



POSTAL SERVICE

39 CFR Part 501

Revisions to the Requirements for Authority to Manufacture and Distribute Postage Evidencing Systems; Customized Postage Products

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend its Postage Evidencing Systems regulations to add standardized requirements for the authorization to produce Customized Postage products, a Special Service approved by the Postal Regulatory Commission. Customized Postage products are provided through authorized Postage Evidencing System manufacturer-distributors or through companies affiliated with authorized Postage Evidencing System manufacturer-distributors and approved by the Postal Service. During the development of this service, the requirements for authorization to produce Customized Postage products have been described in *Federal Register* notices and in individual approval letters issued to providers. These amendments would give regulatory form to the existing requirements for authorization to produce Customized Postage products, and incorporate procedures for the protection of Postal Service business interests.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Mail or deliver written comments to the Manager, Payment Technology, U.S. Postal Service[®], 475 L'Enfant Plaza SW, Room 3500, Washington DC 20260. You

may inspect and photocopy all written comments at the Payment Technology office by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1-202-268-7613 in advance. Email and faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Christy Noel, Legal Policy & Legislative Advice, U.S. Postal Service, (202) 268-3484.

SUPPLEMENTARY INFORMATION: The Postal Reorganization Act authorizes the Postal Service to provide such evidence of postage payment “as may be necessary or desirable.” 39 U.S.C. 404(a)(4). The Postal Service exercises this authority through 39 CFR part 501, which protects postal revenues by regulation of manufacturer-distributors of Postage Evidencing Systems. Customized Postage products were developed through market tests allowing Authorized Postage Evidencing System providers to combine evidence of prepayment of postage with a customer-selected or customer-provided graphic image for printing and fulfillment. See, 70 FR 21821 (April 27, 2005); 71 FR 12718 (March 13, 2006). Subsequently, Customized Postage products were approved as a Special Service by the Postal Regulatory Commission. See, 75 FR 11452, 11459 (March 11, 2010). These proposed amendments to 39 CFR 501 would create standardized definitions, requirements, and procedures applicable to the authorization to provide Customized Postage products, and incorporate protections for the Postal Service’s legal, financial, or brand interests. Existing providers of Customized Postage products would be able to continue provision of Customized Postage products for the remainder of the product year in accordance with these revisions upon their effective date, and subject to any requirements set forth in individual authorization letters. Alternatively, existing providers would be able to

discontinue provision of Customized Postage products and request a refund from the Postal Service of their annual fee, pro-rated for the remainder of the product year.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure.

Accordingly, for the reasons discussed above, the Postal Service proposes to amend 39 CFR part 501 as follows:

PART 501 – AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

1. The authority citation for 39 CFR part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605, Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended); 5 U.S.C. App. 3.

2. In § 501.1, revise paragraph (d) and add paragraph (h) to read as follows:

§ 501.1 Definitions.

(d) A *provider* is: (1) A person or entity authorized under this section to manufacture or distribute Postage Evidencing Systems to customers; or

(2) A company that is:

(i) Affiliated under conditions respecting postage revenue security with a person or entity authorized under this section to manufacture or distribute Postage Evidencing Systems to customers; and

(ii) Authorized by the Postal Service to produce Customized Postage products in accordance with this section and subject to all procedures and regulations set forth

throughout this section and to any additional requirements set forth in individual approval letters.

(h) *Customized Postage products* are products combining barcode indicia of postage payment with digital, graphic, or pictorial images or text. Customers select or provide images or text that meet Eligibility Criteria established by the Postal Service, and the image or text is combined with the barcode indicia by providers and printed under controlled conditions for mailing to customers.

3. In § 501.6, remove the term “PT” wherever it appears and add in its place the term “the Postal Service”; and revise paragraph (a), the final sentence of paragraph (b), paragraph (c)(1), and paragraph (f) to read as follows:

§ 501.6 Suspension and Revocation of Authorization.

(a) The Postal Service may suspend or revoke authorization to manufacture or distribute any or all of a provider’s approved Postage Evidencing Systems, or to produce Customized Postage products, if the provider engages in any unlawful scheme or enterprise; fails to comply with any provision in this Part 501, or any provision in an individual approval letter; fails to implement instructions issued in accordance with any final decision issued by the Postal Service within its authority over Postage Evidencing Systems or Customized Postage products; or if the Postage Evidencing Systems, Customized Postage products, or infrastructure of the provider is determined to constitute an unacceptable risk to Postal Service business interests, including legal, financial, or brand interests.

(b)*** Before determining that a provider’s authorization to manufacture or distribute Postage Evidencing Systems or to produce Customized Postage products should be suspended or revoked, the procedures in paragraph (c) of this section shall be followed.

(c)(1) *Suspension or revocation* procedures: Upon determination by the Postal Service that a provider is in violation of a provision of this part, or that its Postage Evidencing System or Customized Postage products pose an unacceptable risk to Postal Service business interests, including legal, financial, or brand interests, the Postal Service shall issue a written notice of proposed suspension citing the specific conditions or deficiencies for which suspension may be imposed. Except in cases of willful violation, the provider shall be given an opportunity to correct deficiencies and achieve compliance within a time limit corresponding to the potential risk to Postal Service business interests.

(f) An order or final decision under this section does not preclude any other remedy that is available by law to the Postal Service, the United States, or any other person or entity.

4. In § 501.7(c), in the first sentence, remove the words “postal evidencing system” and add in their place the words “postage meter”.

5. Revise § 501.13 to read as follows:

§ 501.13 False Representations of Postal Service Actions.

Providers, their agents, and employees must not misrepresent to customers of the Postal Service any decisions, actions, or proposed actions of the Postal Service

respecting its regulation of Postage Evidencing Systems or Customized Postage products. The Postal Service reserves the right pursuant to § 501.6 to suspend or revoke the authorization to manufacture or distribute Postage Evidencing Systems or to produce Customized Postage when it determines that the provider, its agents, or employees failed to comply with this section.

6. Add § 501.21 to read as follows:

§ 501.21 Customized Postage Products.

(a) *Eligibility Criteria.* The Postal Service reserves the right to determine independently whether any image, text, or category of images or texts meets any of the Eligibility Criteria contained in this section. To be eligible for use in Customized Postage products, images and/or text must meet criteria established by the Postal Service, which are:

(1) Images or text must not contain:

(i) Any image or text the customer or provider does not have the right to use either directly or under license, including but not limited to images or text that may be the subject of third party rights such as copyright, trademarks, or rights of publicity or privacy;

(ii) Any depiction of alcohol; tobacco; controlled substances, including but not limited to marijuana; gambling; or firearms or other weapons;

(iii) Any depiction of political, religious, violent or sexual content, including content not suitable for minors; or

(iv) Any depiction of any other subject matter prohibited for display under U.S. law.

(2) Images or text must be “commercial” or “social,” as defined below:

(i) *Commercial* means intended for no other purpose than the sale of goods or services in commerce.

(ii) *Social* means promoting or depicting people, animals, items, or events commonly associated with friendly relations or companionship and likely to generate invitations, announcements, notices, thank you notes, RSVPs, or similar correspondence.

(b) *Customized Postage provider authorization* is conditioned on the following requirements:

(1) *Use of Eligibility Criteria in purchases.* Providers must use only the Eligibility Criteria set forth in paragraph (a) of this subsection in providing or accepting images and/or text for Customized Postage products. Providers may not use any other eligibility criteria, represent the use of any other eligibility criteria to customers, or otherwise give the appearance that any eligibility criteria other than the Eligibility Criteria set forth in paragraph (a) of this subsection apply to purchases of Customized Postage products.

(2) *Use of Eligibility Criteria in promotional material.* Providers must ensure that any images and/or text used in providing or promoting Customized Postage products, for individual sale or as part of a category of images and/or text provided or made available for customer selection, displayed on provider websites or in any medium, including without limitation exemplars, ordering templates, customization options, or customer correspondence:

(i) Are fully compatible with the Eligibility Criteria set forth in paragraph (a) of this subsection; and

(ii) Do not give the appearance that images that are not fully compatible with the Eligibility Criteria set forth in paragraph (a) of this subsection are available or offered for purchase through providers or otherwise.

(3) *Disassociation from U.S. stamps.* Providers must not refer to Customized Postage products as “stamps” or make any other representations tending to imply that Customized Postage products are related in any way to official U.S. postage stamps or to any aspect of the Postal Service philatelic program.

(4) *Authorization fee and Eligibility Criteria audit.* Providers must pay an annual authorization fee and participate in any audit conducted by the Postal Service to ensure that the customer-selected or -provided images or text displayed on Customized Postage products or in the promotion in any medium of Customized Postage products are in compliance with the Eligibility Guidelines set forth in paragraph (a) of this subsection.

(5) *Individual authorization letters.* Additional conditions and requirements for provider authorization may be set forth in individual provider authorization letters.

(6) *Correspondence.* The Postal Service office responsible for administration of this part is the Office of Brand Marketing or its successor organization. All correspondence with the Postal Service required by this part is to be made to this office in person or via mail to 475 L'Enfant Plaza SW., Room 5117, Washington, DC 20260-0004.

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