each mailing refund request must be for at least \$50 in postage. Customers may not combine multiple postage statements on a single Form 3533 to reach the \$50 minimum threshold.  
\* \* \* \* \*

**9.5 Express Mail Postage Refund**

*[Renumber current items 9.5.1 through 9.5.7 as new items 9.5.4 through 9.5.11.]*  
*[Add new items 9.5.1 through 9.5.3 as follows:]*

**9.5.1 Express Mail Next Day and Second Day Delivery**

For Express Mail Next Day and Second Day Delivery, the USPS refunds the postage for an item not available for customer pickup at destination or for which delivery to the addressee was not attempted, subject to the standards for this service, unless the delay was caused by one of the situations in 9.5.6, *Refunds Not Given*.

**9.5.2 Express Mail Military Service (EMMS)**

For EMMS, the USPS refunds postage for an item not available for customer pickup at the APO/FPO or DPO address or for which delivery to the addressee was not attempted domestically within the times specified by the standards for this service, unless the item was delayed by Customs; the item was destined for an APO/FPO or DPO that was closed on the intended day of delivery (delivery is attempted the next business day); or the delay was caused by one of the situations in 9.5.6, *Refunds Not Given*.

**9.5.3 Express Mail Custom Designed**

For Express Mail Custom Designed, the USPS refunds the postage for an item not available for customer pickup at destination or not delivered to the addressee within 24 hours of mailing, unless the item was mailed under a service agreement that provides for delivery more than 24 hours after scheduled presentation at the point of origin or if the delay was caused by one of the situations in 9.5.6, *Refunds Not Given*.

\* \* \* \* \*

**9.5.5 Conditions for Refund**

*[Revise the second sentence of newly renumbered 9.5.6 as follows:]*  
\* \* \* Except as provided in 9.5.6, a mailer may file for a postage refund only if the item was not delivered, delivery was not attempted, or if the item was not made available for claim by the delivery date and time specified at the time of mailing.  
\* \* \* \* \*

**9.5.6 Refunds Not Given**

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or if the guaranteed service was not

provided due to any of the circumstances as follows:

- [Revise 9.5.6 by adding new items a. through i. as follows:]*
- a. The item was properly detained for law enforcement purposes (see *Administrative Support Manual 274*).
  - b. The item was delayed due to strike or work stoppage.
  - c. The item was delayed because of an incorrect ZIP Code or address; or forwarding or return service was provided after the item was made available for claim.
  - d. The shipment is available for delivery, but the addressee made a written request that the shipment be held for delayed delivery.
  - e. The shipment is undeliverable as addressed.
  - f. If authorized by USPS Headquarters, and the delay was caused by governmental action beyond the control of USPS or air carriers; war, insurrection, or civil disturbance; delay or cancellation of flights; projected or scheduled transportation delays; breakdown of a substantial portion of USPS transportation network resulting from events or factors outside the control of USPS; or acts of God.
  - g. The shipment contained live animals and was delivered or delivery was attempted within 3 days of the date of mailing.
  - h. The Express Mail Next Day shipment was mailed December 22 through December 25 and was delivered or delivery was attempted within 2 business days of the date of mailing.
  - i. The postage refund was other than for loss, and the Express Mail piece was destined to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, or the Federated States of Micronesia (see 608.2.4.1 for ZIP Codes).

\* \* \* \* \*

*[Insert new 9.6, Refund Request for Special Postage Payment Systems.]*

**9.6 Refund Request for Special Postage Payment Systems**

Refund requests are decided based on the specific type of postage or mailing. A mailer's request for a refund for mailings presented using any Special Postage Payment System in 705.0 must be submitted to the manager, Business Mailer Support, USPS Headquarters (see 608.8.0 for address). Except as otherwise provided in 604.9, refunds request for postage paid through Special Postage Payment Systems are assessed an administrative processing fee equal to 10% of the total postage value of the

refund amount, regardless of whether the refund is granted or denied.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

\* \* \* \* \*

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

[FR Doc. 2013-05863 Filed 3-13-13; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 120912442-3197-01]

RIN 0648-XC240

#### **Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2013 Sector Operations Plans and Contracts and Allocation of Northeast Multispecies Annual Catch Entitlements**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** We propose to approve 18 sector operations plans and contracts for fishing year (FY) 2013, provide allocations of Northeast (NE) multispecies to these sectors, and grant regulatory exemptions. We request comment on the proposed sector operations plans and contracts; the environmental assessment (EA) analyzing the impacts of the operations plans; and our proposal to grant 25 of the 39 regulatory exemptions requested by the sectors. Approval of sector operations plans is necessary to allocate quotas to the sectors and for the sectors to operate. The NE Multispecies Fishery Management Plan (FMP) allows limited access permit holders to form sectors, and requires sectors to submit their operations plans and contracts to us, NMFS, for approval or disapproval. Approved sectors are exempt from certain effort control regulations and receive allocation of NE multispecies (groundfish) based on its members' fishing history.

Written comments must be received on or before March 29, 2013.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2013-0007, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0007](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0007), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Allison Murphy, 55 Great Republic Drive, Gloucester, MA 01930.

- **Fax:** 978-281-9135; Attn: Allison Murphy.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Allison Murphy, Sector Policy Analyst, phone (978) 281-9122, fax (978) 281-9135.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Amendment 13 to the FMP (69 FR 22906, April 27, 2004) established a process for forming sectors within the NE multispecies fishery, implemented restrictions applicable to all sectors, and authorized allocations of a total allowable catch (TAC) for specific NE multispecies species to a sector. Amendment 16 to the FMP (74 FR 18262, April 9, 2010) expanded sector management, revised the two existing sectors to comply with the expanded sector rules (summarized below), and authorized an additional 17 sectors. Framework Adjustment (FW) 45 to the FMP (76 FR 23042, April 25, 2011) further revised the rules for sectors and authorized 5 new sectors (for a total of 24 sectors). FW 48, as proposed by the New England Fishery Management Council (Council), would eliminate dockside monitoring (DSM) requirements, revise at-sea monitoring (ASM) requirements, and modify

minimum sizes for NE multispecies stocks. If approved, FW 48 is expected to be in effect at the start of FY 2013 (May 1, 2013).

The FMP defines a sector as "[a] group of persons (three or more persons, none of whom have an ownership interest in the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) [*sic*] in order to achieve objectives consistent with applicable FMP goals and objectives." Sectors are self-selecting, meaning each sector can choose its members.

The NE multispecies sector management system allocates a portion of the NE multispecies stocks to each sector. These annual sector allocations are known as annual catch entitlements (ACE). These allocations are a portion of a stock's annual catch limit (ACL) available to commercial NE multispecies vessels, and are based on the collective fishing history of a sector's members. Currently, sectors may receive allocations of most large-mesh NE multispecies stocks with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and the Southern New England/Mid-Atlantic (SNE/MA) stock of winter flounder; however, FW 50 proposes to allocate SNE/MA winter flounder to the NE multispecies fishery. A sector determines how to harvest its ACEs and may decide to consolidate operations to fewer vessels.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several "universal" exemptions from the FMP's effort controls. These universal exemptions apply to: Trip limits on allocated stocks; the Georges Bank (GB) Seasonal Closure Area; NE multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on GB; and portions of the Gulf of Maine (GOM) Rolling Closure Areas. The FMP currently prohibits sectors from requesting exemptions from year-round mortality closed areas (CA), permitting restrictions, gear restrictions designed to minimize habitat impacts, and reporting requirements (excluding DAS reporting requirements or DSM requirements). FW 48, expected to be effective on May 1, 2013, proposes to allow sectors to request access to portions of the year-round mortality CAs that were not put in place to protect essential fish habitat. Sectors have, consequently, requested