

§ 3001.112

39 CFR Ch. III (7-1-03 Edition)

§ 3001.112 The record on review.

The written determination sought to be reviewed or enforced, the conclusions and findings upon which it must be based under section 404(b)(3) of the Act, the notices to local patrons and the evidence contained in the entire administrative record before the Postal Service shall constitute the record on review. The record shall contain all evidence considered by the Postal Service in making its determination and shall contain no evidence not previously considered by the Postal Service.

§ 3001.113 Filing of the record.

(a) *Time for filing of the record by the Postal Service.* The Postal Service shall file the record with the Secretary of the Commission within 15 days after the date on which the petition for review is filed with the Commission. The Commission may shorten or extend the time prescribed above. The Secretary shall give notice to all parties of the date on which the record is filed.

(b) *Composition of the filing.* The Postal Service may file the entire record or such parts thereof as the parties may designate by stipulation filed with the Postal Service. The original papers in the Postal Service proceeding or certified copies thereof may be filed. All parts of the record retained by the Postal Service shall be a part of the record on review for all purposes.

§ 3001.114 Suspension pending review.

(a) *Application.* Application for suspension of a determination of the Postal Service to close or consolidate any post office pending the outcome of an appeal to the Postal Rate Commission shall be made at the time of the filing of a petition for review or of the filing of a notice of intervention in an extant appellate proceeding. The application shall show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by affidavits or other sworn statements or copies thereof. The applicant must be a person served by the affected post office. Immediate notice of the application shall be given to all parties to the proceeding. The application shall be

filed with the Secretary of the Commission.

(b) *Answer and filing of the relevant record by the U.S. Postal Service.* Within 10 days after the application for suspension is filed, the Postal Service shall file with the Secretary of the Commission and serve on the petitioners an answer to the application supported by affidavits or other sworn statements or copies thereof. The Postal Service, within 10 days from the date of filing of the application, shall file with the Secretary such parts of the record as are relevant to the relief sought.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38977, July 21, 1993]

§ 3001.115 Participant statement or brief.

(a) *Participant statement.* Upon the filing of the petition for review of a decision to close or consolidate a post office, the Secretary shall furnish the petitioner with a copy of PRC Form 61, a form designed to permit the appellant to make a concise statement of his/her arguments in support of the petition and the instructions regarding its use. In addition to eliciting this information, the instructions for Form 61 shall provide: (1) Notification that, if the appellant prefers, he or she may file a brief as described in paragraph (b) of this section presenting the arguments, in lieu of completing PRC Form 61; (2) a concise explanation of the purpose of the form; and (3) notification that the completed form, or a brief as described in paragraph (b) of this section, in lieu thereof, must be filed with the Commission not more than 35 days following the date of filing of the petition (which date shall be set forth, as it appears in the Commission's records).

(b) *Appellant's initial brief.* The initial brief of the appellant shall be filed with the Secretary of the Commission and served on all parties 35 days after the filing of the petition for review of a decision to close or consolidate a post office. The brief will be limited in length to 30 pages, typewritten and double spaced, and shall include the following in the order indicated: