



POSTAL SERVICE

39 CFR Part 501

Authorization to Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending its Postage Evidencing Systems (PES) regulations to ensure compliance for Automated Clearinghouse or ACH payment transactions and to clarify obligations related to all payments. These changes require the applicable resetting company (RC) and PC Postage provider to comply with the latest NACHA rules published by the North American Clearing House Association for ACH transactions. These changes also require the applicable RC and PC Postage provider to obtain and store an agreement with each customer utilizing ACH debit as a payment method. Failure to comply may result in revocation of access to applicable Postal Service ACH programs.

DATES: Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Douglas Graham, Banking Manager, United States Postal Service, 475 L'Enfant Plaza SW, RM 8134, Washington, DC 20260. Phone: (202) 268-2188

SUPPLEMENTARY INFORMATION: The Postal Service issued proposed revisions to 39 CFR Part 501, set forth in the Federal Register on November 20, 2023 (Vol. 88, No. 222). It proposed amending the Postage Evidencing Systems regulations to ensure compliance for Automated Clearinghouse or ACH payment transactions and to clarify obligations related to all payments. Two sets of

comments were received in response to the Federal Register Notice from industry participants.

NACHA Rules Compliance

Industry Comments:

The proposal that PES providers must comply with NACHA rules received comments highlighting the need for clarification on which version of the NACHA rules will apply, as the rules are regularly updated. The commentors suggest including a provision for a grace period for PES providers to adopt and comply with future updates, which could either be fixed, or flexible and proportionate to the scope and complexity of future changes.

Postal Service response:

The rule will be re-worded to specify “must comply with the most recently published edition of NACHA Operating Rules & Guidelines, published by NACHA annually.” It is not the intention through this rulemaking to alter or supersede NACHA rules, but to follow existing NACHA rules and compliance that industry should reasonably understand and expect. Under this approach, the Postal Service cannot provide NACHA compliance exemptions as any entity involved in ACH related activity must already comply with NACHA rules, therefore the Postal Service will also not specify “sections to comply with” nor “grace periods”. Changes to the NACHA Operating Rules and Guidelines typically provide for future dated requirements and therefore an implementation period is normally provided within the NACHA rules.

NACHA Attestation of Compliance

Industry Comments:

Commentors expressed opposition to the proposal’s requirement for an annual written attestation of compliance for PES providers. One commentor

opined that the requirement is unnecessary, since PES providers are already required to provide the Postal Service with System and Organizational Controls Reports (SOC 1 and SOC 2) that incorporate NACHA compliance. The proposed rule's requirement of a written plan to address any noncompliance of NACHA rules is duplicative of the existing requirement for a remediation plan as a part of the SOC process. If the requirement is retained, one commentor recommends that the Postal Service should provide the text of the attestation or clarify what the attestation must contain.

Postal Service response:

The requirement to provide an annual written attestation of compliance will be removed.

ACH Debit Agreement

Industry Comments:

Commentors expressed concerns about the proposed rule's new record-keeping requirements for ACH agreements for PES providers. One commenter suggested revising the requirements to minimize administrative burden and focus only on essential information. This commenter proposes accommodating customer agreements predating the rule by either grandfathering them for a specified period or providing an extended grace period, such as 12 to 18 months, for historic account information. The comment also argues against duplicative elements, such as the need for bank address information for every customer agreement. Another commenter also supports the idea of a grace period for providers to obtain and document the required contracts and suggest making a bank address an optional requirement, since it can be derived from the Routing/ABA number.

Postal Service response:

1.Regarding supplying the bank address information, it is agreed, and that data element requirement will be removed.

2. Regarding requiring signature evidence of termination, it is agreed, and that data element requirement will be removed.

3. To comply with NACHA rules, the ability to provide a copy of the ACH Debit upon request must already be in place, therefore “grandfathering” an exemption to this requirement is not an option. All customers of the providers must have an ACH Debit Agreement on file with the provider. All terminated ACH Debit Agreements must have a termination date noted on the agreement and the agreement must be kept on file for at least 2 years after the termination date.

4. It is agreed that an ACH Debit Agreement “form (hard copy or electronic)” revision period will be provided to update agreement “forms” to include the minimum data elements listed until August 31, 2024. After the revision period all newly accepted ACH Debit Agreements must include the minimum data elements listed. During the revision period existing ACH Debit Agreement “forms” may continue to be used per item 3) above.

Reimbursement of Returned Payments

Industry Comments:

One commenter expressed the view that the proposed rule’s specific timelines for reimbursement of the Postal Service by PES providers for ACH returned payments do not provide sufficient time for PES providers to work with customers on returned payments. The commenter recommends modifying the proposed sections to extend the reimbursement timeframe.

Postal Service response:

This is a comment based on §§ 501.15(g)(1) and 501.16(d)(1). While the text of these rules is included in the rulemaking, changes are not being made to these existing provisions of the rule that have been in effect prior to the proposed rulemaking. No changes to these existing provisions were intended to be included in this proposal, and none will be made in the final rule.

Additional Change

We also added one further conforming change to § 501.16 to aid in the implementation of these changes.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended); 5 U.S.C. App. 3.

2. Amend § 501.15 by revising paragraph (g) to read as follows:

§ 501.15 Computerized Meter Resetting System.

* * * * *

(g) The RC must reimburse the Postal Service for returned payments promptly, comply with NACHA rules, and maintain customer ACH debit agreements.

(1) *Financial responsibility for returned payments.* The RC is required to reimburse the Postal Service upon request for any returned payments. The RC must, upon first becoming aware of a returned payment, immediately lock the customer's CMRS account to prevent a meter reset until the RC receives

confirmation of payment for the returned payment. If a fee, penalty or fine is assessed against the Postal Service for returned payments from an RC's customer, the Postal Service may request reimbursement for such fee, penalty or fine from the RC. The RC is required to remit the amount of the returned payment to the Postal Service plus the reimbursement request, to the extent applicable, within ten (10) banking days. Invoices will be created monthly for returns and/or applicable penalties or fines incurred for the previous month. The ten (10) banking days will start once the invoice is mailed. The RC has discretion to decide whether to charge its customer for any such reimbursement costs (of fees, penalties, or fines) the RC pays to the Postal Service in connection with the customer's returned payment.

(2) *Responsibility to comply with NACHA rules.* The RC is required to comply with the most recent edition of the NACHA rules, published annually by the North American Clearing House Association. Failure to comply may result in revocation of access to applicable Postal Service ACH programs.

(3) *Responsibility to maintain customer ACH agreements.* The RC must obtain and store an agreement with each and every customer utilizing ACH debit as a payment method. The customer agreement must authorize the RC to debit the designated bank account identified to pay for postage through the Postal Service account of its choice. The agreement must have at least the following elements: Company Name (if applicable), Name and Title and Address of the person entering into the agreement, Contact Information (Phone Number, Fax Number and eMail Address as applicable), Date and Signature (or appropriate electronic signature evidence) of Agreement, Customer's Bank Name, Bank Routing Number, Account Number and Account Type (Checking or Savings, Business or Personal) being agreed to transact upon, an Attestation that the

person submitting the form is authorized to act on behalf of the account, and Termination Date of the Agreement (if applicable). A revision period until August 31, 2024, will be provided to update agreement forms to include the minimum data elements listed. The agreement must be stored for at least two years after termination of the agreement, must be easily reproducible, and must be provided electronically to the Postal Service within three business days of electronic written request by the Postal Service in a format that can be easily and readily used for all NACHA and ACH related purposes including, without limitation, audit and defense of claims. The Postal Service will provide specific written guidance separately if requested. Failure to comply may result in revocation of access to applicable Postal Service ACH programs.

* * * * *

3. Amend § 501.16 by revising paragraphs (d) and (i)(5)(ii)(C) to read as follows:

§ 501.16 PC postage payment methodology.

* * * * *

(d) The provider must reimburse the Postal Service for returned payments promptly, comply with NACHA rules, and maintain customer ACH agreements.

(1) *Financial responsibility for returned payments.* The provider must reimburse the Postal Service upon request for any returned payments. The provider must, upon first becoming aware of a returned payment, immediately lock the customer account to prevent resetting the account until the provider receives confirmation of payment for the returned payment. If a fee, penalty or fine is assessed against the Postal Service for returned payments from a provider's customer, the Postal Service may request reimbursement for such fee, penalty or fine from the provider. The provider is required to remit the amount of

the returned payment plus the amount of the reimbursement request, to the extent applicable, to the Postal Service within ten (10) banking days. Invoices will be created monthly for returns and/or applicable penalties or fines incurred for the previous month. The ten (10) banking days will start once the invoice is mailed. The provider has discretion to decide whether to charge its customer for any such reimbursement costs (of fees, penalties or fines) the provider pays to the Postal Service in connection with the customer's returned payment.

(2) *Responsibility to comply with NACHA rules.* The provider is required to comply with the most recent edition of the NACHA rules, published annually by the North American Clearing House Association. Failure to comply may result in revocation of access to applicable Postal Service ACH programs.

(3) *Responsibility to maintain customer ACH agreements.* The provider must obtain and store an agreement with each and every customer utilizing ACH debit as a payment method. The customer agreement must authorize the provider to debit the designated bank account identified to pay for postage through the Postal Service account of its choice. The agreement must have at least the following elements: Company Name (if applicable), Name and Title and Address of the person entering into the agreement, Contact Information (Phone Number, Fax Number and eMail Address as applicable), Date and Signature (or appropriate electronic signature evidence) of Agreement, Customer's Bank Name, Bank Routing Number, Account Number and Account Type (Checking or Savings, Business or Personal) being agreed to transact upon, an Attestation that the person submitting the form is authorized to act on behalf of the account, and Termination Date of the Agreement (if applicable). A revision period until August 31, 2024, will be provided to update agreement forms to include the minimum data elements listed. The agreement must be stored for at least two

years after termination of the agreement, must be easily reproducible, and must be provided electronically to the Postal Service within three business days of electronic written request by the Postal Service in a format that can be easily and readily used for all NACHA and ACH related purposes including, without limitation, audit and defense of claims. The Postal Service will provide specific written guidance separately if requested. Failure to comply may result in revocation of access to applicable Postal Service ACH programs.

(4) *Credit cards.* Unless otherwise established in a written agreement between the Postal Service and the provider, the provider is fully responsible for its own credit card compliance.

* * * * *

(i) * * *

(5) * * *

(ii) * * *

(C) Authorizes the PC Postage provider to disclose the customer's personal information to the Postal Service, and such other information retained by the PC Postage provider that may enable the Postal Service to collect debts owed to it, and has the proper authority to disclose such information;

* * * * *

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.