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DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice: 9678]

RIN 1400-AD97

Passports

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This final rule provides various changes and updates to the Department of State passport rules as a result of the passage of two laws: International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders (IML); and the Fixing America's Surface Transportation Act (FAST Act). The final rule incorporates statutory passport denial and revocation requirements for certain covered sex offenders under the IML, those persons with a seriously delinquent tax debt as defined by the FAST Act, and/or those persons who submit a passport application without a correct and valid Social Security number.

DATES: The effective date of this regulation is [insert the date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Stephanie Traub, Office of Legal Affairs, Passport Services, (202) 485-6500. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Department is amending § 51.60 of subpart E within part 51 of title 22 of the Code of Federal Regulations. The rules

incorporate statutory passport denial and revocation requirements as codified at 22 U.S.C. 2714a for certain individuals who have seriously delinquent tax debt or submit passport applications without correct and valid Social Security numbers. The rules incorporate new provisions for denial and revocation of passport books that do not contain conspicuous identifiers for covered sex offenders as defined in 42 U.S.C. 16935a. The rule provides for denial of passport cards to these same covered sex offenders, as passport cards are not able to contain the unique identifier required by 22 U.S.C. 212b.

The new § 51.60(a)(3) requires denial of a passport to an individual who is certified by the Secretary of the Treasury as having a seriously delinquent tax debt as described in 26 U.S.C. 7345.

The new § 51.60(f) permits denial of a passport to an individual who does not include his or her Social Security number or willfully, intentionally, negligently, or recklessly includes an incorrect or invalid Social Security number on his or her passport application.

The new § 51.60(g) requires denial of a passport card to an individual who is a covered sex offender as described in 42 U.S.C. 16935a.

REGULATORY FINDINGS:

Administrative Procedure Act

Because this rulemaking implements the Congressional mandates within the FAST Act and IML, the Department is publishing this rulemaking without notice and comment under the “good cause” exemption of 5 U.S.C. 553(b). The Department believes that public comment on this rulemaking would be unnecessary, impractical, and contrary to the public interest. In addition, for the same reasons, the effective date for

this rulemaking is the date of publication in accordance with the “good cause” provision of 5 U.S.C. 553(d)(3).

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 U.S.-based companies to compete with foreign based companies in domestic and import markets.

Executive Orders 12866 and 13563

The Department of State does not consider this rule to be an economically significant regulatory action under Executive Order 12866, Regulatory Planning and Review. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in both Executive

Order 12866 and Executive Order 13563, and certifies that the benefits of this regulation outweigh any cost to the public.

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.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. Prior to the passage of the FAST Act, passport applicants were already asked to provide their Social Security numbers to obtain or renew passports. With respect to the IML requirements, the applicant does not report his or her status as a covered sex offender to the Department during the application process; rather, the Department obtains that information from other government sources. Therefore, this rulemaking imposes no additional burden on the applicant.

List of Subjects in 22 CFR Part 51

Passports.

Accordingly, for the reasons set forth in the preamble, the Department has amended 22 CFR part 51 as follows:

PART 51 -- PASSPORTS

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

Authority: 8 U.S.C. 1504; 18 U.S.C. 1621; 22 U.S.C. 211a, 212, 212b, 213, 213n (Pub. L. 106-113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A-430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2714a, 2721, & 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of Pub. L. 103-317, 108 Stat. 1760]; E.O. 11295, Aug. 6, 1966, FR 10603, 3 CFR, 1966-1970 Comp., p. 570; Pub. L. 114-119, 130 Stat. 15; Sec. 1 of Pub. L. 109-210, 120 Stat. 319; Sec. 2 of Pub. L. 109-167, 119 Stat. 3578; Sec. 5 of Pub. L. 109-472, 120 Stat. 3554; Pub. L. 108-447, Div. B, Title IV, Dec. 8, 2004, 118 Stat. 2809; Pub. L. 108-458, 118 Stat. 3638, 3823 (Dec. 17, 2004).

2. Amend § 51.60 by adding paragraphs (a)(3) and (4), (f), and (g) to read as follows:

§ 51.60 Denial and restriction of passports.

(a) * * *

(3) The applicant is certified by the Secretary of the Treasury as having a seriously delinquent tax debt as described in 26 U.S.C. 7345.

(4) The applicant is a covered sex offender as defined in 42 U.S.C. 16935a, unless the passport, no matter the type, contains the conspicuous identifier placed by the Department as required by 22 U.S.C. 212b.

* * * * *

(f) The Department may refuse to issue a passport to an applicant who fails to provide his or her Social Security account number on his or her passport application or who willfully, intentionally, negligently, or recklessly includes an incorrect or invalid Social Security account number.

(g) The Department shall not issue a passport card to an applicant who is a covered sex offender as defined in 42 U.S.C. 16935a.

Dated: August 23, 2016.

David T. Donahue,
Acting Assistant Secretary,
Bureau of Consular Affairs,
Department of State.