

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

3. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b-1, *et seq.*

4. By amending Schedule I to Form ADV (referenced in § 279.1) to remove all references to "Ohio" and by amending the Instructions to Schedule I to Form ADV (referenced in § 279.1) to remove all references to "Ohio".

Note: The text of Schedule I to Form ADV [§ 279.1] does not and the amendments will not appear in the Code of Federal Regulations.

Dated: January 29, 1999.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-2703 Filed 2-4-99; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 655 and 656

RIN 1215-AB09

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Labor Certification Process for Permanent Employment of Aliens in the United States

AGENCY: Employment and Training Administration, Labor, in concurrence with the Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking; Extension of comment period.

SUMMARY: This document extends the period for filing comments regarding a proposed rule to implement recent legislation and clarify existing Departmental rules relating to the temporary employment in the United States of nonimmigrants under H-1B visas (20 CFR part 655), and provides an opportunity for additional comments to implement an ACWIA provision which modifies the methodology for the determination of the prevailing wage under the Permanent Labor Certification program (20 CFR part 656).

DATES: Comments must be received on or before February 19, 1999.

ADDRESSES: Submit written comments concerning Part 655 to Deputy

Administrator, Wage and Hour Division, ATTN: Immigration Team, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW, Washington, DC 20210. If you want to receive notification that we received your comments, you should include a self-addressed stamped post card. You may submit your comments by facsimile ("FAX") machine to (202) 693-1432. This is not a toll free number.

Submit written comments concerning Part 656 to the Assistant Secretary for Employment and Training, ATTN: Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N-4456, 200 Constitution Avenue, NW, Washington, DC 20210. If you want to receive notification that we received your comments, you should include a self-addressed stamped post card. You may submit your comments by facsimile ("FAX") machine to (202) 208-5844. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: On part 655, contact either of the following:

Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3510, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 693-0745 (this is not a toll-free number).

James Norris, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N-4456, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219-5263 (this is not a toll-free number).

On Part 656, contact James Norris, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N-4456, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219-5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1999 (64 FR 628), the Department of Labor published a proposed rule intended to revise 20 CFR parts 655 and 656 which concern Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models, and the Labor Certification Process for Permanent Employment of Aliens in the United States.

Specifically, the Department published this notice of proposed rulemaking to obtain public comment

on issues to be addressed in regulations to implement changes made to the Immigration and Nationality Act (INA) by the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA). In addition, the Department is providing an opportunity for additional comments on certain provisions which were previously published for comment as a Proposed Rule in 1995 (60 FR 55339).

The Department also proposed to modify regulations to implement an ACWIA provision which modifies the methodology for the determination of the prevailing wage under the Permanent Labor Certification program (20 CFR part 656). This methodology is also applicable to prevailing wages for the H-1B program. After receiving public comments on this notice of proposed rulemaking, the Department plans to publish an Interim Final Rule (inviting further comment) and a Final Rule (after reviewing all the comments received).

Because of the continuing interest in this proposal, the agency believes that it is desirable to extend the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 20 CFR parts 655 and 656, is extended to February 19, 1999.

Signed at Washington, DC, this 2nd day of February, 1999.

Raymond J. Uhalde,

Deputy Assistant Secretary for Employment and Training, Employment and Training Administration.

John R. Fraser,

Deputy Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 99-2747 Filed 2-4-99; 8:45 am]

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DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 50 and 51

[Public Notice 2961]

Nationality Procedures—Report of Birth Regulation; Passport Procedures—Revocation or Restriction of Passports Regulation

AGENCY: Bureau of Consular Affairs, State.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations to add new grounds for denying, revoking or canceling a passport, and for canceling a Consular Report of Birth. The proposed rule

would authorize the cancellation of a Consular Report of Birth, or a certification thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. It also would amend the existing regulation to authorize the cancellation of a United States passport when a person has obtained a United States passport illegally or erroneously, or when the Department of State has been notified that a naturalized person whose order of admission to citizenship and certificate of naturalization, on the basis of which the passport was issued, have been canceled or set aside as the result of a judicial denaturalization procedure.

The proposed rule also amends regulations to replace the procedures for appeal of adverse passport action. Other agency regulations contain provisions for the organization and operation of the Board of Appellate Appeal of the Department of State. Under the proposed rule, the Board of Appellate Review would no longer have jurisdiction to consider appeals from adverse passport actions. The decision of the Deputy Assistant Secretary of State for Passport Services would be final.

DATES: Written comments must be received no later than March 8, 1999.

ADDRESSES: Written comments should be addressed to: Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20524.

FOR FURTHER INFORMATION CONTACT: Sharon Palmer-Royston, Office of Passport Policy and Advisory Services, Bureau of Consular Affairs, Department of State (202) 955-0231.

SUPPLEMENTARY INFORMATION: A passport when issued for its full validity period and a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad, are documents established as proof of United States citizenship by the provisions of section 33 of the Department of State Basic Authorities Act of 1956, as amended (22 U.S.C. 2705). 8 U.S.C. 1504 (108 Stat. 4309, October 25, 1994) authorizes the Secretary of State to cancel either of these documents if it appears that they were obtained illegally, fraudulently or erroneously. The proposed rule would amend the regulations to provide for a post-cancellation hearing when a Consular Report of Birth, or certification thereof, is canceled. The provisions of 22 CFR 51.75 already provide for notification in writing of the reasons for the revocation and of the procedures for

review to any person who is the subject of a passport cancellation and revocation on the grounds, among others, that the passport was obtained illegally, fraudulently or erroneously. Procedures for review include a hearing available under subsections 51.80 through 51.89 of the passport regulations in 22 CFR part 51. Such a hearing concerns only the extent to which the passport was illegally, fraudulently or erroneously obtained and not the citizenship status of the person in whose name the document was issued.

A district court of the United States may denaturalize an individual in a judicial proceeding on the grounds that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation. Any person who is the subject of a passport revocation due to judicial denaturalization, *i.e.*, by reason of noncitizenship, is not entitled to a hearing by the Department of State, pursuant to the provisions in 22 CFR 51.80(a).

The Board of Appellate Review of the Department of State has had jurisdiction to consider appeals from decisions of the Office of Passport Services that constitute adverse action affecting a passport: denial, revocation, or limitation. This jurisdiction has been infrequently utilized, and an adverse action can be reviewed fairly and efficiently without the same kind of administrative hearing that the Board conducts in loss of nationality cases. Changes in the applicable laws, their interpretation, and practice thereunder now make it even more unlikely that administrative appeals will be taken. Accordingly, 22 CFR Part 7 is being amended to eliminate this particular administrative appeal jurisdiction. This amendment to 22 CFR part 51, subpart F, reflects that change and replaces an appeal with a request for reconsideration.

In current practice, the most common adverse passport action is denial or revocation based upon grounds set forth in 22 CFR section 51.70(a), such as being subject to a Federal warrant of arrest or being under court ordered restraint. In these cases, the Board of Appellate Review or other appellate body within the Department of State has no authority to affect the underlying ground for adverse passport action, so that this rule would result in no change in existing practice. Similarly, passport denial or revocation as set forth in 22 CFR subsection 51.70(b)(4), the Secretary of State's determination that activities of the affected national abroad

are causing or are likely to cause serious damage to the national security or the foreign policy of the United States, has not been delegated by the Secretary and is not subject to subordinate review.

Accordingly, the findings of fact and recommendations resulting from a hearing before a hearing officer are proposed to be referred to the Deputy Assistant Secretary for Passport Services for decision instead of to the Assistant Secretary for Consular Affairs. The rule would permit the adversely affected person to request reconsideration by the Deputy Assistant Secretary, but the initial decision or the decision based upon request for reconsideration, as the case may be, is final.

The rule would also amend 22 CFR section 51.84 to substitute a more general statement of legal qualifications for representatives for the current reference to the qualification set by the Board of Appellate Review.

Finally, the rule would make clear that nothing in revised 22 CFR section 51.89 bars an adversely affected person from submitting a new passport application as provided for in 22 CFR part 51, subparts B through D.

These proposed changes to the regulations are hereby certified as not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). In addition, they will not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. Nor do these rules have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12988. These rules are exempt from review under E.O. 12988 but have been reviewed and found to be consistent with its objectives.

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, 22 CFR Parts 50 and 51 are proposed to be amended as follows:

PART 50—NATIONALITY PROCEDURES

1. The authority citation for Part 50 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

2. Section 50.7 is amended by adding a new paragraph (d) as follows:

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

* * * * *

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

PART 51—PASSPORTS

1. The authority citation for Part 51 is revised 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. Section 51.72 is amended by revising paragraph (b) and adding paragraph (c) as follows:

§ 51.72 Revocation or restriction of passports.

* * * * *

(b) The passport has been obtained illegally, by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

3. Section 51.80 is revised to read as follows:

§ 51.80 Applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking or invalidating a passport or a Consular Report of Birth, or in any other way adversely affecting the ability of a person to receive or use a passport except action taken 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 subject of adverse action under §§ 51.70, 51.71 or 51.72.

5. Section 51.83 is amended by revising the phrase “Administrator of” to read “Deputy Assistant Secretary for Passport Services in” and by removing “Security and”.

6. Section 51.84 is amended by revising the phrase “must possess the qualifications prescribed for practice before the Board of Appellate Review” to read “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”.

7. Section 51.89 is revised to read as follows:

§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affected person from submitting a new passport application as provided for in subparts B through D of this part.

Dated: December 29, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–2698 Filed 2–4–99; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[REG–246256–96]

RIN 1545–AV60

Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements; Taxes on Excess Benefit Transactions; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the excise taxes on excess benefit transactions under section 4958 of the Internal Revenue Code (Code). In addition, this document announces that persons wishing to testify in the Los Angeles, California, area will be able to make their presentations at an IRS remote videoconference site.

DATES: The public hearing will be held on Tuesday, March 16, 1999, at 1 p.m. (EDT), and will continue Wednesday, March 17, 1999, at 1 p.m., if necessary. Requests to speak and outlines of oral comments must be received by Wednesday, February 24, 1999.

ADDRESSES: The public hearing will be held in the auditorium of the New Carrollton Federal Building (Building A), 5000 Ellin Street, New Carrollton, Maryland. The videoconference site for persons testifying in Los Angeles is room 5003 in the Federal Building, 300 N. Los Angeles Street, Los Angeles, California.

Mail requests to speak and outlines to: CC:DOM:CORP:R (REG–246256–96), room 5226, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–246256–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically via the Internet by selecting the “Tax Regs” option on the IRS Home Page, or by submitting them directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT:

Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7180 (not a toll-free number).