

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

POSTAL SERVICE

39 CFR Part 233

Mail Screening Regulations

AGENCY: United States Postal Service.

ACTION: Proposed rule.

SUMMARY: This update will ensure the Postal Service regulations regarding the screening of mail are consistent with aviation regulations regarding the transportation of mail via aircraft; continue to enhance the security and ensure the safety of all persons and property onboard aircraft carrying mail; and prevent and deter the carriage of unauthorized explosives, incendiaries, or other destructive substances or items in the mail or in postal products transported onboard aircraft.

DATES: Comments must be received on or before June 23, 2021.

ADDRESSES: Mail or deliver written comments to: Inspector Attorney, Steven Sultan, United States Postal Inspection Service, 475 L'Enfant Plaza SW, 3rd Floor, Washington, DC 20260. Emailed and faxed comments will not be accepted. You may inspect and photocopy all written comments, by appointment only, at the USPS Headquarter Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m. to 4 p.m., by calling (202) 268-2904. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: To obtain further information regarding this provision, the following instructions and guidelines apply:

- Contact Inspector Attorney, Amber Jordan at 202-268-7812
- Questions may also be sent to the Inspector Attorney, Amber Jordan at the following email address and must include:

—arjordan@uspis.gov:

—*Subject Line:* Mail screening regulation information/question
Name of Sender

SUPPLEMENTARY INFORMATION: The action being taken is an update to 39 CFR 233.11. The circumstances which created the need for this action are as follows: (1) 39 CFR 233.11 was published as a final rule on February 28, 1996; (2) since the publication of 39 CFR 233.11, no updates have been made; (3) after February 28, 1996, changes were made to 49 U.S.C. 44901 requiring the screening of all items, including United States mail, transported via aircraft; and (4) the update is required to ensure it is consistent with title 49 of the Code of Federal Regulations as it pertains to mail being transported via aircraft. This update is authorized pursuant to 39 U.S.C. 5401 which states that the Postal Service is authorized to provide for the safe and expeditious transportation of mail by aircraft and may make such rules, regulations, and orders consistent with part A of subtitle VII of title 49 of the Code of Federal Regulations or any order, rule or regulation made by the Secretary of Transportation as may be necessary for such transportation, except as otherwise provided in 49 U.S.C. 5402.

List of Subjects in 39 CFR Part 233

Law enforcement, Postal Service.

PART 233—[AMENDED]

■ 1. The authority citation for 39 CFR part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 102, 202, 204, 401, 402, 403, 404, 406, 410, 411, 1003, 3005(e)(1), 3012, 3017, 3018; 12 U.S.C. 3401-3422; 18 U.S.C. 981, 983, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104-208, 110 Stat. 3009; Secs. 106 and 108, Pub. L. 106-168, 113 Stat. 1806 (39 U.S.C. 3012, 3017); Pub. L. 114-74, 129 Stat. 584.

■ 2. Revise § 233.11 to read as follows:

§ 233.11 Mail screening

(a) *Screening of mail transported by aircraft.*

(1) *Authority.* Pursuant to 39 U.S.C. 5401, the Postal Service is authorized to provide for the safe and expeditious transportation of mail by aircraft and may make such rules, regulations, and orders consistent with Part A of Subtitle VII of Title 49 of the Code of Federal

Regulations or any order, rule or regulation made by the Secretary of Transportation as may be necessary for such transportation, except as otherwise provided in 39 U.S.C. 5402.

(2) *Purpose.* To prevent and deter the carriage of unauthorized explosives, incendiaries, or other destructive substances or items in the mail or in postal products onboard aircraft and to ensure the security and safety of all persons and property onboard aircraft carrying mail.

(3) *Policy.* Mail of sufficient weight to pose a hazard to aviation may, without a search warrant or the sender's or addressee's consent, be screened by any means capable of identifying explosives, nonmailable firearms, or other dangerous contents in the mails that are destructive or could endanger life or property.

(b) *Screening of surface transported mail.*

(1) *Authority.* Pursuant to 39 U.S.C. 404 the Postal Service has specific power to provide for, among other things, the handling of mail. Mail may be screened without a search warrant or the sender's or addressee's consent in exigent circumstances to identify explosives or other dangerous contents in the mails.

(2) *Purpose.* To prevent and deter the carriage of unauthorized explosives or other dangerous content in the mail or in postal products transported via surface transportation providers and to ensure the security and safety of all persons and property associated with mail usage, processing, handling, and transportation.

(3) *Policy.* When the Chief Postal Inspector or designee determines there is a credible threat that certain mail may contain a bomb, explosives, or other material that could endanger life or property, including nonmailable firearms, the Chief Postal Inspector or designee 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.

(c) *Mail screening restrictions.*

Screening of mail authorized by paragraphs (a) and (b) of this section is subject to the following restrictions:

(1) *No unreasonable delay.* The mail must be screened in a manner which does not unreasonably delay its delivery.

(2) *Authorization to screen mail.* The mail screening may be conducted by Postal Service employees or persons not employed by the Postal Service, as authorized by the Chief Postal Inspector, under such instruction that requires compliance with this part and protects the security of the mail. No information obtained from this mail screening may be disclosed unless authorized by this part.

(3) *Mail of insufficient weight to pose a threat.* Mail of insufficient weight to pose a hazard to air transportation, surface transportation, or to contain firearms must be excluded from such screening.

(4) The screening must be within the limits of this section and conducted without opening mail that is sealed against inspection or revealing the contents of correspondence within mail that is sealed against inspection.

(d) *Identified threatening pieces of mail.*

(1) *Hazardous mail.* Mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb or an immediate substantial danger to property as a result of screening or other information may, without a search warrant, be detained, opened, removed from postal custody, processed, and treated, but only to the extent necessary to determine and eliminate the danger. Such mail must be processed in accordance with the instructions promptly furnished by the Inspection Service.

(2) *Indeterminate mail.* 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 processed in accordance with the instructions promptly furnished by the Inspection Service.

(3) *Mandatory reporting.* Any person who opens mail sealed against

inspection, in accordance with paragraph (d)(1) or (2) of this section, is required to provide a complete written and sworn statement regarding the detention, screening, opening, and treatment of the mail piece, as well as the circumstances surrounding its identification as a possible threat. The statement is required to be signed by the person purporting to act under this section and promptly forwarded to the Chief Postal Inspector.

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.

Joshua J. Hofer,

Attorney, Ethics & Legal Compliance.

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