

Executive Order 12866

These rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction Act

The collection of information required in these final rules have been approved by OMB (OMB No. 0608-0009 for BE-605 and BE-605 Bank and OMB No. 0608-0035 for BE-13 and BE-14).

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid Office of Management and Budget Control Number; such Control Numbers have been displayed. Public reporting burden for the BE-605 collection of information is estimated to vary from ½ hour to 4 hours per response with an average 1¼ hours per response. The estimated average burden of 1¼ hours per form includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public reporting burden for the BE-13 collection of information is estimated to vary from 1 to 4 hours per response, with an average 1½ hours per response. The estimated average burden of 1½ hours includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0009 (BE-605/605 Bank) or Paperwork Reduction Project 0608-0035 (BE 13/14), Washington, DC 20503.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these final rules will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owned, and many that are will not be required to report because of these

changes. For the BE-605 quarterly survey, the rule changes increase the exemption level at which reporting will be required, thereby eliminating the reporting requirement for a number of small companies. For the BE-13 new investment survey, the reporting threshold is being raised from \$1 million to \$3 million, thus eliminating an additional number of small companies that would have been required to file. These provisions are intended to reduce the reporting burden on smaller companies.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting and recordkeeping requirements.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth above, BEA amends 15 CFR part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961 (3 CFR 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR 1997 Comp., p. 147), E.O. 12318 (3 CFR 1981 Comp., p. 173), and E.O. 12518 (3 CFR 1985 Comp., p. 348).

§ 806.15 [Amended]

2. Section 806.15(h)(1) is amended by deleting "\$20,000,000" and inserting in its place "\$30,000,000."

3. Section 806.15(h)(2) is amended by deleting "\$20,000,000" and inserting in its place "30,000,000."

4. Section 806.15(j)(3)(ii)(b) is amended by deleting "\$1,000,000" and inserting in its place "\$3,000,000."

5. Section 806.1(j)(3)(ii)(c) is amended by deleting "\$1,000,000" and inserting in its place "\$3,000,000."

6. Section 806.1(j)(4)(ii)(b) is amended by deleting "\$1,000,000" and inserting in its place "\$3,000,000."

[FR Doc. 98-8985 Filed 4-6-98; 8:45 am]

BILLING CODE 3510-06-M

DEPARTMENT OF STATE**22 CFR Part 41**

[Public Notice 2773]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Border Crossing Identification Cards

AGENCY: Bureau of Consular Affairs, State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends Department of State regulations pertaining to the nonimmigrant border crossing identification card (BCC) and those pertaining to the requirements for entry of Mexican nationals into the United States. The rule is necessitated, in part, by a change in the law, which now specifies that regulations pertaining to the BCC contain a requirement for the inclusion of a machine-readable biometric identifier in such cards. The rule provides authority for consular officers to issue to Mexican citizens who are residents of Mexico a combined B-1/B-2 visa and border crossing card (B-1/B-2 Visa/BCC) as a stand-alone card containing a machine-readable biometric identifier. In addition, it also specifies the conditions under which the new stand-alone card will be considered invalidated, and it waives the requirement for the presentation of a passport for certain applicants for the card. This rule also includes a waiver of the visa and passport requirement for Mexican nationals entering the United States for the purpose of obtaining official Mexican documents from a Mexican consular office on the United States side of the border. Finally, the rule adopts changes to the regulations pertaining to the issuance and revocation of Canadian border crossing cards made necessary by the same change in law.

DATES: This interim rule is effective April 1, 1998. Written comments are invited and must be received on or before June 8, 1998.

ADDRESS: Written comments may be submitted, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, (202) 663-1204.

SUPPLEMENTARY INFORMATION: Section 104 of Pub. L. 104-208 (September 30, 1996) added to the definition of "border crossing identification card" (BCC) at section 101(a)(6) of the Immigration and Nationality Act (INA) a requirement that the regulations pertaining to the BCC include a requirement for the BCC to contain a machine-readable biometric identifier. This amendment has led to a determination by the Department of State and the INS that the combined B-1/B-2 Visa/BCC, which is currently stamped into passports pursuant to 22 CFR 41.32(b), should become a

biometric-inclusive card issued solely by consular officers stationed in Mexico. Thus, as of April 1, 1998, a combined B-1/B-2 Visa/BCC will no longer be issued by consular officers in Canada to permanent residents of Canada. The Department of State and the INS have further agreed that the INS will cease issuance of all BCCs as of April 1, 1998. Thus, in Canada, after April 1, 1998, only B-1/B-2 visas issued by consular officers will be available to qualified applicants. This rule is intended, in part, to replace the current sections 41.32 and 41.33 as of April 1, 1998.

Pursuant to INA 212(d)(4) the Department of State and the INS have also agreed to waive the passport requirement contained in INA 212(a)(7)(B)(i) for certain applicants for the new B-1/B-2 Visa/BCC. This agreement is reflected in the new language of section 41.32. Similarly, the Department of State and the INS have also agreed to waive the visa and passport requirement for Mexican nationals entering the United States solely for the purpose of obtaining a Mexican passport or other official Mexican document from a Mexican consular office on the United States side of the border. While this agreement is currently reflected in the regulations of the INS, it is being included in the regulations of the Department of State for the first time as an amendment to § 41.2.

Former subsection 41.32(a), which related to stand-alone BCCs issued by the Service has been removed in its entirety. Former subsection 41.32(b) has been largely revised to include both the requirement for a machine-readable biometric identifier and to distinguish between whether the application is for a first time B-1/B-2 Visa/BCC or is for a replacement. Renumbered and revised subsection 41.32(a)(2)(iii) eliminates the requirement for presentation of a Mexican passport for those seeking a B-1/B-2 Visa/BCC replacement for previously issued documentation, provided that the previously issued visa and/or BCC has not been voided by operation of law or revoked by a consular or immigration officer.

This rule provides that current BCCs (either stand-alone BCC's or the BCC portion of a B-1/B-2 Visa/BCC) shall expire on the date of expiration noted therein (if any) and, in any event, shall not be valid for admission to the United States on or after October 1, 1999, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry. Other than the exemption from presentation of a passport for those applying for replacement cards, the

requirements relating to procedures for application are the same as those in the current regulation. The format formerly described in 41.32(b)(3) has changed from a stamp in a passport to that of a stand-alone card, but one containing essentially the same kind of identifying information. The cards will have a specific validity. Provisions for revocation or voidance of the document generally are those currently in effect, except that the BCC or B-1/B-2 Visa/BCC of an alien who otherwise would be subject to INA 222(g) pertaining to overstay on a nonimmigrant visa will be void. Further, specific authority has been added for the revocation of a BCC or B-1/B-2 Visa/BCC when the holder ceases to maintain a residence in or the citizenship of Mexico or ceases to be a permanent resident of Canada.

Regulatory Analysis and Notices

Interim Rule

This rule is being published as an interim rule with a comment period pursuant to the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). This is due to the fact that § 104 of Pub. L. 104-208 (September 30, 1996), pursuant to which certain changes in the procedures for issuance of entry documentation to aliens are required, becomes effective on April 1, 1998. Therefore, delay in the publication of this rule would interfere with the fulfillment of the statutory requirements imposed upon the Department of State by that section.

The Regulatory Flexibility Act

Pursuant to § 605(b) of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule and it has been determined, and the Assistant Secretary for Consular Affairs hereby certifies, that it will not have a significant economic impact on a substantial number of small entities. The rule has no economic effect beyond that of the statutory requirements already in effect, which it implements.

5 U.S.C. Chapter 8

As required by 5 U.S.C. chapter 8, the Department has screened this rule and determined that it is not a major rule, as defined in 5 U.S.C. 80412.

Paperwork Reduction Act

The Department of State, Bureau of Consular Affairs, Visa Services has received OMB emergency clearance for the information collection instrument, Nonimmigrant Visa Application (OF-156), that underlies the nonimmigrant border crossing identification card (BCC) contained in this rule. It is estimated that 300,000 OF-156s will be

completed annually to support the issuance of BCCs, and that (at one hour per OF-156) this will require 300,000 hours of the time of aliens. Comments regarding OF-156 information collections in support of this rule should be identified as such and should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, D.C. 20520, (202) 647-0596. Such comments should be received within 60 days of publication of this rule.

E.O. 12988 and E.O. 12866

This rule has been reviewed as required by E.O. 12988 and determined to meet the applicable regulatory standards it describes. Although exempted from E.O. 12866, this rule has been reviewed to ensure consistency with it.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas, Temporary visitors.

For the reasons stated in the preamble, the Department of State amends 22 CFR part 41 as set forth below:

PART 41—[AMENDED]

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

Authority: 8 U.S.C. 1104.

2. Section 41.2 is amended by redesignating paragraphs (g)(3) and (4) as paragraphs (g)(5) and (6), respectively, and adding new paragraphs (3) and (4) to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(g) *Mexican nationals.* * * *

(3) A visa and a passport are not required of a Mexican national who is entering solely for the purpose of applying for a Mexican passport or other official Mexican document at a Mexican consular office on the United States side of the border.

(4) A passport is not required of a Mexican national who is applying for a B-1/B-2 Visa/BCC and who meets the conditions for waiver of the passport requirement in section 41.32(a)(2)(iii).

* * * * *

3. Section 41.32 is revised to read as follows:

§ 41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B-1/B-2 visitor visas.

(a) *Combined B-1/B-2 visitor visa and border crossing identification card (B-1/*

B-2 Visa/BCC).—(1) *Authorization for issuance.* Consular officers assigned to a consular office in Mexico designated by the Deputy Assistant Secretary for Visa Services for such purpose may issue a border crossing identification card, as that term is defined in INA 101(a)(6), in combination with a B-1/B-2 nonimmigrant visitor visa (B-1/B-2 Visa/BCC), to a nonimmigrant alien who:

(i) Is a citizen and resident of Mexico;

(ii) Seeks to enter the United States as a temporary visitor for business or pleasure as defined in INA 101(a)(15)(B) for periods of stay not exceeding six months;

(iii) Is otherwise eligible for a B-1 or B-2 temporary visitor visa or is the beneficiary of a waiver under INA 212(d)(3)(A) of a ground of ineligibility, which waiver is valid for multiple applications for admission into the United States and for a period of at least ten years and which contains no restrictions as to extensions of temporary stay or itinerary.

(2) *Procedure for application.*

Application for a B-1/B-2 Visa/BCC shall be made by a Mexican applicant at any U.S. consular office in Mexico designated by the Deputy Assistant Secretary of State for Visa Services pursuant to paragraph (a) of this section to accept such applications. The application shall be submitted on Form OF-156. The application shall be supported by:

(i) Evidence of Mexican citizenship and residence;

(ii) One photograph of the size specified in the application, if 16 years of age or older; and

(iii) A valid Mexican Federal passport, unless the applicant is the bearer of a currently valid or expired United States visa or BCC or B-1/B-2 Visa/BCC which has neither been voided by operation of law nor revoked by a consular or immigration officer. BCCs which after October 1, 1999, or such other date as may be enacted, are no longer useable for entry due only to the absence of a machine readable biometric identifier shall not be considered to have been voided or revoked for the purpose of making an application under this section.

(iv) A digitized impression of the prints of the alien's index fingers.

(3) *Personal appearance.* Each applicant shall appear in person before a consular officer to be interviewed regarding eligibility for a visitor visa, unless the consular officer waives personal appearance.

(4) *Issuance and format.* A B-1/B-2 Visa/BCC issued on or after April 1, 1998, shall consist of a card, Form DSP-

150, containing a machine-readable biometric identifier. It shall contain the following data:

(i) Post symbol;

(ii) Number of the card;

(iii) Date of issuance;

(iv) Indicia "B-1/B-2 Visa and Border Crossing Card";

(v) Name, date of birth, and sex of the person to whom issued; and

(vi) Date of expiration.

(b) *Validity.* A BCC previously issued by a consular officer in Mexico on Form I-186, Nonresident Alien Mexican Border Crossing Card, or Form I-586, Nonresident Alien Border Crossing Card, is valid until the expiration date on the card (if any) unless previously revoked, but not later than the date, currently October 1, 1999, on which a machine readable biometric identifier in the card is required in order for the card to be usable for entry. The BCC portion of a B-1/B-2 Visa/BCC issued to a Mexican national pursuant to provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998 is valid until the date of expiration, unless previously revoked, but not later than the date, currently October 1, 1999, on which a machine readable biometric identifier in the card is required in order for the card to be usable for entry.

(c) *Revocation.* A BCC issued in Mexico on Form I-186 or Form I-586 or a B-1/B-2 Visa/BCC issued at any time by a consular officer in Mexico, under provisions contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998 of this section, may be revoked at any time under the provisions of § 41.122 or upon a determination by a consular or immigration officer that the alien to whom any such document was issued has ceased to be a resident and /or a citizen of Mexico. Upon revocation, the consular or immigration officer shall notify the issuing consular or immigration office and if the revoked document is a card, the consular or immigration officer shall take possession of the card and physically cancel it under standard security conditions. If the revoked document is a stamp in a passport the consular or immigration officer shall write or stamp "canceled" on the face of the document.

(d) *Voidance.*

(1) The voiding pursuant to INA 222(g) of the visa portion of a B-1/B-2 Visa/BCC issued at any time by a consular officer in Mexico under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, also voids the BCC portion of that document.

(2) A BCC issued at any time by a consular officer in Mexico under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is void if a consular or immigration officer determines that the alien has violated the conditions of the alien's admission into the United States, including the period of stay authorized by the Attorney General.

(3) A consular or immigration officer shall immediately take possession of a card determined to be void under paragraphs (d) (1) or (2) of this section and physically cancel it under standard security conditions. If the document voided in paragraphs (d) (1) or (2) is in the form of a stamp in a passport the officer shall write or stamp "canceled" across the face of the document.

(e) *Replacement.* When a B-1/B-2 Visa/BCC issued under the provisions of this section, or a BCC or B-1/B-2 Visa/BCC issued under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, has been lost, mutilated, destroyed, or expired, the person to whom such card was issued may apply for a new B-1/B-2 Visa/BCC as provided in this section.

4. Section 41.33 is revised to read as follows:

§ 41.33 Nonresident alien Canadian border crossing identification card (BCC).

(a) *Validity of Canadian BCC.* A Canadian BCC or the BCC portion of a Canadian B-1/B-2 Visa/BCC issued to a permanent resident of Canada pursuant to provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is valid until the date of expiration, if any, unless previously revoked, but not later than the date, currently October 1, 1999, on which a machine readable biometric identifier is required in order for a BCC to be usable for entry.

(b) *Revocation of Canadian BCC.* A BCC or a B-1/B-2 Visa/BCC issued by a consular officer in Canada at any time under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, may be revoked at any time by a consular or immigration officer under the provisions of § 41.122 or upon a determination that the alien to whom any such document has been issued has ceased to be a permanent resident of Canada. Upon revocation, the consular or immigration officer shall notify the issuing consular office and if the revoked document is a card, the consular or immigration officer shall take possession of the card and physically cancel it under standard

security conditions. If the revoked document is a stamp in a passport the consular or immigration officer shall write or stamp "canceled" on the face of the document.

(c) *Voidance.* (1) The voiding pursuant to INA 222(g) of the visa portion of a B-1/B-2 Visa/BCC issued at any time by a consular officer in Canada under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, also voids the BCC portion of that document.

(2) A BCC issued at any time by a consular officer in Canada under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is void if it is found by a consular or immigration officer that the alien has violated the conditions of the alien's admission into the United States, including the period of stay authorized by the Attorney General.

(3) A consular or immigration officer shall immediately take possession of a card determined to be void under paragraphs (c) (1) or (2) of this section and physically cancel it under standard security conditions. If the document voided under paragraphs (c) (1) or (2) is in the form of a stamp in a passport the officer shall write or stamp "canceled" across the face of the document.

5. Section 41.122 is amended by adding a new paragraph (a) (4) and new paragraph (h) (9) to read as follows:

§ 41.122 Revocation of visas.

(a) *Grounds for revocation by consular officers.* * * *

* * * * *

(4) The visa has been issued in a combined Mexican or Canadian B-1/B-2 visa and border crossing identification card and the officer makes the determination specified in § 41.32(c) with respect to the alien's Mexican citizenship and/or residence or the determination specified in § 41.33(b) with respect to the alien's status as a permanent resident of Canada.

* * * * *

(h) *Revocation of visa by immigration officer.* * * *

(9) The visa has been issued in a combined Mexican or Canadian B-1/B-2 visa and border crossing identification card and the officer makes the determination specified in § 41.32(c) with respect to the alien's Mexican citizenship and/or residence or the determination specified in § 41.33(b) with respect to the alien's status as a permanent resident of Canada.

Dated: April 1, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

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BILLING CODE 4710-06-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8768]

RIN 1545-AT27

Valuation of Plan Distributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to employers in determining the present value of an employee's benefit under a qualified defined benefit pension plan, for purposes of the applicable consent rules and for purposes of determining the amount of a distribution made in any form other than certain nondecreasing annuity forms. These regulations are issued to reflect changes to the applicable law made by the Retirement Protection Act of 1994 (RPA '94), which is part of the Uruguay Round Agreements Act of 1994. RPA '94 amended the law to change the interest rate, and to specify the mortality table, for the purposes described above. These regulations affect employers that maintain qualified defined benefit pension plans, and participants and beneficiaries in those plans.

DATES: *Effective date:* These regulations are effective April 3, 1998.

Applicability date: These regulations apply to plan years beginning after December 31, 1994, except as provided in § 1.417(e)-1(d) (8) and (9).

FOR FURTHER INFORMATION CONTACT: Linda S. F. Marshall, (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 417(e). Section 417(e) was amended by the Retirement Protection Act of 1994 (RPA '94). On April 5, 1995, temporary regulations (TD 8591) under section 417(e) were published in the **Federal Register** (60 FR 17216). A notice of proposed rulemaking (EE-12-95), cross-referencing the temporary regulations,

was published in the **Federal Register** (60 FR 17286) on the same day. The temporary regulations provide guidance related to the determination of the present value of an employee's benefit under a qualified defined benefit pension plan in accordance with the rules of section 417(e)(3). After consideration of the public comments received regarding the temporary and proposed regulations, the temporary regulations are replaced and the proposed regulations are adopted as revised by this Treasury decision.

Section 417(e)(3) sets forth rules to be used in determining the present value of an employee's benefit under a qualified defined benefit pension plan, for purposes of the applicable consent rules and for purposes of determining the amount of a distribution. The rules of section 417(e)(3) are also relevant to the application of section 411(a)(11) and section 415(b). Section 411(a)(11) provides that a participant's benefit with a present value that exceeds a statutory threshold can be immediately distributed to a participant only with the participant's consent. The level of this statutory threshold was changed from \$3,500 to \$5,000 by the Taxpayer Relief Act of 1997, effective for plan years beginning after August 5, 1997. Under section 411(a)(11)(B), as amended by RPA '94, the present value of a participant's benefit is calculated using the rules of section 417(e)(3).

Section 415(b) limits the maximum benefit that can be provided under a qualified defined benefit plan. Under section 415(b)(2)(E)(ii), as amended by RPA '94, the minimum interest rate permitted to be used for certain purposes to determine compliance with the limit under section 415(b) is the applicable interest rate as defined in section 417(e)(3). Because the rules of section 417(e)(3) affect the application of sections 411(a)(11)(B) and 415(b)(2)(E)(ii), the guidance provided by these regulations is relevant to the application of those provisions.

Explanation of provisions

Section 417(e) restricts the ability of certain qualified retirement plans to distribute a participant's benefit under the plan without the consent of the participant and, in many cases, the participant's spouse. The application of these restrictions is determined based on the present value of the participant's benefit. Prior to amendments made by RPA '94, section 417(e)(3) restricted the interest rate to be used under a plan to calculate the present value of a participant's benefit, but did not impose any restrictions on the mortality table to be used for that purpose. Section 767 of