

	3-year average annual costs	3-year average percentage of volume	1999 fee amount
New York Cotton Exchange	155,338	1,2997	83,824
Kansas City Board of Trade	15,055	0.4074	9,457
Minneapolis Grain Exchange	16,558	0.1979	9,216
Philadelphia Board of Trade	624	0.0054	338
Subtotal	947,072	100.0000	808,999
National Futures Association	327,551	N/A	327,551
Total	1,274,624	100,0000	1,136,550

Below is an example of how the fee was calculated for one exchange, the Minneapolis Grain Exchange:

- (i) Average annual costs are \$16,558;
- (ii) Alternative computation is:
 $(.5)(\$16,558) + (.5)(.1979\%)(947,042) = \$8,279 + \$937 = \$9,216$
- (iii) The fee is the lesser of (i) and (ii) = \$9,216.

As noted above, NFA, a registered futures association, has no contracts and, therefore, is billed for average annual costs. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 1996 through 1998 was \$327,551 (1/3 of \$982,654). Therefore, the fee to be paid by NFA pertaining to fiscal year 1998 is \$327,551.

Issued in Washington, D.C. on April 15, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-9939 Filed 4-21-99; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF STATE

22 CFR Parts 50 and 51

[Public Notice 3027]

Nationality Procedures—Report of Birth Regulation; Passport Procedures—Revocation or Restriction of Passports Regulation

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: This rule finalizes the proposed rule published February 5, 1999 (64 FR 5725) and implements sections of the Immigration and Nationality Technical Corrections Act of 1994 (INTCA). The INTCA added new grounds for denying, revoking or canceling a passport, and for canceling a Consular Report of Birth. The rule authorizes the cancellation of a Consular Report of Birth, or a certification thereof, if it appears that

such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. It also amends the existing regulation to authorize the cancellation of a United States passport when a person has obtained a United States passport illegally or erroneously, or when the Department of State has been notified that a naturalized person whose order of admission to citizenship and certificate of naturalization, on the basis of which the passport was issued, have been canceled or set aside as the result of a judicial denaturalization procedure.

Finally, the rule amends regulations by replacing the procedures for appeal of adverse passport action. Other agency regulations contain provisions for the organization and operation of the Board of Appellate Appeal of the Department of State. Under this rule, the Board of Appellate Review no longer has jurisdiction to consider appeals from adverse passport actions. The decision of the Deputy Assistant Secretary of State for Passport Services is final. **EFFECTIVE DATE:** April 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon E. Palmer-Royston, Chief, Legal Division, Office of Passport Policy, Planning and Advisory Services, U.S. Department of State, 1111 19th Street, N.W., Suite 260, Washington, D.C. 20524 (202) 955-0231.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 2961 at 64 FR 5725, February 5, 1999, with a request for comments, for numerous sections of Title 22, Parts 50 and 51 of the Code of Federal Regulations. The rule was primarily proposed to implement provisions of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416 (INTCA), though it also makes a procedural change for appeal of adverse passport action. The rule was discussed in detail in Public Notice 2961, as were the Department's reasons for the changes to the regulations. The rules incorporate changes to those sections in Parts 50 and 51 explained below.

A passport when issued for its full validity period and a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad, are documents established as proof of United States citizenship by the provisions of section 33 of the Department of State Basic Authorities Act of 1956, as amended (22 U.S.C. 2705). 8 U.S.C. 1504 (108 Stat. 4309, October 25, 1994) authorizes the Secretary of State to cancel either of these documents if it appears that they were obtained illegally, fraudulently or erroneously. The rule amends the regulations by providing for a post-cancellation hearing when a Consular Report of Birth, or certification thereof, is canceled. The provisions of 22 CFR 51.75 already provide for notification in writing of the reasons for the revocation and of the procedures for review to any person who is the subject of a passport cancellation and revocation on the grounds, among others, that the passport was obtained illegally, fraudulently or erroneously. Procedures for review include a hearing available under subsections 51.80 through 51.89 of the passport regulations in 22 CFR part 51. Such a hearing concerns only the extent to which the passport was illegally, fraudulently or erroneously obtained and not the citizenship status of the person in whose name the document was issued.

A district court of the United States may denaturalize an individual in a judicial proceeding on the grounds that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation. Any person who is the subject of a passport revocation due to judicial denaturalization, *i.e.*, by reason of noncitizenship, is not entitled to a hearing by the Department of State, pursuant to the provisions in 22 CFR 51.80(a).

The Board of Appellate Review of the Department of State has had jurisdiction to consider appeals from decisions of

the Office of Passport Services that constitute adverse action affecting a passport: denial, revocation, or limitation. This jurisdiction has been infrequently utilized, and an adverse action can be reviewed fairly and efficiently without the same kind of administrative hearing that the Board conducts in loss of nationality cases. Changes in the applicable laws, their interpretation, and practice thereunder now make it even more unlikely that administrative appeals will be taken. Accordingly, 22 CFR part 7 is being amended by eliminating this particular administrative appeal jurisdiction. This amendment to 22 CFR part 51, Subpart F, reflects that change and replaces an appeal with a request for reconsideration.

In current practice, the most common adverse passport action is denial or revocation based upon grounds set forth in 22 CFR section 51.70(a), such as being subject to a Federal warrant of arrest or being under court ordered restraint. In these cases, the Board of Appellate Review or other appellate body within the Department of State has no authority to affect the underlying ground for adverse passport action, so that this rule results in no change in existing practice. Similarly, passport denial or revocation as set forth in 22 CFR subsection 51.70(b)(4), the Secretary of State's determination that activities of the affected national abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States, has not been delegated by the Secretary and is not subject to subordinate review.

Accordingly, the findings of fact and recommendations resulting from a hearing before a hearing officer are referred to the Deputy Assistant Secretary for Passport Services for decision instead of to the Assistant Secretary for Consular Affairs. The rule permits the adversely affected person to request reconsideration by the Deputy Assistant Secretary, but the initial decision or the decision based upon request for reconsideration, as the case may be, is final.

The rule also amends 22 CFR section 51.84 by substituting a more general statement of legal qualifications for representatives for the current reference to the qualification set by the Board of Appellate Review.

Finally, the rule makes clear that nothing in revised 22 CFR section 51.89 bars an adversely affected person from submitting a new passport application as provided for in 22 CFR part 51, Subparts B through D.

Analysis of Comments

The proposed rule was published February 5, 1999 at 64 FR 5725. The commenting period was closed March 8, 1999. The Department received one inquiry that concerned the change in regulations to replace the procedures for appeal of adverse passport action. The inquirer was concerned that eliminating jurisdiction for the Board of Appellate Review to consider appeals from adverse passport actions would deny procedural due process where the adverse action was taken on grounds of noncitizenship. However, a person who has been denied a passport on grounds that they are not a national of the United States may seek a declaration of their nationality in U.S. district court pursuant to the provisions of 8 U.S.C. 1503(a).

Final rule

This rule is not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule imposes no reporting or recordkeeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12988 and determined to be in compliance therewith. This rule is exempted from E.O. 12866 but has been reviewed and found to be consistent therewith. The proposed rule was submitted for review in accordance with 5 U.S.C. 801 *et seq.*, as amended.

List of Subjects

22 CFR Part 50

Citizenship and Naturalization.

22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, 22 CFR Parts 50 and 51 are amended as follows:

PART 50—NATIONALITY PROCEDURES

1. The authority citation for Part 50 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

2. Section 50.7 is amended by adding a new paragraph (d) as follows:

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

* * * * *

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was created through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

PART 51—PASSPORTS

1. The authority citation for Part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a; 22 U.S.C. 2651a, 2671(d)(3), 2714 and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p 570; sec. 129, Pub. L. 102–138, 105 Stat. 661; 8 U.S.C. 1504.

2. Section 51.72 is amended by revising paragraph (b) and adding paragraph (c) as follows:

§ 51.72 Revocation or restriction of passports.

* * * * *

(b) The passport has been obtained illegally, by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

3. Section 51.80 is revised to read as follows:

§ 51.80 Applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking or invalidating a passport or a Consular Report of Birth, or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of:

- (1) Noncitizenship,
- (2) Refusal under the provisions of § 51.70(a)(8),
- (3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or 51.72.

§ 51.83 [Amended]

5. Section 51.83 is amended by revising the phrase "Administrator of" to read "Deputy Assistant Secretary for Passport Services in" and by removing "Security and".

§ 51.84 [Amended]

6. Section 51.84 is amended by revising the phrase "must possess the qualifications prescribed for practice before the Board of Appellate Review" to read "must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States".

7. Section 51.89 is revised to read as follows:

§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affected person from submitting a new passport application as provided for in subparts B through D of this part.

Dated: April 9, 1999.

Donna J. Hamilton,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 99-10116 Filed 4-21-99; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-99-021]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.511 during the Blue Angels Airshow, an aerial demonstration to be held May 23 and 24, 1999, over the waters of Spa Creek and the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. These Special local regulations are necessary to control vessel traffic in the vicinity of the U.S. Naval Academy due to the confined nature of the waterway and expected vessel congestion during the airshow. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.511 is effective from 10:30 a.m. to 4 p.m. on May 23, 1999 and from 12 noon to 4:00 p.m. on May 24, 1999.

FOR FURTHER INFORMATION CONTACT:

Chief Warrant Officer R.L. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226-1971, (410) 576-2674.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy will sponsor the Blue Angels Airshow over the Severn River near the U.S. Naval Academy, Annapolis, Maryland. The event will consist of 6 high performance jet aircraft flying at low altitudes in formation over the Severn River. Therefore, to ensure the safety of spectators and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: April 6, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99-10111 Filed 4-21-99; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01-98-162]

RIN 2115-AE46

Special Local Regulations: Empire State Regatta, Albany, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the Special Local Regulations for the Empire State Regatta. This action is necessary to update the course location and effective period for this annual event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This final rule is effective May 24, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354-4193.

FOR FURTHER INFORMATION CONTACT:

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 4, 1999, The Coast Guard published a notice of proposed rulemaking, entitled Special Local Regulations: Empire State Regatta, Albany, New York in the **Federal Register** (64 FR 66). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Albany Rowing Center sponsors this annual crewing race with approximately 300 rowers competing in this event. The sponsor expects no spectator craft for this event. The race will take place on the Hudson River in the vicinity of Albany, New York. The sponsor held the race in a new location