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MEMORANDUM FOR: FSC MEMBERS

FROM: BILL OLSON & DICK DINGMAN

SUBJECT: Proposed U.S. Postal Service Rulemaking Requiring Self-
Identification by all Senders of Discount Mail

DATE: OCTOBER 22, 2003

Introduction

Yesterday, October 21, 2003, the U.S. Postal Service filed notice in the *Federal Register* of a proposed addition to the *Domestic Mail Manual* that would **require mailers** receiving discounts for First-Class, Periodicals, Standard, or Package Services mail to **identify themselves**. 68 Fed.Reg. 60053-54.

Comments on this proposed rulemaking are due by **November 20, 2003**. You may want to consider filing comments from your organization.

Nonetheless, **FSC plans to file comments against this proposal**. If you would like to be sent the FSC comments so that you can consider joining onto those comments, please e-mail us back.

When we analyze these new regulations further, we will get back to you with more information.

Summary

If postage is paid with either **permit imprint** or **meter** and the permit or meter license not issued in the same name as the sender/owner of the mail, then either (i) the mailpiece must state the sender/owner's actual address, or (ii) the permit imprint permit holder or the meter licensee must maintain records of the actual name and address of the sender/owner for one year.

Where the postage is paid using **precanceled stamps**, the mailpiece must have a domestic return address. If the return address is different than the address of the precanceled stamp **permit**

holder, then the party at the return address must maintain records of the actual name and address of the sender/owner for one year.

Mailer records must be made available “immediately upon request” by the Postal Inspection Service.

Although senders of much of the various classes of mail are identified already via the type of postage that they use, such identification is incidental to the reason that disclosure is made. Now, for the first time, the Postal Service will demand that there be no anonymity in mass communications through the mail. Nonprofit advocacy organizations make particularly heavy use of discount categories of mail within Standard Mail and First-Class Mail.

While the Postal Service’s proposal does not address First-Class single piece mail, Priority Mail, or single piece Parcel Post, the types of mail used by most individuals, it is reasonable to expect that it will be expanded to these classes at a later time if these changes are allowed to be implemented, and serve as a precedent for such an extension to retail mail.

The Postal Service is seeking to implement this radical change in policy without any new legislative authority.

Specific Provisions

First-Class

Proposed DMM Section E110.4.1. states that: “[t]o be eligible for any First-Class Mail discount postage rates under E130 or E140, all mailpieces must identify the sender.”

First-Class discount mailpieces using permit imprints or pre-canceled stamps must either “display a domestic return address that is the actual address of the sender (*i.e.*, owner) of the mailpiece” or the permit holder or party located at the return address shown on the mailpiece “must maintain adequate records that indicate the actual name and address of the sender (*i.e.*, owner) of the mailpiece” for at least one year.

Periodicals

Proposed DMM Section E211.1.4. states that: “[t]o be eligible for any Periodicals discount postage rates under E217, E220, E230, E240, E250, E260, and E270, all mailpieces must identify the sender. A Periodicals publication that bears a properly prepared identification statement as required in E211 meets the sender-identified requirement.”

Standard

Proposed DMM Section E610.5.1. states that: “[t]o be eligible for claiming any Standard Mail discount postage rates under E620, E630, E640, E650, and E670, all mailpieces must identify the sender.” As with First-Class, the new rule would require that “each mailpiece must display a domestic return address that is the actual address of the sender (*i.e.*, owner) of the mailpiece” or the permit imprint holder/meter licensee/pre-canceled stamp return address holder “must maintain adequate records that indicate the actual name and address of the sender (*i.e.*, owner) of the mailpiece.”

Package Services

Proposed DMM Section E710.4.1. states that: “[t]o be eligible for claiming any Standard Mail discount postage rates under E712, E713, E714, E751, E752, and E753, all mailpieces must identify the sender.” Again, the new rule would require that “each mailpiece must display a domestic return address that is the actual address of the sender (*i.e.*, owner) of the mailpiece” or the permit imprint holder/meter licensee/pre-canceled stamp return address owner “must maintain adequate records that indicate the actual name and address of the sender (*i.e.*, owner) of the mailpiece.”

Postal Service Explanation

In the Supplementary Information accompanying the proposed rules, the Postal Service justifies “sender identification of all discount rate mailings” as both:

- “a tool in identifying the senders of a large portion of the mailstream” as well as
- “facilitat[ing] investigations into the origin of suspicious mail.”

The Postal Service also cited House and Senate committees in the 107th Congress which had urged similar action, as well as the recommendation of the President’s Commission on the Postal Service for “sender identification for every piece of mail.”

The Postal Service further observed that “the pieces in most discount rate mailings already bear some evidence of the identity of the sender. The sender’s identity usually can be determined via the postage payment method used by the mailer, since all discount rate mailings must have postage paid using permit imprints, precanceled stamps, or meter postage.”

This change was also promoted as “an initial step on the road to **intelligent mail**.” (Emphasis added.) Intelligent mail is a term used to describe mail which can be electronically tracked by markings on the carrier envelope.

[Federal Register: October 21, 2003 (Volume 68, Number 203)]
 [Proposed Rules]
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 From the Federal Register Online via GPO Access [wais.access.gpo.gov]
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POSTAL SERVICE

39 CFR Part 111

Sender-Identified Mail: Enhanced Requirement for Discount Rate Mailings

AGENCY: Postal Service.

ACTION: Proposed rule.

 SUMMARY: This proposed rule would revise the Domestic Mail Manual (DMM) to require enhanced sender identification for all discount rate mailings.

DATES: Submit comments on or before November 20, 2003.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 1735 N. Lynn Street, Room 3025, Arlington, VA 22209-6038. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Postal Service Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor North, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joel Walker, Mailing Standards, United States Postal Service, (703) 292-3648.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing this enhanced requirement because sender identification of all discount rate mailings would serve as a tool in identifying the senders of a large portion of the mailstream. It could also facilitate investigations into the origin of suspicious mail.

As background, **two congressional committees** urged the Postal Service to explore the concept of sender identification, including ``the feasibility of using unique, traceable identifiers applied by the creator of the mail piece.'' S. Rept. 107-212, p. 50; see also H. Rept. 107-575, p. 46. The **President's Commission on the United States Postal Service** recently recommended the use of sender identification for every piece of mail. ``Embracing the Future,'' Report of the President's Commission on the United States Postal Service (July 31, 2003) pp. 147-8. Requiring sender-identification for discount rate mail is an initial step on the road to intelligent mail.

It should be noted that the pieces in most discount rate mailings already bear some evidence of the identity of the sender. The sender's identity usually can be determined via the postage payment

method used by the mailer, since all discount rate mailings must have postage paid using permit imprints, precanceled stamps, or meter postage.

Except for a company permit imprint format, mailers who pay postage using regular permit imprints must display an indicia on each mailpiece that shows the permit imprint number and the city and state where the permit is held. Mailpieces bearing a company permit imprint (which do not require the indicia to show the permit imprint number and the city and state of issue) must display the sender's domestic return address on each mailpiece as stated in current DMM A010.4.3. Mailers who pay postage on their discount rate mailings using precanceled stamps also are required to display the sender's domestic return address on each mailpiece. For discount rate mailings that bear meter postage, the meter imprint or indicia on each mailpiece must contain information that can be used to identify the name and address of the meter license holder.

In this proposed rule, the Postal Service seeks **to enhance mail security** by requiring that all discount mail be "sender identified." Specifically, the Postal Service proposes revisions to the mailing standards in DMM E050, E110, E211, E610, and E710. The revision to DMM E050 would state that franked mail sent at discount rates would be considered sender-identified mail. The revisions to DMM E110, E211, E610, and E710 would require all discount rate mailings to meet a sender-identification requirement. Since many discount rate mailings already meet this requirement, the Postal Service proposal would have little impact on most discount rate mailers. However, it is likely that some discount rate mailers may need to change their current procedures to comply with the proposed sender-identification requirement. If the requirement is adopted, its effect would be slightly tighter requirements for identifying the sender of a discount rate mailing.

The proposed rule would further enhance existing requirements by specifically requiring that all discount rate mailings allow a reasonable means for identifying the sender of a mailpiece sent at a discount postage rate.

Under this proposal, sender-identified mail would include all mailpieces that are part of a First-Class Mail, Periodicals, Standard Mail, or Package Services mailing that is eligible for and claims any discounted postage rate. To be considered as sender-identified, each discount rate mailpiece would be required to meet one of the following requirements:

- Postage paid using a permit imprint or metered postage: If the permit imprint permit or meter license is not issued in the same name as that of the sender (i.e., owner) of the mailpiece, one of the following requirements must be met:
 - (a) Each mailpiece must display a **domestic return address that is the actual address of the sender** (i.e., owner) of the mailpiece such that it enables identification of the origin location or organization of the mailing.
 - (b) The permit imprint holder or meter licensee must maintain adequate records that indicate the **actual name and address of the sender** (i.e., owner) of the mailpiece. The records must be

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retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

- Postage paid using precanceled stamps: Each mailpiece must bear a domestic return address. If the return address is not the address of the precanceled stamp permit holder, the party located at the return address shown on the mailpiece must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

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:

E Eligibility

E000 Special Eligibility Standards

* * * * *

E050 Official Mail (Franked)

1.0 BASIC INFORMATION

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[Add new 1.8 specifying that franked mail meets the sender-identified requirement, to read as follows:]

1.8 Sender-Identified Mail Requirement

Placement of the written or printed facsimile signature or other markings specified in Exhibit 1.1 meets the sender-identified requirement for discount rate franked mailings made under E100, E600, and E700.

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E100 First-Class Mail

E110 Basic Standards

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[Renumber current 4.0 and 5.0 as new 5.0 and 6.0, respectively. Add new 4.0 to state the new requirements for sender-identified mail to read as follows:]

4.0 SENDER-IDENTIFIED MAIL

4.1 Requirement

To be eligible for any First-Class Mail discount postage rates under E130 or E140, all mailpieces must identify the sender. Postage must be paid using a permit imprint, meter, or precanceled stamp. Sender-identified mail must meet the requirements in 4.2, 4.3, or 4.4.

4.2 Permit Imprint Mailings

If the permit imprint appearing on discount rate First-Class Mail pieces is not issued in the same name as that of the sender (i.e., owner) of the mailpiece, one of the following requirements must be met:

- a. Each mailpiece must display a domestic return address that is the actual address of the sender (i.e., owner) of the mailpiece such that it enables identification of the origin location or organization of the mailing.
- b. The permit imprint holder must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

4.3 Precanceled Stamp Mailings

Each mailpiece bearing precanceled stamps and sent at a First-Class Mail discount postage rate must bear a domestic return address. If the return address is not the address of the precanceled stamp permit holder the party located at the return address shown on the mailpiece must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

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E200 Periodicals

E210 Basic Standards

E211 All Periodicals

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[Renumber current 1.4 as 1.5. Add new 1.4 to state the new requirements for sender-identified mail read as follows:]

1.4 Sender-Identified Mail Requirement

To be eligible for any Periodicals discount postage rates under E217, E220, E230, E240, E250, E260, and E270, all mailpieces must identify the sender. A Periodicals publication that bears a properly prepared identification statement as required in E211 meets the sender-identified requirement.

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E600 Standard Mail

E610 Basic Standards

[Renumber current 5.0 through 9.0 as 6.0 through 10.0 respectively. Add new 5.0 to state the new requirements for sender-identified mail to read as follows:]

5.0 SENDER-IDENTIFIED MAIL

5.1 Requirement

To be eligible for claiming any Standard Mail discount postage rates under E620, E630, E640, E650, and E670, all mailpieces must identify the sender. Postage must be paid using a permit imprint, meter, or precanceled stamp. Sender-identified mail must meet the requirements in 5.2 or 5.3.

5.2 Permit Imprint and Metered Mailings

If the permit imprint or meter indicia appearing on discount rate Standard Mail pieces is not issued in the same name as that of the sender (i.e., owner) of the mailpiece, one of the following requirements must be met:

a. Each mailpiece must display a domestic return address that is the actual address of the sender (i.e., owner) of the mailpiece such that it enables identification of the origin location or organization of the mailing.

b. The permit imprint holder or meter licensee must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

5.3 Precanceled Stamp Mailings

Each mailpiece bearing precanceled stamps and sent at a Standard Mail discount rate must bear a domestic return address. If the return address is not the address of the precanceled stamp permit holder, the party located at the return address shown on the mailpiece must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be

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retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

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E700 Package Services

E710 Basic Standards

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[Renumber current 4.0 as 5.0. Add new 4.0 to state the new requirements for sender-identified mail to read as follows:]

4.0 SENDER-IDENTIFIED MAIL

4.1 Requirement

To be eligible for any Package Services discount postage rates under E712, E713, E714, E751, E752, and E753, all mailpieces must identify the sender. Postage must be paid using a permit imprint, meter, or precanceled stamp. Sender-identified mail must meet the requirements in 4.2 or 4.3.

4.2 Permit Imprint and Metered Mailings

If the permit imprint or meter indicia appearing on discount postage rate Package Services mailpieces is not issued in the same name as that of the sender (i.e., owner) of the mailpiece, one of the following requirements must be met:

a. Each mailpiece must display a domestic return address that is the actual address of the sender (i.e., owner) of the mailpiece such that it enables identification of the origin location or organization of the mailing.

b. The permit imprint holder or meter licensee must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

4.3 Precanceled Stamp Mailings

Each mailpiece bearing precanceled stamps and sent at a Package Services discount postage rate must bear a domestic return address. If the return address is not the address of the precanceled

stamp permit holder, the party located at the return address shown on the mailpiece must maintain adequate records that indicate the actual name and address of the sender (i.e., owner) of the mailpiece. The records must be retained for one year from the date of the mailing and must be made available to the U.S. Postal Inspection Service immediately upon request.

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

Stanley F. Mires,
Chief Counsel, Legislative.
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[Emphasis added.]