

section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of \$100 million.
- Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 6, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01-3837 Filed 2-14-01; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-132-FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of excerpts of House Bill 393 containing costs in mine proceedings legislation. The amendment is intended to revise the Pennsylvania program to be consistent with the corresponding federal regulations.

DATES: If you submit written comments, they must be received by 4 p.m. (local time), March 19, 2001. If requested, a public hearing on the proposed amendment will be held on March 12, 2001. Requests to speak at the hearing must be received by 4 p.m. (local time), on March 2, 2001.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. Robert J. Biggi, at the address listed below.

You may review copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Robert J. Biggi, Director, Office of Surface Mining Reclamation and

Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717)782-4036, e-mail: bbiggi@osmre.gov.

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105-8461, Telephone: (717)787-5103.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Telephone: (717)782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 31, 1982, **Federal Register** (47 FR 33050). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Description of the Proposed Amendment

By letter dated January 3, 2001, (Administrative Record No. PA-848.25), Pennsylvania submitted a proposed amendment to its program at the Pennsylvania Consolidated Statutes, Title 27 (Environmental Resources), Chapter 77, section 7708. The full text of the amendment is:

Excerpts of House Bill 393 Containing Costs in Mine Proceedings Legislation

Amending Title 27

(Environmental Resources) of the Pennsylvania Consolidated Statutes, providing for participation in environmental law or regulation and for costs in mining proceedings.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 27 of the Pennsylvania Consolidated Statutes is amended by adding chapters to read:

Subpart A

General provisions

Chapter 77. Costs and fees

Sec. 7708. Costs for mining proceedings.

(A) Purpose.—This section establishes costs and fees available in proceedings involving coal mining activities. The purpose of this section is to provide costs and fees to the same extent of section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 30 U.S.C. § 1201

et seq.) and the regulations promulgated pursuant thereto. It is hereby determined that it is in the public interest for the Commonwealth to maintain primary jurisdiction over the enforcement and administration of the Surface Mining Control and Reclamation Act of 1977 and that the purpose of this section is to maintain primary jurisdiction over coal mining in this Commonwealth but in no event to authorize standards which are more stringent than federal standards for the award of costs and fees.

(B) General rule.—Any party may file a petition for award of costs and fees reasonably incurred as a result of that party's participation in any proceeding involving coal mining activities which results in a final adjudication being issued by the Environmental Hearing Board or a final order being issued by an appellate court.

(C) Recipients of awards.—Appropriate costs and fees incurred for a proceeding concerning coal mining activities may be awarded:

(1) To any party from the permittee, if:

(i) The party initiates or participates in any proceeding reviewing enforcement actions upon a finding that a violation of a commonwealth coal mining act, regulation or permit has occurred or that an imminent hazard existed.

(ii) The Environmental Hearing Board determines that the party made a substantial contribution to the full and fair determination of the issues.

Except that the contribution of a party who did not initiate a proceeding shall be separate and distinct from the contribution made by a party initiating the proceeding.

(2) To any party, other than a permittee or his representative, from the department, if that party:

(i) Initiates or participates in any proceeding concerning coal mining activities.

(ii) Prevails in whole or in part, achieving at least some degree of success on the merits.

Upon a finding that the party made a substantial contribution to a full and fair determination of the issues.

(3) To a permittee from the department when the permittee demonstrates that the department in a matter concerning coal mining activities issued an order of cessation, a compliance order or an order to show cause why a permit should not be suspended or revoked, in bad faith and for the purpose of harassing or embarrassing the permittee.

(4) To a permittee from any party where the permittee demonstrates that the party, in bad faith and for the purpose of harassing or embarrassing the permittee:

(i) Initiated a proceeding under one or more of the coal mining acts or the regulations promulgated pursuant to any of those acts concerning coal mining activities;

Or

(ii) participated in such a proceeding in bad faith for the purpose of harassing or embarrassing the permittee.

(D) Time for filing.—The petition for an award of costs and fees shall be filed with the Environmental Hearing Board within 30 days of the date an adjudication of the Environmental Hearing Board becomes final.

(E) Contents of petition.—A petition filed under this section shall include the name of

the party from whom costs and fees are sought and the following shall be submitted in support of the petition:

(1) An affidavit setting forth in detail all reasonable costs and fees reasonably incurred for or in connection with the party's participation in the proceeding.

(2) Receipts or other evidence of such costs and fees.

(3) Where attorney fees are claimed, evidence concerning the hours expended on the case, the customary commercial rate of payment for such services in the area and the experience, reputation and ability of the individual or individuals performing the services.

(F) Answer.—Any party shall have 30 days from service of the petition within which to file an answer to such petition.

(G) Exclusive remedy.—Except for section 601 of the act of June 22, 1937 (Pub. L. 1987, No. 394), known as the Clean Streams Law, Section 18.3 of the act of May 31, 1945 (Pub. L. 1198, No. 418), known as the Surface Mining Conservation and Reclamation Act, Section 13 of the Act of April 27, 1966 (1st Sp.Sess., Pub. L. 31, No. 1), known as the Bituminous Mine Subsidence and Land Conservation Act and Section 13 of the act of September 24, 1968 (Pub. L. 1040, No. 318), known as the Coal Refuse Disposal Control Act, this section shall be the exclusive remedy for the awarding of costs and fees in proceedings involving coal mining activities.

(H) Definitions.—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

Coal mining activities. The extraction of coal from the earth, waste or stockpiles, pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip mining, auger mining, dredging, quarrying and leaching and all surface activity connected with surface or underground coal mining, including, but not limited to, exploration, site preparation, coal processing or cleaning, coal refuse disposal, entry, tunnel, drift, slope, shaft and borehole drilling and construction, road construction, use, maintenance and reclamation, water supply restoration or replacement, repair or compensation for damages to structures caused by underground coal mining and all activities related thereto.

Coal mining acts. The provisions of the act of June 22, 1937 (Pub. L. 1987, No. 394), known as the Clean Streams Law, the act of May 31, 1945 (Pub. L. 1198, No. 418), known as the Surface Mining Conservation and Reclamation Act, the Act of April 27, 1966 (1st 27 Sp.Sess., Pub. L. 31, No. 1), known as the Bituminous Mine Subsidence and Land Conservation Act, and the act of September 24, 1968 (Pub. L. 1040, No. 318), known as the Coal Refuse Disposal Control Act, which govern coal mining or activities related to coal mining.

Costs and fees. All reasonable costs and expenses, including attorney fees and expert witness fees, reasonably incurred as a result of participation in a proceeding involving coal mining activities.

Department. The Department of Environmental Protection of the Commonwealth.

Proceeding. Appeals of final Department of Environmental Protection actions before the Environmental Hearing Board and judicial review of Environmental Hearing Board adjudications.

Section 2. (A) The following acts or parts of acts are repealed:

The fifth sentence of section 4(b) and subsection (f)(5) of section 4.2 of the act of May 31, 1945 (Pub. L. 1198, No. 418), known as the Surface Mining Conservation and Reclamation Act.

The last sentence of section 5(g) of the act of April 27, 1966 (1st Sp.Sess., Pub. L. 31, No. 1), known as the Bituminous Mine Subsidence and Land Conservation Act.

The last sentence of section 5(i) of the act of September 24, 1968 (Pub. L. 1040, No. 318), known as the Coal Refuse Disposal Control Act.

(B) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 3. The addition of 27 Pa.C.S. Section 7708 shall apply to all proceedings and petitions for costs and fees filed after the effective date of this act.

Section 4. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of 27 Pa.C.S. Section 7708.

(ii) this section.

(2) The remainder of this act shall take effect in 60 days.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. PA-132-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Harrisburg Field Office at (717) 782-4036.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on March 2, 2001. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each

meeting will be made a part of the Administrative Record.

Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program

provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

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.

[FR Doc. 01-3836 Filed 2-14-01; 8:45 am]

BILLING CODE 4310-05-P

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.