

POSTAL SERVICE

39 CFR Part 111

Eligibility for Commercial Flats Failing Deflection

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service published a proposed rule regarding eligibility for commercial flats failing deflection in the *Federal Register* on December 14, 2009. This final rule provides revised mailing standards and price eligibility for commercial flats of all classes that fail to meet the deflection standard.

DATES: Basic standards effective June 7, 2010, with price consequences effective October 3, 2010.

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202-268-7278.

SUPPLEMENTARY INFORMATION: This final rule contains modifications to the original proposal, in response to customer comments. The final rule does not include changes to the deflection standards, but to the pricing eligibility. In response to the original deflection proposal and scheduled implementation in May 2009, customers expressed concerns about the potential additional postage due for pieces failing the deflection standards. Based on these concerns and to align with other quality efforts, in December 2009 the Postal Service proposed to change the price eligibilities applicable for pieces that fail the deflection standards.

In this final rule notice we provide background, summary of the comments received, our response to the comments, a summary of the changes and revisions to the applicable prices for pieces that do not meet the deflection standards, followed by changes to the mailing standards in *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®).

Background

The Postal Service's final rule for new mailing standards to be effective in May 2009 was published in the *Federal Register* (74 FR 15380–15384) on April 6, 2009. The final rule included new deflection standards, previously applicable only to automation flats, for all commercial flat-size mail except saturation and high-density Periodicals and Standard Mail® flats, as a basic eligibility standard for categorization as a flat. The implementation of the new deflection standards was postponed from the May 2009 date and was subsequently deferred further to June 2010.

As a reminder, the USPS® relaxed the deflection standards in 2007 by increasing the permitted deflection to up to 4" for flat-size pieces at least 10" long. Our difficulties in processing flats that came close to that new maximum

deflection, and in processing oblong-shaped flats, made it clear that the change did not allow consistent, successful processing and handling of flats with the new maximum deflection. Our delayed implementation of June 7, 2010 offered mailers the opportunity to make changes to slightly stiffen or redesign their "droopy" flats to meet the new standards. The new deflection standards allow 1 inch less of vertical deflection (droop) than is currently allowed; as an example, 3 inches of deflection will be allowed for flats 10 inches or longer.

Comments

We received 35 comments from customers, including publishers, mailer associations, and consumers. Some of the commenters agreed with the general intent of the pricing eligibility, to encourage production of flats that we are reliably able to process efficiently; however even these commenters stated that the proposed increase was too high to be readily absorbed by mailers. Commenters provided various calculations - stating the increase for In-County carrier route newspapers as 78 percent, the range of increase across affected pieces as being from 8 percent to 78 percent, and the increase for Bound Printed Matter pieces from flats to parcel prices as "excessive." Many commenters advocated exempting basic carrier-route flats from the standard altogether, or at least exempting carrier-route flats which also are dropshipped to destination delivery units (DDUs).

Many of the commenters focused their comments on the likely negative effect on newspapers, which were generally categorized by the commenters as inherently unable to meet the new deflection standards. Several commenters noted that the increase for the most part was proportional to the sort level, the anomaly being the higher percentage increase for basic carrier route flats from carrier route to 5-digit prices. Additional customer comments and suggestions received:

- Many commenters were concerned about inconsistent testing at acceptance; some of those commenters suggested the need for a more objective verification process or tool.
- A few commenters asked for an error tolerance for flats in copalletized or comailed mailings.
- Several commenters requested sampling procedures for mailings of nonidentical pieces, perhaps similar to current manifest mailing sampling.
- The resultant increase in postage costs was characterized as discriminatory to newspapers.
- The resultant increase in postage would be too cost prohibitive to continue to mail and mailers may revert to electronic, hand, or other private delivery methods.
- The 5-digit price for carrier route pieces failing deflection negates the value of the sortation.
- The 5-digit price also negates the DDU discount for carrier route flats failing deflection (an apparent consequence since there are no DDU discount prices related to 5-digit sortation).
- Some commenters asked for pricing consequences similar to those for pieces that fail Move Update tests.

- Several commenters suggested that pieces receiving scans should be eligible for full-service IMb[®] pricing. If automation prices are denied, pieces that are prepared to be part of full-service IMb mailings would be ineligible for full-service IMb.
- Quarter-folding newspapers may bring flats into compliance, but at additional cost; and quarter-folding would not work well with any inserts. Also, there was concern that quarter-folded papers might not process well and may not provide a long-term solution.
- Several commenters advocated a prequalification process whereby sample pieces would be submitted and prequalified to pass deflection, to limit mailers' risk in producing pieces which may be found to fail deflection at acceptance. Linked with this suggestion was a request for a tolerance of up to 1/2 inch from the standards.
- Some commenters were concerned about their publications being drawn into the Flats Sequencing Sortation (FSS) workflow and possible negative effects on service.

There were a few general comments suggesting that the USPS should:

- Find the ability to accept pieces with a wider array of designs rather than limiting the designs of pieces that can be accepted as "machinable" flats.
- Develop better advance communication methods and implement more thorough communication to a wider spectrum of mailers.
- Provide intensive feedback about failed pieces to mailers between now and June 2010.
- Retain current deflection standards for six more months and enlist the assistance of a Lean Six-Sigma group.

Response to Comments

The prices proposed in our December 2009 proposal were developed in response to concerns about the previously proposed parcel price consequences. If we had not proposed these prices, most of the prices for commercial flats failing deflection would have been much higher than those proposed in the December 2009 proposal. Because of the postponement of price increases (for the affected classes of mail) from May 2010 until 2011, we were limited to existing prices in our establishment of prices for flimsy or droopy flat-size pieces. For most mailers, these prices can be avoided by changing the design or production of their mailpieces.

Flat-size pieces that do not meet deflection standards are not currently eligible for any automation flats prices, including full-service Intelligent Mail prices. Changes in mailing standards for flats over the last few years have brought the characteristics of mailpieces mailed at nonautomation flats prices more in line with automation flats characteristics, to better enable us to handle flats with or without a barcode. There is ample evidence that flimsy flat-size pieces that fail to meet deflection standards cannot be processed without incurring many feeding and jamming problems. Therefore, we cannot continue to accept those pieces at prices that are based on our ability to process such pieces via automated processing.

Based on comments received, we are making modifications to improve the objectivity of the testing process. Also, we are developing a random sampling procedure to test mailings of nonidentical pieces, including comailed and copalletized mailings.

Some commenters requested a prequalification process to ensure that tested mailpiece designs would qualify for automation or other specific prices regardless of whether they actually passed the deflection test at the time of acceptance. We will not be implementing a prequalification process. Flats as they are produced and presented for live mailing need to meet all the standards for the applicable prices. Just as we do today for a variety of other standards, we have procedures in place that encourage mailers to work closely with local postal employees to improve the quality of their mailpieces, thereby reducing the possibility of incurring additional postage costs. We will be expanding that evaluation process to provide guidance as to whether a sample mailpiece is likely to meet the deflection standards. This evaluation will allow mailers the opportunity to adjust the mailpiece as necessary to be eligible for machinable or automation prices.

To additionally assist the mailing community with feedback on their flat-size pieces, the USPS will continue to use our electronic mail improvement reporting (eMIR) system between now and implementation to alert mailers with problematic flats so that they may adjust their mailpiece design and avoid paying additional postage.

We strongly encourage mailers who are considering quarter-folding their flats to work with their local Mailpiece Design Analyst to discuss all options.

We understand mailers' concerns about DDU entry, but this notice will not address service implications related to DDU entry or to FSS processing.

After consideration of the comments, in recognition of the continued allowance of flats entry to DDUs for basic carrier route flats (Periodicals, Standard Mail, and Bound Printed Matter flats), we are exempting all basic carrier route flats dropshipped to DDUs from the deflection standards. This exemption includes Periodicals publications that are entered directly at delivery units via specifically-authorized exceptional dispatch procedures. We may re-evaluate this decision in the future and strongly encourage customers with this type of mail to work toward meeting the deflection standards.

We will not be exempting basic carrier route flats that are not entered at DDUs.

Recap of Pricing Eligibility

Effective October 3, 2010, for commercial flats that fail to meet the deflection standards, price eligibility by class of mail is described in the tables below. For all classes of mail, if the mailing is determined not to meet the deflection standards, the sortation for failed pieces may remain as prepared. However, for First-Class Mail

presorted flats that will pay single-piece prices, the presorted marking must be obliterated or corrected via the addition of a "single-piece" marking.

First-Class Mail Automation

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Automation 5-digit flat	Presorted flat
Automation 3-digit	Presorted flat
Automation ADC	Presorted flat
Automation MADC	Presorted flat

First-Class Mail Presorted (nonautomation)

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Presorted flat	Single-piece flat or presorted parcel

Periodicals Outside County

<i>Piece price eligibility as presented</i>	<i>Piece price eligibility with failed deflection</i>
Basic Carrier Route flat, if not entered at a DDU	Machinable 5-digit flat
Machinable barcoded 5-digit flat	Nonmachinable barcoded 5-digit flat
Machinable barcoded 3-digit flat	Nonmachinable barcoded 3-digit flat
Machinable barcoded ADC flat	Nonmachinable barcoded ADC flat
Machinable barcoded MADC flat	Nonmachinable barcoded MADC flat
Machinable nonbarcoded 5-digit flat	Nonmachinable nonbarcoded 5-digit flat
Machinable nonbarcoded 3-digit flat	Nonmachinable nonbarcoded 3-digit flat
Machinable nonbarcoded ADC flat	Nonmachinable nonbarcoded ADC flat
Machinable nonbarcoded MADC flat	Nonmachinable nonbarcoded MADC flat
Nonmachinable barcoded or nonbarcoded flat	Price claimed, if otherwise eligible

Periodicals In-County

<i>Piece price eligibility as presented</i>	<i>Piece price eligibility with failed deflection</i>
Basic Carrier Route flat, if not entered at a DDU	Nonautomation (or automation, if barcoded) 5-digit flat
Automation 5-digit flat	Nonautomation 5-digit flat
Automation 3-digit flat	Nonautomation 3-digit flat
Automation basic flat	Nonautomation basic flat

Standard Mail

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Basic Carrier Route flat, if not entered at a DDU	Nonautomation 5-digit flat
Automation 5-digit flat	Nonautomation 5-digit flat
Automation 3-digit flat	Nonautomation 3-digit flat
Automation ADC flat	Nonautomation ADC flat
Automation MADC flat	Nonautomation MADC flat
Nonautomation flat (all sort levels)	Nonautomation MADC flat

Bound Printed Matter

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Carrier Route flat, if not entered at a DDU	Carrier Route parcel
Barcoded presorted flat	Presorted parcel
Nonbarcoded presorted flat	Presorted parcel
Nonbarcoded nonpresorted flat	Price as claimed, if otherwise eligible

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); 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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300 Commercial Mail Flats

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301 Physical Standards**1.0 Physical Standards for Flats**

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[Renumber current 1.6 and 1.7 as new 1.7 and 1.8.] [Move 301.3.2.3 in its entirety, renumber as new 1.6, revise heading and text and graphics to extend revised maximum deflection standards to all flat-size mailpieces, and delete item c as follows:]

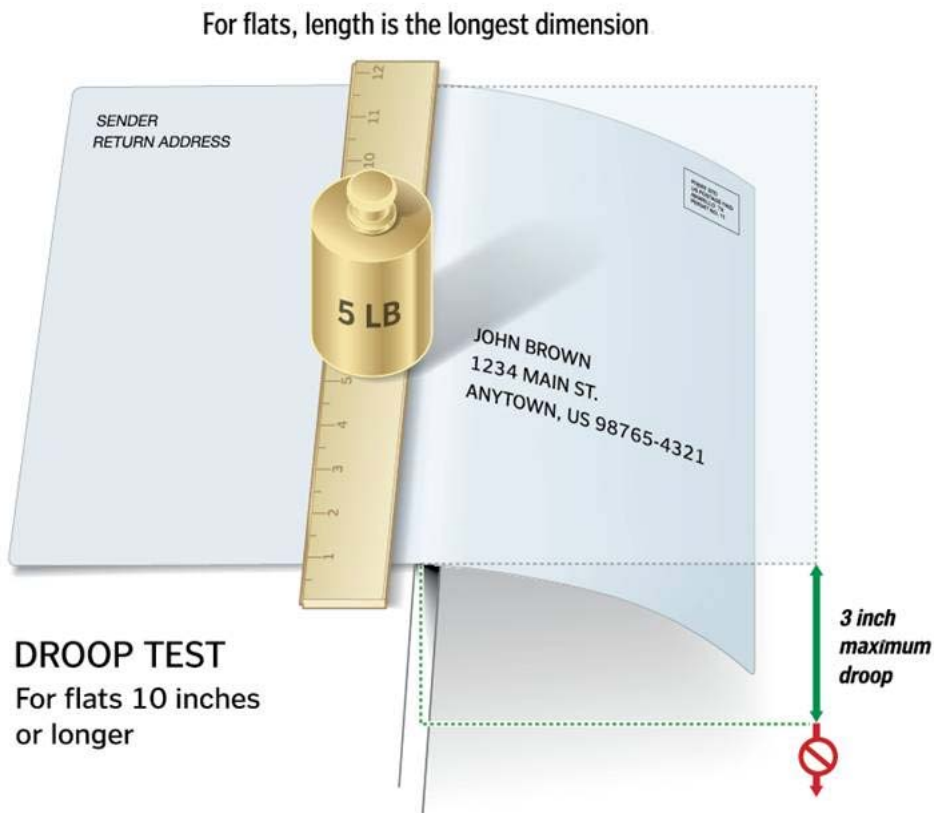
1.6 Maximum Deflection for Flat-Size Mailpieces

Flat-size mailpieces must be flexible (see 1.3) and must meet maximum deflection standards. Flat-size pieces mailed as high density or saturation carrier route pieces, and basic carrier route pieces entered by the mailer at destination delivery units (DDUs), are not required to meet these deflection standards. Flat-size pieces mailed

as basic carrier route pieces that are not entered at DDUs are not exempt from meeting the standards. Test deflection as follows:

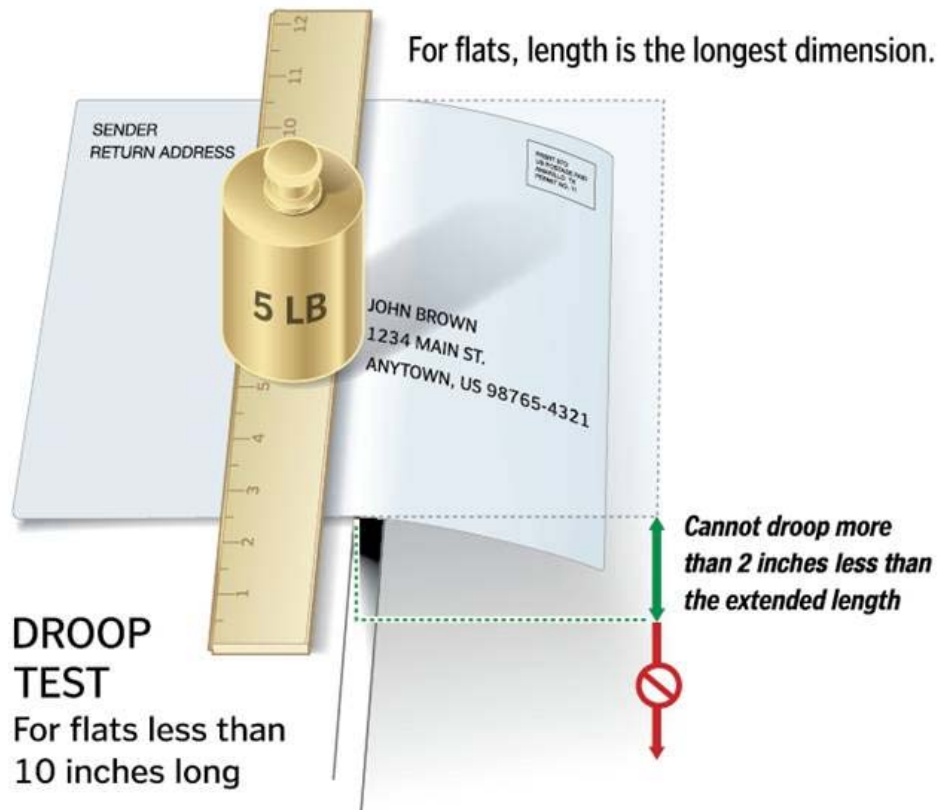
- a. For pieces 10 inches or longer (see Exhibit 1.5a):
 1. Place the piece on a flat, straight-edge surface with the length perpendicular to the edge of the surface and extend the piece 5 inches off the edge of the surface. Test square-shaped bound flats by placing the bound edge parallel to the edge.
 2. Place a flat 12-inch ruler (or other similar flat object 12 inches or longer) on top of the mailpiece with the length parallel to the edge of the surface and as close to the edge as possible so that the 5-pound weight (see 1.6a3) does not extend past the edge.
 3. Place a certified 5-pound weight on the center of the ruler to hold the piece in place.
 4. Determine the vertical deflection in inches.
 5. Turn the piece around 180 degrees and repeat the process.
 6. The piece isailable as a flat if it does not droop more than 3 inches vertically at either end.

Exhibit 1.6a Deflection for Pieces 10 inches or Longer



- b. For pieces less than 10 inches long (see Exhibit 1.6b):
1. Place the piece on a flat, straight-edge surface with the length perpendicular to the edge of the surface and extend the piece one-half of its length off the edge of the surface. Test square-shaped bound flats by placing the bound edge parallel to the edge.
 2. Place a flat 12-inch ruler (or other similar flat object 12 inches or longer) on top of the mailpiece with the length parallel to the edge of the surface and as close to the edge as possible so that the 5-pound weight (see 1.6b3) does not extend past the edge.
 3. Place a certified 5-pound weight on the center of the ruler to hold the piece in place.
 4. Determine the vertical deflection in inches.
 5. Turn the piece around 180 degrees and repeat the process.
 6. The piece is mailable as a flat if it does not droop more than 2 inches less than the extended length at either end. For example, a piece 8 inches long would be extended 4 inches horizontally off a flat surface. It must not droop more than 2 inches vertically at either end.

Exhibit 1.6b Deflection for Pieces Less Than 10 inches Long



1.7 Flat-Size Pieces Not Eligible for Flat-Size Prices

[Revise text of 1.7 to read as follows:]

Effective October 3, 2010, flat-size mailpieces that do not meet the standards in 1.3 through 1.5 or the standards in 302.2.0 must pay applicable higher prices as noted in either 1.7a or 1.7b below.

a. Flat-size pieces that do not meet flexibility, uniform thickness, or polywrap standards in 1.3 through 1.5 must pay these applicable prices:

1. First-Class Mail—parcel prices.
2. Periodicals—parcel prices.
3. Standard Mail—Not Flat-Machinable or parcel prices.
4. Bound Printed Matter—parcel prices.

b. Flats that do not meet deflection standards in 1.6 must pay the applicable prices as noted in exhibit 1.7b. Under the column heading "eligibility as presented," flats will be considered to be presented as automation flats only if they meet all other eligibility standards for automation flats.

Exhibit 1.7b Pricing for Flats Exceeding Maximum Deflection

The price consequences in this exhibit are effective October 3, 2010 for pieces failing the deflection standard in 1.6.

First-Class Mail Automation

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Automation 5-digit flat	Presorted flat
Automation 3-digit	Presorted flat
Automation ADC	Presorted flat
Automation MADC	Presorted flat

First-Class Mail Presorted (nonautomation)

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Presorted flat	Single-piece flat or presorted parcel

Periodicals Outside County

<i>Piece price eligibility as presented</i>	<i>Piece price eligibility with failed deflection</i>
Basic Carrier Route flat, if not entered at a DDU	Machinable 5-digit flat
Machinable barcoded 5-digit flat	Nonmachinable barcoded 5-digit flat
Machinable barcoded 3-digit flat	Nonmachinable barcoded 3-digit flat
Machinable barcoded ADC flat	Nonmachinable barcoded ADC flat
Machinable barcoded MADC flat	Nonmachinable barcoded MADC flat
Machinable nonbarcoded 5-digit flat	Nonmachinable nonbarcoded 5-digit flat
Machinable nonbarcoded 3-digit flat	Nonmachinable nonbarcoded 3-digit flat
Machinable nonbarcoded ADC flat	Nonmachinable nonbarcoded ADC flat
Machinable nonbarcoded MADC flat	Nonmachinable nonbarcoded MADC flat
Nonmachinable barcoded or nonbarcoded flat	Price claimed, if otherwise eligible

Periodicals In-County

<i>Piece price eligibility as presented</i>	<i>Piece price eligibility with failed deflection</i>
Basic Carrier Route flat, if not entered at a DDU	Nonautomation (or automation, if barcoded) 5-digit flat
Automation 5-digit flat	Nonautomation 5-digit flat
Automation 3-digit flat	Nonautomation 3-digit flat
Automation basic flat	Nonautomation basic flat

Standard Mail

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Basic Carrier Route flat, if not entered at a DDU	Nonautomation 5-digit flat
Automation 5-digit flat	Nonautomation 5-digit flat
Automation 3-digit flat	Nonautomation 3-digit flat
Automation ADC flat	Nonautomation ADC flat
Automation MADC flat	Nonautomation MADC flat
Nonautomation flat (all sort levels)	Nonautomation MADC flat

Bound Printed Matter

<i>Eligibility as presented</i>	<i>Eligibility with failed deflection</i>
Carrier Route flat, if not entered at a DDU	Carrier Route parcel
Barcoded presorted flat	Presorted parcel
Nonbarcoded presorted flat	Presorted parcel
Nonbarcoded nonpresorted flat	Price as claimed, if otherwise eligible

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3.0 Physical Standards for Automation Flats

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3.2 Additional Criteria for Automation Flats

[Current 3.2.3 was previously renumbered as new 1.6.]

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707 Periodicals

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2.0 Price Application and Computation

2.1 Price Application

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2.1.2 Applying Outside-County Piece Prices

* * * Apply piece prices for Outside-County mail as follows:

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[Revise item c1 to read as follows:]

c. Nonmachinable flats.

1. Apply the "Nonmachinable Flats—Barcoded" prices to pieces that meet all of the alternative standards for flats in 26.0 and include a barcode. Exception: Barcoded pieces prepared under 26.0 and placed in 5-digit bundles pay the "Machinable Flats—Barcoded" 5-digit price. Effective October 3, 2010, "nonmachinable" barcoded flats claiming the machinable flats-barcoded 5-digit price must meet the deflection standards in 301.1.0.

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26.0 Physical Criteria for Nonmachinable Flat-Size Periodicals

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26.3 Flexibility and Deflection

[Revise the text of 26.3 to read as follows:]

Pieces prepared under 26.0 are not subject to the standards for flexibility in 301.1.3 or the standards for deflection in 301.3.2.3, except pieces claiming machinable 5-digit prices under 2.1. Effective October 3, 2010, nonmachinable flats in 5-digit bundles claiming 5-digit machinable flats prices must meet the deflection standards in 301.1.0.

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

Stanley F. Mires,
Chief Counsel, Legislative.
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