

POSTAL SERVICE

39 CFR Part 111

Content of Periodicals Mail

AGENCY: Postal Service™.

ACTION: Final rule; revised.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) 707.3*, to update “content requirements” on materials eligible for mailing at Periodicals prices with authorized Periodicals publications.

EFFECTIVE DATE: [Insert date of publication].

FOR FURTHER INFORMATION CONTACT: Jerry Lease, 202-268-7264.

SUPPLEMENTARY INFORMATION: The final rule titled "Content of Periodicals Mail" published by the *Federal Register* on July 20, 2010 (75 FR 41989-41991) is revised to incorporate minor changes in text and an earlier effective date. The DMM standards will be updated during its regular monthly update on September 7, 2010.

After discussions with Periodicals customers, the Postal Service agreed to review the standards governing contents of Periodicals mail, and decided to update several standards. This rule removes the current advertising limitation on loose supplements, except for unwrapped copies of loose addressed supplements included in a mailing for an authorized Periodicals publication. The final rule also revises the regulations on pages, specifically multi-layer pages, giving publishers more latitude in page design. The provisions concerning the mailing of products and product samples have been updated and simplified. Finally, the standards governing protective covers and attachments have been updated for consistency with past rulings. This final rule was developed in collaboration with numerous publishers and Periodicals industry associations.

Background

In the 1980s, and again in the 1990s, the Postal Service undertook extensive reviews of the standards governing content that could be mailed as part of a periodical publication at Periodicals prices (formerly second-class rates). Advances in technology, and difficulty in applying the standards, were key factors in those reviews. On March 27, 1995, the Postal Service published a final rule in the *Federal Register* (60 FR 10021-10029) revising the standards.

Since that time, the standards governing contents of a publication eligible for Periodicals prices have not changed, except for several minor modifications. In addition, there has been no discernable movement of printed advertising materials, or other matter, from Standard Mail to Periodicals mail.

The changes to the standards reflected in this final rule concentrate on four areas of “content” provisions and mailpiece construction:

- DMM 707.3.3.1, *Pages*
- DMM 707.3.3.5, *Supplements*
- DMM 707.3.4.3, *Products*
- DMM 707.3.5, *Mailpiece Construction*
 - specifically DMM 707.3.5.4, *Without Mailing Wrapper*
 - and DMM 707.3.5.6, *Cover page and Protective Cover*

Pages

A requirement for all Periodicals publications is that they be comprised of “printed sheets.” In the March 27, 1995 rulemaking, however, the printed sheet requirement was relaxed to allow small amounts of “fastening” material, such as grommets, string, and rubber bands, used to assemble a page. The Postal Service concluded at that time allowing such materials was not a significant deviation from the “printed sheet” rule because the changes were consistent with the existing practice of allowing Periodicals publications to be bound with staples, saddle stitching, or spiral binding.

More recently, publishers have argued that the 1995 changes, unduly limit creativity in designing publications that appeal to their readers and advertisers. These publishers also point out advances in technology enable inclusion of sound devices and video as part of a printed page. Finally, they point out that private delivery companies do not impose similar restrictions on the delivery of their publications, nor are they prohibited from using such technologies in the newsstand editions of their publications.

Accordingly, DMM 707.3.3.1a is revised to replace “fastening” with “non-paper” in the first sentence to permit non-paper materials other than fastening materials in the construction of a multilayer page. This change would allow additional creativity in page design. The sentence “Not all elements that make up a multilayer page must be printed” is added to 3.3.1a, for additional transparency. That sentence is currently incorporated in Customer Support Ruling (CSR) PS-234, titled “Multilayer pages in Periodicals Publications.” Finally, the sentence “In addition, multilayer pages may contain novel characteristics such as an LED display, a sound device, or battery operated movable parts” is added to 3.3.1a, to allow publishers to take advantage of current technologies, within the boundaries of mailable versus nonmailable matter as described in DMM 601.

In addition, it should be noted that publishers continue to be required to adhere to the mailing standards governing the Periodicals price category claimed.

Supplement

Many publishers have considered the 25 percent nonadvertising standard for loose supplements to be burdensome, and inappropriate as a means of limiting advertising in Periodicals mail. It is often viewed as an unnecessary restriction on a publisher's ability to choose whether to place advertising matter in the host publication or accompanying loose supplement.

Moreover, the existing standards are hard to apply. This problem exists for customers and postal personnel, as demonstrated by the numerous requests for guidance directed to the Pricing and Classification Service Center (PCSC) and headquarters Mailing Standards concerning what is advertising or nonadvertising matter. Often, when supplements are produced by third parties, it becomes particularly difficult to make such judgments. Contracts must be reviewed to evaluate the relationship(s) between parties. Payment arrangements by outside parties for the advertising portion of supplements must be examined in determining whether the material qualifies as nonadvertising matter.

The Postal Service agrees that the 25 percent nonadvertising requirement should be eliminated except for separately addressed loose supplements mailed with the host publication outside a wrapper or polybag. The Postal Service is revising DMM 707.3.3.5 as follows:

- In the first sentence of 3.3.5a., the words “on the front cover/page” are added to ensure that the required “Supplement to...” endorsement is shown on the front of the supplement.
- The words “contain at least 25% nonadvertising material and” are deleted from the first sentence of 3.3.5a.
- The words “must contain at least 25% nonadvertising material” apply only to loose addressed supplements when a wrapper is not required.

Product Samples

Product samples in Periodicals are not new. However, no explicit DMM standard acknowledges product samples areailable at Periodicals prices. Mailability at Periodicals prices of product samples is achieved by “altering” a product, such as by changing the ingredients in fragrance samples, limiting significantly the size of a cosmetics sample, and requiring a disclaimer that the sample “simulates” or is a “rendition” of an actual product. Preparation guidelines are contained in Customer Support Ruling (CSR) PS-273. However, the Postal Service finds these guidelines difficult to administer, with documentation and verification of compliance burdensome on publishers and postal personnel.

In earlier rulemakings, the Postal Service expressed the view that applying the general requirement that all Periodicals publications must be formed of printed sheets is a sufficient standard to limit the inappropriate mailing of products and products samples at Periodicals prices (see DMM 707.4.5). Changes to the standards described in this

rule will continue to exclude products such as stationery, cassettes, floppy disks, DVDs, CDs, and similar media, since they are not printed sheets.

But allowing de minimis product samples will reduce the burden of the current guidelines. Consequently, and consistent with requests by many Periodicals publishers and Periodicals association representatives, the Postal Service has adopted a new provision in the DMM allowing product samples in de minimis form to be included as part of a printed sheet. This change will enhance both the value of some advertisements to the reader, and the overall value of the publication to the reader. Although not explicitly required, including the name of the host publication and the issue or issue date on the sample, and relating the sample to advertising or nonadvertising within the content of the host publication, will provide further support that the piece is properly prepared as a printed page (or a portion of a multilayer page) in the publication.

Product samples may not be included in a Periodicals publication mailed at letter-sized prices. The combined weight of product samples in an issue of a Periodicals publication cannot exceed 3.3 ounces. Any product sample that is a “packet” is limited to a weight of no more than one ounce with a burst strength minimum of 3,000 pounds per square inch (PSI). Attachable product samples, including packets weighing no more than one ounce, may not be affixed to either the front or back cover page of a Periodicals publication, or permissible component of a Periodicals publication, even if the publication is enclosed in a wrapper. Placement of attachable product samples must conform to machinability and uniform thickness standards, and must be placed no closer than 3/4 inch from any open edge of any interior page.

Publishers are aware that in an environment of ever-increasing automated processing by the Postal Service of all types of mail including letters, flats, and parcels, it is critical that Periodicals publications not impede postal processing or damage postal processing equipment. Accordingly, it is reemphasized that any mailpiece to which a product sample is added under this new provision must meet the standards for physical characteristics related to basic mailability and to the eligibility for the specific postage prices claimed. In addition, all of the mailability restrictions and prohibitions in DMM 601 apply. See specifically DMM 601.2.1, *Packaging*, and 601.10.5, *Mailer Responsibility for Mailing Hazardous Materials*.

Products

Under impermissible mailpiece components, “products” are redefined to update the examples of impermissible products in Periodicals.

The Postal Service adopts the following changes 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.
Accordingly, 39 CFR Part 111 is 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, 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)

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700 Special Standards

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707 Periodicals

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3.0 Physical Characteristics and Content Eligibility

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3.3 Permissible Mailpiece Components

3.3.1 Pages

* * * Pages are also subject to these standards:

[Revise 3.3.1a. to replace "fastening" with "non-paper" materials in the first sentence and to include new language to further describe a multilayer page as follows:]

- a. Multilayer pages (including pages formed by sheets glued together and pages that have unusual shapes, such as cutouts, movable flaps, or "pop-ups") may include small amounts of non-paper material such as grommets, string, or rubber bands as needed to assemble the page. Not all elements that make up a multilayer page must be printed. In addition, multilayer pages may contain novel characteristics such as an LED display, a sound device, or battery operated movable parts. Multilayer pages may also be formed as pouches or pockets, but may contain only permissible loose enclosures (see 3.3.4) or other securely affixed permissible components.

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3.3.5 Supplement

* * * Supplements are also subject to these conditions as applicable:

[Revise 3.3.5a. to make clear that the required supplement endorsement must be shown on the front/cover page. In addition, the requirement that a supplement to a

bound Periodicals publication contain at least 25% nonadvertising is eliminated except for unwrapped loose supplements.]

- a. A loose supplement to a bound Periodicals publication must bear on the front/cover page the endorsement "Supplement to" followed by one of the following: the title of the publication, the name of the publisher, or "Periodicals Publication." A bound publication with one or more supplements must be enclosed in a wrapper. However, a wrapper is not required when a loose supplement is included within the same mailing as the host publication, bears a proper delivery address, contains at least 25% nonadvertising material, and includes on the front/cover page the endorsement "Periodicals Supplement to" followed by the exact title and issue date of the host publication. The external dimensions of such unwrapped supplements may exceed those of the host publication provided they are of the same processing category as the host publication. If a supplement to a bound publication is formed of more than one sheet, all sheets making up the supplement must be bound together.

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[Renumber current 3.3.9 and 3.3.10 as 3.3.10 and 3.3.11 accordingly, and add new 3.3.9 to provide for "product samples" in Periodicals publications as follows:]

3.3.9 Product Samples

Subject to the requirements in 3.3.1 and 3.4.5, product samples: related to print advertising in the issue and are not offered for sale within the meaning of 3.4.2a and 3.4.3 may be included in a Periodicals publication as a page, or part of a multilayer page. Examples include, but are not limited to, a swatch of cloth; a paper towel as part of a printed page, or printed paper towel; a bandage; and fragrance, cosmetics, lotions, or edibles in packet form. The combined weight of product samples in an issue is limited to 3.3 ounces. Any product sample in the form of a packet is limited in total weight to no more than one ounce, but does not include the page weight upon which the packet is affixed. Packet product samples also must have a minimum burst strength of 3,000 pounds per square inch (psi). Travel size and similar small products in commercially available form or packaging do not qualify as permissible product samples, even if less than 3.3 ounces. In addition, CDs, DVDs, and similar media do not qualify as permissible product samples. Permissible product samples:

- a. are not eligible with letter-size pieces;
- b. must comply with hazmat standards (601.10.5);
- c. must comply with machinability standards, e.g. uniform thickness (301.1.4);
- d. must not be attached to the front or back cover page of the host Periodicals publication, or any other permissible component;
- e. must be secured in place (spine or tip-on interior page) to prevent shifting (601.2.1); and,
- f. must be placed at least 3/4 inch from all non-bound edges of any interior page.

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3.4 Impermissible Mailpiece Components

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3.4.3 Products

[Revise 3.4.3 to update examples of impermissible “products” in Periodicals publications as follows:]

Except as provided for in 3.3.9, products may not be mailed at Periodicals prices. Examples include stationery (such as pads of paper or blank printed forms); cassettes; floppy disks; CDs; DVDs; merchandise, including travel-size merchandise in commercially available form or packaging; and wall, desk, and blank calendars. Printed pages, including oversized pages and calendars, are not considered products if they are not offered for sale.

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3.5 Mailpiece Construction

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3.5.4 Without Mailing Wrapper

[Revise the last sentence of 3.5.4 to allow for 3/4 inch clearance of any open edge on attachments to a Periodicals publication as follows:]

When the mailpiece does not have a mailing wrapper, all the components of an unbound publication must be combined with and inserted inside the publication. Only enclosures mailable at Periodicals prices under 3.3.4 may be included loose inside a bound unwrapped publication. An enclosure under 3.3.3c, *Enclosures at First-Class Mail or Standard Mail Prices*, or 3.3.4, *Loose Enclosures at Periodicals Prices*, or a single sheet prepared as an attachment under 3.3.8c, may be securely attached along the bound edge on the outside of an unwrapped publication if it does not exceed any dimension of the cover of the publication and comes within 3/4 inch of any open edge.

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3.5.6 Cover Page and Protective Cover

[Revise the first sentence of 3.5.6 to allow for 3/4 inch clearance of any open edge on a protective cover to a Periodicals publication as follows:]

If the piece is not completely enclosed in a mailing wrapper, then any protective cover or cover page must cover both the front and back of the host publication and extend to within at least 3/4 inch of any open edge. Exception: Flat-size pieces may have short covers as provided in 301.3.5.2. If the host publication is bound, the protective cover must be permanently attached to the publication.

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

Neva R. Watson,
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