

Division of Enforcement's recommendations and be heard.

§ 10.111 Administration of restitution.

Based on the recommendations submitted by the Division of Enforcement pursuant to § 10.110, the Commission or the Administrative Law Judge, as applicable, shall establish, in writing, a procedure for identifying and notifying individual persons who may be entitled to restitution, receiving and evaluating claims, obtaining funds to be paid as restitution from the party and distributing such funds to qualified claimants. As necessary or appropriate, the Commission or the Administrative Law Judge may appoint any person, including an employee of the Commission, to administer, or assist in administering, such restitution procedure. Unless otherwise ordered by the Commission, all costs incurred in administering an order of restitution shall be paid from the restitution funds obtained from the party who was so sanctioned; provided, however, that if the administrator is a Commission employee, no fee shall be charged for his or her services or for services performed by any other Commission employee working under his or her direction.

§ 10.112 Right to challenge distribution of funds to customers.

Any order of an Administrative Law Judge directing or authorizing the distribution of funds paid as restitution to individual customers shall be considered a final order for appeal purposes and be subject to Commission review under § 10.102.

§ 10.113 Acceleration of establishment of restitution procedure.

The procedures provided for by §§ 10.110 through 10.112 may be initiated prior to the issuance of an Initial Decision in a proceeding, and may be combined with the hearing in the proceeding, upon motion of the Division of Enforcement or if presentation, consideration and resolution of the issues relating to the restitution procedure will not materially delay the conclusion of the hearing or the issuance of an Initial Decision in the proceeding.

16. A new appendix A is added to part 10, to read as follows.

Appendix A—Commission Policy Relating to the Acceptance of Settlements in Administrative and Civil Proceedings

It is the policy of the Commission not to accept any offer of settlement submitted by any respondent or defendant in an administrative or civil proceeding, if the

settling respondent or defendant wishes to continue to deny the allegations of the complaint. In accepting a settlement and entering an order finding violations of the Act and/or regulations promulgated under the Act, the Commission makes uncontested findings of fact and conclusions of law. The Commission does not believe it would be appropriate for it to be making such uncontested findings of violations if the party against whom the findings and conclusions are to be entered is continuing to deny the alleged misconduct.

The refusal of a settling respondent or defendant to admit the allegations in a Commission-instituted complaint shall be treated as a denial, unless the party states that he or she neither admits nor denies the allegations. In that event, the proposed offer of settlement, consent or consent order must include a provision stating that, by neither admitting nor denying the allegations, the settling respondent or defendant agrees that neither he or she nor any of his or her agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the complaint or creating, or tending to create, the impression that the complaint is without a factual basis; provided, however, that nothing in this provision shall affect the settling respondent's or defendant's testimonial obligation, or right to take legal positions, in other proceedings to which the Commission is not a party.

Issued in Washington, D.C., on March 16, 1998 by the Commission.

Jean A. Webb,

Secretary of the Commission.

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POSTAL SERVICE

39 CFR Part 501

Requirements for Manufacturer, Demonstration and Loaner Postage Meters

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal would clarify and strengthen requirements for manufacturers of postage meters to control meters that they use for demonstration and loaner purposes. The intended effect of this proposal is to reduce the potential for misuse and fraud.

DATES: Comments must be received on or before May 4, 1998.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Metering Technology Management, Room 8430, 475 L'Enfant Plaza SW, Washington, DC 20260-2444. Copies of all written comments will be available at the above address for inspection and

photocopying between 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nicholas S. Stankosky, (202) 268-5311.

SUPPLEMENTARY INFORMATION: Serious postal revenue protection problems result from inconsistent practices and procedures followed by meter manufacturers in controlling demonstration meters and those that are lent to their customers. The manufacturers' employees, dealers, and agents are often held accountable for the movement, tracking, and use of these meters in a manner consistent with policies and procedures that have been established and implemented for all other meters in order to protect postal revenue. The following procedures are proposed in order to reduce the potential for misuse and fraud.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to Part 501 of Title 39 of the Code of Federal Regulations.

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for Part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 410, 2610, 2605; Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended), 5 U.S.C. App 3.

2. Section 501.22 is amended by adding paragraph (s) to read as follows:

§ 501.22 [Amended]

* * * * *

(s) Implement controls over demonstration and lent meters as follows:

(1) There are two conditions under which postage meters may be placed with a customer on a temporary basis. One involves a "demo" meter and the other is a "loaner meter." For purposes of definition, a "demo" meter contains a specimen indicia and cannot be used to meter live mail. A "loaner" meter has a "live" indicia and may be used to apply postage to a mailpiece. Both are typically used in marketing efforts to acquaint a potential user with the features of a meter.

(2) A "demo" meter must be recorded on internal manufacturer inventory records and must be tracked by model

number, serial number, and physical location.

(3) "Demo" meters may be used only for demonstrations by the manufacturer's dealer/branch representative and must remain in their control. These meters may not be left in the possession of the potential customer under any circumstance.

(4) Because "loaner" meters can print live postage, they must be licensed to the manufacturer's dealer/branch under the Postal Service Centralized Meter Licensing System (CMLS). Because each dealer/branch office may service a multitude of customers located in many different post office service areas, a single license issued from the appropriate postal district office city will cover all post offices located in that district. A Form 3601-C, Postage Meter Activity Report, must be initiated to activate a loaner meter under a dealer/branch CMLS license.

(5) Loaner meters can be placed only with customers who have been issued a CMLS meter license.

(6) Only electronic, remote set meters may be used as "loaner" meters. Representatives must record ascending and descending register readings at the time a meter is lent and when it is returned. All discrepancies must be reported immediately to the respective meter manufacturer, who will then notify Metering Technology Management. The meter must be inspected when returned from the customer. Any indication of tampering or fraudulent use also must be reported to Metering Technology Management. Use of the meter must immediately cease and must be returned to the manufacturer's QAR department via Registered mail.

(7) As both a manufacturer's representative and a meter licensee, the representative is subject to the provisions of the Domestic Mail Manual (DMM), Part P030 and 39 CFR part 501.

(8) The manufacturer's representative assumes all responsibilities under USPS meter regulations applicable to meter licensees, including having the meter set and examined. All losses incurred by the Postal Service as a result of fraudulent use of the meter by the customer are the responsibility of that customer, the meter licensee, and the manufacturer.

(9) Loaner meters must be included in the CMLS meter tracking system. A Form 3601-C must be prepared by the representative for each "loaner" meter installed or withdrawn. The licensee and meter location information must show the name of the dealer/branch and not the temporary user.

(10) The city/state designation in the "loaner" indicia must show the location where the user's mail will be deposited.

(11) The representative must ensure that "loaner" meters are available for examination by the Postal Service on demand, and are examined under postal policy.

(12) A customer may have possession of a "loaner" meter for a maximum of 5 continuous business days. In order for the customer to possess the meter for a longer period, it must be installed permanently. When customer chooses to continue the use of a postage meter, the "loaner" meter must be retrieved and a new meter installed under the customer's license.

Stanley F. Mires,

Chief Counsel, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN49-01-7274b; MN50-01-7275b; FRL-5990-7]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve revisions to the Minnesota State Implementation Plan (SIP). These SIP revisions modify Administrative Orders for Federal Hoffman Incorporated located in Anoka, Minnesota and J. L. Shiely Company located in St. Paul, Minnesota which are part of the Minnesota SIP to attain and maintain the National Ambient Air Quality Standards for sulfur dioxide and particulate matter, respectively.

In the final rules section of this **Federal Register**, EPA is approving this action as a direct final without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received by May 4, 1998.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604-3590.

FOR FURTHER INFORMATION CONTACT:

Madeline Rucker, (312) 886-0661.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Madeline Rucker at (312) 886-0661 before visiting the Region 5 office.) U.S. EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, IL 60604-3590.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 17, 1998.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 98-8791 Filed 4-2-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5991-3]

40 CFR Part 300

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the National Lead Industries/Taracorp/Golden Auto Parts site from the national priorities list; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the National Lead Industries/Taracorp/Golden Auto Parts Site (the Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State