

public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

#### IV. Procedural Determinations

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866 .

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

##### *Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination

of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

##### *Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

##### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulations.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

##### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

##### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 5, 2001.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 01-20443 Filed 8-14-01; 8:45 am]

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## **POSTAL SERVICE**

### **39 CFR Part 111**

#### **Refunds and Exchanges for Metered Postage**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service is proposing to amend Domestic Mail Manual (DMM) P014, Refunds and Exchanges, to clarify the refund policy for metered postage. These changes are being made in conjunction with the proposed changes to P030 (Postage Meters and Meter Stamps).

**DATES:** The Postal Service must receive your comments on or before September 14, 2001. No extensions on the comment period will be granted.

**ADDRESSES:** Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn

Street, Room 5011, Arlington, VA 22209-6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** James Luff, 703-292-3693.

**SUPPLEMENTARY INFORMATION:** Changes to the regulations for refunds and exchanges are needed to make the terminology consistent with the terminology used in proposed DMM P030, and to clarify and incorporate changes in the refund policy for metered postage and for the postage value remaining in a postage evidencing system. The proposal also incorporates and revises, as appropriate, the proposed rule published in the **Federal Register** (65 FR 58499) on September 29, 2000 regarding the policies for refunds and exchanges for mail bearing information-based indicia. The proposed changes to DMM P014 include the following:

1. The term "postage evidencing system" is the collective term used in policies that affect postage meters and other postage metering systems such as those that use a Postal Security Device (PSD), those that generate information-based indicia (IBI), and PC Postage (TM). "Meter stamps" and "meter impressions" are now called "indicia printed by a postage evidencing system" ("indicia") and "meter units" are now called "postage value in a postage evidencing system." For consistency, the process used to apply postage with any postage evidencing system will still be called "metering"; such mail will still be called "metered mail."

2. Customers will no longer be able to convert unused postage stamps into meter settings. The option to convert unused postage stamps to permit imprint advance deposit accounts has not changed.

3. Refunds of unused indicia printed by a postage evidencing system on unmailed envelopes will be made for the full value of the indicia, however a fee may be charged for processing.

4. We clarified the refund process for each type of postage evidencing system. The Postal Service handles refunds for all postage evidencing systems except for PC Postage (TM) systems. Refunds for PC Postage are processed through the system provider.

5. The time limit for obtaining a refund for unused postage evidencing system indicia is 30 days for all postage evidencing systems. Current P014 allows up to 1 year for refunds of unused postage meter indicia. The proposed revision of P014 for Information-Based Indicia (IBI)

published in the **Federal Register** on September 29, 2000 (65 FR 58499) allowed 10 days for IBI.

**Notice and Comment**

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 amendments to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

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

Administrative practice and procedure, Postal Service.

For reasons stated in the preamble, the Postal Service proposes to amend 39 CFR part 111 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); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the Domestic Mail Manual (DMM) as follows:

**P Postage and Payment Methods**

**P000 Basic Information**

**P010 General Standards**

\* \* \* \* \*

[Revise section P014 as follows:]

**P014 Refunds and Exchanges**

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**1.0 STAMP EXCHANGES**

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**1.7 Stamps Converted to Other Postage Forms**

A customer may submit postage stamps for conversion to an advance deposit for permit imprint mailings, subject to these conditions:

a. Only full panes of postage stamps (or coils of stamps in the original sealed wrappers) are accepted for conversion. Accepted stamps include commemorative stamps issued no more than 1 year before the requested conversion date or regular stamp issues not officially withdrawn from sale.

b. A request for stamp conversions must be made in writing to the district manager of Customer Service and Sales in the district where the customer's post office is located. The customer's request must include:

(1) Name, denomination, quantity, and value of stamps for which conversion is requested.

(2) Name of the post office where the stamps were bought.

(3) Evidence of purchase of the stamps.

c. The amount of postage applied to a permit imprint advance deposit account through conversion is the full face value of the stamps.

d. The district manager may ask the customer to submit additional records to support the information in the request. After reviewing the documentation, the district manager approves or denies the request. The customer is notified when the conversion is approved. The postmaster is advised of the procedures for accepting the stamps and making the required accounting entries.

e. No part of any amount applied to a permit imprint advance deposit account from the conversion of postage stamps is later refundable in cash or by any other means.

\* \* \* \* \*

**2.0 POSTAGE AND FEES REFUNDS**

**2.1 Refund Standards**

A refund for postage and fees may be made under:

a. The standards below if postage and special or retail service fees are paid and no service is rendered, or if the amount collected was more than the lawful rate.

b. 3.0 for refund requests for metered postage. Metered postage is printed by a postage evidencing system (P030). Refunds may be requested for unused indicia, unused postage value remaining in a postage evidencing system, and the unused balance in a postage payment account.

c. 4.0 for refund requests for postage made at the time of mailing.

d. P021 for rejected personalized envelopes.

\* \* \* \* \*

**2.5 Refunds for Metered Postage**

A refund for complete and legible valid, unused indicia printed on unmailed envelopes, wrappers, or labels is made under 3.2 when they are submitted by the licensee within 30 days from the dates shown on the indicia. For all indicia, except those produced by a PC Postage (TM) system, the licensee submits the indicia to the licensing post office and the USPS processes the refund. USPS charges a fee of 10% if the face value of the indicia is \$250 or less. If the face value is more than \$250, the service fee is \$10 per hour for the actual hours to process the refund; the minimum charge is \$25. The licensee submits indicia produced by a PC Postage system to the system provider for refund processing. The

provider may charge a fee for processing refund requests.

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## 2.8 Applying for Refund

Except for refunds for metered postage under 2.5, the customer must apply for a refund on Form 3533; submit it to the postmaster; and provide the envelope, wrapper, or a part of it showing the names and addresses of the sender and addressee, canceled postage and postal markings, or other evidence of postage and fees paid for which the refund is requested.

## 2.9 Ruling on Refund Request

Refunds are decided as follows:

a. Metered postage, except for PC Postage systems. The postmaster at the licensing post office grants or denies requests for refunds for metered postage under 3.2.a. The licensee may appeal adverse decisions through the manager of Postage Technology Management, USPS Headquarters (G043).

b. PC Postage systems. The system provider grants or denies requests for refunds for indicia printed by PC Postage systems under 3.2.b, using established USPS criteria. The licensee may appeal adverse decisions through the manager of Postage Technology Management, USPS Headquarters.

c. Optional Procedure (OP) mailing. A mailer's request for a refund for an Optional Procedure (OP) mailing must be submitted to the RCSC manager.

d. All other postage. The local postmaster grants or denies all other requests for refunds under 2.0. The customer may appeal adverse decisions through the postmaster to the RCSC.

\* \* \* \* \*

## 3.0 REFUND REQUEST FOR METERED POSTAGE

### 3.1 Unused Postage Value in Postage Evidencing Systems

The unused postage value remaining in a postage evidencing system withdrawn from service may be refunded. If the postage evidencing system is withdrawn for faulty or misregistering operation, a final postage adjustment or refund may be withheld pending the system provider's report of the cause. If the postage evidencing system is damaged by fire, postage is refunded or transferred only if the registers are legible or the register values can be reconstructed by the system provider based on adequate supporting documentation. Refunds for specific postage evidencing systems are handled as follows:

a. For a manually reset meter being checked out of service, unused postage

value may be transferred to another of the licensee's meters licensed at the same post office, or the licensee may request a refund. The USPS must examine a manually reset meter and verify the amount before any remaining funds are cleared from the meter and a refund or credit is initiated for unused postage value, or additional money is collected to pay for postage value used, based on what is found. Licensees may also submit their own transaction records, if any, or a system-generated register as supporting documentation.

b. For a remotely reset Generation 1 postage evidencing system being checked out of service, the postage value remaining on the system may be transferred by the USPS to another of the licensee's postage evidencing systems licensed at the same post office, or the licensee may request a refund. Refunds may be issued for unused postage in the meter. The USPS must examine the meter and verify the amount before a refund or credit is initiated for unused postage or additional postage is collected, based on what is found, unless the provider has a USPS-approved system for automated transfer of funds from one meter to another. In this instance, the provider must examine the meter before a refund can be issued for the remaining postage balance. The licensee may also submit transaction records or a system-generated register as supporting documentation.

c. For a PSD Meter or IBI Meter being checked out of service, an amount equivalent to the postage value remaining on the system will be refunded to the licensed user along with any unused balance in the licensee's postage payment account. The provider must examine a PSD Meter or IBI Meter and verify the amount before a refund or credit is initiated for unused postage or additional postage is collected, based on what is found. The licensee may also submit transaction records, if any, or a system-generated register as supporting documentation.

d. For a PC Postage system that is withdrawn from service, the USPS refunds the entire postage value remaining on the postal security device (PSD) for the user's system. The refund is issued through the licensee's provider. The licensee must notify the provider of the intent to withdraw the system. To determine the remaining postage value on the PC Postage system, the licensee has the PC Postage system generate a refund request indicium for transmittal to the provider for verification. A refund can be issued only when the system PSD is in the provider's possession.

### 3.2 Unused Postage Evidencing System Indicia on Mailpieces or Labels

All refund requests for unused postage evidencing system indicia must include proof that the person or entity requesting the refund is the licensee for the postage evidencing system that printed the indicia. Refunds are considered as follows:

a. Unused postage evidencing system indicia, except for those printed by a PC Postage system, are considered for refund only if complete and legible. They must be submitted by the licensed user to the postmaster at the licensing post office with Form 3533 within 30 days of the date in the indicia. The refund request must be submitted with the part of the envelope or wrapper showing the addressee's name and address (including the window on a window envelope). Indicia printed on labels or tapes not stuck to wrappers or envelopes must be submitted loose. If a part of the indicia is printed on one envelope or card and the remaining part on another, the two must be fastened together to show that they represent one indicium. Refunds are allowable for indicia on metered reply envelopes only when it is obvious that an incorrect amount of postage was printed on them. Envelopes or address parts of wrappers on mail returned to sender from the mailing office, marked to show no effort was made to deliver (e.g., "received without contents"), must be submitted separately with an explanation.

b. Unused indicia printed by a PC Postage system are considered for refund only if they are complete, legible, and valid and are submitted to the authorized provider for verification within 30 days of the date of mailing shown in the indicia, with the required documentation. In support of the refund request, indicia printed on an envelope or wrapper are submitted with the part of the envelope or wrapper showing the addressee's name and address (including the window in a window envelope). For indicia printed on a label that is not affixed to an envelope or wrapper, the complete label is submitted loose.

### 3.3 Ineligible Metered Postage Items

The following metered postage items are ineligible for refunds:

a. Reply envelopes or cards paid at the proper postage rate.

b. Indicia printed on labels or tape removed from wrappers or envelopes.

c. Indicia lacking a date or identification of the licensing post office.

d. Indicia printed on mail dispatched and returned to sender as undeliverable

as addressed, including mail marked "no such post office" and mail addressed for local delivery and returned after directory service was given or delivery was attempted.

3.4 Rounding

Any fraction of a cent in the total to be refunded is rounded down to the whole cent (e.g., \$4.187 is rounded to \$4.18).

4.0 REFUND REQUEST FOR EXCESS POSTAGE (VALUE ADDED REFUND)—AT TIME OF MAILING

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4.10 Form 8096 Required

The presenter must provide the USPS with an original Form 8096 completed and signed by each of the presenter's customers who meter any pieces in the mailing for which a VAR is requested, and a list of those customers. If postage is affixed to the pieces using a postage evidencing system by an intermediate agent (not the presenter of the mailing) for the owner of the pieces, a signed Form 8096 must be on file from the agent whose postage evidencing systems were used to affix the postage. Refund requests are denied if all required Forms 8096 are not provided.

4.11 Form 8096 Not Required

Form 8096 is not required for a customer whose mail is metered by the presenter with the presenter's own postage evidencing system. In such cases, the presenter must provide the post office where it submits refund requests with a list, in ascending numeric order, of its own postage evidencing system serial numbers and those of any intermediate agent used for affixing postage to the pieces included in the mailing.

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An appropriate amendment to 30 CFR part 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires, Chief Counsel, Legislative.

[FR Doc. 01-20559 Filed 8-14-01; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Production, Distribution, and Use of Postage Meters (Postage Evidencing Systems) and Postal Security Devices

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to revise Domestic Mail Manual (DMM) P030 to include policies and regulations pertaining to more secure postage evidencing systems, such as those that use a Postal Security Device (PSD), those that generate information-based indicia (IBI), and PC Postage (TM). The term "postage evidencing systems" is the collective term used when referring to these systems.

This proposed rule replaces current DMM P030, Postage Meters and Meter Stamps, and the proposed DMM P050, Information-Based Indicia, that was published for public comment in the October 2, 2000, Federal Register (65 FR 58682). That Federal Register notice proposed the addition of a new section to the DMM for systems that generate IBI and included regulations pertaining to PSDs and PC Postage. In developing the current proposal the Postal Service considered the public comments received in response to the October 2 notice, advances in postage evidencing system technology and security, and the experience we gained by testing and implementing the first postage evidencing systems to generate information-based indicia (IBI).

The Postal Service is issuing this proposal for public comment. We will revise the proposed policies and regulations, if required, and publish a final rule. Since all comments will be made available for public inspection, any marked "proprietary" or "confidential" will be returned to the sender without consideration.

The Postal Service will publish proposed revisions to Title 39, Code of Federal Regulations (CFR) part 501, Authorization to Manufacture and Distribute Postage Meters, to include policies and regulations pertaining to more secure postage evidencing systems, such as those that use a PSD, those that generate IBI, and PC Postage, in a future issue of the Federal Register.

DATES: The Postal Service must receive your comments on or before September 14, 2001. No extensions on the comment period will be granted.

ADDRESSES: Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn Street, Room 5011, Arlington, VA 22209-6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James Luff, 703-292-3693.

SUPPLEMENTARY INFORMATION: Proposed DMM P030 extends the regulations for postage meters to all secure postage

evidencing systems. "Postage evidencing systems" is an umbrella term that includes traditional postage meters, PSD Meters, IBI Meters, and PC Postage systems, as defined in P030.1.0. Unless otherwise noted, the regulations apply to all postage evidencing systems. Exceptions were made where necessary to distinguish the policies and regulations that apply to the newer postage evidencing systems, such as PC Postage. We added new topics and reorganized the text to enable users to find information more easily. The Postal Service will continue to refer to the mail produced by postage evidencing systems as "metered mail." The payment forms given in current P030 for traditional remote reset meters (electronic funds transfer and checks) are extended to PSD Meters and IBI Meters. PC Postage systems will be limited to the payment forms proposed in the Federal Register notice of October 2, 2000, namely credit cards and automated clearing house (ACH) debit. The Postal Service will separately publish revisions to P014, Refunds and Exchanges, to incorporate the changes made to P030.

The following is a summary of the major changes made in this proposal in comparison with current P030, Postage Meters and Meter Stamps, and the proposed P050, Information-Based Indicia, as published October 2, 2000.

1. The regulations define the basic characteristics of all secure postage evidencing systems and identify the distinguishing features of the different system types.

2. Indicia generated by any USPS-approved secure postage evidencing system may be used on all classes of mail except Periodicals. Such mail is called "metered mail" and is entitled to all privileges and subject to all conditions applying to the various classes of mail.

3. We revised the regulations throughout to reflect the reduced role of the licensing post office in license applications, postage evidencing system check in and check out, and postage evidencing system resetting. These customer transactions shift from the licensing post office to the provider.

4. We are retiring manually reset meters. Such a meter may be installed only as replacement for an existing manually reset meter of the same type to fulfill the remaining lease or rental period. We no longer allow alternative meter resetting locations for manually reset meters.

5. We replaced the section in DMM 56 on meter setting with four separate sections, one for each distinct set of