

Issue Statement (Block #15 on PS Form 8190):

Did management at the United States Postal Service violate Articles 3, 5, 8, 30, and Article 19 via ELM 432.32, 661.2.(q), 665.13, 665.21 and 667.17, Handbook M-41 112.1, and 39 U.S.C. §101, and 18 U.S.C. §1703(a) by delaying mail, imposing blanket daily and/or weekly hour limitations, failing to fully utilize all available overtime (including voluntary overtime beyond 12/60 under the Nolan Interest Arbitration Award)? If so, what should the remedy be?

Applicable Contractual Language and Federal Law

1. JCAM page 3-1 reads in part:

The Postal Service's exclusive rights under Article 3 are basically the same as its statutory rights under the Postal Reorganization Act, 39 U.S.C. Section 1001(e). While postal management has the right to manage the Postal Service, it must act in accordance with applicable laws, regulations, contract provisions, arbitration awards, letters of agreement, and memoranda. Consequently, many of the management rights enumerated in Article 3 are limited by negotiated contract provisions. For example, the Postal Service's Article 3 right to suspend, demote, discharge, or take other disciplinary action against employees is subject to the provisions of Articles 15 and 16.

Article 3.F Emergencies. *This provision gives management the right to take whatever actions may be necessary to carry out its mission in emergency situations. An emergency is defined as an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.*

Emergencies—Local Implementation Under Article 30. *Article 30.B.3 provides that a Local Memorandum of Understanding (LMOU) may include, among other items, guidelines for the curtailment or termination of postal operations to conform to orders of local authorities or as local conditions warrant because of emergency conditions.*

2. JCAM page 5-1 states:

Prohibition on Unilateral Changes. *Article 5 prohibits management from taking any unilateral action inconsistent with the terms of the existing agreement or with its obligations under law. Section 8(d) of the National Labor Relations Act prohibits an employer from making unilateral changes in wages, hours, or working conditions during the term of a collective bargaining agreement.*

3. JCAM page 8-10 provides:

Full-time letter carriers, including those on limited or light duty, may sign up for either one or both of the following regular Overtime Desired Lists:

- *Employees desiring to work up to twelve (12) hours per day on their regularly scheduled day(s). Employees signing only this list are not on the Overtime Desired List on their non-scheduled day(s). However, employees signing both*

regular Overtime Desired Lists are eligible to work up to twelve (12) hours per day on their regularly scheduled day(s) and their non-scheduled day(s).

• Employees desiring to work eight (8) hours per day on their non-scheduled days. Employees signing only this list are not on the Overtime Desired List on their regularly scheduled days or beyond eight (8) hours on their non-scheduled days. However, employees signing both regular Overtime Desired Lists are eligible to work up to twelve (12) hours per day on their regularly scheduled day(s) and their non-scheduled day(s).

4. JCAM page 8-20 states:

Employees on the "Overtime Desired" list:

1. may be required to work up to twelve (12) hours in a day and sixty (60) hours in a service week (subject to payment of penalty overtime pay set forth in Section 4.D for contravention of Section 5.F); and

2. excluding December, shall be limited to no more than twelve (12) hours of work in a day and no more than sixty (60) hours of work in a service week unless they volunteer to work beyond those limits pursuant to paragraph

3 below; and 3. may volunteer to exceed twelve (12) hours of work in a day or sixty (60) hours of work in a service week (subject to the payment of Section 4.G). Those who do not volunteer shall not be subject to disciplinary action for terminating their tour of duty when the limits on hours of work in paragraph 2 above are reached.

5. ELM Section 432.32 reads:

432.32 Maximum Hours Allowed

Except as designated in labor agreements for bargaining unit employees or in emergency situations as determined by the postmaster general (or designee), employees may not be required to work more than 12 hours in 1 service day. In addition, the total hours of daily service, including scheduled workhours, overtime, and mealtime, may not be extended over a period longer than 12 consecutive hours. Postmasters and exempt employees are excluded from these provisions.

6. JCAM page 19-1 supplies in part:

Handbooks and Manuals. *Article 19 provides that those postal handbook and manual provisions directly relating to wages, hours, or working conditions are enforceable as though they were part of the National Agreement. Changes to handbook and manual provisions directly relating to wages, hours, or working conditions may be made by management at the national level and may not be inconsistent with the National Agreement.*

7. Handbook M-41 Section 112.1 states:

112.1 Efficient Service *Provide reliable and efficient service. Federal statutes provide penalties for persons who knowingly or willfully obstruct or retard the mail. The statutes do not afford employees immunity from arrest for violations of law.*

8. ELM Section 661.2.(q) states:

661.2 Application to Postal Employees In addition to the statutes listed in Title 5, Code of Federal Regulations (CFR), Part 2635.901-902, the following statutes and regulations are applicable to all employees in the Postal Service.

q. Prohibition against delay or destruction of mail or newspapers (18 U.S.C. 1703).

9. ELM Section 665.13 supplies:

665.13 Discharge of Duties Employees are expected to discharge their assigned duties conscientiously and effectively.

10. ELM Section 665.21 provides:

665.2 Prohibited Conduct

665.21 Incomplete Mail Disposition It is a criminal act for anyone who has taken charge of any mail to quit voluntarily or desert the mail before making proper disposition of the mail according to 18 U.S.C. 1700.

11. ELM Section 667.17 states:

667.17 Obstructing the Mail

Title 18 U.S.C. 1701 provides penalties for persons who knowingly and willfully obstruct or retard the mail. The statute does not afford employees immunity from arrest for violations of law.

12. 39 U.S.C. §101 reads in part:

§101. Postal policy

(a) The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

(b) 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. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

(c) As an employer, the Postal Service shall achieve and maintain compensation for its officers and employees comparable to the rates and types of compensation paid in the private sector of the economy of the United States. It shall place particular emphasis upon opportunities for career advancements of all officers and employees and the achievement of worthwhile and satisfying careers in the service of the United States.

(d) Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

(e) In determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

(f) In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation to the destination of important letter mail to all parts of the Nation shall be a primary goal of postal operations.

(g) In planning and building new postal facilities, the Postal Service shall emphasize the need for facilities and equipment designed to create desirable working conditions for its officers and employees, a maximum degree of convenience for efficient postal services, proper access to existing and future air and surface transportation facilities, and control of costs to the Postal Service.

13. 18 U.S.C. §1703(a) provides:

(a) Whoever, being a Postal Service officer or employee, unlawfully secretes, destroys, detains, delays, or opens any letter, postal card, package, bag, or mail entrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the Postal Service, shall be fined under this title or imprisoned not more than five years, or both.

14. Mission statement, Adopted by the Board of Governors on April 1, 2020:

Our history

The United States Postal Service has a storied history as the institution of our Government guaranteeing safe and secure communication among and between the Government and the American people.

Many are familiar with our history, which began with the Second Continental Congress and Benjamin Franklin in 1775 and continued in 1787 when the Postal Clause of the U.S. Constitution empowered Congress to establish post offices and post roads. Congress exercised those powers with the passage of The Post Office Act of 1792, which made the Postal Service a permanent fixture of the Federal Government. The Act included provisions to facilitate freedom of the press, the privacy of personal correspondence, and expand the nation's physical infrastructure, all vital to our nation's growth and prosperity.

These principles and objectives endure. While radio, television and the Internet have irrevocably altered our information-gathering habits, postal correspondence remains the most secure and resilient form of communication, providing the American People with a delivery infrastructure vital to our National Security.

USPS retains the largest physical and logistical infrastructure of any non-military government institution, providing an indispensable foundation supporting an ever changing and evolving nationwide communication network. Capitalizing on its expertise in scheduling and high-volume sorting, USPS also serves a vital role enabling digital commerce.

Our mission

To serve the American people and, through the universal service obligation, bind our nation together by maintaining and operating our unique, vital and resilient infrastructure.

To provide trusted, safe and secure communications and services between our Government and the American people, businesses and their customers, and the American people with each other.

To serve all areas of our nation, making full use of evolving technologies.

Carrying out our mission

To meet this Mission we will:

Remain an integral part of the United States Government, providing all Americans with universal and open access to our unrivalled delivery and storefront network.

Maintain and enhance our reputation and role as a trusted face of the federal government in every community and provide all levels of government with access to our network and services.

Provide frequent, reliable, safe and secure delivery of mail, packages and other communications to all Americans.

Use technology, innovation and where appropriate private sector partnerships, to optimize and adapt our network, operations and business model to meet the changing needs of our customers and delivery recipients, while maintaining our core mission.

Operate in a modern, efficient and effective manner that allows us to minimize what we charge for our services, consistent with meeting, in a fair way, our obligations to our current and retired employees and other stakeholders.

Remain an employer of choice, able to attract, retain and develop high quality employees that possess the skills necessary to excel in a rapidly changing business environment.

Contentions

1. Background of Violation

On [INSERT DATE(s)], Letter Carrier [Name] was instructed by Supervisor [INSERT NAME] to curtail mail on Route [INSERT #] at the [INSERT STATION/POST OFFICE].

Management issued instructions such as “be back in 8,” “off the clock by 6,” no penalty overtime, or “no one over 12,” resulting in delayed mail and/or curtailed delivery.

The United States Postal Service has a statutory obligation under 39 U.S.C. §101 to provide regular and reliable mail service to communities six days a week. The Postal Service’s own Mission Statement also emphasizes providing frequent, reliable, and safe delivery.

Article 3 of the National Agreement gives management the right to direct and operate the Postal Service, but that authority is not unlimited. Management must operate within the requirements of the **National Agreement, federal law, and applicable USPS regulations and policies.**
[Emphasis added]

Mail cannot simply be delayed because management chooses not to use available resources. Unless the situation qualifies as an emergency under Article 3, management is required to make reasonable efforts to complete delivery. When available employees and overtime opportunities are not fully utilized and mail is consequently delayed, management fails to meet both its contractual and statutory responsibilities.

2. Pre-Nolan Overtime Rules and Mittenthal Awards

Before the Nolan Award, Article 8 established a specific order for assigning overtime among ODL carriers, WA carriers, and non-ODL employees. Article 8.5.g.2 also established the 12-hour daily and 60-hour weekly limits.

Arbitrator Mittenthal made clear that these limits were not optional. Management could not manipulate the overtime assignment process simply to avoid paying penalty overtime, and carriers could not be required or permitted to work beyond the established limits.

Under those rules, once the available ODL, WA, and non-ODL overtime had been properly utilized, management had limited options. It could use other available labor where permitted, but it could not simply delay the mail as a way of avoiding its overtime obligations.

Relevant Mittenthal Awards

1. January 19, 1987 – C-06775
 - Addresses the holiday overtime pecking order.
 - Establishes that management cannot disregard the established order of assigning overtime simply to avoid penalty overtime.
2. June 9, 1986 – C-06238
 - Establishes that the 12-hour daily and 60-hour weekly limits were absolute under the rules then in effect.
 - Full-time carriers could not be required or allowed to exceed those limits.

3. Nolan Award – March 21, 2025

The Nolan Interest Arbitration Award changed the way the 12/60-hour limits apply to ODL and WA carriers.

Under the new Article 8 provisions, ODL and WA carriers may voluntarily work beyond the 12-hour daily and 60-hour weekly limits. This additional volunteer overtime is compensated at 250% of the employee's base pay under Article 8.4.g.

The important distinction is that this overtime remains completely voluntary. Management cannot require a carrier to exceed the 12/60-hour limits.

The Nolan Award therefore provides management with an additional contractual mechanism for meeting mail-delivery obligations while still protecting employees from being forced to work excessive hours.

Nolan Award and Related Clarifications

- Interest Arbitration Award – March 21, 2025
 - Modified Article 8 to allow ODL and WA carriers to voluntarily exceed the 12/60-hour limits.
 - Provides for compensation at 250% of base pay for qualifying volunteer hours.
 - Continues to prohibit management from requiring employees to exceed the applicable limits.
- M-02009 – May 27, 2025
 - Step 4 memorandum clarifying implementation of the Nolan Award.
- M-02011 – July 10, 2025
 - Step 4 Q&A further clarifying the new Article 8 provisions.

4. How the Mittenenthal and Nolan Rules Work Together

The Nolan Award did not completely eliminate the principles established by Mittenenthal. Instead, it created a specific exception for employees who voluntarily agree to work beyond the 12/60-hour limits.

Management still cannot require a carrier to exceed those limits. The overtime pecking order also remains applicable.

However, when additional overtime is necessary, management must follow the applicable Article 8 procedures, which could include providing ODL and WA carriers the opportunity to volunteer for overtime when the circumstances call for it.

The fact that either overtime, penalty overtime, or volunteer overtime paid at 250% does not make those hours optional for management to offer while simultaneously delaying or curtailing mail. The overtime rates are simply the contractual compensation established for overtime.

Management cannot curtail, delay, or otherwise withhold mail simply to avoid paying overtime, penalty overtime, or the 250% premium provided under Article 8 of the National Agreement. The cost of overtime does not relieve management of its responsibility to properly staff and complete the workload or to follow the contractual overtime provisions and federal law.

Management cannot create arbitrary hour caps or otherwise restrict available overtime solely because it does not want to pay the applicable rate. If additional overtime is needed to complete the workload and prevent mail from being delayed, management must follow the Article 8 overtime provisions, including offering qualifying volunteer overtime when applicable.

Using mail curtailment as a means of avoiding overtime costs would effectively allow management to circumvent the negotiated overtime provisions of Article 8, its mission statement, and obligations under federal law. Such a practice undermines the contractual rights of ODL and WA carriers and shifts the consequences of management's staffing and scheduling decisions onto the timely delivery of the mail.

5. Failure to Meet Mail-Delivery Obligations

Management has failed to meet its responsibility to process and deliver the mail in a timely manner.

The union contends available overtime has not been fully utilized, and employees have not been given the opportunity to volunteer for additional overtime under the provisions created by the Nolan Award. As a result, mail has been delayed.

This produces violations of 39 U.S.C. §101, 18 U.S.C. §1703(a), the USPS Mission Statement, and the applicable provisions of the National Agreement governing the operation and assignment of work.

6. Violation of Article 8 – Overtime Rights

Management violated Article 8 by improperly restricting overtime and failing to properly utilize the overtime opportunities provided under the new Nolan framework.

The established overtime pecking order gives ODL and WA carriers contractual rights to available overtime. The Nolan Award added another mechanism for those employees to volunteer for work beyond the traditional 12/60-hour limits.

Management cannot simply refuse to offer that overtime because it would result in a higher rate of pay. Doing so undermines the overtime provisions negotiated by the parties and interferes with the contractual rights of ODL and WA carriers.

7. Improper Delay of Mail

The failure to fully utilize available overtime has contributed to delays in mail delivery. The Postal Service has an obligation to provide timely and reliable service, and management cannot intentionally or unnecessarily delay mail simply to avoid overtime costs.

The applicable USPS policies, including ELM 661.2.q, address the prohibition against delaying mail, while 18 U.S.C. §1703 addresses unlawful obstruction or delay of the mail. Any arbitrary restrictions on overtime that are imposed primarily to avoid paying overtime, penalty overtime, or the 250% volunteer rate can make the service problem worse and potentially create additional violations.

8. Violation of Article 30 / LMOU

Management has also curtailed or recalled delivery operations without properly consulting local union representatives.

Where Article 30 of the National Agreement and the applicable Local Memorandum of Understanding require union involvement or consultation concerning operational changes, management must follow those requirements.

Unilateral decisions that affect delivery operations, employee workload, and the handling of mail interfere with the union's contractual rights and prevent meaningful oversight of management's decisions.

9. Conclusion

Management has an obligation to provide efficient and reliable mail service to every customer and cannot arbitrarily delay mail that has already been processed and is ready for delivery. Directing letter carriers to return to the office early while they still have deliverable mail is not a sound operational decision; it unnecessarily delays service and harms the public. The Union maintains that, absent a legitimate operational necessity or documented emergency, management had no compelling justification for this practice. By instructing carriers to curtail mail instead of using available resources to complete delivery, management acted unreasonably and contrary to its contractual, legal and service obligations.

Remedy (Block #19 on PS Form 8190):

1. That management be issued a cease and desist.

2. That management be required to fully utilize all overtime resources, including voluntary overtime beyond 12/60 hours, to avoid mail delays.
3. That Letter Carrier(s) [Name(s)] be paid for hours they should have been worked to get the mail delivered.
4. That all delayed mail practices in violation of the National Agreement and USPS policies cease immediately.
5. That all payments be made promptly and no later than 30 days from settlement, with proof of payment provided to the union.
6. Any other remedy deemed appropriate by the Step B team or an arbitrator.



Grievance File Checklist

Carrier Statements

☐ Written statements or interviews documenting instructions to curtail mail, actual mail handled,

PS Form 1571

☐ Copies of forms issued to carriers
☐ Records of missing PS Form 1571 when mail was curtailed or undeliverable

Mail Volume Records

☐ Workhour Workload Report (All Routes) showing management-recorded volumes
☐ DOIS reports verifying entered volumes

Overtime / Staffing Records

☐ TACS EER Reports
☐ Overtime Desired Lists (ODL/WA availability)
☐ Scheduling / route assignments confirming who was offered or denied OT
☐ Internal OT logs showing skipped pecking order
☐ Statement from ODL/WA carriers stating they would have volunteered

Supervisory Instructions

☐ Emails, bulletins, or notes of verbal instructions regarding curtailment, hour caps, or route limits
☐ Scanner messages/Text messages

Contracts & Handbooks

☐ LMOU & National Agreement Articles 3, 8, 19, 30
☐ Handbook M-39 Sections 111.2.j, 144.75
☐ Handbook M-41 Sections 131.44–131.46, 442
☐ Copies of 39 U.S.C. §101, ELM 661.2(q), and 18 U.S.C. §1703(a)

Arbitration & Policy References

☐ Nolan Award (3/21/25) and Mittenthal rulings
☐ Step 4 Memos M-02009 and M-02011
☐ Postal Service Policy Letter M-01517

Operational / External Evidence

☐ Weather or office records showing no emergency justified curtailment
☐ Customer complaints, returned mail, or service reports showing delayed mail