

Issued in Washington, DC, on this 9th day of May 2006.

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Deputy Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 06-4489 Filed 5-12-06; 8:45 am]

BILLING CODE 7709-01-P

## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 635

RIN 0702-AA52-U

#### Law Enforcement Reporting

**AGENCY:** Department of the Army, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Army is publishing our rule concerning law enforcement reporting, to implement portions of Section 577(b)(5) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, October 28, 2004, Public Law 108-375, pertaining to reporting of sexual assaults. This rule also implements Department of Defense policy concerning sexual assault.

**DATES:** *Effective Date:* June 14, 2006.

**ADDRESSES:** Headquarters, Department of the Army, Office of the Provost Marshal General, ATTN: DAPM-MPD-LE, 2800 Army Pentagon, Washington, DC 20310-2800.

**FOR FURTHER INFORMATION CONTACT:** James Crumley, (703) 692-6721.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In the December 9, 2005 issue of the *Federal Register* (70 FR 73181) the Department of the Army published a proposed rule, amending 32 CFR part 635. This final rule amends 32 CFR part 635 to implement portions of Section 577(b)(5) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, October 28, 2004, Public Law 108-375, pertaining to reporting of sexual assaults. This revision also implements Department of Defense policy concerning sexual assault. The Department of the Army received no responses to the proposed rule.

##### B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

##### C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of \$100 million or more.

##### D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the rule does not have an adverse impact on the environment.

##### E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the rule does not involve collection of information from the public.

##### F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the rule does not impair private property rights.

##### G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this rule is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

##### H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 this rule does not apply.

##### I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 this rule does not apply because it will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

**Mark Darden,**

Chief, Law Enforcement Policy Branch.

#### List of Subjects in 32 CFR Part 635

Crime, Law, Law enforcement, Law enforcement officers, Military law.

■ For reasons stated in the preamble the Department of the Army amends 32 CFR part 635 to read as follows:

#### PART 635—LAW ENFORCEMENT REPORTING

■ 1. The authority citation for part 635 continues to read as follows:

**Authority:** 28 U.S.C. 534 note, 42 U.S.C. 10601, 18 U.S.C. 922, 42 U.S.C. 14071, 10 U.S.C. 1562, 10 U.S.C. Chap. 47, Pub. L. 108-375.

#### §§ 635.33 through 635.36 [Redesignated as §§ 635.34 through 635.37]

■ 2. Redesignate §§ 625.33 through 635.36 as §§ 635.34 through 635.37, respectively.

#### §§ 635.31 and 635.32 [Redesignated as §§ 635.32 and 635.33]

■ 3. Redesignate §§ 635.31 and 635.32 as §§ 635.32 and 635.33, respectively.

■ 4. A new § 635.31 is added to Subpart D to read as follows:

#### § 635.31 Procedures for Restricted/Unrestricted Reporting in Sexual Assault Cases.

Active duty Soldiers, and Army National Guard and U.S. Army Reserve Soldiers who are subject to military jurisdiction under the UCMJ, can elect either restricted or unrestricted reporting if they are the victim of a sexual assault.

(a) *Unrestricted Reporting.* Unrestricted reporting requires normal law enforcement reporting and investigative procedures.

(b) Restricted reporting requires that law enforcement and criminal investigative organizations not be informed of a victim's identity and not initiate investigative procedures. The victim may allow Sexual Assault Response Coordinators (SARC), health care providers (HCP), or chaplains to collect specific items (clothing, bedding, etc.) that may be later used as evidence, should the victim later decide to report the incident to law enforcement. In sexual assault cases additional forensic evidence may be collected using the "Sexual Assault Evidence Collection Kit," NSN 6640-01-423-9132, or a suitable substitute (hereafter, "evidence kit"). The evidence kit, other items such as clothing or bedding sheets, and any other articles provided by the HCP, SARC, or chaplain will be stored in the installation provost marshal's evidence room separate from other evidence and property. Procedures for handling evidence specified in AR 195-5, Evidence Procedures, will be strictly followed.

(c) Installation Provost Marshals will complete an information report in COPS

for restricted reporting. Reports will be completed utilizing the offense code from the 6Z series. An entry will be made in the journal when the evidence kit or property (clothing, bedding, etc.) is received. The journal entry will be listed using non-identifying information, such as an anonymous identifier. An entry will not be made in the blotter. Restricted reporting incidents are not reportable as Serious Incident Reports. Property and the evidence kit will be stored for one year and then scheduled/suspended for destruction, unless earlier released to investigative authorities in accordance with the victim's decision to pursue unrestricted reporting. Thirty days prior to destruction of the property, a letter will be sent to the SARC by the Provost Marshal, advising the SARC that the property will be destroyed in thirty days, unless law enforcement personnel are notified by the SARC that the victim has elected unrestricted reporting. Clothing, the evidence kit, or other personal effects may be released to the SARC for return to the victim. The information report will be updated when the evidence is destroyed, or released to investigative authorities.

(d) In the event that information about a sexual assault that was made under restricted reporting is disclosed to the commander from a source independent of the restricted reporting avenues or to law enforcement from other sources, but from a source other than the SARC, HCP, chaplain, or Provost Marshal, the commander may report the matter to law enforcement and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his/her sexual assault to persons outside the protective sphere of the persons covered by the restricted reporting policy may result in an investigation of the allegations.

[FR Doc. 06-4511 Filed 5-12-06; 8:45 am]

BILLING CODE 3710-08-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[Docket No. EPA-R02-OAR-2005-NY-0001; FRL-8169-9]

### Air Quality Redesignation for the 8-Hour Ozone National Ambient Air Quality Standards; New York State

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is redesignating the Syracuse metropolitan area from unclassifiable to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The counties comprising this area are Onondaga, Madison, Cayuga and Oswego in the State of New York. This redesignation to attainment is appropriate because the State of New York requested redesignation and the Syracuse area has attained the ozone health standard based on the most recent data available.

**DATES:** *Effective Date:* This rule will become effective on June 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Robert Kelly at 212-637-4249 or by e-mail at [kelly.bob@epa.gov](mailto:kelly.bob@epa.gov).

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R02-OAR-2005-NY-0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866.

EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

In addition, copies of the state submittals are available at the following addresses for inspection during normal business hours:

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington DC 20460.

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?

- III. What Are the Statutory and Regulatory Requirements for Designations and Redesignations?
- IV. What Is EPA's Response to Comments on the Redesignation?
- V. What Air Quality Information Shows That the Syracuse Area Attains the Ozone Standard?
- VI. Conclusion
- VII. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking?

Consistent with the applicable requirements in section 107(d)(3) of the Clean Air Act and the regulatory requirements in 40 CFR part 50, appendix I and based on the 8-hour ozone air quality data for the 2003 through 2005 time period, we are redesignating the Syracuse area, which is comprised of Onondaga, Madison, Cayuga, and Oswego Counties in New York from unclassifiable to attainment for the 8-hour ozone standard. The basis for this action is described in more detail below and in the July 7, 2005 proposed rule referenced below.

#### II. What Is the Background for This Action?

The EPA published a final rule (69 FR 23858; April 30, 2004) promulgating designations for the 8-hour ozone NAAQS. That action designated the four-county Syracuse metropolitan area as unclassifiable and provided that the designation was effective on June 15, 2004.

Our initial designation of the Syracuse area was based on a review of ozone data from 2001 through 2003. In that action, we stated that we would review all available information and make an attainment or nonattainment decision after reviewing the 2004 ozone data.

On December 14, 2004, the New York State Department of Environmental Conservation asked EPA to complete its planned review of 2004's air quality data and requested EPA to redesignate the Syracuse area to attainment of the 8-hour ozone standard. On July 7, 2005, after reviewing the air quality data for the 3-year period ending 2004, we published a proposal (70 FR 39215) to redesignate the Syracuse area from unclassifiable to attainment. We received two comments on the redesignation, which are addressed in the section "What is EPA's Response to Comments on the Redesignation?"

#### III. What Are the Statutory Requirements for Designations and Redesignations?

Section 107(d) of the Clean Air Act sets forth the criteria and process for designations and redesignations. An explanation of statutory requirements