

Class 2 or 3 requirements of the ANSI/ISEA 107–2004 publication entitled “American National Standard for High-Visibility Safety Apparel and Headwear,” which is published by the International Safety Equipment Association, 1901 N. Moore Street, Arlington, VA 22209 (<http://www.safetyequipment.org>).

Workers means people on foot whose duties place them within the right-of-way of a Federal-aid highway, including highway construction and maintenance forces, survey crews, utility crews, responders to incidents within the highway right-of-way, law enforcement personnel and any other personnel whose duties put them on the Federal-aid highway right-of-way.

§ 634.3 Rule.

All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel.

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BILLING CODE 4910–22–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. MC2006–4; Order No. 1462]

Classification Changes for Express Mail Second Day Service

AGENCY: Postal Rate Commission.

ACTION: Notice of new docket and proposed rulemaking.

SUMMARY: This order announces a mail classification docket to consider and clarify domestic mail classification schedule language pertaining to Express Mail Second Day service. The proposed change, if adopted, will help clarify delivery guarantees.

DATES: Deadline for filing notices of intervention and comments on Notice of Inquiry and need for a hearing: May 3, 2006; Deadline for filing replies to comments on Notice of Inquiry: May 10, 2006.

ADDRESSES: File all documents referred to in this order electronically via the Commission’s Filing Online system at <http://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, 202–789–6820.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to 39 U.S.C. 3623(b), the Commission is instituting a mail classification case to consider and clarify the language of the Domestic

Mail Classification Schedule (DMCS) pertaining to Express Mail Second Day service. This classification case is in response to the issues brought to light in count 3 of the Complaint on Express Mail filed under 39 U.S.C. 3662 and docketed by the Commission as Docket No. C2005–1,¹ and upon the statements, proffers and admissions offered by Postal Service counsel in the Postal Service’s Answer in that proceeding.²

Background

The Commission’s views on the necessity and desirability for DMCS clarification on Express Mail Second Day service are explained in more detail in Order No. 1461. The primary focus of this proceeding is on how best to clearly state in the DMCS the scope of Second Day Express Mail service that the Postal Service intends to provide its customers. As it stands, several DMCS provisions call for second day delivery, when, in certain limited circumstances, the Postal Service has admitted that it does not expect to provide delivery until the third or fourth day. Delivery on the third or fourth day is nonetheless second delivery day delivery—mail that would have been delivered on the second calendar day except that Sunday or holiday delivery is not available at that particular destination. This proceeding is an attempt to promptly remedy that inconsistency and harmonize the “refund” section of the Express Mail DMCS language regarding Second Day service with the “availability” section.³

Intervention

Those wishing to be heard in this matter are directed to file a notice of intervention on or before May 3, 2006. The notice of intervention shall be filed using the Internet (Filing Online) at the Commission’s Web site (<http://www.prc.gov>), unless a waiver is obtained for hardcopy filing. Rules 9(a) and 10(a) [39 CFR 3001.9(a) and 39 CFR 3001.10(a)]. Notices should indicate whether participation will be on a full or limited basis and may include procedural suggestions. See rules 20 and 20a [39 CFR 3001.20 and CFR 3001.20a]. No decision has been made at this point on whether a hearing will be held in this case.

¹ Douglas F. Carlson Complaint on Express Mail, February 18, 2005 (Complaint).

² Answer of United States Postal Service, May 5, 2005 (Answer).

³ Compare DMCS section 182.4 with section 123.1.

Notice of Inquiry

The current “availability” subsection of the Expedited Mail section of the DMCS is as follows:

123 Next Day Service and Second Day Service

123.1 Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times specified by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

The Commission recognizes that, “[o]ver time, because of ambiguities or imprecise language, it becomes necessary to amend the DMCS to clarify or correct language that has led to misinterpretations in the application of the DMCS to specific types of mail matter.” PRC Op. C85–1, para. 066. In that light, the Commission proposes to clarify the current DMCS language regarding the availability of Second Day service. The Commission proposes changes based upon statements made by the Postal Service in its Answer to the Complaint filed in C2005–1 as to the service it intends to provide its customers.⁴ Clarification is especially important since, as the Postal Service noted, the “refund” provision only provides for refunds for Second Day service if an Express Mail package is not delivered on the second delivery day.⁵ This anomalous result occurs even if second calendar day delivery is promised to a customer and yet the mailpiece is not delivered until the second delivery day, see DMCS section 182.4.

Proposed Change

Accordingly, the Commission proposes the following clarifying changes to the current DMCS:

123 Next Day Service and Second Day Service

123.1 Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times specified by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for delivery on the second delivery day as specified by the Postal Service.

Participants are invited to submit comments on the proposed DMCS changes presented above on or before May 3, 2006. Reply comments may be submitted on or before May 10, 2006.

⁴ Specifically, the “Postal Service admits that, when customers send Express Mail on Fridays to destinations for which Next Day Service is not available, or when customers’ Express Mail is accepted on Fridays after the cut-off time for Next Day Service, their Express Mail is guaranteed for delivery on Monday (or Tuesday, if Monday is a holiday) unless the destination ZIP Code is one in which Sunday and holiday delivery is available.” Answer at 13.

⁵ *Id.* at 11–12.

Necessity of a prehearing conference. Given the limited scope of this proceeding, the Commission will determine an appropriate procedural schedule after evaluating comments on its Notice of Inquiry. Participants shall file pleadings identifying and discussing the matters that would indicate the need to schedule a prehearing conference or a hearing, along with other matters referred to in this order by May 3, 2006.

Representation of the general public. In conformance with section 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2006-4, Classification Changes for Express Mail Second Day Service to consider clarifying the DMCS language related to Second Day Express Mail service and other germane issues.
2. The Commission will sit en banc in this proceeding.
3. The deadline for filing notices of intervention is May 3, 2006.
4. Notices of intervention shall indicate the nature of the intervening party's participation in the case.
5. Participants are invited to submit comments on the Notice of Inquiry and the proposed DMCS change on or before May 3, 2006. Reply comments may be submitted on or before May 10, 2006.
6. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.
7. The Secretary shall arrange for publication of this document in the **Federal Register**.

Dated: April 19, 2006.

Steven W. Williams,
Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For the reasons discussed above, the Commission proposes to amend 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622-24; 3661, 3662, 3663.

2. Amend Appendix A to Subpart C—Postal Services Rates and Charges by revising 123.1 to read as follows:

123.1 Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times specified by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for delivery on the second delivery day as specified by the Postal Service.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R01-OAR-2006-0119; A-1-FRL-8049-8]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants; Perchloroethylene Dry Cleaner Regulation, State of Maine Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Maine Department of Environmental Protection's (ME DEP) request for approval to implement and enforce "Chapter 125: Perchloroethylene Dry Cleaner Regulation" in place of the National Emissions Standard for Hazardous Air Pollutants for Perchloroethylene Dry Cleaning Facilities ("Dry Cleaning NESHAP") as it applies to area sources. Approval of this request for partial rule substitution would make Chapter 125 federally enforceable and consolidate the compliance requirements for area source dry cleaners in Maine into one set of regulations. Major source dry cleaning facilities would remain subject to the Dry Cleaning NESHAP.

DATES: Written comments must be received on or before May 24, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2006-0119 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. E-mail: brown.dan@epa.gov.

3. Fax: (617) 918-0048.

4. Mail: "EPA-R01-OAR-2006-0119", Dan Brown, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAP), Boston, MA 02114-2023.

5. Hand Delivery or Courier. Deliver your comments to: Dan Brown, Manager, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Susan Lancey, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress St, Suite 1100, Boston, MA 02114, telephone number (617) 918-1656, fax (617) 918-0656, e-mail lancey.susan@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving ME DEP's request as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. Chapter 125 has been in effect in Maine since 1991 and is, taken as a whole, more stringent than the Dry Cleaning NESHAP. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, EPA will take no further action on this proposed rule. If the EPA receives relevant adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will then address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period in this action.

For additional information see the direct final action which is published in the Rules Section of this **Federal Register**.