

Dated: December 10, 2010.

**Ervin J. Barchenger,**

*Regional Director, Mid-Continent Region.*

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**BILLING CODE 4310-05-P**

## POSTAL SERVICE

### 39 CFR Part 111

#### **Shortpaid and Unpaid Information-Based Indicia (IBI) Postage and Shortpaid Express Mail Postage, Revised Proposal**

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule, revised.

**SUMMARY:** On November 19, 2009, the Postal Service published a proposed rule to revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual to implement revenue protection procedures for shortpaid and unpaid Information Based Indicia (IBI) postage. Comments on that proposed rule requested more detailed information on the automated procedures the Postal Service will use to identify and verify shortpaid and unpaid IBI postage payment and the resolution process that will be used to remedy deficiencies. This revised proposal provides the more detailed information to DMM sections 604.4, 604.8, and 604.10. In addition, this revised proposal includes proposed mailing standards to implement revenue protection procedures for shortpaid Express Mail® postage.

**DATES:** We must receive your comments on or before March 24, 2011.

**ADDRESSES:** Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 4446, Washington DC 20260-5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington DC, between 9 a.m. and 4 p.m., Monday through Friday. E-mail comments concerning the proposed rule, containing the name and address of the commenter, may be sent to: [MailingStandards@usps.gov](mailto:MailingStandards@usps.gov), with a subject line of "Shortpaid and Unpaid Information-Based Indicia Postage and Shortpaid Express Mail® Postage." Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:** Carla Sherry 703-280-7068 or Carol A. Lunkins 202-268-7262.

**SUPPLEMENTARY INFORMATION:** In this revised proposed rule, the Postal Service is proposing new procedures to manage shortpaid Express Mail postage

and a new process to detect mailpieces with shortpaid and unpaid IBI postage generated from the following postage evidencing systems: Click-N-Ship®, IBI postage meters, and PC Postage® products.

In addition, the Postal Service is proposing to implement a new Web-based resolution process to remedy shortpaid and unpaid IBI postage payment deficiencies, to dispute shortpaid and unpaid IBI postage deficiency assessments, and to appeal USPS decisions relative to shortpaid and unpaid IBI postage.

The Postal Service published a proposed rule in the **Federal Register** on November 18, 2009 (74 FR 59494-59496), inviting comments on the implementation of revenue protection procedures for IBI postage generated by postage evidencing systems.

Comments were received from the mailing industry requesting more detailed information on the automated procedures that the Postal Service will implement to identify and verify shortpaid and unpaid IBI postage and the resolution process to remedy deficiencies.

In response to those comments, this revised proposed rule provides detailed information on the revenue protection process for shortpaid and unpaid IBI postage generated from postage evidencing systems, the process to identify and verify shortpaid and unpaid IBI postage, and the resolution process to remedy, dispute, or appeal matters relative to shortpaid and unpaid IBI postage.

#### **Express Mail Shortpaid Procedure**

To ensure revenue protection for Express Mail paid by any authorized postage payment method, the Postal Service is proposing to implement new shortpaid Express Mail postage procedures.

For an Express Mail Next Day, Second Day, Military, or Custom Designed Service item received at the origin office of mailing with insufficient postage, the mailer is contacted to correct the postage deficiency prior to dispatch of the Express Mail item. If the mailer cannot be contacted before dispatch from the origin office, the Express Mail item is endorsed 'Postage Due', marked to show the total deficiency of postage and fees, and then dispatched to the destination Post Office for delivery to the addressee upon payment of the postage due.

For an Express Mail item with insufficient postage that is identified in processing operations or at the destination Post Office, the Express Mail item will be endorsed 'Postage Due',

marked to show the total deficiency of postage and fees, and then delivered to the addressee upon payment of the postage due. If the payment of postage due is refused by the addressee, the Express Mail item is endorsed "Return to Sender—Refused." The postage deficiency is collected when the Express Mail item is returned to the original sender. If the original sender chooses to remail the item, a new Express Mail label and new postage and fees must be affixed.

For an Express Mail item with insufficient IBI postage that is generated from postage evidencing systems, USPS may follow the process identified in DMM 604.4.4.4 through 604.4.4.9 to resolve such revenue deficiencies.

#### **Postage Evidencing Systems**

Postage meters, PC Postage products, and Click-N-Ship are collectively identified as "postage evidencing systems." A postage evidencing system is a device or system of components a customer uses to print evidence that postage required for mailing has been paid.

The Postal Service implemented postage evidencing systems to meet the needs of the mailing industry by providing convenient, user-friendly methods for mailers to print and pay postage. To protect the viability of postage evidencing systems, the Postal Service continually implements measures to ensure revenue protection.

#### **Postage**

Postage refers to postage and fees due for the applicable price category and associated criteria such as class, weight, shape, zone, and extra services.

#### **Information-Based Indicia**

Information-Based Indicia (IBI) are digitally generated indicia that include a two-dimensional barcode.

#### **Revenue Deficiency**

In this proposed rule, a revenue deficiency includes both shortpaid and unpaid postage and occurs when any mailpiece has less postage than required for the applicable price category and associated criteria such as class, weight, shape, zone, and extra services.

#### **Shortpaid Postage**

Shortpaid postage is a revenue deficiency for which the valid postage on a mailpiece is less than the amount due.

#### **Unpaid Postage**

Unpaid postage is a revenue deficiency for which postage is deficient due to the use of counterfeited,

replicated, duplicated, falsified, or otherwise modified postage.

#### **Detection Process for Revenue Deficiency**

As part of the Postal Service's ongoing efforts to increase effectiveness, enhance financial controls, and reduce costs, the Postal Service is proposing to add a new process using mail processing equipment and ancillary information systems to detect and capture shortpaid and unpaid IBI postage on mailpieces.

When the Postal Service detects potential shortpaid or unpaid IBI postage on a mailpiece, the Postal Service will subsequently verify the postage on the mailpiece to ensure its validity and confirm the amount is sufficient. When the Postal Service confirms that the IBI postage on a mailpiece is shortpaid or unpaid, corrective measures will be taken to recover the applicable revenue deficiency.

#### **Electronic Notification of Revenue Deficiencies**

When the Postal Service identifies shortpaid or unpaid IBI postage generated from postage evidencing systems on mailpieces, in most cases, the Postal Service will use an electronic process to recover the revenue deficiency.

In such cases, the Postal Service will electronically notify both the mailer and the postage evidencing system service provider of the revenue deficiency and deliver the mailpiece to the addressee.

The electronic notification will provide a link to a USPS Web-based customer payment portal that will enable the mailer to pay or dispute the revenue deficiency.

Additionally, other non-electronic processes may be used to recover a revenue deficiency as required.

#### **Resolution Process**

Where applicable, the Postal Service will provide a resolution process that will be accessible through a USPS Web-based customer payment portal to enable mailers to pay, dispute or appeal revenue deficiencies for IBI postage generated from postage evidencing systems.

#### **Payment Process**

The mailer will have 14 days from the date that the Postal Service sends the revenue deficiency electronic notification to pay the deficiency. The payment process is as follows:

- During the 14-day resolution period, the mailer must remit the payment for the revenue deficiency by accessing a USPS Web-based customer

payment portal or through an otherwise authorized Postal Service payment method as indicated in the electronic notification.

- After 14 days, if a mailer has not paid or taken action to dispute a revenue deficiency, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account.

- When an electronic notification sent to a mailer is undeliverable, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 14-day period.

- When a mailer's cumulative revenue deficiency continues to increase during the 14-day period, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 14-day period.

- If the mailer feels the revenue deficiency is in error, the mailer may dispute the revenue deficiency during this 14-day period.

#### **Dispute Process**

The mailer will have 14 days from the date that the Postal Service sends the revenue deficiency electronic notification to dispute the deficiency. The dispute process is as follows:

- During this 14-day period, the mailer must take action to dispute the revenue deficiency by accessing a USPS Web-based customer payment portal or through an otherwise authorized Postal Service dispute method as indicated in the electronic notification.

- The mailer must provide information to substantiate that the postage affixed was valid and sufficient for the postage and service fees associated with the mailpiece.

- After 14 days, if a mailer has not taken action to pay or dispute a revenue deficiency, the Postal Service will notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account.

- When an electronic notification that is sent to a mailer is undeliverable, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 14-day period.

- When a mailer's cumulative revenue deficiency continues to increase during this 14-day period, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the

mailer's account prior to the end of the 14-day period.

The Postal Service will send electronic notification of the approved (upheld) or denied dispute to the mailer. If the Postal Service upholds the mailer's dispute, then the mailer is required to take no further action.

#### **Denied Disputes and the Appeal Process**

When the Postal Service denies a dispute, the mailer will have 7 days from the date that the Postal Service sends the electronic notification of the denied dispute to pay the revenue deficiency or file an appeal. The mailer may pay the deficiency or appeal the decision by accessing a USPS Web-based customer payment portal or through an otherwise authorized Postal Service payment or appeal method as indicated in the electronic notification. The appeal process is as follows:

- The appeal process requires that the mailer provide additional information to substantiate that the postage affixed was valid and sufficient for the postage and service fees associated with the mailpiece.

- After 7 days, if a mailer has not taken action to pay or appeal the revenue deficiency denied in the dispute request, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account.

- When an electronic notification that is sent to a mailer is undeliverable, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 7-day period.

- When a mailer's cumulative revenue deficiency continues to increase during this 7-day period, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 7-day period.

The Postal Service will make a final decision regarding the appeal request. If the Postal Service upholds the mailer's appeal, the Postal Service will notify the mailer of the decision, and the mailer is required to take no further action.

#### **Denied Appeals**

When the Postal Service denies the appeal request, the Postal Service will notify the mailer of the denial decision. The mailer must pay the revenue deficiency, within 7 days from the date that the Postal Service sends the electronic notification of appeal denial, by accessing a USPS Web-based customer payment portal or through an

otherwise authorized Postal Service payment method as indicated in the electronic notification. The process for denied appeals is as follows:

- After 7 days of the denied appeal electronic notification, if a mailer has not taken action to pay the revenue deficiency, the Postal Service will notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account.

- When an electronic notification to a mailer is undeliverable, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 7-day period.

- When a mailer's cumulative revenue deficiency continues to increase during this 7-day period, the Postal Service may notify the mailer's postage evidencing system service provider to temporarily suspend the mailer's account prior to the end of the 7-day period.

#### Denial of Use of Postage Evidencing Systems

When a mailer fails to meet the standards in the DMM, submits false or incomplete information, or deposits shortpaid and unpaid mailpieces in the mailstream, the Postal Service may deny a mailer use of a postage evidencing system.

Any mailer who deposits mailpieces with shortpaid or unpaid IBI postage or fees may be subject to some or all of the following proposed actions:

- Collection of the shortpaid or unpaid postage.
- Revocation of the mailer's account privileges.
- Civil and criminal fines and penalties pursuant to existing Federal law.

Although the USPS is exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite 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 part 111.1.

#### 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 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 following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), as follows:

\* \* \* \* \*

#### 600 Basic Standards for All Mailing Services

\* \* \* \* \*

#### 604 Postage Payment Methods

\* \* \* \* \*

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

##### 4.1 Basic Information

\* \* \* \* \*

##### 4.1.2 Product Categories

\* \* \* The primary characteristics of postage meters and PC Postage products are described below.

\* \* \* \* \*

[Revise items b and c of 4.1.2 as follows:]

b. PC Postage products allow mailers to purchase and print postage with Information-Based Indicia (IBI) directly onto mailpieces, shipping labels, and USPS-approved customized labels.

c. USPS (Click-N-Ship) and USPS-approved commercial providers offer PC Postage products for mailers through subscription service agreements.

\* \* \* \* \*

##### 4.2 Authorization To Use Postage Evidencing Systems

\* \* \* \* \*

##### 4.2.4 Denial of Use

[Revise paragraph of 4.2.4 as follows:]

The Postal Service may deny a mailer authorization to use a postage evidencing system when a mailer:

- a. Fails to comply with mailing standards.
- b. Submits false or incomplete information.
- c. Enters shortpaid or unpaid mailpieces in the mailstream.

[Renumber current item 4.2.5 as 4.2.6 and add new item 4.2.5 as follows:]

##### 4.2.5 Surrender of Postage Evidence System

If authorization to use a Postage Evidencing System is denied, the mailer must surrender the systems, upon request, to the postage evidencing system service provider, USPS, or USPS agent.

##### 4.2.6 Appeal Process

[Revise text of renumbered 4.2.6 as follows:]

Appeals regarding standards in 4.0 or on the basis of noncompliance may be filed as follows:

- a. For appeals regarding IBI postage, mailers must appeal under 4.4.8.
- b. All other appeals must be in writing to the manager, Postage Technology Management (see 608.8.1 for address).

#### 4.3 Postage Payment

##### 4.3.1 Paying for Postage

[Revise the first sentence of 4.3.1 as follows:]

The value of the postage on each mailpiece must be equal to or greater than the amount due for the applicable price and extra service fees, or another amount permitted by mailing standards. \* \* \*

\* \* \* \* \*

[Renumber current items 4.4 through 4.6 as new 4.5 through 4.7, and add new item 4.4 as follows:]

#### 4.4 Shortpaid and Unpaid Information-Based Indicia

##### 4.4.1 Definitions

Mailpieces bearing shortpaid postage are those for which the total postage and fees affixed are less than the postage required for the applicable price and extra services fees. Mailpieces bearing unpaid Information-Based Indicia (IBI) are those for which the mailer has not paid the postage or service fees due to the use of counterfeited, replicated, duplicated, falsified, otherwise modified IBI, or IBI with zero value.

##### 4.4.2 Detection Process for Revenue Deficiency

When mailpieces with shortpaid or unpaid postage are found in the mailstream, USPS will use manual and automated processes to detect and verify the revenue deficiencies.

##### 4.4.3 Handling of Mailpieces With IBI Postage Revenue Deficiencies

When the Postal Service confirms shortpaid or unpaid IBI postage, the Postal Service will take corrective measures that may include:

- a. Delivering the mailpiece to the addressee and collecting the revenue deficiency from the addressee as postage due.
- b. Collecting the revenue deficiency from the sender as described in 4.4.4 through 4.4.9.
- c. Returning the mailpiece to the sender.

##### 4.4.4 Electronic Notification of Revenue Deficiencies

When the Postal Service confirms a revenue deficiency for a mailpiece with IBI postage, the Postal Service may use an electronic process to recover the deficiency from the mailer. In these cases, the Postal Service will electronically notify both the mailer and the postage evidencing system service provider of the revenue deficiency and will deliver the mailpiece to the addressee. The notification will provide a link to a USPS Web-based customer payment portal that will enable the mailer to pay or dispute the revenue deficiency.

##### 4.4.5 Resolution Process

The Postal Service will provide a resolution process through a USPS Web-based customer payment portal.

##### 4.4.6 Payment Process

The mailer will have 14 days from the date that the Postal Service sends the electronic notification to pay the revenue deficiency. The mailer must submit payment for the revenue deficiency during this 14-day period by accessing a Postal Service Web-based

customer payment portal or choose another method identified in the notification. The mailer may choose to dispute (*see* 4.4.7) the revenue deficiency during this 14-day period. The Postal Service may notify the postage evidencing system service provider to temporarily suspend the mailer's account under the following conditions:

- a. After 14 days, if a mailer has not paid or disputed a revenue deficiency.
- b. When an electronic notification to a mailer is undeliverable.
- c. When a mailer's cumulative revenue deficiency increases during the 14-day period due to additional mailpieces being identified as shortpaid or unpaid.

#### 4.4.7 Dispute Process

To begin the dispute process, the mailer must access a Postal Service Web-based customer payment portal or choose another method identified in the electronic notification to substantiate that the postage affixed was valid and sufficient for the postage and fees. The process is as follows:

- a. The mailer will have 14 days from the date that the Postal Service sends the notification to dispute the revenue deficiency.
- b. The Postal Service will send electronic notification to the mailer of its decision to uphold or deny the dispute. If the Postal Service upholds the dispute, the mailer is not required to take further action.

#### 4.4.8 Denied Disputes and the Appeal Process

When the Postal Service denies a mailer's dispute of a revenue deficiency, the mailer will have 7 days from the date the Postal Service sends the notification of the denial to pay the revenue deficiency or file an appeal. To pay the dispute or file an appeal, the mailer must access a Postal Service Web-based customer payment portal or choose another method identified in the notification. To appeal, the mailer must provide additional information to substantiate that the postage affixed was valid and sufficient for the postage and fees. The Postal Service will send electronic notification to the mailer of its decision to uphold or deny the appeal. If the Postal Service upholds the appeal, the mailer is not required to take further action. The Postal Service may notify the postage evidencing system service provider to temporarily suspend the mailer's account under the following conditions:

- a. After 7 days, if a mailer has not paid or appealed a revenue deficiency.
- b. When an electronic notification to a mailer is undeliverable.
- c. When a mailer's cumulative revenue deficiency increases during the 7-day period due to additional mailpieces being identified as shortpaid or unpaid.

#### 4.4.9 Denied Appeals

When the Postal Service denies the appeal, the mailer must pay the revenue deficiency within 7 days from the date that the Postal Service sends the electronic notification of denial by accessing a Postal Service Web-based customer payment portal or choosing another USPS-authorized method identified in the notification. The Postal Service may notify the postage evidencing system service

provider to temporarily suspend the mailer's account under the following conditions:

- a. After 7 days, if a mailer has not paid the revenue deficiency.
- b. When an electronic notification to a mailer is undeliverable.
- c. When a mailer's cumulative revenue deficiency increases during the 7-day period due to additional mailpieces being identified as shortpaid or unpaid.

\* \* \* \* \*

#### 8.1 Insufficient Postage

##### 8.1.1 Definition

*[Revise the second and third sentences of 8.1.1 as follows:]*

\* \* \* Such individual pieces (or quantities fewer than 10) are delivered to the addressee on payment of the charges marked on the mail. For mailings of 10 or more pieces, the mailer is notified so that the postage charges may be paid before dispatch. For any mailpiece with insufficient postage generated by postage evidencing systems, the USPS may follow the process in 4.4.4 through 4.4.9.

\* \* \* \* \*

*[Renumber current item 8.1.7 as 8.1.8 and add new 8.1.7 as follows:]*

##### 8.1.7 Express Mail Corporate Accounts and Federal Agency Accounts

Express Mail Corporate accounts and Federal government accounts that use a "Postage and Fees Paid" indicia are debited for the correct amount of postage and fees at the time of mailing.

*[Revise the heading and text of renumbered 8.1.8 as follows:]*

##### 8.1.8 Express Mail With Insufficient Postage—Acceptance

When any Express Mail item is received at the office of mailing with insufficient postage, the Postal Service will contact the mailer to correct the postage deficiency prior to dispatch of the item. If the mailer cannot be contacted prior to dispatch, the Postal Service will:

- a. Endorse the item "Postage Due."
- b. Mark the item to show the total deficiency of postage and fees.
- c. Dispatch the item to the destination Post Office for delivery to the addressee upon payment of the postage due.
- d. If payment is refused by addressee, endorse the item "Return to Sender—Refused" and return the item to the sender upon collection of the postage deficiency.

*[Add new items 8.1.9 through 8.1.11 as follows:]*

##### 8.1.9 Express Mail With Insufficient Postage—Processing Operations

For an Express Mail item with insufficient postage identified in processing operations or at the destination Post Office, the Postal Service will:

- a. Endorse the item "Postage Due."
- b. Mark the item to show the total deficiency of postage and fees.
- c. Deliver the item to the addressee upon payment of the postage due.
- d. If payment is refused by addressee, endorse the item "Return to Sender—

Refused" and return the item to the sender, upon collection of the postage deficiency.

##### 8.1.10 Express Mail With Insufficient IBI Postage—Postage Evidencing Systems

For an Express Mail item with insufficient IBI postage generated by postage evidencing systems, USPS may follow the process in 4.4.4 through 4.4.9.

##### 8.1.11 Remailing Express Mail With Insufficient Postage

The Postal Service returns an Express Mail item with insufficient postage to the sender upon collection of the postage deficiency when an effort to contact the sender before dispatch fails and when the addressee refuses to pay the postage due. Under these circumstances, if the sender remails the item, the sender must affix a new Express Mail label with new postage and fees to the item.

\* \* \* \* \*

#### 10.0 Revenue Deficiency

##### 10.1 General

\* \* \* \* \*

##### 10.1.2 Appeal of Ruling

*[Revise the first sentence of 10.1.2 as follows:]*

Except as provided in 4.4.4 through 4.4.9, 10.2, and 703.1.0, a mailer may appeal a revenue deficiency assessment by sending a written appeal to the postmaster or manager in 10.1.2a through 10.1.2c within 30 days of receipt of the notification. \* \* \*

\* \* \* \* \*

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

**Neva R. Watson,**

*General Counsel, Legislative.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2011-0011; FRL-9268-3]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendment to the Definition of Fuel-Burning Equipment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland amending the definition of "fuel-burning equipment." The revision removes the word "furnace" from the definition of "fuel-burning equipment" in one of Maryland's regulations and also removes the redundant definition of "fuel-burning equipment" from