

§ 301.7122-1 [Amended]

1. On page 48030, column 3, 301.7122-1(d)(2), line 7, the language "involving such liability to the Attorney General" is corrected to read "involving such liability to the Department of Justice".

Cynthia E. Grigsby,

Chief, Regulations Unit Associate Chief Counsel (Income Tax and Accounting).

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DEPARTMENT OF DEFENSE**Department of the Air Force****32 CFR Part 806b****[Air Force Instruction 37-132]****Privacy Act; Implementation**

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding an exemption rule for the system of records F051 AF JA I, entitled 'Commander Directed Inquiries'. The (k)(2) exemption will increase the value of the system of records for law enforcement purposes.

EFFECTIVE DATE: August 6, 2002.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

SUPPLEMENTARY INFORMATION: The proposed rule was published on June 4, 2002, at 67 FR 38450. No comments were received from the public; therefore, the rule is being adopted as final.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 806b**Privacy.**

Accordingly, 32 CFR part 806b is amended as follows:

PART 806b—[AMENDED]

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Appendix C to part 806b is amended by adding paragraph (b)(22) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM**Appendix C to Part 806b—General and specific exemptions**

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(b) Specific exemptions. * * *

(22) System identifier and name: F051 AF JA I, Commander Directed Inquiries.

(i) Exemption: (1) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. (2) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) **Authority:** 5 U.S.C. 552a(k)(2).

(iii) Reasons: (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to

require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

Dated: August 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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POSTAL SERVICE

39 CFR Part 111

Optional Increase in Minimum Number of Pieces Required for Preparation of 5-Digit Packages of Standard Mail Flats

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth *Domestic Mail Manual* (DMM) standards adopted by the Postal Service to allow mailers to select a number from 10 to 17 as the minimum number of pieces at which 5-digit packages may be prepared in a Standard Mail job of flat-size pieces (DMM C050.3.0) that are not more than $\frac{3}{4}$ -inch thick. Currently mailers must prepare 5-digit packages whenever there are 10 or more pieces to a 5-digit ZIP Code destination.

EFFECTIVE DATE: September 5, 2002.

FOR FURTHER INFORMATION CONTACT:

Cheryl Beller (703) 292-3747; or Patricia Bennett (703) 292-3639.

SUPPLEMENTARY INFORMATION: Under these new standards, mailers can select a minimum number of pieces greater than 10 at which 5-digit packages of automation rate and Presorted rate

Standard Mail flat-size pieces not more than $\frac{3}{4}$ -inch thick, including co-packaged pieces (DMM M950), are prepared within a mailing job. Mailers must use a consistent minimum for 5-digit packages throughout a mailing job. The minimum may not be set higher than 17 pieces, which means that whenever there are 17 or more pieces to a 5-digit ZIP Code destination, those pieces must be prepared in 5-digit packages. The preparation standards for other package levels and for containers are unchanged, and mailers must continue to prepare 3-digit and area distribution center (ADC) packages whenever there are 10 or more pieces to those destinations. Pieces now prepared in 5-digit packages using the current 10-piece minimum will move either to an existing 3-digit package or be consolidated into fewer new 3-digit packages when a higher minimum of 11 to 17 pieces is selected. In either case, the overall number of packages prepared by mailers and processed by the Postal Service should decrease. For example, a 4-ounce catalog prepared in four 5-digit packages for the same 3-digit destination that each contain 10 pieces could be combined in one new 3-digit package (that weighs less than 20 pounds) under the new standards if the minimum 5-digit package size is set at 17.

Any movement of pieces from 5-digit packages to 3-digit packages that results from this new option will not impact postage paid by mailers or Postal Service revenues because Standard Mail flats are eligible for the 3/5 presort rates whether prepared in 5-digit or 3-digit packages. Pieces moving from small 5-digit packages to larger 3-digit packages would not be subject to any additional postage, and mailers are encouraged to set their 5-digit package minimum at 17 pieces to prepare fewer packages. However, anyone wanting to use the current 10-piece package minimum, or to set the minimum between 10 and 17, could do so. Mailers are reminded that the 3/5 Presorted rate for Standard Mail flats is applicable to 5-digit or 3-digit packages prepared in 5-digit or 3-digit sacks containing a minimum of 125 pieces or 15 pounds of pieces or placed on any level pallet. Automation rates are always based on the package presort level and the 3/5 automation rate applies to any pieces in 5-digit and 3-digit packages. It is possible that the selection of a higher 5-digit package minimum may improve the presort level of some pieces that would otherwise fall to a lower package level after all 5-digit packages are prepared. For example, after all 5-digit packages are prepared

using the current 10-piece package minimum, less than 10 pieces may remain for the 3-digit destination and the remaining pieces would be prepared in an ADC or mixed ADC package and be subject to the basic rate. When combined with pieces from one or more small 5-digit packages to the same 3-digit destination, these pieces could move to a 3-digit package and be subject to the 3/5 rates.

Because of the operational efficiencies that are expected for mailers and the Postal Service due to the creation and handling of fewer flats packages as a result of this new optional preparation, the Postal Service finds no need to solicit comments or to delay implementation.

Background

Exploratory modeling of piece, package, and container handling costs indicates that the appropriate minimum for 5-digit packages of Standard Mail flat-size pieces is clearly above 10 and could be increased to 17 pieces for flats likely to be processed on the automated flat sorting machine (AFSM) 100. The modeling, conducted by the Postal Service in conjunction with its product redesign efforts, indicates that changing the minimum package size for 5-digit packages is not likely to increase the Postal Service's combined package and piece handling costs. It also suggests that the net gain from reduced package handling using the 17-piece minimum will be greatest for pieces that weigh less than 6 ounces and somewhat less for heavier pieces. Because of the 20-pound maximum package weight (DMM M020.1.8), the elimination of 5-digit packages of heavier pieces will result in the creation of an almost equal number of 3-digit packages and the costs for additional piece handlings will not be offset by reduced package handling costs. As with any change of this type, the impact on a specific mailing will vary based on mail characteristics such as piece weight and presort density. However, it is expected that this optional change should help to reduce overall Postal Service processing costs as well as mailer production costs, and that it should not have any negative impact on service for pieces that move from 5-digit to 3-digit packages.

The expected benefits of this change are based, in large part, on productivities and piece processing efficiencies of the AFSM 100, which can process pieces up to $\frac{3}{4}$ -inch thick. Pieces greater than $\frac{3}{4}$ -inch thick may be processed on the FSM 1000, on the small parcel and bundle sorter (SPBS), or manually, all at lower productivities than if processed on the AFSM 100.