

(4) *Example.* PRS is a partnership that was formed in 2004. It has three partners, P, R, and S, who each own a one-third interest in the partnership. PRS owns and operates a skiing enterprise, and under section 706(b)(1)(C), has adopted a calendar year end of June 30th. Each partner is an individual who is on the calendar year. On December 31, 2010, S sold her entire interest in PRS to Y. PRS, for its fiscal year ending June 30, 2010, earned \$150,000 of income. The partnership has a specific provision in the partnership agreement agreeing to use the proration method when accounting for varying interests in the partnership. (See § 1.706-4(a)(1)). Using the proration method, \$75,000 of income is included in the first segment of the year that begins July 1, 2010 and ends December 31, 2010, and \$75,000 is included in the second segment of the year that begins January 1, 2011 and ends June 30, 2011. For the first segment, S's distributive share of partnership income is one-third of \$75,000, or \$25,000. For the second segment, Y's distributive share of partnership income is one-third of \$75,000, or \$25,000. Because S sold her entire interest in PRS, the partnership taxable year closes with respect to her pursuant to § 1.706-1(c)(2)(i). Thus, she must include her distributive share of PRS's income, or \$25,000, on her 2010 Federal income tax return.

(e) *Conventions*—(1) *Calendar day convention.* Under the calendar day convention, the first segment of the partnership's taxable year commences with the beginning of the partnership's taxable year and ends at the close of any day on which the variation occurs in the partner's interest in the partnership. Any additional segment shall commence with the beginning of the day following a prior variation in a partner's interest and end on the earlier of the close of the day on which an additional variation occurs in the partner's interest or the close of the partnership's taxable year, as applicable.

(2) *Semi-monthly convention.* Under the semi-monthly convention, the first segment of the partnership's taxable year commences with the beginning of the partnership's taxable year, and with respect to a partner's variation in interest occurring on the first through the 15th day of a calendar month, is deemed to close at the end of the last day of the immediately preceding calendar month, and with respect to any variation in interest occurring on the 16th through the last day of a calendar month, is deemed to close at the end of the 15th calendar day of that month. Any additional segment of the partnership taxable year shall commence with beginning of the first day, or 16th day of the month of the last segment, as the case may be, as determined for a prior change and shall close at the earlier of the close of the partnership's taxable year, or with

respect to a partner's variation in interest occurring on the first through 15th day of a calendar month, is deemed to close at the end of the last day of the immediately preceding calendar month, and with respect to any variation in interest occurring on the 16th through the last day of a calendar month, is deemed to close at the end of the 15th calendar day of that month.

(f) *Effective/applicability date.* Except with respect to paragraphs (c)(2) and (d)(2) of this section, this section is applicable for partnership taxable years that begin the day after the date final regulations are published in the **Federal Register**, but not before taxable years beginning after December 31, 2009. The rules of paragraphs (c)(2) and (d)(2) of this section are applicable for the taxable year of partnerships other than existing publicly traded partnerships that begin after the date the final regulations are published in the **Federal Register**, but not before taxable years beginning after December 31, 2009. For purposes of the immediately preceding sentence, an existing publicly traded partnership is a partnership described in section 7704(b) of the Internal Revenue Code that was formed on a date before these proposed regulations are published in the **Federal Register**. However, existing publicly traded partnerships may rely on the provisions of this section.

**Par. 7.** Section 1.706-5 is added to read as follows:

#### **§ 1.706-5 Taxable year determination.**

(a) *In general.* For purposes of § 1.706-4, the taxable year of a partnership shall be determined without regard to section 706(c)(2)(A) and the regulations promulgated under that Internal Revenue Code section.

(b) *Effective/applicability date.* This section is applicable for partnership taxable years that begin the day after the date final regulations are published in the **Federal Register**, but not before taxable years beginning after December 31, 2009.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

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## **POSTAL SERVICE**

### **39 CFR Part 111**

#### **Express Mail Refunds for Shipments of Live Animals**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to revise its refund guarantees for Express Mail® shipments of live animals in an effort to maintain the economic viability of shipping animals as a service.

**DATES:** Submit comments on or before May 14, 2009.

**ADDRESSES:** Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 3436, Washington, DC 20260-3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor N, Washington, DC between 9 a.m. and 4 p.m., Monday through Friday. E-mail comments, containing the name and address of the commenter, may be sent to [MailingStandards@usps.gov](mailto:MailingStandards@usps.gov), with a subject line of "Express Mail Refunds for Shipments of Lives Comments." Faxed comments will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Joel Rosen, 202-268-4329 or Monica Grein, 202-268-8411.

**SUPPLEMENTARY INFORMATION:** The Postal Service proposes to revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) by changing the refund guarantees for Express Mail shipments of live animals delivered within 3 days of the date of mailing. In some instances, the Postal Service must reroute Express Mail shipments of live animals to alternative flights or routes in order to protect the well-being of the live animals. This is particularly necessary if other shipments on the same flight contain dry ice or solid carbon dioxide, which will evaporate en route and may displace oxygen. If live animals were shipped in the same cargo hold, the carbon dioxide could cause asphyxiation. The use of alternative flights and rerouting to protect the well-being of the live animals can delay shipments. Therefore, even though the live animals arrive as promptly as possible and in good health, these shipments may not meet normal Express Mail service guarantees. In those instances, some mailers then apply for full postage refunds.

Currently, postage refunds for Express Mail shipments of live animals are granted based on the next day or second day delivery guarantee provided at the time of mailing. This current postage refund policy does not account for the flight changes that may occur to protect the well-being of the animals. Therefore, the Postal Service is proposing that

Express Mail shipments containing live animals be exempt from the next day or second day delivery guarantee and that the delivery commitment for Express Mail of live animals be extended to within 3 days of the date of mailing. Postage refund requests for Express Mail shipments of live animals delivered after 3 days of the date of mailing would still be granted.

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 invites comments on the following proposed revision of the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

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

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR is proposed to be 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:

#### 100 Retail Mail Letters, Cards, Flats, and Parcels

\* \* \* \* \*

#### 110 Retail Mail Express Mail

\* \* \* \* \*

#### 114 Postage Payment Methods

\* \* \* \* \*

#### 3.0 Postage Refunds

##### 3.1 Postage Not Refunded

*[Revise the introductory paragraph of 3.1 to read as follows:]*

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or for any of the following reasons:

*[Revise the first sentence of item a, and add a new item c as follows:]*

a. If the item was properly detained for law enforcement purpose; strike or work stoppage; delayed because of an incorrect ZIP Code or address; forwarding or return service was provided after the item was made

available for claim; delay or cancellation of flights. \* \* \*

\* \* \* \* \*

c. The shipment contained live animals and was delivered or delivery was attempted within three days of the date of mailing as shown in the “Date In” box on Label 11.

\* \* \* \* \*

#### 400 Commercial Mail Parcels

\* \* \* \* \*

#### 410 Commercial Parcels Express Mail

\* \* \* \* \*

#### 414 Postage Payment and Documentation

\* \* \* \* \*

#### 3.0 Postage Refunds

*[Revise the introductory paragraph of 3.0 to read as follows:]*

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or for any of the following reasons:

*[Revise the first sentence of item a and add a new item c as follows:]*

a. If the item was properly detained for law enforcement purpose; strike or work stoppage; delayed because of an incorrect ZIP Code or address; forwarding or return service was provided after the item was made available for claim; delay or cancellation of flights. \* \* \*

\* \* \* \* \*

c. The shipment contained live animals and was delivered or delivery was attempted within three days of the date of mailing as shown in the “Date In” box on Label 11.

\* \* \* \* \*

#### 600 Basic Standards For All Mailing Services

##### 601 Mailability

\* \* \* \* \*

##### 9.0 Perishables

\* \* \* \* \*

##### 9.3 Live Animals

\* \* \* \* \*

##### 9.3.4 Adult Fowl

\* \* \* \* \*

*[Add a new item d to read as follows:]*

d. Postage refunds may not be available if the Express Mail shipment was delivered or delivery was attempted within three days of the date of mailing as shown in the “Date In” box on Label 11.

\* \* \* \* \*

#### 604 Postage Payment Methods

\* \* \* \* \*

#### 9.0 Refunds and Exchanges

\* \* \* \* \*

#### 9.2 Postage and Fee Refunds

\* \* \* \* \*

##### 9.2.4 Full Refund

A full refund (100%) may be made when:

*[Revise item l to read as follows:]*

l. Express Mail is not delivered according to the applicable service standard, except as provided in 114.3.1 and 414.3.0. \* \* \*

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR 111 to reflect these changes if our proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 70

[EPA–R07–OAR–2008–0793; FRL–8791–7]

#### Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) and Operating Permits Program to amend the definitions provisions of the rules by adding definitions for stage I/II vapor recovery systems and outstate area, updating the lists of volatile organic compounds and hazardous air pollutants for consistency with the Environmental Protection Agency (EPA) lists, removing unnecessary definitions, and making typographical corrections and clarifications. This revision will ensure consistency between the State and the Federally-approved rules.

**DATES:** Comments on this proposed action must be received in writing by May 14, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2008–0793, by mail to Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also