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Dated: April 17, 2018.

Jason Botel,

*Principal Deputy Assistant Secretary,
Delegated the authority to perform the
functions and duties of the Assistant
Secretary of Elementary and Secondary
Education.*

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POSTAL SERVICE

39 CFR Part 111

Overweight Items

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service recently published an advanced notice requesting comments on how the Postal Service should proceed to prevent overweight items from entering into the postal network. After considering the comments received, the Postal Service is now moving forward to propose amendment of the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual, (DMM®) to prevent overweight items from entering the postal network.

DATES: Submit comments on or before May 21, 2018.

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, with a subject line of "Overweight Items." 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, 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: Lizbeth Dobbins at (202) 268-3789 or Garry Rodriguez at (202) 268-7261.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2017, the Postal Service published an advanced notice requesting comments on how the Postal Service should proceed to prevent overweight items from entering into the postal network (82 FR 46010). The Postal Service received 18 responses

and those suggestions have been incorporated into this proposed rule, as appropriate. The Postal Service now proposes to amend the DMM to add a penalty for attempting to enter nonmailable, overweight items into the mailstream. Implementation of this proposed rulemaking will require action by Postal Service management.

The Postal Service defines overweight items as anything over the Postal Service 70 pound maximum limit or the applicable maximum weight allowed for hazardous materials (see DMM 201.7.3). These overweight items are considered nonmailable and present a safety risk to employees.

Existing DMM section 601.1.3 provides that it is the mailer's responsibility to refrain from depositing nonmailable matter in the mail. A mailer's responsibilities include complying with applicable postal laws and regulations governing mailability. As such, the Postal Service reserves the right to refuse nonmailable items.

Overweight items should never be entered into the postal network. However, the Postal Service is noticing an increase in overweight items, such as items that are initially delivered using a private carrier, but are attempted to be returned using the Postal Service. It is unsafe to return the overweight item to the sender through the postal network. Occasionally, the item is abandoned which creates another safety issue when trying to dispose of the overweight item.

Comments

Most commenters identified that safety is an issue with overweight items and strongly supported the Postal Service position. Commenters recognized that heavier weight items require specialized equipment for lifting or at least two people to handle the item. In many locations neither specialized equipment nor enough people are available to move the heavy item.

Some commenters identified that it is nearly impossible to identify if an item is overweight unless a scale is used to validate weight. Since items are often picked up by postal personnel upon request or during the normal course of the delivery route and there are no scales inside delivery trucks, overweight packages may mistakenly enter into the postal network. It is impractical to place scales inside delivery vehicles to verify the weight of items. Postal personnel rely on mailer compliance with applicable postal laws and regulations governing mailability and preparation for mailing.

The Postal Service needs the full cooperation of its partners and

customers to stop overweight items from entering into the postal network. Recently, other shipping companies adopted stronger practices to penalize those who fail to adhere to their maximum weight requirements.

Proposal

As a result, the Postal Service is proposing to assess a penalty of \$100.00 per item over the 70 pound maximum weight limit or the applicable maximum weight allowed for hazardous materials discovered in the postal network. Once the overweight item is identified, it would be secured and either the sender or receiver would be contacted to pick-up the item within 14 calendar days and notified of the assessed penalty. The penalty would be payable through any authorized retail payment method and must be paid prior to the release of the item. The Postal Service also proposes that the penalty and any amounts paid as purported postage and fees would not be refundable. Any overweight item not paid for and picked-up within the 14 calendar day timeframe would be considered abandoned and disposed of at the Postal Service's discretion.

Public Participation

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.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

For the 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); 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:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

1.0 General Standards

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[Renumber 1.2 and 1.3 as 1.3 and 1.4 and add new 1.2 to read as follows:]

1.2 Overweight Items

The maximum Postal Service weight limit is 70 pounds, lower weight limits may apply. Any item exceeding the 70 pound Postal Service maximum weight limit or the applicable maximum weight

allowed for hazardous materials is nonmailable and if found in the postal network will be secured at the facility identifying the ineligible item for pick-up by the mailer or addressee. The Overweight penalty of \$100.00 will be assessed and must be paid by any authorized retail payment method before release of the item.

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604 Postage Payment Methods and Refunds

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9.0 Exchanges and Refunds

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9.2 Postage and Fee Refunds

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9.2.4 Postage and Fee Refunds Not Available

Refunds are not made for the following:

* * * * *

[Amend 9.2.4 by adding a new item i to read as follows:]

i. For any amounts paid as purported postage and fees on overweight items that are nonmailable under 601.1.2.

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

Tracy Quinlan,

Attorney, Federal Compliance.

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