



## POSTAL SERVICE

### 39 CFR Part 111

#### Revenue Deficiency

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to clarify the Postal Service revenue deficiency policy.

**DATES:** Submit comments on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260-5015. If sending comments by email, include the name and address of the commenter and send to [ProductClassification@usps.gov](mailto:ProductClassification@usps.gov), with a subject line of "Verification Standards". Faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11<sup>th</sup> Floor North, Washington, DC, 20260. These records are available for review on Monday through Friday, 9 am - 4 pm, by calling 202-268-2906.

**FOR FURTHER INFORMATION CONTACT:** Janet Meddick at (202) 268-2652, Pierre DeFelice at 724-993-3596, or Garry Rodriguez at (202) 268-7281.

**SUPPLEMENTARY INFORMATION:** The Postal Service is proposing to amend DMM section 604.10.0, *Revenue Deficiency*, to update the definition of a revenue

deficiency, as well as the designation of Postal Service contacts for submitting appeals. The Postal Service also proposes to add sections to provide the definition of a mailer, the description of assessments and mailer's responsibilities, and the policy on assessed revenue deficiencies. We believe that these revisions will ensure the proper payment of postage while providing a superb customer experience from sender to receiver.

Additionally, the Postal Service will revise subsection 607.2.1 to include the relocation of subsection 604.10.2, *Nonprofit USPS Marketing Mail*, as new 607.2.1.2, *Nonprofit USPS Marketing Mail Decision*.

#### **List of Subjects in 39 CFR Part 111**

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), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions 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 proposed to be 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)***

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**600 Basic Standards for All Mailing Services**

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**604 Postage Payment Methods and Refunds**

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**10.0 Revenue Deficiency**

**10.1 General**

*[Revise 10.1 by adding text to read as follows:]*

The revenue deficiency process is an administrative process that supplements and does not diminish any rights the Postal Service has to recover revenue deficiencies through other legally available methods, such as when the deficiency arises as a result of fraud, misrepresentation, or the misuse of PC Postage products or other Postage Evidencing Systems.

*[Revise the heading and text of 10.1.1 to read as follows:]*

**10.1.1 Definitions**

Revenue deficiency definitions are as follows:

- a. *Revenue deficiency*: means a shortage or underpayment of postage or fees that has been calculated and assessed to a mailer. Unless assessed under other applicable postal regulations, revenue deficiencies are generally

assessed as provided herein by the Postmaster; manager, Business Mail Entry; the program manager, Revenue and Compliance, or other postal official, who issues a written notification to the mailer citing the amount of the deficiency and the circumstances.

b. *Mailer*. A mailer is defined as the mail owner or an individual or entity that prepares or presents a mailing to the Postal Service and includes those who allow others to use a postage meter or PC postage product (collectively “postage evidence system” - see 604.4.1.1 and 604.4.1.2) that has been authorized for use by the individual or entity.

*[Renumber 10.1.2, Appeal of Ruling, as 10.1.3 and add new 10.1.2 to read as follows:]*

### **10.1.2 Assessments**

Postal officials review mailings, postage statements, and other relevant documentation in assessing a revenue deficiency. Mailers are required to cooperate and provide any documentation or information requested by postal officials during the review and assessment process. A mailer’s failure to provide requested documentation or information during a review may result in a negative inference concerning the documentation or information requested.

### **10.1.3 Appeal of Ruling**

*[Revise the introductory text of 10.1.3 to read as follows:]*

Except as provided in 4.4.4 through 4.4.5, and 703.1.0, a mailer may appeal a revenue deficiency assessment by sending a written appeal to the postmaster or manager in 10.1.3a through 10.1.3c within 30 days of receipt of the notification.

In all cases, the mailer may be asked to provide more information or documentation to support the appeal. Failure to do so within 30 days of the request is grounds for denying an appeal. Any decision that is not appealed as prescribed becomes the final agency decision. Mailers may send appeals as follows:

\* \* \* \* \*

*[Revise the text of item b to read as follows:]*

b. To the Postmaster; manager, Business Mail Entry; program manager, Revenue and Compliance; or other postal official for revenue deficiencies for postage. The appeal is then forwarded to the manager, PCSC, who issues the final agency decision.

\* \* \* \* \*

*[Add new 10.1.4 to read as follows:]*

**10.1.4 Assessed Revenue Deficiencies**

Assessed revenue deficiencies may be subject to the following:

a. If a mailer fails to tender payment to the Postal Service within 30 days of receipt of a final agency decision, or fails to comply with the terms or conditions of a payment plan agreed to by the Postal Service concerning the final agency decision, or is suspected by the Postal Service of continuing to repeatedly short pay postage, the Postal Service may:

- 1. Deduct from the mailer’s trust account or any other funds in USPS possession any deficiencies incurred within 12 months of the date of the final mailing on which the deficiency was assessed.

- 2. Initiate debt collection procedures.
- 3. Restrict or suspend discounted mailing privileges with the concurrence of the manager, Revenue Assurance and Vice President Controller, or as otherwise allowed by regulation, or in accordance with any agreement with the mailer.

b. Discounted mailing privileges may be suspended or restricted regardless of payment status of an assessed revenue deficiency if underpayment of postage occurs again after a mailer has been assessed a revenue deficiency.

c. Interest on assessed revenue deficiencies will accrue at a rate of 6% per annum beginning 30 days after the receipt of the final agency decision and will continue until the debt is paid.

d. Other fees and costs related to an assessed revenue deficiency may be collected as allowed by law or regulation.

*[Delete 10.2 in its entirety.]*

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**607 Mailer Compliance and Appeals of Classification Decisions**

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**2.0 Rulings on Mailing Standards**

*[Revise the heading of 2.1 to read as follows:]*

**2.1 Decisions**

*[Move text of 2.1 under new heading 2.1.1, Local Decision to read as follows:]*

**2.1.1 Local Decision**

A mailer who disagrees with a classification decision by a local Post Office, whether on a pending or a proposed mailing, may send a written appeal to the postmaster within 30 days. The appeal is forwarded to the manager, Pricing and Classification Service Center (PCSC). The manager, PCSC issues the final agency decision. Only the manager, PCSC may rule on an appeal or initial request for a ruling on an exception to a USPS standard in the DMM.

*[Add new 2.1.2, Nonprofit USPS Marketing Mail Decision, to read as follows:]*

### **2.1.2 Nonprofit USPS Marketing Mail Decision**

Nonprofit mailers have two levels of appeal. They may appeal revenue deficiency assessments as follows:

<b>IF THE INITIAL REVENUE DEFICIENCY ASSESSMENT WAS MADE BY:</b>	<b>FIRST-LEVEL APPEAL</b>	<b>SECOND-LEVEL APPEAL AND FINAL USPS DECISION</b>
Postmaster; manager, Business Mail Entry; manager, Revenue and Compliance; or other Postal official	manager, PCSC (see 608.8.0 for address)	manager, Product Classification (see 608.8.0 for address)
manager, PCSC	manager, Product Classification	vice president, Marketing (see 608.8.0 for address)

All appeals must be submitted in writing within 30 days of the previous USPS decision. Any decision that is not appealed as prescribed becomes the final agency decision; no appeals are available within the USPS beyond the second appeal.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if this proposal is adopted.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

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