

(iii) The scheduled date for the replacement/modification; and  
 (iv) The name and location of the authorized repair shop.

(3) For more information about this issue: contact Rob Romero, Aerospace Engineer, FAA, Fort Worth ACO, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone: (817) 222-5102; facsimile: (817) 222-5960; e-mail: *Robert.A.Romero@faa.gov*.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Only operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(h) *Are any service bulletins incorporated into this AD by reference?* Replacement actions required by this AD must be done in accordance with Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable. The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51, as of June 8, 2001 (66 FR 27014, May 16, 2001). You may get copies of this document from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 8, 2001.

Issued in Kansas City, Missouri, on May 25, 2001.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01-13737 Filed 6-1-01; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

#### 22 CFR Part 51

[Public Notice 3672]

#### Passport Procedures—Amendment to Requirements for Executing a Passport Application on Behalf of a Minor

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

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes the proposed rule published on October 10, 2000. The rule brings passport regulations into conformity with current practice and implements the requirements of Section 236 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act. That Section requires that both parents execute a passport application on behalf of a minor under age 14; or, if only one parent executes the application, such parent must establish his or her custodial status or the other parent's consent. It also provides for exceptions to this requirement in exigent circumstances, such as those involving the health or welfare of the child, or when the Secretary of State determines that issuance of a passport is warranted by special family circumstances.

**EFFECTIVE DATE:** July 2, 2001.

**FOR FURTHER INFORMATION CONTACT:** John Hotchner, Director, Office of Passport Policy, Planning and Advisory Services, 2401 E. Street, NW., Room 917, Washington, DC 20522-0907.

**SUPPLEMENTARY INFORMATION:** The Department published a proposed rule, Public Notice 3428 at 65 FR 60132, Oct. 10, 2000, with a request for comments, amending numerous sections of Part 51 of Title 22 of the Code of Federal Regulations. The rule was proposed primarily to implement provisions of Section 236 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Public Law 106-113, 113 Stat. 1501A-420 (22 U.S.C. 213n), although it also makes procedural changes to harmonize other parts of the regulations with the two-parent consent requirement. The rule was discussed in detail in Public Notice 3428, as were the Department's reasons for the other changes to the regulations. The Department is now promulgating a final rule with minor changes from the proposed rule (for example, the fact that the rule applies to both renewal and first time passport applications is clarified) and no substantive change.

#### Analysis of Comments

The proposed rule was published for comments on October 10, 2000 at 65 FR 60132. The comment period closed November 6, 2000, but the Department continued to accept comments (including by electronic mail) until November 28, 2000, to accommodate delays in publication and mail delivery.

The Department received forty-nine (49) comments regarding the proposed change in the procedures for applying for passports on behalf of minors under age 14. Most were received via e-mail

from individuals living abroad. In addition to expressing an opinion, most of the comments also contained specific questions about implementation. The majority—26—were opposed to the concept of requiring both parents to apply for a passport on behalf of a minor under age 14, but offered few specific comments on the draft regulation. Four commentators were in favor of the requirement; one saw both sides of the issue; and 7 just asked questions but made no comment.

*The majority of the comments expressed concern about the inconvenience to families who are not involved in a child custody dispute and for whom it might be difficult to have both parents apply for a passport on behalf of a minor under age 14. For example, in some cases in which a family lives far from a U.S. embassy, passport agency, or acceptance facility, it may cause hardship to the entire family to require both parents to travel to execute the application.*

The regulation expressly provides for this circumstance by allowing the applying parent to present a simple written statement from the non-applying parent giving consent to the issuance of the passport. The written statement will be presented by the applying parent under penalty of perjury and will become a part of the minor's permanent passport file.

Generally, the written statement consenting to the issuance of the passport will be accepted without further questions, but additional evidence may be required if the adjudicating officer has reason to suspect that the statement is not true. If the non-applying parent neither signs the application nor provides a written statement consenting to the issuance of a passport (for whatever reason), the applying parent may submit his or her own written statement, made under penalty of perjury, explaining why the other parent did not or could not participate in the child's passport application. The adjudicating officer will then consider whether this explanation falls within the parameters of the special family circumstances exception. If the determination is made that it does not fall under that exception, the passport will be denied. We anticipate that there will be very few instances where passports will be denied under these circumstances.

*Another concern was raised by single parents who are no longer in contact with the minor's other parent.*

The regulation provides that parents need only present documentary evidence of sole custody, i.e., a birth certificate or adoption decree listing

only one parent, evidence of the death of a parent, a decree granting sole custody, or a court order terminating the other parent's parental rights. The Department will consider other documentary evidence as warranted by the circumstances. If no documentary evidence is available, the applying parent may submit a written statement under penalty of perjury setting out the circumstances that prevent him or her from presenting the requested documentation.

*Some comments referred to the ability of non-U.S. citizens to obtain a U.S. passport for their U.S. citizen child or to inhibit the issuance of their child's passport when applied for by the U.S. citizen parent.*

The fact that a parent is not a U.S. citizen does not limit his or her ability to obtain a U.S. passport on behalf of his or her minor U.S. citizen child. Similarly, a non-U.S. citizen parent may request that no U.S. passport be issued to a U.S. citizen minor if that parent has legal custody of the child. The new regulation does not change the rights of parents in this respect.

The Department has a long-standing program that provides for parental notification and the denial of a passport to a minor of any age who is the subject of a child custody dispute. The Children's Passport Issuance Alert Program enables the Department of State's Office of Children's Issues to notify a parent or legal guardian, when requested, before issuing a U.S. passport for his or her child. At the request of a custodial or non-custodial parent, legal guardian, legal representative, or a court of competent jurisdiction, the Department will enter the child's name into its passport name check clearance system. This allows the Department to alert the requesting parent if a passport application is received for the child. To deny the passport application, the Department must have on file a written request for denial from a parent, legal guardian, or an officer of the court, and a complete copy of a temporary or permanent court order that provides for: (1) Sole legal custody to the requesting parent; (2) joint custody to both parents (which the Department treats as inherently requiring both parents to consent to passport issuance); or (3) a restriction on the child's travel or a requirement of that both parents or the appropriate court give permission to travel. The Department strongly encourages parents who fear that their child may be abducted to continue to make use of this program.

*The public comments expressed concern that some U.S. citizen children*

*are dual citizens and may be entitled to a foreign passport.*

A U.S. citizen child may have another nationality because the child was born abroad, because one of the child's parents acquired a foreign nationality at birth, or because one of the child's parents acquired a second nationality through naturalization in another country. Acquisition of foreign nationality may occur in these cases without regard to the wishes of the U.S. citizen parent of the child. Similarly, the child of foreign nationals may acquire U.S. citizenship regardless of the child's parent's wishes (e.g., if the child is born in the United States). The inability to obtain a U.S. passport will not necessarily prevent a dual national child from obtaining and traveling on a foreign passport. While some foreign countries will give effect to U.S. custody orders, they are generally free to issue passports to their nationals, including minor children.

*The Comments Also Contained Specific Questions That Are Addressed Below*

*Will currently valid passports held by minors under age 14 continue to be valid after the two-parent application requirement goes into effect?*

Yes, currently valid passports will continue to be valid until their expiration date, generally five years from the date of issuance. However, when those passports expire, the two-parent consent requirement will apply for new or renewal passport requests if the child is still under age 14.

*Once a passport is actually issued, will there need to be two signatures in the passport in order for it to be valid?*

No. Only one parent need sign the passport.

*Can the rule apply only to renewals and not first time applicants?*

No. The statute specifically applies to all passports issued for minors under age 14.

*Do the new statute and its implementing regulation require both parents to travel with their minor?*

No. The statute and regulation apply only to the application for the passport, not to the actual use of the passport.

*Will U.S. citizen children who are unable to obtain a U.S. passport due to lack of the second parent's permission be granted visas in their foreign passports to enable travel to the United States?*

No. U.S. law specifically prohibits the issuance of a U.S. visa to a U.S. citizen or national.

*Will additional fees be charged for the two signatures?*

No, the same passport fee for minors remains in effect.

*What is considered an exigent circumstance?*

Some examples of exigent circumstances would include, but not be limited to: (1) A minor who needs to travel due to a serious illness of a person in the minor's immediate family; (2) a minor who must travel to receive emergency medical treatment; (3) a minor who has his or her passport lost or stolen while traveling abroad accompanied by only one parent, or traveling unaccompanied by a parent or parents with a school, church or other group, and who needs to travel immediately to another overseas destination.

*What is considered a special family circumstance?*

Examples of special family circumstances include, but are not limited to: (1) A situation in which the non-applying parent has abandoned the family, and his or her whereabouts are unknown; or (2) a situation in which the non-applying parent is unable to give written consent due to serious health problems. Instances involving inconvenience to the non-applying parent will not be considered a special family circumstance, however. A non-applying parent who cannot personally appear at an acceptance facility, passport agency, or U.S. embassy, consulate or consular agency abroad to sign the minor's application may send the signed consent statement by overnight delivery if the minor's travel is urgent, or fax it to the applying parent or passport issuing office if the minor's travel is imminent.

When both parents have abandoned the minor or are deceased and there has been no formal or legal determination of custody or guardianship (such as when a grandparent, aunt, uncle, brother or sister has assumed responsibility), documentation of legal custody or guardianship must be obtained and submitted. If exigent circumstances apply to a child in this situation, a passport would be issued without such documentation if failure to do so would cause grave danger to the child. Examples would include medical evacuation of a child from a foreign country to the United States or an emergency evacuation of U.S. citizens from a foreign country during a period of civil unrest.

#### **Additional Comments**

In crafting the regulations to implement the statute uniformly and fairly, the Department sought to implement the statute in a way that will: (1) Use the passport application process as a vehicle for deterring parental child abduction; (2) minimize any

unnecessary inconvenience to parents in the majority of cases that do not involve parental abduction issues; and (3) fulfill the Department's responsibilities for passport issuance and the protection of U.S. citizens abroad. We feel that the final regulation meets those goals. A central feature of the regulation is that it puts the full burden of responsibility for the bona fides of the documentation submitted and the truthfulness of representations made therein on the applying parent or legal guardian, who will be subject to criminal penalties for making false statements to procure a passport. Although not obligated to do so in any particular case, the Department reserves its right to investigate or verify the truthfulness of assertions made during the application process, or to confirm the validity of documents presented in support of the application.

#### Implementation Date

The effective date of this regulation is July 2, 2001. This date will give the Department time to redesign, obtain required approval under the Paperwork Reduction Act for, and print a new passport application form with signature blocks for both parents' signatures. It will also avoid introducing a new requirement into the application process during the peak pre-summer travel period. Finally, it will give the Department sufficient time to disseminate information regarding the new requirement.

#### Regulatory Findings

##### *Administrative Procedure Act*

The Department is publishing this rule as a final rule after it was published as a proposed rule on October 10, 2000 (see **SUPPLEMENTARY INFORMATION**).

##### *Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

##### *Unfunded Mandates Act of 1995*

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

##### *Executive Order 12866*

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review.

##### *Executive Order 13132*

This regulation will not have substantial direct effects 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

##### *Paperwork Reduction Act*

The reporting or recordkeeping action required from the public under the rule requires the approval of the Office of Management and Budget under the Paperwork Reduction Act. A form for documenting the written consent of a parent not applying or special circumstances why such parent's written consent cannot be obtained is being forwarded to OMB as required.

#### List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, 22 CFR part 51 is amended as follows:

#### PART 51—PASSPORTS

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

**Authority:** 22 U.S.C. 211a, 213, 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p. 570; sec. 236, Pub. L. 106–113, 113 Stat. 1501A–430; 18 U.S.C. 1621(a)(2).

2. In § 51.1, redesignate paragraphs (g) and (h) as paragraphs (h) and (i), respectively, and add a new paragraph (g) to read as follows:

##### § 51.1 Definitions.

\* \* \* \* \*

(g) *Passport Application* means the application form for a United States passport, filled in, subscribed and executed as prescribed by the Secretary pursuant to 22 U.S.C. 213, and all documents, photos and statements submitted with the form or thereafter in support of the application. A person providing false information as part of a passport application, whether contemporaneously with the application form or at any other time, is subject to prosecution for passport fraud or perjury under all applicable criminal statutes, including but not limited to 18 U.S.C. 1001, 1541, *et seq.* and 1621.

\* \* \* \* \*

3. Revise § 51.21(d)(4)(ii) to read as follows:

##### § 51.21 Execution of passport application.

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(ii) Mail applications abroad on behalf of minors under the age of 14 must comply with the requirements of § 51.27;

\* \* \* \* \*

4. In § 51.27, revise paragraph (b) and paragraph (d)(1)(i) introductory text to read as follows:

##### § 51.27 Minors.

\* \* \* \* \*

(b) *Execution of the application for minors.* (1) *Minors 14 years of age and above.* A minor aged 14 and above is required to execute an application on his or her own behalf unless, in the judgment of the person before whom the application is executed, it is not desirable for the minor to execute his or her own application. In such a case, it must be executed on behalf of the minor aged 14 and above by a parent or guardian of the minor or by a person in loco parentis.

(2) *Minors under the age of 14.* (i) Except as specifically provided in this section, both parents or each of the child's legal guardians, if any, whether applying for a passport for the first time or for a renewal, must execute the application on behalf of a minor under age 14 under penalty of perjury, and provide documentary evidence of parentage showing the minor's name, date and place of birth, and the names of the parent or parents.

(ii) A passport application may be executed on behalf of a minor under age

14 by just one parent or legal guardian if such person provides, under penalty of perjury:

(A) Documentary evidence that such person is the sole parent or has sole custody of the child; or

(B) A written statement of consent from the non-applying parent or guardian, if applicable, to the issuance of the passport.

(iii) An individual may apply in *loco parentis* on behalf of a minor under age 14 by submitting a notarized written statement or a notarized affidavit from both parents specifically authorizing the application. However, if only one parent provides the notarized written statement or notarized affidavit, documentary evidence that such parent has sole custody of the child must be presented.

(iv) Documentary evidence in support of an application executed on behalf of a minor under age 14 by one parent or person in *loco parentis* under paragraphs (b)(2)(ii) and (iii) of this section may include, but is not limited to, the following:

(A) A birth certificate providing the minor's name, date and place of birth and the name of the sole parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240) or a Certification of Report of Birth of a United States Citizen (DS-1350) providing the minor's name, date and place of birth and the name of the sole parent;

(C) An adoption decree showing only one adopting parent;

(D) An order of a court of competent jurisdiction granting sole custody to the applying parent or legal guardian and containing no travel restrictions inconsistent with issuance of the passport;

(E) A judicial declaration of incompetence of the non-applying parent;

(F) An order of a court of competent jurisdiction specifically permitting the applying parent's or guardian's travel with the child;

(G) A death certificate for the non-applying parent; or

(H) A copy of a Commitment Order or comparable document for an incarcerated parent.

(v) In instances when a parent submits a custody decree invoking the provisions of paragraph (d)(1) of this section, the judicial limitations on the minor's ability to travel contained in the custody decree will be given effect.

(vi) The requirements of paragraphs (b)(2)(i), (ii) and (iii) of this section may be waived in cases of exigent or special family circumstances, as determined by a Department official designated under paragraph (b)(2)(vi)(E) of this section.

(A) Exigent circumstances are defined as time-sensitive circumstances in which the inability of the minor to obtain a passport would jeopardize the health and safety or welfare of the minor or would result in the child being separated from the rest of his or her traveling party.

(B) "Time-sensitive" generally means that there is not enough time before the minor's emergency travel to obtain either the required consent of both parents/guardians or documentation reflecting a sole parent's/guardian's custody rights.

(C) Special family circumstances are circumstances in which the minor's family situation makes it impossible for one or both of the parents to execute the passport application.

(D) A parent applying for a passport for a child under age 14 under this paragraph (b)(2)(vi) must submit with the application a written statement subscribed under penalty of perjury describing the exigent or special family circumstances the parent believes should be taken into consideration in applying an exception.

(E) Determinations under this paragraph (b)(2)(vi) may be made by a senior passport adjudicator or the Deputy Assistant Secretary for Passport Services for an application filed within the United States, or a consular officer or the Deputy Assistant Secretary for Overseas Citizens Services for an application filed abroad.

(vii) Nothing contained in this section shall prohibit any Department official adjudicating a passport application on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 14 in accordance with the provisions of this regulation.

\* \* \* \* \*

(d) \* \* \*

(1)(i) When there is a dispute concerning the custody of a minor under age 18, a passport may be denied if the Department has on file, or is provided in the course of a passport application executed on behalf of a minor, a copy of a court order from a court of competent jurisdiction in the United States or abroad which:

\* \* \* \* \*

5. Revise § 51.40 to read as follows:

**§ 51.40 Burden of proof.**

The applicant has the burden of proving that he or she is a national of the United States.

6. Revise § 51.41 to read as follows:

**§ 51.41 Documentary evidence.**

Every application shall be accompanied by evidence of the U.S. nationality of the applicant.

Dated: May 10, 2001.

For the Secretary of State.

**Mary A. Ryan,**

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

[FR Doc. 01-13845 Filed 6-1-01; 8:45 am]

**BILLING CODE 4710-06-P**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

**[CGD09-01-048]**

**Safety Zone: Captain of the Port  
Detroit Zone**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of implementation of final rule.

**SUMMARY:** The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during June 2001. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

**DATES:** Effective from 12:01 a.m.(EST) on June 1, 2001 to 11:59 p.m.(EST) on June 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** Ensign Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, MI (313) 568-9580.

**SUPPLEMENTARY INFORMATION:** The Coast Guard is implementing the permanent safety zones in 33 CFR 165.907 (published May 21, 2001, in the **Federal Register**, 66 FR 27868), for fireworks displays in the Captain of the Port Detroit Zone during June 2001. The following safety zones are in effect for fireworks displays occurring in the month of June 2001:

(1) *Bay-Rama Fishfly Festival*, New Baltimore, MI. Location: All waters off New Baltimore City Park, Lake St. Clair-Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42° 41'N, 082° 44'W, June 13, 2001, from 9 p.m. to 11 p.m.

(2) *Jefferson Beach Marina Fireworks*, St. Clair Shores, MI. Location: All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42° 32'N, 082°