

waiver of the two-year home-country physical presence requirement for exchange visitors who are foreign medical graduates.

EFFECTIVE DATE: December 17, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Chavez, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522-0113.

SUPPLEMENTARY INFORMATION: Regulatory Findings

Background

On May 28, 1997, the USIA (which has now been incorporated by the Department of States) published an amendment to their regulations regarding requests for waivers of the two-year home-country physical presence requirement by interested U.S. Government agencies on behalf of exchange visitors who are foreign medical graduates. The rule amended 514.44 of 22 CFR (now 41.63). Paragraph (c)(4)(iii), as amended, contained an error in the U.S. Code citation.

Correction

The regulation at 41.63(c)(4)(iii) contains a statement to be signed and dated by foreign medical graduate exchange visitors. The statement indicates that the medical graduate will incur penalties, as provided for under the provisions of "18 U.S.C. 1101," for making false or misleading statements. The U.S.C. cite was incorrect, and should have been "18 U.S.C. 1001". This rule amends the U.S.C. citation.

List of Subjects in 22 CFR Part 41

Nonimmigrants, Visas and passports.

Accordingly, for the reasons set forth in the preamble, 22 CFR 41 is corrected as follows:

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104, 1181, 1201, 1202; Pub. L. 105-277, 112, Stat. 2681 *et seq.*

§ 41.63 Two-year home-country physical presence requirement.

2. In § 41.63 (c)(4)(iii) change the U.S.C. cite to read "18 U.S.C. 1001."

Dated: December 12, 2002.

Maura Harty,

Assistant Secretary for Consular Affairs,
Department of State.

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DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice 4219]

Documentation of Immigrants—Visa Registration

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the Department's regulation that defines "registration" in connection with an application for an immigrant visa. This change is necessary because the current definition, as written, may be interpreted as being inconsistent with other sections of this Part concerning the Secretary of State's authority to cancel the registration of an alien who fails to apply for an immigrant visa within a specific one-year time period. When this rule becomes effective the "registration" of an immigrant visa applicant will be defined to mean the filing of an immigrant visa form (DS-230), when duly executed, or the transmission by the Department to the alien of a notification of the availability of an immigrant visa, whichever occurs first.

EFFECTIVE DATE: December 17, 2002.

FOR FURTHER INFORMATION CONTACT: Pamela R. Chavez, Legislation and Regulations Division, 202-663-1206.

SUPPLEMENTARY INFORMATION:

What Statutes Require Registration and Termination of Registration?

The registration of every immigrant alien in connection with the alien's visa application is required under Section 221(b) of the Immigration and Nationality Act (INA). Section 203(g) of the INA requires that the Secretary of State terminate an alien's registration if he or she fails to apply for an immigrant visa within one year following notification that a visa is available.

What Procedures Have Been Used To Register An Alien and To Terminate an Alien's Registration?

In order to make its procedures conform to changes in the Immigration Act of 1990 (Pub. L. 101-649), the Department published several amendments to its regulations on October 1, 1991. (See 56 FR 49678). The amendments revised, among other things, the regulation to allow a consular officer to begin termination of an alien's registration for an immigrant visa if the alien failed to apply within one year from the date of transmission of the consular officer's notification to the alien that a visa was available (see

22 CFR 42.83). In making this revision, however, the Department did not also amend its corresponding definition of "registration." Therefore, the Department is publishing this rule to correct this oversight. The Department has been applying this definition in its daily practice since 1991.

Regulatory Analysis and Findings

Administrative Procedure Act

The Department's implementation of this regulation as a final rule is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(3)(B) and (d)(3). The amendments reflect a change in the Department's procedures rather than a change in policy.

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 \$100 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 export 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. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

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

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

List of Subjects in 22 CFR Part 42

Aliens, Immigrants, Passports and visas.

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

PART 42—[AMENDED]

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

Authority: 8 U.S.C. 1104.

2. Revise paragraph (b) of § 42.67 to read as follows:

§ 42.67 Execution of application, registration, and fingerprinting.

* * * * *

(b) *Registration.* The alien shall be considered to be registered for the purposes of INA 221(b) and 203(g) upon the filing of Form DS-230, when duly executed, or the transmission by the Department to the alien of a notification of the availability of an immigrant visa, whichever occurs first.

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Dated: December 2, 2002.

Maura Harty,

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

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DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 540**

[BOP-1009-F]

RIN 1120-AA15

Incoming Publications: Softcover Materials

AGENCY: Bureau of Prisons, DOJ.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) revises its regulations on incoming publications. The amendment provides that inmates in medium security, high security, and administrative institutions may receive softcover materials only from a publisher, book club, or bookstore. This amendment is necessary to reduce the amount of contraband introduced into Federal prisons through materials sent by mail. The presence of contraband in the prisons, including drugs, weapons, and escape-related materials pose grave dangers to staff, inmates and the public. We considered alternate solutions to the problem of intercepting contraband, such as the use of technological security devices or increased staffing, but determined that these options were impracticable. This rule change also allows the Unit Manager to make an exception to this requirement and to the existing similar requirement for hardcover publications and newspapers. We intend this rule change to strengthen security procedures designed to prevent introduction of contraband into Bureau institutions.

EFFECTIVE DATE: January 16, 2003.

ADDRESSES: Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

SUPPLEMENTARY INFORMATION: The Bureau amends its regulations on incoming publications (28 CFR part 540, subpart F). Regulations in 28 CFR 540.71 had allowed an inmate to receive paperback books and magazines from any source. A proposed rule was published in the **Federal Register** on January 18, 1994 (59 FR 2668). The proposed rule required that, in medium security, high security, and administrative institutions, only softcover publications from the publisher, book club, or book store would be permitted. Existing regulations already required this restriction on hardcover books and newspapers.

The proposed rule also provided for exceptions when a publication was no longer available from the publisher, book club, or bookstore. In such cases, the Unit Manager may require that the inmate provide written documentation that the publication is no longer available from these sources.

The proposed amendment was intended to simplify, and consequently strengthen, Bureau procedures designed

to prevent the introduction of contraband into Bureau institutions. Bureau regulations on inmate legal activities (28 CFR part 543, subpart B) which restated in § 543.11(d) the policy on receipt of incoming publications were also proposed to be revised in a conforming amendment.

The public comment period on the Bureau's proposed rule closed on March 21, 1994. Comments were received from approximately 187 commenters (approximately 176 submitting a form letter response). A summary of the issues raised by these comments and agency response follow.

The form letter stated that the proposed regulation discriminated against all prisoners, indigent prisoners, religious organizations and groups, legal organizations and groups, news organizations and groups, small and independent businesses and employees, and free enterprise. The form letter also claimed that the proposed regulation cut prisoners off from their local, national, and international community contact and ties; impaired First Amendment rights to religious freedom; impaired a right to read, learn, and mentally, emotionally and spiritually grow and progress; and inflicted severe economic additional hardships on the families and friends of inmates, and on the general national and international communities. Finally, the form letter claimed the proposed regulations were in violation of the Constitution (in particular, the First Amendment), and were in violation of the Geneva Convention, international treaties and agreements, and the Universal Declaration of Human Rights. No specifics were provided regarding the latter alleged violations.

As an initial response, the Bureau notes that the rule applies to inmates in medium security, high security, and administrative facilities only. As of September, 2002, approximately 51% of federal inmates were housed in minimum and low security institutions, and would therefore be unaffected by this amendment. Based upon a general reevaluation of security needs at all facilities, the Bureau is considering extending the restriction to minimum and low security level institutions. That amendment will be addressed in a new proposed rule.

In any case, the revised regulations do not stop inmates from maintaining local, national, and international community contact and ties. Rather, the regulations address how the contact may be maintained through the media of softcover materials. Further specific response is provided below in conjunction with responses to other individual commenters (including those