

USPS-Proposed Rules Violate At Least Two Provisions Included in Title 39 of the United States Code

The National Association of Postmaster of the United States (NAPUS) and the National League of Postmasters (NLPM) request Members of Congress (Senators and Representatives) to file official comments with the U.S. Postal Service that object to tampering with the statutory definition of Postmaster; and the agency's use of a regulatory "sleight of hand" to irreparably undermine a community's statutory due process rights. The comments must be received by the Manager of Customer Service Standardization no later than May 2, 2011. Members of Congress should send their comments to:

Manager, Customer Service Standardization
Attn: Retail Discontinuance
475 L'Enfant Plaza, SW
Room 6816
Washington, DC 20260-6816

In addition, Members of Congress should send a copy of their comments to:

Postmaster General Patrick Donahoe
United State Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-2600

Issue: On March 31, the USPS submitted "proposed" regulations that would define "Postmaster" in violation of current law, and would illegally authorize the closure or consolidation of a Post Office, without Postal Regulatory Commission appellate review.

Illegal Change of the Definition of Postmaster

The Postmaster Equity Act (PL 108-86) establishes the legal definition of a Postmaster:

... an individual who is the manager in charge of a post office, with or without the assistance of subordinate managers or supervisors; 39 USC 1004(3)(i)

The proposed regulation (39 CFR 241.1) would illegally change the definition by asserting:

A post office may be operated or managed by a postmaster, or by another type of postal employee. [Emphasis added]

In law, a post office is managed by a postmaster, plain and simple. The proposed regulations conflict with that law. The Senate Committee Report that accompanied the Postmaster Equity Act (Report 108-112) underscores the legal requirement that a post office is managed by a postmaster:

Postmasters are the manager-in-charge of the nation's individual post offices.

In addition, the report states that postmasters “are accountable for postal operations and services, including retail operations and community relations.” The regulation does not and cannot confer these responsibilities on “another type of postal employee.”

Illegal Denial of Statutory Post Office Protection

The issue needs to be prefaced by a number of key facts. According to the Postal Regulatory Commission, closing all small and rural post offices would save the Postal Service less than 0.7% of its total operating budget; a recent Gallup Poll reported that 86% of Americans oppose closing post offices; post offices provide the pivotal communications and marketplace nexus between rural America and the global economy, supporting countless small and family-owned businesses; and post offices are an essential element of thousands of small and rural communities.

Current law, 39 USC 404(d), provides specific statutory guidelines that the Postal Service must follow if it decides to close or consolidate a post office. In addition, postal customers (e.g., communities, local officials, chambers of commerce, etc.) may appeal the closing or consolidation of a post office to the Postal Regulatory Commission, if either, the Postal Service fails to follow the statutory procedures, the decision is arbitrary or capricious, or the decision is unsupported by evidence. The statutory appeal rights apply to post offices; and the Postal Service’s proposed regulations acknowledge the distinction between post offices and other types of postal facilities – but then obliterate it. Other types of postal facilities are not granted the same statutory procedures, protections, and appeals as post offices.

The proposed regulations are a not-too-thinly-veiled attempt to subvert the statutory rights to which post office customers are entitled. The regulations seek to permit the USPS to convert a post office into a subordinate postal facility, which is denied specific statutory protections, under the Postal Service’s view. In essence, the conversion would consolidate one post office within the administrative operations of another. Consequently, via a slight of hand, the lapsed post office would morph into station or branch. Such a consolidation is subject to statutory rules and Postal Regulatory Commission review, notwithstanding the USPS’ regulatory attempt to subvert them in violation of the law. According to the proposed postal regulations, once the post office is converted – that is, consolidated – it would be immune from the statutory protections provided under 404(b). Rather, the converted post office would fall under the new regulations that grant the Postal Service the unfettered ability to close post offices, especially in small town and rural areas. This is the hidden agenda of the Postal Service and is in clear violation of 39 USC 101(b), which states that “the Postal Service shall provide the maximum degree of effective regular postal services to rural communities, and small towns and rural areas where post offices are not self-sustaining.”