

Alcohol and Tobacco Programs Division, within 45 days after the date of the decision of the Chief, Product Compliance Branch.”

Signed: February 23, 1999.

John W. Magaw,

Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 99-5090 Filed 3-5-99; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Use and Determination of Postage Value of Breast Cancer Research Semi-postal Stamp

AGENCY: Postal Service.

ACTION: Final rule; response to Comments.

SUMMARY: This rule responds to comments on the final rule published in the **Federal Register** on July 16, 1998 (63 FR 38309), on which the Postal Service had sought comments concerning the use and determination of postage value of the Breast Cancer Research Semi-postal Stamp. The Postal Service has made minor changes to the Domestic Mail Manual standards pertaining to the exchange value.

EFFECTIVE DATE: In accordance with the final rule published on July 16, 1998, the effective date for the final rule was July 29, 1998. Amendments to Domestic Mail Manual language published here as a response to comments were effective January 10, 1999.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth, (202) 268-2363.

SUPPLEMENTARY INFORMATION: On July 16, 1998, the Postal Service published in the **Federal Register** a final rule (61 FR 38309) that established the standards in the Domestic Mail Manual (DMM) governing the use and determination of postage value of the Breast Cancer Research Semi-postal Stamp. The final rule took effect on July 29, 1998, the first date on which the Breast Cancer Research Semi-postal Stamp was made available for sale to the public in accordance with the Stamp Out Breast Cancer Act, Pub. L. 105-41, 111 Stat. 1119 (1997). The Stamp Out Breast Cancer Act provides that the Postal Service make a Breast Cancer Research Semi-postal Stamp available for sale to the public no later than August 13, 1998.

Although the Postal Service published the DMM standards pertaining to the Breast Cancer Research Semi-postal Stamp as a final rule, the Postal Service

solicited public comment on the DMM standards implementing the Stamp Out Breast Cancer Act. The Postal Service received three comments, which are addressed below. The Postal Service has made minor changes to DMM standards pertaining to the exchange value of Breast Cancer Research Semi-postal Stamps. These revisions were effective January 10, 1999.

One concern raised by two commenters relates to the stamp's postage value. In particular, the commenters noted that the postage value of the stamp will be determined by the First-Class Mail single-piece first-ounce rate in effect at the time of purchase, in lieu of the First-Class Mail single-piece first-ounce rate effective at the time of usage. The commenters expressed concern that this measure may be confusing for customers, given that the Breast Cancer Research Semi-postal Stamp does not bear a numerical denomination.

The Postal Service is sensitive to the commenters' concerns; however, these standards are necessary to protect postal revenues. The Postal Service determines the amount of money available for breast cancer research based upon the First-Class Mail single-piece rate in effect at the time of purchase.

One commenter suggested that the Postal Service should issue semi-postal stamps bearing a numerical value equivalent to the First-Class Mail single-piece rate in effect at the time of purchase. The Postal Service appreciates this suggestion. In this case, however, the interests of administrative and operational simplicity are served by the absence of a numerical value on the stamp. It would have been difficult to adopt the commenter's suggestion in this case, because the Postal Service could not predict the quantity of stamps that should be printed at each rate, given that, at the time the stamps had to be produced, no final decisions on rate changes, or their effective date, had been made.

Two commenters asked why customers will be required to present a dated receipt in order to receive exchanges for 33 cents postage. In response to these comments, the Postal Service will not require customers to present a receipt in order to receive exchanges for Breast Cancer Research Semi-postal Stamps. Breast Cancer Research Semi-postal Stamps will be exchanged at the postage value in effect at the time of exchange. The Postal Service does not expect to exchange many Breast Cancer Research Semi-postal Stamps, as self-adhesive stamps may only be exchanged under limited

circumstances (see Domestic Mail Manual P014.1.8).

One commenter questions why the conversion and exchange value of the Breast Cancer Research Semi-postal Stamp is limited to its postage value. This standard is required because, by operation of the Stamp Out Breast Cancer Act, the revenue that the Postal Service receives from the differential (net of the stamp selling price and the postage value) must be transferred to the Department of Defense and the National Institutes of Health for the purpose of breast cancer research. Consequently, once the differential revenue is transferred, the Postal Service will not have access to the differential revenue paid for the purpose of funding postage exchanges and conversions.

One commenter questions whether the amount of the differential applies toward the \$100 exchange limit in DMM P014.1.2. The exchange limit per transaction of \$100 in P014.1.2 is not affected by the amount of the differential.

One commenter believes that the Stamp Out Breast Cancer Act should be interpreted so that the differential amount varies depending upon the First-Class Mail postage rate applicable to pieces weighing more than one ounce. This interpretation has no support in the legislative history, and would, moreover, require the adoption of sales and usage practices that would be completely unworkable. Under this interpretation, the Postal Service could not set a uniform price for the stamp; rather, the amount of differential would have to be separately determined whenever customers intended to use Breast Cancer Research Semi-postal Stamps to pay for postage above the first-ounce rate. This would also have the adverse effect of limiting the stamp's marketability and utility, since the stamp's price would have to be separately determined for each mailing transaction.

One commenter asked what postage value Breast Cancer Research Semi-postal Stamps would have when such stamps are used in multiples. Each Breast Cancer Research Semi-postal Stamp purchased before January 10, 1999, will have a postage value of \$0.32, regardless of whether such stamps are used in multiples.

One commenter questioned whether the Breast Cancer Research Semi-postal Stamp could be used to pay postage for classes of mail other than First-Class Mail, or for international mail. Breast Cancer Research Semi-postal Stamps are considered nondenominated stamps and may be used on domestic classes other than First-Class Mail to the extent

postage may be paid by stamps in accordance with the payment standards for the appropriate class of mail. Recently adopted amendments to DMM P022.2.1 and International Mail Manual (IMM) section 152.2 make clear that the Breast Cancer Research Semi-postal Stamp may be used on international mail. See Postal Bulletin 21978 (August 13, 1998).

Finally, one commenter was disappointed that funds raised through the sale of the stamp would be given to the Department of Defense. This comment exceeds the scope of the final rule. The Postal Service is not authorized to select the organizations that receive contributions to breast cancer research made by purchasers of the Breast Cancer Research Semi-postal Stamp. Rather, the Stamp Out Breast Cancer Act directs the Postal Service to pay prescribed percentages of the revenue from the differential to the National Institutes of Health and the Department of Defense.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding rulemaking by 39 U.S.C. 410(a), the Postal Service hereby amends the following standards of the Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

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, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as set forth below:

P Postage and Payment Methods

* * * * *

P014 Refunds and Exchanges

1.0 STAMP EXCHANGES

1.1 USPS Fault

[Revise to read:]

The post office may correct mistakes in selling damaged, defective, or otherwise unserviceable stamps by exchanging stamps at full postage value.

1.2 Damaged in Customer's Possession

[Revise the last sentence to read as follows:]

* * * Each such transaction is limited to \$100 worth of postage from each customer.

* * * * *

1.5 Purchase Error

[Revise the first sentence to read as follows:]

If a customer bought the wrong denomination stamps (or the wrong kind, size, or denomination envelope), they may be exchanged at full postage value. * * *

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2.0 POSTAGE AND FEES REFUNDS

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[Revise new 2.10 to read as follows:]

2.10 Breast Cancer Research Semi-postal Stamps

Customers may exchange or convert Breast Cancer Research Semi-postal Stamps for their postage value, i.e., the price of the stamps less the contribution amount, to the extent exchange or conversion of postage stamps is permitted under P014. The postage exchanged or converted is equivalent to the First-Class Mail single-piece rate in effect at the time of exchange. The contribution amount is not included in the exchange or conversion value.

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P020 Postage Stamps and Stationery

P022 Adhesive Stamps

1.0 PURCHASE AND USE

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[Revise 1.6 to read as follows:]

1.6 Breast Cancer Research Semi-postal Stamps

Breast Cancer Research Semi-postal Stamps are subject to special limitations and conditions:

a. Breast Cancer Research Semi-postal Stamps provide a means for customers to make contributions toward breast

cancer research. Breast Cancer Research Semi-postal Stamps are offered for sale for a limited time as provided under 39 U.S.C. 414.

b. The price of the Breast Cancer Research Semi-postal Stamp is 40 cents. The postage value of the Breast Cancer Research Semi-postal Stamp is the First-Class Mail Nonautomation Single-Piece first-ounce letter rate in R100.1.2 that is in effect at the time of purchase. The difference between the purchase price and the First-Class Mail Nonautomation Single-Piece first-ounce letter rate in effect at the time of purchase constitutes a contribution to breast cancer research, and cannot be used to pay postage. Additional postage must be affixed to pieces weighing in excess of one ounce, pieces subject to the nonstandard surcharge, or pieces for which special services have been elected. The postage value of Breast Cancer Research Semi-postal Stamps is fixed according to the First-Class Mail Nonautomation Single-Piece first-ounce letter rate in effect at the time of purchase; the postage value of Breast Cancer Research Semi-postal Stamps purchased before any subsequent change in the First-Class Mail Nonautomation Single-Piece first-ounce letter rate is unaffected by any subsequent change in that rate.

c. Contributions to breast cancer research made through purchase of Breast Cancer Research stamps are not refundable. The postage value of Breast Cancer Research stamps for purposes of exchange or conversion under P014 is determined by the First-Class Mail Nonautomation Single-Piece rate in effect at the time of purchase, or as otherwise provided in P014.2.10.

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R Rates and Fees

R000 Stamps and Stationery

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[Amend the table in R000.4.0 to revise the following line item:]

| Purpose | Form | Denomination |
|-----------------------------|--------------------------------------|---|
| * Breast Cancer Research | * * * * * Panes of up to 20 | * * * * * Purchase Price of \$0.40; Postage Value Equivalent to First-Class Mail Nonautomation Single-Piece Rate (currently \$0.32); remainder is contribution to fund Breast Cancer Research. |

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An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 101498C]

RIN 0648-AJ50

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 56 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and Amendment 56 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Approval of fishery management plan amendments.

SUMMARY: NMFS announces the approval of Amendment 56 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and Amendment 56 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. These amendments revise the definition of overfishing levels (OFL) for groundfish species or species groups in these fishery management plans (FMPs). This action is necessary to revise the definition of OFL for compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and is intended to advance the ability of the North Pacific Fishery Management Council (Council) to achieve, on a continuing basis, the optimum yield from fisheries within its geographical area of authority.

DATES: The amendments were approved January 27, 1999.

ADDRESSES: Copies of Amendments 56/56 and the Environmental Assessment (EA) and related analyses are available from the Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: James Hale, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Section 301(a) of the Magnuson-Stevens Act establishes national standards for fishery conservation and management. All FMPs prepared under the authority of the Magnuson-Stevens Act must be consistent with those standards. National standard 1 requires conservation and management measures to "prevent overfishing while achieving, on a continuing basis, the optimum yield" from fisheries in Federal waters. National standard 2 requires that conservation and management measures be based on the best scientific information available.

Prior to its amendment in 1996, the Magnuson-Stevens Act did not define overfishing. Advisory national standard guidelines for the development of FMPs and amendments, pursuant to section 301(b) of the Magnuson-Stevens Act, required that each FMP specify an objective and measurable definition of overfishing for each managed stock or stock complex. The guidelines further required that an overfishing definition (1) have sufficient scientific merit; (2) be likely to protect the stock from closely approaching or reaching an overfished status; (3) provide a basis for objective measurement of the status of the stock against the definition; and (4) be operationally feasible. The Council developed such an objective and measurable definition of overfishing and, in 1991, implemented that definition under Amendments 16 and 21 to the Alaska groundfish FMPs (56 FR 2700, January 24, 1991).

In 1996, with increased understanding of the reference fishing mortality rates used to determine Acceptable Biological Catches (ABCs) and OFLs, the Council recommended, and NMFS approved, the existing definition of overfishing—a six-tiered system accommodating different levels of reliable information available to fishery scientists for determining OFLs. Fishery scientists use the equations from an appropriate tier to determine when a stock is overfished according to the reliability of information available. The six-tiered system accomplishes three basic functions: (1) It compensates for uncertainty in estimating fishing mortality rates at a level of maximum sustainable yield (MSY) by establishing fishing mortality rates more conservatively as biological parameters become more imprecise; (2) it relates fishing mortality rates directly to biomass for stocks below target abundance levels, so that fishing mortality rates fall to zero should a stock become critically depleted; and (3)

it maintains a buffer between ABC and the overfishing level. Further information and background on the OFL definition contained in Amendments 44/44 may be found in the notice of availability published at 61 FR 54145 on October 17, 1996.

Revised definition of OFL

On October 11, 1996, the President signed into law the Sustainable Fisheries Act (Pub.L. 104-297), which made numerous amendments to the Magnuson-Stevens Act. The amended Magnuson-Stevens Act now defines the terms "overfishing" and "overfished" to mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce MSY on a continuing basis (section 3(29)), and requires that all FMPs:

Specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing and rebuild the fishery (section 303 (a)(10)).

The Magnuson-Stevens Act required all regional fishery management councils to submit amendments, by October 11, 1998, that would bring their FMPs into compliance.

In April 1998, the Council and its Advisory Panel and Scientific and Statistical Committee (SSC) reviewed a draft analysis of alternatives for revising the existing OFL definitions and, in June 1998, the Council recommended the preferred alternative as Amendments 56/56 to the groundfish FMPs. These amendments revise the definition of overfishing for consistency with the requirements of the Magnuson-Stevens Act.

NMFS published a notice of availability for proposed Amendments 56/56, describing the proposed amendments and inviting public comments, in the **Federal Register** at 63 FR 57094 on October 26, 1998. NMFS received one written comment opposing the proposed definition of overfishing contained in Amendments 56/56. NMFS responds to the comment in the following paragraphs.

Comment: Amendments 56/56 should not be approved for two reasons. First, the overfishing definition does not contain a minimum stock size threshold (MSST) as called for by NMFS' national standard guidelines. The guidelines, published at 50 CFR 600.305, are not discretionary and, hence, the absence of