

SUBCHAPTER G—POSTAGE PROGRAMS

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

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AUTHORITY: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended), 5 U.S.C. App. 3.

SOURCE: 60 FR 30726, June 9, 1995, unless otherwise noted.

§ 501.1 Manufacturer authorization.

Any person or concern seeking authorization to manufacture and distribute postage meters must submit a request to the Postal Service in person or in writing. Upon qualification and approval, the applicant is authorized in writing to manufacture meters and to lease them to persons licensed accordingly by the Postal Service. The Postal Service may specify the functional area charged with processing the appli-

cation and administering its meter program.

§ 501.2 Manufacturer qualification.

Any concern wanting authorization to manufacture and/or lease postage meters for use by licensees under *Domestic Mail Manual P030* must:

(a) Satisfy the Postal Service of its integrity and financial responsibility;

(b) Obtain approval of at least one meter model incorporating all the features and safeguards specified in § 501.6;

(c) Have, or establish, and keep under its supervision and control, adequate production facilities suitable to carry out the provisions of §§ 501.15 through 501.21 to the satisfaction of the Postal Service. The production facilities must be subject to unannounced inspection by representatives of the Postal Service. If the provider's production facilities are located outside the continental United States, the provider will be responsible for all reasonable and necessary travel-related costs incurred by the Postal Service to conduct the inspections. Travel-related costs are determined in accordance with Postal Service Handbook F-15, *Travel and Relocation*. At its discretion, the Postal Service may continue to fund routine inspections outside the continental United States as it has in the past, provided the costs are not associated with particular security issues related to a manufacturer's product, or with the start-up or implementation of a new plant or of a new or substantially changed manufacturing process.

(1) When conducting an inspection outside the continental United States, the Postal Service will make every effort to combine the inspection with other inspections in the same general geographic area in order to enable affected manufacturers to share the costs. The Postal Service team conducting such inspections will be limited to the minimum number necessary to conduct the inspection. All air travel will be contracted for at the rates for official government business, when available, under such rules respecting class of travel as apply to those Postal

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Service representatives inspecting the facility at the time the travel occurs.

(2) If political or other impediments prevent the Postal Service from conducting security evaluations of meter manufacturing facilities in foreign countries, Postal Service approval to distribute meters produced in those facilities may be suspended until such time as satisfactory inspections may be conducted.

(d) Have, or establish, and keep under its active supervision and control adequate facilities for the control, distribution, and maintenance of meters and their replacement or secure disposal or destruction when necessary.

[60 FR 30726, June 9, 1995, as amended at 67 FR 69479, Nov. 18, 2002; 67 FR 71843, Dec. 3, 2002]

§ 501.3 Changes in ownership or control.

Any person or concern wanting to acquire ownership or control of an authorized postage meter manufacturer must provide the Postal Service with satisfactory evidence of that person's or concern's integrity and financial responsibility.

§ 501.4 Burden of proof standard.

The burden of proof is on the Postal Service in adjudications of suspension and revocation under §§ 501.5 and 501.12 and administrative sanctions under §§ 501.14 and 501.23. Except as otherwise indicated in those sections, the standard of proof shall be the preponderance-of-evidence standard.

§ 501.5 Suspension and revocation of authorization.

(a) The Postal Service may suspend and/or revoke authorization to manufacture and/or distribute any or all of a manufacturer's postage meters if the manufacturer engages in any unlawful scheme or enterprise, fails to comply with any provision in this part 501, or fails to implement instructions issued in accordance with any final decision issued by the Postal Service within its authority over the meter program.

(b) The decision to suspend or revoke a manufacturer's authorization shall be based on the nature and circumstances of the violation (whether the violation was willful, whether the

manufacturer voluntarily admitted to the violation, whether the manufacturer cooperated with the Postal Service, whether the manufacturer implemented successful remedial measures) and on the manufacturer's performance history. Before determining whether a manufacturer's authorization to manufacture and/or distribute meters should be revoked, the procedures in paragraph (c) of this section shall be followed.

(c) Suspension in all cases shall be as follows:

(1) Upon determination by the Postal Service that a manufacturer is in violation of the provisions in this part 501, the Postal Service shall issue a written notice of proposed suspension citing deficiencies for which suspension of authorization to manufacture and/or distribute a specific meter or class of meters may be imposed under paragraph (c)(2) of this section. Except in cases of willful violation, the manufacturer shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit corresponding to the potential risk to postal revenue.

(2) In cases of willful violation, or if the Postal Service determines that the manufacturer has failed to correct cited deficiencies within the specified time limit, the Postal Service shall issue a written notice setting forth the facts and reasons for the decision to suspend and the effective date if a written defense is not presented as provided in paragraph (d) of this section.

(3) If, upon consideration of the defense as provided in paragraph (e) of this section, the Postal Service deems that the suspension is warranted, the suspension shall remain in effect for up to 90 days unless withdrawn by the Postal Service, as provided in paragraph (c)(4)(iii) of this section.

(4) At the end of the 90-day suspension, the Postal Service may:

(i) Extend the suspension in order to allow more time for investigation or to allow the manufacturer to correct the problem;

(ii) Make a determination to revoke authorization to manufacture and/or distribute the manufacturer's meters in part or in whole; or