

## § 92.1

## 22 CFR Ch. I (4-1-04 Edition)

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AUTHORITY: 22 U.S.C. 2658, unless otherwise noted.

SOURCE: 22 FR 10858, Dec. 27, 1957, unless otherwise noted.

### INTRODUCTION

#### § 92.1 Definitions.

(a) In the United States the term *notary* or *notary public* means a public officer qualified and bonded under the laws of a particular jurisdiction for the performance of notarial acts, usually in connection with the execution of some document.

(b) The term *notarial act* means an act recognized by law or usage as pertaining to the office of a notary public.

(c) The term *notarial certificate* may be defined as the signed and sealed statement to which a "notarial act" is almost invariably reduced. The "notarial certificate" attests to the performance of the act by the notary, and may be an independent document or as in general American notarial practice, may be placed on or attached to the notarized document.

(d) For purposes of this part, except §§ 92.36 through 92.42 relating to the authentication of documents, the term *notarizing officer* includes consular officers, officers of the Foreign Service who are secretaries of embassy or legation under Section 24 of the Act of August 18, 1856, 11 Stat. 61, as amended (22 U.S.C. 4221), and such U.S. citizen Department of State employees as the Deputy Assistant Secretary of State for Overseas Citizens Services may designate for the purpose of performing notarial acts overseas pursuant to section 127(b) of the Foreign Relations Authorization Act, Fiscal Years 1994-1995, Pub. L. 103-236, April 30, 1994 ("designated employees"). The authority of designated employees to perform no-

tarial services shall not include the authority to perform authentications, to notarize patent applications, or take testimony in a criminal action or proceeding pursuant to a commission issued by a court in the United States, but shall otherwise encompass all notarial acts, including but not limited to administering or taking oaths, affirmations, affidavits or depositions.

The notarial authority of a designated employee shall expire upon termination of the employee's assignment to such duty and may also be terminated at any time by the Deputy Assistant Secretary for Overseas Citizen Services.

[22 FR 10858, Dec. 27, 1957, as amended at 60 FR 51721, Oct. 3, 1995]

#### § 92.2 Description of overseas notarial functions of the Department of State, record of acts.

The overseas notarial function of notarizing officers of the Department of State is similar to the function of a notary public in the United States. See § 22.5(b) of this chapter concerning the giving of receipts for fees collected and the maintenance of a register serving the same purposes as the record which notaries are usually expected or required to keep of their official acts.

[60 FR 51721, Oct. 3, 1995]

#### § 92.3 Consular districts.

Where consular districts have been established, the geographic limits of the district determine the area in which notarial acts can be performed by the notarizing officer. See § 92.41 (b) regarding authentication of the seals and signatures of foreign officials outside the consular district.

[27 FR 12616, Dec. 20, 1962, as amended at 60 FR 51723, Oct. 3, 1995]

#### § 92.4 Authority of notarizing officers of the Department of State under Federal law.

(a) All notarizing officers are required, when application is made to them within the geographic limits of their consular district, to administer to and take from any person any oath, affirmation, affidavit, or deposition, and to perform any notarial act which

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any notary public is required or authorized by law to perform within the United States. The term "notarial act" as used herein shall not include the performance of extraordinary acts, such as marriages, that have not been traditionally regarded as notarial, notwithstanding that notary publics may be authorized to perform such acts in some of the states of the United States. If a request is made to perform an act that the notarizing officer believes is not properly regarded as notarial within the meaning of this regulation, the officer shall not perform the act unless expressly authorized by the Department upon its determination that the act is a notarial act within the meaning of 22 U.S.C. 4215 and 4221. The language "within the limits of the consulate" is construed to mean within the geographic limits of a consular district. With respect to notarial acts performed by notarizing officers away from their office, see § 92.7. Notarial acts shall be performed only if their performance is authorized by treaty provisions or is permitted by the laws or authorities of the country wherein the notarizing officer is stationed.

(b) These acts may be performed for any person regardless of nationality so long as the document in connection with which the notarial service is required is for use within the jurisdiction of the Federal Government of the United States or within the jurisdiction of one of the States or Territories of the United States. (However, see also § 92.6.) Within the Federal jurisdiction of the United States, these acts, when certified under the hand and seal of office of the notarizing officer are valid and of like force and effect as if performed by any duly authorized and competent person within the United States. Documents bearing the seal and signature of a secretary of embassy or legation, consular officer (including consul general, vice consul or consular agent) are admissible in evidence within the Federal jurisdiction without proof of any such seal or signature being genuine or of the official character of the notarizing officer.

(c) Every notarizing officer may perform notarial acts for use in countries occupied by the United States or under its administrative jurisdiction, pro-

vided the officer has reason to believe that the notarial act will be recognized in the country where it is intended to be used. These acts may be performed for United States citizens and for nationals of the occupied or administered countries, who reside outside such countries, except in areas where another government is protecting the interests of the occupied or administered country.

(d) Chiefs of mission, that is, ambassadors and ministers, have no authority under Federal law to perform notarial acts except in connection with the authentication of extradition papers (see § 92.40).

(e) Consular agents have authority to perform notarial services but acting consular agents do not.

[22 FR 10858, Dec. 27, 1957, as amended at 27 FR 12616, Dec. 20, 1962; 60 FR 51721, Oct. 3, 1995]

### § 92.5 Acceptability of notarial acts under State or territorial law.

The acceptability with the jurisdiction of a State or Territory of the United States of a certificate of a notarial act performed by a notarizing officer depends upon the laws of the State or Territory.

[60 FR 51721, Oct. 3, 1995]

### § 92.6 Authority of notarizing officers under international practice.

Although such services are not mandatory, notarizing officers may, as a courtesy, perform notarial acts for use in countries with which the United States has formal diplomatic and consular relations. Generally the applicant for such service will be a United States citizen or a national of the country in which the notarized document will be used. The notarizing officer's compliance with a request for a notarial service of this type should be based on the reasonableness of the request and the absence of any apparent irregularity. When a notarizing officer finds it advisable to do so, the officer may question the applicant to such extent as may be necessary to be assured of the reasonableness of the request and the absence of irregularity.

(a) That his notarial certificate may reasonably be expected to satisfy the legal requirements of the country in