

The background of the entire page is a close-up, slightly angled view of the American flag, showing the stars and stripes in a way that creates a sense of depth and texture. The stars are white on a blue field, and the stripes are red and white.

The Post Office

RED

Book

*A NAPUS
Action Guide
for Preventing
the Closing or
Consolidation
of Your Post
Office*

Contents

Purpose

The purpose of this guide is to provide the information necessary in the event a post office comes under consideration for closing or consolidation. The guide is designed to help prevent the *arbitrary* closing or consolidation of any post office.

Title 39, U.S. Code, Section 404(b), is the law of the land in regard to the closing and consolidation of post offices. Regulations outlined in Chapter 39, Part 241.3 of the Code of Federal Regulations also apply. It is vital that those who will be involved in helping prevent post office closings and, possibly, later appeals, be very familiar with both the U.S. Code and USPS regulations.

We cannot

emphasize too strongly that the protections afforded by these laws and regulations are of no value if they are not put to proper use. The entire NAPUS organization is available to help you. Please let us know your needs.

Those who seek to eliminate rural post offices and would privatize the U.S. Postal Service remain our biggest threat with respect to wholesale closings. It is important, therefore, that we be on the alert to possible actions by the Postal Service to close or consolidate our post offices.

Preface

From the Constitution of the National Association of Postmasters of the United States

Article II Purposes

Section I. The primary purposes of this organization shall be as follows: To provide the best interests of the U.S. Postal Service; to foster a favorable image of public service; to assure the users of the mails the best service possible; to cooperate with other groups and levels of postal management in the achievement of common goals; and to cultivate the welfare and enhance the happiness of its members.

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National Association of Postmasters
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Alexandria, VA 22305-2600

703-683-9027; fax, 703-683-0923

General Procedures

The following are some of the more important aspects of the laws governing the closing or consolidation of post offices.

1. A decision to discontinue or suspend services of a post office must address each of the following matters:
 - (a) responsiveness to community postal needs;
 - (b) effect on the community;
 - (c) effect on employees;
 - (d) an analysis of the economic savings to the Postal Service;
 - (e) other factors; and
 - (f) a summary that explains why the proposed action is necessary.
2. The time frame calls for a 60-day period for public comments after the release of the proposal to close. After comments are received and the Postal Service decides to

proceed, the proposal is sent through channels to Postal Headquarters.

If the closing or suspension is approved at Headquarters, the district manager will post such final notice in the affected post office. No office can be closed sooner than 60 days after this posting. The law then provides a very important 30 days for appeals by the customers to the Postal Regulatory Commission (PRC). The PRC then has 120 days for review.

3. An active Postmaster, being part of management, must be careful not to take an open and active stand against a post office closing. It is fine to know what to do and to answer questions from the public. It would be quite another thing to become so active in the matter as to put yourself in jeopardy. Good judgment must rule.

Suggestions for Action by Customers of Post Offices

1. Organization of your effort is vital to any cause. This will allow you to share common information and purpose.
 2. Circulate a petition to keep the post office open with a Postmaster as the local manager (*see sample petition on page 5*).
 3. It should be considered whether an attorney is to be retained and, if so, how the cost will be handled.
 4. The Postal Service probably will distribute questionnaires to those affected in the community. The local group should be ready for this and see that the proper replies are made. Replies should address, as appropriate, the five factors as prescribed by law that the Postal Service must follow in making a determination to close or consolidate (*Title 39, U.S. Code, Section 404(b)*).
 5. It is important to schedule a public organizational meeting before the postal-sponsored meeting. This saves citizens from having to attend two meetings on different days.
- Invited retired Postmasters from NAPUS' Post Office Preservation Committee to the meeting to explain the consequences of the proposed closing, inform the citizens of their rights under law to protest the closing or consolidation and answer any questions. Also, this meeting will allow the citizens to appoint several good speakers to make their

protests at the postal hearing, thus averting contradictions among those in attendance.

Planning should include consideration of retaining an attorney and means for paying for such legal aid, identifying an individual who can videotape the entire procedure of the postal-sponsored meeting and appointing someone to record all the procedures of the postal meeting, as well as recording the names and titles of the postal officials conducting the meeting. Seek out local television and radio coverage of the postal-sponsored meeting and invite your U.S. senators and representative, or their designees, to attend.

6. A public meeting usually is convened by the Postal Service to provide public input. When public hearings are conducted, ensure a good group is present and prepared with proper comments and questions. If an attorney has been retained, he or she should attend the meeting.

7. Get the story of the proposed post office closing to the area newspapers, radio and TV stations. Their assistance and understanding can be very helpful.

8. Your contacts with senators and representatives are vital in these situations; write, call or personally visit with them.

9. Influential persons in the community and area should contact appropriate Postal Service managers, state

legislators, judges, lawyers, ministers, businesspersons and others as necessary.

10. Because many requirements of the law must be met by the Postal Service, a diary of all activities should be kept, with as many specifics as possible. This may be very important to your efforts, should an appeal be made to the PRC.

11. An appeal against a proposed closing (see “*The Role of the Postal Regulatory Commission*,” page 14) should be mailed or faxed to the PRC early enough to ensure **it reaches Washington, DC, within 30 days** from the date the Postal Service posted its final determination:

OFFICE OF THE SECRETARY
POSTAL REGULATORY COMMISSION
901 NEW YORK AVE NW STE 200
WASHINGTON DC 20268-0001

The PRC’s fax number is 202-789-0891. The PRC also will provide detailed information regarding filing briefs.

NAPUS is prepared to provide helpful information to local citizens. It has a nationwide network of retired Postmasters ready and willing to help. A phone call to the National Office, 703-683-9027, will bring an immediate response by a retired NAPUS Postmaster in your area who can help in this matter. The National Office’s address is 8 Herbert St., Alexandria, VA 22305-2600.

Remember, only the *customers* of a targeted post office may work to prevent its closing or consolidation. *Active* Postmasters and postal employees are *prohibited* from activity in this area. NAPUS will provide all the information on steps you may take, but the final responsibility rests with the local citizens.

Suggested Flyer to Issue to Customers of a Post Office Targeted for Closing or Consolidation

Attention Postal Customers of (*insert name*) Post Office:

The Postal Service has issued notice that the (*insert name*) Post Office likely will be (*closed or consolidated*) in the next 120 days, pursuant to provisions of the Postal Reorganization Act of 1970 and federal law.

The procedure allows customers a 60-day period from the date of the initial notice to evaluate the proposal and offer comments. Thereafter, the Postal Service has another 60 days in which to make a final determination on the proposal.

Local customers of the (*insert name*) Post Office must take immediate action if the present status of our post office, a U.S. post office operated by career postal employees, is to be kept open.

The Postal Service must schedule a public meeting to explain its proposal and hear comments from postal customers. When this meeting is scheduled, we must be organized to voice our disapproval of any proposal for a contract community post office, Village Post Office, rural delivery or consolidation as a branch or station of another post office.

Written protests against the closing or consolidation of our post office should be sent immediately to the district manager, Customer Service and Sales, at (*insert address*).

We also must:

- notify and seek the assistance of our local news media (newspapers, radio, television) in presenting our side of the story to the public;
- immediately alert our congressional delegation and state, city and county officials of the proposal and seek their support in keeping our post office in its present status; and
- immediately circulate a petition among all customers of our post office protesting the proposal and supporting the present status of our post office.

By all means, do not accept anything less than the present status of your post office. Do not accept a contract community post office, Village Post Office, rural delivery or consolidation with another post office. Once you do, you forfeit any further recourse to the protection offered by federal law.

Suggested News Article for Citizens to Supply to Local Media When the Postal Service Proposes Closing or Consolidating Their Post Office

The U.S. Postal Service, in a notice posted in *(insert name)* Post Office and a form letter to customers, proposes to *(close or consolidate)* the post office.

This is the first step, under law, the Postal Service must take before closing or consolidating a post office. This notice must be given 60 days before a final decision on the matter to allow time for local customers of the post office to evaluate the proposal and offer comments. This is a stipulation of the Postal Reorganization Act of 1970 and *Title 39, U.S. Code, Section 404(b)*.

Postal officials will schedule a public meeting with customers of any post office proposed for closing or consolidation. Locally, this meeting is scheduled for *(insert date and time)* at *(insert location)*. Written comments also may be submitted to the local district office of the Postal Service, located at *(insert address)*.

Local citizens served by the *(insert name)* Post Office should seriously consider the consequences of the Postal Service's proposal and be prepared to voice their concerns at the *(insert date)* meeting. Only the citizens of the community may take action to prevent the closing or consolidation of their post office and prevent service from being transferred to a contract community post office, station, Village Post Office and/or rural or cluster box delivery.

To preserve their post office as it now exists—a regular United States post office operated by career postal employees—local citizens must speak up now.

In addition to the 60-day period provided by law for customer comments, the law also provides appeal rights for local citizens if the final decision is in favor of closing or consolidation. The appeal from local citizens must be in the hands of the Postal Regulatory Commission in Washington, DC, within 30 days after the Postal Service's written determination for closing or consolidation.

Local citizens should take notice that once the *(insert name)* Post Office has been closed or contracted out, there is very little possibility of it ever returning to its present status.

Sample Petition to Be Signed By All Customers of the Post Office Targeted for Closing or Consolidation

(insert name)

DISTRICT MANAGER

CUSTOMER SERVICE AND SALES

U.S. POSTAL SERVICE

(insert city, state and ZIP code)

We, the citizens and customers of *(insert name)* Post Office, hereby protest any change in the present status of our post office.

It is our desire to keep our post office at its present status—a United States post office operated by a Postmaster and career postal employees.

We have many concerns, among them the sanctity of the mail and the inconvenience your proposal presents to us in delivering and sending the mail, particularly accountable mail. We are especially concerned over what effect your proposed action would have regarding the purchase of postal money orders. We also are well aware of the documented abuses possible through a contract mail station or Village Post Office.

The Postal Reorganization Act of 1970 calls for providing a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not financially self-sustaining.

We do not feel your proposals meet these criteria.

Sincerely,

Customers of the *(insert name)* Post Office:

(Leave ample space for customers of the post office to sign their names and provide their mailing addresses. They also should write the date they sign the petition. Be sure to keep a duplicate copy of the petition.)

**Suggested Letter to Congressional Delegation to Be Sent Immediately
on Notification of Any Proposed Closing or Consolidation**

(insert date)

SENATOR *(insert name)*
SENATE OFFICE BUILDING
WASHINGTON DC 20510-0001



REPRESENTATIVE *(insert name)*
HOUSE OFFICE BUILDING
WASHINGTON DC 20515-0001

Dear Senator (or Representative) *(insert name)*:

The U.S. Postal Service has served notice to the customers of the *(insert name)* Post Office of a proposal to *(close or consolidate)* the post office. It is doing so under provisions of the Postal Reorganization Act of 1970 and federal law, and over our objections.

Under provisions of the act, the Postal Service is obligated to provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining. The Postal Service's proposed action will not serve the best interests of our postal customers.

(If the proposal is for a contract community post office or Village Post Office, use the following:)

The Postal Service is proposing a contract community post office *(or Village Post Office)* to replace our present, regular post office. We have concerns regarding the sanctity of the mail under this situation. Also, contract post offices *(or Village Post Offices)* may be subleased and operated by unqualified clerks who never have taken a postal exam for the post office.

Once a contract post office *(or Village Post Office)* replaces a regular post office, we no longer are protected by provisions of the Postal Reorganization Act. Termination of the contract by either party for cause leaves us at the mercy of the Postal Service. The Postal Service is free to provide whatever type of service it deems advisable, with no recourse available to us.

(If the proposal is for rural or cluster box delivery, use the following:)

The Postal Service has made a decision to close our post office and provide us with rural delivery. We do not feel we will be getting the maximum service the Postal Reorganization Act calls for with this type of service. Inconvenience in purchasing stamps and money orders, and in sending accountable mail, such as a certified letter, are among the problems we foresee. The same holds true for the receipt of accountable mail.

Invariably, we will be left with a pick-up notice that will require a *(insert distance)*-mile trip to the post office at the neighboring town for pickup. We also have concerns regarding the sanctity of the mail with noncareer carriers and the loss of identity for our community.

(If the proposal is for consolidation with a neighboring post office, use the following:)

The Postal Service is proposing the consolidation of our post office with the *(insert name)* Post Office. Postal officials point to this as a money-saving move, a contention we dispute. We protest the loss of our Postmaster and community identity. Someone still will have to staff the office if it's consolidated with the *(insert name)* Post Office. There are no savings in this situation.

A higher-level clerk in charge will command as much in salary as our Postmaster. With our own Postmaster, we have someone to hear our problems and take our complaints and compliments, rather than our being referred to an individual at the *(insert name)* Post Office.

(Use the following closing paragraph in all instances:)

We appreciate your consideration of our position and encourage you or a representative to attend a public meeting the Postal Service has scheduled for our community on *(insert date and time)* at *(insert location)*. We appreciate any support you can give us in our fight to keep our post office in the same status as now exists—a U.S. post office operated by a Postmaster and career postal employees.

Thank you.

Sincerely,

(Secure signatures of as many postal customers as possible in the community.)

**Suggested Letter to Postal Regulatory Commission Once the Postal Service Serves Notice
a Final Decision Has Been Made to Close or Consolidate a Post Office**

(Must Be in the Hands of the Commission Not Later Than 30 Days After the Decision Has Been Posted by the Postal Service)

(insert date)

POSTAL REGULATORY COMMISSION
901 NEW YORK AVE NW STE 200
WASHINGTON DC 20268-0001

The Postal Service has informed us of a decision to *(close or consolidate)* our post office by *(insert date)*. This action is being taken after meeting the provisions of the Postal Reorganization Act of 1970 and over our protestations.

We, the customers of *(insert name)* Post Office, vigorously protest this action in view of the provision in the Postal Reorganization Act that calls for the Postal Service to provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where the post office is not self-sustaining.

(If the decision is to close and offer rural delivery, use the following:)

The Postal Service's decision to close our post office and provide rural delivery service raises questions concerning the sanctity of the mail and the risks involved in noncareer employees handling the mail. We also foresee inconveniences in purchasing money orders and stamps and sending accountable mail. We have the same concerns regarding the receipt of accountable mail, such as certified letters, registered letters and CODs.

(If the decision is to contract through a community post office or Village Post Office, use the following:)

The Postal Service's decision to convert our post office to a contract community post office *(or Village Post Office)* raises questions concerning the sanctity of the mail and the risks involved in noncareer employees handling the mail. We also know that a lessee can sublease the contract and hire substandard help and that the contract can be terminated with cause by either party.

We know that, once we are deprived of our present post office, we no longer come under the protection of the Postal Reorganization Act and are at the mercy of the Postal Service.

(If the decision is to consolidate with a neighboring post office, use the following:)

The Postal Service's decision to consolidate our post office with the *(insert name)* Post Office is being done over our objections. This will mean the loss of our identity as a community. We will not have a Postmaster to whom we can take our problems, complaints and compliments. We will be directed to a distant Postmaster in the home office of our station.

We cannot see any savings to the Postal Service under this arrangement. The clerk in charge of the station will earn as much as our Postmaster and, more than likely, will not be a resident of our community.

(Use this last paragraph in all cases listed above:)

We feel that, as citizens of the United States, we are entitled to the same efficient postal service provided to our counterparts in urban areas. The Postal Reorganization Act is explicit in pointing this out. We petition you, as members of the Postal Regulatory Commission, to respectfully consider our protest and order the Postal Service to give additional considerations to our service needs.

Respectfully,

(Secure signatures of as many postal customers as possible in the community.)

Provisions of the Postal Reorganization Act Concerning Post Office Closings and Consolidations

Title 39, U.S. Code, §404, Specific Powers

(a) Without limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

(1) to provide for the collection, handling, transportation, delivery, forwarding, returning and holding of mail, and for the disposition of undeliverable mail;

(2) to prescribe, in accordance with this title, the amount of postage and the manner in which it is to be paid;

(3) to determine the need for post offices, postal and training facilities and equipment, and to provide such offices, facilities and equipment, as it determines are needed;

(4) to provide and sell postage stamps and other stamped paper, cards and envelopes, and to provide such other evidences of payment of postage and fees as may be necessary or desirable;

(5) to provide philatelic services;

(6) to provide, establish, change or abolish special nonpostal or similar services;

(7) to investigate postal offenses and civil matters relating to the Postal Service;

(8) to offer and pay rewards for information and services in connection with violations of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues or property to the person informing for the same, and to pay the other one-half into the Postal Service Fund; and

(9) to authorize the issuance of a substitute check for a lost, stolen or destroyed check of the Postal Service.

(b)(1) The Postal Service, prior to making a determination under subsection (a)(3) of this section as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views.

(2) The Postal Service, in making a determination whether or not to close or consolidate a post office, shall consider:

(A) the effect of such closing or consolidation on the community served by such post office;

(B) ***the effect of such closing or consolidation on employees of the Postal Service employed at each office*** (*bold italics ours*);

(C) whether such closing or consolidation is consistent with the policy of the government, as stated in Section 101(b) of this title, ***that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining*** (*bold italics ours*);

(D) the economic savings to the Postal Service resulting from such closing or consolidation; and

(E) such other factors as the Postal Service determines are necessary.

(3) Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2) of this subsection. Such determination and findings shall be made available to persons served by such post office.

(4) The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.

(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person under paragraph (3). The commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The commission shall make a determination based on such review no later than 120 days after receiving any appeal under this paragraph. The commission shall set aside any determination, findings and conclusions found to be:

(A) arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law;

(B) without observance of procedure required by law; or

(C) unsupported by substantial evidence on the record.

The commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration. But the commission may not modify the determination of the Postal Service. The commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal. The provisions of Section 556, Section 557 and Chapter 7 of Title 5 shall not apply to any review carried out by the commission under this paragraph.

Part 241—Retail Organization and Administration: Establishment, Classification and Discontinuance

• 1. The authority citation for 39 CFR, Part 241, is revised to read as follows:

Authority: 39 U.S.C. 101, 401, 403, 404, 410, 1001.

• 2. Revise §241.1 to read as follows:

§241.1 Post offices.

(a) *Establishment.* Post offices are established and maintained at locations deemed necessary to ensure that regular and effective postal services are available to all customers within specified geographic boundaries.

(b) *Classification.* As of Oct. 1 of each year, post offices are categorized through a cost ascertainment grouping (CAG) process based on allowable postal revenue units for the second preceding fiscal year as follows:

(1) *CAG A-G.* Post offices having 950 or more revenue units.

(2) *CAG H-J.* Post offices having 190 but less than 950 revenue units.

(3) *CAG K.* Post offices having 36 but less than 190 revenue units.

(4) *CAG L.* Post offices having less than 36 revenue units.

• 3. Revise §241.3 to read as follows:

§241.3 Discontinuance of USPS-operated retail facilities.

(a) *Introduction—*(1) *Coverage.* (i) This section establishes the rules governing the Postal Service's consideration of whether an existing retail post office, station or branch should be discontinued. The rules cover any proposal to:

(A) Replace a USPS-operated post office, station or branch with a contractor-operated retail facility;

(B) Consolidate a USPS-operated post office, station or branch by combining it with another USPS-operated retail facility; or

(C) Discontinue a USPS-operated post office, station or branch without providing a replacement facility.

(ii) The regulations in this section are mandatory only with respect to discontinuance actions for which initial feasibility studies have been initiated on or after July 14, 2011. Unless otherwise provided by responsible personnel, the rules under section 241.3 as in effect prior to July 14, 2011, shall apply to discontinuance actions for which initial feasibility studies have been initiated prior to July 14, 2011.

(2) *Definitions.* As used in this section, the following terms have the following meanings:

(i) “*USPS-operated retail facility*” includes any Postal Service employee-operated post office, station or branch, but does not include any station, branch, community post office or other retail facility operated by a contractor.

(ii) “*Contractor-operated retail facility*” includes any

station, branch, community post office or other facility, including a private business, offering retail postal services that is operated by a contractor and does not include any USPS-operated retail facility.

(iii) “*Closing*” means an action in which post office operations are permanently discontinued without providing a replacement facility in the community.

(iv) “*Consolidation*” means either an action that converts a Postal Service-operated retail facility into a contractor-operated retail facility or an action that converts an independent post office into a classified station or classified branch. A resulting contractor-operated retail facility reports to a Postal Service-operated retail facility; a resulting classified station or classified branch reports to an administrative post office.

(v) “*Discontinuance*” means either a closure or consolidation.

(3) *Requirements.* A district manager or the responsible Headquarters vice president, or a designee of either, may initiate a feasibility study of a USPS-operated facility for possible discontinuance. Any decision to close or consolidate a USPS-operated retail facility may be effected only on the consideration of certain factors. These include the effect on the community served; the effect on employees of the USPS-operated retail facility; compliance with government policy established by law that the Postal Service must provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining; the economic savings to the Postal Service; and any other factors the Postal Service determines necessary. In addition, certain mandatory procedures apply as follows:

(i) The public must be given 60 days' notice of a proposed action to enable the persons served by a USPS-operated retail facility to evaluate the proposal and provide comments.

(ii) After public comments are received and taken into account, any final determination to close or consolidate a USPS-operated retail facility must be made in writing and must include findings covering all the required considerations.

(iii) The written determination must be made available to persons served by the USPS-operated retail facility at least 60 days before the discontinuance takes effect.

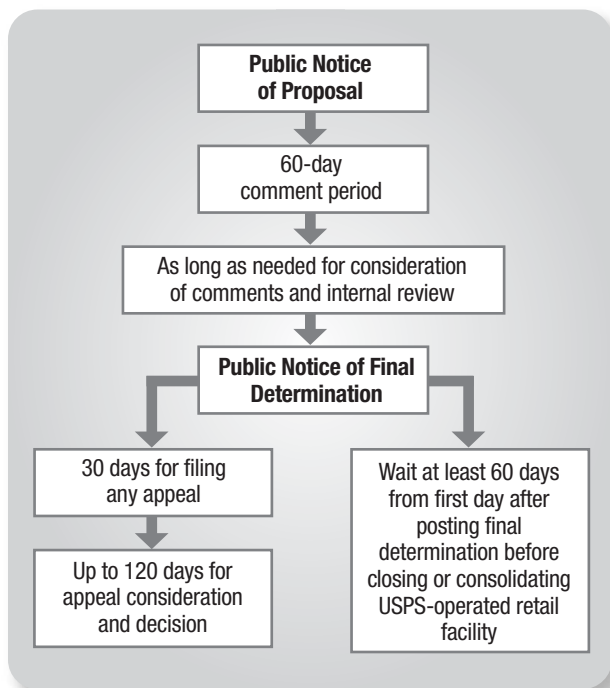
(iv) Within the first 30 days after the written determination is made available, any person regularly served by the post office subject to discontinuance may appeal the decision to the Postal Regulatory Commission. Where persons

regularly served by another type of USPS-operated retail facility subject to discontinuance file an appeal with the Postal Regulatory Commission, the general counsel reserves the right to assert defenses, including the commission's lack of jurisdiction over such appeals. For purposes of determining whether an appeal is filed within the 30-day period, receipt by the commission is based on the postmark of the appeal, if sent through the mail, or on other appropriate documentation or indicia, if sent through another lawful delivery method.

(v) The commission may only affirm the Postal Service determination or return the matter for further consideration, but may not modify the determination.

(vi) The commission is required to make any determination subject to 39 U.S.C. 404(d)(5) no later than 120 days after receiving the appeal.

(vii) The following chart summarizes the notice and appeal periods defined by statute.



(4) *Additional requirements.* This section also includes:

(i) Rules to ensure that the community's identity as a postal address is preserved.

(ii) Rules for consideration of a proposed discontinuance and for its implementation, if approved. These rules are designed to ensure that the reasons leading to discontinuance of a particular USPS-operated retail facility are fully articulated and disclosed at a stage that enables customer participation to make a helpful contribution toward the final decision.

(5) *Initial feasibility study.* A district manager, the responsible Headquarters vice president, or a designee of either, may initiate a feasibility study of a USPS-operated retail facility's potential discontinuance in order to assist

the district manager in determining whether to proceed with a written proposal to discontinue the facility.

(i) *Permissible circumstances.* The initial feasibility study may be based on circumstances including, but not limited to, the following:

(A) A Postmaster vacancy;

(B) Emergency suspension of the USPS-operated retail facility due to cancellation of a lease or rental agreement when no suitable alternate quarters are available in the community, a fire or natural disaster, irreparable damage when no suitable alternate quarters are available in the community, challenges to the sanctity of the mail or similar reasons;

(C) Earned workload below the minimum established level for the lowest nonbargaining (EAS) employee grade;

(D) Insufficient customer demand, evidenced by declining or low volume, revenue, revenue units, local business activity or local population trends;

(E) The availability of reasonable alternate access to postal services for the community served by the USPS-operated retail facility; or

(F) The incorporation of two communities into one or other special circumstances.

(ii) *Impermissible circumstances.* The following circumstances may not be used to justify initiation of an initial feasibility study:

(A) Any claim that the continued operation of a building without handicapped modifications is inconsistent with the Architectural Barriers Act (42 U.S.C. 4151 et seq.);

(B) The absence of running water or restroom facilities;

(C) Compliance with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

(D) In the absence of any circumstances identified in paragraph (a)(5)(i) of this section, the operation of a small post office at a deficit.

(iii) *Notice to customers.* Local management must provide notification and questionnaires to customers at the USPS-operated retail facility under study. Local management may determine whether notification is appropriate through media outlets. In addition, the following customers that receive delivery service from the USPS-operated retail facility must receive notification and questionnaires by mail:

(A) Post Office Box customers at the USPS-operated retail facility under study;

(B) Customers whose delivery carrier is stationed out of the USPS-operated retail facility under study;

(C) Customers in the delivery area of the same ZIP code as the retail facility under study, regardless of whether the delivery carriers for those customers are stationed out of the retail facility under study or out of a nearby facility; and

(D) Customers whom the retail facility under study

serves for allied delivery services, such as mail pickup.

(iv) *Initial feasibility study due to emergency suspension.* Wherever possible when an initial feasibility study is to be initiated under §241.3(a)(4)(i)(B) (for example, when it is anticipated that a lease or rental agreement will be cancelled with no suitable alternate quarters available in the community), responsible personnel should initiate the initial feasibility study sufficiently in advance of the circumstance prompting the emergency suspension to allow a meaningful opportunity for public input to be taken into account. If public input cannot be sought sufficiently in advance of the end date of the lease or rental agreement, responsible personnel should endeavor, to the extent possible, to continue operation of the USPS-operated retail facility for the duration necessary to gather public input and make a more fully informed decision on whether to proceed with a discontinuance proposal. Customers formerly served by the suspended facility should receive notice under paragraph (a)(4)(iii) of this section, including by mail, to the same extent they would have if the facility were not in suspended status at the time of the initial feasibility study, proposal or final determination.

(b) *Preservation of community address—(1) Policy.* The Postal Service permits the use of a community's separate address to the extent practicable.

(2) *ZIP code assignment.* The ZIP code for each address formerly served from the discontinued USPS-operated retail facility should be kept, wherever practical. In some cases, the ZIP code originally assigned to the discontinued USPS-operated retail facility may be changed if the responsible district manager receives approval from his or her vice president, Area Operations, before any proposal to discontinue the USPS-operated retail facility is posted.

(i) In a consolidation, the ZIP code for the replacement contractor-operated retail facility, classified station or classified branch is the ZIP code originally assigned to the discontinued facility.

(ii) If the ZIP code is changed and the parent or gaining USPS-operated retail facility covers several ZIP codes, the ZIP code must be that of the delivery area within which the facility is located.

(3) *USPS-operated retail facility's city name in address.* If all the delivery addresses using the city name of the USPS-operated retail facility being discontinued continue to use the same ZIP code, customers may continue to use the discontinued facility's city name in their addresses, instead of that of the new delivering USPS-operated retail facility.

(4) *Name of facility established by consolidation.* If a post office is to be consolidated with one or more other post offices by establishing in its place a classified station or classified branch affiliated with another post office, the replacement unit is usually given the same name of the facility that is replaced. If a USPS-operated retail facility is

to be consolidated by establishing in its place a contractor-operated retail facility, the replacement unit can be given the same name of the facility that is replaced, if appropriate in light of the nature of the contract and level of service provided.

(c) *Initial proposal—(1) In general.* If a district manager believes the discontinuance of a USPS-operated retail facility within his or her responsibility may be warranted, the district manager:

(i) Must use the standards and procedures in §241.3(c) and (d).

(ii) Must investigate the situation.

(iii) May propose the USPS-operated retail facility be discontinued.

(2) *Consolidation.* The proposed action may include a consolidation by replacement of a USPS-operated retail facility with a contractor-operated retail facility. The proposed action also may include a consolidation by replacement of a post office with a classified station or classified branch if:

(i) The communities served by two or more post offices are being merged into a single incorporated village, town or city; or

(ii) A replacement facility is necessary for regular and effective service to the area served by the post office considered for discontinuance.

(3) *Views of Postmasters.* Whether the discontinuance under consideration involves a consolidation or not, the district manager must discuss the matter with the Postmaster (or the officer-in-charge) of the USPS-operated retail facility considered for discontinuance, and with the Postmaster of any other USPS-operated retail facility affected by the change. The district manager should make sure these officials are invited to submit written comments and suggestions as part of the record when the proposal is reviewed.

(4) *Preparation of written proposal.* The district manager, or a designee, must gather and preserve for the record all documentation used to assess the proposed change. If the district manager thinks the proposed action is warranted, he or she, or a designee, must prepare a document titled "Proposal to (Close) (Consolidate) the (Facility Name)." This document must describe, analyze and justify in sufficient detail to Postal Service management and affected customers the proposed service change. The written proposal must address each of the following matters in separate sections:

(i) *Responsiveness to community postal needs.* It is the policy of the government, as established by law, that the Postal Service will provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining. The proposal should:

(A) Contrast the services available before and after

the proposed change;

(B) Describe how the changes respond to the postal needs of the affected customers; and

(C) Highlight particular aspects of customer service that might be less advantageous, as well as more advantageous.

(ii) *Effect on community.* The proposal must include an analysis of the effect the proposed discontinuance might have on the community served and discuss the application of the requirements in §241.3(b).

(iii) *Effect on employees.* The written proposal must summarize the possible effects of the change on Postmasters and other employees of the USPS-operated retail facility considered for discontinuance.

(iv) *Savings.* The proposal must include an analysis of the economic savings to the Postal Service from the proposed action, including the cost or savings expected from each major factor contributing to the overall estimate.

(v) *Other factors.* The proposal should include an analysis of other factors the district manager determines are necessary for a complete evaluation of the proposed change, whether favorable or unfavorable.

(vi) *Summary.* The proposal must include a summary that explains why the proposed action is necessary and assesses how the factors supporting the proposed change outweigh any negative factors. In taking competing considerations into account, the need to provide regular and effective service is paramount.

(vii) *Notice.* The proposal must include the following notices:

(A) *Supporting materials.* “Copies of all materials on which this proposal is based are available for public inspection at (facility name) during normal office hours.”

(B) *Nature of posting.* “This is a proposal. It is not a final determination to (close) (consolidate) this facility.”

(C) *Posting of final determination.* “If a final determination is made to close or consolidate this facility, after public comments on this proposal are received and taken into account, a notice of that final determination will be posted in this facility.”

(D) *Appeal rights.* “The final determination will contain instructions on how affected customers may appeal a decision to close or consolidate a post office to the Postal Regulatory Commission. Any such appeal must be received by the commission within 30 days of the posting of the final determination.” The notice in this clause is provided when the USPS-operated retail facility under study is a post office. For purposes of this clause, the date of receipt by the commission is based on the postmark of the appeal, if sent through the mail, or on other appropriate documentation or indicia, if sent through another lawful delivery method.

(d) *Notice, public comment and record*—(1) *Posting proposal and comment notice.* A copy of the written proposal

and a signed invitation for comments must be posted prominently, with additional copies to be given to customers on request, in the following locations:

(i) The USPS-operated retail facility under study, unless service at the facility has been suspended;

(ii) The USPS-operated retail facility proposed to serve as the supervising facility;

(iii) Any USPS-operated retail facility likely to serve a significant number of customers of the USPS-operated retail facility under study; and

(iv) If service at the facility under study has been suspended, any USPS-operated retail facility providing alternative service for former customers of the facility under study.

(2) *Contents of comment notice.* The invitation for comments must:

(i) Ask interested persons to provide written comments within 60 days, to a stated address, offering specific opinions and information, favorable or unfavorable, on the potential effect of the proposed change on postal services and the community.

(ii) State the copies of the proposal with attached optional comment forms are available in the affected USPS-operated retail facilities.

(iii) Provide a name and telephone number to call for information.

(3) *Other steps.* In addition to providing notice and inviting comment, the district manager must take any other steps necessary to ensure the persons served by affected USPS-operated retail facilities understand the nature and implications of the proposed action. A community meeting must be held to provide outreach and gain public input after the proposal is posted, unless otherwise instructed by the responsible Headquarters vice president or applicable vice president, Area Operations. Authorization to forgo a community meeting should issue only where exceptional circumstances make a community meeting infeasible, such as where the community no longer exists because of a natural disaster or because residents have moved elsewhere.

(i) If oral contacts develop views or information not previously documented, whether favorable or unfavorable to the proposal, the district manager should encourage persons offering the views or information to provide written comments to preserve them for the record.

(ii) As a factor in making his or her decision, the district manager may not rely on communications received from anyone unless submitted in writing for the record.

(4) *Record.* The district manager must keep, as part of the record for consideration and review, all documentation gathered about the proposed change.

(i) The record must include all information that the district manager considered, and the decision must stand on the record. No written information or views submitted

by customers may be excluded.

(ii) The docket number assigned to the proposal must be the ZIP code of the office proposed for closing or consolidation.

(iii) The record must include a chronological index in which each document contained is identified and numbered as filed.

(iv) As written communications are received in response to the public notice and invitation for comments, they are included in the record.

(v) A complete copy of the record must be available for public inspection during normal office hours at the USPS-operated retail facilities where the proposal was posted under paragraph (d)(1) of this section, beginning no later than the date on which notice is posted and extending through the posting period. When appropriate, certain personally identifiable information, such as individual names or residential addresses, may be redacted from the publicly accessible copy of the record.

(vi) Copies of documents in the record (except the proposal and comment form) are provided on request and on payment of fees as noted in chapter 4 of *Handbook AS-353*, “Guide to Privacy,” the “Freedom of Information Act” and “Records Management.”

(e) *Consideration of public comments and final local recommendation*—(1) *Analysis of comments*. The district manager or a designee must prepare an analysis of the public comments received for consideration and inclusion in the record. If possible, comments subsequently received also should be included in the analysis. The analysis should list and briefly describe each point favorable to the proposal and each point unfavorable to the proposal. The analysis should identify, to the extent possible, how many comments support each point listed.

(2) *Re-evaluation of proposal*. After completing the analysis, the district manager must review the proposal and re-evaluate all the tentative conclusions previously made in light of additional customer information and views in the record.

(i) *Discontinuance not warranted*. If the district manager decides against the proposed discontinuance, he or she must post, in the USPS-operated retail facilities where the proposal was posted under paragraph (d)(1) of this section, a notice stating that the proposed closing or consolidation is not warranted.

(ii) *Discontinuance warranted*. If the district manager decides the proposed discontinuance is justified, the appropriate sections of the proposal must be revised, taking into account the comments received from the public. After making necessary revisions, the district manager must:

(A) Transmit the revised proposal and the entire record to the responsible Headquarters vice president.

(B) Certify that all documents in the record are originals or true and correct copies.

(f) *Postal Service decision*—(1) *In general*. The responsible Headquarters vice president or a designee must review the proposal of the district manager and decide on the merits of the proposal. This review and the decision must be based on and supported by the record developed by the district manager. The responsible Headquarters vice president can instruct the district manager to provide more information to supplement the record. Each instruction and the response must be added to the record. The decision on the proposal of the district manager, which must also be added to the record, may approve or disapprove the proposal or return it for further action as set forth in this paragraph (f).

(2) *Approval*. The responsible Headquarters vice president or a designee may approve the proposed discontinuance, with or without further revisions. If approved without further revision, the term “Final Determination” is substituted for “Proposal” in the title. A copy of the final determination must be provided to the district manager. The final determination constitutes the Postal Service determination for the purposes of 39 U.S.C. 404(d).

(i) *Supporting materials*. The final determination must include the following notice: “Copies of all materials on which this final determination is based are available for public inspection at the (facility name) during normal office hours.”

(ii) *Appeal rights*. If the USPS-operated retail facility subject to discontinuance is a post office, the final determination must include the following notice: “Pursuant to Public Law 94-421 (1976), this final determination to (close) (consolidate) the (facility name) may be appealed by any person served by that office to the Postal Regulatory Commission, 901 New York Ave. NW, Suite 200, Washington DC 20268-0001. Any appeal must be received by the commission within 30 days of the first day this final determination was posted. If an appeal is filed, copies of appeal documents prepared by the Postal Regulatory Commission, or the parties to the appeal, must be made available for public inspection at the (facility name) during normal office hours.”

(3) *Disapproval*. The responsible Headquarters vice president or a designee may disapprove the proposed discontinuance and return it and the record to the district manager with written reasons for disapproval. The district manager or a designee must post, in each affected USPS-operated retail facility where the proposal was posted under paragraph (d)(1) of this section, a notice that the proposed closing or consolidation has been determined to be unwarranted.

(4) *Return for further action*. The responsible Headquarters vice president or a designee may return the proposal of the district manager with written instructions to give additional consideration to matters in the record or to

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The Role of the Postal Regulatory Commission

Congress has provided, by law, that the Postal Service follow a specific procedure and consider certain factors before making a final determination to close or consolidate a post office.

The law gives any customer the right to appeal the Postal Service's final determination to the Postal Regulatory Commission (PRC)—an independent agency. It is the responsibility of the PRC, when a customer appeals a Postal Service final determination, to decide whether the Postal Service's actions were consistent with the law.

The purpose of this section is to help explain the PRC's process in dealing with appeals of Postal Service determinations to close or consolidate post offices.

To help the PRC in its consideration of the appeal from the Postal Service's decision to close or consolidate a post office, customers should send a written argument explaining why they believe the PRC should revise the Postal Service's determination and return the entire matter to it for further consideration.

Postal Regulatory Commission Authority

In cases of appeals from Postal Service determinations to close or consolidate post offices, the PRC has only "appellate jurisdiction"—a very limited authority.

One limitation on the PRC's authority is it cannot conduct its own fact-finding investigation. The PRC must consider appeals based on the "record" (the proposal, final determination and other documents involved in the decision making) that the Postal Service collected during the time it was making its decision whether or not to close or consolidate the post office. The Postal Service's regulations require that a copy of the record be available at the affected post office for 30 days after the final determination is posted.

The PRC may not return a final determination to the Postal Service merely because it believes a different result might be just as good or better. Rather, the PRC only may examine the Postal Service's decision and record and decide whether the Postal Service has stayed within the guidelines under the law.

Specifically, the law requires that the PRC affirm the Postal Service's final determination unless the determination is:

- (a) arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) without observance of procedure required by law;
- or
- (c) unsupported by substantial evidence on the record.

The PRC may not change the Postal Service's final determination. It only may affirm (with the result the Postal Service's decision will stand) or return the entire matter to the Postal Service for further consideration.

Participant Brief or Statement

The purpose of the brief or participant statement is to point out issues you believe the PRC should consider in its review of the Postal Service's actions. A customer may choose to file either a participant statement or a formal legal brief; it is best to be as specific as possible. General examples of some issues that would be proper to include would be:

- (1) The Postal Service did not consider certain issues it is required to consider;
- (2) The facts on which the Postal Service is relying have not been established;
- (3) The Postal Service did not follow the procedure required by law; and
- (4) The facts in the Postal Service's final determination are true, but they do not prove what the Postal Service says they prove.

In reviewing Postal Service determinations to close or consolidate post offices, the PRC proceedings can be much less formal than is customary in courts. The PRC does not require customers appealing Postal Service decisions to meet the usual requirements as to the form of papers filed, such as typing the documents; no technical formalities are required; and a handwritten letter will suffice. However, it is important that papers sent to the PRC be legible. It also is important for statements to be as clear and specific as possible.

Time for Filing Participant Statement

The date a brief or participant statement is due should be posted at the post office slated for closing or consolidation. Customers of the office must, within the first 30 days after the written determination is made available by the Postal Service, appeal the decision to the PRC. Under its rules, the PRC must receive briefs and participant statements within 30 days (rather than receiving briefs that are simply postmarked by that day).

The Appeals Process May Save a Post Office, But Only If Used

By the Honorable Wayne Schley
Former Postal Rate Commissioner

Section 101(b) of Title 39 of the U.S. Code reads: “The Postal Service shall provide a maximum degree of effective and regular postal service to rural areas and small towns where post offices are not self-sustaining. *No small post office shall be closed solely for operating at a deficit* (emphasis mine), it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.”

Too often, this section of the law governing the U.S. Postal Service has been overlooked or not carried out in the spirit that Congress intended. Consequently, in 1976, Congress added a new responsibility to the Postal Regulatory Commission (PRC). That new task was the responsibility of serving as an appellate court, so to speak, for those interested citizens who wished to object to any action to close or consolidate their local post office.

The idea was to allow local citizens to ensure the law was being carried out as Congress intended. One startling fact should be noted: Very few post office closings or consolidations are appealed.

It is hard to believe that every community faced with the loss of its post office does not object. I suspect the real reason for so few appeals is that people simply do not know they can fight City Hall or, in this case, the Postal Service.

Remember, it is not really so much “fighting City Hall”

as it simply is being heard by a disinterested party in order to prevent a federal agency trampling on the rights of postal customers.

The PRC is, indeed, a disinterested third party. It has been said that, if anything, the PRC bends over backwards not to interfere with the Postal Service’s management prerogatives in these cases. In fact, the law does not allow the commission to second-guess postal management’s decision to close or consolidate a post office. The PRC only may examine the agency’s decision and record and decide whether the Postal Service has stayed within the guidelines established under law.

The law requires the PRC to approve the Postal Service’s decision, unless the agency was

- arbitrary, capricious, indiscreet or otherwise not in accordance with the law;
- without observance of procedures required by law; or
- unsupported by substantial evidence on the record.

In actuality, the PRC may not change the Postal Service’s final decision to close or consolidate an office. It only can affirm, or let stand, the agency’s decision or return (remand) for further consideration, i.e., do it right the next time.

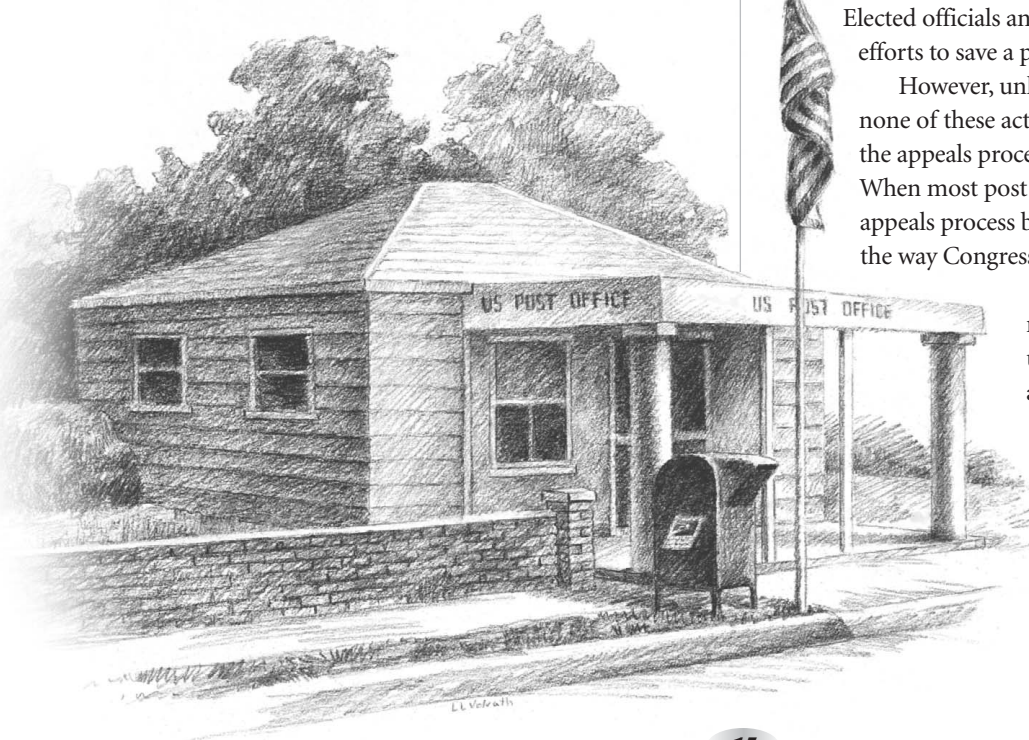
Despite all the above, the appeals process is very important in bringing to light the actions of Postal Service management and ensuring they follow not only the letter of the law, but the spirit of the law, as well. Once an issue sees the light of day, minds often can be changed.

Elected officials and the public can become involved; efforts to save a post office can be galvanized.

However, unless the appeals process is used, none of these actions can occur. The key is to use the appeals process the way Congress intended. When most post offices are closed without the appeals process being used, the law is not working the way Congress envisioned.

The challenge—especially to retired Postmasters—is to either use or urge others to use the appeals process, where warranted. If it is not used, there is no chance to save a post office.

The result is a loss not only to the community and the Postal Service—which, after all, loses a retail outlet—but to the nation as a whole.



**Part 241—Retail Organization and Administration:
Establishment, Classification and Discontinuance**
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obtain additional information. Such instructions must be placed in the record.

(5) *Public file.* Copies of each final determination and each disapproval of a proposal by the responsible Headquarters vice president must be placed on file in the Postal Service Headquarters library.

(g) *Implementation of final determination—(1) Notice of final determination to discontinue USPS-operated retail facility.* The district manager must:

(i) Provide notice of the final determination by posting a copy prominently in the USPS-operated retail facilities in each affected USPS-operated retail facilities where the proposal was posted under paragraph (d)(1) of this section, including the USPS-operated retail facilities likely to be serving the affected customers. The date of posting must be noted on the first page of the posted copy as follows: “Date of posting.”

(ii) Ensure that a copy of the completed record is available for public inspection during normal business hours at each USPS-operated retail facility where the final determination is posted for 30 days from the posting date.

(iii) Provide copies of documents in the record on request and payment of fees as noted in chapter 4 of *Handbook AS-353*, “Guide to Privacy,” the “Freedom of Information Act” and “Records Management.”

(2) *Implementation of determinations not appealed.* If no appeal is filed, the official closing date of the office must be published in the *Postal Bulletin* and effective, at the earliest, 60 days after the first day that final determination was posted. A district manager may request a different date for official discontinuance in the Retail Change Announcement document submitted to the responsible Headquarters vice president or a designee. However, the USPS-operated retail facility may not be discontinued sooner than 60 days after the first day of the posting of the notice required by paragraph (g)(1) of this section.

(3) *Actions during appeal—(i) Implementation of discontinuance.* If an appeal is filed, only the responsible Headquarters vice president may direct a discontinuance before disposition of the appeal. However, the USPS-operated retail facility may not be permanently discontinued sooner than 60 days after the first day of the posting of the notice required by paragraph (g)(1) of this section.

(ii) *Display of appeal documents.* The Office of General Counsel must provide the district manager with copies of all pleadings, notices, orders, briefs and opinions filed in the appeal proceeding.

(A) The district manager must ensure that copies of all these documents are prominently displayed and available for public inspection in the USPS-operated retail facilities

where the final determination was posted under paragraph (g)(1)(i) of this section. If the operation of that USPS-operated retail facility has been suspended, the district manager must ensure that copies are displayed in the USPS-operated retail facilities likely to be serving the affected customers.

(B) All documents, except the Postal Regulatory Commission’s final order and opinion, must be displayed until the final order and opinion are issued. The final order and opinion must be displayed at the USPS-operated retail facility to be discontinued for 30 days or until the effective date of the discontinuance, whichever is earlier. The final order and opinion must be displayed for 30 days in all other USPS-operated retail facilities where the final determination was posted under paragraph (g)(1)(i) of this section.

(4) *Actions following appeal decision—(i) Determination affirmed.* If the commission dismisses the appeal or affirms the Postal Service’s determination, the official closing date of the office must be published in the *Postal Bulletin*, effective anytime after the commission renders its opinion, if not previously implemented under §241.3(g)(3)(i). However, the USPS-operated retail facility may not be discontinued sooner than 60 days after the first day of the posting of the notice required under §241.3(g)(1).

(ii) *Determination returned for further consideration.* If the commission returns the matter for further consideration, the responsible Headquarters vice president must direct that either:

(A) Notice be provided under paragraph (f)(3) of this section that the proposed discontinuance is determined not to be warranted or

(B) The matter be returned to an appropriate stage under this section for further consideration following such instructions as the responsible Headquarters vice president may provide.



Prepared by the Post Office Preservation Committee

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