

the lists of persons contributing donations in response to the solicitation). Under this condition, the exemption from application of the cooperative mail rule will apply only where the nonprofit organization is given a list of the donors, contact information for those persons, and the amount of their donations. Based on past reviews of fundraising agreements, the Postal Service believes that this condition is already generally followed in the fundraising industry. Moreover, compliance with this condition generally can be determined by postal officials from review of the agreement between the fundraiser and the nonprofit. Finally, to guard against the possibility that some nonprofits will be better served financially if not subject to this condition, postal standards will allow them to waive the receipt of this listing, as long as that is done in writing.

Based on these considerations, the Postal Service has determined not to adopt at this time the remaining restrictions suggested by some comments. Nevertheless, they do raise significant concerns and the Postal Service's Consumer Advocate will monitor implementation of the rule to determine whether abuses are occurring. As promised in the proposal, if such abuses or other unintended consequences occur after the rulemaking, the Postal Service will consider a further rulemaking or other administrative actions.

Several commenters, although in favor of the proposal, assert that the rulemaking did not go far enough. They assert that the exemption from the cooperative mail rule should also cover the sale of products and services, at least those of nominal value, as well as a variety of documents including brochures, thank you letters, letters confirming the amount of donations, newsletters, and "chase" letters. The Postal Service understands the latter to refer to letters that follow up on telemarketing fundraising campaigns and remind donors that their pledges have not been paid. Assuming that understanding of "chase" letters is correct, the Postal Service considers them to be a solicitation for monetary donations within the proposal. Accordingly, as long as they do not contain other disqualifying material, such letters would be exempt from application of the cooperative mail rule.

The Postal Service has determined not to expand the proposal to provide that pieces promoting the sale of products and services also be exempted from application of the cooperative mail rule. As explained in the proposal, the exemption is strictly limited to

fundraising mailings seeking monetary donations and does not apply to mailings promoting any goods or services. The suggestion goes beyond the consensus agreement that led to the rulemaking. Moreover, as the Postal Service explained in the notice discussing the proposal, adoption of the suggestion would create significant potential for abuse by commercial organizations and may place small businesses and other for-profit organizations who sell similar goods and services at a competitive disadvantage. The suggestion that the proposal be expanded to cover only products and services of nominal value does not alter these considerations; if anything, it could create concerns in administering what is included within that standard.

The Postal Service also has determined not to expand this rulemaking to cover the other documents (e.g., thank you letters, newsletters, confirmations of donations) identified in the comments. These suggestions are beyond the scope of the rulemaking as well as the consensus favoring the exemption of certain fundraising mailings from application of the cooperative mail rule. Moreover, the need for a rulemaking to address these documents is unclear. The Postal Service is not aware of any general concern regarding its policies involving these documents. Some of them may, in fact, be generally sent as First-Class Mail, and thereby they are not eligible for Nonprofit Standard Mail rates in any case.

Finally, several commenters suggest that the proposed policy be made retroactive. The Postal Service has determined not to do so and, as explained in its proposal, the change in policy is prospective only, effective on the date of enactment. A retroactive change could open the Postal Service to an undetermined number of refund claims.

For these reasons, the Postal Service adopts the rule as proposed but, in addition to the condition described above, makes three minor changes. First, the proposed revision was to apply only to nonprofit organizations authorized to mail at the nonprofit rates. The rule is changed to apply to all customers authorized to mail at Nonprofit Standard Mail rates. Second, the proposed rule is revised to make clear that the exception from application of the cooperative mail rule applies only where the monetary donations solicited are for the entity authorized to mail at nonprofit rates. Finally, the language is revised to make clear that the exception is prospective only.

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, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Add the following to Domestic Mail Manual section E670.5.3: "Exception: effective November 13, 2003, this standard no longer applies to mailings by an organization authorized to mail at Nonprofit Standard Mail rates soliciting monetary donations to the authorized mailer and not promoting or otherwise facilitating the sale or lease of any goods or service. This exception applies only where the organization authorized to mail at Nonprofit Standard Mail rates is given a list of each donor, contact information (e.g., address, telephone number) for each, and the amount of the donation or waives in writing the receipt of this list."

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM–46–1–7615a; FRL–7571–1]

Approval and Promulgation of Implementation Plans; New Mexico; Revision to Motor Vehicle Emission Budgets in Bernalillo County, New Mexico Carbon Monoxide Air Quality Maintenance Plan Using MOBILE6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action approving the State Implementation Plan (SIP) revisions for Bernalillo County, New Mexico, which is a carbon monoxide maintenance area. This SIP revision was submitted to EPA by the Governor of New Mexico on May 15, 2003. More specifically, EPA is approving the county's revised Motor Vehicle Emissions Budget (MVEB) for carbon monoxide (CO) for 1996, 1999, 2002, 2005 and 2006. This budget was developed using EPA's latest emissions