

compliance with all applicable Federal, DoD, and Army regulations. (The installation commander also will give appropriate consideration to State or local restrictions on such releases.)

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*Deputy Assistant Secretary of the Army,  
(Environment, Safety and Occupational  
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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 200

#### Organization, Functions, and Procedures; Freedom of Information Act

**AGENCY:** Forest Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture is revising the Forest Service's Freedom of Information Act (FOIA) procedures to permit the Chief of the Forest Service to designate Washington Office staff directors to receive requests for records, extend the reply deadline period, make discretionary releases of records exempt from mandatory disclosure, and deny records pursuant to the Act. The intent is to achieve more efficiency and to balance the assignment of the FOIA workload. Since this rule change relates solely to internal administration and the carrying out of the Secretary's executive function of delegating authority to agency heads, notice and comment prior to adoption of this rule are not necessary.

**EFFECTIVE DATE:** This rule is effective October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Naomi Charboneau, Freedom of Information Act Officer, MAIL STOP 1143, Forest Service, USDA, P.O. Box 6090, Washington, D.C. 20090-6090. Telephone: (703) 235-9488.

**SUPPLEMENTARY INFORMATION:** Forest Service rules governing requests for information made pursuant to the Freedom of Information Act are set out in 36 CFR 200.7 and 200.8. In § 200.7, Request for records, the Deputy Chief for the program area involved is authorized to receive and act on requests and to extend the 20-day administrative deadline for reply, to make discretionary releases of material not exempt from mandatory disclosure, and to deny records requested. Under § 200.8, appeals of details are made to and rendered by the Chief or other

official to whom such authority is delegated. Through the Forest Service Manual Chapter 6270, the Chief has delegated all appeals to the Deputy Chief for Operations.

An Internal Forest Service review reveals that this practice has resulted in a disproportionate appeal workload being assigned to the Deputy Chief for Operations. In response to this finding, the Chief has determined that all Deputy Chiefs should share in the appeal decision workload. This reassignment necessitates a change in who may respond to initial requests. This final rule revises § 200.7(a) to permit the Washington office Staff Directors to exercise the authority to respond to initial requests and make other decisions authorized in § 200.7(b). In addition, the final rule also adds the Direct of the Institute of Tropical Forestry to the list of field officers authorized under paragraph (a) to respond to initial requests. This position was inadvertently omitted from a June 19, 1997, amendment updating Forest Service unit names and addresses. The revised delegations of authority to staff Directors, and Deputy Chiefs for FOIA responses to requests and appeals, respectively, will be issued by the Chief in an amendment to Chapter 6270 of the Forest Service Manual, which is the principal source of internal agency procedure (36 CFR 200.4).

In addition, in order to insure uniformity in treatment by the various program and staff offices handling appeals, the Forest Service is formalizing current practice, in a revision of 36 CFR 200.8, by requiring that all proposed responses to appeals be reviewed by the Forest Service Freedom of Information Act/Privacy Act Officer before signature by the Deputy Chiefs.

This final rule involves matters of internal agency procedure, namely the assignment and allocation of work and the delegation of authority by the Chief of the Forest Service. Therefore, pursuant to 5 U.S.C. 553(a)(3)(A), this final rule is exempt from the notice and comment requirements of 5 U.S.C. 553(b). Accordingly, this rule is also exempt from review under Executive Order 12866 on Regulatory Review, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and the Congressional review requirements of the Small Business Regulatory Enforcement Act of 1996 (Pub. L. No. 104-121, Title II, Subtitle E).

In accordance with Executive Order 12630, regarding Governmental Action and Interference with Constitutionally Protected Property Rights, the Forest Service finds that this final rule,

involving matters of internal agency procedure in connection with the processing of FOIA requests and appeals, implicates no takings, in that it does not propose or implement licensing, permitting, or other conditions, requirements, or limitations on private use, nor does it require dedications or exactions from owners of private property.

The Forest Service has reviewed this final rule in accordance with Executive Order 12988, Civil Justice Reform, and has determined that this rule will preempt all State and local laws and regulations that are in conflict with this rule; (2) this rule will have no retroactive effect; and (3) parties will not be required to participate in administrative proceedings before filing suit in court challenging the rule. The rule meets the applicable standards provided in section 3(b) of the Executive Order.

Finally, this rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

#### List of Subjects in 36 CFR Part 200

Administrative practice and procedure, Freedom of information, and Organization and functions (Government agencies).

Therefore, for the reasons set forth in the preamble, Part 200 of Title 36 of the Code of Federal Regulations is amended as follows:

#### PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

1. The authority citation for Part 200 continues to read:

**Authority:** 5 U.S.C. 552; 7 U.S.C. 6706; 16 U.S.C. 472, 521, 1603, and 2101 *et seq.*

2. Section 200.7 is amended by revising paragraph (a) to read as follows:

##### § 200.7 Request for records.

\* \* \* \* \*

(a) The Regional Forester, Regional Special Agent in charge, Research Station Director, Area Director, and Institute Director at the field locations and addresses listed in § 200.2; the Director of Law Enforcement and Investigations, other Staff Directors, or other officials whom the Chief may authorize, located in the Washington Office, are authorized to receive requests for such records, to make

determinations regarding whether records exist, and to grant or deny requests for records exempt from disclosure under the provisions of 5 U.S.C. 552(b).

\* \* \* \* \*

3. Section 200.8 is revised to read as follows:

#### **§ 200.8 Appeals.**

(a) Appeals from denials of requests submitted under § 200.7 shall be submitted in accordance with U.S. Department of Agriculture rules at 7 CFR part 1, subpart A, and the appendix to subpart A to the Chief, Forest Service, U.S. Department of Agriculture, Auditors Building, 14th and Independence Avenue, S.W., P.O. Box 96090, Washington, DC 20090-6090.

(b) The Chief, or other official to whom such authority is delegated, shall determine whether to grant or deny the appeal and make all necessary determinations relating to an extension of the 20-day administrative deadline for reply, discretionary release of records exempt from mandatory disclosure under 5 U.S.C. 552(b), and charging the appropriate fees, pursuant to U.S. Department of Agriculture rules at 7 CFR part 1, subpart A, and the appendix to subpart A.

(c) The Forest Service Freedom of Information Act/Privacy Act Officer must review all proposed responses to appeals prior to signature.

Dated: September 30, 1998.

**Anne Kennedy,**

*Deputy Under Secretary, Natural Resources and Environment.*

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## **POSTAL SERVICE**

### **39 CFR Part 501**

#### **Manufacture, Distribution, and Use of Postage Meters**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This rule clarifies and expands the sources of and uses of applicant information derived from applications for a license to lease and use postage meters, both printed and electronic versions.

**EFFECTIVE DATE:** October 5, 1998.

**FOR FURTHER INFORMATION CONTACT:** Nicholas S. Stankosky, (202) 268-5311.

**SUPPLEMENTARY INFORMATION:** This rule is intended to provide greater specificity regarding uses of the information derived from the meter license

applications received by the United States Postal Service from meter users and authorized meter Manufacturers. Such information is hereafter referred to as "Applicant Information." Applicant information is derived from postal forms, both printed and electronic versions.

#### **Discussion of Comments**

A total of one hundred and forty one parties made comments on the proposed rule. Of this number, an overwhelming number indicated general support for the Postal Service's ability to communicate more effectively with its meter users. One common thought among these comments was that the Postal Service should be able to include the names of the four currently authorized meter manufacturers in customer communications. One party had a number of what were presented as business and legal concerns. These involved the Postal Service in possibly:

1. Using a customer list to promote USPS services in competition with the private sector;
2. Promoting or advancing the business interests of competitors;
3. Listing competitors names in customer communications;
4. Using a list for unspecified future uses;
5. Having access to a manufacturer's computer files; and
6. Issuing a communication without prior notification to the meter manufacturers.

These concerns were specifically addressed and resolved with this party prior to the issuance of the final rule. However, this same party had an objection to the use of the list beyond contacts related to the meter program. The Postal Service considered this comment and concluded that inasmuch as remote set meter customers would no longer have the need to visit a retail facility to have their meter set, it was appropriate to use the list to convey information that a customer could have otherwise obtained from a retail outlet. Since this rule was proposed, the Postal Service has completed relicensing of all meter users. This resulted in an updated customer list.

#### **List of Subjects in 39 CFR Part 501**

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 501 is amended as follows:

#### **PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS**

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, 410, 2610, 2605; Inspector General Act of 1978, as amended (Pub L. 95-452, as amended), 5 U.S.C. App 3.

2. Add section 501.29, as follows:

#### **§ 501.29 Licensee information.**

(a) As stated in § 501.22(b) manufacturers must transmit electronically, copies of completed PS Forms 3601-A, Application for a License to Lease and Use Postage meters, to the designated Postal Service central data processing facility.

(b) The Postal Service may use applicant information in the administration of postage meter and metered mail activities, and to communicate with customers who may no longer be visiting a traditional USPS retail outlet. The Postal Service will also use applicant information to communicate with USPS customers through any new retail channels, and for the following purposes:

(1) Issuance (including re-licensing, renewal, transfer, revocation or denial, as applicable) of a meter license to a postal patron that uses a postage meter, and communications with respect to the status of such license.

(2) Disclosure to a meter manufacturer of the identity of any meter required to be removed from service by that meter manufacturer, and any related licensee data, as the result of revocation of a meter license, questioned accurate registration of that meter, or de-certification by the Postal Service of any particular class or model of postage meter.

(3) Use for the purpose of tracking the movement of meters between a meter manufacturer and its customers and communications to a meter manufacturer (but not to any third party other than the applicant/licensee) concerning such movement. The term "meter manufacturer" includes a meter manufacturer's dealers and agents.

(4) To transmit general information to all meter customers concerning rate and rate category changes implemented or proposed for implementation by the United States Postal Service.

(5) To advertise Postal Service services relating to the acceptance, processing and delivery of, or postage payment for, metered mail.

(6) To allow the Postal Service to communicate with USPS customers on products, services and other information otherwise available to USPS customers through traditional retail outlets.

(7) Any internal use by Postal Service personnel, including identification and monitoring activities relating to postage meters, provided that such use does not result in the disclosure of applicant