DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of Acetyl-alpha-methylfentanyl, Alpha-methylthiofentanyl, Benzylfentanyl, Beta-hydroxyfentanyl, Beta-hydroxy-3-methylfentanyl, 3-Methylthiofentanyl, Thienylfentanyl and Thiofentanyl into Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this notice to temporarily place acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provision of the CSA. This action is based on a finding that the scheduling of these substances in Schedule I is necessary to avoid an imminent hazard to the public safety. This action will impose the criminal sanctions and regulatory controls of Schedule I on the manufacturing, distribution and possession of these fentanyl analogs.

EFFECTIVE DATE: On November 29, 1985, acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl will be subject to Schedule I control.


The Comprehensive Crime Control Act of 1984 (Pub. L. 98-473), which was signed into law on October 12, 1984, amended section 201 of the Controlled Substances Act (CSA) (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. A substance may be scheduled under the emergency provision of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.A. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration (28 CFR 0.100[b]). In making a finding of an imminent hazard to the public safety, the Attorney General is required to consider only those factors set forth in paragraphs (4) the history and current pattern of abuse, (5) the scope, duration and significance of abuse, and (6) what, if any, risk there is to the public health, of section 201(c) of the CSA (21 U.S.C. 811[c)).

House Report 98-835 which accompanied Public Law 98-473 states that "This new procedure [emergency scheduling] is intended by the Committee to apply to what has been called 'designer drugs', new chemical analogs or variations of existing controlled substances, or other new substances, which have a psychedelic, stimulant or depressant effect and have a high potential for abuse." The substances, acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl, are analogs of fentanyl, a Schedule II narcotic analgesic, and as such are substances which Congress clearly intended to subject to the emergency scheduling authority as imminent hazards to the public safety.

A series of analogs of the Schedule II narcotic analgesic, fentanyl, have been clandestinely produced, distributed and abused primarily in California since late 1979. The first of the analogs identified was alpha-methylfentanyl, sold on the street as "China White" or "synthetic heroin." Alpha-methylfentanyl was associated with over 20 narcotic overdose deaths during the period 1980-1982. Using the traditional scheduling process pursuant to Section 201(a) of the CSA (21 U.S.C. 811[a]), DEA placed alpha-methylfentanyl into Schedule I of the CSA effective September 22, 1981 (46 FR 46799). Since the control of alpha-methylfentanyl, DEA laboratories have identified other fentanyl analogs clandestinely produced and distributed in California. DEA used its emergency scheduling authority for the first time when 3-methylfentanyl, a particularly potent fentanyl analog, was temporarily placed into Schedule I of the CSA effective April 25, 1985 (50 FR 11690).

Subsequently, substantial quantities of
several other fentanyl analogs have been encountered in the illicit drug traffic as determined by DEA laboratory analyses. The substances, acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzyllfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl are the specific fentanyl analogs which have been found in the illicit drug traffic. One sample of material associated with a clandestine laboratory was seized in California in June 1985 contained substantial quantities of six of the above fentanyl analogs. Two other samples, one seized in California and the other seized in Louisiana, contained substantial quantities of four of the fentanyl analogs. Thus, in the following sections which describe the specific fentanyl analogs, the same three seizures are reported for several analogs. The following is a description of the information available regarding the above eight fentanyl analogs:

N-[1-Methyl-2-phenyl]ethyl-4-piperidyl]-N-phenylacetamide or acetyl-alpha-methylfentanyl was first identified by DEA laboratories in August 1983 in evidence samples from Modesto, California. Acetyl-alpha-methylfentanyl has been identified by forensic laboratories in 13 other samples in 1984 and 1985. In June 1985, approximately four ounces of material containing acetyl-alpha-methylfentanyl was seized at a clandestine laboratory in California. Abuse liability studies show that acetyl-alpha-methylfentanyl is a potent narcotic analgesic which substitutes completely for morphine in morphine-dependent monkeys. It has a rapid onset of action but a shorter duration of action than morphine. Acetyl-alpha-methylfentanyl is approximately 10 times more potent than morphine in rats.

N-[1-[Methyl-2-(2-thienyl]ethyl]-4-piperidyl]-N-phenylpropanamide or alpha-methylthiofentanyl has been identified by DEA laboratories in five evidence submissions since 1984. Four of the submissions were from California and a recent (June 1985) submission was from Louisiana. Over four kilograms of material containing alpha-methylthiofentanyl have been seized by DEA, much of it at a clandestine laboratory. It is estimated that alpha-methylthiofentanyl has a shorter duration of action than fentanyl and that it is between 450 and 600 times more potent than morphine as an analgesic.

N-[benzyl-4-piperidyl]-N-phenylpropanamide or benzyllfentanyl is both an intermediate in the synthesis of fentanyl and reported to be an active morphine-like substance. It has been identified by DEA laboratories in over 25 drug evidence submissions from the San Diego area during the period January 1982 to June 1985. During this same time period, at least 24 overdose deaths associated with fentanyl-like compounds were reported in San Diego. Benzyllfentanyl and fentanyl are the only fentanyl-like compounds identified in the San Diego area by forensic laboratories. Thus, it is likely that the 24 fentanyl-like deaths reported in San Diego were associated with the use of benzyllfentanyl and fentanyl. Approximately one and a half pounds of a synthesized intermediate and other necessary chemicals and equipment to produce benzyllfentanyl were found at a clandestine laboratory in Los Angeles, California in June 1985. Benzyllfentanyl has an analgesic potency about one-tenth that of morphine when administered intravenously to rats and mice.

Chemically, beta-hydroxyfentanyl is N-[1-[2-hydroxy-2-phenyl]ethyl]-4-piperidyl]-N-phenylpropanamide. Beta-hydroxyfentanyl has been identified by forensic laboratories in four submissions from California in 1985. Over four kilograms of material containing beta-hydroxyfentanyl have been encountered. Two of the submissions were obtained at a clandestine laboratory in California. Beta-hydroxyfentanyl produces typical morphine-like effects in rats with an analgesic potency approximately 150 times that of morphine. It is believed that beta-hydroxyfentanyl is formed in the synthesis of beta-hydroxy-3-methylfentanyl.

N-[3-methyl-1-(2-hydroxy-2-phenyl)ethyl]-4-piperidyl]-N-phenylpropanamide or beta-hydroxy-3-methylfentanyl has also been identified by forensic laboratories in four submissions from California in 1985. Over four kilograms of material containing beta-hydroxy-3-methylfentanyl was found. Two submissions were obtained at a clandestine laboratory in California. Beta-hydroxy-3-methylfentanyl has been identified as a combination of the cis and trans diastereomers. Because of its close structural similarity to known active fentanyl-like compounds, beta-hydroxy-3-methylfentanyl is likely to produce morphine-like effects. It is estimated that the analgesic potency of beta-hydroxy-3-methylfentanyl in rats is at least 300 times and possibly up to 1500 times that of morphine.

N-[3-methyl-1-(2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide or 3-methylthiofentanyl has been identified in drug evidence samples from California and Louisiana in 1985. The four submissions consisted of a total of 5.8 kilograms of material. Two of the exhibits were obtained at a clandestine laboratory in California. 3-Methylthiofentanyl has been identified as a mixture of the cis and trans diastereomers. 3-Methylthiofentanyl is structurally similar to thiofentanyl and 3-methylfentanyl, both of which are morphine-like compounds. This structural similarity strongly suggests that 3-methylthiofentanyl is a potent morphine-like substance. It is estimated that the analgesic potency of 3-methylthiofentanyl is approximately 1000 times that of morphine in rats.

Thienylfentanyl or N-[1-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide has been identified in four kilograms of material in three drug evidence submissions to DEA laboratories. Two of the samples were from California and one was from Louisiana. One of the California samples was obtained at a clandestine laboratory. It is unclear whether thienylfentanyl was a target compound or whether it was present as an impurity or by-product. Nevertheless, thienylfentanyl's close structural similarity to fentanyl, thiofentanyl and benzylfentanyl, all active morphine-like compounds, makes it likely that thienylfentanyl also possesses morphine-like activity. Thienylfentanyl's analgesic potency is estimated to be one-tenth that of morphine in rats.

N-[1-(2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide or thiofentanyl has been identified by DEA laboratories in four drug evidence submissions in 1985. Three of the samples were from California and one was from Louisiana. The four samples, two of which were obtained at a clandestine laboratory, consisted of over five kilograms of material. Thiofentanyl produces typical morphine-like effects in rats and it is approximately 175 times more potent than morphine as an analgesic.

Fentanyl analogs have been associated with at least 60 narcotic overdose deaths since January 1984. The specific fentanyl analogs involved were not determined but it is highly likely that many of the deaths were associated with the use of the eight fentanyl analogs described above. Many of the deaths occurred during the time and in the areas where the availability of the above fentanyl analogs can be documented. Two of the deaths occurred in Oregon and the remainder occurred in California. Cocaine was found in the body fluids and tissues of several of the deceased. Deaths were attributed to
pulmonary congestion due to intravenous "fentanyl" toxicity. It is reported that deaths associated with fentanyl analogs continue to occur at the rate of one per week in California. All of the fentanyl analogs were produced in clandestine laboratories. There is no accepted medical use for or commercial manufacturer of any of the eight fentanyl analogs. The use of clandestinely produced narcotic substances such as these fentanyl analogs poses greater health and safety hazards than those attendant to the use of traditional narcotics. The identity, purity and concentration of the active ingredients in most cases are unknown or at best inconsistent. The high potency of several of the fentanyl analogs (analgesic potencies up to 1500 times that of morphine) requires that doses be very small. Mixing the active ingredients with the diluents to obtain uniform doses is extremely difficult. Thus, the risk of drug overdose is increased.

The pattern of abuse of fentanyl analogs in general parallels that of heroin. Fentanyl analogs are sold on the street as "China White," "synthetic heroin," "heroin," or "fentanyl." The packaging is identical to that used for heroin, e.g., balloons, plastic bags and foil packets. The fentanyl analogs have been diluted with lactose or mannitol and mixed with cocaine, quinine or diphenhydramine. Some samples have been dyed brown to look like "Mexican heroin." The fentanyl analogs primarily are administered intravenously by known heroin addicts.

The incidence of fentanyl analog use among narcotic addicts in California is estimated to be 10 and 20 percent. A recent study of clients in nine methadone maintenance programs in Northern California showed that of the 519 urine samples tested, 50 or 10 percent of them were positive for fentanyl-like substances. The range for the nine centers was 0–24 percent. The specific fentanyl analogs used were not determined.

The data described above shows that the production, distribution and abuse of fentanyl analogs continue to pose a very serious hazard to the public safety. The data further shows that acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl are the fentanyl analogs currently in use and that they are available in substantial quantities. Although there is relatively little information regarding the availability and use of fentanyl analogs outside of California (2 overdose deaths in Oregon, a sample containing alpha-methylthiofentanyl, thienylfentanyl, 3-methylthiofentanyl and thiofentanyl in Louisiana), there is a high potential for the spread of the fentanyl analogs to other areas of the country. In view of modest production costs and high dosage yields, the potential profit from the sale of these analogs is tremendous.

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, the Administrator of DEA has considered the following factors relative to making a determination of whether acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, thienylfentanyl and thiofentanyl each pose an imminent hazard to the public safety:

1. Its history and current pattern of abuse;
2. The scope, duration and significance of abuse, and
3. What, if any, risk there is to the public health.

Based on a consideration of these factors and other relevant information, the Administrator, pursuant to section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, finds that scheduling acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl in Schedule I of the CSA, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety.

As required by section 201(h)(4) of the CSA (21 U.S.C. 811(h)(4)), the Administrator has notified the Secretary of the Department of Health and Human Services of his intention to temporarily place acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl into Schedule I of the CSA. Comments submitted by the Secretary in response to this notification, including whether there is an exemption or approval in effect for any of the above-labeled fentanyl analogs under the Federal Food, Drug and Cosmetic Act, shall be taken into consideration by the Administrator before the notice becomes effective.

Pursuant to the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, the Administrator hereby orders that on [insert 31 days from the date of this Federal Register notice] N-[1-[1-methyl-2-phenyl]-ethyl-4-piperidyl]-N-phenylacetamide [acetyl-alpha-methylfentanyl], its optical isomers, salts and salts of isomers, N-[1-[1-methyl-2-[2-thienyl]ethyl]-4-piperidyl]-N-phenylpropanamide [alpha-methylthiofentanyl], its optical isomers, salts, and salts of isomers, N-[1-benzyl-4-piperidyl]-N-phenylpropanamide [benzylfentanyl], its optical isomers, salts and salts of isomers, N-[1-[2-hydroxy-2-phenyl]ethyl-4-piperidyl]-N-phenylpropanamide [beta-hydroxyfentanyl], its optical isomers, salts and salts of isomers, N-[3-methyl-1-[2-hydroxy-2-phenyl]ethyl-4-piperidyl]-N-phenylpropanamide [beta-hydroxy-3-methylfentanyl], its optical and geometric isomers, salts and salts of isomers, N-[3-methyl-1-[2-thienyl]ethyl-4-piperidyl]-N-phenylpropanamide [thienylfentanyl], its optical isomers, and salts and salts of isomers, N-[1-[2-thienyl]ethyl-4-piperidyl]-N-phenylpropanamide [thiofentanyl], its optical isomers, salts and salts of isomers be placed into Schedule I of the CSA (21 U.S.C. 801 et seq.) unless the Administrator gives notice in the Federal Register that this order is rescinded prior to November 28, 1985.

PART 1308—(AMENDED)

For the reasons set forth above, 21 CFR 1308.11 (g) is amended as follows:

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

2. Sections 1308.11(g)(5)–(12) are added to read as follows:

§ 1308.11 Schedule I.

1. * * * * *

(g) * * *

N-[1-[1-methyl-2-phenyl]ethyl-4-piperidyl]-N-phenylacetamide (acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers... 9815

N-[1-[1-methyl-2-[2-thienyl]ethyl]-4-piperidyl]-N-phenylpropanamide (alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers... 9832

N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers... 9816

N-[2-hydroxy-2-phenyl]ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers... 9830
1. Registration. Any person who manufactures, distributes, delivers, imports or exports acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl or thiofentanyl or who engages in research or conducts instructional activities with respect to these substances or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.


3. Labeling and Packaging. All labels and labeling for commercial containers of acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl must comply with the requirements of §§ 1302.03-1302.05, 1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl or thiofentanyl shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. Inventory. Every registrant required to keep records and who possesses any quantity of acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl or thiofentanyl shall take an inventory, pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of these substances on hand.

6. Records. All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl.

7. Reports. All registrants required to submit reports pursuant to §§ 1304.37-1304.41 of Title 21 of the Code of Federal Regulations shall do so regarding acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl.

8. Order Forms. All registrants, involved in the distribution of acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl shall comply with the order form requirements of §§ 1305.01-1305.16 of Title 21 of the Code of Federal Regulations.

9. Importation and Exportation. All importation and exportation of acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl or thiofentanyl shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. Criminal Liability. Any activity with respect to acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act occurring after November 29, 1985 is unlawful.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the temporary placement of acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L 96-354). This action involves the temporary control of substances with no legitimate medical use or manufacture in the United States.

It has been determined that the temporary placement of acetyl-alpha-methylfentanyl, alpha-methyliothiofentanyl, benzylfentanyl, beta-hydroxyfentanyl, beta-hydroxy-3-methylfentanyl, 3-methylthiofentanyl, thienylfentanyl and thiofentanyl in Schedule I of the CSA under the emergency scheduling provision is a statutory exception to the requirements of Executive Order 12291 (48 FR 13193).
DEPARTMENT OF EDUCATION
Office of Special Education and Rehabilitative Services
34 CFR Part 324
Research in Education of the Handicapped

AGENCY: Department of Education.

ACTION: Final rule; correction—Research in Education of the Handicapped program under Sections 641-644 of Part E of the Education of the Handicapped Act, as amended.

SUMMARY: On August 28, 1985 final regulations for the Research in Education of the Handicapped program under Sections 641-644 of Part E of the Education of the Handicapped Act, as amended, were published at 50 FR 34638-34644. That document contained two errors which are corrected below.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Glidewell, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 5511—M/S 2313), Washington, DC 20202; Telephone: (202) 732-1099.

SUPPLEMENTARY INFORMATION: On page 34639, third column, the fourteenth line from the top of the page is changed to read: "§ 324.4 What definitions apply to this program?"

§ 324.4 [Corrected]

On page 34960, first column, third paragraph from the top, § 324.2(b) is changed to read:

(b) The Secretary may award grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and may make contracts with States, State and local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations for research and related purposes authorized under section 942 of the Education of the Handicapped Act, relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children.

(20 U.S.C. 1441-1444)
(Catalog of Federal Domestic Assistance No. 84.023, Research in Education of the Handicapped)


Madeleine Will,
Assistant Secretary for Special Education and Rehabilitation Services.

[FR Doc. 85-25741 Filed 10-28-85; 8:45 am]

POSTAL SERVICE
39 CFR Part 111

Combined Mailings of Special Fourth-Class and Bound Printed Matter

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule provides for the combined mailing of separate and distinguishable units of special fourth-class and bound printed matter in a single machinable parcel with postage paid at the rate appropriate for each subclass. The rule eliminates the need for mailers to prepare separate mailings to the same recipient in order to claim the two rates. The Postal Service will also benefit from this rule in that one parcel will be processed and delivered instead of two.


FOR FURTHER INFORMATION CONTACT: Mr. George E. Thomas. (202) 245-4512.

SUPPLEMENTARY INFORMATION: On August 20, 1985, the Postal Service published for comment in the Federal Register (50 FR 33575-33579) proposed changes in sections of the Domestic Mail Manual relating to mixed classes of mail. Interested persons were invited to submit comments on the proposed changes by September 19, 1985.

Written views were received from four commenters. All were in favor of adopting the proposal. However, each of the commenters suggested that only one rate should be applied to forwarding and return to simplify postage calculation and verification. Three of the commenters specifically suggested the parcel post zone rates. The Postal Service agrees with the suggestions and we have changed the rule to call for the application of postage at parcel post zone rates whenever parcels of combined special fourth-class and bound printed matter are forwarded or returned.

Two commenters observed that the proposed rule may not permit mailers of combination packages to make use of the Postal Service’s Itemized Postage Program, since the proposal requires that “postage and weight of the components be listed on the package”, and the Itemized Postage Program does not call for this kind of identification. The Itemized Postage Program is an alternate method of paying postage adopted under the provisions of DMM 145.9. The Postal Service has no objection to alternate methods under DMM 145.9 being applicable to the combined mailings considered here. Accordingly, we have inserted language under the heading “Markings Required”, specifically stating that combined mailings of special fourth-class and bound printed matter, which are made through an alternate method of paying postage under the provisions of DMM 145.9, must be identified according to the specific terms and conditions of the approved alternate arrangement.

Upon consideration of all the comments, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

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


2. Revise the heading of Part 138 and the first sentence of 138.1 of the DMM to read as follows:

PART 138—MIXED CLASSES AND SUBCLASSES OF MAIL

138.1 General.

When mail of a higher class is enclosed with mail of a lower class, the rate of postage on the entire piece or package is that of the higher class except as provided in 138.2, 138.3, 138.4, 138.6, and 138.8.

3. Add new 138.8 to read as follows:

138.8 Combined Mailings of Special Fourth-Class and Bound Printed Matter

.b1 Definition. Mailers may combine separate and distinguishable units of special fourth-class and bound printed matter in one parcel for the same address.

.b2 Machinability. All parcels containing combined special fourth-class and bound printed matter must meet the machinable (regular) parcel criteria stated in 128.41.