

BMC serving 3-digit ZIP Code prefix of entry post office (or labeled to plant serving entry post office if authorized by processing and distribution manager).

(2) Line 2: "STD MACH WKG" or "PSVC MACH WKG," as applicable.

\* \* \* \* \*

[Redesignate current 3.0 as new 15.0, and renumber accordingly.]

15.0 PALLET PRESORT AND LABELING (Effective until January 6, 2005)

\* \* \* \* \*

M200 Periodicals (Nonautomation)

M210 Presorted Periodicals

1.0 BASIC STANDARDS

\* \* \* \* \*

1.5 Low-Volume Bundles and Sacks

[Revise 1.5 to read as follows:]

As a general exception to 2.0 and 4.0, nonletter-size Periodicals may be prepared in low-volume 5-digit and 3-digit bundles containing fewer than six pieces when the publisher determines that such preparation improves service, if those bundles are placed in 5-digit, 3-digit, and SCF sacks. Low-volume bundles also may be placed on merged 5-digit scheme, 5-digit scheme, merged 5-digit, 5-digit, 5-digit metro, 3-digit, and SCF pallets.

\* \* \* \* \*

M220 Carrier Route Periodicals

1.0 BASIC INFORMATION

\* \* \* \* \*

1.5 Low-Volume Bundles and Sacks

[Revise 1.5 to read as follows:]

As a general exception to 2.4 and 4.0, nonletter-size Periodicals may be prepared in low-volume carrier route bundles containing fewer than six pieces when the publisher determines that such preparation improves service, if those bundles are placed in merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sacks. Low-volume carrier route bundles also may be placed on merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, 5-digit carrier routes, 5-digit metro, 3-digit, and SCF pallets.

\* \* \* \* \*

M800 All Automation Mail

\* \* \* \* \*

M820 Flat-Size Mail

1.0 BASIC STANDARDS

\* \* \* \* \*

1.9 Exception—Periodicals Preparation

[Revise 1.9 to read as follows:]

As a general exception to 4.1 and 4.2, Periodicals may be prepared in low-volume 5-digit scheme, 5-digit, and 3-digit bundles containing fewer than six pieces, when the publisher determines that such preparation improves service, if those bundles are placed in 5-digit scheme, 5-digit, and 3-digit sacks under M820. Low-volume bundles may also be placed in merged 5-digit scheme, merged 5-digit, 5-digit, 5-digit scheme, 3-digit, and SCF sacks under M920.

Low-volume sacks may also consist of a firm bundle(s) when optional 5-digit scheme sortation is performed with mailings prepared in sacks. Low-volume bundles also may be placed on merged 5-digit scheme, 5-digit scheme, merged 5-digit, 5-digit, 5-digit metro, 3-digit, and SCF pallets.

\* \* \* \* \*

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

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 04-17303 Filed 7-28-04; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

39 CFR Part 601

Issue 2 of the Purchasing Manual; Incorporation by Reference

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service announces the publication of Issue 2 of the Postal Service Purchasing Manual. Issue 2 supersedes previous editions of the Purchasing Manual, and is incorporated by reference in the Code of Federal Regulations.

DATES: Effective Date: This final rule is effective on July 29, 2004. The incorporation by reference of the Purchasing Manual, Issue 2 is approved by the Director of the Federal Register as of July 29, 2004.

FOR FURTHER INFORMATION CONTACT: Michael J. Harris (202) 268-5653.

SUPPLEMENTARY INFORMATION: Issue 1 of the Purchasing Manual was issued on January 31, 1997, as the successor to former USPS Publication 41, the U.S. Postal Service Procurement Manual. At that time, purchasing organizations were advised that, pending the updating of contract-writing systems, the purchasing organizations could determine, subject to specific

limitations, when and to what extent they may adopt its policies and procedures. The Purchasing Manual then became fully effective on January 27, 2000.

Subsequently, Issue 2 of the Purchasing Manual was issued on January 31, 2002. Pending the updating of purchasing support systems for consistency with the new policies contained in Issue 2, purchasing organizations were advised that they might adopt the policies and procedures contained in Issue 2 immediately, or might continue to follow the policies and procedures contained in Issue 1. If a purchasing organization adopted Issue 2 policies and procedures for any category or categories of purchases, it would be required to use those policies and procedures consistently for that category or categories, and not revert to previous policies and procedures. Contracting officers were required to ensure that solicitations and other purchasing documents made prospective offerors fully aware of the authority (Issue 2 or Issue 1, as revised through November 15, 2001) pursuant to which an individual purchase was made. Particular care was required that previous versions of provisions and clauses were not used in purchases made under the policies and procedures of Issue 2, and vice versa. To date, the Postal Service has not formally transitioned from PM Issue 1 to PM Issue 2 primarily because of problems in updating purchasing support systems for consistency with the new policies contained in Issue 2. The end of this transition period will be announced in the Federal Register.

The Purchasing Manual is published and available to all users on the World Wide Web at http://www.usps.com/business, and contains the Postal Service's purchasing policy.

It will be noted that on March 24, 2004 (69 FR 13786), the Postal Service published a proposed rule in the Federal Register entitled "Purchasing of Property and Services". In this document, the Postal Service proposed to amend its regulations in order to implement the acquisition portions of its Transformation Plan (April 2000) and the similar recommendations of the President's Commission on the United States Postal Service (July 2003) as they relate to the acquisition of property and services. That earlier, ongoing rulemaking is proceeding separately and independently, and should not be considered to be a part of this current notice.

On June 28, 2004 (69 FR 36018), the Postal Service published in the Federal Register a detailed discussion of the

policy changes and other major features contained in Issue 1 of the Purchasing Manual. The following is a similar discussion of the policy changes and other significant changes contained in Issue 2 of the Purchasing Manual.

### **Purchasing Manual Issue 2—Major Policy Changes**

*Overview:* Issue 2 of the Postal Service Purchasing Manual (PM) contains a number of major policy changes. These major changes are centered on the Postal Service's continuing efforts (1) To reflect the best practices of the private and public sectors, (2) to streamline the purchasing process and ensure it concentrates on furthering the business and competitive interests of the Postal Service, and (3) to provide a policy structure that furthers the Postal Service's use of supply chain management business practices. Issue 2 also contains the cumulative changes made to Issue 1 of the Purchasing Manual between January 31, 1997, and January 31, 2002. A discussion of all significant changes contained in Issue 2 is available to all users on the World Wide Web at <http://www.usps.com/business>.

*Supply Chain Management:* Supply chain management is a business philosophy that concentrates on analyzing the purchasing process and the supply stream in order to increase customer satisfaction and lower overall cost. It involves a number of business practices, including close coordination between end-users, buyers and suppliers, long-term contracts, and ongoing analysis and improvement of operating and administrative processes. With the issuance of PM Issue 1, the Postal Service began to make many of these practices a central part of its purchasing policies; that foundation has been built upon and is reflected throughout Issue 2. The supply chain management philosophy and its importance to Postal Service purchasing is discussed in a new section 3.1.2. Additionally, new text has been added to section 3.1.1 addressing the fact that some Postal Service-supplier relationships are closer and more interdependent than others, based upon the impact the relationship has or may have on the Postal Service's business and competitive interests.

*Establishment of Standard Solicitation Provisions and Clauses:* PM Issue 1 established a single, streamlined purchasing process modeled on private sector business practices while maintaining the Postal Service's commitment to the accountability and fairness expected of a public institution. To further this continuing objective, PM

Issue 2 establishes basic solicitation provisions and contract clauses that may be modified, added to or supplemented as required by the particular purchase. These provisions (Provisions 4-1, Standard Solicitation Provisions, 4-2, Evaluation, and 4-3, Representation and Certifications) and clauses (Clauses 4-1, General Terms and Conditions and 4-2, Contract Terms and Conditions Required to Implement Policies, Statutes, or Executive Orders) are based on and replace the commercial-purchasing provisions and clauses in PM Issue 1. With their establishment as the basic contractual documentation, the need for a specific commercial purchasing process has been obviated. The new provisions and clauses are contained in Appendices A, Solicitations, and B, Contract Clauses, and their use is discussed in the appendices and in 4.2.2.e, Solicitation Provisions, and 4.2.7, Contract Clauses.

*Prescriptions for Use of Provisions and Clauses:* The provisions and clauses noted above incorporate by reference a number of other provisions and clauses that are: (1) Required by Postal Service policy (such as the Postal Service's preference for domestic supplies or construction materials); (2) required by law (such as the Service Contract Act and the Davis-Bacon Act); or applicable by Executive Order (such as Equal Employment Opportunity). In some cases, these incorporations are included in the basic provision or clause, and in others they are incorporated when checked-off by the contracting officer in light of the particular purchase. This modular approach to solicitation and contract formation ensures that contractual documentation remains simple and streamlined while also ensuring that the Postal Service continues to meet its policy, legislative, and other mandates. At the same time, provisions and clauses that address other aspects of the purchasing process, such as contract type, have been left available to contracting officers to use when their terms and conditions match the needs of the particular purchase. This means that there are a number of subjects in the basic provisions and clauses that may be replaced by more effective terms and conditions, and that the provision and clause prescriptions throughout PM Issue 2 allow contracting officers to make such additions and replacements as they feel necessary. Contracting officers have also been given the discretion to modify, add to or supplement provisions and clauses as they see fit, subject to review of assigned counsel.

*Purchase Method:* A new section 2.1.6, Purchase Method, has been

included in PM Issue 2. This section addresses the responsibility of the purchase team to decide during purchase planning and as part of the individual purchase plan whether a purchase should be made competitively or noncompetitively. This section spells-out under what business scenarios the noncompetitive method may best meet the Postal Service's business and competitive interests, and also requires the purchase team to prepare a business case documenting the rationale for the decision. This section also delineates review and approval thresholds for the business case and the purchase. A new section 1.6.1, Business Objectives and Practices, discusses in general how these objectives and practices fit into overall organizational strategy, and there have been ancillary changes in sections 1.6.2, Best Value, and 1.6.3, Competition. PM Issue 1 section 3.5.5, Noncompetitive Purchases, has been deleted.

*Publicizing:* PM section 3.5.3, Publicizing Purchasing Opportunities, has been retitled Publicizing Purchase Opportunities and Contract Awards. This part has been revised to: (1) Maintain the \$1 million publicizing threshold for commercially available goods and services; (2) provide purchase teams the discretion to publicize noncompetitive purchase opportunities when the team determines that such publicizing would improve market research, while at the same time changing the mandatory publicizing threshold for noncompetitive awards from \$500,000 to \$1 million; (3) encourage purchase teams to publicize other noncompetitive awards (generally over \$500,000) when it feels the award holds significant subcontracting opportunities; and (4) encourage the team to publicize other awards when it feels such an announcement would benefit future competition. In addition, previous references to the Commerce Business Daily (CBD) throughout the PM have been replaced by the term "Governmentwide point of entry (GPE)" which has replaced the CBD as the means of publicizing purchase opportunities and contract awards.

*Appendix A, Solicitations:* Appendix A has been revised to reflect the establishment of the basic solicitation provisions discussed above and to address their use. Several provisions included in PM Issue 1 have been deleted due to the subject matter being covered in the new standard provisions or because they were inconsistent with the Postal Service's continuing efforts to streamline purchasing policies and procedures.

### Appendix B, Contract Clauses:

Appendix B has been revised to reflect the establishment of the basic contract clauses discussed above and to address their use. Several clauses included in PM Issue 1 have been deleted due to the subject matter being covered in the new general clauses or because they were inconsistent with the Postal Service's continuing efforts to streamline purchasing policies and procedures. Commodity-specific clauses used in design and construction, and mail transportation contracts are listed as they were in PM Issue 1.

### Appendix C, Contract Format:

Appendix C, Forms and Formats, of PM Issue 1, has been replaced by a new Appendix C, Contract Format. This appendix describes the four-part contract format used in Postal Service purchasing.

## Purchasing Manual Issue 2—Other Significant Changes

*Chapter 1, Authority, Responsibility, and Policy:* 1.1.1.c, Applicability (Purchasing Manual), has been revised to reference new Handbooks P-1, General Purchasing Concepts and Practices, P-2, Design and Construction Purchasing Practices, and to provide the Web site where they may be accessed.

1.1.2.b, Purchasing Policy Committee (Responsibility for Purchasing Policy), has been revised to state that the PPC evaluates proposed changes to the PM for the vice president, Purchasing and Materials.

1.1.2.c, Membership, has been revised to add the manager, Supplier Development and Diversity (Purchasing and Materials), and the manager, Materials, to the PPC and to remove the managers, Facilities Program Management, and Supplier Diversity, (Diversity Development).

1.2, Publication and Changes, has been revised as discussed in Major Policy Changes above.

1.3.1.b.1 (Deviations) has been revised to state that replacing text contained in Provisions 4-1, Standard Solicitation Provisions and 4-2, Evaluation, and Clause 4-1, General Terms and Conditions, with another PM provision or clause does not constitute a deviation and does not require review and approval. As a result of this change, previous 1.3.1.b.2 has been deleted.

1.3.2.c, Records (Authorization of Deviations), has been revised to require approval officials to retain copies of approved deviations.

1.4.1.b.4, Required Approvals (Contracting Authority—Vice President, Purchasing and Materials), has been revised to clarify that the subject approvals are the responsibility of the

vice president, Purchasing and Materials.

1.4.2, Contracting Officers, has been revised and reorganized for clarity.

1.4.3, Contracting Officer's Representatives, has been revised to reference Management Instruction PM-610-2001-1, Contracting Officer's Representative Program.

1.4.4.b.3(d), Training (Selection), has been revised to state that Level I design and construction contracting officers are required to complete the training courses on Contract Administration, Pricing and Claims, and Introduction to Facilities R&A Contracting.

1.6.1, Business Objectives and Practices, is a new section and has been added as a general statement addressing the primary goal of Postal Service purchasing and the business practices used to further that goal. 1.6.2, Best Value, and 1.6.3, Competition, have been revised to reinforce the new policy discussed in Major Policy Changes above.

1.6.5, Release and Exchange of Information, and 1.6.6, Privacy Protection, have been revised to conform to Postal Service policy regarding privacy protection. As a result of these changes, Clause 1-1, Privacy Protection, has been revised and retitled, Clause 1-7, Nondisclosure of Address Information, has been deleted, and ancillary changes have been made to subparagraphs 4.5.3.c.4 and 4.5.5.f.

1.6.7.c.1, Progress Payments, has been revised to exclude the required approval of the vice president, Finance, when the contract is for architect/engineer and construction management services.

1.6.13, Domestic Preference, replaces previous part 1.7.12, Buy American Policy. The new title is intended to reflect the voluntary aspect of the Postal Service's policy in this area. The titles of the related provisions and clauses have also been changed to reflect the new term.

1.6.13.b.2(c), Domestic End Products, and 1.6.13.b.2(g), Canadian End Products (previous 1.7.13.b.2.(c) and 1.7.13.b.(g)) have been revised to update definitions.

1.6.14, Contracts with Former Postal Service Officers, Executives, and Employees, is a new section that replaces previous 1.7.13. This revision, providing new or revised policies regarding contracts with former employees and the use of personal services contracts, resulted in related changes to 4.5.3, Professional/Technical and Consultant Services, and a new section 4.5.4, Personal Services Contracts. Lastly, this change also resulted in a new Provision 1-5, Proposed Use of Former Postal Service

Employees, and a new Clause 1-12, Use of Former Postal Service Employees.

Previous 1.7.14, Year 2000 Compliance, has been deleted as have Clauses 1-12, Year 2000 Warranty—Commercial Items, and 1-13, Year 2000 Warranty—Noncommercial Items.

Previous 1.9.4, Supplier's Statement of Contingent Fees, has been deleted, as has Provision 1-2, Contingent Fee Representation, to conform to current general federal practice. Contingent fees are now addressed in subchapter 1.8.

*Chapter 2, Purchase Planning:* 2.1.1, The Importance of Purchase Planning, is a new section discussing the central role purchase planning plays in a successful purchase, and the factors that go into effective planning.

2.1.3.a (Purchase Planning) has been revised to further discuss the role of the contracting officer as leader of the purchase team.

2.1.3.b.2(b) (Responsibilities) has been revised to state that the purchasing organization is responsible for gathering and analyzing spend and demand data in order to identify opportunities for strategic sourcing and consolidated purchases. 2.1.3.b.3 is a new subparagraph describing the expertise the materials organization can bring to a purchase team.

2.1.4.a, Importance (Market Research), has been revised to add commodity or industry trends as an important element of successful market research.

2.1.5.b, Elements (Individual Purchase Plans), has been revised to include a statement that effective plans should address the total cost of ownership of the purchase (subparagraph 2.1.5.b.6) and to require that individual purchase plans contain a written description of the purchase method to be used (subparagraph 2.1.5.b.14). See Major Policy Changes above.

2.1.6, Purchase Method, is a new part discussing the manner in which a purchase will be conducted, specifically, whether the purchase will be made competitively or noncompetitively. This part discusses when either method is appropriate, and describes the various business scenarios under which a noncompetitive purchase is most appropriate and the business case required when the noncompetitive method is used. See Major Policy Changes above.

2.1.7.b.5 (Developing Strategies) has been revised to state that, depending on the particular purchase, it is a good business practice to develop supplier selection strategies that invite new and emerging suppliers to compete for Postal Service purchases.

2.1.9.c.2, Past Performance, has been revised to remove supply chain management as a subfactor of past performance and to address it as a more general aspect of past performance as a whole.

2.1.9.c.3, Supplier Capability: Subparagraph 2.1.9.c.3(b)(4), has been revised to require that suppliers have a sound quality control program that complies with solicitation requirements in order to be deemed capable. Subparagraph 2.1.9.c.3(b)(7) has been revised to state that the fact that a supplier is suspended, debarred or otherwise declared ineligible, bars award without regard to the weight assigned to capability as an evaluation factor. Subparagraph 2.1.9.c.3(c)(1) has been revised to state that the Postal Service's list of debarred and suspended suppliers, and GSA's consolidated list of debarred, suspended or declared ineligible suppliers are sources of information for determining that a supplier is capable. Subparagraph 2.1.9.c.3(d) has been revised to include workforce, subcontractors and other resources to be used in contract performance as appropriate subjects of a preaward survey, and Subparagraph 2.1.9.c.3(e) has been revised to require that preaward survey results must be in writing.

2.1.10, Performance Evaluation and Cost/Price Factors, is a new section combining text from previous sections 2.1.7 and 2.1.8.

2.2.1.a Policy (Quality Requirements) has been revised to clarify that the supplier is responsible for providing supplies or services conforming with the requirements of the purchase and for providing reasonable assurance that requirements are met, and that the purchase team is responsible for determining the necessary quality requirements.

2.2.1.b, Quality Assurance Requirements, has been revised to state that the supplier is responsible in most cases for performing necessary inspection and testing and that the Postal Service may opt to perform these functions.

2.2.2.a, Uses (First Article Approval), 2.2.3.b, Delayed Acceptance (Acceptance), and 2.2.5.f, FOB Points (Delivery or Performance Schedule), have been revised for clarity.

2.2.5.h, Using Mail, has been revised to state that contracting officers should consult with a material management specialist when the weight of a consolidated mailing to a single destination exceeds 300 pounds.

2.2.5.i, Packing and Packaging, is a new paragraph stating that, generally, suppliers are expected to use standard

packing and packaging practices, but that the purchase team may require more stringent standards when needed.

2.2.10.d, Noncompetitive Purchases (Value Engineering), has been revised to state the conditions under which a contracting officer may negotiate a noncompetitive contract or contract modification incorporating a change proposal.

2.4.6.e, Ordering (Indefinite Delivery Contracts), and 2.4.6, Provisions, have been revised as was discussed in Postal Bulletin 22037 (11/16/00).

2.4.7.b, Limitations (Ordering Agreements), has been revised to require the periodic—rather than annual—review of ordering agreements extending more than one year.

*Chapter 3, Supplier Relations:* 3.1.1, General (Policy), has been revised to address the fact that the nature of the partnership between the Postal Service and a given supplier will depend on the potential impact of the supplier's performance on the Postal Service's competitive and financial position. See Major Policy Changes above.

3.1.2, Supply Chain Management, is a new part discussing the Postal Service's use of this business philosophy. See Major Policy Changes above.

3.2.2a, Definition (Sourcing), has been revised to provide a clearer definition of this business practice.

3.2.2.c, Assistance (Sourcing), has been revised to direct purchase teams to Supplier Development and Diversity (Purchasing and Materials), when they need sourcing assistance.

3.2.3, Subcontracting with Small, Minority, and Woman-owned Businesses, has been revised to help the Postal Service more fully realize the benefit of a supplier base that reflects the diversity of the American supplier community. 3.2.3.d.1, Contracts Valued at \$1 Million or More, has been revised in subparagraph b to state that Clause 3-1, Small, Minority, and Woman-owned Business Subcontracting Requirements, need not be included in subject contracts when the contract is an indefinite delivery contract or ordering agreement and the purchase team has determined that requiring a subcontracting plan would not be feasible. In addition, 3.2.3.d.2, Contracts Valued at \$500,000 or More, has been revised to require the inclusion of Clause 3-2, Participation of Small, Minority, and Woman-owned Businesses, in design and construction contracts valued at \$250,000 or more.

3.3.2, Existing Assets, has been revised to redefine this term, and to illustrate when they should be considered in lieu of new purchases.

3.3.5, Defense Energy Support Center,

has been revised to provide the new name of this organization (previously called the Defense Fuel Supply Center).

3.5.1, Policy (Commercial Suppliers), has been revised to emphasize that, except for commodities available from mandatory sources, it is Postal Service policy to purchase goods and services from commercial suppliers using the business practices and terms and conditions customary to the commercial marketplace, or to purchase goods and services from the nonmandatory government sources in 3.4.

3.5.2.a, Policy (Prequalification), has been revised for clarity.

3.5.2.b.3 (General) has been revised to clarify the rules concerning prequalification and noncompetitive purchases.

3.5.2.b.4 (General) has been revised to state that during the prequalification process suppliers should be evaluated in the same manner as for any other purchase.

3.5.3, Publicizing Purchasing Opportunities and Contract Awards, is new and replaces PM Issue 1, 3.5.3, Publicizing Purchase Opportunities. See Major Policy Changes above.

3.5.4, Unsolicited Proposals, has been revised to direct readers to Publication 131, The Postal Service Unsolicited Proposal Program, for information regarding the submission and processing of unsolicited proposals.

3.7, Debarment, Suspension, and Ineligibility, has been revised to: (1) Provide a new definition of "Ineligible Suppliers"; (2) discuss the handling of the Postal Service's and the General Services Administration's lists of debarred and suspended suppliers; (3) require contracting officers to review the Postal Service's and GSA's lists before making a contract award; and (4) discuss the treatment of suppliers on the Postal Service's list.

*Chapter 4, Purchasing:* 4.1, Policy, has been revised to discuss in general the purchasing process and the basic terms and conditions used in Postal Service purchases.

4.2.2.b, Types (Solicitations), has been revised to discuss the use of written and oral solicitations and to state that the use of Form 8203, Order/Solicitation/Offer/Award, or equivalent, should be used as the request for proposal and subsequent award.

4.2.2.e, Solicitation Provisions, has been revised as discussed in Major Policy Changes above.

4.2.2.g, Availability of Solicitations, has been revised to state that requests for copies of solicitations may be denied once a reasonable number of copies have been distributed to the solicited

suppliers and others who have requested them.

4.2.6.a (Contract Award) has been revised to state that contract award is made by the execution of a contract by both parties or by written acceptance of or performance against a purchase order.

4.2.7, Contract Clauses, is a new part discussing the new basic clauses (4-1, General Terms and Conditions, and 4-2, Contract Terms and Conditions Required to Implement Policies, Statutes, or Executive Orders) and their use. See Major Policy Changes above.

4.5.5.a.5, Information Technology (Definitions), has been revised and a new subparagraph 4.5.5.a.7, Undue Burden, has been added to align Postal Service policies and procedures regarding information technology accessibility with the approaches taken by other federal agencies. Paragraph 4.5.5.b.2 has been revised, and a new Clause 4-18, Information Technology Accessibility Standards, has been added to Appendix B, Contract Clauses.

4.5.5.d.2, General Services Administration (Sources—Information Technology), has been revised to provide new addresses, including an Internet address, for information regarding GSA contracts for information technology.

Previous subparagraph 4.6.5.b.3, Year 2000 Compliance, has been deleted.

*Chapter 5, Contract Pricing:* 5.2.5.a.13 (Unallowable Costs) is a new subparagraph and has been added to delineate a new category of unallowable costs: legal costs related to a defense against a Postal Service claim or appeal and legal costs related to the prosecution of a claim or appeal against the Postal Service.

*Chapter 6, Contract Administration:* 6.1.1.b, Contracting Officer's Representatives, has been revised to specifically describe what sort of authorities may be delegated to a contracting officer's representative (COR), what must be contained in the COR's appointment letter, and to reference Management Instruction PM-610-2001-1, Contracting Officer's Representative Program.

6.2.1.b.12 (Postaward Orientation) has been deleted in order to reinforce that commercially accepted accounting procedures should be used.

6.2.3.b.2, Other Contracts (Using Suppliers to Monitor Performance), has been revised to allow third parties to perform acceptance in addition to other contract administration responsibilities.

6.2.6.c, Clause (Bankruptcy), has been deleted, as has Clause 6-1, Bankruptcy, as part of the overall effort to reflect

common commercial terms and conditions in Postal Service contracts. 6.3.2.b, Responsibility (Acceptance), has been revised to remove the reference to "another postal employee" and replace it with "other party."

6.3.3, Receiving Reports (Quality Assurance), has been revised to clarify the use of certificates of conformance.

*Chapter 7, Bonds, Insurance, and Taxes:* 7.1.2.a.5, Amount (Performance and Payment Bonds for Construction Contracts), has been revised to reflect the provisions of the Construction Industry Protection Act of 1999.

7.2.2.c, Automobile Liability Insurance, has been revised to set a new minimum limit of \$100,000 per accident for property damage.

*Chapter 8, Patents and Data Rights:* No significant changes have been made in this Chapter.

*Chapter 9, Labor Policies:* 9.2.1, Convict Labor (Policy), has been revised to state that the Postal Service may purchase supplies from firms employing persons on parole or probation under the terms of Executive Order 11755.

9.7.3, Preaward Compliance Reviews, has been revised in view of changes to Executive Order 11246, as have Provision 9-4, Preaward Equal Opportunity Compliance Review, and Clause 9-9, Equal Opportunity Preaward Compliance of Subcontracts.

9.10.1, Requirement (Veterans), has been revised to reference the Veterans Employment Opportunities Act of 1999.

*Appendix A, Solicitations:* This appendix has been revised as discussed in Major Policy Changes above. Provision 1-5, Proposed Use of Former Employees, is new.

*Appendix B, Contract Clauses:* This appendix has been revised as discussed in Major Policy Changes above. Clause 1-1, Privacy Protection, and Clause 1-12, Use of Former Postal Service Employees, are new clauses as discussed above. Clause 7-4, Insurance, has also been revised to establish new minimum liability coverage for automobile insurance.

*Appendix C, Contract Format:* This appendix has been changed as discussed in Major Policy Changes above.

*Appendix D, Rules of Practice in Proceedings Relative to Debarment and Suspension from Contracting:* No changes have been made to this appendix.

*Appendix E, Rules of Practice Before the Postal Service Board of Contract Appeals:* No changes have been made to this appendix.

*Appendix F, Index:* This appendix was revised to reflect the changes throughout PM Issue 2.

**List of Subjects in 39 CFR Part 601**

Government procurement, Incorporation by reference, Postal Service.

■ In view of the considerations discussed above, the Postal Service hereby amends 39 CFR as follows:

**PART 601—PURCHASE PROPERTY AND SERVICES**

■ 1. The authority citation for part 601 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 410, 411, 2008, 5001-5605.

■ 2. Section 601.100 is revised to read as follows:

**§ 601.100 Purchasing Manual; incorporation by reference.**

(a) Section 552(a) of Title 5, U.S.C., relating to public information requirements of the Administrative Procedure Act, provides in pertinent part that " \* \* \* matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register." In conformity with that provision, with 39 U.S.C. 410(b)(1), and as provided in this part, the U.S. Postal Service hereby incorporates by reference its Purchasing Manual (PM), Issue 2, dated January 31, 2002. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The PM is available for examination on the World-Wide Web at <http://www.usps.com/business>. You may inspect a copy at the U.S. Postal Service Library, 475 L'Enfant Plaza West SW., Washington, DC 20260-1641, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The current Issue of the PM is incorporated by reference in paragraph (a) of this section. The successive Issues of the PM are listed in the following table:

Purchasing manual	Date of issuance
Issue 1 .....	January 31, 1997.
Issue 2 .....	January 31, 2002.

■ 3. Section 601.101 is revised to read as follows:

**§ 601.101 Effective date.**

The provisions of the Purchasing Manual Issue 2, effective January 31,

2002, are applicable with respect to all covered purchasing activities of the Postal Service.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 04-16785 Filed 7-28-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[R07-OAR-2004-KS-0001; FRL-7793-6]

#### Approval and Promulgation of Operating Permits Program; State of Kansas

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing approval of a revision to the Kansas Operating Permits Program for the purpose of increasing emission fees for the Title V Operating Permits Program, revising the late fee provisions, and other minor revisions.

On April 22, 2004, the state of Kansas submitted a revision for the purpose of increasing emission fees for the Title V Operating Permits Program. This increase is necessary to offset the reductions in revenues resulting from reductions in emissions, an increase in the assessed indirect costs, and the transfer of fee fund interest to the general fund. The proposed increase is for major stationary sources for the years 2003 and beyond.

The late fee payment provision is revised with specific language that indicates that failure to pay within 10 calendar days after the department's written notification that the emissions fees were not received will result in continuation of the late fee.

Minor revisions are detailed in the Technical Support Document that is a part of the EPA's electronic public docket listed later in this document.

**DATES:** This direct final rule will be effective September 27, 2004, without further notice, unless EPA receives adverse comment by August 30, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07-OAR-2004-KS-0001, by one of the following methods:

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

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search;" then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

4. Mail: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier. Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to RME ID No. R07-OAR-2004-KS-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME

index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Heather Hamilton at (913) 551-7039, or by e-mail at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is the Part 70 Operating Permits Program?

What is being addressed in this document?  
What action is EPA taking?

#### **What Is the Part 70 Operating Permits Program?**

The Clean Air Act (CAA) Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the Part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined. Sources required to obtain an operating permit under this program include: "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. Revisions to the state operating permits program are subject to public notice, comment, and EPA approval.