Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action'' under that order because it is not a "significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined that this final rule does not significantly impact the environment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security delegation no. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From May 1, 2004 through December 1, 2004, § 117.799 is amended by suspending paragraph (g) and adding a new paragraph (k) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(k) The Long Beach Bridge, mile 4.7, across Reynolds Channel, shall open on signal; except that, only one lift span need be opened for vessel traffic, on the even hour, 8 a.m. to 4 p.m., daily.

Dated: March 17, 2004.

Vivien S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 04–7336 Filed 3–31–04; 8:45 am]

BILLING CODE 4910–15–U

POSTAL SERVICE

39 CFR Part 111

Required Number of Pieces Increased for 5-Digit and 5-Digit Scheme Packages of Low-Weight Standard Mail Flats

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the implementing *Domestic Mail Manual* (DMM) standards to raise the required minimum number of pieces from 10 to 15 at which 5-digit and, for certain automation-compatible mail, optional 5-digit scheme presort destination packages are prepared in a Standard Mail job consisting of flat-size pieces each weighing no more than 5 ounces (0.3125 pound) and measuring no more than ¾ inch thick.

This final rule will increase processing efficiencies, reduce the overall production of packages (bundles) of certain Standard Mail flat-size pieces, and decrease overall Postal Service piece and bundle handling costs based on extensive Postal Service modeled estimates.

DATES: *Effective date:* April 1, 2004. Mailings presented for verification and acceptance after 12:01 a.m. on Sunday, August 1, 2004, must comply with this rule.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, Product Redesign, at (703) 292–3747; or Neil Berger, Mailing Standards, at (703) 292–3645.

SUPPLEMENTARY INFORMATION: Under current mailing standards, mailers have the option to prepare 5-digit and 5-digit scheme presort destination packages (collectively referred to in this final rule as 5-digit packages) of Standard Mail flat-size pieces not more than ¾ inch thick, regardless of the piece weight, whenever there are as few as 10 pieces to the same 5-digit ZIP Code or to the same 5-digit scheme destination in *Domestic Mail Manual* (DMM) L007. Under these same standards, mailers must prepare such packages when there are 17 or more pieces to these destinations. If a mailer selects an optional minimum 5-digit package size from 10 to 16 pieces, that same package size must be used consistently throughout the mailing job for all 5-digit packages.

The current mailing standards allowing the variable package minimums were implemented on September 5, 2002, and gave mailers the option to select a number from 10 to 17 as the minimum number of pieces at which 5-digit packages are prepared in a Standard Mail job of flat-size pieces no more than ¾ inch thick, without regard to the weight of the individual pieces. Prior to that date, mailers were required to prepare 5-digit packages whenever there were 10 or more pieces to the same 5-digit ZIP Code destination. Effective January 9, 2003, mailing standards were further amended to permit the preparation of optional 5-digit scheme packages under DMM L007 using the same flexible minimum of 10 to 17 pieces. Under current mailing standards, mailers may still prepare 5-digit packages with as few as 10 pieces.

The Postal Service had adopted the current optional 5-digit package minimum (optional with 10 to 16 pieces, required with 17 pieces) based in large part on an examination of the productivities and piece processing efficiencies of the automated flat sorting machine (AFSM) 100, which can handle flat-size pieces up to ¾ inch thick. Furthermore, as a result of the combined ⅗ rate, a change to the 5-digit package minimum would have little impact on postage.

Initial analysis of piece, package, and container handling costs indicated that the appropriate minimum for 5-digit packages of Standard Mail flat-size pieces is, on average, above 10 pieces, and that the minimum could be further increased for flats likely to be processed on the AFSM 100. AFSM 100-compatible flats are limited to pieces measuring no more than 12 inches high, 15 inches long, and ¾ inch thick. (Only flat-size pieces claimed and prepared at automation rates and meeting the

standards for the upgraded flat sorting machine (UFSM) 1000 may measure up to 1¼ inches thick. All other flat-size pieces may not measure more than ¾ inch thick.)

Increasing the minimum for 5-digit packages of such pieces could help reduce overall Postal Service processing costs, with the additional AFSM 100 piece handlings for pieces moving from 5-digit to 3-digit packages more than offset by reduced package handling costs. Package handling costs include processing the packages, either on a small parcel and bundle sorter (SPBS) or manually, and opening the packages in preparation for piece processing.

With the changes announced in this final rule, mailers will not be permitted to prepare 5-digit packages until there are 15 or more pieces to a 5-digit ZIP Code or optional 5-digit scheme destination for Standard Mail mailings of flat-size pieces that each weigh no more than 5 ounces and measure no more than ¾ inch thick. For mailings that contain any pieces that weigh more than 5 ounces, and for UFSM 1000 automation rate flats measuring more than ¾ inch thick, regardless of weight, mailers will be required to prepare 5-digit packages whenever there are 10 or more pieces to a destination. For ease of administration, mailers will use the 10-piece package minimum for mailings of nonidentical-weight pieces if any pieces in the mailing weigh more than 5 ounces.

Comments

Background

On December 11, 2003, the Postal Service published a proposed rule in the **Federal Register** (68 FR 69066–69069) that contained changes to mailing standards in the *Domestic Mail Manual* (DMM) to raise the required minimum number of pieces from 10 to 15 at which 5-digit presort destination packages are prepared in a Standard Mail job consisting of flat-size pieces each weighing no more than 5 ounces (0.3125 pound) and measuring no more than ¾ inch thick. The Postal Service received comments on the proposed rule from four different parties, all involved in some aspect of mail or in the actual preparation of mail: an individual mailer, a third-party printer and mail house, a mailers' association, and a software developer. The Postal Service appreciates these comments and responds to them below.

Implement as an Option

Three of the four commenters urged that this change be implemented as an option rather than a requirement. One commenter believed that most mailers have not had adequate time to analyze how this change would affect their mailing operations, costs, and service. One of the commenters was particularly concerned about the possible erosion of delivery service for mail migrating from 5-digit packages to 3-digit packages.

One of the commenters believed that this change contradicts the Postal Service goal in the Transformation Plan of striving for flexibility and rule simplification as a means to attract more mailers and increase mail volumes and revenues. This same commenter noted that increasing the 5-digit package minimum to 15 pieces appeared less flexible than the current requirement that permits a package minimum to range from 10 to 17 pieces.

One commenter stated that this change should be implemented as an option and not a requirement until its impact on Postal Service costs can be determined.

Two commenters stated that the change would complicate rather than simplify Standard Mail preparation because of the weight threshold, and one questioned whether presort software developers and mail preparers would understand the change and be able to handle mailings of nonidentical-weight pieces with piece weights varying above and below 5 ounces.

The Postal Service has carefully reviewed these comments and would like to respond specifically to the concerns expressed about the impact on Postal Service costs, the potential erosion of service, and rule complexity in the following sections.

(1) Impact on Postal Service Costs

On September 5, 2002, the Postal Service introduced the 17-piece minimum option as announced in the **Federal Register** on August 20, 2002 (67 FR 53880–53882). The original modeling conducted by the Postal Service for piece, package, and container handling costs indicated that the appropriate minimum number of pieces for 5-digit packages of flat-size Standard Mail pieces was above 10 and that it could be increased up to 17 pieces for flats likely to be processed on the automated flat sorting machine (AFSM) 100. That original modeling also indicated that changing the minimum package size for 5-digit packages would decrease the Postal Service combined package and piece handling costs and, at the same time, should reduce overall production costs for mailers.

Additional Postal Service modeling conducted since the 10-to 17-piece package minimum was implemented, as well as analysis of mailer-provided data for a variety of actual Standard Mail mailings prepared using the current optional 17-piece 5-digit package minimum, both support the Postal Service conclusion that the refined specifications in this final rule will reduce overall Postal Service piece and package handling costs. The data collected from these mailings identified reductions in total 5-digit and 3-digit packages that averaged 29 percent for mailings of pieces weighing no more than 5 ounces. These same mailings also showed an inverse relationship between piece weights exceeding 5 ounces and the cost benefits; that is, as the piece weights increased beyond 5 ounces, the benefits decreased.

An informal survey of the mailing industry revealed that a relatively small number of mailers are taking advantage of the option to set their 5-digit package minimum higher than 10 pieces (up to 17 pieces) and there is no expectation that making the 15-piece minimum optional would result in greater use by the mailing industry. With such limited participation by the mailing industry, the Postal Service and mailers are unable to realize the potential cost saving opportunities associated with fewer package handlings, particularly for mailings of low-weight pieces. Thus a requirement is the best way to achieve the cost savings.

(2) Potential Erosion of Service

The Postal Service believes that this migration of pieces from 5-digit to 3-digit packages will produce no noticeable delays in delivery of those pieces. In fact, mailers now using the current package option (for example, 5-digit packages not prepared with fewer than 17 pieces) have reported no erosion of service for flat-size mailpieces that have moved from 5-digit to 3-digit packages. The Postal Service would like to point out that its internal operations have greatly improved the efficiency with which mailpieces in 3-digit packages are processed and distributed in today's automated environment.

The benefits of this change result, in large measure, from productivities and piece processing efficiencies of the AFSM 100, which can process pieces up to ¾ inch thick. Pieces greater than ¾ inch are generally processed on the UFSM 1000 at significantly lower productivities than if processed on the AFSM 100. This recognition of how mail is processed may help to explain why mailers using the current 17-piece option have not reported a negative impact in service.

(3) Rule Complexity

The Postal Service and the mailing industry have explored the issue of different possible minimums for the Standard Mail 5-digit package level since 2002 and have jointly determined that software would be able to support such a change. Although not required for this rule change, use of software certified under the Postal Service Presort Accuracy Validation and Evaluation (PAVE) program would help to ensure proper mail preparation. Ongoing discussions and exchanges between the mailing industry and the Postal Service indicated that using a set minimum rather than a "floating'' or variable minimum, along with a set weight maximum of 5 ounces and a set thickness maximum of ¾ inch would not add undue complexity to mail preparation.

The Postal Service also wishes to point out that software used for many other mail preparation standards, such as the advanced preparation options for flat-size mail, requires more sophisticated programming, even though the end user is scarcely aware of the complicated code behind the actual software application.

For those mailers who prepare mailings of nonidentical-weight pieces through selective binding or comailing operations, the Postal Service believes that implementing the rule to have mailers use the 10-piece 5-digit package minimum whenever the mailing will contain any pieces over 5 ounces should avoid sortation errors during list processing and mail preparation.

Although the current optional 10-piece to 17-piece minimum does provide mailers with more flexibility than the new minimums in this final rule, the fact is that most mailers have not changed their mail preparation and continue to use the 10-piece minimum for all mailings while other mailers use the 17-piece minimum for all Standard Mail mailings, including mailings of pieces well over 5 ounces. As a result, the Postal Service and Standard Mail mailers are not achieving current cost savings opportunities that are available with a minor change to the rules.

Wait for Cost-Based Rates

Two of the commenters stated that this change should be presented as an option rather than a requirement until cost-based rates have been implemented, when prices rather than rules can control Postal Service costs.

One commenter noted that even though the new package minimum of 15 pieces has no rate implication for Standard Mail pieces because both 5-digit and 3-digit sortation levels for flat-size mail are charged the same 3/5 rate, that it could certainly have rate implications if a similar minimum package size of 15 pieces were applied to other classes of mail. That commenter did not believe that changes to the rules for minimum package size were appropriate at this time and that the Postal Service should wait until it implements cost-based pricing, when pieces and packages will cover their equitable share of Postal Service costs.

The issue of cost-based rates is outside the scope of this final rule. However, the Postal Service wishes to assure the mailing industry that it is continuing to pursue its cost-based rates product redesign initiative, developed with the mailing industry. The Postal Service believes that the change in this final rule will allow the mailing industry and the Postal Service to take advantage of opportunities to improve flats processing efficiencies and restrain costs under the current rate structure.

It must be noted that approximately 40 percent of Postal Service mail processing costs for Standard Mail flats are associated with package and container handlings. Implementation of this change for Standard Mail flats will help to reduce these costs. As the Postal Service continues to seek ways to align rates and preparation requirements with customer needs and capabilities in the future, it also seeks ways to provide mail preparation standards that reduce combined Postal Service and mailer costs that do not require changes to the current rate structure, that can be implemented in the near future, and that are consistent with the future Postal Service operations environment. The Postal Service has no intention of extending this rule change to other classes of mail independent of an omnibus rate case or mail classification case that may include mail preparation and rate changes.

Postpone Implementation Date

Two commenters stated that the implementation date of April 4, 2004, as published in the proposed rule, would not provide sufficient time to prepare for this mail preparation change. One commenter recommended that the Postal Service provide adequate training for Postal Service employees on any modifications to the use of the Mail Evaluation Readability Lookup Instrument (MERLIN) and any related MERLIN software updates so that mail acceptance will not be delayed if this change is implemented.

The software developer, in particular, presented several concerns about the implementation date. The developer explained that the proposed implementation date of April 4, 2004, would not provide sufficient time to write and test required software changes, have the software tested and certified by the Postal Service under its PAVE program, and distribute the software to its customer base.

In view of the extremely practical concerns cited by the mailers and the software developer, as well as the need to give adequate notice about this change to the mailing industry and Postal Service personnel, the Postal Service will postpone the effective date of this change to August 1, 2004. The Postal Service believes that this additional time ensures that software developers, Standard Mail mailers, and Postal Service employees will have sufficient time to prepare for this change.

Although mailers using the new 15-piece 5-digit package minimum are not required to use PAVE-certified software (except for palletized mailings prepared under the package reallocation option in DMM M045, or mailings prepared under DMM M920, M930, or M940), PAVE tests will be available for presort software vendors to test this new minimum.

The required date to begin using the 15-piece 5-digit package minimum is August 1, 2004. At that time, mailings presented for verification and acceptance that consist of any flat-size pieces weighing more than 5 ounces or any automation rate pieces measuring more than ¾ inch thick, regardless of weight, will no longer be permitted to use a 5-digit package minimum greater than 10 pieces. Also on that date, mailings presented for verification and acceptance that consist of flat-size pieces weighing no more than 5 ounces (and measuring no more than ¾ inch thick) will not be permitted to use a 5-digit package minimum other than 15 pieces.

Before the August 1 implementation date, preferably as soon as practical, the Postal Service recommends that mailers begin using a minimum of 15 pieces for 5-digit and optional 5-digit scheme package preparation permitted as an option under current mailing standards for mailings of pieces that weigh no more than 5 ounces. This would be especially critical for mailings scheduled for production before August 1 but with a verification and acceptance date after August 1. The Postal Service also recommends that mailers limit the number of packages they produce and take necessary steps to ensure package integrity by setting their maximum package size as close to the maximums permitted in DMM M020, particularly

for packages prepared on pallets (*e.g.*, 20 pounds).

As part of this final rule, DMM E620.2.0 Presorted Rates, is reorganized in its entirety. Other than 5-digit package minimum, no other minimums in DMM E620 have been changed.

For the reasons presented in the proposed rule and those noted above in this final rule, the Postal Service adopts the following changes in the *Domestic Mail Manual* (DMM), which is incorporated by reference in the *Code of Federal Regulations* (CFR). See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

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, 3626, 5001.

■ 2. Revise the following sections of the *Domestic Mail Manual* (DMM) as follows:

Domestic Mail Manual (DMM)

* * * * *

E Eligibility

* * * * *

E600 Standard Mail

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E620 Presorted Rates

1.0 BASIC STANDARDS

1.1 All Pieces

All pieces in a Regular Standard Mail or Nonprofit Standard Mail Presorted rate mailing must:

* * * * *

[Revise 1.1b to read as follows:]

b. Except as provided in 1.2, be part of a single mailing of at least 200 addressed pieces or 50 pounds of pieces qualifying for Presorted Standard Mail. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Regular and Nonprofit mailings must meet separate minimum volumes.

* * * * *

2.0 RATES

[Revise 2.0 by reorganizing text to read as follows:]

2.1 Application

Presorted rates for Regular and Nonprofit Standard Mail apply to letters, flats, and machinable and irregular parcels that meet the eligibility standards in E610 and the preparation standards in M045, M610, M800, or, for flat-size mail only, M900.

2.2 Basic Rate

The basic rate applies to pieces that do not meet the standards for 3/5 rates described in 2.3.

2.3 3/5 Rates

The 3/5 rate applies to qualifying pieces if they are presented:

a. For letter-size pieces (see C050.2.0), in quantities of 150 or more pieces for a single 3-digit ZIP Code prefix area, prepared in 5-digit or 3-digit trays.

b. For flat-size pieces (see C050.3.0):

(1) In a 5-digit scheme (under M950) or 5-digit package of 10 or more pieces, or 15 or more pieces, as applicable; or in a 3-digit package of 10 or more pieces; placed in a 5-digit scheme (under M920), 5-digit, or 3-digit sack containing at least 125 pieces or 15 pounds of pieces.

(2) In a 5-digit package of 10 or more pieces, or 15 or more pieces, as applicable, that is part of a group of packages sorted to a merged 5-digit or merged 5-digit scheme (under M920) sack that contains either at least one qualifying carrier route package of 10 or more pieces, or contains at least 125 pieces or 15 pounds of pieces prepared in 5-digit packages (both automation and Presorted rate 5-digit packages count toward the 125-piece or 15-pound sack minimum).

(3) In a 5-digit scheme (under M950) or 5-digit package of 10 or more pieces, or 15 or more pieces, as applicable; or in a 3-digit package of 10 or more pieces; palletized under M045, M920, M930, or M940.

c. For machinable parcels (see C050.4.0):

(1) In a 5-digit scheme (L606), 5-digit, ASF, or BMC sack containing at least 10 pounds of parcels. (The 3/5 rates are available only when all possible 5-digit scheme and 5-digit sacks are prepared.)

(2) On a 5-digit scheme (L606), 5-digit, ASF, or BMC pallet. (The 3/5 rates are available only when all possible 5-digit scheme and 5-digit pallets are prepared.)

d. For irregular parcels (see C050.5.0), in a 5-digit scheme (L606), 5-digit, or 3-digit sack containing at least 125 parcels or 15 pounds of parcels. (The 3/5 rates are available only when all possible 5-digit scheme and 5-digit sacks are prepared.)

e. For commingled machinable and irregular parcels, in a 5-digit scheme (L606) or 5-digit sack containing at least 10 pounds of parcels.

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E640 Automation Rates

1.0 REGULAR AND NONPROFIT RATES

* * * * *

1.5 Rate Application—Flats

Automation rates apply to each piece that is sorted under M045, M820, or M900 into the corresponding qualifying groups:

[Revise 1.5a to read as follows:]

a. Pieces in 5-digit or 5-digit scheme packages of 10 or more pieces, or 15 or more pieces, as applicable, or in 3-digit packages of 10 or more pieces qualify for the 3/5 automation rate.

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M Mail Preparation and Sortation

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M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

* * * * *

4.0 PREPARATION—FLAT-SIZE PIECES

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4.2 Packaging and Labeling

Preparation sequence, package size, and labeling:

[Revise 4.2a to read as follows:]

a. 5-digit (required):

(1) For mailings containing only pieces weighing 5 ounces (0.3125 pound) or less: 15-piece minimum; red Label 5 or optional endorsement line (OEL).

(2) For mailings containing any pieces weighing more than 5 ounces (0.3125 pound): 10-piece minimum; red Label 5 or OEL.

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M800 All Automation Mail

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M820 Flat-Size Mail

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5.0 STANDARD MAIL

5.1 Packaging and Labeling

Preparation sequence, package size, and labeling:

[Revise 5.1a and 5.1b to read as follows:]

a. 5-digit scheme (optional):

(1) For mailings containing only pieces weighing 5 ounces (0.3125 pound) or less: 15-piece minimum; optional endorsement line (OEL) required.

(2) For mailings containing any pieces weighing more than 5 ounces (0.3125 pound): 10-piece minimum; OEL required.

b. 5-digit (required):

(1) For mailings containing only pieces weighing 5 ounces (0.3125 pound) or less and measuring ¾ inch thick or less: 15-piece minimum; red Label 5 or OEL.

(2) For mailings containing any pieces weighing more than 5 ounces (0.3125 pound) or measuring more than ¾ inch thick: 10-piece minimum; red Label 5 or OEL.

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M900 Advanced Preparation Options for Flats

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M950 Co-Packaging Automation Rate and Presorted Rate Pieces

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3.0 STANDARD MAIL

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3.2 Package Preparation

Package size, preparation sequence, and labeling:

[Revise 3.2a and 3.2b to read as follows:]

a. 5-digit scheme (optional):

(1) For mailings containing only pieces weighing 5 ounces (0.3125 pound) or less: 15-piece minimum; optional endorsement line (OEL) required.

(2) For mailings containing any pieces weighing more than 5 ounces (0.3125 pound): 10-piece minimum; OEL required.

b. 5-digit (required):

(1) For mailings containing only pieces weighing 5 ounces (0.3125 pound) or less and measuring ¾ inch thick or less: 15-piece minimum; red Label 5 or OEL.

(2) For mailings containing any pieces weighing more than 5 ounces (0.3125 pound) or measuring more than ¾ inch thick: 10-piece minimum; red Label 5 or OEL.

* * * * *

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 04–7123 Filed 3–31–04; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22 and 24

[WT Docket No. 01–108; FCC 04–22]

Public Mobile Services and Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission affirms the decision to establish a five-year sunset period for the removal of the Commission's requirement that cellular carriers provide analog service. The Commission also affirms the decision to remove the rule section governing electronic serial numbers (ESNs) in cellular telephones, but clarifies that the fraudulent and unauthorized use of ESNs remains contrary to federal law and Commission policy. Further, the Commission reconsiders and adopts a proposal to permit, in certain circumstances, cellular carriers to extend into neighboring unserved areas without prior Commission approval. The Commission also declines a request to further modify its rules regarding emissions limitations.

DATES: Effective June 1, 2004, except for a provision in the preamble this document permitting cellular carriers to extend into unserved areas of less than fifty square miles on a secondary basis, that is not effective until approved by the Office of Management and Budget (OMB) because it modifies information collection requirements. The agency will publish a document in the **Federal Register** announcing the effective date of the modified information collection.

FOR FURTHER INFORMATION CONTACT: Roger Noel or Linda Chang, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Order on Reconsideration,* FCC 04–22, adopted February 4, 2004, and released February 12, 2004. The full text of the Order on Reconsideration is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail at *qualexint@aol.com.*

Synopsis of Report and Order

I. Background

1. As part of its Year 2000 Biennial Review of regulations, the Commission issued a Report and Order, 67 FR 77175, December 17, 2002, in which it amended part 22 of its rules by modifying or eliminating various regulations relating to the Cellular Radiotelephone Service that became outdated due to technological change, increased competition in the Commercial Mobile Radio Services (CMRS), or supervening rules. Pursuant to section 11 of the Communications Act of 1934, as amended (Act), *see* 47 U.S.C. 161, the Commission re-examined its cellular rules in order to determine whether any of the rules are no longer necessary in the public interest as a result of the technological advances and growth in competition that have occurred in mobile telephony since the rules were first promulgated. As a result of this review, the Commission made several changes to its cellular rules, including: Modifying its rules to eliminate, after a five-year transition period, the requirement that carriers provide analog service compatible with Advanced Mobile Phone Service (AMPS) specifications; removing the manufacturing requirements found in § 22.919 governing electronic serial numbers in cellular telephones, and; modifying language in §§ 22.917 and 24.238 regarding out-of-band emission limits. The Commission also addressed a number of other part 22 issues raised by commenters, such as various proposals seeking to overhaul its cellular unserved area licensing framework.

2. In response to the *Report and Order,* petitions for reconsideration were filed by AT&T Wireless Services (AWS), the Cellular Telephone and Internet Association (CTIA), and Dobson Communications Corporation (Dobson). Further, Lucent Technologies (Lucent) submitted comments in response to a Public Notice seeking comment regarding the 2002 Biennial Regulatory Review proceeding which were incorporated into this proceeding.

II. Discussion

A. The Commission Did Not Err in Establishing a Five-Year Sunset Period for the Analog Requirement

3. *Background.* Since the establishment of the Cellular Radiotelephone Service in the early 1980s, all cellular carriers have been required to provide service in accordance with the compatibility standard for analog systems, known as