

⁶For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,027 Btu.⁷For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.⁸For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.⁹For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

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Donald S. Clark,

Secretary.

[FR Doc. 97-33686 Filed 12-24-97; 8:45 am]

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DEPARTMENT OF STATE**Bureau of Consular Affairs****22 CFR Part 40**

[Public Notice 2674]

VISAS: Public Charge**AGENCY:** Department of State, Bureau of Consular Affairs.**ACTION:** Interim rule with request for comments.

SUMMARY: This rule amends Department of State regulations by establishing uniform procedures for the acceptance of affidavits of support by consular posts abroad as required by the Immigration and Nationality Act (INA). This rule is necessary to ensure proper adjudication of immigrant visas under the INA.

DATES: Effective Date: This interim rule is effective on December 19, 1997. Comment Date: Submit comments on or before February 27, 1998.

ADDRESSES: Please submit written comments to the Chief, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Washington, D.C. 20520-0106. Comments will be made available for public inspection at the Department of State's Public Reading Room, 2201 C Street, NW, Washington, DC, 20520.

FOR FURTHER INFORMATION CONTACT: Ron Acker, Visa Regulations Coordinator, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Washington, DC, 20520-0106 (ackerrl@SA1WPOA.us-state.gov).

SUPPLEMENTARY INFORMATION: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104 208, which, among numerous other changes, amended section 212(a)(4) of the Immigration and Nationality Act (INA) to provide that an alien is excludable or inadmissible to the United States based upon the likelihood of becoming a public charge if the alien is seeking an immigrant visa, admission as an immigrant, or adjustment of status as:

(a) An immediate relative, (b) a family-

based immigrant, or (c) an employment-based immigrant (if a sponsoring relative is the petitioning employer or owns a significant ownership interest in the entity that is the petitioning employer) unless the alien is the beneficiary of an affidavit of support filed under INA section 213A. INA 213A specifies the conditions that must be met in order for an affidavit of support to be acceptable for use by a visa applicant to establish eligibility under INA 212(a)(4)(C).

Under the provisions of IIRIRA (Title V, Subtitle C, Section 551(c)), the Attorney General is responsible for promulgating the standard forms to be used in connection with the filing of affidavits of support and in establishing the effective date upon which such forms are required. The Immigration and Naturalization Service (INS) published an interim rule on October 20, 1997 (**Federal Register**, Vol. 62, No. 202, pp. 54346-54356) describing the new "Affidavit of Support" (Form I-864), and two ancillary forms, the "Contract Between Sponsor and Household Member" (Form I-864A), and the "Sponsor's Notice of Change of Address" (Form I-865). INS's rule included procedural instructions for filling out the forms, and established December 19, 1997 as the effective date on which these forms would be required for submission to immigration and consular officers.

The net effect of the new affidavit of support is that it must be fully executed in compliance with the provisions of INA 213A in order for an alien (as described above) to meet the requirements of INA 212(a)(4)(C). An affidavit of support that has been appropriately executed and submitted does not, however, necessarily establish that an alien is not within the purview of the public charge provisions of 212(a)(4)(A). That decision remains vested with the reviewing immigration or consular officer, who must be satisfied that the alien is otherwise not likely to become a public charge upon entering the United States.

Accordingly, the Department is (1) adding new regulations at 22 CFR 40.41(b) and (c), (2) amending regulations at 22 CFR 40.41(a), (b), and (d) to reflect the new affidavit of support requirements, and (3), redesignating 22 CFR 40.41(b), (c), and (d) as 40.41(d), (e), and (f), respectively. In addition, the current description of the poverty line contained in new 40.41(f), formerly (d),

is being eliminated and replaced with a reference to new section, INA 213A(h), which contains the definition of the poverty line to be used for 213A purposes. Since both the old and the new description refer to the same poverty line established by the Department of Health and Human Services, this change will simply make uniform all references to the poverty line for purposes of 212(a)(4) in accordance with the latest description. The new (f) is also retitled to reflect the revised language.

Interim Rule

This rule modifies 22 CFR, Subchapter E, Subpart E to reflect changes made by IIRIRA. Title V, Subtitle C, of IIRIRA, which is implemented by this rule became effective December 19, 1997. The issuance of this rule as an interim rule, with provisions for post-promulgation public comments, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and 553(d)(3) because it implements statutory provisions and an effective date set under statutory authority.

Pursuant to § 605(b) of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule and it has been determined, and the Assistant Secretary for Consular Affairs hereby certifies, that it will not have a significant economic impact on a substantial number of small entities. The rule has no economic effect beyond that of the statutory requirements already in effect which it implements.

As required by 5 U.S.C. chapter 8, the Department has screened this rule and determined that it is not a major rule, as defined in 5 U.S.C. 80412.

This rule imposes no reporting or record-keeping action on the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act.

This rule has been reviewed as required by E.O. 12988 and determined to meet the applicable regulatory standards it describes. Although exempted from E.O. 12866, this rule has been reviewed to ensure consistency with it.

List of Subjects in 22 CFR Part 40

Aliens, Immigrants, Immigration, Nonimmigrants, Passports and visas.

In view of the foregoing, 22 CFR is amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 is revised to read:

Authority: 8 U.S.C. 1104; Pub.L. 104-208, 110 Stat. 3009; 22 U.S.C. 2651a.

2. Section 40.41 is revised as follows:

§ 40.41 Public charge.

(a) Basis for Determination of Ineligibility. Any determination that an alien is ineligible under INA 212(a)(4) must be predicated upon circumstances indicating that, notwithstanding any affidavit of support that may have been filed on the alien's behalf, the alien is likely to become a public charge after admission, or, if applicable, that the alien has failed to fulfill the affidavit of support requirement of INA 212(a)(4)(C).

(b) Affidavit of Support. Any alien seeking an immigrant visa under INA 201(b)(2), 203(a), or 203(b), based upon a petition filed by a relative of the alien (or in the case of a petition filed under INA 203(b) by an entity in which a relative has a significant ownership interest), shall be required to present to the consular officer an affidavit of support on a form that complies with terms and conditions established by the Attorney General.

(c) Joint Sponsors. Submission of one or more additional affidavits of support by a joint sponsor/sponsors is required whenever the relative sponsor's household income and significant assets, and the immigrant's assets, do not meet the Federal poverty line requirements of INA 213A.

(d) Posting of Bond. A consular officer may issue a visa to an alien who is within the purview of INA 212(a)(4) (subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A), upon receipt of a notice from INS of the giving of a bond or undertaking in accordance with INA 213 and INA 221(g), and provided further that the officer is satisfied that the giving of such bond or undertaking removes the likelihood that the alien will become a public charge within the meaning of this section of the law and that the alien is otherwise eligible in all respects.

(e) Prearranged Employment. An immigrant visa applicant relying on an offer of prearranged employment to establish eligibility under INA 212(a)(4), other than an offer of employment

certified by the Department of Labor pursuant to INA 212(a)(5)(A), must provide written confirmation of the relevant information sworn and subscribed to before a notary public by the employer or an authorized employee or agent of the employer. The signer's printed name and position or other relationship with the employer must accompany the signature.

(f) Use of Federal Poverty Line Where INA 213A Not Applicable. An immigrant visa applicant, not subject to the requirements of INA 213A, and relying solely on personal income to establish eligibility under INA 212(a)(4), who does not demonstrate an annual income above the Federal poverty line, as defined in INA 213A (h), and who is without other adequate financial resources, shall be presumed ineligible under INA 212(a)(4).

Dated: December 19, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

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DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 40

[Public Notice 2666]

Visas: Grounds of Ineligibility

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The act adds new grounds of inadmissibility to the United States for: certain aliens who have not been inoculated against infectious diseases designated by statute or by the Advisory Committee for Immunization Practices (ACIP); aliens who have been subject to certain civil penalties; alien student visa abusers; aliens present in the United States without admission or parole; aliens who fail to attend removal proceedings; unlawful alien voters; and former citizens who renounced United States citizenship in order to avoid paying taxes. Some of the sections cited above also provide for waivers of a

number of grounds of inadmissibility. The rule also incorporates into the Department's regulations a delegation of authority from the Immigration and Naturalization Service pertaining to waivers of inadmissibility under § 212(a)(1)(A)(ii) of the Immigration and Nationality Act (INA), as amended. Finally, this rule makes a few miscellaneous technical corrections.

DATES: Effective Dates:

- § 40.11 September 30, 1996
- § 40.22 September 30, 1997.
- § 40.52 September 30, 1996
- § 40.61 April 1, 1997
- § 40.62 April 1, 1997
- § 40.66 September 30, 1996
- § 40.67 November 30, 1996
- § 40.91 April 1, 1997
- § 40.92 April 1, 1997
- § 40.93 April 1, 1997
- § 40.104 September 30, 1996
- § 40.105 September 30, 1996

Comment Date: Written comments must be submitted on or before February 27, 1998.

ADDRESSES: Written comments may be addressed to the Chief, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Washington, D.C. 20520-0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, (202) 663-1204.

SUPPLEMENTARY INFORMATION: Some of the provisions of IIRIRA implemented by this rule became effective on the date of enactment, September 30, 1996. Others became effective on November 30, 1996. Still others became effective on April 1, 1997. Therefore, in order to coincide with the effective dates mandated by Congress, the effective dates are listed in the **DATES** section of this document. Division "C" of the Omnibus Consolidated Appropriations Act, 1997 (the Illegal Immigration Reform and Alien Responsibility Act of 1996 (IIRIRA)), made substantial changes and additions to the INA affecting numerous regulations at 22 CFR, Subchapter E. On November 21, 1996, the Department published a final rule [61 FR 59182] to restructure the numbering of 22 CFR Part 40 in light of these additions. This rule incorporates changes to those sections of Part 40 shown in the table below.

22 CFR Part Affected	Heading	IIRIRA Section No.
§ 40.11	Medical Grounds of Ineligibility	§ 341
§ 40.22(b)	Suspended Sentences	§ 322
§ 40.52	Unqualified Physicians	N/A (typographic correction)
§ 40.61	Aliens Present Without Admission or Parole	§ 301