



39 CFR Part 111

Counterfeit Postage

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®) in various sections to clarify the handling of items found in the mail bearing counterfeit postage.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER 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 PCFederalRegister@usps.gov, with a subject line of "Counterfeit Postage". Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC, 20260. These records are available for review on Monday through Friday, 9 a.m. - 4 p.m., by calling 202-268-2906.

FOR FURTHER INFORMATION CONTACT: Jane Quenk at (202) 268-7098 or Garry Rodriguez at (202) 268-7281.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the use of counterfeit postage has increased substantially, especially on packages. Use of counterfeit postage is a crime; it reflects an intentional effort to defraud the Postal Service; and it has resulted in a significant loss of revenue to the Postal Service. Typically, such mail does not have an accurate return address. The Postal Service proposes to amend current regulations to distinguish counterfeit postage from mail without any postage affixed and to address the use of counterfeit postage more effectively.

Mail deposited without any postage affixed is endorsed "Returned for Postage" and is returned to the sender without any attempt at delivery (DMM 604.8.2.1). Counterfeit postage differs from the absence of any postage, however, as the former is a criminal attempt to defraud the Postal Service, while the absence of any postage may reflect an inadvertent failure to affix postage. Also, mail with counterfeit postage often does not have an accurate return address, or it has a return address not related to the mailer. To address the problems posed by counterfeit mailings, the Postal Service is amending its regulations to provide public notice that mailings with counterfeit postage will be treated as abandoned; consequently, such mail may be opened and disposed of at the Postal Service's discretion.

Proposal

The Postal Service seeks to distinguish the handling of articles entered without postage under subsection 604.8.2 from those that contain counterfeit postage.

Therefore, the Postal Service is proposing to revise subsection 604.8.4 to provide that when all articles with counterfeit postage are found they will be considered abandoned and disposed of at the discretion of the Postal Service,

rather than be returned to the sender as the affixing of counterfeit postage reflects a refusal to pay postage or an intentional effort to avoid paying postage.

The Postal Service is proposing to implement this change effective April 1, 2023.

We believe this proposed revision will provide customers with clarity on the handling of items bearing counterfeit postage.

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 comment 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.

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

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

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, 401-404, 414, 416, 3001-3018, 3201-3220, 3401-3406, 3621, 3622, 3626, 3629, 3631-3633, 3641, 3681-3685, 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)

* * * * *

500 Additional Mailing Services

* * * * *

507 Mailer Services

1.0 Treatment of Mail

1.1 Nondelivery of Mail

Mail can be undeliverable for these reasons:

* * * * *

[Renumber items b through g as c through h and add new item b to read as follows:]

b. Counterfeit Postage (see 604.8.4).

* * * * *

604 Postage Payment Methods and Refunds

1.0 Stamps

* * * * *

1.4 Imitations of Stamps

[Revise the text of 1.4 to read as follows:]

Matter bearing imitations of postage stamps, in adhesive or printed form, or private seals or stickers resembling a postage stamp in form and design, is not acceptable for mailing (See 8.4.2 for handling items with counterfeit postage.).

* * * * *

4.0 Postage Meters and PC Postage Products (“Postage Evidencing Systems”)

* * * * *

4.4 Postage Discrepancies

4.4.1 Definitions

[Revise the text of 4.4.1 by deleting the last sentence.]

* * * * *

8.0 Insufficient or Omitted Postage

* * * * *

8.2 Omitted Postage

8.2.1 Handling Mail With Omitted Postage

[Revise the first sentence of 8.2.1 to read as follows:]

Except under 8.4 matter of any class, including that for which extra services are indicated, received at either the office of mailing or office of address without postage, is endorsed “Returned for Postage” and is returned to the sender without an attempt at delivery. ***

* * * * *

[Revise the heading and text of 8.4 to read as follows:]

8.4 Counterfeit Postage

8.4.1 Definition

Counterfeit postage is any marking or indicia that has been made, printed, or otherwise created without authorization from the Postal Service that is printed or applied, or otherwise affixed, on an article placed in the mails that indicates or represents that valid postage has been paid to mail the article.

8.4.2 Handling Items with Counterfeit Postage

Items found in the mail bearing counterfeit postage will be considered abandoned and disposed of at the discretion of the Postal Service.

* * * * *

Tram T. Pham,

Attorney, Ethics and Legal Compliance.

