§ 113.74 [Amended]

53. Section 113.74 is amended by removing the word ''entry'' and adding in its place the word ''transaction''.

Appendix A to Part 113—[Amended]

54. Appendix A to Part 113 is amended by removing:

a. In the Appendix heading, the title of the bond, and the text of the bond, the words ''Customs security'' each place that they appear and adding the words ''CBP security''; and

b. In the text of the bond, the number ''19'' where it appears and adding the number ''20''; the words ''Customs airports'' and adding the words ''CBP airports''; and the words ''Customs Regulations'' and adding the words ''CBP regulations''.

Appendix B to Part 113—[Amended]

55. Appendix B to Part 113 is amended by removing the word ''Customs'' each place that it appears and adding the term ''CBP''.

Appendix C to Part 113—[Amended]

56. Appendix C to Part 113 is amended by removing the word ''Customs'' each place that it appears and adding the term ''CBP''.

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

57. The general and specific authority citations for part 133 continue to read as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

Sections 133.21 through 133.25 also issued under 15 U.S.C. 1124, 19 U.S.C. 1526.

* * * * *

58. Section 133.21(d) is revised to read as follows:

§ 133.21 Articles bearing counterfeit trademarks.

* * * * *

(d) *Samples available to the trademark owner.* At any time following seizure of the merchandise, CBP may provide a sample of the subject merchandise to the owner of the trademark for examination, testing, or other use in pursuit of a related private civil remedy for trademark infringement. To obtain a sample under this section, the trademark/trade name owner must furnish CBP with a single transaction bond in the form and amount specified by the port director or a continuous bond in the form and amount specified by the Director, Revenue Division. CBP may demand the return of the sample at any time. The owner must return the sample to CBP upon demand or at the conclusion of the examination, testing or other use in pursuit of a related private civil remedy for trademark infringement. In the event that the sample is damaged, destroyed, or lost while in the possession of the trademark owner, the owner must, in lieu of return of the sample, certify to CBP that: ''The sample described as [insert description] and provided pursuant to 19 CFR 133.21(d) was (damaged/destroyed/lost) during examination, testing or other use.''

* * * * *

59. Section 133.25(c) is revised to read as follows:

§ 133.25 Procedure on detention of articles subject to restriction.

* * * * *

(c) *Samples available to the trademark or trade name owner.* At any time following presentation of the merchandise for CBP's examination, but prior to seizure, CBP may provide a sample of the suspect merchandise to the owner of the trademark or trade name for examination or testing to assist in determining whether the article imported bears an infringing trademark or trade name. To obtain a sample under this section, the trademark/trade name owner must furnish CBP with a single transaction bond in the form and amount specified by the port director or a continuous bond in the form and amount specified by the Director, Revenue Division. CBP may demand the return of the sample at any time. The owner must return the sample to CBP upon demand or at the conclusion of the examination or testing. In the event that the sample is damaged, destroyed, or lost while in the possession of the trademark or trade name owner, the owner must, in lieu of return of the sample, certify to CBP that: ''The sample described as [insert description] and provided pursuant to 19 CFR 133.25(c) was (damaged/destroyed/lost) during examination or testing for trademark infringement.''

* * * * *

60. In § 133.42, paragraph (e) is amended by: revising the second sentence; removing the word ''Customs'' where it appears and adding in each place the term ''CBP''; and, in the last sentence, removing the word ''shall'' and adding in its place the word ''must''.

The revision to § 133.42(e) reads as follows:

§ 133.42 Infringing copies or phonorecords.

* * * * *

(e) *Samples available to the copyright owner.* * * * To obtain a sample under this section, the copyright owner must furnish to CBP a single transaction bond in the form and amount specified by the port director or a continuous bond in the form and amount specified by the Director, Revenue Division. * * *

* * * * *

Approved: December 14, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. E9–30920 Filed 1–4–10; 8:45 am]

BILLING CODE 9111–14–P

POSTAL SERVICE

39 CFR Part 111

Restricting the Mailing of Replica or Inert Explosive Devices

AGENCY: Postal Service™.

ACTION: Proposed rule; revised.

SUMMARY: The Postal Service proposes to revise Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) to clarify that a proposed new standard to allow for the mailing of replica or inert explosive devices, such as grenades, be sent by Registered Mail™ only.

DATES: Submit comments on or before February 4, 2010.

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*, with a subject line of ''Inert Munitions'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Mary J. Collins 202–268–5440 or Evans King, 202–268–4982.

SUPPLEMENTARY INFORMATION: The Postal Service published a **Federal Register** proposed rule (73 FR 12321) on March 7, 2008 to prohibit replica and inert munitions from the mail. Upon further review and in consideration of respondents' comments, we are revising our proposal to:

1. More specifically identify these items as ''replica or inert explosive devices'' rather than ''replica or inert munitions'' and,

2. Identify a process for mailing such items rather than prohibiting them from the mail altogether.

In the past, postal operations have been disrupted and facilities have been evacuated when replica or inert explosive devices have been discovered in the mail. Such evacuations result in unnecessary expense and loss of productivity to the Postal Service and can jeopardize USPS® service commitments. We believe this revised proposed rule will minimize the chances of operational disruptions caused by replica or inert explosive devices and at the same time allow mailers to continue to use the mail for shipping these items.

Comments Received

All comments received in response to the original proposed rule were in opposition to the proposal, falling into four major categories. Comments are summarized and presented below followed by our responses:

Comment: The Postal Service proposal is vague and overly broad when identifying all replica or inert ''munitions'' as being prohibited from mailing.

The Postal Service agrees that the language in the rule could be more descriptive. We have, therefore, termed these articles as ''inert or replica explosive devices'' to distinguish them from inert munitions, such as empty shell casings and the like. In the revised proposed rule, replica or inert items that clearly look like a bomb or an explosive device, to an untrained observer, must be presented for mailing in accordance with the proposed standards in this document. This proposed rule is intended to discourage indiscriminate mailing of articles that appear to be explosive devices.

Comment: Respondents dispute whether there really is a problem of inert munitions in the mail.

In the past three years, the Postal Service has recorded numerous incidents involving the discovery of mail that exhibited characteristics of possible explosives. Postal facilities have been evacuated due to these occurrences. Postal Inspectors or local emergency first responders were contacted and required to respond to each of these occurrences.

Comment: The proposal is in violation of the Second Amendment.

We no longer propose to prohibit the mailing of items currently allowed by law to be mailed. In this revised proposed rule we are limiting the mailing of articles that have the appearance of real explosive devices. This revised proposed rule requires customers to present packages containing replica or inert explosive devices at a retail counter and that they be sent via Registered Mail. This process will ensure that packages containing these items remain separate and easily identifiable during the mailing process.

Comment: The Postal Service lacks the authority to ban mailing of this matter.

While the Postal Service does not necessarily agree with the legal arguments presented by certain respondents in response to its prior proposed rule, in reconsideration, we believe we can achieve the goal of reducing operational interruptions and maintaining the safety of the mail and postal employees by limiting the mailing process of replica or inert explosive devices rather than prohibiting them from being mailed.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 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:

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

11.0 Other Restricted and Nonmailable Matter

* * * * *

11.5 Replica or Inert Explosive Devices

[Renumber current 11.5 through 11.20 as 11.6 through 11.21. Insert new 11.5 to read as follows:]

Replica or inert devices that bear a realistic appearance to explosive devices such as simulated grenades, but that are not dangerous, are permitted in the mail when all of the following conditions are met:

a. The package is presented by the mailer at a retail counter.

b. Registered Mail is used. Registered Mail service is only available for items mailed as either First-Class Mail or Priority Mail.

c. The address side of the package is labeled with ''REPLICA EXPLOSIVE'' using at least 20 point type or letters at least ¼″ high.

* * * * *

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

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E9–31218 Filed 1–4–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0804; FRL–9100–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendment to Electric Generating Unit Multi-Pollutant Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware. The revision is an amendment to the Electric Generating Unit Multi-Pollutant Regulation of Delaware's Administrative Code, and it modifies the sulfur dioxide (SO_2) mass emissions limit associated with Conectiv Edge Moor Unit 5 beginning in calendar year 2009. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before February 4, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0804 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov.*