

U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 6(b) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48243, July 23, 2002). An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under the **ADDRESSES** section of this preamble.

#### List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 151 as follows:

#### **PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER**

■ 1. The authority citation for part 151 continues to read:

**Authority:** 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

■ 2. Amend § 151.53 by revising paragraph (a) and adding paragraph (c) to read as follows:

#### **§ 151.53 Special areas for Annex V of MARPOL 73/78.**

(a) For the purposes of §§ 151.51 through 151.77, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the Gulfs area, the North Sea area, the Antarctic area, and the Wider Caribbean region, including the Gulf of Mexico and the Caribbean Sea which are described in § 151.06.

\* \* \* \* \*

(c) The discharge restrictions are in effect in the Mediterranean Sea, Baltic Sea, the North Sea, the Gulfs and the Antarctic special areas.

Dated: November 24, 2009.

**F.J. Sturm,**

*Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. E9–29747 Filed 12–14–09; 8:45 am]

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## **POSTAL SERVICE**

### **39 CFR Part 111**

#### **Advertisements for Animals and Sharp Instruments for Use in Animal Fighting Ventures are Nonmailable**

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 601.9.3.1, 601.11.20, and 601.12.5.7, to align our standards with section 26 of the Animal Welfare Act as amended by the Food, Conservation, and Energy Act of 2008.

**DATES:** *Effective Date:* February 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mary Collins at 202–268–5440.

**SUPPLEMENTARY INFORMATION:** On June 18, 2008, Congress enacted the Food, Conservation, and Energy Act of 2008 (the 2008 Act) which amended certain provisions of the Animal Welfare Act pertaining to animal fighting ventures. The 2008 Act’s amendments added prohibitions on using the mail service of the United States (1) to advertise an animal for use in an animal fighting venture, or (2) to advertise a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture. The 2008 Act also revised the definition of the term “animal fighting venture” to refer to “any event, in or affecting interstate or foreign commerce” involving a fight “conducted or to be conducted” between at least two animals. To implement the 2008 Act’s amendments and to ensure that our standards comport with the current language in section 26 (7 U.S.C. 2156) of the Animal Welfare Act (AWA), we are implementing the new standards.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553 (b), (c)], regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invited public comments on the following proposed revision of the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR part 111.

#### **Comments Received**

The Postal Service received comments from six parties. Three commenters supported the rule as proposed by the Postal Service without modification. Other comments were submitted as follows:

One commenter suggested for the US Postal Service to decline adopting the Humane Society’s proposed change to section 601.12.5.7 of the DMM. We noted that the suggested change to proposed section 601.12.5.7 is not explicitly supported by the text of subsections 2156(c) and (d) in 7 U.S.C. 2156 (the AWA). In the absence of further guidance from the text of the statute, we decline to adopt the suggested change.

One commenter urged the Postal Service not to adopt the proposed rule on the grounds that the proposed rule violates the First Amendment of the U.S. Constitution. The proposed rule only implements the statutory language set forth in 7 U.S.C. 2156, therefore we find that the comment is beyond the scope of this rulemaking.

Finally, another commenter appears to object to the exception in proposed section 601.12.5.7 for fighting ventures involving live birds if such fight is permitted under the laws of the state in which the fight is to take place. The commenter suggests that no states permit animal fighting. We note that paragraph 2156(g)(3) in Title 7, U.S. Code, provides that the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. We understand that at least one of these jurisdictions continues to permit fights involving live birds. Therefore, we decline to modify the exception to proposed section 601.12.5.7 of the DMM for fighting ventures involving live birds that are permitted under the laws of the state in which the fight is to take place. The other issues raised by the commenter are beyond the scope of this rulemaking.

The Postal Service hereby adopts the following changes to the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), which is incorporated by reference in the *Code of Federal Regulations*. See 39 CFR Part 111.1.

#### **List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR Part 111 is amended as follows:

#### **PART 111—[AMENDED]**

1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

\* \* \* \* \*

**600 Basic Standards for All Mailing Services**

**601 Mailability**

\* \* \* \* \*

**9.0 Perishable**

\* \* \* \* \*

**9.3 Live Animals**

[Revise the heading and text of 9.3.1, as follows:]

**9.3.1 Prohibition on Animals Intended for Use in an Animal Fighting Venture**

An animal is nonmailable if such animal is being mailed for the purpose of having it participate in an animal fighting venture (7 U.S.C. 2156). This standard applies regardless of whether such venture is permitted under the laws of the state in which it is conducted. Violators can be subject to the criminal penalties in 18 U.S.C. 49. See 601.11.20 for the prohibition on mailing sharp instruments intended for use in an animal fighting venture and 601.12.5.7 for restrictions on mailing written, printed, or graphic matter related to animal fighting ventures.

For this standard:

- a. The term *animal* means any live bird, or any live mammal (e.g., dog), except human;
- b. The term *animal fighting venture* means any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment (excluding any activity whose primary purpose involves using one or more animals in hunting other animals); and
- c. The term *state* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any U.S. territory or possession.

\* \* \* \* \*

**11.0 Other Restricted and Nonmailable Matter**

\* \* \* \* \*

[Revise the heading and text of 11.20, as follows:]

**11.20 Prohibition on Sharp Instruments Intended for Use in an Animal Fighting Venture**

The interstate or international mailing of a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a

bird for use in an animal fighting venture (as defined in section 601.9.3.1b) is prohibited (7 U.S.C. 2156). Violators can be subject to the criminal penalties in 18 U.S.C. 49. See 601.9.3.1 for the prohibition on mailing animals intended for use in an animal fighting venture and 601.12.5.7 for the restrictions on mailing written, printed, or graphic matter related to animal fighting ventures.

\* \* \* \* \*

**12.0 Written, Printed, and Graphic Matter Generally**

\* \* \* \* \*

**12.5 Other Nonmailable Matter**

\* \* \* \* \*

[Revise the heading and text of 12.5.7, as follows:]

**12.5.7 Restriction on Matter Related to Animal Fighting Ventures**

This standard does not pertain to written, printed, or graphic matter related to fighting ventures involving live birds if such fight is permitted under the laws of the state in which the fight is to take place (7 U.S.C. 2156). The terms *animal*, *animal fighting venture*, and *state* are defined in 601.9.3.1. Written, printed, or graphic matter is nonmailable if it:

- a. Advertises an animal for use in an animal fighting venture;
- b. Advertises a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture; or
- c. Promotes or in any other manner furthers an animal fighting venture.

\* \* \* \* \*

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

Stanley F. Mires,  
*Chief Counsel, Legislative.*

[FR Doc. E9-29723 Filed 12-14-09; 8:45 am]

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**POSTAL REGULATORY COMMISSION**

**39 CFR Part 3020**

[Docket Nos. MC2010-5 and CP2010-5; Order No. 340]

**New Postal Product**

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Final rule.

**SUMMARY:** The Commission is adding Express Mail Contract 5 to the Competitive Product List. This action is consistent with changes in a recent law

governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

**DATES:** Effective December 15, 2009 and is applicable beginning November 13, 2009.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6820 or *stephen.sharfman@prc.gov*.

**SUPPLEMENTARY INFORMATION:**  
*Regulatory History*, 74 FR 57536 (November 6, 2009).

- I. Introduction
- II. Background
- III. Comments
- IV. Commission Analysis
- V. Ordering Paragraphs

**I. Introduction**

The Postal Service seeks to add a new product identified as Express Mail Contract 5 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

**II. Background**

The Postal Service filed a formal request and associated supporting information pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Express Mail Contract 5 to the Competitive Product List.<sup>1</sup> The Postal Service asserts that the Express Mail Contract 5 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2010-5.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2010-5.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors’ Decision authorizing an Express Mail Contract Group;<sup>2</sup> (2) a redacted version of the contract;<sup>3</sup> (3) a requested change in the Mail Classification Schedule

<sup>1</sup> Notice of Establishment of Rates and Class Not of General Applicability, Request of the United States Postal Service to Add Express Mail Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract and Supporting Data, October 28, 2009 (Request). On October 29, 2009, the Postal Service filed errata to its Request. See Notice of the United States Postal Service of Filing Errata to Request and Notice, October 29, 2009. Accordingly, the filing of the entire set of documents related to this Request was not completed until October 29, 2009.

<sup>2</sup> Attachment A to the Request, reflecting Governors’ Decision No. 09-14, October 26, 2009.

<sup>3</sup> Attachment B to the Request.