

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

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600 Basic Standards for All Mailing Services

601 Mailability

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9.0 Perishable

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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.

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11.0 Other Restricted and Nonmailable Matter

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[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.

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12.0 Written, Printed, and Graphic Matter Generally

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12.5 Other Nonmailable Matter

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[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.

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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.¹ 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;² (2) a redacted version of the contract;³ (3) a requested change in the Mail Classification Schedule

¹ 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.

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

³ Attachment B to the Request.

product list;⁴ (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁵ (5) a certification of compliance with 39 U.S.C. 3633(a);⁶ and (6) an application for non-public treatment of the materials filed under seal.⁷ The redacted version of the contract provides that the contract is terminable on 30 days' notice by either party, but could continue for 3 years from the effective date subject to annual price adjustments. Request, Attachment B.

In the Statement of Supporting Justification, Mary Prince Anderson, Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Request, Attachment D, at 1. W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *Id.*, Attachment E.

The Postal Service filed much of the supporting materials, including the supporting data and the unredacted contract, under seal. The Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, certain terms and conditions, and financial projections, should remain confidential. *Id.*, Attachment F, at 2–3.⁸

In Order No. 329, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment.⁹

III. Comments

Comments were filed by the Public Representative.¹⁰ No comments were submitted by other interested parties.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ Attachment E to the Request.

⁷ Attachment F to the Request.

⁸ In its application for non-public treatment, the Postal Service requests an indefinite extension of non-public treatment of customer-identifying information. *Id.* at 7. For the reasons discussed in PRC Order No. 323, that request is denied. *See, e.g.*, Docket No. MC2010–1 and CP2010–1, Order Concerning Express Mail Contract 19 Negotiated Service Agreement, October 26, 2009.

⁹ PRC Order No. 329, Notice and Order Concerning Express Mail Contract 5 Negotiated Service Agreement, October 30, 2009 (Order No. 329).

¹⁰ Public Representative Comments in Response to United States Postal Service Request to Add Express Mail Contract 5 to the Competitive Products List, November 9, 2009 (Public Representative Comments).

The Public Representative states that the Postal Service's filing meets the pertinent provisions of title 39 and the relevant Commission rules. *Id.* at 1–3. He further states that the agreement is fair to the parties and employs pricing terms favorable to the customer, the Postal Service, and thereby, the public. *Id.* at 4–5. The Public Representative also believes that the Postal Service has provided appropriate justification for maintaining confidentiality in this case. *Id.* at 3.

IV. Commission Analysis

The Commission has reviewed the Request, the contract, the financial analysis provided under seal that accompanies it, and the comments filed by the Public Representative.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning Express Mail Contract 5 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

Product list assignment. In determining whether to assign Express Mail Contract 5 as a product to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product will be categorized as market dominant. The competitive category of products consists of all other products.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to private companies. Request, Attachment D, para. (d). The Postal Service also contends that it may not decrease

quality or output without risking the loss of business to competitors that offer similar expedited delivery services. *Id.* It further states that the contract partner supports the addition of the contract to the Competitive Product List to effectuate the negotiated contractual terms. *Id.*, para. (g). Finally, the Postal Service states that the market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. It indicates that large carriers serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for this customer. *Id.*, para. (h).

No commenter opposes the proposed classification of Express Mail Contract 5 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Express Mail Contract 5 is appropriately classified as a competitive product and should be added to the Competitive Product List.

Cost considerations. The Postal Service presents a financial analysis showing that Express Mail Contract 5 results in cost savings while ensuring that the contract covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products.

Based on the data submitted, the Commission finds that Express Mail Contract 5 should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of proposed Express Mail Contract 5 indicates that it comports with the provisions applicable to rates for competitive products.

Other considerations. The Postal Service shall notify the Commission if termination occurs prior to the scheduled termination date. Following the scheduled termination date of the agreement, the Commission will remove the product from the Competitive Product List.

In conclusion, the Commission approves Express Mail Contract 5 as a new product. The revision to the Competitive Product List is shown below the signature of this order and is effective upon issuance of this order.

V. Ordering Paragraphs

It is ordered:

1. Express Mail Contract 5 (MC2010–5 and CP2010–5) is added to the

Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission if termination occurs prior to the scheduled termination date.

3. The Secretary shall arrange for the publication of this order in the **Federal Register**.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

By the Commission.

Shoshana M. Grove,
Secretary.

■ For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

- 1000 Market Dominant Product List
- First-Class Mail
- Single-Piece Letters/Postcards
- Bulk Letters/Postcards
- Flats
- Parcels
- Outbound Single-Piece First-Class Mail International
- Inbound Single-Piece First-Class Mail International
- Standard Mail (Regular and Nonprofit)
 - High Density and Saturation Letters
 - High Density and Saturation Flats/Parcels
 - Carrier Route
 - Letters
 - Flats
 - Not Flat-Machinables (NFMs)/Parcels
- Periodicals
 - Within County Periodicals
 - Outside County Periodicals
- Package Services
 - Single-Piece Parcel Post
 - Inbound Surface Parcel Post (at UPU rates)
 - Bound Printed Matter Flats
 - Bound Printed Matter Parcels
 - Media Mail/Library Mail
- Special Services
 - Ancillary Services
 - International Ancillary Services
 - Address List Services
 - Caller Service
 - Change-of-Address Credit Card Authentication
 - Confirm
 - International Reply Coupon Service
 - International Business Reply Mail Service
 - Money Orders

- Post Office Box Service
- Negotiated Service Agreements
 - HSBC North America Holdings Inc. Negotiated Service Agreement
 - Bookspan Negotiated Service Agreement
 - Bank of America Corporation Negotiated Service Agreement
 - The Bradford Group Negotiated Service Agreement
 - Inbound International
 - Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services
- Market Dominant Product Descriptions
- First-Class Mail
 - [Reserved for Class Description]
 - Single-Piece Letters/Postcards [Reserved for Product Description]
 - Bulk Letters/Postcards [Reserved for Product Description]
 - Flats [Reserved for Product Description]
 - Parcels [Reserved for Product Description]
 - Outbound Single-Piece First-Class Mail International [Reserved for Product Description]
 - Inbound Single-Piece First-Class Mail International [Reserved for Product Description]
 - Standard Mail (Regular and Nonprofit) [Reserved for Class Description]
 - High Density and Saturation Letters [Reserved for Product Description]
 - High Density and Saturation Flats/Parcels [Reserved for Product Description]
 - Carrier Route [Reserved for Product Description]
 - Letters [Reserved for Product Description]
 - Flats [Reserved for Product Description]
 - Not Flat-Machinables (NFMs)/Parcels [Reserved for Product Description]
- Periodicals
 - [Reserved for Class Description]
 - Within County Periodicals [Reserved for Product Description]
 - Outside County Periodicals [Reserved for Product Description]
- Package Services
 - [Reserved for Class Description]
 - Single-Piece Parcel Post [Reserved for Product Description]
 - Inbound Surface Parcel Post (at UPU rates) [Reserved for Product Description]
 - Bound Printed Matter Flats [Reserved for Product Description]
 - Bound Printed Matter Parcels [Reserved for Product Description]
 - Media Mail/Library Mail [Reserved for Product Description]
- Special Services
 - [Reserved for Class Description]
 - Ancillary Services [Reserved for Product Description]
 - Address Correction Service [Reserved for Product Description]
 - Applications and Mailing Permits [Reserved for Product Description]
 - Business Reply Mail [Reserved for Product Description]
 - Bulk Parcel Return Service [Reserved for Product Description]
 - Certified Mail [Reserved for Product Description]

- Certificate of Mailing [Reserved for Product Description]
 - Collect on Delivery [Reserved for Product Description]
 - Delivery Confirmation [Reserved for Product Description]
 - Insurance [Reserved for Product Description]
 - Merchandise Return Service [Reserved for Product Description]
 - Parcel Airlift (PAL) [Reserved for Product Description]
 - Registered Mail [Reserved for Product Description]
 - Return Receipt [Reserved for Product Description]
 - Return Receipt for Merchandise [Reserved for Product Description]
 - Restricted Delivery [Reserved for Product Description]
 - Shipper-Paid Forwarding [Reserved for Product Description]
 - Signature Confirmation [Reserved for Product Description]
 - Special Handling [Reserved for Product Description]
 - Stamped Envelopes [Reserved for Product Description]
 - Stamped Cards [Reserved for Product Description]
 - Premium Stamped Stationery [Reserved for Product Description]
 - Premium Stamped Cards [Reserved for Product Description]
 - International Ancillary Services [Reserved for Product Description]
 - International Certificate of Mailing [Reserved for Product Description]
 - International Registered Mail [Reserved for Product Description]
 - International Return Receipt [Reserved for Product Description]
 - International Restricted Delivery [Reserved for Product Description]
 - Address List Services [Reserved for Product Description]
 - Caller Service [Reserved for Product Description]
 - Change-of-Address Credit Card Authentication [Reserved for Product Description]
 - Confirm [Reserved for Product Description]
 - International Reply Coupon Service [Reserved for Product Description]
 - International Business Reply Mail Service [Reserved for Product Description]
 - Money Orders [Reserved for Product Description]
 - Post Office Box Service [Reserved for Product Description]
 - Negotiated Service Agreements [Reserved for Class Description]
 - HSBC North America Holdings Inc. Negotiated Service Agreement [Reserved for Product Description]
 - Bookspan Negotiated Service Agreement [Reserved for Product Description]
 - Bank of America Corporation Negotiated Service Agreement
 - The Bradford Group Negotiated Service Agreement
- Part B—Competitive Products
- 2000 Competitive Product List
 - Express Mail

Express Mail	Priority Mail Contract 8 (MC2009–25 and CP2009–32)	[Reserved for Product Description]
Outbound International Expedited Services	Priority Mail Contract 9 (MC2009–25 and CP2009–33)	Inbound Air Parcel Post
Inbound International Expedited Services	Priority Mail Contract 10 (MC2009–25 and CP2009–34)	[Reserved for Product Description]
Inbound International Expedited Services 1 (CP2008–7)	Priority Mail Contract 11 (MC2009–27 and CP2009–37)	Parcel Select
Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)	Priority Mail Contract 12 (MC2009–28 and CP2009–38)	[Reserved for Group Description]
Priority Mail	Priority Mail Contract 13 (MC2009–29 and CP2009–39)	Parcel Return Service
Priority Mail	Priority Mail Contract 14 (MC2009–30 and CP2009–40)	[Reserved for Group Description]
Outbound Priority Mail International	Priority Mail Contract 15 (MC2009–35 and CP2009–54)	International
Inbound Air Parcel Post	Priority Mail Contract 16 (MC2009–36 and CP2009–55)	[Reserved for Group Description]
Royal Mail Group Inbound Air Parcel Post Agreement	Priority Mail Contract 17 (MC2009–37 and CP2009–56)	International Priority Airlift (IPA)
Parcel Select	Priority Mail Contract 18 (MC2009–42 and CP2009–63)	International Surface Airlift (ISAL)
Parcel Return Service	Priority Mail Contract 19 (MC2010–1 and CP2010–1)	International Direct Sacks—M-Bags
International	Priority Mail Contract 20 (MC2010–2 and CP2010–2)	[Reserved for Product Description]
International Priority Airlift (IPA)	Priority Mail Contract 21 (MC2010–3 and CP2010–3)	International Surface Airlift (ISAL)
International Surface Airlift (ISAL)	Priority Mail Contract 22 (MC2010–4 and CP2010–4)	[Reserved for Product Description]
International Direct Sacks—M-Bags	Outbound International	International Direct Sacks—M-Bags
Global Customized Shipping Services	Direct Entry Parcels Contracts	[Reserved for Product Description]
Inbound Surface Parcel Post (at non-UPU rates)	Direct Entry Parcels 1 (MC2009–26 and CP2009–36)	International Direct Sacks—M-Bags
Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)	Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)	[Reserved for Product Description]
International Money Transfer Service	Global Expedited Package Services (GEPS) Contracts	International Money Transfer Service
International Ancillary Services	GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)	[Reserved for Product Description]
Special Services	Global Expedited Package Services 2 (CP2009–50)	Inbound Surface Parcel Post (at non-UPU rates)
Premium Forwarding Service	Global Plus Contracts	[Reserved for Product Description]
Negotiated Service Agreements	Global Plus 1 (CP2008–8, CP2008–46 and CP2009–47)	International Ancillary Services
Domestic	Global Plus 2 (MC2008–7, CP2008–48 and CP2008–49)	[Reserved for Product Description]
Express Mail Contract 1 (MC2008–5)	Inbound International	Outbound International
Express Mail Contract 2 (MC2009–3 and CP2009–4)	Inbound Direct Entry Contracts with Foreign Postal Administrations	[Reserved for Group Description]
Express Mail Contract 3 (MC2009–15 and CP2009–21)	Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and MC2008–15)	Part C—Glossary of Terms and Conditions [Reserved]
Express Mail Contract 4 (MC2009–34 and CP2009–45)	Inbound Direct Entry Contracts with Foreign Postal Administrations 1 (MC2008–6 and CP2009–62)	Part D—Country Price Lists for International Mail [Reserved]
Express Mail Contract 5 (MC2010–5 and CP2010–5)	International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)	[FR Doc. E9–29721 Filed 12–14–09; 8:45 am]
Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)	Competitive Product Descriptions	BILLING CODE 7710-FW-P
Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)	Express Mail	
Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)	[Reserved for Group Description]	
Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)	Express Mail	
Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)	[Reserved for Product Description]	
Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)	Outbound International Expedited Services	
Express Mail & Priority Mail Contract 7 (MC2009–32 and CP2009–43)	[Reserved for Product Description]	
Express Mail & Priority Mail Contract 8 (MC2009–33 and CP2009–44)	Inbound International Expedited Services	
Parcel Select & Parcel Return Service Contract 1 (MC2009–11 and CP2009–13)	[Reserved for Product Description]	
Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61)	Priority	
Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)	[Reserved for Product Description]	
Priority Mail Contract 1 (MC2008–8 and CP2008–26)	Priority Mail	
Priority Mail Contract 2 (MC2009–2 and CP2009–3)	[Reserved for Product Description]	
Priority Mail Contract 3 (MC2009–4 and CP2009–5)	Outbound Priority Mail International	
Priority Mail Contract 4 (MC2009–5 and CP2009–6)		
Priority Mail Contract 5 (MC2009–21 and CP2009–26)		
Priority Mail Contract 6 (MC2009–25 and CP2009–30)		
Priority Mail Contract 7 (MC2009–25 and CP2009–31)		

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–64

[GSPMR Amendment 2009–01; GSPMR Case 2009–105–1; Docket Number 2009–0018 Sequence 1]

RIN 3090-AJ00

General Services Administration Property Management Regulations; GSA Privacy Act Rules

AGENCY: Office of the Chief Human Capital Officer, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising its Privacy Act rules to reflect organizational changes and to update policies and procedures. This revision