



POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Mailpieces Containing Liquids

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®), section 601.3.4 to clarify and supplement the mailing standards for mailpieces containing liquids.

DATES: Effective March 28, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Collins at (202) 268-5551 or Wm. Kevin Gunther at (202) 268-7208.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service published a notice of proposed rulemaking on July 9, 2018, (83 FR 31712-31713) requesting public feedback on potential changes to DMM 601.3.4. The original proposed rule provided for a 30-day comment period. At the request of the mailing industry, the comment period was subsequently extended to September 30, 2018. During the comment period, the Postal Service received twenty formal comments, and engaged in a number of discussions with mailers and with various members of the mailing and hazardous materials transportation industries.

The July 9, 2018 proposed rule consisted of two components. The first component was the clarification of existing language that specified packaging

and markings for mailpieces containing liquids. The second component was a proposal to extend the requirement to triple-package breakable primary containers with a volume of four (4) ounces or less. Current mailing standards require triple packaging only for breakable primary containers over 4 ounces.

The Postal Service will move forward with the proposed clarification language and incorporate some additional changes that were proposed by mailers during the comment period. The Postal Service has observed that a significant percentage of liquid spills results from mailers misinterpreting the existing packaging requirements for liquids, thinking their nonmetal containers are not breakable. However, nonmetal containers (i.e. plastic, glass, earthenware, etc.) are often the source of liquid spills in Postal Service networks.

Specifically, the Postal Service will remove the ambiguity surrounding the meaning of “breakable container,” in addition to clarifying the packaging requirements for those containers. The Postal Service expects this revision to reduce confusion, improve compliance, and limit the frequency with which it has to take action with noncompliant mailers. For convenience and simplicity, the Postal Service will also consolidate existing requirements for the packaging of liquids from Publication 52, *Hazardous, Restricted and Perishable Mail*, into the revised DMM 601.3.4, adding reference to package orientation markings as a condition for the mailing of liquids or other spillable materials. The Postal Service believes this clarification to be necessary prior to considering an escalation of enforcement.

With regard to extending the requirement to triple-package breakable primary containers with a volume of 4 ounces or less, the Postal Service will not move forward with this proposal at this time. The Postal Service will continue to monitor the frequency and impact of spills originating for these smaller containers, and make a determination at a future date regarding mailing standards revisions relating to smaller containers of liquids. The Postal Service encourages mailers to review and, if justified, make improvements to their packaging processes for small containers, especially for those liquids that can be disruptive to Postal Service operations (e.g. corrosive, viscous or oily liquids, and those with strong odors).

Summary of Comments and Postal Service Responses

The Postal Service received 20 responses to the July 9, 2018 proposed rule, several of which included multiple comments. Commenters included trade groups representing shippers of hazardous materials, individual mailers, mailer organizations, pharmaceutical mailers, and technical/professional service providers. Comments and Postal Service responses are summarized as follows:

Comment. Three commenters expressed concern with the impact the proposed revision could have on liquid product samples placed into Periodicals, and other flat-size or letter-size mailpieces.

USPS Response: It was not the intent of the Postal Service to expand the applicability of the revised DMM 601.3.4 to packets of liquid product samples placed in letter-size and flat-size mailpieces. Mailing standards relating to samples in Periodical mailpieces are provided in DMM 207.3.3.9. Additional

details are described in Customer Support Ruling (CSR) PS-273. The mailing of packets of liquid product samples in other letter-size and flat-size mailpieces is described in a Postal Service policy, administered primarily through the Pricing and Classification Service Center (PCSC). The Postal Service does not intend to make changes to these mailing standards or policy at this time.

Comment: Several commenters opined that the revised standards would tend to make the Postal Service less competitive, add cost to mailers, and could drive liquid mailers to other transportation providers.

USPS Response: The Postal Service is committed to the safety and security of all items in its networks and strives to create mailing standards that support these efforts, yet are not overly burdensome to the mailing industry. The Postal Service will continue to work with industry to find ways to minimize incidents and the hidden costs resulting from clean-up expenses, lost work-hours and indemnity claims associated with spills of liquids in Postal Service networks.

Comment: Several commenters requested that the Postal Service reconsider its proposal to extend the triple-packaging requirement to primary containers of 4 ounces or less, with one commenter suggesting that the 4 ounce threshold be raised. These commenters relate that the additional expense associated with compliance would increase mailer costs.

USPS Response: In response to these requests, the Postal Service will not move forward with this proposal. Instead, the Postal Service will monitor the frequency and impact of spills originating from these smaller containers, and make a determination at a future date regarding mailing standards revisions. The

Postal Service plans to consult with the shipping industry periodically on this topic and prior to proposing additional restrictions on smaller containers, if such a change appears necessary. In the meantime, the Postal Service requests that mailers review and, if warranted, make improvements to their packaging processes for small containers, especially for those liquids that can be disruptive to Postal Service operations (e.g. viscous or oily liquids and those with strong odors).

Comment. One commenter generally agreed with the change, but suggested restricting its application to commercial mailers only, while another commenter speculated that most spill incidents are not attributable to commercial mailers.

USPS Response: There is no evidence to support the claim that e-Retailers are better or worse at packaging liquids than the general public. The proposed changes are intended to reflect industry best practices that can be applied uniformly.

Comment. Several commenters urged the Postal Service to improve its enforcement regarding mailers found to be using insufficient packaging for liquids, instead of implementing new requirements. One commenter specifically suggested that the USPS Mailpiece Incident Reporting Tool (MIRT) be employed for this purpose. Additional suggestions ranged from mandating new mailer-provided insurance coverage that would compensate for damages to equipment and affected mailpieces to the introduction of fines that would cover the cost of

any damages caused by mailpieces that are not prepared in accordance with mailing standards.

USPS Response: The MIRT currently has the capacity to capture details of, and generate reports for, nonhazardous liquids incidents. The Postal Service will continue its efforts to improve MIRT compliance going forward, and will attempt to provide more consistent and timely feedback to noncompliant mailers.

In an additional effort to improve compliance, the Postal Service will move forward with some of its proposed revisions to DMM 601.3.4 and Publication 52, *Hazardous, Restricted and Perishable Mail*, section 451.3, specifically to remove the ambiguity surrounding the meaning of the term “breakable container” and clarifying the packaging requirements for those containers. The Postal Service believes a significant percentage of liquid spill incidents arise from mailers misinterpreting the existing packaging requirements for liquids, thinking their nonmetal containers are not breakable. As a result, the Postal Service expects these revisions to improve compliance, and limit the frequency with which it has to take action with noncompliant mailers. It is also expected that these revisions are an appropriate first step in the Postal Service’s improved enforcement process and the Postal Service will continue to work with the mailing industry to explore other options.

Comment. One commenter suggested the Postal Service place additional restrictions on problematic liquids.

USPS Response: The Postal Service currently has separate and distinct mailing standards for hazardous and nonhazardous liquids. At this time, the

Postal Service prefers not to add another set of standards for nonhazardous liquids with specific characteristics. The Postal Service will consider this approach at a later date if conditions demonstrate the need.

Comment. One commenter related their belief that requiring triple packaging of nonmetal containers will add considerable packaging costs by adding additional weight and bulk to shipments, and may push mailings into higher rate cells, affecting a mailer's ability to combine liquids and non-liquids in the same shipment.

USPS Response: The Postal Service is sensitive to mailer concerns about escalating cost. However, it is the position of the Postal Service that the proposed revisions relating to breakable containers and the requirement to triple package are nothing more than clarification of existing standards. The Postal Service believes mailers should have always been triple packaging nonmetal containers, such as plastic bottles of motor oil, laundry detergent, and similar materials. As discussed previously in this Federal Register notice, the Postal Service believes it imperative to address the issue of spills, along with their associated hidden costs.

Comment. One commenter suggested that the Postal Service benchmark with other carriers to discover their strategies for managing and mitigating liquids incidents.

USPS Response: The Postal Service recognizes that there are operational differences between itself and commercial carriers and that it has legal constraints unique to its role as a governmental entity. However, the Postal

Service plans to discuss liquid spill mitigation strategies with commercial carriers as opportunities arise.

Comment. One commenter requested that the Postal Service revise the language in the current DMM 601.3.4(d) to remove the requirement for mailers to provide their International Safe Transit Association (ISTA) 3A Package-Product Certification Notice at the time of mailing, and to replace it with language stating that mailers only need to be capable of meeting the conditions of the ISTA 3A procedure test.

USPS Response: The Postal Service believes it important for mailers, when choosing to use an alternate process to triple packaging, to provide certification that their packaging meets all the applicable test criteria. Therefore, the Postal Service will retain the requirement that mailers perform the ISTA 3A test on each combination of internal and external packaging for liquids, and make available the applicable 3A Package-Product Certification Notice for Postal Service review upon request. Upon the effective date of this notice, the Postal Service will no longer require mailers to provide these certifications at the time of each mailing, unless specifically requested by the office of acceptance.

Comment. One commenter requested that the Postal Service allow tests, other than ISTA 3A, as an alternate process to triple packaging.

USPS Response: In discussions with mailing and hazardous materials transportation industries regarding these proposed revisions, the Postal Service requested that mailers provide details about industry best practices used to ensure packaging is sufficiently rigorous to mitigate the risk of liquid spills in

Postal Service networks. The Postal Service received one response from a pharmaceuticals mailer that referenced the Food and Drug Administration Current Good Manufacturing Practices (CGMP) process as an alternate process to triple packaging. The Postal Service reviewed the procedures and practices specified by the CGMP, but was unable to find guidelines relating to shipping or mailing of products and materials. As a result, the Postal Service will not add CGMP as an alternative to triple packaging for liquids in primary containers over 4 ounces. This commenter is encouraged to contact Postal Service Product Classification if they wish to provide additional input regarding CGMP.

Comment. One commenter requested that the Postal Service reconsider the requirement to provide enough absorbent material to absorb all the liquid contained in the primary container(s). The commenter stated that the requirement is expensive, difficult to quantify, and is more restrictive than that of commercial carriers.

USPS Response: The requirement to cushion the primary container with material sufficient to absorb all leakage has been in place for several years. Because of the elevated frequency with which liquid spills are now occurring, the Postal Service does not intend to relax this requirement at this time. Mailers that find it cost prohibitive to include absorbent materials as the cushioning material inside packages are encouraged to use the package testing alternatives found in the DMM section 601.3.4d.

Comment. One commenter requests that the Postal Service provide a minimum of one year for mandatory compliance.

USPS Response: As stated previously in this Federal Register notice, the Postal Service does not intend to move forward with its proposal to require triple packaging for containers of 4 ounces or less. In addition, the requirement to triple package breakable containers is not new, and has been in effect for many years. Since the DMM revisions discussed in this Federal Register notice do not constitute new requirements, the Postal Service does not believe it necessary to provide for a transitional period. Although these changes are effective March 28, 2019, the revisions will be published in the DMM on June 23, 2019.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111 – [AMENDED.]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301-307; 18 U.S.C. 1692-1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the *Mailing Standards of the United States Postal Service*,

Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards For All Mailing Services

601 Mailability

* * * * *

3.0 Packaging

* * * * *

3.4 Liquids

[Revise 3.4 as follows:]

Mailers must mark the outer container of a mailpiece containing liquid to indicate the nature of the contents (i.e. liquid), and include orientation arrows in accordance with Publication 52, section 226. Mailers must package and mail liquids under the following conditions:

- a. Use screw-on caps with a minimum of one and one-half turns, soldering, clips, or similar means to close primary containers containing liquids. Do not use containers with friction-top closures (push-down tops) except as provided in 3.4c. The use of locking rings or similar devices are encouraged when mailing containers with friction-top closures (push-down tops).
- b. Liquids in steel pails and drums with positive closures, such as locking rings or recessed spouts under screw-cap closures, may be mailed without additional packaging.
- c. Breakable containers including, but not limited to, those made of glass, plastic, porcelain, and earthenware, and metal containers with pull-tabs

(pop-tops) or friction-top closures, having a capacity of more than 4 fluid ounces must be triple-packaged according to the following requirements:

1. Cushion the primary container(s) with absorbent material capable of absorbing all of the liquid in the container(s) in case of breakage;
2. Place the primary container inside another sealed, leakproof container (secondary container), such as a watertight can or plastic bag; and
3. Use a strong and securely sealed outer mailing container durable enough to protect the contents and withstand normal processing in Postal Service networks.

d. As an alternative to 3.4c above, mailers may use containers certified under the International Safe Transit Association (ISTA) Test Procedure 3A. Mailers must, upon request, provide written test results verifying that sample mailpieces passed each test outlined in the standard and that no liquids were released.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Brittany M. Johnson,

Attorney, Federal Compliance.