



POSTAL SERVICE

39 CFR Part 265

Production or Disclosure of Material or Information

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The United States Postal Service® (Postal Service) is responding to public comments regarding the amendment of its regulations concerning compliance with the Freedom of Information Act (FOIA) to implement the changes to the procedures for the disclosure of records and for engaging in dispute resolution required by the FOIA Improvement Act of 2016. Upon review and evaluation of such comments, the Postal Service has found that one change to the regulations is necessary.

DATES: *Effective date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Natalie A. Bonanno, Chief Counsel, Federal Compliance, natalie.a.bonanno@usps.gov, (202) 268-2944

SUPPLEMENTARY INFORMATION: On November 30, 2016 (81 FR 86270), the Postal Service published notice of amendments to 39 CFR part 265 to implement changes required by the FOIA Improvement Act of 2016 (FOIAIA), Pub. L. 114-185 (June 30, 2016). These changes were effective on December 27, 2016.

In response to this notice, we received comments that generally supported the amendments to the regulations, but questioned the definition of a “representative of the news media” in the regulations. The Postal Service has

reviewed these comments, and has concluded that one change should be made to the definition in question.

Our responses to the comments received, as grouped and categorized for convenience, are as follows.

Question 1: Why did the Postal Service fail to eliminate the “organized and operated” standard from the definition of a representative of the news media in 39 CFR part 265.9(b)(8) in accordance with 5 USC part 552(a)(4)(a), recent case law, and the Open Government Act of 2007?

Answer: Thank you for bringing this our attention. We will eliminate the “organized and operated” standard from the definition of a representative of the news media in 39 CFR 265.9(b)(8).

Question 2: Why did the Postal Service fail to eliminate the requirement that a news media requester use “editorial skills” to turn “raw materials” into a “distinct work” as a “simple press release commenting on records” would satisfy this criterion?

Answer: Such a change would be inconsistent with 5 U.S.C. 552(a)(4)(a), and the Department of Justice, Office of Information Policy’s template regulations for agencies. In addition, eliminating the “editorial skills” requirement would extend the definition from representatives of the news media with a minimal degree of professionalism to almost anyone.

Question 3: Why did the Postal Service fail to indicate that its list of examples of news media entities is non-exhaustive in contemplation of alternative media and evolving news media formats that may include posting content to a website?

Answer: Such a change would be inconsistent with the Department of Justice, Office of Information Policy’s template regulations for agencies. Please note that the Postal Service accounted for “news organizations that disseminate solely on the Internet” in contemplation of evolving news media formats in 39 CFR 265.9(b)(8).

List of Subjects in 39 CFR Part 265

Administrative practice and procedure, Courts, Freedom of Information, Government employees.

For the reasons stated in the preamble, the Postal Service amends 39 CFR part 265 as follows:

PART 265—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

1. The authority citation for 39 CFR part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601; Pub. L. 114-185.

2. Revise the first sentence of § 265.9(b)(8) to read as follows:

§ 265.9 Fees.

(b) ***

(8) *Representative of the news media* is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. ***

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017-00106 Filed: 1/9/2017 8:45 am; Publication Date: 1/10/2017]