

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 18, 2001.

Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

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POSTAL SERVICE

39 CFR Part 551

Semipostal Stamp Program

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would create implementation regulations for the Semipostal Authorization Act, which authorizes the Postal Service to issue and sell semipostal postage stamps. Semipostal stamps are intended to raise funds for causes determined by the Postal Service to be in the public interest and appropriate. The proposed regulations relate to the selection procedures for causes and recipient executive agencies, the offices and authorities responsible for making decisions related to causes and recipient executive agencies, the criteria to be applied in evaluating proposals for causes and recipient executive agencies, sales limitations, the calculation of amounts to be transferred to executive agencies, and the determination of costs to be offset from differential revenue.

DATES: Comments must be received on or before March 19, 2001.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Stamp Services, ATTN: Semipostal Proposed Rules, 475 L'Enfant Plaza SW., Room 5670, Washington, DC 20260-2435, or sent via e-mail at the address posted on the Postal Service's Internet Web site at www.usps.com. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Postal Service Library, at the above address. Arrangements should be made in advance for inspection by contacting (202) 268-2900.

FOR FURTHER INFORMATION CONTACT: Cindy Tackett, (202) 268-6555.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Semipostal Authorization Act, Pub. Law No. 106-253, 114 Stat. 634 (2000) (hereinafter "Act"), authorizes the Postal Service to establish a ten-year program to sell semipostal stamps. The differential between the price of a semipostal stamp and the First-Class Mail® service rate, less an offset for the reasonable costs of the Postal Service, consists of an amount to fund causes that the "Postal Service determines to be in the national public interest and appropriate." By law, revenue from sales, net of postage and the reasonable costs of the Postal Service, is to be transferred to selected executive agencies within the meaning of 5 U.S.C. 105.

The Governors of the Postal Service are authorized to set prices for semipostal stamps according to a formula prescribed in the Act. Specifically, the Act prescribes that the price of a semipostal stamp is the "rate of postage that would otherwise regularly apply," plus a differential, i.e., the difference between sales revenue and postage, of not to exceed 25 percent. This is essentially the same formula prescribed by the Stamp Out Breast Cancer Act, Pub. L. No. 105-41, 111 Stat. 1119 (1997).

II. Statutory Requirements for Regulations

The Act provides that the Postal Service is to promulgate certain regulations via a notice and comment rulemaking. Specifically, the Postal Service must identify the "office or other authority within the Postal Service" to make decisions on the "appropriate causes and agencies" eligible to receive amounts becoming available from differential revenue less an offset for the reasonable costs of the Postal Service. The Postal Service is also directed to issue regulations on the "criteria and procedures" to be applied in making decisions on recipient executive agencies and causes. The Act further requires the Postal Service to identify "what limitations shall apply, if any, relating to the issuance of semipostals (such as whether more than one semipostal may be offered for sale at the same time)." Finally, the Postal Service's regulations must "specifically address how the costs incurred by the Postal Service . . . shall be computed, recovered, and kept to a minimum."

III. Summary of Proposed Regulations

The proposed rules are intended to enable the Postal Service to fulfill the Act's objectives. Proposed section 551.1 provides that the office of Stamp

Services is primarily responsible for the Semipostal Stamp Program, and that the office of Controller has primary responsibility for financial issues related to the program.

Proposed section 551.2 describes semipostal stamps, and defines the differential to be the difference between the sales price and the postage value of semipostal stamps at the time of purchase.

Proposed section 551.3 establishes a procedure for the selection of causes and recipient executive agencies. From time to time, the Postal Service will publish a request for proposals in the **Federal Register** inviting interested persons to submit proposals for consideration. Proposals will be reviewed by the office of Stamp Services for consistency with the selection criteria in proposed section 551.4. Those proposals deemed to be eligible for consideration will be forwarded to the Citizens' Stamp Advisory Committee (CSAC).¹ CSAC will review the eligible proposals and make recommendations to the Postmaster General, who will act on those recommendations. Special rules would apply if more than one proposal is submitted for the same cause, with different executive agencies proposed to receive the funds. In those cases, the funds would be evenly divided, unless an agency can demonstrate it is entitled to a larger share. In those instances, the Postal Service's vice president and Consumer Advocate would determine the share for each executive agency.

Proposed section 551.4 would establish the submission requirements and selection criteria. Interested persons, defined to include individuals, corporations, associations, and executive agencies, may submit proposals. Proposals must satisfy certain technical requirements, and provide a description of the cause to be funded. The submission must also demonstrate that the cause has broad national appeal, and the cause is in the national public interest and furthers human welfare. Submissions must be accompanied by a letter from an executive agency designated to receive the funds. The letter provides assurance that the agency is qualified to receive

¹ CSAC is an advisory body created by the Postal Service to provide technical information, advice, and recommendations to the Postal Service on subjects for postage stamps. See "Administrative Support Manual" § 644.5. It also provides broad judgment and experience on various factors that lead to the issuance of stamps and establishes criteria for selecting stamp subjects. CSAC's fifteen members reflects a wide range of educational, artistic, historical, and professional expertise. Members are appointed by, and serve at the pleasure of, the Postmaster General.

funds under the Act, and also ensures that the proposal can be successfully executed if it is selected. Consideration would not be given to proposals that support a number of enumerated factors, including: anniversaries; historical events; public works; people; specific organizations or associations; commercial enterprises or products; cities, towns, municipalities, counties, or secondary schools; hospitals, libraries, or similar institutions; religious institutions; any cause that has been previously supported by a semipostal stamp, including the stamp issued pursuant to 39 U.S.C. § 414; causes that do not further human welfare; or causes determined by the Postal Service or the Citizens' Stamp Advisory Committee to be inconsistent with the spirit, intent, or history of the Semipostal Authorization Act. These enumerated factors are intended to give effect to the Act's intent that only causes in the national public interest should be funded. Proposed section 551.4 also makes clear that proposal submissions become the property of the Postal Service.

Proposed section 551.5 specifies the frequency and other limitations on semipostal stamps. The Act provides that the period within which the Postal Service may sell semipostal stamps under 39 U.S.C. 416 is limited to ten years. The sales period will commence after sales of the Breast Cancer Research Stamp are discontinued. The sales period of the Breast Cancer Research Stamp was extended by the Semipostal Authorization Act to July 29, 2002. New semipostal stamps will accordingly not be issued until after this time. To ensure that the Semipostal Stamp Program reflects the broad spectrum of causes that further the national public interest, proposed section 551.5 specifies that the sales period for any given semipostal would be limited to no more than two years. While the Postal Service expects that most semipostal stamps will be offered for the full two-year period, changes in the sales period may be made by the office of Stamp Services to coincide with changes in the First-Class Mail® service single-piece first ounce rate. To minimize costs, avoid customer confusion, and facilitate ease of administration, no more than one semipostal stamp would be offered for sale at any given time. Proposed 551.5 also reserves the right to withdraw a semipostal stamp.

Proposed section 551.6 establishes that the price of semipostal stamps will be based on the First-Class Mail® service single-piece first-ounce rate. Prices are to be determined by the Governors of the Postal Service in

accordance with the requirements of 39 U.S.C. 416.

Proposed section 551.7 identifies the procedure for calculation of the funds to be transferred to executive agencies. A special account identifier code (AIC) will be used to record sales revenue. The amounts to be transferred consist of the differential revenue less an amount for the reasonable costs of the Postal Service. Funds are to be transferred to recipient executive agencies pursuant to mutual agreement.

Proposed section 551.8 sets forth the Postal Service's policy to recover from the differential those costs determined to be attributable to the semipostal and that would not normally be incurred for commemorative stamps having similar sales objectives; physical characteristics; and marketing, promotional, and public relations activities. Such commemorative stamps are defined as "comparable stamps." The office of the Controller will identify comparable stamps and develop a cost profile for purposes of comparison. Costs that may be recovered from the differential include packaging costs in excess of those for comparable stamps, printing costs for flyers or special receipts, costs of changes to equipment, costs of developing and executing marketing and promotional plans in excess of those for comparable stamps, and other costs that would not normally have been incurred for comparable stamps. Other specified costs would not be recovered from the differential, but rather would be "recovered" through retention of revenue from the postage portion of semipostal stamps. The office of the Controller would bear responsibility for tracking specified costs in proposed section 551.8. The Postal Service intends to maximize differential revenues by avoiding, to the extent practicable, promotional costs that exceed those of comparable stamps, establishing restrictions on the number of concurrently issued semipostals, and making financial and retail system changes in conjunction with regularly scheduled revisions.

IV. Conclusion

In accordance with 39 U.S.C. 416(e)(2), the Postal Service invites public comment on the following proposed amendments to the "Code of Federal Regulations."

An appropriate amendment to 39 CFR part 551 to reflect these changes will be published if the proposal is adopted.

List of Subjects in 39 CFR Part 551

Administrative practice and procedure, Postal Service.

For the reasons set out in this document, the Postal Service proposes to add 39 CFR part 551 as follows:

PART 551—SEMIPOSTAL STAMP PROGRAM

Sec.

551.1 Semipostal stamp program.

551.2 Semipostal stamps.

551.3 Procedure for selection of causes and recipient executive agencies.

551.4 Submission requirements and selection criteria.

551.5 Frequency and other limitations.

551.6 Pricing.

551.7 Calculation of funds for recipient executive agencies.

551.8 Cost offset policy.

Authority: 39 U.S.C. 101, 201, 203, 401, 403, 404, 410, 414, and 416.

§ 551.1 Semipostal stamp program.

The Semipostal Stamp Program is established under the Semipostal Authorization Act, Pub. Law No. 106–253, 114 Stat. 634 (2000). The office of Stamp Services has primary responsibility for administering the Semipostal Stamp Program. The office of the Controller has primary responsibility for financial aspects of the Semipostal Stamp Program.

§ 551.2 Semipostal stamps.

Semipostal stamps are stamps that are sold for a price that exceeds the postage value of the stamp. The difference between the price and postage value of semipostal stamps, also known as the differential, less an offset for reasonable costs, as determined by the Postal Service, consists of a contribution to fund causes determined by the Postal Service to be in the national public interest and appropriate. Funds are to be transferred to selected recipient executive agencies, as defined under 5 U.S.C. 105. The office of Stamp Services determines the print quantities of semipostal stamps.

§ 551.3 Procedure for selection of causes and recipient executive agencies.

The Postal Service is authorized to select causes and recipient executive agencies to receive funds raised through the sale of semipostal stamps. The procedure for selection of causes and recipient executive agencies is as follows:

(a) In advance of the issuance of a semipostal stamp, the office of Stamp Services will publish a request for proposals in the **Federal Register** inviting interested persons to submit proposals for a cause and recipient executive agency for a future semipostal stamp. The notice will specify the beginning and ending dates of the period during which proposals may be

submitted. The notice will also specify the approximate period in which the semipostal stamp for which proposals are solicited is to be sold. The office of Stamp Services may publicize the request for proposals through other means, as it determines in its discretion.

(b) Proposals will be received by the office of Stamp Services, which will review each proposal under § 551.4.

(c) Those proposals that the office of Stamp Services determines satisfy the requirements of § 551.4 will be forwarded to the Citizens' Stamp Advisory Committee for consideration.

(d) The Citizens' Stamp Advisory Committee will review eligible proposals forwarded by the office of Stamp Services. Based on the proposals submitted, the Citizens' Stamp Advisory Committee will make recommendations to the Postmaster General on a cause and eligible recipient executive agency(ies) to the Postmaster General. If no eligible proposals are recommended, the Postal Service will solicit additional proposals through publication of a notice in the **Federal Register** and through other means as it determines in its discretion.

(e) Meetings of the Citizens' Stamp Advisory Committee are closed, and deliberations of the Citizens' Stamp Advisory Committee are predecisional in nature.

(f) The Postmaster General will act on the recommendations of the Citizens' Stamp Advisory Committee. The decision of the Postmaster General shall consist of the final agency decision.

(g) The office of Stamp Services will notify the executive agency(ies) in writing of a decision designating the agency(ies) as recipients of funds from a semipostal stamp.

(h)(1) A proposal submission may designate one or two recipient executive agencies to receive funds, but if more than one executive agency is proposed, the proposal must specify the percentage shares of differential revenue, net of the Postal Service's reasonable costs, to be given to each agency. If percentage shares are not specified, it is presumed that the proposal intends that the funds be split evenly between the agencies. If more than two recipient executive agencies are proposed to receive funds and the proposal is selected, the proposal is treated as prescribed by paragraph (h)(3) of this section.

(2) If more than one proposal is submitted for the same cause, and the proposals would have different executive agencies receiving funds, the funds would be evenly divided between the executive agencies, with no more than two agencies being designated to

receive funds, as determined by the vice president and Consumer Advocate.

(3) Within ten days of receipt of a notice indicating that it has been selected to receive funds, a selected agency could request a proportionately larger share if it can demonstrate that its share of total funding of the cause from other sources (excluding any additional funds available as a result of the semipostal stamp) exceeds that of the other recipient executive agency. The request must be in writing and must be sent to the Manager of Stamp Services. In those cases, the determination regarding the proportional share to be divided among the recipient executive agencies is made by the Postal Service's vice president and Consumer Advocate.

(i) As either a separate matter, or in combination with recommendations on a cause and a recipient executive agency(ies), the Citizens' Stamp Advisory Committee will recommend to the Postmaster General a design (i.e., artwork) for the semipostal stamp. The Postmaster General will make a final determination on the design to be featured.

§ 551.4 Submission requirements and selection criteria.

(a) Proposals on recipient executive agencies and causes must satisfy the following requirements:

(1) An original and twenty copies of the proposal submission must be timely submitted by an interested person. For purposes of this section, interested persons include, but are not limited to, individuals, corporations, associations, and executive agencies under 5 U.S.C. 105. Interested persons submitting proposals are also encouraged to submit an Adobe Acrobat (.pdf) file saved on a 3.5 inch diskette or CD-ROM diskette containing the entire contents of the submission. In extraordinary circumstances, the office of Stamp Services may, in its discretion, consider a late-filed proposal.

(2) The proposal submission must be signed by the individual or a duly authorized representative and must provide the mailing address, phone number, fax number (if available), and e-mail address (if available) of a designated point of contact.

(3) The submission must describe the cause and the purposes for which the funds would be spent.

(4) The submission must demonstrate that the cause to be funded has broad national appeal, and that the cause is in the national public interest and furthers human welfare. Respondents are encouraged to submit supporting documentation demonstrating that

funding the cause would benefit the national public interest.

(5) The submission must be accompanied by a letter from an executive agency on agency letterhead representing that:

(i) It is an executive agency as defined under 5 U.S.C. 105,

(ii) It is willing and able to implement the proposal, and

(iii) It is willing and able to meet the requirements of the Semipostal Authorization Act, if it is selected. The letter must be signed by a duly authorized representative of the agency.

(b) Proposal submissions become the property of the Postal Service and are not returned to interested persons who submit them. Interested persons who submit proposals are not entitled to any remuneration, compensation, or any other form of payment, whether their proposal submissions are selected or not, for any reason.

(c) The following persons are disqualified from submitting proposals:

(1) Any contractor of the Postal Service that may stand to benefit financially from the Semipostal Stamp Program; or

(2) Members of the Citizens' Stamp Advisory Committee and their immediate families, and employees or contractors of the Postal Service, and their immediate families, who are involved in any decisionmaking related to causes, recipient agencies, or artwork for the Semipostal Stamp Program.

(d) Consideration for evaluation would not be given to proposals that request support for the following: anniversaries; historical events; public works; people; specific organizations or associations; commercial enterprises or products; cities, towns, municipalities, counties, or secondary schools; hospitals, libraries, or similar institutions; religious institutions; any cause that has been previously supported by a semipostal stamp, including the stamp issued pursuant to 39 U.S.C. 414; causes that do not further human welfare; or causes determined by the Postal Service or the Citizens' Stamp Advisory Committee to be inconsistent with the spirit, intent, or history of the Semipostal Authorization Act.

(e) Artwork and stamp designs should not be submitted with proposals.

§ 551.5 Frequency and other limitations.

(a) The Postal Service is authorized to issue semipostal stamps for a ten-year period beginning on the date on which semipostal stamps are first sold to the public under 39 U.S.C. 416. The ten-year period will commence after the sales period of the Breast Cancer Research Stamp is concluded in

accordance with the Stamp Out Breast Cancer Act, as amended by the Semipostal Authorization Act. The office of Stamp Services will determine the date of commencement of the ten-year period.

(b) The Postal Service will offer only one semipostal stamp for sale at any given time during the ten-year period.

(c) The sales period for any given semipostal stamp is limited to no more than two years, as determined by the office of Stamp Services.

(d) Prior to or after the issuance of a given semipostal stamp, the Postal Service reserves the right to withdraw the semipostal stamp from sale, or to reduce the sales period, if, inter alia:

(1) Its sales or revenue statistics are lower than expected,

(2) The sales or revenue projections are lower than previously expected, or

(3) The cause or recipient executive agency does not further, or comply with, the statutory purposes or requirements of the Semipostal Authorization Act. The decision to withdraw a semipostal stamp is to be made by the Postmaster General, after review of supporting documentation prepared by the office of Stamp Services.

§ 551.6 Pricing.

(a) The Semipostal Authorization Act prescribes that the price of a semipostal stamp is the "rate of postage that would otherwise regularly apply." For purposes of this provision, the First-Class Mail single-piece first-ounce rate of postage will be considered "the rate of postage that would otherwise regularly apply."

(b) The prices of semipostal stamps are determined by the Governors of the United States Postal Service in accordance with the requirements of 39 U.S.C. 416.

§ 551.7 Calculation of funds for recipient executive agencies.

(a) The Postal Service is to determine its reasonable costs in executing its responsibilities pursuant to the Semipostal Authorization Act, as specified in § 551.8. These costs are offset against the revenue received through sale of each semipostal stamp in excess of the First-Class Mail single-piece first-ounce rate in effect at the time of purchase.

(b) Any reasonable costs offset by the Postal Service shall be retained by it, along with revenue from the sale of the semipostal stamps, as recorded by sales units through the use of a specially-designated account information code.

(c) The Postal Service is to pay designated recipient executive agency(ies) the remainder of the

differential revenue less an amount to recover the reasonable costs of the Postal Service, as determined under § 551.8.

(d) The amounts for recipient executive agencies are transferred in a manner and frequency determined by mutual agreement, consistent with the requirements of 39 U.S.C. 416.

§ 551.8 Cost offset policy.

(a) Postal Service policy is to recover from the differential revenue for each semipostal stamp those costs determined to be attributable to the semipostal stamp and that would not normally be incurred for commemorative stamps having similar sales objectives; physical characteristics; and marketing, promotional, and public relations activities (hereinafter "comparable stamps").

(b) Overall responsibility for tracking costs associated with semipostal stamps will rest with the office of the Controller. Individual organizational units incurring costs will provide supporting documentation to the office of the Controller.

(c) For each semipostal stamp, the office of the Controller shall, based on judgment and available information, identify the comparable commemorative stamp(s) and create a profile of the typical cost characteristics of the comparable stamp(s), thereby establishing a baseline for cost comparison purposes. The determination of comparable commemorative stamps may change during or after the sales period, if the projections of stamp sales differ from actual experience.

(d) Except as specified, all costs associated with semipostal stamps will be tracked by the office of the Controller. Costs that will not be tracked include:

(1) Costs that the Postal Service determines to be inconsequential small;

(2) Costs for which the cost of tracking would be burdensome (e.g., costs for which the cost of tracking exceeds the cost to be tracked);

(3) Costs attributable to mail to which semipostal stamps are affixed (which are attributable to the appropriate class and/or subclass of mail); and

(4) Administrative and support costs that the Postal Service would have incurred whether or not the Semipostal Stamp Program had been established.

(e) Cost items recoverable from the differential revenue may include, but are not limited to, the following:

(1) Packaging costs in excess of the cost to package comparable stamps;

(2) Printing costs for flyers and special receipts;

(3) Cost of changes to equipment;

(4) Cost of developing and executing marketing and promotional plans in excess of the cost for comparable stamps; and

(5) Other costs specific to the stamp that would not normally have been incurred for comparable stamps.

(f) The Semipostal Stamp Program incorporates the following provisions that are intended to maximize differential revenues available to the selected causes. These include, but are not limited to, the following:

(1) Avoiding, to the extent practicable, promotional costs that exceed those of comparable stamps;

(2) Establishing restrictions on the number of concurrently issued semipostals; and

(3) Making financial and retail system changes in conjunction with regularly scheduled revisions.

(g) Other costs attributable to semipostals but which would normally be incurred for comparable stamps would be recovered through the postage component of the semipostal stamp price. These include, but are not limited to, the following:

(1) Costs for stamp design (including market research);

(2) Costs for stamp production and printing;

(3) Costs of stamp shipping and distribution;

(4) Estimated training costs for field staff, except for special training associated with semipostal stamps;

(5) Costs of stamp sales (including employee salaries and benefits);

(6) Costs associated with the withdrawal of the stamp issue from sale;

(7) Costs associated with the destruction of unsold stamps; and

(8) Costs associated with the incorporation of semipostal stamp images into advertising for the Postal Service as an entity.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6927-1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.