

Rules and Regulations

Federal Register

Vol. 65, No. 19

Friday, January 28, 2000

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

POSTAL SERVICE

39 CFR Part 111

Nonletter-Size Business Reply Mail Categories and Fees—Final Rule

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is terminating the experimental nonletter-size business reply mail categories and fees effective February 5, 2000, and will implement a permanent classification and fees for weight-averaged nonletter-size business reply mail on February 6, 2000. This is in accordance with the Decision of the Governors of the Postal Service on the Recommended Decision of the Postal Rate Commission on Establishment of Permanent Classification and Fees for Nonletter-Size Business Reply Mail, Docket No. MC99-2; Board of Governors Resolution 99-12 (November 1, 1999). The Postal Service was authorized to conduct the experiment until as late as February 29, 2000. The extension was granted in order for the experiment to be extended beyond its original expiration date of June 7, 1999, to allow the Postal Service additional time to resolve certain administrative and technical issues which could not be resolved before the original June 7, 1999, experiment expiration date. These issues have been resolved and it is possible to proceed with permanent implementation. The permanent fees for bulk weight averaging are the same as those placed into effect when the experiment was extended on June 8, 1999. The extension was approved pursuant to the Decision of the Governors of the Postal Service on the Recommended Decision of the Postal Rate Commission on the Classification and Fees for Nonletter-Size Business Reply Mail, Docket No. MC99-1; Board of Governors Resolution 99-6 (May 26, 1999). See 64 FR 31325-

31326. This final rule also sets forth the Domestic Mail Manual (DMM) standards adopted for permanent implementation.

EFFECTIVE DATE: February 6, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Lettmann, (202) 268-6261; or Michael T. Tidwell, (202) 268-2998.

SUPPLEMENTARY INFORMATION: The Postal Service is terminating the experimental classification and fees for nonletter-size business reply mail (BRM) and establishing permanent classification and fees because appropriate levels of management oversight and sufficient technical resources are now available to ensure that revenue protection standards can be met. Earlier, the experimental period was extended beyond the two-year period that was to end on June 7, 1999, in order to give the Postal Service additional time to eliminate technical and administrative obstacles to permanent implementation.

The weight-averaging experiment will end at midnight on February 5, 2000, and the permanent classification and fees will become effective on February 6, 2000. The limitations that were in effect during the experiment with respect to the number of participants, mail volumes, geographic locations, and abilities to implement and maintain quality control procedures for accounting and documentation have been eliminated.

The per piece accounting fee for bulk weight-averaged nonletter-size BRM pieces will be 1 cent, plus the appropriate First-Class Mail or Priority Mail postage. Mailers will be required to pay an annual business reply mail permit fee and an annual business reply mail advance deposit accounting fee, which are currently \$100.00 and \$300.00, respectively. In addition, a monthly audit and maintenance fee of \$600.00 will be assessed for each BRM account at a postal facility where the weight-averaging accounting method is employed.

Mailers who want to take advantage of the lower per piece fees for qualifying nonletter-size BRM pieces must submit a letter of application to the postmaster at the post office where their BRM will be received. Those who receive approval for the bulk weight-averaging method will be required to enter into a service agreement with the Postal Service.

Background

As a consequence of Postal Rate Commission Docket No. MC97-1, the United States Postal Service engaged in an experiment that started on June 8, 1997. It was designed to test the feasibility of two alternative methods of accounting for nonletter-size business reply mail: the reverse manifesting method and the bulk weight-averaging method. A maximum of 20 participants could participate in the experiment, with no more than 10 participants allowed for each of the two accounting methods. Separate set-up/qualification, monthly auditing or sampling, and per piece fees were established for each method.

All experimental classifications and fees were originally scheduled to expire on June 7, 1999. However, on March 14, 1999, the Postal Service requested the Postal Rate Commission to approve an extension of the experiment until as late as February 29, 2000, or sooner if circumstances permitted. The request was made to allow the Postal Service additional time for the resolution of administrative and technical issues that stood in the way of implementing weight averaging on a permanent basis. The Postal Service also asked that the experimental reverse manifesting classification and fees be allowed to expire as originally scheduled, because the operational feasibility of the method was unproven. At the same time, the Postal Service requested the establishment of a permanent classification and fees for weight-averaged nonletter-size Business Reply Mail.

The proceedings for consideration of these requests were designated by the Postal Rate Commission as Docket No. MC99-1 and Docket No. MC99-2, respectively. On May 19, 1999, pursuant to 39 U.S.C. 3624, the Commission recommended the extension of the nonletter-size BRM experiment until February 29, 2000, or until the Postal Service implemented permanent fees, whichever came first. The Commission also recommended the experimental weight-averaging classification and fees that were proposed in a Joint Stipulation and Agreement by the parties in Docket No. MC99-1.

After reviewing the Commission's Recommended Decision and its consequences for the Postal Service and postal customers, the Governors of the

Postal Service, pursuant to 39 U.S.C 3625, acted on the Commission's recommendations on May 26, 1999. (Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on the Renewal of Experimental Classification and Fees for Nonletter-Size Business Reply Mail Categories and Fees, Docket No. MC99-1.) The Governors approved the Commission's recommendations and established June 8, 1999, as the date on which the experimental classification and fees were to take effect.

Accordingly, on June 8, 1999, the following fees were implemented for weight-averaged nonletter-size BRM:

1. A \$600 monthly maintenance fee.
2. A \$0.01 per piece accounting fee.

The one-time set-up/qualification fee that was assessed when the experiment began was also eliminated at this time.

Four customers participated in the original weight-averaging experiment at four sites, enabling the Postal Service to develop sufficient data to support the filing with the Postal Rate Commission of the Docket No. MC99-2 request for establishment of a permanent classification and fees for the bulk weight-averaging method. After the experiment was extended beyond the original June 7, 1999, expiration date, three other bulk weight-averaging sites were added, at the request of one of the original customer participants, bringing the total number of experimental sites to seven.

Weight-Averaging Method

Weight averaging is a method of counting, rating, and billing non-letter size BRM in bulk based on mathematical statistics, instead of individually rating each piece. The use of weight averaging as an alternative to slower, less efficient manual weighing and rating of each piece is not new. A few mailers and local postal officials devised various forms of bulk weight averaging years ago when faced with counting and rating large volumes of incoming mail.

The bulk weight-averaging methodology that is now being adopted for nonletter-size BRM has significant advantages over other methods that have been used. The new methodology relies on a personal computer with statistical sampling software linked with

an electronic scale that provides individual piece weights. The system allows a post office to collect and store statistically valid sample data on incoming BRM, to calculate average pieces per pound and average postage per pound factors, and to use the calculated factors as the basis for determining postage due for the entire volume of incoming BRM. As a result, the postage and fees that postal customers pay will be determined with a high degree of precision, while the Postal Service improves the efficiency of its operations and promotes customer satisfaction.

Bulk weight averaging requires periodic sampling and monitoring of a postal customer's nonletter-size BRM to ensure that any changes in the characteristics of incoming pieces are reflected in the postage due calculations. The administrative overhead required to manage the method generates postal costs that are not covered by the current \$100.00 annual BRM permit fee and \$300.00 annual BRM advance deposit accounting fee. For this reason a monthly maintenance fee is being assessed.

Implementation

On June 1, 1999, the Commission issued the Recommended Decision of the Postal Rate Commission on the Classification and Fees for Weight-Averaged Nonletter-Size Business Reply Mail, 1999, Docket No. MC99-2. The Governors approved the Commission's recommendations on November 1, 1999, and set an implementation date of February 6, 2000, to make the classification and fees permanent.

This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Governors' Decision. Many of the DMM provisions placed into effect during the experimental phase are being continued, with the exception of such restrictions as the number of participants, geographic location, annual volume of nonletter-size BRM pieces, and the time frame and duration of participation. The Postal Service is continuing to limit the use of the nonletter-size BRM bulk weight-averaging method to those pieces that are outside the parameters of current automation-compatible letter-size BRM. Reply mail letters that cannot

qualify for qualified business reply mail (QBRM) because they weigh too much also are eligible for the weight-averaging method. Any piece accounted for under the weight-averaging method may not exceed 5 pounds.

The Postal Service finds no need to solicit comments on the final rule setting forth the DMM standards for nonletter-size BRM because of the multiple filings with the Postal Rate Commission as well as the limited purposes of the experiment that was conducted for a period over two years in length.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

PART 111—[REVISED]

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, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the Domestic Mail Manual as follows:

G	General Information	*	*	*	*	*
G090	Experimental Classifications and Rates	*	*	*	*	*
	[Remove G092.]					
G092	Nonletter-Size Business Reply Mail	*	*	*	*	*
PR	RATES AND FEES	*	*	*	*	*
R900	SERVICES	*	*	*	*	*
2.0	BUSINESS REPLY MAIL (BRM)	*	*	*	*	*

2.2 Per Piece Charges

[Amend 2.2 to add the nonletter-size BRM fee to read as follows:]

Each piece is charged the applicable First-Class Mail or Priority Mail postage plus a per piece fee upon return to the permit holder:

Type	Postage (per piece)	Fee with BRM advance deposit account (in addition to postage)	Fee without BRM advance deposit account (in addition to postage)
Regular BRM	\$0.33 first ounce or fraction \$0.22 each additional ounce or fraction. Postcards: \$0.20	*\$0.08	\$0.30

Type	Postage (per piece)	Fee with BRM advance deposit account (in addition to postage)	Fee without BRM advance deposit account (in addition to postage)
Qualified BRM	\$0.30 first ounce or fraction \$0.22 second ounce or fraction Postcards: \$0.18	*\$0.05	N/A
Nonletter-size BRM (Weight-averaged in accordance with S922.7.0).	\$0.33 first ounce or fraction \$0.22 each additional ounce or fraction.	*\$0.01	N/A

*BRM accounting fee required.

[Add new 2.3 to read as follows:]

2.3 Monthly Maintenance Fee

A maintenance fee must be paid for each month, or part of a month, in which the postage and fees charged to an account are determined using the bulk weight-averaging method for nonletter-size BRM described in S922.

* * * * *

S Special Services

* * * * *

S900 Special Postal Services

* * * * *

S920 Convenience

* * * * *

S922 Business Reply Mail (BRM)

* * * * *

3.0 POSTAGE AND FEES

* * * * *

[Add new section 3.4 to read as follows:]

3.4 Nonletter-Size BRM Fees

A mailer must pay the annual BRM permit fee and the annual BRM advance deposit account fee. In addition, a maintenance fee must be paid monthly for each account to which postage and fees are charged for nonletter-size BRM on the basis of the bulk weight-averaging method described in 7.0. Payment is due on the first day that postage and fees are determined using the bulk weight-averaging method and each succeeding monthly payment is due on the anniversary date of the initial payment or previous fee payment, whichever is later.

[Redesignate 3.4 through 3.10 as 3.5 through 3.11; amend redesignated 3.5b to read as follows:]

3.5 Charges

Charges are as follows:

* * * * *

b. Fee Per Piece. The applicable BRM fee must be collected for each returned piece of BRM in addition to the applicable single-piece First-Class Mail or Priority Mail postage. Lower per piece fees apply to mail paid through a BRM advance deposit account, QBRM pieces (R900), and nonletter-size BRM pieces that are rated by means of the

approved bulk weight-averaging method described in 7.0.

* * * * *

[Add new section 7.0 to read as follows:]

7.0 BULK WEIGHT-AVERAGING METHOD

7.1 Description

Bulk weight averaging (WA) is a method of counting, rating, and billing eligible incoming nonletter-size business reply mail (BRM) based on principles of mathematical statistics. Probability sampling techniques are used to measure the characteristics of the total BRM volume by examining a fraction of the volume. Statistically valid samples that are drawn from the incoming BRM volume each postal accounting period are used by post offices to compute average postage due per pound and average piece count per pound factors. The net bulk weight of mail received is multiplied by these conversion factors to get the estimated volume received and postage and fee amounts. Only eligible BRM pieces rated by means of the approved WA method may qualify for the nonletter-size BRM per piece rate.

7.2 Eligibility

Only eligible BRM pieces rated by means of the approved WA method may qualify for the nonletter-size BRM per piece rate. BRM pieces rated by the bulk weight-averaging accounting method must:

- a. Be mailed as First-Class Mail or Priority Mail.
- b. Meet the applicable physical standards for nonletter-size mail in C050 (i.e., flat-size mail, machinable parcels, irregular parcels, or outside parcels) and C100 for First-Class Mail, except any BRM piece accounted for under the weight-averaging method may not exceed 5 pounds.
- c. Meet the basic standards for BRM in S922 other than those specified for letter-size pieces or pieces processed as QBRM.
- d. Meet the addressing standards in A010 and bear a delivery address with the correct ZIP+4 code and barcodes assigned to the BRM permit holder by the USPS.

e. Comply with current or future USPS marking standards.

f. Be received at the post office that serves the permit holder.

7.3 Fees

Bulk weight-averaged nonletter-size BRM is subject to a per piece fee (R900) in addition to single-piece rate First-Class Mail or Priority Mail postage. Payment of a monthly maintenance fee is required in addition to the annual business reply mail permit fee and annual advance deposit accounting fee.

7.4 Application Procedures

A mailer who wants to have nonletter-size BRM rated by bulk weight averaging (WA) as described in 7.0 must submit a written request to the postmaster of the office where the BRM permit is held and where the BRM will be received. The postmaster will forward this information to the Manager, Operations Systems, USPS Headquarters, who will confirm the BRM pieces meet the requirements of 7.2 and WA is capable of producing the required level of precision in determining postage due amounts. The postmaster will be notified if these requirements are met and will receive instructions on how statistical sampling of the BRM is to be performed. A mailer's request must include the following information:

- a. Mailer name and address.
- b. Name and location of the post office at which BRM will be received, post office box number to be used, and a centralized automated payment system account number (CAPS), if available.
- c. A description of the incoming BRM piece weight distribution (in nearest ounces or pounds) over a 24-hour period, e.g., total piece volume consists of x number of 3-ounce pieces, Y number of 4-ounce pieces, and Z number of 5-ounce pieces.
- d. Piece volume information that includes the estimated average volume and postage for nonletter-size BRM received over a 24-hour period and monthly.

e. A statement indicating whether the piece volume is subject to seasonal variation and, if applicable, estimates of monthly volumes for a 12-month period.

7.5 Authorization

After a mailer's request for bulk weight averaging has been reviewed and approved by the Manager, Operations Systems, USPS Headquarters, the post office that received the original request provides an authorization letter and has the mailer sign a service agreement for bulk weight averaging of nonletter-size BRM for a specified post office box. If the mailer does not appear to meet the requirements for bulk weight averaging, the post office sends the applicant a written notice advising of the reasons for denial. The applicant has 15 days following receipt of the notice to file a written appeal of the decision with the postmaster and to furnish further information explaining why the application should be approved. If the postmaster still finds that the application should be denied, the postmaster forwards the file to the Manager, Operations Systems, USPS Headquarters, who issues a final written decision to the mailer.

7.6 Action

[Reserved.]

7.7 Reasons

A postmaster may terminate a mailer's authorization to have nonletter-size BRM bulk weight-averaged at any time if:

- The mailer provided incorrect or incomplete information when applying for the bulk weight-averaging method.
- The mailer's BRM pieces no longer meet the eligibility requirements of 7.2.
- USPS finds that bulk weight averaging no longer provides adequate revenue protection.
- The mailer no longer desires to have bulk weight averaging used.

7.8 Notice and Appeal

A termination takes effect 15 days from the mailer's receipt of the notice unless the mailer files a written appeal within that period with the postmaster stating why use of the weight-averaging method should not be suspended or terminated. The mailer may continue to have the bulk weight-averaging method used pending a final decision on the appeal. If the postmaster does not uphold an appeal of a suspension or termination, the postmaster forwards the mailer's appeal together with all pertinent information to the Manager, Operations Systems, USPS

Headquarters, who issues a final agency decision to the mailer.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. As provided by 39 CFR 111.3, notice of issuance will be published in the **Federal Register**.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00-2020 Filed 1-27-00; 8:45 am]

BILLING CODE 7710-12-U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991228352-0012-02; I.D. 011100D]

RIN 0648-AM83

Fisheries of the Exclusive Economic Zone Off Alaska; Emergency Interim Rule To Implement Major Provisions of the American Fisheries Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; revisions to 2000 harvest specifications; sideboard directed fishing closures; request for comments.

SUMMARY: NMFS issues emergency interim regulations implementing major provisions of the American Fisheries Act (AFA). The elements of this emergency interim rule include: A new formula to allocate the Bering Sea and Aleutian Islands Management Area (BSAI) pollock total allowable catch (TAC) among the Western Alaska Community Development Quota (CDQ) program and the inshore, catcher/processor, and mothership industry sectors; new recordkeeping and reporting requirements for the BSAI pollock fishery and for processors that receive groundfish from AFA catcher vessels; new observer coverage and scale requirements for AFA catcher/processors, AFA motherships, and AFA inshore processors; new regulations to govern BSAI pollock fishery cooperatives formed under the AFA; harvesting restrictions on AFA catcher vessels and AFA catcher/processors to limit effort by such vessels in other groundfish and crab fisheries; crab processing restrictions on AFA

motherships and AFA inshore processors that receive pollock harvested by a cooperative in a BSAI directed pollock fishery, an excessive share harvesting cap that prohibits any single entity from harvesting more than 17.5 percent of the BSAI pollock TAC, and revised interim groundfish harvest specifications for the BSAI and GOA.

This emergency action also establishes interim 2000 harvest sideboard amounts for AFA catcher/processors and AFA catcher vessels, and issues sideboard directed fishing closures for AFA catcher/processor and AFA catcher vessels in various fisheries. This emergency action is necessary to provide inshore pollock cooperatives with allocations of pollock for the 2000 fishing year as required by the AFA. This emergency action also is necessary to implement sideboard restrictions to protect participants in other Alaska fisheries from negative impacts as a result of fishery cooperatives formed under the AFA.

DATES: Effective January 21, 2000 through July 20, 2000, except for § 679.5, paragraphs (a)(4)(iv), (f)(3), (i)(1)(iii), and (o) and § 679.60(d), which, upon approval under the Paperwork Reduction Act of the information collections in these provisions will be made effective through separate notification in the **Federal Register**. Comments on this emergency interim rule must be received by February 28, 2000.

ADDRESSES: Comments must be sent to Sue Salvesson, Assistant Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Comments will not be accepted if sent by e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for this action may be obtained from the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501, 907-271-2809. Send comments on collection-of-information requirements to the Alaska Region, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries in the exclusive economic zone of the