

# Proposed Rules

Federal Register

Vol. 60, No. 218

Monday, November 13, 1995

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.

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

#### 22 CFR Part 42

[Public Notice 2284]

#### Visas: Documentation of Immigrants Under the Immigration and Nationality Act as Amended

**AGENCY:** Bureau of Consular Affairs, Department of State.

**ACTION:** Notice of proposed rule.

**SUMMARY:** This notice proposes certain amendments to the regulations implementing the Diversity Immigrant Visa Program provided for in sections 201(a)(3), 201(e), 203(c), and 204(a)(1)(G) of the Immigration and Nationality Act, as amended. In order to enhance the Department's ability to combat fraudulent practices in this program, the Department proposes to require aliens seeking to compete for immigration under the program to sign their petitions for consideration and to furnish a photograph with their petitions. Also the Department is adding a provision to authorize collection of a processing fee from those petitioners selected for further processing.

**DATES:** Written comments must be received on or before December 13, 1995.

**ADDRESSES:** Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC, 20522-0113.

**FOR FURTHER INFORMATION CONTACT:** Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Bureau of Consular Affairs, Department of State, (202) 663-1184.

**SUPPLEMENTARY INFORMATION:** During the processing of the immigrant visa applications of aliens selected to compete for an immigrant visa in the Fiscal Year 1995 Diversity Immigrant Visa Program, several consular sections

encountered cases in which the visa applicant was proven, or strongly suspected, to be an impostor—that is, not the individual who had submitted the petition which had been selected. In order to deter such abuses, the Department proposes to modify the provisions of § 42.33(b)(1), Form of Petition, to require aliens competing for immigration under the Diversity Immigrant Visa Program to sign their petitions and affix thereto a photograph of the kind which is required to be affixed to Form OF-156, the Nonimmigrant Visa Application.

The photograph must be recent and must be 1 and 1/2 inches square (37mm x 37mm). The petitioner must clearly print his or her name on the reverse of the photograph.

This proposed new requirement is intended to apply to petitions submitted early in Calendar Year 1996 by aliens seeking consideration to compete for visa issuance under the Diversity Immigrant Visa Program during Fiscal Year 1997 (October 1, 1996 to September 30, 1997).

The Department also proposes to add to § 42.33 a new paragraph (i) to authorize collection of a processing fee from each Diversity Immigrant visa applicant, in addition to the immigrant visa application and issuance fees which are collected from all immigrant visa applicants to cover the cost of the visa lottery. The Department has not yet determined the amount of the fee to be charged which will depend on a thorough cost analysis. The Department, however, seeks to amend the applicable regulations to permit collection of the fee should the decision be made that charging such a fee is necessary. If it should be so decided to do so, there will be a separate rulemaking process in the form of a proposal to amend the Department's Tariff of Fees set forth in Part 22 of this Title.

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. In addition, this rule would not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed as required under E.O. 12778 and certified to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department

to ensure consistency with the objectives thereof.

#### List of Subjects in 22 CFR Part 42

Aliens, Documentation, Immigrants, Passports and visas.

It is proposed to amend 22 CFR Part 42 as follows:

#### PART 42 —[AMENDED]

1. The authority citation for Part 42 would continue to read:

Authority: 8 U.S.C. 1104.

2. Section 42.33 is amended by revising paragraph (b)(1) and, by adding paragraph (i) to read as follows:

#### § 42.33 Diversity immigrants.

\* \* \* \* \*

(b) *Petition for Consideration.—* (1) *Form of Petition.* An alien claiming to be entitled to compete for consideration under INA 203(c) shall file a petition for such consideration. The petition shall consist of a sheet of paper on which shall be typed or legibly printed in the Roman alphabet the petitioner's name; date and place of birth (including city and county, province or other political subdivision, and country); the country of which the alien claims to be a native, if other than the country of birth; name(s) and date(s) and place(s) of birth of spouse and child(ren), if any, a current mailing address and location of consular office nearest to current residence or, if in the United States, nearest to last foreign residence prior to entry into the U.S. The alien shall affix his or her signature to the sheet of paper, using his or her usual signature. The alien shall also affix to the sheet of paper a recent photograph of himself or herself. The photograph shall be 1 and 1/2 inches square (37mm x 37mm) and the alien shall clearly print his or her name on the reverse of the photograph before affixing the photograph to the sheet of paper.

\* \* \* \* \*

(i) *Processing Fee.* In addition to collecting the immigrant visa application and, if applicable, issuance fees, as provided in § 42.71(b) of this part, the consular officer shall also collect from each applicant for a visa under the Diversity Immigrant Visa Program such processing fee as the Secretary of State shall prescribe.

Dated: November 5, 1995.  
 Mary A. Ryan,  
*Assistant Secretary for Consular Affairs.*  
 [FR Doc. 95-27871 Filed 11-9-95; 8:45 am]  
 BILLING CODE 4710-06-P

---



---

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 668

[FHWA Docket No. 95-25]

RIN 2125-AD60

#### Emergency Relief Program

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FHWA proposes to amend its regulation on the emergency relief (ER) program in order to incorporate changes made by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The time period in which the Federal share payable for certain eligible emergency repairs is 100 percent would be extended from 90 days to 180 days; the limit for total obligations for ER projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands would be increased from \$5 million to \$20 million; and the term "Federal-aid highway systems" would be replaced with the term "Federal-aid highways" to conform with terminology now used to describe highways eligible for Federal-aid ER assistance. In addition, various statements clarifying eligible uses of ER funding would be incorporated into the regulation.

**DATES:** Written comments are due on or before January 12, 1996. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** All written, signed comments should refer to the docket number that appears at the top of this document and should be submitted to Room 4232, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mohan P. Pillay, Office of Engineering, 202-366-4655, or Wilbert Baccus,

Office of the Chief Counsel, 202-366-0780, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590.

#### SUPPLEMENTARY INFORMATION:

##### Background

The current FHWA regulations implementing the emergency relief program are found primarily in 23 CFR part 668. Subpart A of part 668 sets forth the procedures for the administration of ER funds for the repair or reconstruction of Federal-aid highways. The FHWA intends to amend these regulations in the following manner and for the reasons indicated below.

In subpart A, the terms "Federal-aid system" and "Federal-aid highway system" would be replaced with the term "Federal-aid highways." The revision is in accordance with The Dire Emergency Supplemental Appropriations Act (Pub. L. 102-302, 106 Stat. 248) which amended 23 U.S.C. 125(b) by replacing the term "Federal-aid highway systems including the Interstate System" with the term "Federal-aid highways."

In section 668.101, the second sentence would be amended by replacing "Federal roads not on the Federal-aid system" with "roads on Federal lands." This modification reflects the change in terminology used to describe highways eligible for Federal assistance and clarifies the cross reference to emergency relief funding for roads on Federal lands which is contained in subpart B of part 668.

Section 668.105(e) would be amended by adding the phrase "or by a toll authority for repair of the highway facility" after the words "political subdivision" in the last sentence. This amendment would require that an ER project receive a credit for that portion of insurance proceeds recovered by a toll authority that are attributable to the cost of capital improvements.

In section 668.107, the last sentence in paragraph (a) would be amended to extend to 180 days the current 90-day time period following a natural disaster or catastrophic failure in which the Federal share payable for certain eligible emergency repair costs may amount to 100 percent. This amendment would be made to conform section 668.107(a) to 23 U.S.C 120(e) (as amended by section 1022 of the ISTEA).

In section 668.107, the second sentence of paragraph (b) would be amended to raise to \$20 million the current \$5 million limit on the total amount of obligations for emergency relief projects in any fiscal year in the Virgin Islands, Guam, American Samoa,

and the Commonwealth of the Northern Mariana Islands. This amendment would parallel an amendment made to 23 U.S.C. 125(b)(2) by section 1022(b) of the ISTEA.

Section 668.109 would be amended to expand and clarify the eligible uses for ER funds based on recent experiences in administering the ER program. ER funds would be eligible to participate in:

1. Repair of traffic damage to roadway surfaces, including those on designated detours, attributable to emergency relief work.

2. Repair of damage to the surface of Federal-aid highways caused by traffic making necessary repairs to other transportation facilities (for example, trucks hauling materials to repair a damaged railroad facility).

3. Raising of roadway grades temporarily to maintain essential traffic service during flooding.

4. Raising grades of critical Federal-aid highways faced with long-term loss of use due to an unprecedented rising in basin water level.

5. Repair of toll facilities when the provisions of 23 U.S.C. 129 are met.

Section 668.109 (c)(1) would be amended to clarify the extent to which certain activities listed under heavy maintenance are eligible for ER participation. The amendment would amend the policy that slope damage that does not extend into the travelled way is not eligible for ER participation. It is FHWA's current policy to consider repair of significant slip-outs of cut or fill slopes, even if the slip-outs do not extend into the travelled way, as an activity potentially eligible for ER funding.

Section 668.109 (c)(2) would be amended to cross-reference the newly added Section 668.109(b)(7) which discusses the extent to which ER funding can participate in the repair of damage to roadway surfaces caused by traffic.

Section 668.109 (c)(6) would be amended to cross-reference the newly added section 668.109(b)(9) which discusses the extent to which ER funding can participate in raising grades of Federal-aid highways due to an unprecedented rise in basin water levels.

Section 668.109(c)(7) would be amended to redefine the term "scheduled." As currently defined, the term refers to an approved Federal-aid program, which is a program incorporating various projects submitted by a State to the FHWA for approval in accordance with the requirements of 23 U.S.C. 105; however, 23 U.S.C. 105 has been superseded by the new requirements of 23 U.S.C. 135 and, as a