

§ 122.15 User fee airports.

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(b)List of user fee airports. * * *

Location	Name
Addison, Texas	Addison Airport.
Blountville, Tennessee.	Tri-City Regional Airport.
Blytheville, Arkansas	Arkansas Aeroplex.
Broomfield, Colorado	Jefferson County Airport.
Daytona Beach, Florida.	Daytona Beach International Airport.
Decatur, Indiana	Decatur Airport.
Dublin, Virginia	New River Valley Airport.
Egg Harbor Township, New Jersey.	Atlantic City International Airport.
Englewood, Colorado	Centennial Airport.
Fargo, North Dakota	Hector International Airport.
Fort Wayne, Indiana	Baer Field Airport.
Fort Worth, Texas	Fort Worth Alliance Airport.
Johnson City, New York.	Binghamton Regional Airport.
Lexington, Kentucky ..	Blue Grass Airport.
Manchester, New Hampshire.	Manchester Airport.
Medford, Oregon	Rogue Valley International Airport.
Melbourne, Florida	Melbourne Airport.
Midland, Texas	Midland International Airport.
Morristown, New Jersey.	Morristown Municipal Airport.
Moses Lake, Washington.	Port of Moses Lake.
Myrtle Beach, South Carolina.	Myrtle Beach International Airport.
Ocala, Florida	Ocala Regional Airport.
Palm Springs, California.	Palm Springs International Airport.
Rochester, Minnesota	Rochester Airport.
San Bernardino, California.	San Bernardino International Airport.
Sarasota, Florida	Sarasota/Bradenton International Airport.
Scottsdale, Arizona ...	Scottsdale Airport.
Terre Haute, Indiana	Hulman Regional Airport.
Victorville, California	Southern California Logistics Airport.
Waterford, Michigan ..	Oakland International Airport.
Waukegan, Illinois	Waukegan Regional Airport.
West Chicago, Illinois	Dupage County Airport.
West Trenton, New Jersey.	Trenton Mercer Airport.
Wheeling, Illinois	Palwaukee Airport.
Wilmington, Ohio	Wilmington Airport.
Ypsilanti, Michigan	Willow Run Airport.

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Raymond W. Kelly,
Commissioner of Customs.

Approved: March 30, 2000.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
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POSTAL SERVICE

39 CFR Part 913

Procedures for the Issuance of Administrative Subpoenas Under 39 U.S.C. 3016

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures for the issuance of administrative subpoenas in investigations of false representations and lotteries under 39 U.S.C. 3005(a). It adopts with changes a proposed rule published for public comment on March 16, 2000 (65 FR 14229-30). For reasons stated below, this rule will become effective immediately.

EFFECTIVE DATE: May 17, 2000.

FOR FURTHER INFORMATION CONTACT: Elizabeth P. Martin, (202) 268-3022.

SUPPLEMENTARY INFORMATION: The Deceptive Mail Prevention and Enforcement Act, Public Law 106-168, 113 Stat. 1806 (December 12, 1999), generally amended chapter 30 of title 39, United States Code, to make nonmailable certain deceptive matter relating to sweepstakes, skill contests, and facsimile checks. It also amended provisions relating to administrative procedures and orders, and added civil penalties relating to such matters.

Under new 39 U.S.C. 3016, the Postmaster General has authority to issue administrative subpoenas requiring the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material in any investigation conducted under 39 U.S.C. 3005(a), dealing with false representations and lotteries.

On March 16, 2000, the Postal Service published in the **Federal Register** a proposed new Part 913 to title 39 of the Code of Federal Regulations to establish the procedures to be used for the issuance of the administrative subpoenas authorized under 39 U.S.C. 3016 (65 FR 14229-30). The proposed rules set forth the conditions under which subpoenas may be issued, the

methods of service of subpoenas, the means by which subpoenas may be enforced, and the restrictions on the disclosure of subpoenaed information. Although exempt by 39 U.S.C. 410(a) from the notice and comment requirements of the Administrative Procedure Act, the Postal Service invited comments on the proposed new Part 913. The Postal Service received two comments, and has considered and incorporated several of the points raised therein.

Publishers Clearing House (PCH) suggested that § 913.1(a) should acknowledge that the authority to issue the subpoenas lies with the Postmaster General. The regulation has been changed to clarify that fact. Both PCH and the Postal Service Office of the Inspector General (OIG) expressed concern that the regulations should more closely track the language of the statute regarding conditions precedent to the issuance of a subpoena. A new § 913.1(c) has been added to address those concerns. Current subsections (c) and (d) are relettered as (d) and (e). New § 913.1(d)(3) similarly addresses the concern regarding conditions precedent.

New section 913(d)(1) is changed to clarify that only a specifically authorized Inspector may submit a request. At the suggestion of the OIG, new 913.1(d)(4) is changed to clarify that the General Counsel, at his or her discretion, may issue or deny a subpoena, require additional information, or honor requests to amend or supplement a request.

Both the OIG and PCH expressed concerns with respect to the clarity of § 913.4. We have considered their suggestions, however, we have not adopted their proposed language. The language published is that which is contained in the statute, and thus any lack of clarity is statutory. We interpret that language to state that anything turned over pursuant to a subpoena is exempt from release under the Freedom of Information Act.

Finally, the OIG suggested that certain new reporting requirements concerning the number of cases in which the authority under 39 U.S.C. 3016 is used should be addressed by these regulations. We have determined that the reporting requirements are not relevant to the process by which subpoenas are requested and issued, and have declined to make the suggested change.

With regard to the effective date, we have determined that there is good cause to make the new regulations effective upon publication. We believe that the public interest would not be served by providing persons who might

be subject to false representation or lottery investigations under 39 U.S.C. 3005(a) with a further "window of opportunity" until their records become subject to administrative subpoena requirements.

List of Subjects in 39 CFR Part 913

Administrative practice and procedure, False Representations, Lotteries.

Accordingly, for the reasons discussed above, the Postal Service hereby adds Part 913 to title 39, of the Code of Federal Regulations as set forth below.

PART 913—PROCEDURES FOR THE ISSUANCE OF ADMINISTRATIVE SUBPOENAS UNDER 39 U.S.C. 3016

Sec.

913.1 Subpoena authority.

913.2 Service.

913.3 Enforcement.

913.4 Disclosure.

Authority: 39 U.S.C. 204, 401, 404, 3005, 3016.

§ 913.1 Subpoena authority.

(a) General. The General Counsel by delegation from the Postmaster General is responsible for the issuance of subpoenas in investigations conducted under 39 U.S.C. 3005(a), with authority to delegate that function to a Deputy General Counsel.

(b) Production of records. A subpoena issued by the General Counsel may require the production of any records (including computer records, books, papers, documents, and other tangible things which constitute or contain evidence) which the General Counsel considers relevant or material to an investigation.

(c) Requirements. No subpoena shall be issued until a specific case (identifying the individual or entity that is the subject) has been opened and an appropriate supervisory and legal review of a subpoena request have been performed.

(d) Requests for subpoenas. (1) A request for a subpoena shall be submitted to the Office of the General Counsel by a Postal Inspector, Inspector Attorney, or other Inspector specifically authorized by the Postal Inspection Service to submit such a request, after appropriate review by an Inspector In Charge or that person's designee.

(2) A request for a subpoena shall state the specific case, with an individual or entity identified as the subject, in which the subpoena is requested.

(3) A request for a subpoena shall contain a specific description of the records requested, and shall state how

they are relevant or material to the investigation.

(4) The General Counsel, in his or her discretion, may issue or deny the requested subpoena, or require the requesting individual to provide additional information. The General Counsel, in his or her discretion, may also honor requests to amend or supplement a request for a subpoena.

(e) Form and issuance. Every subpoena shall cite 39 U.S.C. 3016 as the authority under which it is issued, and shall command each person to whom it is directed to produce specified records at a time and place therein specified. The General Counsel shall sign the subpoena and enter the name of the individual or entity to whom it is directed.

§ 913.2 Service.

(a) Service within the United States. A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

(b) Foreign service. Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure describe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

(c) Service on business persons. Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

(1) Delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(2) Delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

(3) Depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(d) Service on natural persons. Service of any subpoena may be made upon any natural person by—

(1) Delivering a duly executed copy to the person to be served; or

(2) Depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

(e) Verified return. A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

§ 913.3 Enforcement.

(a) In general. Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the General Counsel may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business (or in the case of a person outside the territorial jurisdiction of any district court, the district court for the District of Columbia), and serve upon such person a petition for an order of such court for the enforcement of this part.

(b) Jurisdiction. Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court may be punished as contempt.

§ 913.4 Disclosure.

Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5, United States Code.

Stanley F. Mires,

Chief Counsel, Legislative.

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