

Table 2 to Paragraph (e)(3)(i)

Unit Number	Imputed Income Limitation of the Unit
1	80 percent of AMGI
2	80 percent of AMGI
3	80 percent of AMGI
4	80 percent of AMGI
5	60 percent of AMGI
6	40 percent of AMGI
7	40 percent of AMGI
8	40 percent of AMGI
9	40 percent of AMGI
10	40 percent of AMGI

* * * * *

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POSTAL SERVICE

39 CFR Part 111

**New Mailing Standards for the
 Separation of Hazardous Materials**

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending Publication 52, *Hazardous, Restricted, and Perishable Mail* (Pub 52), to incorporate new requirements for mailers to separate, into identifiable containers, all hazardous material (HAZMAT) requiring hazardous marks or labels from other mail when tendering to the Postal Service. The Postal Service is also adopting related standard operating procedures to ensure the proper handling and routing of identified HAZMAT products. Additionally, the Postal Service will now require used, damaged, or defective

electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) containing or packed with lithium batteries to be mailed only via surface transportation and to bear specified markings.

DATES: *Effective date:* This rule is effective December 1, 2022.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy, (202) 268–6592, or Jennifer Cox, (202) 268–2108.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service hereby amends Publication 52, *Hazardous, Restricted, and Perishable Mail*, with the provisions set forth herein. While not codified in Title 39, Code of Federal Regulations (CFR), Publication 52 is a regulation of the Postal Service, and changes to it may be published in the **Federal Register**. 39 CFR 211.2(a)(2). Moreover, Publication 52 is incorporated by reference into *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)* section 601.8.1, which is incorporated by reference, in turn, into the Code of Federal Regulations. 39 CFR 111.1, 111.3. Publication 52 is publicly available, in a read-only format, via the

Postal Explorer® website at <https://pe.usps.com>. In addition, links to Postal Explorer are provided on the landing page of *USPS.com*, the Postal Service’s primary customer-facing website, and on *Postal Pro*, an online informational source available to postal customers.

On June 6, 2022, the Postal Service published an interim final rule (IFR) (87 FR 34197) requiring mailers to separate HAZMAT requiring marks or labels from non-hazmat and tender it to the Postal Service in containers labeled “HAZMAT.”

Undeclared, unidentified, mislabeled, and misrouted HAZMAT can and does cause fires, spills, corrosion, and other dangers to personnel and equipment of the Postal Service, air carriers, and surface transportation providers, as well as to mailers’ property and to aircraft passengers.

In particular, the increasing consumer use of lithium metal and lithium-ion batteries has brought a concomitant rise in fires and other dangerous incidents related to such batteries. The Federal Aviation Administration (FAA) has publicly reported 398 aviation incidents involving lithium batteries between March 3, 2006, and July 22, 2022, including a substantial number in just the most recent twelve months. FAA, *Events with Smoke, Fire, Extreme Heat,*

or Explosion Involving Lithium Batteries, May 1, 2022, <https://go.usa.gov/xusNT>.¹

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has similarly reported a number of incidents involving mail between 2014 and 2021. See PHMSA, Incident Statistics, last updated March 9, 2022, <https://go.usa.gov/xJrSS>. One-third of the PHMSA-reported mail incidents occurred on passenger aircraft; approximately half were discovered because of a thermal or release event; and more than half were discovered only after flight. A plurality of such items were Class 9 items such as lithium batteries, and many were ineligible for air transportation. Moreover, in recent compliance inspections, PHMSA investigators “routinely saw shippers and carriers improperly package and ship lithium batteries for disposal or recycling,” including “packaging lithium batteries in a way that did not prevent short circuits, mixing damaged lithium batteries with other batteries in the same packaging within shipments for disposal or recycling, and shipping pallet loads of batteries in boxes and drums with inappropriate identification of the packages’ contents.” PHMSA, Safety Advisory Notice for the Disposal and Recycling of Lithium Batteries in Commercial Transportation 1–2, May 17, 2022, <https://go.usa.gov/xJY3J>.

Internal Postal Inspection Service data and anecdotal reports from commercial air-carrier partners over the last few years likewise indicate a consistent and alarming rise in incidents involving mailed packages of both lithium batteries and other HAZMAT, including flammable liquids, aerosols, and strike-anywhere matches. Incidents include unlabeled or improperly labeled air-ineligible HAZMAT being accepted for air transportation, as well as properly prepared air-ineligible HAZMAT that was improperly routed to air transportation because it was commingled with other mail and insufficiently visible to Postal Service personnel.

The FAA and PHMSA have issued standards for safe carriage of lithium batteries, including a prohibition on air transportation of damaged, defective, or recalled lithium batteries. See, e.g., 49 CFR 173.185. However, the determinants of hazard risk, such as damage, defects, state of charge, or packaging of batteries, are not outwardly apparent to Postal Service and other personnel handling packages. In other

respects, as well, safety depends on a shipper’s awareness of and compliance with packaging, labeling, marking, and other HAZMAT shipping requirements. If a shipper does not make HAZMAT adequately visible to Postal Service personnel responsible for acceptance and sortation, then there is an unacceptably high risk that postal and air-carrier personnel will not know that the item warrants special handling and routing.

While many incidents involving HAZMAT in the mail are minor and controllable, the risk of a major threat to an aircraft—including, in particular, passenger aircraft—and other infrastructure and personnel is real, severe, and growing with the rise in lithium-battery and other hazardous shipments. By way of illustration, the U.S. Coast Guard (USCG) recently reported that on August 19, 2021, a shipping container loaded with discarded lithium batteries caught fire, with heat intense enough not only to destroy much of the cargo, but also to burn a hole in the container’s structure itself. USCG, Marine Safety Alert: Lithium Battery Fire, March 10, 2022, <https://go.usa.gov/xJYxu>. USCG noted that the incident would have been “catastrophic” if it had occurred after loading onto the container ship. The same could be said if a similar fire arose from discarded lithium batteries aboard passenger aircraft. It is imperative that the Postal Service undertake measures to reduce the risk to its operations and aviation safety.

On August 3, 2020, the Postal Service published a notice of proposed rulemaking regarding a proposed requirement to separate air-eligible HAZMAT from all other matter in a mailing. 85 FR 46575. The Postal Service received several comments on that notice, and it appreciates the valuable public input. In particular, multiple commenters expressed support for the proposition of separating HAZMAT from non-HAZMAT matter and for further improving the Postal Service’s ability to ensure that air-ineligible HAZMAT is not inadvertently loaded onto air transportation. Further study and intervening events have made clear that the August 3, 2020 proposal would not be sufficiently effective to mitigate the risk that HAZMAT poses to other mail, postal and air-carrier equipment and personnel, commercial air passengers, and the public at large. In lieu of the earlier proposal, therefore, the Postal Service adopted the three measures described in the June 6, 2022, IFR. 87 FR 34197. While the IFR was made immediately effective, the Postal Service nonetheless invited public

comments on the new measures. The Postal Service now restates those measures herein, with slight modifications, as part of this final rule, and responds to the public comments received.

Summary of New Measures

In addition to preexisting packaging, labeling, and marking requirements and other conditions for mailability, two conditions are necessary to ensure the proper handling and routing of HAZMAT.

The first condition is *visibility*: the Postal Service must be aware of HAZMAT shipments in order to accord them appropriate attention. A HAZMAT package can easily evade postal HAZMAT processing if it is nestled beneath non-HAZMAT packages in a bulk mail receptacle. Moreover, the Postal Service is obligated to separate HAZMAT from non-HAZMAT when presenting items to certain suppliers, an obligation which the Postal Service cannot adequately fulfill under current circumstances. To address this problem, the final rule requires mailers tendering a mix of HAZMAT and non-HAZMAT items to present them separately, including in separate mail receptacles except for destination entered mail entered at a Destination Delivery Unit (DDU), Destination Sectional Center Facility (DSCF), or Destination Network Distribution Center (DNDC). In contrast with the 2020 proposed rule, customers are required to separate *all* HAZMAT from non-HAZMAT, rather than only air-eligible HAZMAT, from other mail. While visibility is important for air-eligible HAZMAT to ensure proper handling, it is also important that surface-only HAZMAT not be erroneously routed to air transportation due to commingling with non-HAZMAT. Separating all HAZMAT from non-HAZMAT will reduce the likelihood of commingling and increase the opportunity for Postal Service personnel to determine the proper procedures for any HAZMAT items presented.

The second condition is *separation integrity*: once recognized, the Postal Service must ensure that HAZMAT is identifiable from non-HAZMAT, lest it be improperly handled or routed.

This final rule also maintains the specific labeling requirements contained in the IFR for packages containing used, damaged, or defective electronic devices containing or packed with lithium batteries and prohibits them from eligibility for any Postal Service product that makes routine use of air transportation. However, the final rule now specifically excludes devices that

¹ The FAA notes that the publicly reported incidents do not represent all incidents reported to the FAA, let alone all such incidents at large.

are new in original packaging, and manufacturer certified new/refurbished.

Among other things, mailings covered by the new requirements include used items sent pursuant to e-commerce or private sales transactions; lost items being returned to the owner; and items sent for repair, replacement, upgrade, warranty service, diagnostics, recycling, or insurance claims. Again, for clarity, the term used electronic devices excludes those that are new in original unopened manufacturer packaging or manufacturer certified new/refurbished devices.

The Postal Service and its partner air carriers have identified used, damaged, and defective electronic devices containing or packed with lithium batteries as a particular and growing cause of lithium-battery incidents. Indeed, damaged, defective, and recalled lithium cells and batteries are already ineligible for air transportation. 49 CFR 173.185(f). Beyond devices with damage or defects to batteries themselves, such devices may also have other damage or defects that increase the chances of exposure and ignition of even an intact battery. Moreover, such devices are highly likely to be packaged without original packaging and have batteries in various conditions and varying states of charge. In contrast with new electronic devices in manufacturers' original packaging or manufacturer certified new/refurbished devices, consumers sending used, damaged, and defective electronic devices are less likely to be aware of HAZMAT requirements, let alone to comply with them.

As a result of these factors, lithium batteries in used, damaged, and defective electronic devices pose a particular hazard, as demonstrated by numerous incidents reported to the Postal Service as involving such items. To reduce the risk of such incidents occurring on air transportation, the Postal Service will restrict used, damaged, and defective electronic devices containing or packaged with lithium batteries to surface transportation. Consequently, such items will be prohibited in inbound and outbound international mail; mail to, from, and between overseas military and diplomatic addresses; and mail to, from, and within certain domestic locations for which the Postal Service lacks surface transportation. Moreover, to ensure adequate visibility, the Postal Service will require that packages containing used, damaged, and defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) containing or

packaged with lithium batteries be marked "Restricted Electronic Device" and "Surface Transportation Only," in addition to any other applicable markings.

The Postal Service determined that, due to the urgency of the danger to personnel, property, passengers, and the public, it was necessary to implement the IFR immediately. Nonetheless, the Postal Service provided the public with a 30-day public comment period. The Postal Service received submissions from 17 commenters. As explained in the next section, the Postal Service has reviewed and considered these comments. As a result, the Postal Service has adopted one minor change to exclude from requirements for use of surface transportation products only those devices that are new, manufacturer certified as new or refurbished, and devices contained in new unopened packaging. For the reasons articulated below, the remainder of the IFR remains largely unchanged.

Comments Regarding Restrictions on Electronic Devices and Batteries

The Postal Service received several comments relating to the rule's restrictions on shipping electronic devices and cell phones with lithium batteries.

Several commenters voiced concern regarding the definition of a "used, damaged, or defective electronic device," claiming the definition is unclear and overly restrictive. One commenter recommended changing the definition to "is not new and some form of battery damage or defect" and excluding "refurbished to fully functioning and non-defective state." Another noted that the inability to ship individual used phones via the Postal Service will cause significant upheaval in the electronics and e-commerce industries and observed the importance of distinguishing bulk shipments from the shipment of individual devices. Additionally, a cruise line company noted that it frequently ships such lost and found devices that customers leave on board its vessels back to customers.

The Postal Service has considered the impact of its rule regarding used electronic devices containing or packed with lithium batteries and recognizes the importance of narrowly tailoring the scope of devices included to address the risk posed by lithium batteries without imposing undue burden on customers shipping devices which pose a diminished risk. To that end, the Postal Service has revised its definition to explicitly exclude from requirements for use of surface transportation products

only those devices that are new, manufacturer certified as new or refurbished in new, unopened packaging from these requirements. While the Postal Service recognizes that this may not be as expansive as suggested by some of the commenters, the revised definition narrows the devices covered by the rule to exclude those that pose a diminished risk, while continuing to limit shipments of devices more prone to causing dangerous and potentially catastrophic events.

Comments Regarding Impact on Rural Customers and Areas Without Access to Surface Transportation

The Postal Service received several comments regarding the impact of the final rule on rural and otherwise hard to reach communities. One commenter broadly noted that rural and hard to reach communities would be particularly disadvantaged by the new rules. One Alaskan native village noted that air transportation is the only available means of delivery to their respective locations and the rule's restrictions would essentially cut off their communities. An air carrier serving Alaska made similar observations.

The Postal Service recognizes the importance of serving rural and hard to reach communities which depend on air transportation because surface transportation is otherwise unavailable. For those ZIP Codes that are air transportation only, an air transportation solution may be utilized to transport used, damaged, or defective electronic devices containing or packed with lithium batteries due to the absence of ground transportation. In these rare cases, this allowance is deemed to be a lower level of risk based on the design of the aircraft used, how the cargo is stored, limited passenger capacity, flight duration, and other considerations. The final rule includes a list of 5-digit ZIP Codes where this exception applies, to be found in Appendix F of Publication 52.

Comments Regarding Training, Education, and Timing

The Postal Service received several comments regarding the need for additional training, education, and messaging to ensure understanding of and compliance with the new rules. Relatedly, several commenters noted the burden that the immediate effectiveness of the IFR placed on mailers.

A commercial passenger airline broadly supported the enhancements to the Postal Service's existing rules but noted the importance of the Postal Service taking steps to further educate

shippers on the hazards posed to air carriers by dangerous goods and equipping them with the tools needed to ensure compliance in both their operations and their engagement with customers. One commenter noted the need for additional employee training, including increased efforts to identify and hold accountable those companies which fail to comply with the new rule. A few industry groups commented that additional time is needed to train employees and update training materials to ensure compliance. One commented that the rule offered too little notice to comply, suggesting a 6–12-month grace period for compliance. Another likewise noted that companies did not have sufficient time to incorporate the new rules and restrictions, requesting an extended compliance deadline or an enforcement grace period of at least 90 days. One commented that the immediate effective date of the rule changes is impractical, requesting a 1-year grace period. Another commented that the prescribed timeframe is impossible for companies to comply with, requesting the rule's effective date be delayed while the new policies are implemented in the field. In addition, other individual customers expressed similar concerns regarding the general burdens placed on mailers and the need for increased communication about the new requirements.

The Postal Service understands and shares the view that additional training and education is necessary to effectively implement these rules and assist customers, partners, and employees to comply therewith. To that end, the Postal Service has initiated numerous initiatives to increase, enhance, and amplify educational and instructional materials, both internally and externally. These new resources will continue to be rolled out and improved upon to seek out additional opportunities to inform and educate internal and external stakeholders about these changes.

Regarding timing, while the IFR was made effective immediately, the Postal Service has not to this point initiated any compliance enforcement actions in order to give mailers an extended timeframe to bring their operations into compliance with the new rule. The Postal Service is dedicated to further working with mailers to help them understand and implement these requirements. Nonetheless, the immediacy of the dangers involved necessitates prompt action to assuage the dangers posed to the public. To delay the implementation of these requirements poses unacceptable risks.

Given these considerations, the Postal Service has determined that the public interest requires immediate action and compliance is expected upon the publication of this final rule.

Comments Regarding Divergence From International Standards

An industry association questions whether certain provisions of the interim final rule (“New Mailing Standards for the Separation of Hazardous Materials”) relating to marking requirements are “inconsistent with a number of provisions” in the World Trade Organization’s (WTO’s) Agreement on Technical Barriers to Trade (“TBT Agreement”). Upon further analysis, the Postal Service is confident that the measures in question are consistent with the TBT Agreement. Further inquiries about the TBT Agreement are best addressed to the Office of the United States Trade Representative, which is responsible for representation of the United States in the WTO.

Comments Regarding a Known-Shipper Program

The Postal Service received comments from several companies and industry groups recommending a known or trusted shipper program, allowing businesses with extensive backgrounds in and a proven history of properly shipping HAZMAT to avail themselves of less stringent requirements. The Postal Service finds merit in these suggestions and is open to developing such options, so long as the program does not unacceptably increase the risk of mishandled, misrouted, or improperly intermingled HAZMAT. To that end, the Postal Service is currently exploring similar programs to ease some of the burdens this final rule may place on mailers. However, development of such programs will take time to ensure they are both comprehensive and effective. The Postal Service’s preeminent concern remains public safety, and any such program would likewise prioritize those objectives. Moreover, given the grave risks currently at stake, implementation of the final rule will not be delayed until such programs can be established. Instead, the new requirements must remain in immediate effect while the Postal Service works with its customers and partners to determine the future state of any such program.

Administrative Procedure Act

The Administrative Procedure Act (APA) does not ordinarily apply to Postal Service rulemakings. 39 U.S.C. 410(a). As a rare exception to that

general rule, “proceedings concerning the mailability of matter under this chapter and chapters 71 and 83 of title 18” are extraordinarily subject to the APA. 39 U.S.C. 3001(m). Because the measures herein merely concern acceptance requirements, available services, and conditions of mailing for mailable matter, and do not concern the mailability of matter itself, they do not trigger the narrow exception for APA applicability.

Even if the IFR were deemed to be subject to the APA, good cause existed, under 5 U.S.C. 553(b)(B), to issue the measures therein, under 5 U.S.C. 553(d)(3), to dispense with the delayed effective date ordinarily prescribed by the APA. The Postal Service was justified in making the IFR effective immediately in order to take quick and targeted action to mitigate the potential of dangerous incidents involving HAZMAT such as lithium batteries which can cause smoke, fire, extreme heat, or explosion caused by thermal runaway, impairing the safe operation of aircraft and exceeding the capabilities of an aircraft’s fire suppression system. Further delay would have increased the risk of an adverse event, potentially resulting in the catastrophic loss of life or property. Such a narrowly tailored rule with specific measures that can immediately respond to the imminent risks presented by HAZMAT corresponds with a proportionately diminished public interest in an opportunity to comment compared to a more far-reaching rule. While there is a public interest in having an opportunity for the public to comment on agency action, it was critical that the Postal Service responded to this hazardous trend as soon as possible to mitigate potential dangers that could have contributed to an incident resulting in loss of life or aircraft. Further delay would have increased the risk of harm and the likelihood of a catastrophic incident.

Moreover, pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” Nonetheless, although the IFR was effective immediately, the Postal Service has now provided an opportunity for public comment, considered the arguments raised therein, made minor refinements to the rules, and responded to those

comments in the final rule promulgated here.

The Postal Service still finds that it would be impracticable and contrary to the public interest to delay issuance of this final rule because there is an immediate and pressing need to reduce the risks that HAZMAT poses to postal operations, supplier equipment and personnel, commercial air passengers, and the public. Thus, delaying the implementation of the risk-mitigation measures in this final rule in order to receive and consider further public comment beyond what the Postal Service has already allowed would be impracticable, contrary to the public interest,² and given that the public has now had adequate opportunity to comment since the issuance of the IFR, not required by the APA. As with the IFR, immediate mitigation of these urgent safety risks also constitutes good cause for this final rule to be effective immediately upon publication.

Sarah Sullivan,
Attorney, Ethics & Legal Compliance.

The Postal Service adopts the following changes to Publication 52, *Hazardous, Restricted, and Perishable Mail*, incorporated by reference into Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), section 601.8.1, which is further incorporated by reference in the Code of Federal Regulations. 39 CFR 111.1, 111.3. Publication 52 is also a regulation of the Postal Service, changes to which may be published in the **Federal Register**. 39 CFR 211.2(a). Accordingly, for the reasons stated in the preamble, the Postal Service amends Publication 52 as follows:

Publication 52, Hazardous, Restricted and Perishable Mail

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2 General Guidelines

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[Revise the title of subchapter 25 to read as follows:]

25 Basic Guidelines for Postal Service Personnel

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² See *Jifry v. FAA*, 370 F.3d 1174, 1179 (D.C. Cir. 2004) (upholding waiver of 5 U.S.C. 553(b)(B) based on Transportation Security Administration's determination that it was "necessary to prevent a possible imminent hazard to aircraft, persons, and property within the United States"); *Hawaii Helicopter Operators Ass'n v. FAA*, 51 F.3d 212, 214 (9th Cir. 1995) (same, where interim final rule was aimed at immediately mitigating "the threat to public safety reflected in an increasing number of helicopter accidents").

251 Guidelines for Acceptance Personnel

[Revise section by adding new items c, e, f and g; renumber current item c as d, to read as follows:]

c. With the exception of destination entered mail entered at a Destination Delivery Unit (DDU), Destination Sectional Center Facility (DSCF), or Destination Network Distribution Center (DNDC) verify that all mailpieces containing mailable hazardous materials are presented separately from mailpieces not containing hazardous materials.

d. Refuse (as permitted in POM 139) to accept any material that does not meet the applicable requirements for mailing and refer the circumstances to your local Postmaster or PCSC for a mailability ruling under 213 or 215, as appropriate.

e. If a mailpiece containing a diagnostic (clinical) specimen is in a sack or tub, PS Tag 44 must be attached to ensure that the sack will be emptied at the processing point.

f. With the exception of destination entered mail entered at a DDU, DSCF, or DNDC, ensure mailpieces containing hazardous materials remain separated from other mailpieces and are placed into labeled containers further separated by transportation type. See 327.1a and 327.1b.

g. See 253 for guidance regarding hazardous materials found in lobby drops or retail collection boxes.

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252 Guidelines for Dispatch Personnel

[Insert new item b as follows, and renumber current item b as item c:]

b. Ensure that all mailpieces with a hazardous-materials mark or label are separated from all other mail and are placed into labeled containers further separated by transportation type. See 327.1a and 327.1b.

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[Revise item 5 in item c (as renumbered) to read as follows:]

5. If the mailpiece contains a material believed to be nonmailable, remove it from the mailstream and treat it in accordance with POM 139.117–118, as appropriate.

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[Add new section 253 to read as follows:]

253 Guidelines for Delivery and Collection Personnel

Delivery and collection personnel must follow these procedures when delivering and collecting mail:

a. Conduct a thorough examination of all sides of the mailpiece for hazardous

material labels and markings or any nonmailable hazardous characteristics (e.g., prohibited marks or labels). If the mailpiece is nonmailable, leaking, or stained, do not collect it; notify the customer if present, and contact your supervisor. Ensure that mailable hazardous materials are separated from all other mail.

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3 Hazardous Materials

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32 General

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327 Transportation Requirements

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327.1 General

[Revise item a to read as follows:]
Air Transportation. When eligibility for air transportation is sought, mailable hazardous materials eligible for air transportation per chapter 34, must be sent as Priority Mail Express, Priority Mail, or First-Class Mail. Mailpieces must be prepared to meet all requirements that apply to air transportation. Mailpieces must be properly packaged and labeled within DMM requirements and the operator variations of the air carrier. When required, a shipper's declaration for dangerous goods must be affixed to the outside of the mailpiece. *Note:* Mailable hazardous materials that are prohibited from air transportation may not be sent as Priority Mail Express, Priority Mail, or First-Class Mail.

[Revise item b to read as follows:]

b. *Surface Transportation.* All mailable hazardous materials eligible to be sent as First-Class Package Service, USPS Marketing Mail, USPS Retail Ground, Parcel Select, or Parcel Return Service must be prepared under the requirements that apply to surface transportation. A mailpiece containing mailable hazardous material with postage paid at First-Class Package Service, USPS Marketing Mail, USPS Retail Ground, Parcel Select, or Package Return Service prices must not, under any circumstance, be transported on air transportation except for 5-digit air only destinations identified in 327.2 g.

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327.2 Air Transportation Prohibitions

[Revise opening paragraph to read as follows:]

All mailable hazardous materials sent as Priority Mail Express, Priority Mail, or First-Class Mail, must meet the requirements for air transportation. The following types of hazardous materials are always prohibited on air

transportation regardless of class of mail:

[Add new item g as follows, and renumber current item g as item h:]

g. Used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) containing or packaged with lithium batteries (see 349.12e). For those ZIP Codes that are air transportation only, a multimodal transportation solution may be used to transport used, damaged, or defective electronic devices containing or packed with lithium batteries due to the absence of ground transportation. A list of 5-digit ZIP Codes where this exception applies appears in Appendix F.

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[Add new section 329 to read as follows:]

329 Presentation of Hazardous-Materials Mailings

With the exception of destination entered mail entered at a DDU, DSCF, or DNDC each mailer of mailable hazardous materials requiring a label or marking must:

a. Present mailpieces containing hazardous materials separately from any mailpieces not containing hazardous materials. Where mailpieces are tendered in containers, pallets, or other mail transport equipment (see Handbook PO-502, *Mail Transport Equipment*), hazardous-materials mailpieces must be presented in a separate receptacle from non-hazardous-materials mailpieces.

b. Clearly mark an exterior side of all receptacles containing hazardous materials mailpieces as “HAZMAT”.

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34 Mailability by Hazard Class

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349 Miscellaneous Hazardous Materials (Hazard Class 9)

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349.1 Definition

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349.12 Lithium Battery—Definitions

[Add new item e as follows:]

e. *Used, damaged, or defective electronic device* means an electronic device containing or packaged with one or more lithium cells or batteries and where the electronic device (1) is not new in original packaging, manufacturer certified new/refurbished, and/or (2) has some form of damage or defect.

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349.2 Mailability

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349.21 Nonmailable Class 9 Materials

[Add new item g and h to read as follows:]

g. Damaged, defective, or recalled batteries unless approved by the director, Product Classification (see 214 for address).

h. All used, damaged, or defective electronic devices in international mail or domestic air transportation. This excludes devices that are new in original packaging, and manufacturer certified new/refurbished.

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349.221 Lithium Metal (Nonrechargeable) Cells and Batteries—Domestic

[Add new item 8 to read as follows:]

8. All used, damaged, or defective lithium metal cells or batteries or electronic devices contained in or packed with lithium metal cells or batteries (excluding new, in original packaging, and manufacturer certified new/refurbished) must be marked with the text “Restricted Electronic Device” and “Surface Transportation Only” on the address side of the mailpiece.

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349.222 Lithium-ion (Rechargeable) Cells and Batteries—Domestic

[Add new item 8 to read as follows:]

8. All used, damaged, or defective lithium-ion cells or batteries or electronic devices contained in or packed with lithium-ion cells or batteries (excluding new, in original packaging, and manufacturer certified new/refurbished) must be marked with the text “Restricted Electronic Device” and “Surface Transportation Only” on the address side of the mailpiece.

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Exhibit 349.222 Domestic Lithium Battery Mailability

[Add new footnote 1 reference to Air Transportation title and new footnote 7 reference in Air Transportation column of row 9, create new footnote text, delete row 10; revise manager title to director in last row; and renumber footnotes accordingly]

	Surface transportation	Air transportation ¹	Mailpiece limitations ²
Lithium Metal or Lithium Alloy Batteries^{3,4} <i>Small, non-rechargeable, consumer-type batteries</i>			
Contained in (properly installed in equipment)	Mailable	Mailable	8 cells or 2 batteries, 11 lbs.
Packed with equipment, but not installed in the equipment.	Mailable	Mailable	8 cells or 2 batteries, 11 lbs.
Without the equipment they operate (individual batteries in originally sealed packaging).	Mailable	Prohibited	5 lbs.
Lithium-ion or Lithium Polymer Batteries^{5,6} <i>Small, rechargeable, consumer-type batteries</i>			
Contained in (properly installed in equipment)	Mailable	Mailable	8 cells or 2 batteries.
Packed with equipment, but not installed in the equipment.	Mailable	Mailable	8 cells or 2 batteries.
Without the equipment they operate (individual batteries in originally sealed packaging).	Mailable	Prohibited ⁷	5 lbs.
Very Small Lithium Metal or Lithium-ion Batteries^{8,9} <i>Exception for very small consumer-type batteries in USPS air transportation</i>			
Contained in (properly installed in equipment)	Mailable	Mailable	No limit on cells/batteries, 5.5 pounds.

	Surface transportation	Air transportation ¹	Mailpiece limitations ²
Packed with equipment, but not installed in the equipment.	Mailable	Mailable	No limit on cells/batteries, 5.5 pounds.
Damaged, Defective, or Recalled Batteries	Prohibited, unless approved by the director, Product Classification.		

- ¹ Used, damaged, or defective electronic devices are prohibited from air transportation. This excludes devices that are new in original packaging, and manufacturer certified new/refurbished.
- ² When a mailpiece limitation of 8 cells or 2 batteries is applicable, a mailpiece may contain either 8 cells or 2 batteries, not both.
- ³ Each cell must not contain more than 1g lithium content.
- ⁴ Each battery must not contain more than 2g aggregate lithium content.
- ⁵ Each cell must not exceed more than 20 Wh (watt-hour rating).
- ⁶ Each battery must not exceed 100 Wh.
- ⁷ Mailable intra-Alaska via air transportation with a limitation of 8 cells or 2 batteries.
- ⁸ Each lithium metal or lithium alloy cell or battery must not exceed 0.3 gram of lithium content.
- ⁹ Each lithium-ion or lithium polymer cell or battery must not exceed 2.7 Wh.

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6 International Mail
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62 Hazardous Materials: International Mail
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622 Mailable Hazardous Materials
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622.5 Lithium and Lithium-ion Cells and Batteries—General
[Revise the first paragraph to read as follows:]

Only lithium batteries under 622.51 and 622.52 that are properly installed in the equipment they operate may be sent internationally or to, from, or between APO, FPO, or DPO locations (subject to the conditions prescribed by the Department of Defense listed in *Overseas Military/Diplomatic Mail* in the *Postal Bulletin*). Used, damaged, defective, or recalled lithium batteries and used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) containing or packaged with lithium

batteries are prohibited and may not be mailed internationally or to, from, or between APO, FPO, or DPO locations under any circumstances. See 349.21.
 * * * * *

Exhibit 622.5 International Lithium Battery Mailability
[Add new footnote 2 to International APO/FPO/DPO column, create new footnote 2 text, and renumber existing references previously numbered as 2 through 8 to 3 through 9]

	International APO/ FPO/DPO ^{1 2}	Mailpiece battery limit ³
--	--	--------------------------------------

Lithium Metal or Lithium Alloy Batteries ^{4 5}
Small, non-rechargeable, consumer-type batteries

Contained in (properly installed in equipment)	Mailable	Maximum of 4 cells or 2 batteries.
Packed with equipment, but not installed in the equipment	Prohibited.	
Without the equipment they operate (individual batteries in originally sealed packaging).	Prohibited.	

Lithium-ion or Lithium Polymer Batteries ^{6 7}
Small, rechargeable, consumer-type batteries

Contained in (properly installed in equipment)	Mailable	Maximum of 4 cells or 2 batteries.
Packed with equipment, but not installed in the equipment	Prohibited.	
Without the equipment they operate (individual batteries in originally sealed packaging).	Prohibited.	

Very Small Lithium Metal or Lithium-ion Batteries ^{8 9}
Exception for very small consumer-type batteries in international transportation

Contained in (properly installed in equipment)	Mailable	Maximum of 4 cells or 2 batteries.
Packed with equipment, but not installed in the equipment	Prohibited.	
Without the equipment they operate (individual batteries in originally sealed packaging).	Prohibited.	

- ¹ Unless otherwise prohibited by the international destination country or specific APO/FPO/DPO ZIP Code location.
- ² Used, damaged, defective, or recalled lithium batteries and used, damaged, or defective electronic devices containing or packaged with lithium batteries are prohibited and may not be mailed internationally or to, from or between APO, FPO, or DPO locations under any circumstances. This excludes devices that are new in original packaging, and manufacturer certified new/refurbished.
- ³ When a mailpiece limitation of 4 cells or 2 batteries is applicable, a mailpiece may contain either 4 cells or 2 batteries, not both.
- ⁴ Each lithium metal or lithium alloy cell must not contain more than 1g lithium content.
- ⁵ Each lithium metal or lithium alloy battery must not contain more than 2g of aggregate lithium content.
- ⁶ Each lithium-ion or lithium polymer cell must not exceed more than 20 Wh (watt-hour rating).
- ⁷ Each lithium-ion or lithium polymer battery must not exceed 100 Wh.
- ⁸ Each lithium metal or lithium alloy cell or battery must not exceed 0.3 gram of lithium content.
- ⁹ Each lithium-ion or lithium polymer cell or battery must not exceed a watt-hour rating of 2.7 Wh.

* * * * *

623 Nonmailable Hazardous Materials

[Revise items j and l; and add new items m and n as follows:]

j. Class 9, miscellaneous hazardous materials (349), except as permitted in 622.4 and 622.5.

k. Dry ice (carbon dioxide solid) (349.23).

l. Magnetized materials capable of causing a compass deviation at a distance of 7 feet or more (349.24).

m. All damaged, defective, or recalled lithium batteries (see 349.21).

n. All used, damaged, or defective electronic devices containing or packaged with lithium batteries (see 349.21). This excludes devices that are new in original packaging, and manufacturer certified new/refurbished.

* * * * *

Appendix C

* * * * *

USPS Packaging Instruction 9D

Lithium Metal and Lithium-Ion Cells and Batteries—Domestic

[Revise the first paragraph to read as follows:]

Except pursuant to 349.21, lithium metal (non-rechargeable) cells and batteries and lithium-ion (rechargeable) cells and batteries are mailable in limited quantities domestically via air or surface transportation when they are installed in or packed with the equipment they are intended to operate. Unless otherwise excepted, lithium metal and lithium-ion batteries (without equipment) are mailable in limited quantities domestically via surface transportation only. Lithium metal and lithium-ion batteries installed in or packed with used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) meeting all mailability requirements in 349 are mailable via surface transportation only.

* * * * *

Mailability

[Revise the first bullet as follows:]

Lithium metal and lithium-ion cells and batteries installed in or packed with equipment may be mailable via air or surface transportation.

* * * * *

[Add new fourth bullet to read as follows:]

Used, damaged, or defective electronic devices (excluding devices that are new in original packaging, manufacturer certified new/refurbished) containing or packaged with lithium batteries (see 349.12e) must be mailed via domestic surface transportation only, provided they meet eligibility requirements in accordance with 349.

* * * * *

Markings

[Add new item 5 under the Lithium metal batteries properly installed bullet to read as follows:]

Lithium metal batteries properly installed in the equipment they are intended to operate.

5. Used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) must include the text “Restricted Electronic Device” and “Surface Transportation Only” on the address side of the mailpiece.

* * * * *

[Add new item 4 under the Lithium metal batteries packed with bullet to read as follows:]

Lithium metal batteries packed with the equipment they are intended to operate 4. Used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) must include the text “Restricted Electronic Device” and “Surface Mail Only” on the address side on the mailpiece.

* * * * *

[Add new item 4 under the Lithium-ion batteries properly installed bullet to read as follows:]

Lithium-ion batteries properly installed in the equipment they are intended to operate.

4. Used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) must include the text “Restricted Electronic Device” and “Surface Mail Only” on the address side on the mailpiece.

* * * * *

[Add new item 5 under the Lithium-ion batteries packed with bullet to read as follows:]

Lithium-ion batteries packed with the equipment they are intended to operate.

5. Used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) must include the text “Restricted Electronic Device” and “Surface Mail Only” on the address side on the mailpiece.

* * * * *

[Add new bullet at end of Marking section to read as follows:]

Used, damaged, or defective electronic devices: In addition to any other applicable marking requirements listed above, packages containing used, damaged, or defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished) containing or packaged with lithium batteries must be marked with the text “Restricted Electronic Device” and “Surface Transportation Only” on the address side of the package. See 221.1 and 325.1. Products being returned via Parcel Return Service (PRS), Return Delivery Unit (RDU) or Return Sectional Center Facility (RSCF) are exempt from this marking requirement.

* * * * *

Domestic Lithium Battery Mailability Exhibit

[Add new footnote 1 reference to Air Transportation title and new footnote 7 reference in Air Transportation column of row 9, create new footnote text, delete row 10; revise manager title to director in last row; and renumber footnotes accordingly]

	Surface transportation	Air transportation ¹	Mailpiece limitations ²
Lithium Metal or Lithium Alloy Batteries ^{3 4} <i>Small, non-rechargeable, consumer-type batteries</i>			
Contained in (properly installed in equipment)	Mailable	Mailable	8 cells or 2 batteries, 11 lbs.
Packed with equipment, but not installed in the equipment.	Mailable	Mailable	8 cells or 2 batteries, 11 lbs.
Without the equipment they operate (individual batteries in originally sealed packaging).	Mailable	Prohibited	5 lbs.

Lithium-ion or Lithium Polymer Batteries ^{5 6}

	Surface transportation	Air transportation ¹	Mailpiece limitations ²
<i>Small, rechargeable, consumer-type batteries</i>			
Contained in (properly installed in equipment)	Mailable	Mailable	8 cells or 2 batteries
Packed with equipment, but not installed in the equipment.	Mailable	Mailable	8 cells or 2 batteries
Without the equipment they operate (individual batteries in originally sealed packaging).	Mailable	Prohibited ⁷	5 lbs.

Very Small Lithium Metal or Lithium-ion Batteries^{8,9}
Exception for very small consumer-type batteries in USPS air transportation

Contained in (properly installed in equipment)	Mailable	Mailable	No limit on cells/batteries, 5.5 pounds.
Packed with equipment, but not installed in the equipment.	Mailable	Mailable	No limit on cells/batteries, 5.5 pounds.

Damaged, Defective, or Recalled Batteries Prohibited, unless approved by the director, Product Classification.

¹ Used, damaged, or defective electronic devices are prohibited from air transportation. This excludes devices that are new in original packaging, and manufacturer certified new/refurbished.

² When a mailpiece limitation of 8 cells or 2 batteries is applicable, a mailpiece may contain either 8 cells or 2 batteries, not both.

³ Each cell must not contain more than 1g lithium content.

⁴ Each battery must not contain more than 2g aggregate lithium content.

⁵ Each cell must not exceed more than 20 Wh (watt-hour rating).

⁶ Each battery must not exceed 100 Wh.

⁷ Mailable intra-Alaska via air transportation with a limitation of 8 cells or 2 batteries.

⁸ Each lithium metal or lithium alloy cell or battery must not exceed 0.3 gram of lithium content.

⁹ Each lithium-ion or lithium polymer cell or battery must not exceed 2.7 Wh.

* * * * *

USPS Packaging Instruction 9E
Lithium Metal and Lithium-ion Cells and Batteries—International and APO/FPO/DPO

* * * * *

Mailability

[Revise second bullet and add new third bullet to read as follows:]

Lithium metal and lithium-ion cells and batteries not packed in equipment (i.e., batteries packed with equipment or batteries sent separately from equipment) are prohibited.

Used, damaged, and defective electronic devices (excluding devices that are new in original packaging, and manufacturer certified new/refurbished)

containing lithium batteries are prohibited (see 623).

* * * * *

International Lithium Battery Mailability Exhibit

[Add new footnote 2 to International APO/FPO/DPO column, create new footnote 2 text, and renumber existing references previously numbered as 2 through 8 to 3 through 9]

	International APO/FPO/DPO ^{1,2}	Mailpiece battery limit ³
--	--	--------------------------------------

Lithium Metal or Lithium Alloy Batteries^{4,5}
Small, non-rechargeable, consumer-type batteries

Contained in (properly installed in equipment)	Mailable	Maximum of 4 cells or 2 batteries.
Packed with equipment, but not installed in the equipment	Prohibited.	
Without the equipment they operate (individual batteries in originally sealed packaging).	Prohibited.	

Lithium-ion or Lithium Polymer Batteries^{6,7}
Small, rechargeable, consumer-type batteries

Contained in (properly installed in equipment)	Mailable	Maximum of 4 cells or 2 batteries.
Packed with equipment, but not installed in the equipment	Prohibited.	
Without the equipment they operate (individual batteries in originally sealed packaging).	Prohibited.	

Very Small Lithium Metal or Lithium-ion Batteries^{8,9}
Exception for very small consumer-type batteries in international transportation

Contained in (properly installed in equipment)	Mailable	Maximum of 4 cells or 2 batteries.
Packed with equipment, but not installed in the equipment	Prohibited.	
Without the equipment they operate (individual batteries in originally sealed packaging).	Prohibited.	

¹ Unless otherwise prohibited by the international destination country or specific APO/FPO/DPO ZIP Code location.

² Used, damaged, defective, or recalled lithium batteries and used damaged, or defective electronic devices containing lithium batteries are prohibited and may not be mailed internationally or to, from or between APO, FPO, or DPO locations under any circumstances. This excludes new in original packaging and manufacturer certified new/refurbished devices.

³ When a mailpiece limitation of 4 cells or 2 batteries is applicable, a mailpiece may contain either 4 cells or 2 batteries, not both.

⁴ Each lithium metal or lithium alloy cell must not contain more than 1g lithium content.

⁵ Each lithium metal or lithium alloy battery must not contain more than 2g of aggregate lithium content.

⁶ Each lithium-ion or lithium polymer cell must not exceed more than 20 Wh (watt-hour rating).

⁷ Each lithium-ion or lithium polymer battery must not exceed 100 Wh.

⁸ Each lithium metal or lithium alloy cell or battery must not exceed 0.3 gram of lithium content.

⁹ Each lithium-ion or lithium polymer cell or battery must not exceed a watt-hour rating of 2.7 Wh.

* * * * *

[Add new Appendix F to read as follows:]

Appendix F

Alaska Routes Serviced by Air Transportation Only

The following zip codes in Alaska are only serviced by air transportation and have no surface transportation available.

99545, 99546, 99547, 99548, 99549, 99550, 99551, 99552, 99553, 99554, 99555, 99557, 99558, 99559, 99561, 99563, 99564, 99565, 99569, 99571, 99574, 99575, 99576, 99578, 99579, 99580, 99581, 99583, 99585, 99589, 99590, 99591, 99602, 99604, 99606, 99607, 99608, 99609, 99612, 99613, 99614, 99615, 99619, 99620, 99621, 99622, 99624, 99625, 99626, 99627, 99628, 99630, 99632, 99633, 99634, 99636, 99637, 99638, 99640, 99641, 99643, 99644, 99647, 99648, 99649, 99650, 99651, 99653, 99655, 99656, 99657, 99658, 99659, 99660, 99661, 99662, 99663, 99665, 99666, 99667, 99668, 99670, 99671, 99675, 99677, 99678, 99679, 99680, 99681, 99682, 99684, 99685, 99689, 99690, 99691, 99692, 99695, 99697, 99720, 99721, 99722, 99723, 99724, 99726, 99727, 99730, 99732, 99733, 99734, 99736, 99738, 99739, 99740, 99741, 99742, 99745, 99746, 99747, 99748, 99749, 99750, 99751, 99752, 99753, 99754, 99756, 99757, 99758, 99759, 99761, 99762, 99763, 99765, 99766, 99767, 99768, 99769, 99770, 99771, 99772, 99773, 99774, 99777, 99778, 99781, 99782, 99783, 99784, 99785, 99786, 99788, 99789, 99790, 99791, 99801, 99802, 99803, 99811, 99812, 99820, 99821, 99824, 99825, 99826, 99827, 99829, 99830, 99832, 99833, 99835, 99836, 99840, 99841, 99850, 99901, 99903, 99918, 99919, 99921, 99922, 99923, 99925, 99926, 99927, 99928, 99929, 99950.

* * * * *

[FR Doc. 2022-26069 Filed 11-25-22; 11:15 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

39 CFR Part 121

Service Standards for Market-Dominant Mail Products

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: This final rule adds a service standard for Connect™ Local Mail to the set of service standards for First-Class Mail set forth in our regulations.

DATES: *Effective date:* January 22, 2023.

FOR FURTHER INFORMATION CONTACT: Andrew Pigott, 202-268-4031.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 10, 2021, the Postal Service filed a notice in Docket No. MT2022-1 announcing its intent to conduct a market test of an experimental product denominated as USPS Connect™ Local Mail and demonstrated that the market test would comply with applicable legal requirements. The Postal Regulatory Commission found that the market test met the requirements of 39 U.S.C. 3641 and 39 CFR part 3045 and authorized the market test to proceed in Order No. 6080 on January 4, 2022.

The Postal Service initially introduced its test of USPS Connect™ Local Mail in Texas to align with its nationwide rollout of the corresponding packages product, USPS Connect™ Local. By the end of the second quarter, which ended March 31, 2022, USPS Connect™ Local Mail was offered as a market test product in 11 states. Another 16 states were added in the third quarter; 23 more were added in the fourth quarter. Once the initial phased national rollout was complete, USPS Connect™ Local Mail was offered in all 50 states and the District of Columbia.

The Postal Service is now seeking to classify USPS Connect™ Local Mail as a permanent classification in the Mail Classification Schedule (MCS). The Postal Service has thus requested that the service be listed in the MCS under the First-Class Mail class in Postal Regulatory Commission Docket No. MC2023-12. Assuming the changes are adopted in accordance with the expected date of implementation of January 22, 2023, the Postal Service plans to add USPS Connect™ Local Mail as a price category within First-Class Mail Flats. USPS Connect™ Local Mail will provide customers same-day or next-day options for local delivery of documents. USPS Connect™ Local Mail requires local induction through dropoff at a participating Destination Delivery Unit (DDU), or carrier pick-up in line-of-travel to a participating DDU. Documents accepted by the Postal

Service at a participating DDU by 7 a.m. will receive a same day service standard, while mailpieces received after 7 a.m. at a participating DDU or by carrier pick-up will receive a one day service standard (*i.e.*, they will be eligible for delivery the following delivery day).

II. Explanation of Final Rule

The Postal Service's market-dominant service standards are contained in 39 CFR part 121. The revisions to 39 CFR part 121 appear at the end of this document. The following is a summary of the revisions.

A. Service Standards Generally

Service standards contain two components: (1) a delivery day range within which mail in a given product is expected to be delivered; and (2) business rules that determine, within a product's applicable day range, the specific number of delivery days after acceptance of a mail piece by which a customer can expect that piece to be delivered, based on the piece's point of entry into the mail stream and its delivery address.

Business rules are based on critical entry times (CETs). The CET is the latest time on a particular day that a mail piece can be entered into the postal network and still have its service standard calculated based on that day (this day is termed "day-zero"). In other words, if a piece is entered before the CET, its service standard is calculated from the day of entry, whereas if it is entered after the CET, its service standard is calculated from the following day. (If the following day is a Sunday or holiday, then the service standard is calculated from the next Postal Service delivery day.) For example, if the applicable CET is 5:00 p.m., and a letter is entered at 4:00 p.m. on a Tuesday, its service standard will be calculated from Tuesday, whereas if the letter is entered at 6:00 p.m. on a Tuesday, its service standard will be calculated from Wednesday. CETs are not contained in 39 CFR part 121, because they vary based on where mail is entered, the mail's level of preparation, and other factors.

B. USPS Connect™ Local Mail

USPS Connect™ Local Mail will be offered as a price category under First-Class Mail Flats. It is intended for local document delivery. Customers will be