

**§ 36.4349 [Amended]**

18. In § 36.4349, paragraphs (d), (f), and (g) are amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

19. In § 36.4350, paragraph (a)(2) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; paragraph (b)(7) is removed; and paragraph (b)(8) is redesignated as paragraph (b)(7). Paragraph (a)(3) is amended by removing "." and adding, in its place, "; or", and a new paragraph (a)(4) is added to read as follows:

**§ 36.4350 Estate of veteran in real property.**

(a) \* \* \*

(4) A beneficial interest in a revocable Family Living Trust that ensures that the veteran, or veteran and spouse, have an equitable life estate, provided the lien attaches to any remainder interest and the trust arrangement is valid under State law.

\* \* \* \* \*

**§ 36.4352 [Amended]**

20. Section 36.4352 is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

**§ 36.4364 [Amended]**

21. In § 36.4364, paragraph (f) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

**§ 36.4393 [Amended]**

22. In § 36.4393, paragraphs (g) and (h) are amended by removing "Chief Benefits Director" each time it appears and adding, in its place, "Under Secretary for Benefits".

23. The authority citation for part 36.4400 through 36.4411 continues to read as follows:

Authority: Sections 36.4400 through 36.4411 issued under 72 Stat. 1114, 1168, as amended (38 U.S.C. 501, 2101), unless otherwise noted.

24. In § 36.4402, paragraph (a)(4)(iii) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits". Paragraph (a)(4)(iii) is further amended by removing ";" and adding, in its place, ", or"; and a new paragraph (a)(4)(iv) is added to read as follows:

**§ 36.4402 Eligibility.**

(a) \* \* \*

(4) \* \* \*

(iv) A beneficial interest in a revocable Family Living Trust that ensures that the veteran, or veteran and spouse, have an equitable life estate,

provided the trust arrangement is valid under State law;

\* \* \* \* \*

25. In § 36.4404, paragraphs (a) introductory text, (b)(2), and the authority citation are revised to read as follows:

**§ 36.4404 Computation of cost.**

(a) *Computation of cost of housing unit.* Under section 2101(a) of chapter 21, for the purpose of computing the amount of benefits payable to a veteran-beneficiary, there may be included in the total cost to the veteran the following amount, not to exceed \$38,000:

\* \* \* \* \*

(b) \* \* \*

(2) \$6,500.

(Authority: 38 U.S.C. 2102(a), (b))

**§ 36.4408 [Amended]**

26. In § 36.4408, paragraph (b) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

27. The authority citation for part 36.4500 through 36.4600 is revised to read as follows:

Authority: Sections 36.4500 through 36.4600 issued under 38 U.S.C. 501, unless otherwise noted.

28. In § 36.4507, paragraph (b)(2) is amended by removing "Chief Benefits Director, and adding, in its place, "Under Secretary for Benefits", and the authority citation following paragraph (c) is revised to read as follows:

**§ 36.4507 Refinancing of mortgage or other lien indebtedness.**

\* \* \* \* \*

(c) \* \* \*

(Authority: 38 U.S.C. 3711)

\* \* \* \* \*

**§ 36.4510 [Removed]**

29. In § 36.4510, paragraph (d) is removed.

30. In § 36.4515, paragraph (a)(2) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits"; and by removing paragraph (b)(7); and by redesignating paragraph (b)(8) as paragraph (b)(7). Paragraph (a)(3) is amended by removing "." in the last sentence, and adding, in its place, "; or"; and a new paragraph (a)(4) is added to read as follows:

**§ 36.4515 Estate of veteran in real property.**

(a) \* \* \*

\* \* \* \* \*

(4) A beneficial interest in a revocable Family Living Trust that ensures that

the veteran, or veteran and spouse, have an equitable life estate, provided the lien attaches to any remainder interest and the trust arrangement is valid under State law.

\* \* \* \* \*

**§ 36.4516 [Amended]**

31. In § 36.4516, paragraph (c) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

**§ 36.4518 [Amended]**

32. Section 36.4518 is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

**§ 36.4520 [Amended]**

33. In § 36.4520, paragraph (b) is amended by removing "Chief Benefits Director" both times it appears and adding, in its place, "Under Secretary for Benefits".

**§ 36.4600 [Amended]**

34. In § 36.4600, paragraphs (g)(2) and (j) are amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

[FR Doc. 96-13855 Filed 6-3-96; 8:45 am]

BILLING CODE 8320-01-P

**POSTAL SERVICE****39 CFR Part 233****Screening of Mail Reasonably Suspected of Containing Nonmailable Firearms**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** On February 28, 1996, the Postal Service published in the Federal Register a proposed regulation outlining the treatment of mail which is reasonably suspected of being dangerous to persons or property. The rule also contains language which allows for the screening of mail reasonably suspected of containing nonmailable firearms. The proposed rule requested comments, but none were received. Consequently, the Postal Service hereby publishes this final rule.

**EFFECTIVE DATE:** June 4, 1996.

**FOR FURTHER INFORMATION CONTACT:** George C. Davis, (202) 268-3076.

**SUPPLEMENTARY INFORMATION:** This document creates a new subsection 233.11 of title 39, Code of Federal Regulations, to include the requirements for the treatment of mail which is reasonably suspected of being dangerous to persons or property. This

rule is currently contained in the Administrative Support Manual (ASM) as part 274, but this publication will make it more widely available to the public.

Sections 233.11 (a) and (a)(4) contain new language which allows for the screening of mail reasonably suspected of containing nonmailable firearms. Formerly, part 274 of the Administrative Support Manual allowed the examination of mail only to identify explosives or other materials that would pose a danger to life or property. This rule would expand the existing rule to permit screening for nonmailable firearms under the same restrictions respecting mail privacy and delay.

The Postal Service has been advised by the Honorable Pedro Rosello, Governor of Puerto Rico, that illegal firearms entering Puerto Rico by various means, including the mails, pose a serious threat to the safety of citizens of Puerto Rico. This information has been confirmed in meetings with the Attorney General of Puerto Rico, local and federal law enforcement officials, and officials of the United States Department of Justice.

Practical and legal constraints limit our ability to ensure that the mails are free of nonmailable firearms. These constraints were summarized in the Federal Register at the time the rule permitting limited screening of mail reasonably suspected of containing dangerous matter was initially proposed and they remain applicable today. See 55 FR 29637 (July 20, 1990).

Taking these constraints into account, this rule authorizes the least intrusive, least dilatory response to credible situations where firearms already declared "nonmailable" by statute or regulation are reasonably suspected of being in the mails. Nonmailable firearms are defined in Section C024.1.0 of the Domestic Mail Manual. They consist, primarily, of pistols, revolvers, and other concealable firearms. Unloaded rifles and shotguns are mailable although the provisions of the Gun Control Act of 1968, 18 U.S.C. 921, et seq., and regulations of the Bureau of Alcohol, Tobacco, and Firearms apply to the shipment of such weapons by mail or otherwise.

This rule balances the need to protect personal safety with the need to enforce existing laws and regulations against the mailing of nonmailable firearms, and protects personal privacy in the use of the mails. As envisioned by the rule, when the Chief Postal Inspector determines that a credible threat exists that certain mail may contain nonmailable firearms, the Chief may authorize the use of technology that is

capable of identifying mail containing such firearms in order to obtain probable cause for the issuance of a Federal warrant to search and seize such mail. The rule would not permit any screening method that would involve opening of sealed mail, or the reading of the contents of correspondence in sealed mail, without the consent of the sender or addressee or under authority of a Federal warrant. Moreover, the only screening which may be authorized must be limited to the least quantity of mail necessary to respond to the threat and the screening must be performed without avoidable delay of the mail. Any mail not of sufficient weight, for example, to contain a nonmailable firearm will not be screened. In addition, international transit mail will not be screened unless the postal treaties are appropriately amended. Sworn reports of all screening methods conducted by, or under supervision of, the Postal Service would be reported to senior postal managers. In view of these factors, the Postal Service has determined that this change in its regulations is a matter of internal practice and procedure that will not substantially affect the rights or obligations of private parties.

#### List of Subjects in 39 CFR Part 233

Law enforcement, Postal Service.

Accordingly, title 39 CFR, Part 233, is amended as follows:

#### **PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY**

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

2. Part 233 is amended by adding § 233.11 as follows:

*233.11. Mail reasonably suspected of being dangerous to persons or property.*

(a) *Screening of mail.* When the Chief Postal Inspector determines that there is a credible threat that certain mail may contain a bomb, explosives, or other material that would endanger life or property, including firearms which are not mailable under Section C024 of the Domestic Mail Manual, the Chief Postal Inspector may, without a search warrant or the sender's or addressee's consent, authorize the screening of such mail by any means capable of identifying explosives, nonmailable firearms, or other dangerous contents in the mails. The screening must be within the limits of this section and without opening mail

that is sealed against inspection or revealing the contents of correspondence within mail that is sealed against inspection. The screening is conducted according to these requirements.

(1) Screening of mail authorized by paragraph (a) of this section must be limited to the least quantity of mail necessary to respond to the threat.

(2) Such screening must be done in a manner that does not avoidably delay the screened mail.

(3) The Chief Postal Inspector may authorize screening of mail by postal employees and by persons not employed by the Postal Service under such instruction that require compliance with this part and protect the security of the mail. No information obtained from such screening may be disclosed unless authorized by this part.

(4) Mail of insufficient weight to pose a hazard to air or surface transportation, or to contain firearms which are not mailable under Section C024 of the Domestic Mail Manual, and international transit mail must be excluded from such screening.

(5) After screening conducted under paragraph (a) of this section, mail that is reasonably suspected of posing an immediate and substantial danger to life or limb, or an immediate and substantial danger to property, may be treated by postal employees as provided in paragraph (b) of this section.

(6) After screening, mail sealed against inspection that presents doubts about whether its contents are hazardous, that cannot be resolved without opening, must be reported to the Postal Inspection Service. Such mail must be disposed of under instructions promptly furnished by the Inspection Service.

(b) *Threatening pieces of mail.* Mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb or an immediate and substantial danger to property may, without a search warrant, be detained, opened, removed from postal custody, and processed or treated, but only to the extent necessary to determine and eliminate the danger and only if a complete written and sworn statement of the detention, opening, removal, or treatment, and the circumstances that prompted it, signed by the person purporting to act under this section, is promptly forwarded to the Chief Postal Inspector.

(c) *Reports.* Any person purporting to act under this section who does not report his or her action to the Chief Postal Inspector under the requirements of this section, or whose action is determined after investigation not to

have been authorized, is subject to disciplinary action or criminal prosecution or both.

Stanley F. Mires,

Chief Counsel, Legislative.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA084-4018; FRL-5511-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania: Revocation of Determination of Attainment of Ozone Standard by the Pittsburgh-Beaver Valley Ozone Nonattainment Area and Reinstatement of Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is providing notification of its determination that the Pittsburgh-Beaver Valley ozone nonattainment area is no longer attaining the National Ambient Air Quality Standard (NAAQS) for ozone, based on monitored violations of the standard during the 1995 ozone season. EPA is also reinstating the applicability of certain reasonable further progress (RFP) and attainment demonstration requirements, along with certain other requirements, of Part D of Title I of the Clean Air Act for the Pittsburgh-Beaver Valley ozone nonattainment area because the area is no longer in attainment for ozone.

**EFFECTIVE DATE:** This final rule is effective on August 15, 1996.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, (215) 566-2181, at the EPA Region III office, or at [pino.maria@epamail.epa.gov](mailto:pino.maria@epamail.epa.gov) via e-mail.

**SUPPLEMENTARY INFORMATION:** In a policy memorandum dated May 10, 1995, from John Seitz, Director, Office of Air

Quality Planning and Standards, to the Regional Air Division Directors, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," EPA stated that it is reasonable to interpret provisions regarding reasonable further progress (RFP) and attainment demonstrations, along with certain other related provisions, so as not to require certain SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard.

Based on this memo, on July 19, 1995, EPA published a final determination (60 FR 37015) that the Pittsburgh-Beaver Valley and Reading ozone nonattainment areas had attained the ozone standard and that the SIP requirements for reasonable further progress, (namely the 15% plans and attainment demonstrations required under section 182(b)(1) of the Clean Air Act, and the contingency measures required under section 172(c)(9) of the Clean Air Act) no longer applied so long as these areas did not violate the ozone standard. The notice also stated that the sanctions clocks started on January 18, 1994, for these areas for failure to submit the RFP requirements were halted. The effective date of the final determination occurred one day after the sanction clocks expired and these areas were, in fact, under the offset sanction at the time of EPA's final determination. However, the sanctions were lifted as a result of EPA's final determination for the same reason that the final determination would have halted the sanctions clocks.

EPA has reviewed the 1995 ambient air quality data (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area), and determined that the area is no longer in attainment. During the 1995 ozone season 17 exceedances of the standard were recorded, and two monitors in the Pittsburgh area recorded violations of the ozone NAAQS. The current design value for the Pittsburgh area, computed using the ozone monitoring data for 1993 through 1995, is 133 parts per billion (ppb). The average annual number of expected exceedances is 8.2 for that same time period. An area is considered in nonattainment when the average annual number of expected exceedances is greater than 1.0. A more detailed summary of the ozone monitoring data for the area is provided in the Technical Support Document for this notice.

Other specific details of the attainment determination revocation and the reinstatement of the 15% plan, attainment demonstration, and contingency measures requirements for the Pittsburgh area, and the rationale for EPA's proposed action are explained in the February 12, 1996 notice of proposed rulemaking (NPR) (61 FR 5360) and will not be restated here. Both positive and adverse public comments were received on the NPR.

During the public comment period EPA received one comment letter in favor of the proposal, and two letters that contained adverse comments. Following meetings with the representatives of the Pennsylvania Department of Environmental Protection, EPA subsequently received another letter from one of the commenters, the Commonwealth of Pennsylvania, setting forth a proposed schedule of milestones for meeting the attainment demonstration requirement. The following is a summary of the adverse comments received on the NPR, and EPA's response to those comments.

**Comment #1:** The Commonwealth of Pennsylvania opposed EPA's proposed reinstatement of the requirements of sections 182(b)(1) and 172(c)(9) on August 15, 1996. According to the Commonwealth, the August 15, 1996 date did not allow the state enough time to develop and adopt the necessary regulations and make the required submissions. The Commonwealth contended that the August 15, 1996 date was not consistent with EPA's own policy of providing a reasonable time taking into account the pertinent circumstances, did not allow sufficient time for the Southwestern Pennsylvania Ozone Stakeholders process (established by the Commonwealth) to be completed, was inconsistent with the time frame for inspection and maintenance (I/M) program submissions established by the National Highway Systems Designation Act (NHSDA) of 1995, and did not provide sufficient time for the state rulemaking process to occur. Subsequently, following meetings between EPA and the state, in a letter dated May 17, 1996, the Commonwealth proposed a schedule of milestones for submissions from the Commonwealth to EPA to comply with the attainment demonstration requirement for the Pittsburgh area. That schedule includes milestone dates beginning on August 15, 1996, and ending on December 31, 1997.

**Response:** First, with respect to the proposed August 15, 1996 date for the reinstatement of the 15% plan and section 172(c)(9) contingency measures