

800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date of This AD

(f) This amendment becomes effective on July 31, 2000.

Issued in Burlington, Massachusetts, on June 9, 2000.

**David A. Downey,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF STATE

### 22 CFR Part 51

#### Public Notice [3341]

#### Passport Procedures—Amendment to Execution of Passport Application Regulation

**AGENCY:** Bureau of Consular Affairs, State.

**ACTION:** Final rule.

**SUMMARY:** This final rule extends from 12 years to 15 years the period, following the issue date of the previous passport, in which persons who previously have been issued a United States passport may apply for a new passport by mail. However, this rule does not change the statutory requirement that a person who applies for a United States passport must establish United States citizenship and identity.

**EFFECTIVE DATE:** This rule is effective July 26, 2000 without further action.

**ADDRESSES:** Interested persons are invited to submit comments to: Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, 2401 E Street, NW., Room-H917, Washington, DC 20522-0917.

**FOR FURTHER INFORMATION CONTACT:** Sharon E. Palmer-Royston, Office of Passport Policy, Planning and Advisory Services, Bureau of Consular Affairs, Department of State (202) 663-2430; telefax (202) 663-2654.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulation governing the execution of a passport application, at section 51.21(a) in Title 22 of the Code of Federal Regulations, provides that a person who has not been issued a passport in his or her own name within 12 years of the date of a new application shall appear in person when applying for a new passport. The personal appearance requirement to verify the applicant's identity is consistent with

the requirement in 22 U.S.C. 212 that the Secretary of State shall issue passports only to nationals of the United States, and the mandate in 22 U.S.C. 2705 that a United States passport issued for a period of full validity is proof of United States citizenship and the identity of the bearer.

The existing regulations at 22 CFR 51.21(c) and (d) further clarify sec. 51.21(a) by providing that persons who previously have been issued a passport, when 18 years of age or older, may obtain a new passport by mail, provided that the application for a new passport is submitted together with the previous passport not more than 12 years following the issue date of the previous passport. The provision to apply by mail is pursuant to the authority in 22 U.S.C. 213 that the Secretary of State may excuse personal appearance for a passport applicant in certain circumstances.

This final rule amends 22 CFR 51.21(a), (c)(2) and (d)(2) to provide that persons who have previously been issued a full validity passport may apply for a new passport by mail if the application is accompanied by their previous passport not more than 15 years following the issue date of the previous passport. The Department has determined that during the additional three years, the appearance of the person applying for a passport is unlikely to have changed so much as to preclude identification. Accordingly, the Department believes it is reasonable that during a period of up to 15 years following the issue date of the previous passport a person may apply for a new passport by mail, provided that proper identification of the applicant can be made from the documents and photographs accompanying the application.

Further, this final rule amends 22 CFR 51.21(c)(1) and (d)(1) to provide that the age of the applicant when the most recently issued passport was issued is lowered from 18 years of age to 16 years of age. This change is required to be consistent with the provisions governing the validity of passports in 22 CFR 51.4(b), which was amended on February 1, 1998, by lowering the age of eligibility for a passport valid for ten years from 18 years of age to 16 years of age.

Finally, this rule amends 22 CFR 51.80, concerning procedures for review of adverse actions, by revising the wording in subsection 51.80(a) to read more clearly.

Since the rule makes a benefit available to the class of affected persons at a reduced cost, because the fee for a passport obtained by a mail application

is less than the fee for a passport obtained by an application requiring personal appearance, the Department has determined that prepublication notice and comment are unnecessary and are exempted by 5 U.S.C. 553(b)(B), the "good cause" exemption.

The Department does not consider this rule to be a major rule for purposes of E.O. 12291. These changes to the regulations are hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. Nor does the rule have federalism implications warranting the application of Executive Order No. 12372 and No. 13132. This rule is exempt from E.O. 12866, but the Department has reviewed the rule to ensure consistency with the objectives of the Executive Order, as well as with E.O. 12988, and the Office of Management and Budget has determined this rule would not constitute a significant regulatory action under E.O. 12866.

#### List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, this rule amends 22 CFR chapter I as follows:

#### PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

**Authority:** 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966-1970 Comp., p 570; sec. 129, Pub. L. 102-138, 105 Stat. 661; 8 U.S.C. 1504.

2. In Subpart B, § 51.21 is amended by revising the word "twelve" to read "fifteen" in the heading of paragraph (a), by revising the number "12" to read "15" in paragraphs (a), (c)(2) and (d)(2), and by revising the number "18" to read "16" in paragraphs (c)(1) and (d)(1).

3. In Subpart F, § 51.80, is revised to read as follows:

#### § 51.80 The applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 do not apply to any action of the Secretary of State taken on an individual basis in denying, restricting, revoking or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport by reason of:

(1) Noncitizenship,  
(2) Refusal under the provisions of § 51.70(a)(8),

(3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subjects of adverse action under §§ 51.70, 51.71 or 51.72.

Dated: June 2, 2000.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

[PA-129-FOR]

#### Pennsylvania Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule.

**SUMMARY:** OSM is approving an amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The amendment revises certain portions of 25 Pennsylvania Code Chapter 86, Surface and Underground Mining: General; Chapter 87, Surface Mining of Coal; Chapter 88, Anthracite Coal; Chapter 89, Underground Mining of Coal and Coal Preparation Facilities; and Chapter 90, Coal Refuse Disposal. The amendments are intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Biggi, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack), 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Pennsylvania Program

II. Submission of the Amendment

III. Director's Findings

IV. Summary and Disposition of Comments

V. Director's Decision

VI. Procedural Determinations

#### I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. You can find background on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the regulatory program amendments are codified at 30 CFR 938.11, 938.15 and 938.16.

#### II. Submission of the Amendment

By letter dated November 30, 1999 (Administrative Record No. PA-849.02), the Pennsylvania Department of Environmental Protection (PADEP) submitted an amendment to its approved permanent regulatory program pursuant to the Federal regulations at 30 CFR 732.17(b). Pennsylvania did so as a result of its Regulatory Basics Initiative (RBI) intended to revise regulations considered to be unclear, unnecessary or more stringent than the corresponding Federal regulation. The proposed rulemaking was published in the December 17, 1999 **Federal Register** (64 FR 70644). The public comment period closed on January 18, 2000. No one requested to speak at a public hearing, so no hearing was held.

#### III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the Pennsylvania regulatory program. Revisions not specifically discussed below concern paragraph notations to reflect organizational changes resulting from this amendment.

PADEP is amending certain provisions of 25 Pennsylvania Code, Chapters 86 through 90, as follows:

##### *Chapter 86, Surface and Underground Coal Mining: General*

##### *Section 86.2 Scope*

PADEP is correcting a grammatical error by changing the word "specify" to "specifies" in the opening paragraph. This is a non-substantive change that does not require OSM approval.

##### *Section 86.37 Criteria for Permit Approval or Denial*

PADEP is modifying subdivision (a)(4) to assure activities proposed

under the application have been designed to prevent material damage to the hydrologic balance outside the proposed permit area, while eliminating the reference to damage to the hydrologic balance within the permit area, by adding the word "material" before "damage" and eliminating the words "within and" before the word "outside". The Director finds that the changes described above render § 86.37(a)(4) substantively identical to and therefore no less effective than the corresponding portion of the Federal provision at 30 CFR 773.15(c)(5).

PADEP is modifying subdivision (a)(6) regarding the effects of proposed coal mining activities on properties listed on or eligible for listing on the National Register of Historic Places by deleting the phrase "or eligible for inclusion on" from the second sentence and re-ordering the sentences. The first two sentences of subdivision (6) now state that "[t]he proposed activities will not adversely affect any publicly owned parks or places included on the National Register of Historic Places, except as provided for in Subchapter D. The effect of the proposed coal mining activities on properties listed on or eligible for listing on the National Register of Historic Places has been taken into account by the Department". The Director finds that the changes described above render § 86.37(a)(6) substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 773.15(c)(3) and 761.11(c).

##### *Section 86.40 Permit Terms*

PADEP is modifying subsection (b) by adding criteria under which the Department may grant an extension of time for commencement of mining activities by adding the phrase "or if there are conditions beyond the control and without the fault or negligence of the permittee." The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 773.19(e)(2)(ii).

##### *Section 86.64 Right of Entry*

PADEP is modifying this section by adding additional criteria for documenting right of entry by adding the following sentence to subsection (a): "The description shall identify the documents by type and date of execution, identify the specific lands to which the document pertains and explain the legal rights claimed by the applicant". Existing subdivisions (b)(1) and (2) are eliminated and new subdivisions (b)(1) through (3) are added specifying the documents