

(ii) Elects not to have its funds separately accounted for and segregated in accordance with the provisions of section 4d of the Act and §§ 1.20–1.30, 1.32 and 1.36 with respect to agreements, contracts or transactions traded on or subject to the rules of any registered derivatives transaction execution facility that has authorized such treatment in accordance with § 37.7 of this chapter;

(iii) Acknowledges that it has been informed, and by making this election agrees that:

(A) The customer's funds, related to agreements, contracts or transactions on any registered derivatives transaction execution facility that authorizes the opting out of segregation will not be segregated from the funds of the futures commission merchant in accordance with the provisions of section 4d of the Act and §§ 1.20–1.30, 1.32 and 1.36;

(B) The futures commission merchant may use such funds in the course of the futures commission merchant's business without the prior consent of the customer or any third party;

(C) In the event the futures commission merchant files, or has a petition filed against it, for bankruptcy, the customer, as to those funds that the customer has elected not to have separately accounted for and segregated by the futures commission merchant in accordance with the provisions of section 4d of the Act and §§ 1.20–1.30, 1.32 and 1.36, will not be entitled to the priority for customer claims provided for under the Bankruptcy Code and part 190 of this chapter;

(D) The customer may not retain a security interest in assets excluded from segregation in accordance with this section;

(E) The customer may not enter into any agreement or other understanding with the futures commission merchant relating to the manner in which the customer's assets will be held at the futures commission merchant, that directly or indirectly gives the customer a priority in bankruptcy that is equal or superior to the priority afforded public customers under the Bankruptcy Code and part 190 of this chapter; and

(iv) Acknowledges that the agreement shall remain in effect unless and until the customer abrogates the agreement in accordance with paragraph (c) of this section.

(b) In no event may money, securities or property representing those funds that customers have elected not to have separately accounted for and segregated by the futures commission merchant, in accordance with this section, be held or commingled and deposited with customer funds in the same account or

accounts required to be separately accounted for and segregated pursuant to section 4d of the Act and §§ 1.20–1.30, 1.32 and 1.36.

(c)(1) A customer that has entered into an agreement in accordance with paragraph (a)(4) of this section may abrogate that agreement by so informing the futures commission merchant in writing, signed by a person with the authority to bind the customer. The effective date of the abrogation shall not exceed five business days from the futures commission merchant's receipt of the customer's abrogation. The abrogation shall not become effective if the futures commission merchant files, or has had filed against it, a petition for bankruptcy prior to the effective date of the abrogation.

(2) Upon the effective date of the abrogation, permitted under paragraph (c)(1) of this section, provided that the customer's positions in the non-segregated account are fully margined and the customer is not in default with respect to any of its obligations to the futures commission merchant arising out of agreements, contracts or transactions entered on, or subject to the rules of, a registered entity, as defined in section 1a(29) of the Act, the futures commission merchant shall transfer to a customer segregated account:

(i) All trades or positions of the customer with respect to which the customer had previously elected to opt out of segregation; and

(ii) All money, securities, or property held in such account to margin, guarantee or secure such trades or positions.

(d) Each futures commission merchant shall maintain any agreements entered into with customers pursuant to paragraph (a) of this section and any abrogations of such agreements, made pursuant to paragraph (c) of this section, in accordance with § 1.31.

## PART 190—BANKRUPTCY RULES

7. The authority citation for Part 190 continues to read as follows:

**Authority:** 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7, 7a, 12, 19, 23, and 24, and 11 U.S.C. 362, 546, 548, 556 and 761–766, unless otherwise noted.

8. Section 190.01 is amended by revising paragraph (bb) to read as follows:

### § 190.01 Definitions.

\* \* \* \* \*

(bb) *Non-public customer* means any person enumerated in § 1.3(y), § 1.3(uu) or § 31.4(e) of this chapter, who is

defined as a customer under paragraph (k) of this section.

\* \* \* \* \*

Issued in Washington, DC on April 19, 2001, by the Commission.

**Catherine D. Dixon,**

*Assistant Secretary of the Commission.*

[FR Doc. 01–10222 Filed 4–24–01; 8:45 am]

BILLING CODE 6351–01–P

## POSTAL SERVICE

### 39 CFR Part 501

#### Authorization to Manufacture and Distribute Postage Meters

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule clarifies and strengthens requirements for manufacturers of postage meters to control meters used for demonstration and loaner purposes.

**DATES:** This rule is effective April 25, 2001.

**FOR FURTHER INFORMATION CONTACT:** James Luff, 703–292–3693.

**SUPPLEMENTARY INFORMATION:** When manufacturers do not follow established policies and procedures for postage meters loaned to customers for temporary use (“loaner meters”) and those used for demonstration purposes, there are potential revenue protection problems as well as costly data entry errors. The potential for postage meter misuse and fraud must be eliminated. To accomplish this objective, the Postal Service must publish procedures for handling loaned and demonstration meters, and manufacturers' employees, dealers, and representatives must follow them.

#### List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

For the reasons set out in this document, the Postal Service is amending 39 CFR part 501 as follows:

#### PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for part 501 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended), 5 U.S.C. App. 3.

2. Section 501.22 is amended by adding new paragraphs (s) and (t) to read as follows:

**§ 501.22 Distribution controls.**

\* \* \* \* \*

(s) A demonstration meter is typically used to acquaint a potential user with the features of a meter as part of the sales effort. The following procedures must be followed to implement controls over demonstration meters:

(1) A demonstration meter may print only specimen indicia and must not be used to meter live mail.

(2) A demonstration meter must be recorded as such on internal manufacturer inventory records and must be tracked by model number, serial number, and physical location. If the meter's status as a demonstration meter changes, the meter must be administered according to the procedures that apply to its new status.

(3) A demonstration meter may be used only for demonstrations by a manufacturer's dealer or branch representative and must remain under the dealer's or representative's direct control. A demonstration meter may not be left in the possession of the potential customer under any circumstance.

(t) A postage meter loaned to a customer for temporary use (a "loaner meter") is typically used to acquaint a potential user with the features of a meter as part of the sales effort, or serves as a temporary placement while the customer awaits delivery of a new meter. The following procedures must be followed to implement controls over loaner meters:

(1) A loaner meter prints valid indicia and may be used to apply postage to a mailpiece. Only electronic, remote-set meters may be used as loaner meters. The city/state designation in the loaner meter indicia must show the location where the user's mail will be deposited.

(2) A customer may have possession of a loaner meter for a maximum of five consecutive business days. When the customer chooses to continue the use of a postage meter, the loaner meter must be retrieved and a new meter must be installed under the customer's license.

(3) The manufacturer's dealer or branch representative ("representative") must have a USPS-issued meter user license to place a loaner meter. A single license per USPS district can be used to issue loaner meters to customers in any of the different Post Office service areas within that district.

(4) Loaner meters must be reported electronically to the USPS meter tracking system when activated. A Form 3601-C, Postage Meter Activity Report, must be initiated to activate a loaner meter under the representative's meter license. The licensee and meter location information on the form will show the representative rather than the temporary

user. However, loaner meters may only be placed with customers who have been issued a USPS meter license.

(5) Representatives must record and verify the accuracy of the ascending and descending register readings when a loaner meter is placed with the customer. Any discrepancies detected during the verification process must be reported immediately to the meter manufacturer, who will then notify Postage Technology Management.

(6) The representative is responsible for resetting the loaner meter with postage and must arrange for reimbursement directly with the customer.

(7) The representative maintains full responsibility for the loaner meter. As both a manufacturer's representative and a meter licensee, the representative is subject to the provision of Domestic Mail Manual part P030 and Code of Federal Regulations part 501. As a licensee, the representative assumes all licensee responsibilities under USPS meter regulations and must ensure that loaner meters are available for examination by the Postal Service on demand and are examined in accordance with Postal Service policy. Any losses incurred by the Postal Service as a result of fraudulent use of the loaner meter by the customer are the responsibility of the meter licensee, the customer, and the manufacturer.

(8) When the customer returns the meter, the dealer or branch representative must record and verify the accuracy of the ascending and descending register readings and inspect the meter. Any discrepancies or indication of tampering or fraudulent use must be reported immediately to the meter manufacturer, who will then notify Postage Technology Management. In such circumstance, the meter must not be used and must be returned to the manufacturer's QAR department via Registered Mail.

(9) Loaner meters must be reported electronically to the USPS meter tracking system when withdrawn from service. The dealer or branch representative must prepare Form 3601-C, Postage Meter Activity Report, for each loaner meter withdrawn.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 01-10148 Filed 4-24-01; 8:45 am]

**BILLING CODE 7710-12-P**

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

[TX-101-1-7394a; FRL-6969-3]

**Approval and Promulgation of Implementation Plans; Texas; Post 96 Rate of Progress Plan, Motor Vehicle Emissions Budgets (MVEB) and Contingency Measures for the Houston/Galveston (HGA) Ozone Nonattainment Area**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action on portions of the Texas Ozone State Implementation Plan (SIP) revision submitted by the Governor of Texas on May 19, 1998, to meet the reasonable further progress requirements of the Federal Clean Air Act (the Act). We are approving the Post-1996 Rate-of-Progress (ROP) Plan, the Motor Vehicle Emissions Budgets (MVEB) established by the ROP Plan, revisions to the contingency measures, and revisions to the 1990 base year emissions inventory for the Houston/Galveston (HGA) 1-hour ozone nonattainment area.

**DATES:** This direct final rule is effective June 25, 2001 unless adverse or critical comments are received by May 25, 2001. If adverse comments are received, EPA will publish timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below.

Copies of the documents, including the Technical Support Document, relevant to this action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, Dallas, 1445 Ross Avenue, Texas 75202-2733, telephone: (214) 665-7214. Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Guy R. Donaldson, Air Planning Section (6PD-L), Multimedia Planning and