Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Bear Lake County Airport, Paris, ID, within a 6.6-mile radius of the airport, and within a rectangular segment east of the airport extending approximately 15.3 miles wide (from east to west) and 28.1 miles tall (from north to south), and a trapezoidal area west of the airport extending approximately 10.5 miles wide (from east to west) and 33.8 miles tall (from north to south).

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM ID E5 Paris, ID [New]

Bear Lake County Airport, ID
(Lat. 42°14′59″ N, long. 111°20′30″ W)

That airspace extending upward from 700 feet above the surface of Bear Lake County Airport within the area bounded by lat. 42°29′26″ N, long. 111°36′13″ W; to lat. 42°29′32″ N, long. 111°28′55″ W; to lat. 42°21′52″ N, long. 111°28′07″ W; to the point where the airport 325° bearing intersects the airport 6.6-mile radius; thence clockwise along the 6.6-mile radius of the airport to the airport 017° bearing, to lat. 42°34′39″ N, long. 111°19′45″ W; to lat. 42°35′06″ N, long. 110°59′38″ W; to lat. 42°08′06″ N, long. 110°54′19″ W; to lat. 42°05′45″ N, long. 111°15′34″ W; to the point where the airport 150° bearing intersects the 6.6-mile radius of the airport, thence clockwise along the 6.6-mile radius of the airport to the airport 226° bearing, to lat. 41°55′22″ N, long. 111°25′20″ W; to lat. 41°55′58″ N, long. 111°44′44″ W; thence to the point of beginning.

Issued in Seattle, Washington, on May 4, 2018.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–09988 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 50 and 51

[Public Notice 10383]

RIN 1400–AD54

Passports

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule provides various changes and updates to the Department of State passport rules. The final rule incorporates statutory passport denial and revocation requirements for certain convicted sex offenders. It notes that, notwithstanding the legal bases for denial or revocation of a passport, the Department may issue a passport for direct return to the United States. It sets out the Department's procedures for denying and cancelling Consular Reports of Birth Abroad. Finally, the final rule provides additional information relating to the conduct of review hearings.

DATES: This rule is effective on May 11, 2018.

FOR FURTHER INFORMATION CONTACT: Anita Mody, Office of Legal Affairs, Passport Services, (202) 485–6500, *PassportRules@state.gov.* Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 9804 at 82 FR 58778, December 14, 2017, with a request for comments, amending various sections of Parts 50 and 51 of Title 22 of the Code of Federal Regulations. The rule was proposed primarily to revise Department of State regulations relating to the denial and revocation of passports, and provide additional information relating to the conduct of review hearings. The rule and the Department's reasons for the changes were discussed in detail in Public Notice 9804. The Department is now promulgating a final rule.

The final rule contains one minor change, one technical fix, and no substantive changes. The change, in

response to a comment received, clarifies in 22 CFR 51.70(b)(3) that the section referenced only applies to passport cards.

Analysis of Comments: The comment period for the proposed rule closed February 12, 2018, after a 60-day comment period. One comment was received. The comment raised two issues:

(1) As 22 CFR 51.60(g) specifies that the Department shall not issue passport *cards* to certain convicted sex offenders, the parenthetical descriptor in proposed 22 CFR 51.70(b)(3): ''Section 51.60(g) (denial of passports to certain convicted sex offenders)'' should specify that it only applies to passport cards.

Response: The Department's final rule specifies ''cards'' in the parenthetical descriptor, such that 22 CFR 51.70(b)(3) now reads: Section 51.60(g) (denial of passport cards to certain convicted sex offenders).

(2) The governing statute, 22 U.S.C. 212b, allows but does not require the Department to revoke the existing passports held by covered sex offenders that do not bear the ''unique identifier'' required by that statute. See 22 U.S.C. 212b(b)(1) (''[T]he Secretary of State . . . may revoke a passport previously issued without [] an identifier of a covered sex offender.'' [emphasis added]). The proposed rules therefore err in processing revocations on this basis in the same manner as revocations on other bases, such as a conviction for ''sexual tourism'' under 18 U.S.C. 2423 and 22 U.S.C. 212a(b)(1). The proposed rules also err in rendering the passports currently held by ''covered sex offenders'' to be invalid immediately upon approval of the notice of revocation. That is because revocations for a sexual tourism conviction (and for other reasons) are mandatory, while the revocation of passports issued to ''covered sex offenders'' is not mandatory under 22 U.S.C. 212b or any other provision of law. In addition, individuals convicted of sexual tourism are categorically ineligible to hold passports during the period following their conviction. In contrast, ''covered sex offenders'' under 22 U.S.C. 212b are allowed to carry their existing passports that do not bear the identifier for an indeterminate period of time, until that passport is revoke by the Department. Because ''covered sex offenders'' who currently possess passports are not in violation of the law, they should not be treated the same as individuals whose current possession of a passport is illegal. The governing statute, 22 U.S.C. 212b(b)(1), gives the Department the discretion to avoid this inequitable and unduly disruptive result by providing a reasonable time for ''covered sex offenders'' to apply for and obtain new, compliant passports before their existing passports are revoked. ACSOL therefore requests that the Department provide this accommodation by revising the Proposed Rules so that ''covered sex offenders'' are not prevented from possessing and using passports while they await the delivery of passports that comply with 22 U.S.C. 212b.''

Response: The Department declines to process passport revocations differently when revoked based on discretionary authority versus where revocation is mandatory, and notes the effect of the decision to revoke the passport—making the passport invalid—is the same in both cases. Adopting the commenter's suggestion that a passport not become invalid after it was revoked would negate the purpose of the revocation action. Moreover, in response to concern that covered sex offenders be afforded an opportunity to apply for and obtain new, compliant passports before their existing passports are revoked, such persons are on notice about the new revocation grounds and may always apply for a new passport with the required endorsement prior to expiration of or revocation of their current one. To the extent the comment addresses the Department's determination to revoke passports under 22 U.S.C. 212b, such issues are outside the scope of the immediate rule as they are already specified in the current regulations at 22 CFR 51.60(a)(4) and 22 CFR 51.62(a)(1).

Finally, the Department noticed a typographical error in a citation included in the proposed rule. The citation relating to qualified interpreters (see § 51.71(d)) should be ''28 U.S.C. 1827.'' It is corrected in this final rule.

Regulatory Analysis and Notices

Executive Orders 12866 and 13771

The Department finds that this final rulemaking implements Congressional intent as reflected in the Immigration and Naturalization Act, and that the benefits of the rulemaking outweigh any costs to the public. The Office of Information and Regulatory Affairs has designated this final rule as non-significant within the meaning of Executive Order 12866. Consequently, no actions are required pursuant to Executive Order 13771.

Consultations With Tribal Governments

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reductions Act, 44 U.S.C. Chapter 35.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule does not result in any such expenditure nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule under the criteria of 5 U.S.C. 804.

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department certifies that this rule is 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. 601 *et seq.,* and Executive Order 13272, section 3(b), as the rule being amended covers only individuals.

List of Subjects

22 CFR Part 50

Citizenship and naturalization.

22 CFR Part 51

Administrative practice and procedure, Drug traffic control,

Passports and visas, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, 22 CFR parts 50 and 51 are amended as follows:

PART 50—NATIONALITY PROCEDURES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104 and 1401 through 1504.

■ 2. Amend § 50.7 by revising paragraph (d) to read as follows

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

* * * * *

(d) A Consular Report of Birth Abroad may be cancelled in accordance with applicable provisions in 22 CFR 51.60 through 51.74.

■ 3. Amend § 50.11 by revising paragraph (b) to read as follows:

§ 50.11 Certificate of identity for travel to the United States to apply for admission.

* * * * *

(b) When a diplomatic or consular officer denies an application for a certificate of identity under this section, the applicant may submit a written appeal to the Secretary through the U.S. embassy or consulate where the individual applied for the certificate of identity, stating the pertinent facts, the grounds upon which U.S. nationality is claimed, and his or her reasons for considering that the denial was not justified.

PART 51—PASSPORTS

■ 4. The authority citation for part 51 is revised to read as follows:

Authority: 8 U.S.C. 1504; 18 U.S.C. 1621, 2423; 22 U.S.C. 211a, 212, 212a, 212b, 213, 213n (Pub. L. 106–113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A–430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2721, 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of P.L. 103–317, 108 Stat. 1760]; E.O. 11295, FR 10603; Pub. L. 114–119, 130 Stat. 15; Sec. 1 of P.L. 109–210, 120 Stat. 319; Sec. 2 of P.L. 109–167, 119 Stat. 3578; Sec. 5 of P.L. 109–472, 120 Stat. 3554; P.L. 108–447, Div. B, Title IV 118 Stat. 2896; P.L. 108–458, 118 Stat. 3638, 3823.

■ 5. Amend § 51.4 by revising paragraph (g)(1) and adding paragraph (g)(8) to read as follows:

§ 51.4 Validity of passports.

* * * * *

(g) * * *

(1) The Department approves the revocation notification pursuant to § 51.65(a); or

* * * * *

(8) The Department approves a Certificate of Loss of Nationality for the passport holder pursuant to § 50.40 of this chapter and 8 U.S.C. 1481.

■ 6. Revise the heading of subpart E to read as follows:

Subpart E—Denial, Revocation, and Restriction of Passports and Cancellation of Consular Reports of Birth Abroad

■ 7. Amend § 51.60 by adding paragraphs (h) and (i) to read as follows:

§ 51.60 Denial and restriction of passports.

* * * * *

(h) The Department may not issue a passport, except a limited validity passport for direct return to the United States or in instances where the Department finds that emergency circumstances or humanitarian reasons exist, in any case in which the Department is notified by the Attorney General that, during the covered period as defined by 22 U.S.C. 212a:

(1) The applicant was convicted of a violation of 18 U.S.C. 2423, and

(2) The individual used a passport or passport card or otherwise crossed an international border in committing the underlying offense.

(i) In appropriate circumstances, where an individual's passport application is denied or passport revoked consistent with this part, the Department may issue a limited validity passport good only for direct return to the United States.

■ 8. Revise § 51.62 to read as follows:

§ 51.62 Revocation or limitation of passports and cancellation of Consular Reports of Birth Abroad.

(a) The Department may revoke or limit a passport when:

(1) The bearer of the passport may be denied a passport under 22 CFR 51.60 or 51.61 or any other applicable provision contained in this part;

(2) The passport was illegally, fraudulently or erroneously obtained from the Department; or was created through illegality or fraud practiced upon the Department; or

(3) The passport has been fraudulently altered or misused.

(b) The Department may revoke a passport when the Department has determined that the bearer of the passport is not a U.S. national, or the Department is on notice that the bearer's certificate of citizenship or certificate of naturalization has been cancelled.

(c) The Department may cancel a Consular Report of Birth Abroad when:

(1) The Consular Report of Birth Abroad was illegally, fraudulently or erroneously obtained from the Department, or was created through illegality or fraud practiced upon the Department;

(2) The Consular Report of Birth Abroad has been fraudulently altered or misused; or

(3) The Department has determined that the bearer of the Consular Report of Birth Abroad is not a U.S. national, or the Department is on notice that the bearer's certificate of citizenship has been cancelled.

(d) The Department shall revoke a U.S. passport in any case in which the Department is notified by the Attorney General, that during the covered period as defined by 22 U.S.C. 212a:

(1) The applicant was convicted of a violation of 18 U.S.C. 2423, and

(2) The individual used a passport or otherwise crossed an international border in committing the underlying offense.

(3) Notwithstanding paragraphs (d)(1) and (2) of this section, the Department may issue a limited validity passport for direct return to the United States.

■ 9. Revise § 51.65 to read as follows:

§ 51.65 Notification of denial, revocation or cancellation of passports and Consular Reports of Birth Abroad.

(a) The Department will send notice in writing to any person whose application for issuance of a passport or Consular Report of Birth Abroad has been denied, whose passport has been revoked, or whose Consular Report of Birth Abroad has been cancelled. The notification will set forth the specific reasons for the denial, revocation or cancellation and, if applicable, the procedures for review available under 22 CFR 51.70 through 51.74.

(b) An application for a passport or Consular Report of Birth Abroad will be denied if an applicant fails to meet his or her burden of proof under the applicable regulations or otherwise does not provide documentation sufficient to establish entitlement to a passport or a Consular Report of Birth Abroad, or does not provide additional information as requested by the Department within the time provided in the notification by the Department that additional information is required. Thereafter, if an applicant wishes the Department to adjudicate his or her claim of entitlement to a passport or Consular Report of Birth Abroad, he or she must submit a new application, supporting documents, and photograph, along with all applicable fees.

(c) The Department may, in its sole discretion, administratively re-open a previously filed passport or Consular Report of Birth Abroad application in order to issue a passport or Consular Report of Birth Abroad.

■ 10. Revise § 51.66 to read as follows:

§ 51.66 Surrender of passport and/or Consular Report of Birth Abroad.

The bearer of a passport that is revoked or of a Consular Report of Birth Abroad that is cancelled must surrender it to the Department or its authorized representative upon demand.

■ 11. Revise § 51.70 to read as follows:

§ 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1), or 51.62(a)(2), or whose Consular Report of Birth Abroad is cancelled under § 51.62(c)(1) or § 51.62(c)(2), may request a hearing to review the basis for the denial, revocation, or cancellation, provided that the Department receives such a request, in writing, from such person or his or her attorney within 60 days of his or her receipt of the notice of the denial, revocation, or cancellation. Failure to timely request a hearing means the denial, revocation, or cancellation is the Department's final action.

(b) The provisions of §§ 51.70 through 51.74 do not apply to any action of the Department denying, restricting, revoking, cancelling or invalidating a passport or Consular Report of Birth Abroad, or in any other way adversely affecting the ability of a person to receive or use a passport or Consular Report of Birth Abroad, for reasons not set forth in § 51.70(a), including, as applicable, those listed at:

(1) Section 51.60(a) (instances where the Department may not issue a passport, except for direct return to the United States);

(2) Section 51.60(f) (failure to provide a social security number, or purposefully providing an incorrect number);

(3) Section 51.60(g) (denial of passport cards to certain convicted sex offenders);

(4) Section 51.61(a) (denial of passports to certain convicted drug traffickers);

(5) Section 51.62(b) (revocation of passports for non-U.S. nationals or where a certificate of citizenship or naturalization has been cancelled);

(6) Section 51.62(c)(3) (cancellation of a Consular Report of Birth Abroad upon the Department's determination that the bearer is not a U.S. national or where a certificate of citizenship has been cancelled);

(7) Section 51.62(d) (revocation of passports issued to certain convicted sex offenders);

(8) Section 51.64 (specially validated passports);

(9) Any other provision not listed at § 51.70(a).

(c) If a timely request for a hearing is made by a person seeking a hearing in accordance with these regulations, the Department will make reasonable efforts to hold the hearing within 90 days of the date the Department receives the request.

(d) Within a reasonable period of time prior to the hearing, the Department will give the person requesting the hearing written notice of the date, time and place of the hearing and copies of the evidence relied on in denying, revoking, or cancelling the passport or Consular Report of Birth Abroad.

(e) The person requesting the hearing may obtain one continuance, not to exceed an additional 90 days, upon written request. The request for a continuance must be received by the Department as soon as practicable and in no case less than five business days prior to the scheduled hearing date. Any further continuances are within the sole discretion of the Department.

■ 12. Revise § 51.71 to read as follows:

§ 51.71 The hearing.

(a) The Department will name a hearing officer, who will generally be a Department employee from the Bureau of Consular Affairs. The hearing officer will make only preliminary findings of fact and submit recommendations based on the record of the hearing, as defined in 22 CFR 51.72, to the Deputy Assistant Secretary for Passport Services, or his or her designee, in the Bureau of Consular Affairs.

(b) The hearing shall take place in Washington, DC or, if the person requesting the hearing is overseas, at the appropriate U.S. diplomatic or consular post. The person requesting the hearing must appear in person or with or through his or her attorney. Failure to appear at the scheduled hearing will constitute an abandonment of the request for a hearing, and the Department's revocation, cancellation or denial will be considered the Department's final action.

(c) Any attorney appearing at a hearing must be admitted to practice in any state of the United States, the District of Columbia, or any territory or possession of the United States, or be admitted to practice before the courts of the country in which the hearing is to be held.

(d) There is no right to subpoena witnesses or to conduct discovery. However, the person requesting the hearing may testify in person, offer evidence in his or her own behalf, present witnesses, and make arguments at the hearing. The person requesting the hearing is responsible for all costs associated with the presentation of his or her case, including the cost of interpreters, who must be certified in accordance with standards established for federal courts under 28 U.S.C. 1827. The Department may present witnesses, offer evidence, and make arguments in its behalf. The Department is responsible for all costs associated with the presentation of its case.

(e) The hearing is informal and permissive. As such, the provisions of 5 U.S.C. 554 *et seq.* do not apply to the hearing. Formal rules of evidence also do not apply; however, the hearing officer may impose reasonable restrictions on relevancy, materiality, and competency of evidence presented. Testimony will be under oath or by affirmation under penalty of perjury. The hearing officer may not consider any information that is not also made available to the person requesting the hearing, the Department, and made a part of the record of the proceeding.

(f) If any witness is unable to appear, the hearing officer may, in his or her discretion, accept an affidavit or sworn deposition testimony of the witness, the cost for which will be the responsibility of the requesting party, subject to such limits as the hearing officer deems appropriate.

(g) The person requesting the hearing and the Department of State may submit written briefs or argument prior to the hearing, but it is not required. The hearing officer will specify the date and schedule for the parties to submit written briefs, should they choose to do so.

(h) The purpose of the hearing is to provide the person requesting the hearing an opportunity to challenge the basis for the Department's decision to deny or revoke the passport, or cancel the Consular Report of Birth Abroad. The burden of production is on the Department, and the Department shall provide the evidence it relied upon in revoking or denying the passport, or cancelling the Consular Report of Birth Abroad, prior to the hearing. The burden of persuasion is on the person requesting the hearing, to prove by a preponderance of the evidence that the Department improperly revoked the passport or denied the passport application, or cancelled the Consular

Report of Birth Abroad, based on the facts and law in effect at the time such action was taken.

■ 13. Revise § 51.72 to read as follows:

§ 51.72 Transcript and record of the hearing.

A qualified reporter, provided by the Department, will make a complete verbatim transcript of the hearing. The person requesting the hearing or his or her attorney may review and purchase a copy of the transcript directly from the reporter. The hearing transcript and all the information and documents received by the hearing officer, whether or not deemed relevant, will constitute the record of the hearing. The hearing officer's preliminary findings and recommendations are deliberative, and shall not be considered part of the record unless adopted by the Deputy Assistant Secretary for Passport Services, or his or her designee.

■ 14. Revise § 51.73 to read as follows:

§ 51.73 Privacy of hearing.

Only the person requesting the hearing, his or her attorney, an interpreter, the hearing officer, the reporter transcribing the hearing, and employees of the Department concerned with the presentation of the case may be present at the hearing. Witnesses may be present only while actually giving testimony or as otherwise directed by the hearing officer.

■ 15. Revise § 51.74 to read as follows:

§ 51.74 Final decision.

After reviewing the record of the hearing and the preliminary findings of fact and recommendations of the hearing officer, and considering legal and policy considerations he or she deems relevant, the Deputy Assistant Secretary for Passport Services, or his or her designee, will decide whether to uphold the denial or revocation of the passport or cancellation of the Consular Report of Birth Abroad. The Department will promptly notify the person requesting the hearing of the decision in writing. If the decision is to uphold the denial, revocation, or cancellation, the notice will contain the reason(s) for the decision. The decision is final and is not subject to further administrative review.

Dated: May 3, 2018.

Carl C. Risch,

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

[FR Doc. 2018–09995 Filed 5–10–18; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0234]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone surrounding the area of entry of lava from the Kilauea volcano into the Pacific Ocean on the southeast side of the Island of Hawaii, HI. This action is necessary to protect persons and vessels from the potential hazards associated with molten lava entering the ocean. This regulation prohibits persons and vessels from being in the safety zone during active lava flow reaching the Pacific Ocean on Kilauea volcano's southeast coast unless specifically authorized by the Captain of the Port Honolulu or a designated representative.

DATES: This rule is effective without actual notice May 11, 2018. For purposes of enforcement, actual notice will be used if active lava associated with the Kilauea activity enters into the Pacific Ocean prior to May 11, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0234 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Bannon, Waterways Management Division, Coast Guard; telephone 808–541–4359, email *John.E.Bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BLS Bureau of Labor Statistics
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
FRFA Final regulatory flexibility analysis
HVO Hawaii Volcano Observatory
IRFA Initial regulatory flexibility analysis
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section symbol
RFA Regulatory Flexibility Act
SNPRM Supplemental notice of proposed rulemaking
TFR Temporary final rule
U.S.C. United States Code

II. Background Information and Regulatory History

Molten lava that enters the ocean is potentially hazardous to anyone near it, particularly when lava deltas collapse. A lava delta is new land that forms when lava accumulates above sea level, and extends from the existing base of a sea cliff. Persons and vessels near active lava flow ocean-entry sites face potential hazards, including—

- Plumes of hot, corrosive seawater laden with hydrochloric acid and fine volcanic particles that can irritate the skin, eyes, and lungs;
- Explosions of debris and eruptions of scalding water from hot rock entering the ocean;
- Sudden lava delta collapses; and
- Waves associated with these explosions and collapses.

Lava began entering the ocean at the Kamokuna lava delta on Kilauea volcano's south coast in July 2016. Lava continued to enter the ocean at the Kamokuna lava delta from July 2016 to mid-November 2017.

Ocean safety concerns began on December 31, 2016, when a large portion of the new lava delta collapsed into the ocean, producing waves and explosions of debris at 19°19′12″ N, 155°02′24″ W near the Kamokuna entry point. Following this collapse, portions of the adjacent sea cliff continued to collapse into the Pacific Ocean, producing localized waves and showers of debris.

In March 2017, a new delta began to form at the Kamokuna ocean-entry point, and from March 2017 to July 2017, several collapses of the lava bench were observed by National Park Service and Hawaiian Volcano Observatory (HVO) staff. Beginning in the middle of November 2017, the lava flow slowed down and subsequently stopped entering the ocean, and as of March 2018, the lava flow remains inactive.

Though the Kamokuna lava delta is not currently active, this region and associated coastline remains hazardous both to visitors on land and to the boating public due to active seismic and lava activity associated with the Kilauea lava flow. According to the HVO, which is part of the U.S. Geological Survey and responsible for monitoring volcanoes and earthquakes in Hawaii, the lava delta remains unstable and resumed ocean lava flow is realistic. Hazards to the public include hot gases, lava, scalding water, unstable vertical sea