

DISTRICT QUARTERLY REPORT—3RD QUARTER 2004—Continued

District docket	Location	Type	Effective date
St. Louis 04-004	St. Louis, MO	Security Zone	7/2/2004
St. Louis 04-005	Davenport, IA	Safety Zone	7/3/2004
St. Louis 04-006	Moline, IL	Safety Zone	7/25/2004
St. Louis 04-007	Davenport, IA	Safety Zone	7/25/2004
St. Louis 04-008	Davenport, IA	Safety Zone	7/26/2004
St. Louis 04-009	Kansas City, MO	Safety Zone	7/1/2004
St. Louis 04-010	LaGrange, MO	Safety Zone	7/31/2004
St. Louis 04-011	Hannibal, MO	Safety Zone	7/1/2004
St. Louis 04-012	Kansas City, MO	Safety Zone	7/4/2004
St. Louis 04-013	Missouri River, KS	Safety Zone	7/4/2004
St. Louis 04-014	Missouri River, KS	Safety Zone	7/2/2004
St. Louis 04-015	Upper Mississippi River, MO	Safety Zone	7/15/2004
St. Louis 04-016	St. Paul, MN	Safety Zone	7/3/2004
St. Louis 04-017	Bellevue, IA	Safety Zone	7/4/2004
St. Louis 04-018	Clinton, IA	Safety Zone	7/4/2004
St. Louis 04-019	Upper Mississippi River, IA	Safety Zone	7/3/2004
St. Louis 04-020	East Moline, IL	Safety Zone	7/4/2004
St. Louis 04-021	Ft. Madison, IA	Safety Zone	7/4/2004
St. Louis 04-022	Illinois River, IL	Safety Zone	7/4/2004
St. Louis 04-023	Illinois River, IL	Safety Zone	7/4/2004
St. Louis 04-025	Missouri River, NE	Safety Zone	7/17/2004
St. Louis 04-026	Missouri River, KS	Safety Zone	7/24/2004
St. Louis 04-027	Leclaire, IA	Safety Zone	8/14/2004
St. Louis 04-028	Kaskaskia River, IL	Safety Zone	8/15/2004
St. Louis 04-029	Upper Mississippi River, IL	Safety Zone	8/14/2004
St. Louis 04-030	Davenport, IA	Security Zone	8/4/2004
St. Louis 04-034	Lake of the Ozarks, MO	Safety Zone	8/29/2004
St. Louis 04-037	Missouri River, MO	Safety Zone	9/18/2004
St. Louis 04-038	Missouri River, MO	Safety Zone	9/24/2004
St. Louis 04-039	Upper Mississippi River, IA	Safety Zone	9/18/2004
St. Louis 04-040	Upper Mississippi River, MN	Security Zone	9/16/2004
Tampa 04-110	Tampa Bay, FL	Safety Zone	9/10/2004

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 BILLING CODE 4910-15-M

POSTAL SERVICE

39 CFR Part 111

Eligibility Requirements for Standard Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In this final rule the Postal Service adopts an amendment to Domestic Mail Manual (DMM) standards concerning material eligible for mailing at Standard Mail postage rates. The revised standards clarify the circumstances in which mail containing “personal” information may be eligible for Standard Mail, rather than First-Class Mail, rates. The amendment also reorganizes and renumbers other standards for First-Class Mail and Standard Mail to better describe the service provided under each class.

EFFECTIVE DATE: June 1, 2005.

FOR FURTHER INFORMATION CONTACT: Sherry Freda, Manager, Mailing Standards, United States Postal Service, 202-268-7261.

SUPPLEMENTARY INFORMATION: In a proposed rule published in the **Federal Register** on April 19, 2004 (69 FR 20841), the Postal Service proposed an amendment to Domestic Mail Manual (DMM) standards governing material eligible for mailing at Standard Mail postage rates. The Postal Service adopts the proposal, with modifications, for the reasons explained below.

Background and Summary

As discussed in the proposal, Postal Service standards for First-Class Mail and Standard Mail are based, in part, on laws enacted by Congress and the specifications in the Domestic Mail Classification Schedule (DMCS). These DMCS standards specify that printed material weighing less than 16 ounces may be sent as Standard Mail if it is not required to be entered as First-Class Mail. Generally, mail wholly or partially in handwriting or typewriting, mail sealed against postal inspection, material having the character of actual and personal correspondence, and bills and statements of account must be mailed as First-Class Mail or Express Mail.

Printed material, much of which is prepared by computer, often qualifies at Standard Mail rates, but not always. If

it includes personal information, printed material may have the character of actual and personal correspondence and be subject to First-Class Mail rates. However, under certain limited conditions, printed material containing personal information may be eligible for Standard Mail rates.

Over the last several years this provision has become more significant as advances in technology enabled mailers to increase the amount of “personal information” in computer-generated mailings, including advertising material typically entered as Standard Mail. In turn, this change has led to questions whether these mailings, including tax mailings, warranty information, proxy materials, financial services mailings such as credit card and equity loan advertisements, and others, would qualify as Standard Mail. As a result, in response to requests from postal customers for greater clarity on Standard Mail eligibility, the Postal Service determined to undertake this rulemaking.

The main focus of the proposal was the adoption of more explicit guidance—a “bright line”—concerning the inclusion of personal information in Standard Mail. Other eligibility

standards are left substantively unchanged, although they were reorganized for clarity and to better describe postal services.

Clarifying the circumstances in which personal information may be included in Standard Mail is important for both the Postal Service and its customers. All parties—the Postal Service, mailers, and mail recipients—benefit from the provision of services that are fairly priced and secure. Customers need certainty in the prices they will pay for their mail, for budgeting and planning. Customers also need assurance that they are charged the same prices as other customers are charged for similar mail. From a postal perspective, consistent administration of mail acceptance and classification is a vital concern, and it is critical that all customers pay the proper rate of postage on their mail.

Nevertheless, the Postal Service recognizes that it does not have unlimited rulemaking discretion in this area. The Domestic Mail Manual standards must be consistent with the provisions in the DMCS. Those provisions are established under procedures set forth in the Postal Reorganization Act and require a recommendation from the independent Postal Rate Commission (PRC) following a Postal Service request to effect changes. Therefore, while some commenters suggested radical revisions to the standards in this area, these revisions in many cases would require DMCS changes not contemplated in this rulemaking. Other commenters raised issues that are beyond the scope of this rulemaking and are not addressed here, such as comments concerning the procedures for issuing administrative decisions or disclaimers regarding solicitations in the guise of bills, invoices, or statements of account required by 39 U.S.C. 3001(d)(2)(A).

This rulemaking is the first on this subject since the Postal Service created standards in the early 1980s recognizing technological advancements that permitted the inclusion of personal information in advertising material historically sent as Standard Mail. Before that rulemaking, the inclusion of any personal information in a mailpiece caused its classification as First-Class Mail. The examples that motivated that rulemaking involved instances where the only reason for inclusion of the personal information in the mailpiece was to support advertising or a solicitation for funds to a charitable organization. As explained in the proposal, the Postal Service continues to stand by the principles underlying that rulemaking and the policy that these advertising or solicitation mailings

should be entitled to entry at Standard Mail rates.

The mailpieces that have prompted concerns among mailers and the Postal Service are those that contain personal information that is included for a reason other than the support of advertising or a charitable solicitation. In some cases, the personal information supports an advertisement or solicitation but is also included for other reasons. And, in other cases, the personal information is not included to support an advertisement or solicitation, but is included only for other purposes. As an example, a mailpiece might convey to an addressee the specific terms of an insurance policy to which the addressee recently subscribed, such as the premiums, coverage, and policy conditions. This is personal information and is conveyed to the addressee to confirm the coverage he or she purchased. Similar mailpieces also might include a request that the addressee consider purchasing additional coverage.

Another example might involve a firm that sells radios, computers, and clocks. The firm mails a warranty to customers who purchased computers. The mailing includes personal information that specifies the computer by model number, serial number, price, manufacturer, and date of purchase, and also features specific warranty provisions applicable to the product. The mailpiece advises the addressee/purchaser to retain the correspondence for his or her records. The specific information in the mailpiece associating the addressee to his or her computer purchase is considered personal information. Some of the firm's mailings also include advertising for radios, clocks, and other products sold by the firm.

Consistent with the principles underlying the rulemaking in the 1980s, the Postal Service believes it vital to consider the purposes for which personal information is included in a mailpiece. Where the personal information is included solely to support an advertisement or charitable solicitation, the mail will not be considered to have the character of actual and personal correspondence and may be eligible for Standard Mail rates (assuming it meets other applicable standards). In contrast, where the personal information is included for other purposes—rather than only to support a related advertisement or solicitation—the mailpiece will be considered to have the character of actual and personal correspondence and will not be eligible for Standard Mail rates. Accordingly, in the examples

discussed above, the personal information is included to support purposes other than advertising, either in whole or in part, and the mailpieces are properly classified as First-Class Mail.

Summary of Comments

The Postal Service received 402 written comments in response to its proposal, including several that were received late but were considered. The commenters were diverse, including approximately 350 nonprofit organizations and organizations representing such organizations; Congressional representatives; private individuals; advocacy and political campaign constituencies; financial industry representatives; Periodicals industry representatives; and commenters concerned about privacy issues.

Nearly all comments agreed with the Postal Service's goal to provide clearer guidance when mail containing personal information may be entered as Standard Mail. There were a variety of views on the effectiveness of the proposed changes, and many commenters suggested improvements. A small number suggested that the proposal be withdrawn and a new proposal considered, possibly following discussions with mailer groups. The Postal Service has carefully considered these comments and, in some respects, has modified the proposed rule. In other areas of concern, we are providing a more thorough explanation in this final rule or in other publicly available rulings, such as Customer Support Rulings (CSRs) on Postal Explorer (<http://pe.usps.gov>). Since we believe that these actions satisfy the concerns expressed by commenters, we find that it is not necessary to withdraw the proposal and initiate a further rulemaking process.

Comments Analysis

Many commenters expressed concern that application of the proposed "exclusive purpose" test could cause mailings to be classified as First-Class Mail because of the inclusion of nonpersonal information in the mailpiece. This concern was most often expressed by nonprofit organizations and their representatives, who explained that many nonprofit mailings contain educational or other purely informational material in addition to solicitations for donations. These comments are well taken. Upon reviewing the proposal, the Postal Service agrees that a literal application of the proposed standard might result in

unintended consequences and has determined to revise the language.

For example, assume a mailpiece entered by an authorized nonprofit organization included a cover letter seeking donations from members. The letter lists the member's donation from the previous year, which is considered personal information, and urges the member to double the amount this year. The only purpose for the personal information (the amount of the previous donation) is to support the solicitation for donations. However, also included in the mailpiece is a preprinted flyer outlining the extent of famine conditions internationally and explaining the organization's recent efforts concerning disaster relief. The purpose of this flyer is, at least in part, educational.

The Postal Service believes this mailpiece, as described, should be eligible for Standard Mail rates, since the inclusion of purely nonpersonal, informational printed material should not disqualify it from the use of Standard Mail rates. However, that conclusion would be open to question under a literal application of the proposed rule, particularly proposed E610.3.1c, which considers whether the exclusive purpose of the "mailpiece" is advertising or a solicitation of donations.

Although the Postal Service agrees that the concerns raised by nonprofits have merit, it has determined to adopt a different remedy than suggested. The remedy proposed by these commenters would apply only to nonprofit organizations. The Postal Service believes that excluding other mailers is inappropriate, since the inclusion of purely nonpersonal, informational material should not disqualify other mailers from using Standard Mail rates.

Additionally, some commenters suggest a test where advertising or solicitation must be the primary (rather than the exclusive) purpose of the mailing. We believe that this test would be difficult to administer. In the example of the nonprofit mailing above, how would we determine the primary purpose of the mailpiece? Additionally, we find that a primary purpose test is unnecessary, if not inappropriate, in this context, because the amount of purely nonpersonal, printed informational material should not disqualify a mailpiece from the use of Standard Mail rates. In short, we do not believe the classification of a mailpiece should hinge on whether the solicitation or provision of nonpersonal information is the primary purpose of the mailpiece, as long as all personal information is

included only to support the advertising or solicitation content.

This approach is consistent with the principle underlying the early 1980s rulemaking. Thus, in the nonprofit example described above, if the only purpose for including the personal information is to support a solicitation for donations, the inclusion of the personal information should not cause the piece to be classified as First-Class Mail. Further, the inclusion of purely nonpersonal educational or other informational content in the mailpiece should not disqualify the mailpiece from entry at Standard Mail rates, regardless of the amount of such information or its ratio to the amount of advertising content, subject to applicable weight limits for Standard Mail. Accordingly, we are deleting proposed E610.3.1c and substituting the following: "The exclusive reason for inclusion of all of the personal information is to support the advertising or solicitation in the mailpiece."

Many of the remaining comments on the proposed rule center on two themes: a concern that the proposed rule will be difficult to administer or result in inconsistent decisions, and proposals for "safe harbors" for the mail of specific industries. The financial industry, represented by seven commenters, requested a safe harbor for certain types of financial services mail, such as offers with terms or pricing that include pre-approved offers for credit and insurance. Another financial industry commenter requested a safe harbor for mailings required by regulations of other federal agencies. "[C]hanges to the Title 12—Banks and Banking regulations that have resulted in written notification to customers. * * * is cited as the example. Representatives of authorized Nonprofit Standard Mail mailers offered a similar suggestion, proposing to permit the inclusion of personal information in nonprofit mail if it "advances one or more qualifying purposes of the organization."

A small number of commenters representing an election campaign constituency claim that they are the subject of discrimination, on the basis that commercial mailings may be eligible for Standard Mail rates while sample ballots and other political campaign mail containing personal information is not. They support the intent of the proposed revisions as they affect commercial mailings but express the opinion that election campaign mail does not fit into the same category and any revisions "should specifically exempt political mail."

The Postal Service does not believe it proper, nor believe itself authorized, to create "safe harbors" for the mail of particular mailers, particular industries, or types of customers. The standards in the Domestic Mail Manual must be consistent with the DMCS and applicable statutes. The DMCS creates general standards and does not suggest that certain types of mail or mailers be excepted from standards. This principle also is consistent with the Postal Reorganization Act, which prohibits the Postal Service (except where statutorily authorized) from undue or unreasonable discrimination among mailers in the provision of services (*see* 39 U.S.C. 403(c)).

Moreover, even if the Postal Service had the authority to create "safe harbors," their adoption could create the type of administrative concerns that motivated this rulemaking. We would need to define the safe harbors and then apply the standards to determine whether a mailing meets that category. For example, if we adopted a safe harbor for financial services mailings containing personal information, we must define "financial services" mail, and then determine whether specific mailings fell within that definition. We believe that this determination would cause significant administrative problems.

For similar reasons, permitting personal information that supports the mission of a nonprofit mailer would be difficult to administer. Acceptance decisions as to the nature of the mission of a nonprofit organization and whether the use of personal information "supports" that mission could become highly subjective and lead to inconsistencies and contested eligibility for nonprofit rates. We have also decided not to adopt the suggestion of mailers who, concerned with consistent application of the proposed standard, propose a definitive list of specific types of information or mailings required to be sent as First-Class Mail. We believe that such a list would decrease the amount of mail eligible for Standard Mail rates. Moreover, we believe that it would create, and not ease, administrative concerns. First, since the business of our customers continues to evolve, the Postal Service would have to continuously review and revise the list, eliminating the certainty the list was intended to create. Second, as explained above in a different context, the Postal Service would have to define each item and apply it to an individual mailing. Again, we believe that this effort would lead to significant administrative problems.

A number of commenters also expressed concern with the proposed "purpose" test, believing it might lead to inconsistent decisions. We disagree. An "exclusive purpose" test should be much more consistently applied than a "primary purpose" test; there is no need to weigh various purposes against each other to determine which is predominant or "primary." Instead, the only issue is whether there is a purpose for inclusion of the personal information other than the support of an advertisement or solicitation.

Other commenters expressed concern about how postal employees will discern such a purpose, apparently believing that employees will attempt to do so based on their perception of the mailer's intent, by "reading the mind" of the mailer. If we were asking this task of employees we would recognize that the commenters raised a valid concern. However, employees will not attempt to make a subjective determination of the mailer's intent. As explained in the proposal, employees will be trained to "make a determination of mailpiece eligibility based on the mailpiece itself" (see 69 FR 20843). Employees will not attempt to "read the mailer's mind" or make decisions based on their personal knowledge or belief as to the mailer's intention, but will make decisions based on the specific contents of the mailpiece.

For example, a recent case involved summaries of expenditures over a specific time period (such as a year or quarter year). Where such pieces indicate that the information can be used to assist in tax preparation, for planning or budgeting purposes, or simply for the addressee's records, that language indicates that the purpose of the personal information, at least in part, is not to support an advertisement. A second example concerns the nonprofit solicitation described above. If the mailpiece stated that the information about the addressee's previous donation could serve as a receipt or be used for a tax record, that statement would indicate that there is a purpose for the information in addition to supporting the charitable solicitation.

In addition to these administrative concerns, a number of commenters requested more guidance as to what constitutes "personal information." Some commenters suggest a list of information considered "personal." Again, such suggestions raise administrative concerns. First, if the Postal Service were to publish such a list, it would be subject to continuous review and change as mailer practices evolve. Second, we suspect that we would be called upon to define each

item and apply those definitions in the context of individual mailings. Again, we believe this application would lead to significant administrative problems.

The proposal (69 FR 20843) did provide significant guidance about personal information. It explained that personal information includes "any information specific to the addressee" and need not be unique to the addressee. This policy is the same as exists today. Additionally, we again point out that employees are trained to determine whether information is personal on the basis of the mailpiece itself. Our Customer Support Ruling concerning proxy statements (CSR PS-159) provides a good example. When a proxy card contains the number of shares without identifying the information, postal employees cannot determine what the number represents or whether it is personal to the addressee. Accordingly, it would not be considered personal information. In contrast, when the number is labeled "shares," it is clear what the number represents, and that it is personal information to the addressee.

One of the comments by an organization representing the interests of nonprofit organizations took issue with the language in the proposed rule that requires the advertising or solicitation to be "explicit." The commenter argued that mailers may sometimes prefer a subtle sell to one that "yells at the addressee."

This comment appears to be based on a misperception of the proposal. The Postal Service is not seeking to direct mailers' advertisement copy. The rule does not require a sell that "yells at the addressee." Rather, it requires that the mailpiece be clear what product or service is offered for sale or lease, no matter how hard or soft the advertiser's copy. Moreover, if the product or service offered is not identified in the mailpiece, it is unlikely that the personal information could be directly related to it.

Although we are not adopting the specific changes to the standards suggested by mailers concerned about the consistent application of our policies, we remain sensitive to the issues raised by these customers. We are taking a number of steps to alleviate these concerns and ensure the consistent application of the rules. We will undertake extensive training of postal personnel, including training emphasizing that these mail classification decisions must be based upon the content of the mailpiece, rather than the employee's perception or personal belief concerning the purposes of the mailer or the mailpiece. Second,

consistent with the recommendations of a number of commenters, we are reviewing our CSRs on these issues. CSRs are "case studies" publicly available on the Postal Service's Postal Explorer Web site (<http://pe.usps.gov>) and provide specific guidance concerning the application of mailing standards. Current CSRs will be updated and re-issued in harmony with the effective date of the new standards. Moreover, both in advance of and following the effective date of the new standard, the Postal Service will consider and issue new CSRs concerning "cases" that have arisen, or that are expected to arise, under the new standards.

Finally, the Postal Service is willing to provide mailers with advance rulings, during the planning or pre-production stages of their mailings, so that customers will have certainty regarding the prices they will be asked to pay at the acceptance dock. This guidance is generally already available to mailers on an informal, local basis, and some mailers routinely take advantage of this opportunity. The Postal Service plans to expand the availability of these types of rulings.

Several of the remaining commenters, noting privacy and security issues, urged that certain types of mailings not be permitted to be entered as Standard Mail to protect highly personal information. One such commenter suggested that the Postal Service roll back the use of personal information in Standard Mail to the "permissible written additions" (e.g., name of the addressee and marks, numbers, names, or letters describing the contents) customarily allowed in Standard Mail prior to the precedent rulemaking of the 1980s upon which this clarification is based.

For the reasons discussed above, the Postal Service will not classify mail based on the specific nature of the personal information provided in the mailpiece or provide a list of personal information required to be sent as First-Class Mail. We note, nonetheless, that one effect of this rulemaking will be that more mail will be classified properly. That is, mail required by standard to be entered as First-Class Mail due to the inclusion of personal information will be identified and entered as First-Class Mail. Personal information can be included in Standard Mail only in limited circumstances, when the exclusive reason for inclusion of all of the personal information is to support the advertising or solicitation in the mailpiece. Thus, it is possible that an additional consequence of this rulemaking will be to reduce the

amount of personal information in Standard Mail.

A small number of commenters were concerned that the proposed rule raises First Amendment issues. For one, on behalf of nonprofit organizations, it is argued that “[C]haritable appeals for funds * * * involve a variety of speech interests—communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment.” This argument appears to acknowledge that the proposed standards are based on content of the mail and the assertion that the test may not be administered consistently.

It is true that the proposed eligibility standards for First-Class Mail and Standard Mail, like those that exist today for all mail classes, are based on the content of the mailpiece. These standards are based on the DMCS (as well as current and former statutes), and the Postal Service is required to follow them in the Domestic Mail Manual. The Postal Service is not denying service based on content, but instead is classifying the mail.

We also disagree, for the reasons explained above, that administration of the proposed rule, with the modifications adopted herein, will be difficult or will lead to inconsistency. On the contrary, we believe these changes will ease efforts to classify First-Class Mail and Standard Mail for both postal customers and postal employees.

For these reasons, the Postal Service adopts the proposed rule with the changes stated above.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, 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. Revise the following sections of the *Domestic Mail Manual* (DMM) as set forth below:

E Eligibility

* * * * *

E100 First-Class Mail

E110 Basic Standards

[Renumber current 2.0 through 5.0 as 4.0 through 7.0. Replace current 1.0 with new 1.0, 2.0, and 3.0, as follows:]

1.0 DESCRIPTION OF SERVICE

1.1 Service Objectives

First-Class Mail receives expeditious handling and transportation. Service objectives for delivery are 1 to 3 days; however, delivery time is not guaranteed.

1.2 Rate Options

First-Class Mail offers the flexibility of single-piece rates, and discounted rates for mailings of 500 or more pieces that weigh 13 ounces or less.

1.3 Mailable Items

First-Class Mail may be used for any mailable item, including postcards, letters, flats, and small packages. Customized MarketMail under E660 and other restricted material as described in C020 may not be mailed as First-Class Mail.

2.0 DEFINING CHARACTERISTICS

2.1 Inspection of Contents

First-Class Mail is closed against postal inspection. Federal law and Postal Service regulations restrict both opening and reviewing the contents of First-Class Mail by anyone other than the addressee.

2.2 Forwarding Service

The price of First-Class Mail includes forwarding service to a new address for up to 12 months.

2.3 Return Service

The price of First-Class Mail includes return service if the mailpiece is undeliverable.

2.4 Extra Services Exclusive to First-Class Mail

First-Class Mail is the only class of mail eligible to receive the following extra services: registered mail service and certified mail service.

2.5 Additional Extra Services

Additional extra services available with First-Class Mail are certificate of mailing service, COD service, Delivery Confirmation service (parcels only), insured mail service (merchandise only), return receipt service, restricted delivery service, Signature Confirmation service (parcels only), and special handling. See S900.

3.0 CONTENT STANDARDS

3.1 Bills and Statements of Account

Bills and statements of account must be mailed as First-Class Mail (or Express Mail) as follows:

a. Bills and statements of account assert a debt in a definite amount owed by the addressee to the sender or a third

party. In addition, bills include a demand for payment; statements of account do not include a demand for payment. The debt does not have to be due immediately but may become due at a later time or on demand. The debt asserted need not be legally collectible or owed.

b. Bills and statements of account do not need to state the precise amount due if they contain information that would enable the debtor to determine that amount.

3.2 Personal Information

Mail containing personal information must be mailed as First-Class Mail (or Express Mail). Personal information is any information specific to the addressee.

3.3 Handwritten and Typewritten Material

Mail containing handwritten or typewritten material must be mailed as First-Class Mail (or Express Mail).

3.4 Material Not Required to be Mailed as First-Class Mail

Mail eligible for Standard Mail or Package Services rates under E610 or E700 is not required to be mailed as First-Class Mail or Express Mail.

* * * * *

E600 Standard Mail

E610 Basic Standards

[Renumber current 3.0 through 9.0 as 4.0 through 10.0. Replace current 1.0 and 2.0 with new 1.0, 2.0, and 3.0, as follows:]

1.0 DESCRIPTION OF SERVICE

1.1 Service Objectives

Standard Mail may receive deferred handling. Service objectives for delivery are 2 to 9 days; however, delivery time is not guaranteed.

1.2 Quantity

Standard Mail provides economical rates for mailings of 200 or more pieces or at least 50 pounds of mail.

2.0 DEFINING CHARACTERISTICS

2.1 Mailpiece Weight Limit

All Standard Mail pieces—letters, flats, and small packages—must weigh less than 16 ounces.

2.2 Preparation Requirements

Standard Mail is subject to specific volume, marking, and preparation requirements.

2.3 Inspection of Contents

Standard Mail is not sealed against postal inspection.

2.4 Forwarding Service

The price of Standard Mail does not include forwarding service. Forwarding is available under F010.5.3.

2.5 Return Service

The price of Standard Mail does not include return service. Return service is available under F010.5.3 for an additional fee.

2.6 Extra Services

Extra services available with Standard Mail are insured mail service (bulk insurance only), certificate of mailing service (bulk certificate of mailing only), return receipt for merchandise service, and Delivery Confirmation service (parcels only). See S900.

2.7 Periodicals

Authorized Periodicals may not be entered as Standard Mail unless permitted by standard.

2.8 Identical Pieces

The contents of printed matter in a Standard Mail mailing must be identical to a piece sent to at least one other addressee. Standard Mail may include the addressee's name and address but may not transmit personal information except as permitted under 3.0.

3.0 CONTENT STANDARDS

3.1 Personal Information

Personal information may not be included in a Standard Mail mailpiece unless all of the following conditions are met:

- The mailpiece contains explicit advertising for a product or service for sale or lease or an explicit solicitation for a donation.
- All of the personal information is directly related to the advertising or solicitation.
- The exclusive reason for inclusion of all of the personal information is to support the advertising or solicitation in the mailpiece.

3.2 Bills and Statements of Account

Mail containing bills or statements of account as defined in E110.3.0 may not be entered as Standard Mail except under the conditions described in 5.2.

3.3 Handwritten and Typewritten Matter

Mail containing handwritten or typewritten matter may not be entered as Standard Mail except under the conditions described in 4.0.

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

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 04-23646 Filed 10-26-04; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA208-4231; FRL-7822-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania VOC and NO_x RACT Determinations for National Fuel Gas Supply Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision was submitted by the Pennsylvania Department of Environmental Protection (DEP) to establish and require reasonably available control technology (RACT) for the National Fuel Gas Supply Corporation located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on November 26, 2004.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Betty Harris, (215) 814-2168, or by e-mail at harris.betty@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 2, 2003, the Pennsylvania DEP submitted formal SIP revisions to establish RACT for two sources of VOC and NO_x located in Pennsylvania. On May 24, 2004 (69 FR 29444), EPA

published a direct final rule (DFR) approving revisions to DEP-issued operating permits which establish and require RACT for the National Fuel Gas Supply Corporation's Roystone Compressor Station located in Sheffield, Warren County, Pennsylvania (OP 62-141F) and the Crompton Corporation's facility located in Fairview Township, Butler County, Pennsylvania (OP 10-037). A description of the RACT determinations and EPA's rationale for approving them were provided in the May 24, 2004 DFR and will not be restated herein. In accordance with direct final rulemaking procedures, on May 24, 2004 (69 FR 29480), EPA also published a companion notice of proposed rulemaking on these SIP revisions inviting interested parties to comment on the DFR. On May 26, 2004, EPA received adverse comment on its approval of the RACT determination for National Fuel Gas and Supply Corporation's Roystone Compressor Station (National). EPA received no adverse comments on its approval of the RACT determination for the Crompton Corporation's facility, and, therefore, EPA's May 24, 2004 DFR approving DEP's RACT determination for the Crompton facility became effective on July 23, 2004. On July 2, 2004 (69 FR 40324), due to receipt of the adverse comment on its approval of the DEP's RACT determination for National, EPA published a partial withdrawal of the DFR, specifically withdrawing its final rule approving DEP's RACT determination for National. A summary of the adverse comment and EPA's responses to the comment are provided in Section II of this document.

II. Public Comment and EPA Responses

Comment: On May 26, 2004, a citizen submitted adverse comment on EPA's approval of the DEP's RACT determination for National. The commenter states that the allowable NO_x limitation imposed by the DEP on National's Units 1, 2 and 3 should be decreased from 5.3 lbs per hour to 1.3 lbs per hour and that all the other NO_x rates set in the DEP's permit should be cut in half. The commenter contends that rather than simply re-stating state law which is too low, Federal officials should impose higher standards.

Response: EPA disagrees with the commenter. The EPA has no authority to modify the submitted RACT rules as requested by the commenter. The CAA requires that a state determine and impose RACT for existing major sources of NO_x and VOCs located in ozone nonattainment areas and the Ozone Transport Region. Those RACT requirements are then to be submitted to