

our affiliates will apply for 5 years. Once that period expires, you will be allowed to extend your decision.

3. [Include if applicable.] This limitation does not apply in certain circumstances, such as if you currently do business with one of our affiliates or if you ask to receive information or offers from them.

To limit marketing offers [include all that apply]:

- Call us toll-free at 877-###-####; or
- Visit our Web site at <http://www.websiteaddress.com>; or

• Check the box below and mail it to:
[Company name]

[Company address]

I do not want your affiliates to market their products or services to me based on information that you share with them.

A-2—Model Form for Extension Notice

Extending Your Choice To Limit Marketing

1. You previously chose to limit our affiliates from marketing their products or services to you based on information that we share with them, such as your income, your account history with us, and your credit score.

2. Your choice has expired or is about to expire.

3. [Include if applicable.] This limitation does not apply in certain circumstances, such as if you currently do business with one of our affiliates or if you ask to receive information or offers from them.

To extend your choice for another 5 years [include all that apply]:

- Call us toll-free at 877-###-####; or
- Visit our Web site at <http://www.websiteaddress.com>; or

• Check the box below and mail it to:
[Company name]

[Company address]

I want to extend my choice for another 5 years.

A-3—Model Form for Voluntary “No Marketing” Notice

Your Choice To Stop Marketing

You may choose to stop all marketing offers from us and our affiliates.

To stop all marketing offers [include all that apply]:

- Call us toll-free at 877-###-####; or
- Visit our Web site at <http://www.websiteaddress.com>; or

• Check the box on the form below and mail it to:

[Company name]

[Company address]

I do not want you or your affiliates to send me marketing offers.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 04-13481 Filed 6-14-04; 8:45 am]

BILLING CODE 6750-01-P

POSTAL SERVICE

39 CFR Part 111

Eligibility Requirements for Certain Nonprofit Standard Mail Material

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes revisions to Domestic Mail Manual (DMM) E670.5.5, which sets forth guidelines for determining whether the coverage provided by an insurance policy offered by an authorized nonprofit organization to its members is not generally otherwise commercially available.

DATES: Submit comments on or before July 15, 2004.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 3436, Washington DC 20260-3436. Copies of all written comments will be available for inspection and photocopying at USPS Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington DC, between 9 a.m. and 4 p.m., Monday through Friday. Comments may not be submitted via fax or e-mail.

FOR FURTHER INFORMATION CONTACT: Jerry Lease, Mailing Standards, U.S. Postal Service, (202) 268-7264; or Garry A. Rodriguez, Mailing Standards, U.S. Postal Service, (202) 268-7281.

SUPPLEMENTARY INFORMATION: Authorized organizations are entitled to mail their qualifying materials at the Nonprofit Standard Mail rates (“nonprofit rates”), which are significantly lower than the regular Standard Mail rates. However, the Postal Service Appropriations Act of 1991 limits the types of material that may be sent at the nonprofit rates (originally called the “special bulk third-class rates”). Among the provisions is one restricting promotional materials for insurance from being mailed at the nonprofit rates unless, among other things, the coverage provided by the policy is “not generally otherwise commercially available” (39 U.S.C. 3626(j)(1)(B)).

On June 25, 1992 (57 FR 28464), the Postal Service adopted standards defining the phrase, “not generally

otherwise commercially available,” for purposes of determining the eligibility of promotional insurance mailed at the nonprofit rates. Those standards, as currently stated in DMM E670.5.4 and 5.5, state that promotional materials pertaining to the coverage provided by insurance policies may not be mailed at the nonprofit rates, “unless the organization promoting the purchase of such policy is authorized to mail at the Nonprofit Standard Mail rates at the entry post office; the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of that organization; and the coverage provided by the policy is not generally otherwise commercially available.”

DMM E670.5.5 explains, “The term not generally otherwise commercially available applies to the actual coverage stated in an insurance policy, without regard to the amount of the premiums, the underwriting practices, and the financial condition of the insurer. When comparisons are made with other policies, consideration is given to policy coverage benefits, limitations, and exclusions, and to the availability of coverage to the targeted category of recipients. When insurance policy coverages are compared for determining whether coverage in a policy offered by an organization is not generally otherwise commercially available, the comparison is based on the specific characteristics of the recipients of the piece (e.g., geographic location or demographic characteristics).”

The standard further explains that the types of insurance considered generally commercially available include, but are not limited to, homeowner's, property, casualty, marine, professional liability (including malpractice), travel, health, life, airplane, automobile, truck, motorhome, motorbike, motorcycle, boat, accidental death, accidental dismemberment, Medicare supplement (Medigap), catastrophic care, nursing home, and hospital indemnity insurance.

Several years after these standards were issued, the Postal Service was challenged in the United States District Court for the District of Columbia by two organizations authorized to mail qualifying matter at nonprofit rates. Each organization offered insurance to its respective members. In each case, the Postal Service had determined that the organization's mailings promoting insurance were not eligible for nonprofit rates. The organizations asked the District Court to reverse those decisions.

One of the nonprofit organizations was a fraternal benefit organization that offered life, medical, disability, and

long-term care insurance to its members. The policies were underwritten by the organization itself. The other nonprofit organization gave charitable grants for legal research funded through tax-deductible donations of dividends that otherwise would be payable to its members, donors, supporters, or beneficiaries who are insured through group insurance policies that the organization offers. In that case, the policies were underwritten by major insurance carriers.

The District Court held that the Postal Service's regulations constituted an incorrect reading of 39 U.S.C. 3626(j)(1)(B). The Postal Service appealed the District Court's decisions to the United States Court of Appeals for the District of Columbia Circuit, which consolidated the appeals and affirmed the District Court's decisions.

In light of the courts' rulings, the Postal Service proposes to amend DMM E670.5.5 to allow, under certain circumstances, the mailing of promotional material offering general types of insurance, such as homeowner's, property, casualty, marine, professional liability, and so forth. In doing so, the Postal Service is taking into account the courts' rulings, the Postal Service Appropriations Act of 1991, and the related legislative history. As explained in previous rulemakings concerning this statute, the Postal Service's obligation in establishing regulations is to adhere to the intent of Congress.

Under the proposal, mailings permitted at nonprofit rates in effect since 1991 continue to be eligible for the nonprofit rates. In addition, the Postal Service finds that Public Law No. 101-509 does not restrict the use of the nonprofit rates for mailings of an authorized fraternal benefit society or any other nonprofit organization when the material advertises, promotes, or offers insurance that is underwritten by the nonprofit organization itself.

The Postal Service also finds that Public Law No. 101-509 does not restrict the use of the nonprofit rates for mailings of an authorized organization's material that advertises, promotes, or offers insurance, if the coverage is provided or promoted by the nonprofit organization to its members, donors, supporters, or beneficiaries in such a way that those parties may make tax-deductible donations to the organization of their proportional shares of income in excess of costs that the nonprofit organization receives from the purchase of the coverage by its members, donors, supporters, or beneficiaries.

The position of the Postal Service regarding the second type of insurance

is similar to view of the Postal Service on charitable gift annuities (CGAs), which in many ways are similar to commercial annuities sold by life insurance companies. In a 1997 administrative ruling (Customer Support Ruling PS-294, Charitable Gift Annuities—Nonprofit Standard Mail, November 1997), the Postal Service found that CGAs are not generally otherwise commercially available because they differ from commercial insurance in a number of regulatory contexts—including that the federal tax code expressly provides that CGAs are not commercial-type insurance. Therefore, the Postal Service concluded that material regarding CGAs could be entered at the nonprofit rates.

Organizations continue to bear the burden of proof, as they have done historically, in substantiating that their mailings qualify for the nonprofit rates of postage. For example, upon request, they must provide evidence to support any claim that the coverage provided by a particular policy is not generally otherwise commercially available within the meaning of revised DMM E670.5.5.

Additionally, the Postal Service has historically viewed, and continues to view, provisions regarding the mailing of promotional materials concerning insurance as supplementary to, rather than a change to or replacement for, the existing standards that restrict cooperative mailings. Mailings that are ineligible under the cooperative mailing provisions remain ineligible for the nonprofit rates, regardless of whether or not they violate the newly adopted standards related to insurance.

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 to the Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.

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 Domestic Mail Manual (DMM) as set forth below:

E Eligibility

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E600 Standard Mail

* * * * *

E670 Nonprofit Standard Mail

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5.0 ELIGIBLE AND INELIGIBLE MATTER

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5.5 Definitions, Insurance

[Revise 5.5 to read as follows:]

For the standard in 5.4b:

a. Except as specified in 5.5c, the phrase not generally otherwise commercially available applies to the actual coverage stated in an insurance policy, without regard to the amount of the premiums, the underwriting practices, and the financial condition of the insurer. When comparisons are made with other policies, consideration is given to coverage benefits, limitations, and exclusions, and to the availability of coverage to the targeted recipients. When insurance policy coverages are compared to determine whether coverage in a policy offered by an organization is not generally otherwise commercially available, the comparison is based on the specific characteristics of the mailpiece recipients (e.g., geographic location or demographics).

b. Except as specified in 5.5c, the types of insurance considered generally commercially otherwise available include, but are not limited to, homeowner's, property, casualty, marine, professional liability (including malpractice), travel, health, life, airplane, automobile, truck, motorhome, motorbike, motorcycle, boat, accidental death, accidental dismemberment, Medicare supplement (Medigap), catastrophic care, nursing home, and hospital indemnity insurance.

c. Coverage is considered not generally otherwise commercially available if either of the following conditions applies:

(1) The coverage is provided by the nonprofit organization itself (*i.e.*, the nonprofit organization is the insurer).

(2) The coverage is provided or promoted by the nonprofit organization in a mailing to its members, donors, supporters, or beneficiaries in such a way that the members, donors, supporters, or beneficiaries may make tax-deductible donations to the nonprofit organization of their proportional shares of any income in excess of costs that the nonprofit organization receives from the purchase

of the coverage by its members, donors, supporters, or beneficiaries.

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An appropriate amendment to 39 CFR part 111 will be published if the proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 04-13347 Filed 6-14-04; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL-7773-3]

Clean Air Act Operating Permit Program; Petition for Objection to Proposed State Operating Permit for Shintech, Inc. and Its Affiliates Polyvinyl Chloride (PVC) Plant, Addis, West Baton Rouge Parish, LA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to State operating permit.

SUMMARY: This notice announces that the EPA Administrator has denied a petition to object to a State operating permit issued by the Louisiana Department of Environmental Quality for Shintech, Inc. and its Affiliates (Shintech) PVC plant in Addis, West Baton Rouge Parish, Louisiana. Pursuant to section 505(b)(2) of the Clean Air Act (Act), the Petitioners may seek judicial review of those portions of the petition which EPA denied in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under Section 307 of the Act.

ADDRESSES: You may review copies of the final order, the petition, and other supporting information at EPA, Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. The final order is also available electronically at the following address: http://kodiak.r07.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/shintech_decision1999.pdf.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett, Air Permits Section, Multimedia Planning and Permitting Division, EPA, Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733, telephone (214) 665-7227, or e-mail at barrett.richard@epa.gov.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review,

and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

On August 31, 1999, Ms. Marylee Orr, on behalf of the Alliance Against Waste and Action to Restore the Environment and the Louisiana Environmental Action Network (petitioner), petitioned EPA to object to the issuance of a permit to Shintech Inc. and its Affiliates (Shintech). The petition raised six objections to the Shintech permit: (1) The permit will inhibit reasonable further progress in the Baton Rouge ozone nonattainment area, and as such, is not in accordance with the Act; (2) the most recent State Implementation Plan dated January 2, 1997, fails to meet the requirements of section 182(c)(2)(A) of the Act in that it fails to provide for attainment of the ozone standard by the applicable attainment date; (3) although the proposed plant is considered a minor source, it will become a major source when the area is reclassified to severe,¹ and thus should be required to meet the prevention of significant deterioration and reasonably available control technology requirements now because it is easier to apply these requirements prior to construction than after operation begins; (4) certain emission calculations in the permit application are incorrect; (5) the proposed permit does not meet the appropriate maximum achievable control technology standards; and (6) EPA Region 6 management failures.

On July 3, 2003, the Administrator issued an order denying the petition. The order explains the reasons for the Administrator's decision.

Dated: May 28, 2004.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 04-13408 Filed 6-14-04; 8:45 am]

BILLING CODE 6560-50-P

¹ The Baton Rouge nonattainment area was recently reclassified as a severe nonattainment area for ozone. 68 FR 20077 (April 24, 2003).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL-7657-5]

Underground Storage Tank Program: Approved State Program for West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to codify the previously authorized underground storage tank (UST) program of the State of West Virginia. This codification reflects the State's program in effect at the time EPA granted West Virginia approval (September 23, 1997). In the "Rules and Regulations" section of this **Federal Register**, EPA is codifying the program by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this codification in the preamble to the immediate final rule. Unless we get written comments which oppose this codification during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by July 15, 2004.

ADDRESSES: Send written comments to Ms. Rosemarie Nino, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-3377. Comments may also be submitted electronically through the Internet to: nino.rose@epa.gov or by facsimile at (215) 814-3163. You can examine copies of the codification materials during normal business hours at the following location: EPA Region III Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-5254.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemarie Nino, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone (215) 814-3377.