previously announced, the Postal Service plans to publish a handbook that will contain information regarding special bulk third-class mailings. The handbook will combine current Publications 417 and 417-A and will contain information regarding application procedures, qualifying organizations, mailing at other post offices, and cooperative mailings, as well as material concerning the new content-based restrictions (advertisements, products, premiums, sweepstakes, etc.). Although the handbook will contain helpful information to assist authorized organizations to determine whether their materials qualify for mailing at the special bulk third-class rates, the Domestic Mail Manual will contain the rules governing the kinds of materials that qualify for mailing at these rates. The handbook will provide information and examples that will be helpful in applying the rules in the Domestic Mail Manual. Plans are to distribute the handbook as far in advance as possible of the effective date of this final rule. A notice will be published in the Postal Bulletin when the handbook is available for distribution.

One comment stated that requester publications should be allowed to qualify for special second-class rates. The comment also suggested that the Postal Service explore with interested parties the adoption of rules to accomplish this goal. This comment is beyond the scope of this rulemaking.

One comment stated that the proposed rule neither distinguishes between premiums and products nor between advertising and solicitations for donations. This comment argues that solicitations by nonprofit organizations that seek donations and offer premiums to contributors should not be considered advertising. The provision questioned by the comment was among the provisions originally adopted on May 5, 1994, and is carried forward in the rules adopted with this final rule. The Postal Service specifically addressed the issue raised by this comment, which concerns "back-end premiums" in that earlier rulemaking, 59 FR 23162, and the Postal Service continues to believe that the conclusions reached at that time are sound. The definition for advertising as set forth in DMM E211.11.0 states that the term includes all material for the publication of which a valuable consideration is paid, accepted, or promised that calls attention to something to get people to buy it, sell it, seek it, or support it. The Postal Service, therefore, believes that a mailpiece containing information promising to furnish a product or

premium in return for making a donation is an advertisement for the product or premium. Consequently, the advertisement must comply with one of the applicable exceptions in order to be eligible for the special rates, i.e., be substantially related to the purposes of the authorized organization (which includes advertisements for items received by the authorized organization as a donation or gift), or be in material that meets the content requirements for a periodical publication. The Postal Service further notes that the question of whether the back-end premium itself may be mailable at the special rates is subject to a different set of rules: the product restrictions set forth in DMM E370.5.10. Additionally, it should not be forgotten that the new restrictions on advertising affect only material considered to be advertisements. Accordingly, a mailpiece of an authorized organization that contains only a donation solicitation for that organization will not be considered an advertisement subject to the new restrictions.

The same comment noted its agreement with statements in the Supplementary Information portion of the proposed rules concerning treatment of sweepstakes and public service announcements (PSAs), and urged that these be incorporated into the rules. Postal policy concerning PSAs is contained in DMM E211.11.0 (see 60 FR 10021, 10029, February 23, 1995). The treatment of sweepstakes mailings is an application of the general rules published in this notice. These are necessarily "regulations of a general character," *United States Postal Service* v. Council of Greenburgh Civic Associations, 453 U.S. 114, 133 (1981). It is impractical for the Postal Service to anticipate and address specific examples of mailings in these rules. Nevertheless, detailed information about products, premiums, donation solicitations, and advertisements will be addressed in the upcoming handbook to assist customers in determining whether these materials are mailable at the special bulk third-class rates.

One comment stated that the proposed rules "create a pseudoperiodical publication category in third-class." It stated that periodical publications are defined in DMM E200; that clear and precise content requirements are listed in DMM E212.1.3, E212.3.1, and E212.4.1; that Congress intended that the provisions of DMM E212.1.3a, 1.3c, and 1.3d serve as the content restrictions affecting special bulk third-class mail containing space advertising; and that the law does not

require that a special bulk third-class mailpiece be a periodical publication.

The Postal Service believes that it is in agreement with the comment on two essential points: (1) That the statutory exception is not limited to periodicals, but to materials that meet the content requirements for periodicals; and (2) that the test for the Postal Service is to adopt regulations to implement the statutory language established by Congress. If the statute requires the creation of a "pseudo-periodical" category, that matter is beyond the authority of the Postal Service, whose role is limited to the implementation of the statute. Although the comment stated a belief that DMM E212.2.3, E212.3.1, and E212.4.1 create content requirements, it did not urge that they be included in the final rule. Instead, the comment indicated a belief that Congress intended DMM E212.1.3a, 1.3c, and 1.3d to serve as the restrictions, although it did not cite any direct evidence of such congressional intent. These rules establish advertising restrictions only for second-class eligibility purposes. The proposed rule contains an advertising restriction in DMM E370.5.8d. The proposed rule also establishes other criteria such as the need for a title, printed sheets, and an identification statement. Because these are all items that must be contained in the mailpiece, the Postal Service believes, contrary to the assertions of this comment, that these criteria are fairly described as content requirements for periodical publications. The Postal Service believes that proposed DMM E370.5.8 contained reasonable, objective criteria to implement a statute requiring a listing of the content requirements for periodicals and, therefore, adopts the proposed rule.

One comment stated that the proposed rule would allow organizations to use special bulk thirdclass postal rates to compete unfairly with for-profit organizations. This comment generally appears to be opposed to the use of special bulk thirdclass rates for advertising matter and asserts that authorized organizations' mailings should be restricted to nonadvertising and non-incomegenerating endeavors. The comment also urged, apparently as an alternative position, that the rules be reviewed to create stricter limits against the mailing of advertisements at the special rates.

The comment that authorized organizations should be restricted to nonadvertising and non-incomegenerating endeavors goes beyond the scope of the statutes and the authority of the Postal Service. The kinds of organizations that may mail at the