

SUPPLEMENTARY INFORMATION: The proposed rule was published in the *Federal Register* on April 24, 2002 (67 FR 20077), with a request for submission of comments by May 24, 2002. We received three submissions in response to the solicitation of public comments. The Postal Service gave thorough consideration to the comments it received, modified the proposed rule as appropriate in response to the comments, and now announces adoption of the final rule. We will amend the remaining sections of title 39 CFR part 501 in the near future so that they reflect the changes in the postage meter population and recent changes to regulations published in the *Domestic Mail Manual* regarding postage meters and other postage evidencing systems.

Discussion of Comments

1. One commenter noted that since the Postal Service has control over all distributors of postage meters through the manufacturers, the amendments to the existing regulations make sense only if the manufacturer is allowed to transfer ownership of meters to distributors. The commenter suggested that revising the proposed regulation to allow transfer of ownership would increase competition in the marketplace and put an end to regulations that the commenter perceived as favoring manufacturers who operate a vertically integrated operation over those who use third parties to distribute meters. The commenter suggested that this change would make the regulation by the Postal Service of the security of postage meters in the custody of distributors and other third parties the same whether or not the third party owns, repairs, or distributes the meters.

Any control the Postal Service exercises over a person or concern that controls, distributes, maintains, replaces, repairs, or disposes of meters is currently exercised through the manufacturer. The Postal Service is seeking to standardize and strengthen the level of manufacturer control. The Postal Service does not now allow the transfer of ownership of meters to a third party. Any entity wanting to own meters now must qualify under 39 CFR part 501 to become an approved manufacturer. The entity must be capable of performing all functions required by part 501, including performance of inspections and identifying meters that are defective or tampered. The entity must also be capable of protecting and controlling internal and security components within the scope of § 501.28, as amended by this rule. No substantive

change is made to the proposed rule in response to this comment.

2. One commenter requested that the Postal Service provide standard written terms and conditions for manufacturers to include in all future third-party distributor agreements.

Given the variety of relationships that could exist between a manufacturer and a third party that controls, distributes, maintains, replaces, repairs, or disposes of meters, the Postal Service does not believe it is feasible to provide standard written terms and conditions for manufacturers to include in a third-party agreement. All third parties must adhere to applicable regulations, just as the manufacturer does. The applicable regulations include title 39, *Code of Federal Regulations*, part 501, Authorization to Manufacture and Distribute Postage Meters, and *Domestic Mail Manual*, Issue 57, especially section P030, Postage Meters (Postage Evidencing Systems). Manufacturers could consider requiring adherence to these regulations, and any others that may be applicable, in any third-party agreement. No change is made to the proposed rule in response to this comment.

3. One manufacturer with existing third-party relationships to distribute, replace, and dispose of meters suggested in its comment that such existing relationships should be grandfathered and exempt from the new regulations.

The manufacturer is responsible for controlling any third party in accordance with all applicable regulations. Postage Technology Management has the authority to review all existing relationships and the manufacturer's internal controls to ensure compliance. In this final rule, the Postal Service is clarifying the proposed rule in response to this comment.

4. One commenter asked that changes in field distribution relationships not require preapproval by the Postal Service. The time required to obtain such approval would unfairly burden the company and hinder its competitiveness. The commenter suggested that new third-party relationships, with the exception of new field sales relationships, should be presented for approval.

The Postal Service will review and approve third-party relationships only when the relationship has the potential to affect meter security or the security of Postal Service revenue. The Postal Service will not review those relationships commonly known as field sales or dealer relationships unless there is a particular security concern with the dealer or its operations. However, manufacturers must exercise control

over their dealers in accordance with Postal Service regulations. In this final rule, the Postal Service is clarifying the proposed rule with respect to relationships with dealers and field sales representatives.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

The Amendment

For the reasons set out in this document, the Postal Service is amending 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for 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. Revise § 501.22 to read as follows:

§ 501.22 Inventory control.

(a) An authorized manufacturer must maintain sufficient facilities for and records of the distribution, control, storage, maintenance, repair, replacement, and destruction or disposal of all meters and their components to enable accurate accounting thereof throughout the entire meter life cycle. Recordkeeping is required for all meters including newly produced meters, active leased meters, inactive meters, unleased meters, and lost or stolen meters. All such facilities and records are subject to inspection by Postal Service representatives.

(b) If the manufacturer uses a third party to perform functions that may affect meter security, including, but not limited to meter repair, maintenance, and disposal, the manager of Postage Technology Management, Postal Service Headquarters, must review in advance all aspects of the relationship, as they relate to the custody and control of meters, and must specifically authorize in writing the arrangement between the parties.

(1) Postal Service authorization of a third-party relationship for a given function does not extend to any other function. Extension of the third-party relationship to another function must be implemented and approved as if it were a new relationship.

(2) No third-party relationship shall compromise the security of the meter, or of any of its components, including, but not limited to, the hardware, software, communications, and security components, or of any system with