

an opportunity for additional comment is contrary to the public interest.

To the extent that a fish that would otherwise have to be released may be retained under this rule, this rule relieves a restriction and under 5 U.S.C. 553(d)(1) is not subject to a delay in effective date. To the extent that this rule imposes certain reporting and other requirements associated with such retention, the AA, under 5 U.S.C. 553(d)(3), has determined that there is good cause, as explained above, to waive the otherwise required 30-day delay in effective date. NMFS will rapidly communicate the new regulations to fishery participants through its FAX network, HMS Information Line, and NOAA weather radio.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: December 31, 1997.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter II are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), the table, is amended by adding, in numerical order, the following entry to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located

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50 CFR

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285.9

Current OMB Control number (all numbers begin with 0648)

–0338

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50 CFR Chapter II

PART 285—ATLANTIC TUNA FISHERIES

3. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

4. In § 285.2, a definition for “archival tag” is inserted in alphabetical order to read as follows:

§ 285.2 Definitions.

* * * * *

Archival tag means an electronic recording device that is implanted or affixed to a fish that is released alive back into the ocean to allow collection of scientific information about the migratory behavior of that fish.

* * * * *

5. In § 285.3, paragraph (a) is revised to read as follows:

§ 285.3 Prohibitions.

* * * * *

(a) For any person or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any Atlantic tuna in violation of these rules, except that fish implanted or affixed with archival tags may be possessed, retained and landed under the provisions of § 285.9.

* * * * *

6. Section 285.9 is added to read as follows:

§ 285.9 Archival tags.

(a) *Reserved.*

(b) *Landing.* Notwithstanding other provisions of this part, any person may catch, possess, retain, and land any regulated species in which an archival tag has been affixed or implanted, provided that person complies with all requirements of paragraph (c) of this section.

(c) *Landing report.* The person possessing, retaining, or landing, under the authority of paragraph (b) of this section, a regulated species in which an archival tag has been affixed or implanted must contact the NMFS, Southeast Science Center (1–800–437–3936) or any NMFS enforcement office (a list of local NMFS enforcement offices can be obtained from the Director) prior to, or at the time of landing, furnish all requested information regarding the location and method of capture, and, as instructed, remove the tag and return it to NMFS or make the fish available so that a NMFS scientist, enforcement agent, or other person designated in writing by the Director may inspect the fish and recover the tag.

(d) *Quota monitoring.* If a regulated species landed under the authority of paragraph (b) of this section is subject to a quota, the fish shall be counted against the applicable quota category consistent with the fishing gear and activity which resulted in the catch. In the event such fishing gear or activity is otherwise prohibited under applicable provisions of this part, the fish shall be counted against the scientific reserve quota established for that species.

7. In § 285.31, paragraph (a)(22) is revised to read as follows:

§ 285.31 Prohibitions.

(a) * * *

(22) Fail to report the catching of any Atlantic bluefin tuna to which a plastic tag has been affixed under a tag and release program conducted by NMFS or any other scientific organization or in which an archival tag has been affixed or implanted;

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[FR Doc. 97–34242 Filed 12–31–97; 4:24 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF STATE

22 CFR Parts 40 and 41

[Public Notice 2665]

Bureau of Consular Affairs; Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Place of Application

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule with request for comments.

SUMMARY: This rule results from a change in the law. A recent amendment stated that, if a nonimmigrant stays in the United States longer than permitted, the visa of that person is no longer valid. Only a new nonimmigrant visa issued in the country of that person's nationality will be valid for further entry into the United States. If the Secretary of State has determined that extraordinary circumstances exist, however, issuance of a new nonimmigrant visa in another country will be acceptable. This rule, therefore, amends the regulation pertaining to place of application to require such a person to apply in the country of his or her nationality, sets forth some exceptions based on extraordinary circumstances and defines the conditions for determining “extraordinary circumstances.”

DATES: This interim rule is effective January 7, 1998. Written comments are invited

and must be received on or before March 9, 1998.

ADDRESSES: 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: This rule amends both Part 40 and Part 41 of Title 22 of the Federal Code of Regulations. It implements the provisions of Section 632 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) with respect to the place of application for nonimmigrants who have voided their previous visas by overstaying the authorized period. Section 632 added a new subsection (g) to INA 222 which renders the visas of such nonimmigrants void.

Part 40 of 22 CFR sets forth the various regulations pertaining to ineligibility under the INA. It is amended herein to include section 40.68, previously reserved, under the title "Aliens Subject to INA 222(g)". This new section states that any alien subject to INA 222(g) is ineligible for a new nonimmigrant visa unless applying for it in compliance with the place of application requirements of 22 CFR 41.101.

This rule then amends Section 41.101, which currently sets forth the regulations for the normal place of application for a nonimmigrant visa. It first redesignates the current paragraph (b) of 22 CFR 41.101 as paragraph (e). It then inserts a new paragraph (b) to include requirements for most aliens subject to the provisions of INA 222(g) to apply in the country of nationality. It also adds a new paragraph (c) identifying certain extraordinary circumstances that permit some such persons to apply in other specified countries. A new paragraph (d) defines certain relevant terms.

Proposed 22 CFR 41.101(b) requires an alien subject to INA 222(g) to apply in a consular district which is in, or includes, his or her country of nationality unless the applicant is within stated exceptions. This regulation then provides in paragraph (c) (1) through (5) for certain varying extraordinary circumstances.

Paragraph (c)(1) relates to those for whom circumstances not under the control of the alien rendered the prior visa void under INA 222(g)(1). Essentially, this subparagraph exculpates certain aliens whose

"overstay" was through no fault of their own and for whom there is a clear national interest in not requiring the delay and expense of returning to their place of nationality. Specifically, this regulation excepts those physicians serving in underserved areas of the United States under the provisions of INA 214(k) for whom a waiver of the foreign residence requirement under INA 212(e) or a petition to accord H-1B status was filed prior to the end of their authorized period of stay but that period expired during the adjudication of those applications. It is in the interest of the United States that such medical caregivers be able to enter on (or return to) their duties in the underserved area without unnecessary delays often caused by lengthy travel. Moreover, their sponsors can more fruitfully use the money required for such travel for other health purposes. Subparagraph (c)(2) provides for the possibility of further such determinations.

The title of IIRIRA Section 632 is "Elimination of Consulate Shopping for Visa Overstays." It seems clear from both the title and the text of the provision that the Congress intended that future visa applications of period-of-stay violators should be adjudicated by those best situated to assess the bona fides of the nonimmigrant visa applicant; i.e., Congressional intent lay in requiring special scrutiny of "overstay" visa applicants.

Most people live in the country of their nationality, which the statute designates as the proper place of application for aliens subject to INA 222(g). Many other people, however, live elsewhere. The best place to adjudicate bona fides is not, in all probability, in the country of nationality in such cases. If an alien has spent years outside his or her country of nationality, returning there may not provide the special scrutiny desired by the Congress. Applying where one lives probably will. For this reason, Section 41.101(c) (3) and (4) propose other places of application for certain individuals subject to INA 222(g)(1).

Subparagraph (c)(3) requires aliens subject to INA 222(g) who are residents of a third country to apply in the country of residence. Subparagraph (c)(4) directs a national and resident of a country in which there is no United States consular office to apply in the country designated by the Department to accept immigrant visa applications from persons of that nationality. This latter directive is in accordance with INA 222(g)(2)(A) which authorizes the Secretary to specify the place of application for such aliens. Subparagraph 41.101(c)(5) addresses

another circumstance not falling within the norm: dual nationals. A dual national must apply in the country of residence.

Paragraph (d) defines "extraordinary circumstances" and "nationality" with respect to stateless persons. For purposes of visa issuance in the context of INA 222(g), a stateless person shall be considered to be a national of the country which issued his or her travel document.

Section 41.121(a), "Grounds of refusal", is also amended to include INA 222(g).

Interim Rule

The provision of law being implemented became effective on enactment of IIRIRA, September 20, 1996, and consular officers have been complying with it based on guidance essentially akin to that in this interim rule but not yet codified in regulations. It is essential that a formal regulatory order undergird their actions at the earliest possible date. Therefore, the implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based upon the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3).

This rule is favorable to alien physicians in underserved areas and in other respects is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule imposes no reporting or recordkeeping action on the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule is exempted from E.O. 12866 but has been reviewed to ensure consistency therewith.

List of Subjects

22 CFR Part 40

Aliens, Inadmissibility, Nonimmigrants, Passports, Visas.

22 CFR Part 41

Aliens, Nonimmigrants, Passports, Visas.

In view of the foregoing, 22 CFR Part 40 is amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 continues to read:

Authority: 8 U.S.C. 1104.

2. Section 40.68 is added to read as follows:

§ 40.68 Aliens subject to INA 222(g).

An alien who, under the provisions of INA 222(g), has voided a nonimmigrant visa by remaining in the United States beyond the period of authorized stay is ineligible for a new nonimmigrant visa unless the alien complies with the requirements in 22 CFR 41.101 (b) or (c) regarding the place of application.

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read:

Authority: 8 U.S.C. 1104.

2. 22 CFR 41.101 is amended by removing the period at the end of paragraph (a)(1)(ii) and adding a semicolon and "or", adding paragraph (a)(1)(iii), amending paragraph (a)(2) by removing "to the Visa Office" and adding "for Visa Services" in its place, and redesignating paragraph (b) as paragraph (e) and adding new paragraphs (b) through (d) to read as follows:

§ 41.101 Place of application.

(a) * * *

(1) * * *

(iii) The alien is subject to INA 222(g) and must apply as set forth in paragraph (b) or (c) of this section.

(b) Place of application for persons subject to INA 222(g). Notwithstanding the requirements of paragraph (a) of this section, an alien whose prior nonimmigrant visa has been voided pursuant to INA 222(g), who is applying for a new nonimmigrant visa, shall make application at a consular office which has jurisdiction in or for the country of the alien's nationality unless extraordinary circumstances have been determined to exist with respect to that alien as set forth in paragraph (c) of this section.

(c) Exceptions based on extraordinary circumstances. (1) An alien physician serving in underserved areas of the United States under the provisions of INA 214(k) for whom an application for a waiver of the 2-year foreign residence requirement and/or a petition to accord H-1B status was filed prior to the end of the alien's authorized period of stay and was subsequently approved, but whose authorized stay expired during the adjudication of such application(s), shall make application in accordance with paragraph (a) of this section.

(2) Any other individual or group whose circumstances are determined to be extraordinary, in accordance with paragraph (d)(1) of this section, by the Deputy Assistant Secretary for Visa Services upon the favorable recommendation of an immigration or consular officer, shall make application

in accordance with paragraph (a) of this section.

(3) An alien who has, or immediately prior to the alien's last entry into the United States had, a residence in a country other than the country of the alien's nationality shall apply at a consular office with jurisdiction in or for the country of residence.

(4) An alien who is a national and resident of a country in which there is no United States consular office shall apply at a consular office designated by the Deputy Assistant Secretary for Visa Services to accept immigrant visa applications from persons of that nationality.

(5) An alien who possesses more than one nationality and who has, or immediately prior to the alien's last entry into the United States had, a residence in one of the countries of the alien's nationality shall apply at a consular office in the country of such residence.

(d) Definitions relevant to INA 222(g). (1) Extraordinary circumstances—Extraordinary circumstances may be found where compelling humanitarian or national interests exist or where necessary for the effective administration of the immigration laws. Extraordinary circumstances shall not be found upon the basis of convenience or financial burden to the alien, the alien's relative, or the alien's employer.

(2) Nationality—For purposes of paragraph (b) of this section, a stateless person shall be considered to be a national of the country which issued the alien's travel document.

* * * * *

§ 41.121 [Amended]

3. 22 CFR 41.121(a) is amended by removing "or" before "INA 22(g)" at the end of the first sentence, and adding a comma and "or INA 222(g)" after "INA 221(g)".

Dated: December 5, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98-87 Filed 1-6-98; 8:45 am]

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DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[TD 8755]

RIN 1545-AV74

Qualified Zone Academy Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the federal income tax treatment of qualified zone academy bonds. The regulations in this document provide needed guidance to holders and issuers of qualified zone academy bonds. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Timothy L. Jones, (202) 622-3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

Section 226(a) of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788 (1997), amended the Internal Revenue Code (Code) by redesignating section 1397E as section 1397F and adding a new section 1397E. Section 1397E authorizes a new type of debt instrument known as a qualified zone academy bond.

Explanation of Provisions*In General*

A qualified zone academy bond is a taxable bond issued by a state or local government the proceeds of which are used to improve certain eligible public schools. In lieu of receiving periodic interest payments from the issuer, an eligible holder of a qualified zone academy bond is generally allowed annual federal income tax credits while the bond is outstanding. These credits compensate the holder for lending money to the issuer and function as payments of interest on the bond.

These temporary regulations provide rules for the federal income tax treatment of qualified zone academy bonds. These regulations generally treat the allowance of the credit as if it were a payment of interest on the bond. These regulations also provide rules to determine (1) the credit rate, (2) the discount rate used to present value private business contributions, and (3) the discount rate used to determine the maximum term of a qualified zone academy bond.

These regulations generally do not provide guidance on the statutory requirements that must be met for a bond to qualify as a qualified zone academy bond. Section 1397E(d) sets forth a number of detailed requirements that must be met for a bond to qualify