

Such corrosion may lead to subsequent fatigue cracking of the parts affected, reducing the aircraft structural integrity, which may in turn lead to structural failure and/or loss of some control surface.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within the next 30 days or 100 hours time-in-service after the effective date of this AD, whichever occurs first, carry out a general visual inspection (GVI) for corrosion at the regions of the Wings-to-Fuselage attachments, Vertical Stabilizer to Fuselage attachments, Rib 1 Half-wing, and Passenger Seat Tracks, according to Parts I, II, and III of the Embraer—Empresa Brasileira de Aeronautica S.A. (EMBRAER) Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006.

(i) All structures found corroded or cracked as a result of the inspections conducted above, must be addressed prior to further flight in accordance with detailed instructions and procedures described in EMBRAER Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006.

(ii) Previous accomplishment of the EMBRAER Alert Service Bulletin S.B. No.: 110-00-A007, dated March 6, 2006, or the implementation of the tasks above, required by section VI of the Maintenance Planning Guides TP 110P2/145, PM 110/652, or PM 110/165, are considered acceptable methods of compliance with the requirements of (f)(1) of this AD.

(2) Within the next 30 days after the effective date of this AD, accomplish Part IV of the EMBRAER Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006. All structures found corroded or cracked as a result of the inspections conducted above, must be addressed prior to further flight in accordance with detailed instructions and procedures described in EMBRAER Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006.

(3) Within the next 12 months after the effective date of this AD, accomplish Part V of the EMBRAER Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006. All structures found corroded or cracked as a result of the inspections conducted above, must be addressed prior to further flight in accordance with detailed instructions and procedures described in EMBRAER Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006.

Note 1: For the purpose of this AD a GVI is: "A visual examination of an interior or exterior area, installation or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance, unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light; and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4146; fax: (816) 329-4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI National Agency of Civil Aviation (ANAC) AD No.: 2006-10-01, dated October 25, 2006, EMBRAER Service Bulletin S.B. No.: 110-00-0007, dated May 10, 2006, and EMBRAER Alert Service Bulletin S.B. No.: 110-00-A007, dated March 6, 2006 for related information.

Issued in Kansas City, Missouri, on March 1, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-3987 Filed 3-6-07; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice 5712]

RIN 1400-AC28

Passports

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The proposed rule would reorganize, restructure, and update the passport regulations contained in 22 CFR part 51 in order to make them easier for the users to access the information, to better reflect current practices and changes in statutory authority, and to remove outdated provisions.

DATE: The Department will accept comments on this proposed regulation until May 7, 2007.

ADDRESSES: You may submit comments, identified by the following methods (no duplicates, please):

- *Federal eRulemaking Portal:* <http://www.regulations.gov/index.cfm>. Follow the instructions for submitting comments.

- *Electronically:* You may submit electronic comments to: *Comments.22.CFR.Part.51.update@state.gov*. Attachments must be in Microsoft Word.

- *Mail (paper, disk, or CD-ROM submissions):* Comments by mail should be addressed to: Director, Office of Passport Policy, Planning and Advisory Services, Bureau of Consular Affairs, 2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037, fax (202) 663-2654.

Instructions: All submissions must include the Regulatory Identification Number (RIN).

FOR FURTHER INFORMATION CONTACT: Consuelo Pachon, Office of Passport Policy, (202) 663-2662. 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's Bureau of Consular Affairs is proposing to update and amend its passport regulations in 22 CFR Part 51. Most of the current passport regulations in Part 51 of 22 CFR were issued in 1966, although significant modifications have been made as needed. For example, in recent years the passport regulations have been amended to improve our ability to combat international parental child abduction by requiring that both parents consent to passport issuance to minors under age 14 (with specified exceptions) and to enhance the security of the passport by introducing the electronic passport and eliminating passport amendments. Still, many of the current provisions in Part 51 have not been revised in many years, and the Department believes it useful for them to be modernized and restructured in their entirety.

Accordingly, this proposed rule reorganizes and updates existing passport regulations in order to make them easier for users to access the information, to better reflect current practice and changes in statutory authority, and to remove outdated provisions. In general, the proposed revisions do not mark a departure from current policy. Rather the Department's intent is to bring greater clarity to

current passport policy and practice and to present it in a less cumbersome way. The more notable changes are discussed below.

Passport Agents and Passport Acceptance Agents. Proposed §§ 51.1(e), 51.1(f), and 51.22 include new provisions regarding passport agents and passport acceptance agents. They are intended to codify the definition of passport agents and passport acceptance agents and to clarify their qualifications and responsibilities, including the requirement that they be U.S. citizens.

Change of Names on Passports. The revised § 51.25 (currently § 51.24) is intended to clarify what is required of an applicant whose name has changed and to reflect more accurately Department practice in this regard.

Minors. The proposed rule in new § 51.28 makes a number of changes to the current provisions in § 51.27 on *Minors*. The Department revised its passport regulations in 2001 to implement the provisions of 22 U.S.C. 213n, requiring that both parents consent to the issuance of a passport to minor children under age 14. The Department further amended the regulations in 2004 to require that children under age 14 appear personally when applying for a passport. The proposed rule in § 51.28(a) would extend the two-parent consent and personal appearance requirements to minors under the age of 16. Raising the age requirement for parental consent to passport issuance to minors under 16 is intended to address the troubling issue of runaway children as well as abduction. The change is also consistent with the age requirements in the Hague Convention on the Civil Aspects of International Child Abduction and current passport regulations permitting issuance of a ten-year passport to minors age 16 and above.

A proposed new § 51.28(a)(5)(ii) would amend the “special family circumstances” exceptions to the two-parent consent requirement to include situations in which return of a minor to the jurisdiction of his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters. This change is intended to address the issue of children habitually resident in the United States who are, in effect, wrongfully stranded abroad when an abducting parent or his/her family holds current passports and/or refuses permission for issuance of replacements. The revision would also amend “special family circumstances” to include compelling humanitarian circumstances involving the health, safety or welfare of the minor and ease

slightly the standard for “special family circumstances,” from the current very stringent “impossible” to “exceptionally difficult.”

To further deal with the issue of runaway minors, proposed § 51.28(b) seeks to reaffirm in clearer language the authority of a passport authorizing officer to require a parent, guardian, or person *in loco parentis* to consent to the issuance of a passport for minors age 16 and above. The proposed new § 51.28(c)(4) clarifies the question of access by parents or guardians to passport records of minors.

Denial, Revocation and Restriction of Passports: Proposed new § 51.60(b)(9) revises provisions on denial, revocation, and restriction of passports (currently § 51.70) to permit the Department to deny a passport to applicants who are the subject of outstanding state or local warrants of arrest for a felony. Similarly, new § 51.60(d) would permit the Department to deny passport issuance when the Department has been informed by an appropriate foreign government authority or international organization that the applicant is the subject of a warrant of arrest for a felony. Providing the Department with such authority will enhance U.S. border security and law enforcement cooperation. Proposed new § 51.60(c) clarifies the Department’s authority to deny passport issuance to applicants who have not repaid repatriation and other emergency loans extended to them and/or members of their immediate family in a foreign country. This provision is intended to improve the Department’s ability to collect unpaid debts to the U.S. Government and to address the problem of dependents of U.S. citizens who are abandoned abroad. Proposed new § 51.60(e) would permit the Department to refuse to issue a passport to a wrongfully removed or retained minor, except a passport limited for direct return to the United States, when return of the minor to the jurisdiction of his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters. This provision would enhance the Department’s efforts to protect children against international child abduction and to meet its treaty obligations in that regard.

Because the Department is proposing to reorganize and renumber Part 51 in its entirety, including sections which have already been commented upon, we are inviting comments only on those changes which are new and for which an opportunity to comment has not been previously offered. For example, an opportunity to comment has been

previously provided on provisions pertaining to the two-parent consent requirement, the requirement that minors appear personally to apply for a passport, the introduction of the electronic passport, the elimination of amendments to passports, and the security surcharge. Comments on these settled issues are not being solicited, except for the extension of the parental consent and personal appearance requirements to minors under age 16 from the current age 14.

On 10–17–2006, the Department published for comment a separate rulemaking to amend Part 51 to introduce the passport card in order to implement the Western Hemisphere Travel Initiative. The Department will fully consider the comments to the passport card proposal in the context of that separate rulemaking. The final rule pertaining to the passport card will be incorporated into this overall updating of Part 51.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a proposed rule, with 60 days for public comments and review.

Regulatory Flexibility Act/Executive Order 13272: Small Business

These proposed changes to the regulations are hereby certified as 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. 301–612, and Executive Order 13272, section 3(b).

The Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule would not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532 generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$120 million or more by

State, local, or tribal governments, or by the private sector. This rule would not result in any such expenditure nor would it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132: Federalism

This regulation would not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor would the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 12866: Regulatory Review

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the proposed regulation justify its costs. The Department does not consider the proposed rule to be an economically significant regulatory action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulations 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.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulation. The Department of State has determined that this proposal does not contain new collection of information requirements for the purposes of the PRA.

List of Subjects in 22 CFR Part 51

Passports.

Accordingly, for the reasons set forth in the preamble, 22 CFR Part 51 is proposed to be revised to read as follows:

PART 51—PASSPORTS

Sec.

51.1 Definitions.

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- 51.2 Passport issued to nationals only.
- 51.3 Types of passports.
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- 51.8 Submission of currently valid passport.
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Subpart B—Application

- 51.20 General.
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Subpart C—Evidence of U.S. Citizenship or Nationality

- 51.40 Burden of proof.
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Subpart D—Fees

- 51.50 Form of payment.
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- 51.53 Refunds.
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Subpart E—Denial, Revocation and Restriction of Passports

- 51.60 Denial and restriction of passports.
- 51.61 Denial of passports to certain convicted drug traffickers.
- 51.62 Revocation or limitation of passports.
- 51.63 Passports invalid for travel into or through restricted areas; prohibition on passports valid only for travel to Israel.
- 51.64 Special validation of passports for travel to restricted areas.
- 51.65 Notification of denial or revocation of passport.
- 51.66 Surrender of passport.

Subpart F—Procedures for Review of Certain Denials and Revocations

- 51.70 Request for hearing to review certain denials and revocations.
- 51.71 The hearing.
- 51.72 Transcript and record of the hearing.
- 51.73 Privacy of hearing.
- 51.74 Final decision.

Authority: 8 U.S.C. 1504; 22 U.S.C. 211a, 212, 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; 26 U.S.C. 6039E; 31 U.S.C. 7701, 7901; 42 U.S.C. 652(k) Div. B, Title V of Pub. L. 103–317, 108 Stat. 1760; E.O. 11295, Aug. 6, 1966, FR 10603; Sec. 1 of Pub. L. 109–210, 120 Stat. 319; Sec. 2 of Pub. L. 109–167, 119 Stat. 3578; Sec. 5 of Pub. L. 109–472, 120 Stat. 3554.

§ 51.1 Definitions.

The following definitions are applicable to this part:

(a) *Department* means the United States Department of State.

(b) *Electronic passport* means a passport containing an electronically readable device, an electronic chip encoded with the bearer's personal information printed on the data page, a digitized version of the bearer's photograph, a unique chip number, and a digital signature to protect the integrity of the stored information.

(c) *Minor* means an unmarried, unemancipated person under 18 years of age.

(d) *Passport* means a travel document regardless of format issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(e) *Passport acceptance agent* means a U.S. citizen designated by the Department to accept passport applications and to administer oaths and affirmations in connection with such applications.

(f) *Passport agent* means a U.S. citizen employee of the Department of State, including consular officers, diplomatic officers and consular agents abroad and such U.S. citizen Department of State employees as the Assistant Secretary for Consular Affairs may designate for the purpose of administering oaths and affirmations for passport applications.

(g) *Passport application* means the application form for a United States passport, as prescribed by the Department pursuant to 22 U.S.C. 213 and all documents, photographs, and statements submitted with the form or thereafter in support of the application.

(h) *Passport authorizing officer* means a U.S. citizen employee who is authorized by the Department to approve the issuance of passports,

(i) *Secretary* means the Secretary of State.

(j) *United States* when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

(k) *U.S. citizen* means a person who acquired U.S. citizenship at birth or upon naturalization as provided by law and who has not subsequently lost such citizenship.

(l) *U.S. national* means a U.S. citizen or a U.S. non-citizen national.

(m) *U.S. non-citizen national* means a person on whom U.S. nationality, but not U.S. citizenship, has been conferred at birth under 8 U.S.C. 1408, or under other law or treaty, and who has not subsequently lost such non-citizen nationality.

Subpart A—General

§ 51.2 Passport issued to nationals only.

(a) A passport may be issued only to a U.S. national.

(b) Unless authorized by the Department, no person may bear more than one valid passport of the same type.

§ 51.3 Types of passports.

(a) *Regular passport*. A regular passport is issued to a national of the United States.

(b) *Official passport*. An official passport is issued to an official or employee of the U.S. Government traveling abroad to carry out official duties. When authorized by the Department, spouses and family members of such persons may be issued official passports. When authorized by the Department, an official passport may be issued to a U.S. government contractor traveling abroad to carry out official duties on behalf of the U.S. government.

(c) *Diplomatic passport*. A diplomatic passport is issued to a Foreign Service officer or to a person having diplomatic status or comparable status because he or she is traveling abroad to carry out diplomatic duties on behalf of the U.S. Government. When authorized by the Department, spouses and family members of such persons may be issued diplomatic passports. When authorized by the Department, a diplomatic passport may be issued to a U.S. Government contractor if the contractor meets the eligibility requirements for a diplomatic passport and the diplomatic passport is necessary to complete his or her mission.

§ 51.4 Validity of passports.

(a) *Signature of bearer*. A passport is valid only when signed by the bearer in the space designated for signature, or, if

the bearer is unable to sign, signed by a person with legal authority to sign on his or her behalf.

(b) *Period of validity of a regular passport*.

(1) A regular passport issued to an applicant 16 years of age or older is valid for 10 years from date of issue unless the Department limits the validity period to a shorter period.

(2) A regular passport issued to an applicant under 16 years of age is valid for five years from date of issue unless the Department limits the validity period to a shorter period.

(3) A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date issued unless limited by the Department to a shorter period.

(c) *Period of validity of an official passport*. The period of validity of an official passport, unless limited by the Department to a shorter period, is five years from the date of issue, or so long as the bearer maintains his or her official status, whichever is shorter. An official passport which has not expired must be returned to the Department upon the termination of the bearer's official status or at such other time as the Department may determine.

(d) *Period of validity of a diplomatic passport*. The period of validity of a diplomatic passport, unless limited by the Department to a shorter period, is five years from the date of issue, or so long as the bearer maintains his or her diplomatic status, whichever is shorter. A diplomatic passport which has not expired must be returned to the Department upon the termination of the bearer's diplomatic status or at such other time as the Department may determine.

(e) *Limitation of validity*. The validity period of any passport may be limited by the Department to less than the normal validity period. The bearer of a limited passport may apply for a new passport, using the proper application and submitting the limited passport, applicable fees, photographs, and additional documentation, if required, to support the issuance of a new passport.

(f) *Invalidity*. A United States passport is invalid as soon as:

(1) The Department has sent or personally delivered a written notice to the bearer stating that the passport has been revoked; or

(2) The passport has been reported as lost or stolen to the Department, a U.S. passport agency or a diplomatic or consular post abroad and the Department has recorded the reported loss or theft; or

(3) The Department has sent a written notice to the bearer that the passport has been invalidated because the Department has not received the applicable fees; or

(4) The Department determines that the passport is no longer valid because it has been materially changed in physical appearance or composition, or contains a damaged, defective or otherwise nonfunctioning chip, or includes unauthorized changes, obliterations, entries or photographs, or has observable wear or tear that renders it unfit for use as a travel document and either takes possession of the passport or sends a written notice to the bearer.

§ 51.5 Adjudication and issuance of passports.

(a) A passport authorizing officer may adjudicate applications or authorize the issuance of passports.

(b) A passport authorizing officer will examine the passport application and all documents, photographs and statements submitted in support of the application in accordance with guidance issued by the Department.

§ 51.6 Verification of passports and release of information from passport records.

(a) *Verification*. When required by a foreign government, a consular officer abroad may verify a U.S. passport.

(b) *Release of information*. Information in passport records is subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. Release of this information may be requested in accordance with Part 171 or Part 172 of this title.

§ 51.7 Passport property of the U.S. Government.

(a) A passport at all times remains the property of the United States and must be returned to the U.S. Government upon demand.

(b) Law enforcement authorities who take possession of a passport for use in an investigation or prosecution must return the passport to the Department on completion of the investigation and/or prosecution.

§ 51.8 Submission of currently valid passport.

(a) When applying for a new passport, an applicant must submit for cancellation any currently valid passport of the same type.

(b) If an applicant is unable to produce such a passport for cancellation, he or she must submit a signed statement in the form prescribed by the Department setting forth the circumstances regarding the disposition of the passport.

§ 51.9 Amendment of passports.

Except for the convenience of the U.S. Government, no passport may be amended.

§ 51.10 Replacement passports.

A passport issuing office may issue a replacement passport without payment of applicable fees for the reasons specified in § 51.54.

Subpart B—Application**§ 51.20 General.**

(a) An application for a passport, a replacement passport, extra visa pages, or other passport related service must be completed using the forms the Department prescribes.

(b) The passport applicant must truthfully answer all questions and must state every material matter of fact pertaining to his or her eligibility for a passport. All information and evidence submitted in connection with an application is considered part of the application. A person providing false information as part of a passport application, whether contemporaneously with the form or at any other time, is subject to prosecution under applicable Federal criminal statutes.

§ 51.21 Execution of passport application.

(a) *Application by personal appearance.* Except as provided in § 51.28, to assist in establishing identity, a minor, a person who has never been issued a passport in his or her own name, a person who has not been issued a passport for the full validity period of 10 years in his or her own name within 15 years of the date of a new application, or a person who is otherwise not eligible to apply for a passport by mail under paragraphs (b) and (c) of this section, must apply for a passport by appearing in person before a passport agent or passport acceptance agent (see § 51.22). The applicant must verify the application by oath or affirmation before the passport acceptance agent, sign the completed application, provide photographs as prescribed by the Department, provide any other information or documents requested and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (see 22 CFR 22.1).

(b) *Application by mail—persons in the United States.* A person in the United States who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport by filling out, signing and mailing an application on the form prescribed by the Department if:

(1) The most recently issued previous passport was issued when the applicant was 16 years of age or older;

(2) The application is made not more than 15 years following the issue date of the previous passport; and

(3) The most recently issued previous passport is submitted with the new application.

The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

(c) *Application by mail—persons abroad.* A person in a foreign country where the Department has authorized a post to receive passport applications by mail who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport in that country by filling out, signing and mailing an application on the form prescribed by the Department if:

(1) The most recently issued previous passport was issued when the applicant was 16 years of age or older;

(2) The application is made not more than 15 years following the issue date of the previous passport; and

(3) The most recently issued previous passport is submitted with the new application.

The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

(d) Nothing in this Part shall prohibit or limit the Department from authorizing an overseas post to accept a passport application or applications by mail from persons outside the country or outside the person's country of residence in circumstances which prevent provision of these services to the person where they are located or in other unusual circumstances as determined by the Department.

§ 51.22 Passport agents and passport acceptance agents.

(a) *U.S. citizen Employees of the Department authorized to serve as passport agents.* The following employees of the Department are authorized by virtue of their positions to serve as passport agents unless the Department in an individual case withdraws authorization:

(1) A passport authorizing officer;

(2) A consular officer, or a U.S. citizen consular agent abroad;

(3) A diplomatic officer specifically authorized by the Department to accept passport applications; and

(4) Such U.S. citizen Department of State employees as the Assistant Secretary for Consular Affairs may

designate for the purpose of administering oaths and affirmations for passport applications.

(b) *Persons designated by the Department to serve as passport acceptance agents.* When designated by the Department, the following persons are authorized to serve as passport acceptance agents unless the Department in an individual case withdraws authorization.

(1) An employee of the clerk of any Federal court;

(2) An employee of the clerk of any state court of record;

(3) A postal employee at a United States post office that has been selected to accept passport applications;

(4) An employee of the Department of Defense at a military installation that has been authorized to accept passport applications;

(5) An employee of a federal agency that has been selected to accept passport applications; and

(6) Any other person specifically designated by the Department.

(c) *Qualifications of persons designated by the Department to serve as passport acceptance agents.* Before the Department will designate a person described in § 51.22(b) as a passport acceptance agent, his or her employer must certify that the person:

(1) Is a U.S. citizen or a U.S. national;

(2) Is 18 years of age or older;

(3) Is a permanent employee, excluding ad hoc, contractual, and volunteer employees; and

(4) Does not have a record of either:

(i) A federal or state felony conviction; or

(ii) A misdemeanor conviction for crimes involving moral turpitude or breach of trust, including but not limited to embezzlement, identity theft, misappropriation, document fraud, drug offenses, or dishonesty in carrying out a responsibility involving public trust.

(d) *Training.* A passport acceptance agent described in § 51.22(b) must be trained to apply procedures and practices as detailed in guidance provided by the Department. Training must be successfully completed before accepting passport applications.

(e) *Responsibilities.* The responsibilities of a passport acceptance agent described in § 51.22(b) include but are not limited to the following:

(1) *Certifying the identity of each applicant.* Passport acceptance agents must certify that they have personally witnessed the applicant signing his or her application, and that the applicant has:

(i) Personally appeared;

(ii) Presented proper identification, as documented on the application;

(iii) Submitted photographs that are a true likeness; and

(iv) Taken the oath administered by the acceptance agent.

(2) *Safeguarding passport application information under the Privacy Act of 1974.* Passport acceptance agents described in § 51.22(b) must not retain copies of executed applications, nor release passport application information to anyone other than the applicant and the Department.

(3) *Avoiding conflict of interest.* Passport acceptance agents described in § 51.22(b) must not participate in any relationship that could be perceived as a conflict of interest, including but not limited to providing commercial services related to the passport process.

(f) *Documentation.* Passport acceptance facilities within the United States must maintain a current listing of all passport acceptance agents designated under § 51.22(b). This list must be updated at least annually and a copy provided to the officer specified by the Department at the appropriate passport issuing office.

(1) The current listing of all designated passport acceptance agents must include the passport acceptance agents':

(i) Names; and

(ii) Signatures.

(2) Any addition to or deletion from the current listing of designated passport acceptance agents is subject to prior approval by the Department.

§ 51.23 Identity of applicant.

(a) The applicant has the burden of establishing his or her identity.

(b) The applicant must establish his or her identity by the submission of a previous passport, other state, local or federal government officially issued identification with photograph, or other identifying evidence which may include an affidavit of an identifying witness.

(c) The Department may require such additional evidence of identity as it deems necessary.

§ 51.24 Affidavit of identifying witness.

(a) An identifying witness must execute an affidavit in the form prescribed by the Department before the person who accepts the passport application.

(b) A person who has received or expects to receive a fee for his or her services in connection with executing the application or obtaining the passport may not serve as an identifying witness.

§ 51.25 Name of applicant to be used in passport.

(a) The passport shall be issued in the full name of the applicant, generally the

name recorded in the evidence of nationality and identity.

(b) The applicant must explain any material discrepancies between the name on the application and the name recorded in the evidence of nationality and identity. The name provided by the applicant on the application may be used if the applicant submits the documentary evidence prescribed by the Department.

(c) A name change will be recognized for purposes of issuing a passport if the name change occurs in one of the following ways.

(1) Court order or decree. An applicant whose name has been changed by court order or decree must submit with his or her application a certified copy of the order or decree. Acceptable types of court orders and decrees include but are not limited to:

(i) A name change order;

(ii) A divorce decree specifically declaring the return to a former name;

(2) Certificate of naturalization issued in a new name.

(3) Marriage. An applicant who has adopted a new name following marriage must present a copy of the marriage certificate.

(4) Customary usage. An applicant who has adopted a new name without formal court proceedings or a marriage must submit evidence of public and exclusive use of the adopted name for a long period of time, in general five years, as prescribed by guidance issued by the Department. The evidence must include three or more public documents, including one government-issued identification with photograph and other acceptable public documents prescribed by the Department.

§ 51.26 Photographs.

The applicant must submit with his or her application photographs as prescribed by the Department.

§ 51.27 Incompetents.

A legal guardian or other person with the legal capacity to act on behalf of a person declared incompetent may execute a passport application on the incompetent person's behalf.

§ 51.28 Minors.

(a) Minors under age 16.

(1) Personal appearance. Minors under 16 years of age applying for a passport must appear in person, unless the personal appearance of the minor is specifically excused by a senior passport authorizing officer, pursuant to guidance issued by the Department. In cases where personal appearance is excused, the person(s) executing the passport application on behalf of the

minor shall appear in person and verify the application by oath or affirmation before a person authorized by the Secretary to administer oaths or affirmations, unless these requirements are also excused by a senior passport authorizing officer pursuant to guidance issued by the Department.

(2) Execution of passport application by both parents or by each legal guardian. Except as specifically provided in this section, both parents or each of the minor'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 16 and provide documentary evidence of parentage or legal guardianship showing the minor's name, date and place of birth, and the names of the parent or parents.

(3) Execution of passport application by one parent or legal guardian. A passport application may be executed on behalf of a minor under age 16 by only one parent or legal guardian if such person provides:

(i) A notarized written statement or affidavit from the non-applying parent or legal guardian, if applicable, consenting to the issuance of the passport, or

(ii) Documentary evidence that such person is the sole parent or has sole custody of the minor. Such evidence includes, 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 only the applying parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United States of America or a Certification of Report of Birth of a United States Citizen providing the minor's name, date and place of birth and the name of only the applying parent;

(C) A copy of the death certificate for the non-applying parent or legal guardian;

(D) An adoption decree showing the name of only the applying parent;

(E) An order of a court of competent jurisdiction granting sole legal custody to the applying parent or legal guardian containing no travel restrictions inconsistent with issuance of the passport; or, specifically authorizing the applying parent or legal guardian to obtain a passport for the minor, regardless of custodial arrangements; or specifically authorizing the travel of the minor with the applying parent or legal guardian;

(F) An order of a court of competent jurisdiction terminating the parental rights of the non-applying parent or

declaring the non-applying parent or legal guardian to be incompetent.

(G) An order of a court of competent jurisdiction providing for joint legal custody or requiring the permission of both parents or the court for important decisions will be interpreted as requiring the permission of both parents or the court, as appropriate.

Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the minor exist.

(4) Execution of passport application by a person acting *in loco parentis*.

(i) A person may apply *in loco parentis* on behalf of a minor under age 16 by submitting a notarized written statement or a notarized affidavit from both parents or each legal guardian, if any, specifically authorizing the application.

(ii) If only one parent or legal guardian provides the notarized written statement or notarized affidavit, the applicant must provide documentary evidence that an application may be made by one parent or legal guardian, consistent with § 51.28(a)(3).

(5) Exigent or special family circumstances. A passport may be issued when only one parent, legal guardian or person acting *in loco parentis* executes the application, in cases of exigent or special family circumstances.

(i) "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 minor being separated from the rest of his or her traveling party. "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/legal guardians or documentation reflecting a sole parent's/legal guardian's custody rights.

(ii) "Special family circumstances" are defined as circumstances in which the minor's family situation makes it exceptionally difficult for one or both of the parents to execute the passport application; and/or compelling humanitarian circumstances where the minor's lack of a passport would jeopardize the health, safety, or welfare of the minor; or, pursuant to guidance issued by the Department, circumstances in which return of a minor to the jurisdiction of his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to adjudicate or enforce a custody determination. A passport issued due to such special family

circumstances may be limited for direct return to the United States in accordance with § 51.60(e).

(iii) A parent, legal guardian, or person acting *in loco parentis* who is applying for a passport for a minor under age 16 under this paragraph must submit a written statement with the application describing the exigent or special family circumstances he or she believes should be taken into consideration in applying an exception.

(iv) Determinations under § 51.28(a)(5) must be made by a senior passport authorizing officer pursuant to guidance issued by the Department.

(6) Nothing contained in this section shall prohibit any Department official adjudicating a passport application filed 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 16 in accordance with the provisions of this regulation.

(b) Minors 16 years of age and above.

(1) A minor 16 years of age and above applying for a passport must appear in person and may execute the application for a passport on his or her own behalf unless the personal appearance of the minor is specifically excused by a senior passport authorizing officer pursuant to guidance issued by the Department, or unless, in the judgment of the person before whom the application is executed, it is not advisable for the minor to execute his or her own application. In such case, it must be executed by a parent or legal guardian of the minor, or by a person *in loco parentis*, unless the personal appearance of the parent, legal guardian or person *in loco parentis* is excused by the senior passport authorizing officer pursuant to guidance issued by the Department.

(2) The passport issuing officer may at any time require a minor 16 years of age and above to submit the notarized consent of a parent, a legal guardian, or a person *in loco parentis* to the issuance of the passport.

(c) Rules applicable to all minors.

(1) Objections. At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport may be denied upon receipt of a written objection from a parent or legal guardian of the minor, or from another party claiming authority to object, so long as the objecting party provides sufficient documentation of his or her custodial rights or other authority to object.

(2) An order from a court of competent jurisdiction providing for joint legal custody or requiring the

permission of both parents or the court for important decisions will be interpreted as requiring the permission of both parents.

(3) The Department will consider a court of competent jurisdiction to be a U.S. state or federal court or a foreign court located in the minor's home state or place of habitual residence.

(4) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

(5) Access by parents and legal guardians to passport records for minors. Either parent or any legal guardian of a minor may upon written request obtain information regarding the application for and issuance of a passport to a minor, unless the requesting parent's parental rights have been terminated by an order of a court of competent jurisdiction, a copy of which has been provided to the Department. The Department may deny such information to a parent or legal guardian if it determines that the minor objects to disclosure and the minor is 16 years of age or older.

Subpart C—Evidence of U.S. Citizenship or Nationality

§ 51.40 Burden of proof.

The applicant has the burden of proving that he or she is a U.S. citizen or non-citizen national.

§ 51.41 Documentary evidence.

The applicant must provide documentary evidence that he or she is a U.S. citizen or non-citizen national.

§ 51.42 Persons born in the United States applying for a passport for the first time.

(a) Primary evidence of birth in the United States. A person born in the United States generally must submit a birth certificate. The birth certificate must show the full name of the applicant, the applicant's place and date of birth, the full name of the parent(s), and must be signed by the official custodian of birth records, bear the seal of the issuing office, and show a filing date within one year of the date of birth.

(b) Secondary evidence of birth in the United States. If the applicant cannot submit a birth certificate that meets the requirement of paragraph (a) of this section, he or she must submit secondary evidence sufficient to establish to the satisfaction of the Department that he or she was born in the United States. Secondary evidence includes but is not limited to hospital birth certificates, baptismal certificates, medical and school records, certificates of circumcision, other documentary

evidence created shortly after birth but not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

§ 51.43 Persons born outside the United States applying for a passport for the first time.

(a) Generally. A person born outside the United States must submit documentary evidence that he or she meets all the statutory requirements for acquisition of U.S. citizenship or non-citizen nationality under the provision of law or treaty under which the person is claiming U.S. citizenship or non-citizen nationality.

(b) Documentary Evidence. (1) Types of documentary evidence of citizenship for a person born outside the United States include:

- (i) A certificate of naturalization.
- (ii) A certificate of citizenship.
- (iii) A Consular Report of Birth Abroad.

(2) An applicant without one of these documents must produce supporting documents as required by the Department, showing acquisition of U.S. citizenship under the relevant provisions of law.

§ 51.44 Proof of resumption or retention of U.S. citizenship.

An applicant who claims to have resumed or retained U.S. citizenship must submit with the application a certificate of naturalization or evidence that he or she took the steps necessary to resume or retain U.S. citizenship in accordance with the applicable provision of law.

§ 51.45 Department discretion to require evidence of U.S. citizenship or non-citizen nationality.

The Department may require an applicant to provide any evidence that it deems necessary to establish that he or she is a U.S. citizen or non-citizen national, including evidence in addition to the evidence specified in 22 CFR 51.42 through 51.44.

§ 51.46 Return or retention of evidence of U.S. citizenship or non-citizen nationality.

The Department will generally return to the applicant evidence submitted in connection with an application for a passport. The Department may, however, retain evidence when it deems it necessary.

Subpart D—Fees

§ 51.50 Form of payment.

Passport fees must be paid in U.S. currency or in other forms of payments permitted by the Department.

§ 51.51 Passport fees.

The Department collects the following passport fees in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

(a) An application fee, which must be paid at the time of application, except as provided in § 51.52(a), and is not refundable, except as provided in § 51.53.

(b) An execution fee, except as provided in § 51.52(b), when the applicant is required to execute the application in person before a person authorized to administer oaths for passport purposes. The execution fee is collected at the time of application and is not refundable (see § 51.55). When execution services are provided by an official of a state or local government or of the United States Postal Service (USPS), the state or local government or USPS may retain the fee if authorized to do so by the Department.

(c) A fee for expedited passport processing, if applicable (see § 51.56).

(d) A surcharge of twelve dollars on the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1165 note). The surcharge will be recovered by the Department of State from within the passport fee reflected in Schedule of Consular Fees. The surcharge will be imposed until October 1, 2010.

(e) Any other fee that the Department is authorized or required by law to charge for passport services.

(f) The foregoing fees are applicable regardless of the validity period of the passport.

§ 51.52 Exemption for payment of passport fees.

The following persons are exempt from payment of passport fees except for the passport execution fee, unless their applications are executed before a federal official, in which case they are also exempt from payment of the passport execution fee:

(a) An officer or employee of the United States traveling on official business and the members of his or her immediate family. The applicant must submit evidence of the official purpose of the travel and, if applicable, authorization for the members of his or her immediate family to accompany or reside with him or her abroad.

(b) An American seaman who requires a passport in connection with his or her duties aboard a United States flag vessel.

(c) A widow, widower, child, parent, brother or sister of a deceased member of the U.S. Armed Forces proceeding abroad to visit the grave of such service member or to attend a funeral or memorial service for such member.

(d) Other persons whom the Department determines should be exempt from payment of passport fees for compelling circumstances, pursuant to guidance issued by the Department; or

(e) Other categories of persons exempted by law.

§ 51.53 Refunds.

(a) The Department will refund the passport application fee and the security surcharge to any person exempt from payment of passport fees under 22 CFR 51.52 from whom the fee was erroneously collected.

(b) The Department will refund an expedited passport processing fee if the Department fails to provide expedited passport processing as defined in 22 CFR 51.56.

(c) For procedures on refunds of \$5.00 or less, see 22 CFR 22.6(b).

§ 51.54 Replacement passports without payment of applicable fees.

A passport issuing office may issue a replacement passport for the following reasons without payment of applicable fees:

(a) To correct an error or rectify a mistake of the Department;

(b) When the bearer has changed his or her name or other personal identifier listed on the data page of the passport, and applies for a replacement passport within one year of the date of the passport's original issuance.

(c) When the bearer of an emergency full fee passport issued for a limited validity period applies for a full validity passport within one year of the date of the passport's original issuance.

(d) When a passport is retained by law enforcement or the judiciary for evidentiary purposes and the bearer is still eligible to have a passport.

(e) When a passport is issued to replace a passport with a failed electronic chip for the balance of the original validity period.

§ 51.55 Execution fee not refundable.

The fee for the execution of a passport application is not refundable.

§ 51.56 Expedited passport processing.

(a) Within the United States, an applicant for passport service (including issuance, replacement or the addition of visa pages) may request expedited processing. The Department may decline to accept the request.

(b) Expedited passport processing means completing processing within the number of business days specified by law, beginning on the day when the application reaches a Passport Agency or Center or, if the application is already with a Passport Agency or Center, beginning when the request for expedited processing is approved. The processing is considered completed on the day when the passport is ready to be picked up by the applicant or is mailed to the applicant.

(c) A fee is charged for expedited passport processing (see 22 CFR 51.51(c)). The fee does not cover any costs of mailing above the normal level of service regularly provided by the Department. The cost of expedited mailing must be paid by the applicant.

(d) The Department will not charge the fee for expedited passport processing if the Department's error, mistake or delay caused the need for expedited processing.

Subpart E—Denial, Revocation and Restriction of Passports

§ 51.60 Denial and restriction of passports.

(a) The Department may not issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is in default on a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) for the repatriation of the applicant and, where applicable, the applicant's spouse, minor child(ren), and/or other immediate family members, from a foreign country (see 22 U.S.C. 2671(d)); or

(2) The applicant has been certified by the Secretary of Health and Human Services as notified by a state agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount determined by statute.

(b) The Department may refuse to issue a passport in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a U.S. court order committing him or her to a mental institution; or

(4) The applicant has been legally declared incompetent by a court of competent jurisdiction in the United States; or

(5) The applicant is the subject of a request for extradition or provisional request for extradition which has been presented to the government of a foreign country; or

(6) The applicant is the subject of a subpoena received from the United States pursuant to 28 U.S.C. 1783, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(7) The applicant is a minor and the passport may be denied under 22 CFR 51.28; or

(8) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 of the United States Code; or

(9) The applicant is the subject of an outstanding state or local warrant of arrest for a felony; or

(10) The applicant is the subject of a request for extradition or provisional arrest submitted to the United States by a foreign country.

(c) The Department may refuse to issue a passport in any case in which:

(1) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2670(j) for emergency medical attention, dietary supplements, and other emergency assistance, including, if applicable, assistance provided to his or her child(ren), spouse, and/or other immediate family members in a foreign country; or

(2) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) or 22 U.S.C. 2671(b)(2)(A) for the repatriation or evacuation of the applicant and, if applicable, the applicant's child(ren), spouse, and/or other immediate family members from a foreign country to the United States; or

(3) The applicant has previously been denied a passport under this section or 22 CFR 51.61, or the Department has revoked the applicant's passport or issued a limited passport for direct return to the United States under 22 CFR 51.62, and the applicant has not shown that there has been a change in circumstances since the denial, revocation or issuance of a limited passport that warrants issuance of a passport; or

(4) The Secretary determines that the applicant's activities abroad are causing or are likely to cause serious damage to

the national security or the foreign policy of the United States.

(d) The Department may refuse to issue a passport in a case in which the Department is informed by an appropriate foreign government authority or international organization that the applicant is the subject of a warrant of arrest for a felony.

(e) The Department may refuse to issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by a competent authority that the applicant is a minor who has been abducted, wrongfully removed or retained in violation of a court order or decree and return to his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters.

§ 51.61 Denial of passports to certain convicted drug traffickers.

(a) A passport may not be issued in any case in which the Department determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a felony conviction for a Federal or state drug offense, if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, including a felony conviction arising under:

(1) The Controlled Substances Act (21 U.S.C. 801 *et seq.*) or the Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*); or

(2) Any Federal law involving controlled substances as defined in section 802 of the Controlled Substances Act (21 U.S.C. 801 *et seq.*); or

(3) The Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) or the Money Laundering Act (18 U.S.C. 1956 *et seq.*) if the Department is in receipt of information that supports the determination that the violation involved is related to illicit production of or trafficking in a controlled substance; or

(4) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(b) A passport may be refused in any case in which the Department determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a misdemeanor conviction of a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, other than a first conviction for possession of a controlled substance, including a misdemeanor conviction arising under:

(1) The federal statutes described in § 51.61(a); or

(2) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(c) Notwithstanding paragraph (a) of this section, the Department may issue a passport when the competent authority confirms, or the Department otherwise finds, that emergency circumstances or humanitarian reasons exist.

§ 51.62 Revocation or limitation of passports.

The Department may revoke a passport when:

(a) The bearer of the passport would not be entitled to issuance of a passport under 22 CFR 51.60 or 51.61; or 51.28; or any other provision contained in this Part; or,

(b) The passport has been obtained illegally, fraudulently or erroneously; was created through illegality or fraud practiced upon the Department; or has been fraudulently altered or misused; or

(c) 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 canceled.

§ 51.63 Passports invalid for travel into or through restricted areas; prohibition on passports valid only for travel to Israel.

(a) The Secretary may restrict the use of a passport for travel to or use in a country or area which the Secretary has determined is:

(1) A country with which the United States is at war; or

(2) A country or area where armed hostilities are in progress; or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travelers.

(b) Any determination made and restriction imposed under paragraph (a) of this section, or any extension or revocation of the restriction, shall be published in the **Federal Register**.

(c) A passport may not be designated as valid only for travel to Israel.

§ 51.64 Special validation of passports for travel to restricted areas.

(a) A U.S. national may apply to the Department for a special validation of his or passport to permit its use for travel to, or use in, a restricted country or area. The application must be accompanied by evidence that the applicant falls within one of the categories in paragraph (c) of this section.

(b) The Department may grant a special validation if it determines that

the validation is in the national interest of the United States.

(c) A special validation may be determined to be in the national interest if:

(1) The applicant is a professional reporter or journalist, the purpose of whose trip is to obtain, and make available to the public, information about the restricted area; or

(2) The applicant is a representative of the International Committee of the Red Cross or the American Red Cross traveling pursuant to an officially-sponsored Red Cross mission; or

(3) The applicant's trip is justified by compelling humanitarian considerations; or

(4) The applicant's request is otherwise in the national interest.

§ 51.65 Notification of denial or revocation of passport.

(a) The Department will notify in writing any person whose application for issuance of a passport has been denied, or whose passport has been revoked. The notification will set forth the specific reasons for the denial or revocation, and, if applicable, the procedures for review available under 22 CFR 51.70–51.76.

(b) An application for a passport will be denied if an applicant fails to meet his or her burden of proof under 22 CFR 51.23(a) and 51.40 or otherwise does not provide documentation sufficient to establish entitlement to passport issuance within ninety days of notification by the Department that additional information from the applicant is required. Thereafter, if an applicant wishes to pursue a claim to entitlement to passport issuance, he or she must submit a new application and supporting documents, photographs, and statements in support of the application, along with applicable application and execution fees.

§ 51.66 Surrender of passport.

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

Subpart F—Procedures for Review of Certain Denials and Revocations

§ 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)–(10), 51.60(c), 51.60(d), 51.61(b), or 51.62(b) may request a hearing to review the basis for the denial or revocation to the Department within 60 days of receipt of the notice of the denial or revocation.

(b) If a timely request for a hearing is made, the Department will hold it within 60 days of the date the Department receives the request, unless the person requesting the hearing asks for a later date and the Department and the hearing officer agree.

(c) The Department will give the person requesting the hearing not less than 10 business days' written notice of the date and place of the hearing.

§ 51.71 The hearing.

(a) The Department will name a hearing officer, who will make findings of fact and submit recommendations based on the record of the hearing as defined in § 51.72 to the Deputy Assistant Secretary for Passport Services in the Bureau of Consular Affairs.

(b) The person requesting the hearing may appear in person, or with or by his designated attorney. The attorney must be admitted to practice in any state of the United States, the District of Columbia, 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.

(c) The person requesting the hearing may testify, 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. 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.

(d) Formal rules of evidence will not apply, but 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 and made a part of the record of the proceeding.

(e) If any witness is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit from or order a deposition of the witness, the cost for which will be the responsibility of the requesting party.

§ 51.72 Transcript and record of the hearing.

A qualified reporter will make a complete verbatim transcript of the hearing. The person requesting the hearing and/or his or her attorney may review and purchase a copy of the transcript. The hearing transcript and the documents received by the hearing

officer will constitute the record of the hearing.

§ 51.73 Privacy of hearing.

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

§ 51.74 Final decision.

After reviewing the record of the hearing and the findings of fact and recommendations of the hearing officer, the Deputy Assistant Secretary for Passport Services will decide whether to uphold the denial or revocation of the passport. The Department will promptly notify the person requesting the hearing in writing of the decision. If the decision is to uphold the denial or revocation, the notice will contain the reason(s) for the decision. The decision is final and is not subject to further administrative review.

Dated: February 26, 2007.
Maura Harty,
Assistant Secretary for Consular Affairs,
Department of State.
 [FR Doc. E7-3870 Filed 3-6-07; 8:45 am]
BILLING CODE 4710-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2007-0072, EPA-HQ-SFUND-2007-0074, EPA-HQ-SFUND-2007-0078, EPA-HQ-SFUND-2007-0079, EPA-HQ-SFUND-2007-0080; FRL-8283-6]

RIN 2050-AD75

National Priorities List, Proposed Rule No. 46

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “the Act”), as amended, requires that the National Oil and

Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“EPA” or “the Agency”) in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add five new sites to the NPL, all to the General Superfund Section.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before May 7, 2007.

ADDRESSES: Identify the appropriate FDMS Docket Number from the table below.

FDMS Docket Identification Numbers by Site:

Site name	City/state	FDMS Docket ID No.
Halaco Engineering Company	Oxnard, CA	EPA-HQ-SFUND-2007-0072
Eagle Zinc Co Div T L Diamond	Hillsboro, IL	EPA-HQ-SFUND-2007-0074
Eagle Picher Carefree Battery	Socorro, NM	EPA-HQ-SFUND-2007-0078
Formosa Mine	Douglas County, OR	EPA-HQ-SFUND-2007-0079
Five Points PCE Plume	Woods Cross/Bountiful, UT	EPA-HQ-SFUND-2007-0080

Submit your comments, identified by the appropriate FDMS Docket number, by one of the following methods:

- *http://www.regulations.gov*: Follow the online instructions for submitting comments.
- *E-mail: superfund.Docket@epa.gov.*
- *Mail:* Mail comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5305T); 1200 Pennsylvania Avenue NW.; Washington, DC 20460.
- *Hand Delivery or Express Mail:* Send comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room 3340, Washington, DC 20004. Such deliveries are only accepted during the Docket’s normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through

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