DEPARTMENT OF STATE

22 CFR Part 40

[Public Notice 2785]

Regulations Pertaining to Both Nonimmigrants and Immigrants Under the Immigration and Nationality Act, as Amended; Failure to Comply With INA

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: The Department is removing the regulation that implemented section 212(o) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(o)). Congress allowed INA 212(o) to sunset as of September 30, 1997. This section, which prohibits the issuance of an immigrant visa to an alien within ninety days following an alien's departure from the U.S. if the alien was not in lawful nonimmigrant status at the time of departure, was intended to encourage adjustment of status applications under INA 245(i).

EFFECTIVE DATE: April 6, 1998.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, 202–663–1203.

SUPPLEMENTARY INFORMATION: On October 11, 1994, the Department published an interim rule [59 FR 51367] to implement section 506(b) of Pub. L. 103–317. This section amended INA 245 to permit qualified immigrants to acquire permanent residence through adjustment of status in the United States even though they entered the United States without inspection or violated their nonimmigrant status after entry. The Act further amended INA 212 by adding subsection ''(o)'', which encouraged eligible aliens to take advantage of the broadened INA 245 adjustment of status provisions by discouraging them from seeking immigrant visa issuance from a U.S. consular post abroad. To induce such aliens to seek adjustment of status rather than visas, Congress imposed a requirement that an immigrant visa applicant be physically absent from the United States for ninety days before an immigrant visa could be issued. Under that amendment, an alien who did depart from the United States would not be eligible to receive an immigrant visa before the 91st day following the departure. The Department finalized this rule in a publication on March 8, 1996 [61 FR 9325].

Final Rule

This final rule removes the Department's regulation at § 40.204 (formerly § 40.104). It is being promulgated as a final rule without public notice and comment based on the exception found at 5 U.S.C. 553(B) since the Department hereby determines that public notice is unnecessary and contrary to the public interest because the regulation eliminated no longer has a statutory basis.

The Regulatory Flexibility Act

Pursuant to section 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 independent 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

This rule imposes no reporting or record-keeping action on the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act.

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 40 Aliens, Immigration, Passports and Visas

PART 40—[AMENDED]

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

Authority: 8 U.S.C. 1104.

§ 40.204 [Removed and Reserved]

2 Remove and reserve § 40.204.

Dated: March 26, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–8921 Filed 4–3–98; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Part 93

[Public Notice 2780]

Service on Foreign State

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: The Bureau of Consular Affairs is amending its regulations regarding Service on a Foreign State under the Foreign Sovereign Immunities Act. The amendments are technical in nature and deal with a nomenclature change. The amendments reflect changes to individual and organizational titles made since the regulation was originally drafted.

DATES: This rule is effective April 6, 1998.

FOR FURTHER INFORMATION CONTACT: Edward A. Betancourt or Michael Meszaros, Overseas Citizens Services, Department of State, 2201 C Street, NW, Room 4811, Washington D.C. 20520, 202–647–3666 or 202–647–1982.

SUPPLEMENTARY INFORMATION: This final rule makes corrections to nomenclature in the rules for service on a foreign state pursuant to the Foreign Sovereign Immunities Act (28 U.S.C. 1608 et seq.). Since the implementing legislation was passed in 1976, the name of the office which is charged with completing service through the diplomatic channel has been changed. The title of the official who heads the office has also changed. This amendment reflects these changes.

These regulations are not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, they will not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. Nor do these final rules have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. These final rules have been reviewed as required by E.O. 12778 and certified to be in compliance therewith. These rules are not exempt from review under E.O. 12866 but have been reviewed and found to be consistent with the objectives thereof. This action is being taken as a final rule, pursuant to the ''interpretative rules, general statements of policy'' provision of 5 U.S.C. section 553 (b)(A); notice and comment are therefore not necessary.

List of Subjects in 22 CFR Part 93

Foreign relations.

PART 93—SERVICE ON FOREIGN STATE

1. The authority citation for Part 93 is revised to read as follows:

Authority: 22 U.S.C. 2658; 28 U.S.C. 1608(a).

§ 93.1 [Amended]

2. In § 93.1, remove the words ''Director of Special Consular Services'' and add, in their place, the words ''Managing Director for Overseas Citizen Service'' in the following places:

a. § 93.1(a)
b. § 93.1(b)
c. § 93.1(c)
d. § 93.1(e).

3. In § 93.1(a), remove the reference to the ''Bureau of Security and Consular Affairs'' and add, in its place, the words ''Bureau of Consular Affairs.''

Dated: March 25, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–8865 Filed 4–3–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–97–008]

RIN 2115–AE46

Special Local Regulations; U.S. National Waterski Racing Championship

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard amends the table of events by adding the US National Waterski Racing Championship conducted in the waters of Mission Bay in San Diego, California, from Government Island south to Ski Beach on the following dates: annually, commencing on the first Friday of October every year, and, including the first Friday of October, lasting a total of three days. The special local regulations applicable to this event are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

The Coast Guard also makes a technical amendment to reflect a change of address for the Eleventh Coast Guard District staff element responsible for the Local Notice to Mariners.

EFFECTIVE DATE: October 3, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike A. Arguelles, Coast Guard Marine Safety Office; telephone number (619) 683–6484.

SUPPLEMENTARY INFORMATION: .

Regulatory History

On November 25, 1997, the Coast Guard published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (62 FR 62733). The comment period ended January 09, 1998. The Coast Guard received no comments on the proposal. A public hearing was not requested and no hearing was held.

Background and Purpose

The U.S. National Waterski Race will consist of various waterski racing events. The races will take place, annually, over a three day period beginning on the first Friday of October, and ending on Sunday. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

The race zone encompasses the waters of Mission Bay in San Diego, California, from government Island south to Ski beach in Mission Bay. The race course will be marked by buoys to alert non-participants. Each year, the race zone will be in use by vessels competing in the event from and including the first Friday of October, for a total of three days, during the hours of 8 a.m. until 6 p.m. (PDT). During these times the waters of Mission Bay from Government Island to Ski Beach will be closed to all traffic with the exception of emergency vessels, official patrol vessels, and participant vessels. No vessels other than emergency, participant, or official patrol vessels will be allowed to enter this zone unless specifically cleared by or through an official patrol vessel.

Pursuant to 33 CFR 100.1101(b)(3), Commander, Coast Guard Activities San Diego, is designated Patrol Commander for this event; he has the authority to delegate this responsibility to any commissioned, warrant, or petty officer of the Coast Guard. Once the zone is established, authorization to remain within the zone is subject to termination by the Patrol Commander at any time. The Patrol Commander may impose other restrictions within this zone if circumstances dictate. Restrictions will be tailored to impose the least impact on maritime interests yet provide the level of security deemed necessary to safely conduct the race.

A technical amendment to paragraph (a) of 33 CFR 100.1101 is necessary because the Eleventh Coast Guard District staff element responsible for the Local Notice to Mariners has moved from Long Beach, California, to Alameda, California. The correct address of the Eleventh Coast Guard District staff element responsible for Local Notice to Mariners now reads: Commander (Pow), Eleventh Coast Guard District, Coast Guard Island, Building 50–6, Alameda, CA 94501–5100.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order.

It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000. Because it expects the impact of this rule to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a substantial impact on a significant number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.