

§ 1308.11 Schedule I.

(b) * * *

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(10) <i>alpha'</i> -Methyl butyryl fentanyl (2-methyl- <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylbutanamide)	9864
(35) 2',5'-Dimethoxyfentanyl (<i>N</i> -(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)- <i>N</i> -phenylpropionamide)	9861
(46) 3-Furanyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylfuran-3-carboxamide)	9860
(51) Isovaleryl fentanyl (3-methyl- <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylbutanamide)	9862
(55) <i>meta</i> -Fluorofentanyl (<i>N</i> -(3-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)propionamide)	9857
(56) <i>meta</i> -Fluoroisobutyryl fentanyl (<i>N</i> -(3-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide)	9858
(73) <i>ortho</i> -Fluorofuranyl fentanyl (<i>N</i> -(2-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9863
(82) <i>para</i> -Methoxyfuranyl fentanyl (<i>N</i> -(4-methoxyphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9859
(83) <i>para</i> -Methylcyclopropyl fentanyl (<i>N</i> -(4-methylphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide)	9865

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DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice: 12224]

RIN 1400-AE83

Immigrant Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (“Department”) is amending its regulation governing immigrant visas by removing the section which allows a consular officer to conduct an informal evaluation of the family members of an immigrant visa applicant to identify potential grounds of ineligibility. The existing regulation was promulgated in 1952, at a time when a consular officer could more readily assess a family member’s potential qualification for a visa without a formal visa application. Assessing eligibility for an immigrant visa is now a more complex task and not one which can be accomplished accurately with an informal evaluation.

DATES: This final rule is effective on January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Claire Kelly, Office of Visa Services, Bureau of Consular Affairs, Department of State; telephone (202) 485-7586, VisaRegs@state.gov.

SUPPLEMENTARY INFORMATION: The Department published a notice of

proposed rulemaking, Public Notice 11604 at 88 FR 16384 (Mar. 17, 2023) (hereafter “proposed rule”), with a request for comments, proposing to amend Part 42 of Title 22 of the Code of Federal Regulations. The rule will eliminate 22 CFR 42.68 in its entirety. The regulatory amendment was discussed in detail in the proposed rule, and that discussion is adopted by reference in this final rule. The Department received two responsive comments, both in support of eliminating 22 CFR 42.68. The Department is now promulgating a final rule with no changes from the proposed rule. This rule results in no change for applicants, as the authority granted by 22 CFR 42.68 was no longer used by consular officers.¹

Analysis of Comments

The proposed rule was published in the **Federal Register** on March 17, 2023. The comment period closed May 16, 2023. The Department received two responsive comments, both in favor of the proposed elimination of 22 CFR 42.68, and one non-responsive comment.

One of the two responsive comments advocated for replacing 22 CFR 42.68 with “supportive and accessible eligibility screenings for noncitizens seeking visas,” while the other comment only expressed its support for the proposed elimination. The Department has considered these comments. Considering the complexity required to evaluate a noncitizen’s eligibility for a visa, and limited resources to reliably

assess eligibility absent a visa application, the Department is unable to offer any eligibility screenings. Noncitizens who wish to receive a nonimmigrant or immigrant visa must formally apply for a visa to allow a consular officer to assess their eligibility for the visa.

Regulatory Findings

A. Administrative Procedure Act

As this rule involves amending visa policy, which is a foreign affairs function of the United States, it is exempt from both the delayed effective date and notice and comment requirements of 5 U.S.C. 553 per subsection (a)(1). Notwithstanding the applicability of the foreign affairs exception to this rule, the Department, for its own benefit, sought public comment on the proposed elimination of 22 CFR 42.68. *See, e.g., Hoctor v. U.S. Dep’t of Agric.*, 82 F.3d 165, 171–72 (7th Cir. 1996) (observing that there is nothing in the APA that forbids an agency’s use of notice-and-comment procedures even if not required under the APA, and that courts should attach no weight to an agency’s varied approaches involving similar rules). Though this rule is not subject to 5 U.S.C. 553(d), the Department is also choosing to delay the effective date of this rule for 30 days.

B. Regulatory Flexibility Act

As this rulemaking is not required to be published for notice and comment under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth by the Regulatory

¹ See the proposed rule for further discussion.

Flexibility Act. Nonetheless, as this rule eliminates a currently unused authority, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (5 U.S.C. 801 *et seq.*). 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.

D. Executive Orders 12866, 13563, and 14094

Notwithstanding that the policies of the Secretary of State in exercising their authority to conduct international affairs through the granting or refusal of visas to foreign nationals is a foreign affairs function, the Department has submitted this rule to OIRA for review and OIRA has deemed this rule to be not significant. The Department has also considered this final rule in light of E.O. 13563 and E.O. 14094 and affirms that this rule is consistent with the guidance therein.

As noted in the NPRM, the Visa Office consulted with management in the immigrant visa units of five of the largest-volume immigrant visa processing posts: Ciudad Juarez, Manila, Santo Domingo, Mumbai, and Dhaka. Each of the five posts reported they do not provide this service. Given that these five posts process 32 percent of the immigrant visas worldwide, and they have no information regarding the provision of this service, we are confident that eliminating this regulation will not result in significant impacts.

E. Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

F. Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

G. Other

The Department has also considered this rule under the Unfunded Mandates Reform Act of 1995 and Executive Orders 12372, 13132, and 13272 and affirms this rule is consistent with the applicable mandates or guidance therein.

List of Subjects in 22 CFR Part 42

Immigration, Passports, Visas.

Accordingly, for the reasons set forth in the preamble, 22 CFR 42 is amended as follows:

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

- 1. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104 and 1182; Pub. L. 105–277, 112 Stat. 2681; Pub. L. 108–449, 118 Stat. 3469; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); 42 U.S.C. 14901–14954 (Pub. L. 106–279, 114 Stat. 825); 8 U.S.C. 1101 (Pub. L. 111–287, 124 Stat. 3058); 8 U.S.C. 1154 (Pub. L. 109–162, 119 Stat. 2960); 8 U.S.C. 1201 (Pub. L. 114–70, 129 Stat. 561).

§ 42.68 [Removed and reserved]

- 2. Remove and reserve § 42.68.

Julie M. Stuftt,

*Deputy Assistant Secretary for Visa Services,
Consular Affairs, Department of State.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[USCG–2023–0899]

Special Local Regulations; Marine Events Within the Captain of the Port Charleston

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulation for the Charleston Parade of Boats on December 9, 2023, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Captain of the Port Charleston identifies the regulated area

for this event in Charleston, SC. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the regulated area unless authorized by the Coast Guard Patrol Commander or a designated representative.

DATES: The regulations in 33 CFR 100.704 will be enforced from 4 p.m. through 8 p.m. on December 9, 2023, for the location identified in paragraph (d), Item 10 in table 1 to § 100.704.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant James Sullivan, Sector Charleston Waterways Management Division, U.S. Coast Guard; telephone 843–740–3184, email James.P.Sullivan2@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation in 33 CFR 100.704 for the Charleston Parade of Boats regulated area identified in table 1 to § 100.704, paragraph (d), Item 10, from 4 p.m. until 8 p.m. on December 9, 2023. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events, Captain of the Port Charleston, § 100.704, paragraph (d), Item 10, specifies the location of the regulated area for the Charleston Parade of Boats, which encompasses portions of the Charleston Harbor located in Charleston, SC, including Anchorage A, Shutes Folly, Bennis Reach, Horse Reach, Hog Island Reach, Town Creek Lower Reach, and Ashley River. Under the provisions of 33 CFR 100.704, all persons and vessels are prohibited from entering the regulated area, except those persons and vessels participating in the event, unless they receive permission to do so from the Coast Guard Patrol Commander, or designated representative.

Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter in, impede the transit of festival participants or official patrol vessels or enter the regulated area without approval from the Coast Guard Patrol Commander or a designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation. In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notice of the regulated area via Local Notice to Mariners, Marine Safety Information Bulletins, Broadcast Notice to Mariners, and on-scene designated representatives.