

would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for law enforcement purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. DLA will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

Dated: March 2, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense*

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## POSTAL SERVICE

### 39 CFR Part 111

#### Eligibility Requirements for Certain Nonprofit Standard Mail Rate Matter

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule will amend the standards for mail matter eligible to be sent at the Nonprofit Standard Mail rates. Specifically, mail matter that seeks or solicits membership dues payments may contain "promotional" material concerning membership benefits when certain criteria are met.

**DATES:** Comments must be received on or before April 6, 1998.

**ADDRESSES:** Written comments should be mailed or delivered to Manager, Business Mail Acceptance, USPS Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260-6808. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 6801 at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jerome M. Lease, 202-268-5188.

**SUPPLEMENTARY INFORMATION:** Nonprofit organizations authorized to mail at the Nonprofit Standard Mail rates often list "member benefits" when soliciting new members or renewals. The Postal Service has long held that references to benefits are "permissible," i.e., not considered solicitations under the statutory restrictions on matter eligible for the nonprofit rates, provided advertising, promotional, or application materials for such benefits are not included in the mailpiece.

The Postal Service position is based on 39 U.S.C. 3626(j)(2)(B), which is implemented in Domestic Mail Manual (DMM) E670.5.7b, and states that an authorized nonprofit organization's material is not disqualified from being mailed at the Nonprofit Standard Mail rates solely because that material contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries about services or benefits available from membership in the authorized organization, if advertising, promotional, or application materials for such services or benefits are not included. If advertising, promotional, or application materials are present in a mailpiece that announces the availability of membership services or benefits, the mailpiece is not eligible for the Nonprofit Standard Mail rates unless the provision of such services or benefits is "substantially related" to the exercise or performance by the organization of one or more of the purposes under which the organization qualified to mail at the Nonprofit Standard Mail rates or, if the benefit is for travel, insurance, or financial instruments such as credit cards which are subject to separate rules, other prescribed exceptions are met. See 39 U.S.C. 3626(j) and DMM E670.5.4.

The Postal Service considers descriptive information printed in conjunction with the generic name of a service or product constituting a membership benefit, to be promotional. For example, information such as "low cost," "no annual fee," or "5% interest

rate" to describe a credit card offered as a membership benefit would be considered promotional material (in the same manner as words such as "delicious," "nutritional," or "inexpensive" would be considered promotional if used to describe food products) which may make the mailpiece ineligible for the Nonprofit Standard Mail rates. Purchase terms and conditions, and brand names are also considered promotional.

On November 14, 1997, the Postal Service published a final rule in the **Federal Register** allowing solicitations for contributions or membership dues payments that offer "backend premiums" not to be considered advertising for the premium(s) when certain criteria are met (See 62 FR 61014-61015 (November 14, 1997)). In doing so, the Postal Service determined to consider the solicitation as a single transaction, and considered whether it was predominantly a request for contributions or dues payments. The Postal Service believes it appropriate to adopt a similar approach with respect to the announcements of benefits available to members. Nevertheless, the Postal Service is mindful of section 39 U.S.C. 3626(j)(2)(B), which prohibits the inclusion of advertising, promotional, or application materials in conjunction with these advertisements.

The Postal Service proposes an amendment to Domestic Mail Manual E670.5.7b., to provide that a solicitation for new members or renewal of membership may, to a minor extent, describe membership benefits with the use of promotional terms provided it can be determined by an actual measurement that the piece is primarily a solicitation for new members or a renewal offer. For purposes of this exception, minor is defined as less than half. Measurement would be performed in accordance with the same standards for measuring advertising and nonadvertising in a Periodicals publication. See DMM P200.1.7. This change, which will affect mailings made after the date any rule change is adopted and not retroactively to previous mailings, only applies to the solicitation letter itself, and not to any brochures, circulars, flyers, or other separate, distinct, or independent documents. Any advertising, promotional, or application materials in these latter documents may cause the mailpiece to be ineligible for the nonprofit rates. The proposal does establish a limited exception for an organization which prepares a standard, preprinted document, consisting of a single sheet, that lists and describes its member benefits. This document may be

enclosed with and considered part of the solicitation letter for purposes of applying the proposed test, provided that the letter does not itself list or describe the member benefits. The latter may, however, refer the addressee to the separate list of benefits. (For example, the letter may state: "For a description of benefits available to members, please see the attached sheet", as long as no promotional material concerning the benefits is included.)

Although exempt from the notice and comment requirements of the Administrative Procedure Act {5 U.S.C. 553{b}, {c}} regarding proposed rulemaking by 39 U.S.C. 410{a}, the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference in the Code of Federal Regulations. (see CFR part 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, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend Domestic Mail Manual E670.5.7, by revising b. to read as follows:

#### E Eligibility

\* \* \* \* \*

#### E670 Nonprofit Standard Mail

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#### 5.0 ELIGIBLE AND INELIGIBLE MATTER

\* \* \* \* \*

#### 5.7 Other Matter

An authorized nonprofit organization's material is not disqualified from being mailed at the Nonprofit Standard Mail rates solely because that material contains, but is not primarily devoted to:

\* \* \* \* \*

b. References to and a response card or other instructions for making inquiries about services or benefits available from membership in the authorized organization, if advertising, promotional, or application materials for such services or benefits are not included. For purposes of this section, descriptions of member benefits available as a part of membership including the use of adjectives, terms, conditions, and brand names, are

permissible when they are a minor part of a solicitation or renewal request for membership payments. For purposes of this provision, "minor" is defined as "less than half." Measurement is made in accordance with P200.1. The solicitation or renewal request in which, to a minor degree, member benefits may be promoted is considered to include only a printed letter to prospective members or current members whose membership is about to expire, and not to any separate, distinct, or independent brochure, circular, flyer, or other documents. Such separate documents will be considered advertising if they contain any advertising, promotional, or application materials. Exception: A separate document prepared by the qualifying organization, consisting of one sheet, will be considered to be part of the solicitation letter if it describes the organization's member benefits and the solicitation letter does not describe the organization's benefits but instead refers the reader to the separate document.

\* \* \* \* \*

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 98–5772 Filed 3–5–98; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 264 and 265

[FRL–5973–4]

#### Project XL Site-specific Rulemaking for OSi Specialties, Inc., Sistersville, WV

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is implementing a project under the Project XL program for the OSi Specialties, Inc. plant, a wholly owned subsidiary of Witco Corporation, located near Sistersville, West Virginia (the "Sistersville Plant"). The terms of the XL project are defined in a Final Project Agreement ("FPA") which was made available for public review and comment. See 62 FR 34748, June 27, 1997. Following a review of the public comments, the FPA was signed by delegates from the EPA, the West Virginia Division of Environmental Protection ("WVDEP") and Witco Corporation on October 17, 1997. The EPA is today proposing a site-specific rule, applicable only to the Sistersville

Plant, to facilitate implementation of the XL project.

Today's action proposes a site-specific regulatory deferral from the Resource Conservation and Recovery Act (RCRA) organic air emission standards, commonly known as RCRA Subpart CC. The applicability of this site-specific deferral is limited to two existing hazardous waste surface impoundments, and is conditioned on the Sistersville Plant's compliance with air emission and waste management requirements that have been developed under this XL project. Today's action proposes site-specific regulatory changes to implement this XL project. The agency expects this XL project to result in superior environmental performance at the Sistersville Plant, while deferring significant capital expenditures, and thus providing cost savings for the Sistersville Plant.

**DATES:** *Comments.* Public comments on this proposed rule will be accepted until March 27, 1998.

*Public Hearing.* A public hearing will be held, if requested, to provide interested persons an opportunity for verbal presentation of data, views, or arguments concerning this site-specific rule to implement the Sistersville Plant's XL project. If anyone contacts the EPA requesting to speak at a public hearing by March 16, 1998, a public hearing will be held on March 20, 1998.

#### ADDRESSES:

*Request to Speak at Hearing.* Persons wishing to make verbal presentations must contact Mr. Tad Radzinski at U.S. EPA Region 3. Mr. Tad Radzinski may be contacted at the following: U.S. Environmental Protection Agency, Region 3 (3WC11), 841 Chestnut Street, Philadelphia, PA 19107–4431, (215) 566–2394.

*Comments.* Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number F–98–MCCP–FFFFF.

*Docket.* A docket containing supporting information used in developing this rulemaking is available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–98–MCCP–FFFFF.

A duplicate copy of the docket is available for inspection and copying at