Dated: May 21, 2003.

Glenn A. Cekus,

Commander, U.S. Coast Guard, Acting Captain of the Port Chicago.

[FR Doc. 03–14588 Filed 6–10–03; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Delivery Confirmation and Signature Confirmation Services With First-Class Mail Parcels and Package Services Parcels

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In this final rule, the Postal Service adopts revisions to the *Domestic Mail Manual* (DMM) that clarify when it is permissible to use Delivery Confirmation service or Signature Confirmation service with mailpieces claimed at First-Class Mail or Package Services rates. In particular, this final rule specifies that, for First-Class Mail and Package Services mailpieces, Delivery Confirmation service or Signature Confirmation service may be used only with parcels and not with letter-size mail or flat-size mail as defined by the Postal Service.

EFFECTIVE DATE: July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Neil Berger at (703) 292–3645, Mailing Standards, United States Postal Service.

SUPPLEMENTARY INFORMATION: In a proposed rule published on April 15, 2003, in the **Federal Register** (68 FR 18174–18176), the Postal Service put forward for public comment revised language to the DMM that would clarify the mailing standards governing the use of Delivery Confirmation service or Signature Confirmation service with First-Class Mail parcel-shaped mailpieces and Package Services parcel-shaped mailpieces. For this clarification, the general term ''box,'' as used in part of the original language of those mailing standards to identify ''parcel-shaped'' mail, is to be replaced with the specific dimensional definitions of a parcel currently used in DMM C050 for machinable parcels, irregular parcels, and outside parcels.

The term ''box'' was initially adopted when classification changes extended the use of Delivery Confirmation service and Signature Confirmation service to First-Class Mail parcels only and confined the use of those two special services to Package Services parcels only. Those classification changes took effect on June 30, 2002, as announced on April 16, 2002, in the **Federal Register** (67 FR 18684–18771).

The term ''box'' had been carefully selected for the classification changes for two important reasons. First, the term offered a functional and convenient description of a parcel that could be easily understood by the general mailing public, parcel and merchandise shippers, and Postal Service employees at retail units and business mail entry units. Second, the term permitted a wide range of First-Class Mail and Package Services mailpieces—including pieces measuring ¾ inch thick or less—to qualify as ''parcel-shaped'' mail if prepared in boxes. This second reason was also important because most mailpieces measuring ¼ inch thick or less are generally categorized as letter-size mail (''letters''), and most mailpieces measuring between ¼ and ¾ inch thick are generally categorized as flat-size mail (''flats'') under DMM C050.

The original mailing standards underlying the term ''box,'' which this final rule now effectively revises, were first presented in sections C100.5.0 and C700.1.0h of Issue 57 of the DMM, dated June 30, 2002. Those original mailing standards permitted the use of either special service with a First-Class Mail mailpiece or a Package Services mailpiece only if the piece met the following conditions:

a. Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and

b. Is in a box or, if not in a box, is more than ¾ inch thick at its thickest point.

In the case of First-Class Mail parcels and Package Services parcels, these standards reflected both a customer need and an operational requirement to maintain high rates of successful scanning of Delivery Confirmation barcodes and Signature Confirmation barcodes by segregating the pieces With these barcodes from letter-size and flat-size mailpieces.

Nevertheless, the use of the term ''box'' to define a parcel has continued to create uncertainty among customers and Postal Service employees in determining whether specific mailing containers qualify as ''boxes'' and whether specific mailpieces qualify as ''parcel-shaped'' mail. This uncertainty comes into play especially for mailpieces prepared in lightly constructed or flimsy containers. These pieces can easily flatten or compress during transportation and mail processing into flat-size pieces or, on occasion for smaller containers, even into letter-size pieces. Flattened or compressed pieces, even if originally prepared as parcels, no longer meet the intent or the function of parcels. As a consequence, they are not handled in the parcel mailstream. Instead, these pieces are generally processed as flats and, as a result, invariably fail to receive a Delivery Confirmation or Signature Confirmation scan.

One way to remove the uncertainty about the term ''box'' would be to define a parcel as any mailpiece that is neither letter-size nor flat-size. This approach at first seems relatively straightforward in resolving the uncertainty surrounding the term ''box,'' by providing a practical definition that can be reasonably and uniformly applied as a mailing requirement. Even with a specification such as ''any mailpiece thicker than ¾ inch is not letter-size or flat-size,'' customers and employees would encounter two new and unforeseen issues:

- Merchandise items sent as First-Class Mail or Package Services pieces that are thinner than ¾ inch thick—such as compact discs, coins in flat plastic display cases, and some children's picture books—would not be eligible for the use of Delivery Confirmation service or Signature Confirmation service because their dimensions of length, height, and, most notably, thickness would generally fall within the dimensional definition of letter-size or flat-size mail.
- Any qualifying mailpiece that passed the thickness requirement (that is, the piece measured more than ¾ inch thick) but was not uniformly thick might also be ineligible for the use of either special service if part of the mailpiece could, in some cases, fall within the dimensional requirements for either flat-size mail or letter-size mail.

To overcome these two issues and to ensure that customers and parcel shippers can benefit from the use of Delivery Confirmation service or Signature Confirmation service in such cases, the Postal Service is adopting the current three parcel definitions in DMM C050 for a machinable parcel, an irregular parcel, and an outside parcel for the purposes of defining First-Class Mail parcels and Package Services parcels eligible for the use of Delivery Confirmation service or Signature Confirmation service.

The Postal Service has also added a clarification to the descriptions of Delivery Confirmation service and Signature Confirmation service with information that states that some statutes and regulations governing the mailing of documents with legal significance may require the use of

Certified Mail or Registered Mail rather than Delivery Confirmation service or Signature Confirmation service.

Comments

The Postal Service received three comments to its proposed rule. One commenter was a third-party provider of printing, mailing, and related services to the merchandising, magazine, book, directory and financial markets. The second commenter was a software developer for certain mailing applications and electronic book publishing. The third commenter was a box and carton manufacturer.

Signature Confirmation Service With Standard Mail Pieces

The first commenter, who was the third-party provider, stated that his firm mails more than 150 million parcels each year for a large client base. This commenter requested the extension of the use of Signature Confirmation service to Standard Mail parcels. This commenter correctly noted that the use of Signature Confirmation service was extended on June 30, 2002, to First-Class Mail parcels but not to Standard Mail parcels. This commenter then pointed out that the physical characteristics of both First-Class Mail parcels and Standard Mail parcels are similar in regard to size, shape, and weight (First-Class Mail parcels are permitted to weigh up to 13 ounces and Standard Mail parcels are permitted to weigh up to but not including 16 ounces.)

Although using Signature Confirmation service with Standard Mail parcels would provide many shippers with a more enhanced level of service than Delivery Confirmation service, limited market research has not shown a large potential demand for this special service for these reasons:

- The comparatively high fee for the special service. Except for Priority Mail, which has no additional charge for the Delivery Confirmation electronic option, the difference between electronic option fees for the two services for other eligible classes of mail is considerable: $1.30 for Signature Confirmation service compared with $0.13 for Delivery Confirmation service. The Signature Confirmation fee is also high in relation to typical Standard Mail postage. If the use of Signature Confirmation service were extended to Standard Mail pieces, the electronic option would probably be the option required.
- The generally low extrinsic value of most items shipped by Standard Mail. Shippers sending valuable items tend to use classes of mail such as Priority Mail or First-Class Mail that can provide additional benefits and permit a larger range of special service options.

From a procedural and legal perspective, the Postal Service cannot introduce the use of Signature Confirmation service with Standard Mail parcels without proceeding through a rate and classification filing with the Postal Rate Commission. Such a filing would require the collection of costing data and extensive market research that would be unreasonable to undertake outside an omnibus rate case. Even though this comment is beyond the scope of this final rule, the Postal Service appreciates the recommendation and interest in this special service and plans to have the organizations responsible for managing the Delivery Confirmation and Signature Confirmation programs consider this recommendation as future plans are developed.

Maintenance of Shape Specification

The software developer and the box manufacturer both commented that the proposed rule for DMM S918.1.2c and DMM S919.1.2c would provide mailers and the box manufacturing industry with the latitude of choosing materials and configurations that could produce mailing containers and mailpieces that would meet the intent of that standard.

Both commenters, however, added that a parcel, on average, must maintain a certain thickness to distinguish it from a letter-size or flat-size piece. These commenters believed that inserting such a clause or qualifier into the proposed standards would ensure that customers and shippers would adhere to the original intent of the mailing standards to limit Delivery Confirmation service and Signature Confirmation service to parcel-shaped First-Class Mail and parcel-shaped Package Services mailpieces. That intent, as correctly cited by the commenters, rests on the need to restrict the two special services to parcels in order to prevent entry of Delivery Confirmation pieces and Signature Confirmation pieces into the letter-size or flat-size mail processing streams, and thus ensure scanning of the Delivery Confirmation barcodes and the Signature Confirmation barcodes.

The Postal Service recognizes that, by adopting the current definitions of parcels as presented in DMM C050, some machinable parcels could range within the measurements defining either letter-size or flat-size mail. By creating a new minimum thickness above the current ¼-inch minimum required for machinable parcels, the Postal Service would, however, impose a hardship on mailers already mailing small merchandise items as machinable parcels and using Delivery Confirmation service or Signature Confirmation service for those parcels.

The Postal Service, therefore, does not plan to revise the current dimensional requirements for the parcel mail processing categories, which are understood and accepted by the mailing industry and the Postal Service. Moreover, any change to those requirements would complicate issues in mail acceptance by introducing two different thickness minimums for machinable parcels. As a consequence, the Postal Service is adding a rigidity requirement to the standards for machinable parcels that measure ¾ inch thick or less only for the purposes of using the two special services in question as a means to prevent such pieces from collapsing into letter-size or flat-size mail.

Container Certification

Both the software developer and the box manufacturer strongly urged the Postal Service to develop a national process of certifying eligible mailing containers that meet the definition of a parcel for the purposes of using Delivery Confirmation service or Signature Confirmation service as described in DMM S918 and S919, respectively. Both commenters affirmed that a manufacturer can invest considerable resources in developing mailing containers that might be later rejected by Postal Service employees in some parts of the country. This rejection would also affect customers who purchase such containers and plan to use one of the two special services with either First-Class Mail or Package Services parcels.

The box and carton manufacturer conducted an informal test to determine the durability of certain prototype containers and the resultant Delivery Confirmation scan rate for those containers. The manufacturer stated that he mailed 100 empty prototype 5/8-inch-thick containers, which had been produced with two different paperboard thicknesses of clay-coated newsback paperboard. The manufacturer reported that half the containers were mailed from a business mail entry unit (BMEU) and the other half from a retail window to eight cities throughout the United States.

According to the same commenter, of the 100 mailpieces mailed, 99 received a delivery scan. In addition, the commenter claimed that 86% of the mailpieces maintained their parcel shape throughout mail processing and delivery. In addition to submitting a spreadsheet detailing the information for each mailing container, the

commenter also provided three photographs showing the condition of delivered parcel-shaped pieces that he ranked as ''best,'' ''average,'' and ''worst.''

Although the establishment of a national certification process for mailing containers has merit for box manufacturers in particular and for some customers in general, such a certification process would also increase the complexity and administrative burden on box manufacturers, on customers, and on the Postal Service. Furthermore, limiting the available types and sizes of mailing containers to those that have successfully passed a certification process could create unnecessary problems for certain mailers. Finally, certification of a container cannot always be done in the abstract, without regard to the contents within the container.

Establishing a national process for certifying the eligibility of specific mailing containers for Delivery Confirmation service and Signature Confirmation service would be similar to establishing a process for certifying the eligibility of envelopes and other containers for all other types of mailing or services. The Postal Service does not believe that such a process at this time would yield the greatest benefit to the largest number of customers and parcel shippers.

As far as the informal test conducted by the box and carton manufacturer, the Postal Service cannot validate such results as a form of certification. There are various testing institutions recognized throughout the shipping industry such as the International Safe Transit Association (ISTA), which supports the industry-wide development of effective packaging, methods, and logistic systems that prevent or reduce transportation and handling damage of packages.

The commenter did not explain how he mailed 50 pieces at the business mail entry unit, which normally accepts and verifies presorted rate mail or permit imprint mail. Permit imprint rate mail requires a minimum of 200 pieces or 50 pounds, even for single-piece rate First-Class Mail prepared with a permit imprint. Moreover, because First-Class Mail mailpieces may not weigh more than 13 ounces each, a mailer would need at this maximum weight per piece at least 62 13-ounce pieces in a mailing to qualify for the use of a permit imprint.

For the reasons presented in the proposed rule and those noted above in this final rule, and in consideration of the public comments received, the Postal Service adopts the following changes to the *Domestic Mail Manual,* which is incorporated by reference in the *Code of Federal Regulations. See* 39 CFR 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Amend the following sections of the *Domestic Mail Manual* (DMM) as set forth below:

Domestic Mail Manual (DMM)

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C Characteristics and Content

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C100 First-Class Mail

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[*Delete current 5.0. Redesignate current 6.0 as new 5.0.*]

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C700 Package Services

[Revise heading to read as follows:]

1.0 DIMENSIONS

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[Delete 1.0h.]

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S Special Services

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S900 Special Postal Services

S910 Security and Accountability

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S918 Delivery Confirmation

1.0 BASIC INFORMATION

1.1 Description

[Add the following sentence at the end of 1.1 to read as follows:]

* * * Some statutes and regulations governing the mailing of documents with legal significance may require the use of Certified Mail or Registered Mail rather than Delivery Confirmation.

1.2 Eligible Matter

[Revise 1.2 to read as follows:]

Delivery Confirmation is available for First-Class Mail parcels defined in C050 as machinable (with no minimum weight), irregular, or outside parcels; for all Priority Mail pieces; for Standard Mail pieces subject to the residual shape surcharge (electronic option only); and for Package Services parcels defined in C050 as machinable, irregular, or outside parcels. For the purposes of using Delivery Confirmation with a First-Class Mail parcel or a Package Services parcel, the parcel must meet these additional requirements:

a. The surface area of the address side of the parcel must be large enough to contain completely and legibly the delivery address, return address, postage, and any applicable markings, endorsements, and special service labels.

b. Except as provided in 1.2c for machinable parcels, the parcel must be greater than ¾ inch thick at its thickest point.

c. If the mailpiece is a machinable parcel under C050 and no greater than ¾ inch thick, the contents must be prepared in a strong and rigid fiberboard or similar container or in a container that becomes rigid after the contents are enclosed and the container is secured. The parcel must be able to maintain its shape, integrity, and rigidity throughout processing and handling without collapsing into a letter-size or flat-size piece.

1.3 Ineligible Matter

[Revise 1.3 to read as follows:]

Delivery Confirmation is not available for the following:

a. Express Mail and Periodicals pieces.

b. First-Class Mail letter-size and flat-size pieces.

c. Standard Mail pieces not subject to the residual shape surcharge and all Enhanced Carrier Route Standard Mail pieces.

d. Package Services flat-size pieces.

e. Mail paid with precanceled stamps.

f. Mail addressed to APO/FPO destinations.

g. Mail addressed to any U.S. territory, possession, or Freely Associated State listed in G011, with the exception of Puerto Rico and the U.S. Virgin Islands.

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S919 Signature Confirmation

1.0 BASIC INFORMATION

1.1 Description

[Add the following sentence at end of 1.1 to read as follows:]

* * * Some statutes and regulations governing the mailing of documents with legal significance may require the use of Certified Mail or Registered Mail rather than Signature Confirmation.

1.2 Eligible Matter

[Revise 1.2 to read as follows:]

Signature Confirmation is available for First-Class Mail parcels defined in

C050 as machinable (with no minimum weight), irregular, or outside parcels; for all Priority Mail pieces; and for Package Services parcels defined in C050 as machinable, irregular, or outside parcels. For the purposes of using Signature Confirmation with a First-Class Mail parcel or a Package Services parcel, the parcel must meet these additional requirements:

a. The surface area of the address side of the parcel must be large enough to contain completely and legibly the delivery address, return address, postage, and any applicable markings, endorsements, and special service labels.

b. Except as provided in 1.2c for machinable parcels, the parcel must be greater than ¾ inch thick at its thickest point.

c. If the mailpiece is a machinable parcel under C050 and no greater than ¾ inch thick, the contents must be prepared in a strong and rigid fiberboard or similar container or in a container that becomes rigid after the contents are enclosed and the container is secured. The parcel must be able to maintain its shape, integrity, and rigidity throughout processing and handling without collapsing into a letter-size or flat-size piece.

1.3 Ineligible Matter

[Revise 1.3 to read as follows:]

Signature Confirmation is not available for the following:

a. Express Mail, Periodicals, and Standard Mail pieces.

b. First-Class Mail letter-size and flat-size pieces.

c. Package Services flat-size pieces.

d. Mail paid with precanceled stamps.

e. Mail addressed to APO/FPO destinations.

f. Mail addressed to any U.S. territory, possession, or Freely Associated State listed in G011, with the exception of Puerto Rico and the U.S. Virgin Islands.

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An appropriate amendment to 39 CFR part 111 to reflect the changes will be published.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 03–14631 Filed 6–10–03; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VT–19–1222b; FRL–7493–5]

Approval and Promulgation of Air Quality Implementation Plans; Vermont Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Vermont that are incorporated by reference (IBR) into the Vermont State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information Center, and the Regional Office.

EFFECTIVE DATE: This action is effective June 11, 2003.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, New England Regional Office (Region 1), One Congress Street, Suite 1100, Boston, MA 02114–2023; Office of Air and Radiation Docket and Information Center, Room B–108, 1301 Constitution Avenue, (Mail Code 6102T), NW., Washington, DC 20460, and Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Cooke, Environmental Scientist, at the above EPA New England Region address or at (617) 918–1668.

SUPPLEMENTARY INFORMATION: The State Implementation Plan (SIP) is a living document which the State can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968) EPA revised the procedures for incorporating by reference (IBR) Federally-approved SIPs, as a result of consultations between EPA and the Office of Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document. On September 8, 2000, EPA published a document in the **Federal Register** (65 FR 54413) beginning the new IBR procedure for Vermont. In this document EPA is doing the update to the material being IBRed.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will 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,