

the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

## PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600 in the table in paragraph (c)(1), revise the entry for “Halocarbon Laboratories”; and in the table in paragraph (c)(2), revise the entry for “012164” to read as follows:

### § 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * *	
(c) * * *	
(1) * * *	
Firm name and address	Drug labeler code
* * *	* *
Halocarbon Products Corp., 887 Kinderkamack Rd., River Edge, NJ 07661.	012164
* * *	* *
(2) * * *	
Drug labeler code	Firm name and address
* *	* *
012164	Halocarbon Products Corp., 887 Kinderkamack Rd., River Edge, NJ 07661.
* *	* *

Dated: April 16, 2008.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

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**BILLING CODE 4160-01-S**

## DEPARTMENT OF STATE

### 22 CFR Parts 40 and 41

[Public Notice: 6202]

### Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Department of State’s regulations related to application for a nonimmigrant visa, to offer a completely electronic application procedure as an alternative to submission of the Form DS-156.

**DATES:** This rule is effective on April 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Charles Robertson, Legislation and

Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, (202) 663-1202, e-mail (robertsonc3@state.gov).

### SUPPLEMENTARY INFORMATION:

#### Why is the Department promulgating this rule?

The Government Paperwork Elimination Act (GPEA 1998) requires that, when possible, Federal agencies use electronic forms, electronic filing, and electronic signatures to conduct agency business with the public. For this reason, the Department of State developed and introduced an electronic application process for nonimmigrant visas to eventually replace the current application process, which depends on a paper form (Form DS-156, and other forms when required, such as the Form DS-157 and Form DS-158). The first step was to offer an electronic visa application form (EVAF) as a voluntary alternative way of obtaining and preparing the Form DS-156. While the nonimmigrant visa applicant could obtain and prepare the Form DS-156 electronically, he or she was required to sign the Form DS-156 manually. On October 1, 2006, the EVAF was made mandatory worldwide wherever possible. Now, while the Department will continue to accept the EVAF (electronic Form DS-156) where necessary, it proposes to eventually eliminate the Form DS-156 entirely and replace it with the Form DS-160, an electronic form designed to be completed and signed electronically.

#### What effect does the electronic application process have on the nonimmigrant visa applicant?

The procedure is the same for the nonimmigrant visa applicant except that he or she will not be required to print and sign a form to take to the visa interview. All information entered into the Form DS-160 will be available to the consular officer at the time of the interview, thus simplifying the process from the point of the view of the applicant. The applicant is required to sign the Form DS-160 electronically.

#### How does the applicant sign the Form DS-160 electronically?

The applicant will be required to click on the box designated “Sign Application” found within the certification section of the application.

#### How does the consular officer identify the applicant who has submitted an electronic application (Form DS-160)?

Photos, passports and fingerscans collected as part of the application process will identify the applicant.

#### How does the applicant certify that the information in the Form DS-160 is correct?

By signing the Form DS-160 electronically (i.e., clicking on the “Sign Application” box), the applicant certifies that the information provided is correct.

#### Is an electronic signature binding on a nonimmigrant visa applicant?

Yes. The electronic signature (i.e., the click on the “Sign Application” box) indicates that the applicant is familiar with and intends to be bound by the statements contained in the application and has answered all questions truthfully, under penalty of perjury.

#### Can a third party prepare the Form DS-160?

While a third party may assist the applicant in preparing the Form DS-160, the applicant must electronically sign the application himself or herself. The applicant must identify in the application any third party who has assisted in the preparation of the Form DS-160.

### Regulatory Findings

#### Administrative Procedure Act

This regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

#### Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This regulates individual aliens who seek consideration for nonimmigrant visas and does not affect any small entities, as defined in 5 U.S.C. 601(6).

#### The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104-4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by

State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

*The Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. 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 adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

*Executive Order 12866: Regulatory Review*

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the proposed regulation justify its costs. The Department does not consider the rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

*Executive Orders 12372 and 13132: Federalism*

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

*Executive Order 12988: Civil Justice Reform*

The Department has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Paperwork Reduction Act*

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

**List of Subjects in 22 CFR Parts 40 and 41**

Aliens, Foreign officials, Immigration, Nonimmigrants, Passports and Visas.

■ For the reasons stated in the preamble, the Department of State amends 22 CFR part 40 and 41 as follows:

**PART 40—[AMENDED]**

■ 1. The authority citation for part 40 continues to read:

**Authority:** 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801, Pub. L. 104–208, 110 Stat. 3546.

■ 2. Section 40.1 is amended by revising paragraph (l)(1) to read as follows:

**§ 40.1 Definitions.**

\* \* \* \* \*

(l) \* \* \*

(1) For a nonimmigrant visa applicant, submitting for formal adjudication by a consular officer of an electronic application, Form DS–160, signed electronically by clicking the box designated “Sign Application” in the certification section of the application or, as directed by a consular officer, a completed Form DS–156, with any required supporting documents and biometric data, as well as the requisite processing fee or evidence of the prior payment of the processing fee when such documents are received and accepted for adjudication by the consular officer.

\* \* \* \* \*

**PART 41—[AMENDED]**

■ 3. The authority citation for part 41 continues to read:

**Authority:** 8 U.S.C. 1104; Public Law 105–277, 112 Stat. 2681–795 through 2681–801, Pub. L. 104–208, 110 Stat. 3546.3.

■ 4. Section 41.32 is amended by revising paragraph (a)(2) 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) \* \* \*

(2) *Procedure for application.* Mexican applicants shall apply for a B–1/B–2 Visa/BCC 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 electronically on Form DS–160 or, as directed by a consular officer, on Form DS–156. If submitted electronically, it must be signed electronically by clicking the box designated “Sign Application” in the certification section of the application.

\* \* \* \* \*

■ 5. Section 41.103 is revised to read as follows:

**§ 41.103 Filing an application.**

(a) *Filing an application—(1) Filing of application required.* Every alien seeking a nonimmigrant visa must make an electronic application on Form DS–160 or, as directed by a consular officer, an application on Form DS–156. The Form DS–160 must be signed electronically by clicking the box designated “Sign Application” in the certification section of the application.

(2) *Filing of an electronic application (Form DS–160) or Form DS–156 by alien under 16 or physically incapable.* The application for an alien under 16 years of age or one physically incapable of completing an application may be completed and executed by the alien’s parent or guardian, or if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, the alien.

(3) *Waiver of filing of application when personal appearance is waived.* Even if personal appearance of a visa applicant is waived pursuant to 22 CFR 41.102, the requirement for filing an application is not waived.

(b) *Application—(1) Preparation of Electronic Nonimmigrant Visa Application (Form DS–160) or, alternatively, Form DS–156.* The consular officer shall ensure that the application is fully and properly completed in accordance with the applicable regulations and instructions.

(2) *Additional requirements and information as part of application.* Applicants who are required to appear for a personal interview must provide a biometric, which will serve to authenticate identity and additionally verify the accuracy and truthfulness of the statements in the application at the time of interview. The consular officer may require the submission of additional necessary information or question an alien on any relevant matter whenever the consular officer believes that the information provided in the application is inadequate to permit a determination of the alien’s eligibility to receive a nonimmigrant visa. Additional statements made by the alien become a part of the visa application. All documents required by the consular

officer under the authority of § 41.105(a) are considered papers submitted with the alien's application within the meaning of INA 221(g)(1).

(3) *Signature.* The Form DS-160 shall be signed electronically by clicking the box designated "Sign Application" in the certification section of the application. This electronic signature attests to the applicant's familiarity with and intent to be bound by all statements in the NIV application under penalty of perjury. Alternatively, except as provided in paragraph (a)(2) of this section, the Form DS-156 shall be signed by the applicant, with intent to be bound by all statement in the NIV application under penalty of perjury.

(4) *Registration.* The Form DS-160 or the Form DS-156, when duly executed, constitutes the alien's registration for the purposes of INA 221(b).

■ 6. Section 41.106 is revised to read as follows:

#### § 41.106 Processing.

Consular officers must ensure that the Form DS-160 or, alternatively, Form DS-156 is properly and promptly processed in accordance with the applicable regulations and instructions.

■ 7. Section 41.113 is amended by revising paragraphs (g) and (h) to read as follows:

#### § 41.113 Procedures in issuing visas.

\* \* \* \* \*

(g) *Delivery of visa.* In issuing a nonimmigrant visa, the consular officer should deliver the visaed passport, or the prescribed Form DS-232, which bears the visa, to the alien or to the alien's authorized representative. Any evidence furnished by the alien in accordance with 41.103(b) should be retained in the consular files, along with Form DS-156, if received.

(h) *Disposition of supporting documents.* Original supporting documents furnished by the alien should be returned for presentation, if necessary, to the immigration authorities at the port of entry. Duplicate copies may be retained in the consular files or scanned into the consular system.

\* \* \* \* \*

Dated: April 22, 2008.

Janice L. Jacobs,

Assistant Secretary for Consular Affairs,  
Acting, Department of State.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9390]

RIN 1545-BE37

#### Standards for Recognition of Tax-Exempt Status if Private Benefit Exists or if an Applicable Tax-Exempt Organization Has Engaged in Excess Benefit Transaction(s); Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9390) that were published in the **Federal Register** on Friday, March 28, 2008 (73 FR 16519) clarifying the substantive requirements for tax exemption under section 501(c)(3) of the Internal Revenue Code. These final regulations also contain provisions that clarify the relationship between the substantive requirements for tax exemption under section 501(c)(3) and the imposition of section 4958 excise taxes on excess benefit transactions.

**DATES:** This correction is effective April 29, 2008 and is applicable on March 28, 2008.

**FOR FURTHER INFORMATION CONTACT:** Galina Kolomietz, (202) 622-7971 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of this document are under sections 501(c)(3) and 4958 of the Internal Revenue Code.

##### Need for Correction

As published, final regulations (TD 9390) contain errors that may prove to be misleading and are in need of clarification.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

#### § 1.501(c)(3)–1 [Amended]

■ **Par. 2.** Section 1.501(c)(3)–1 is amended as follows:

■ 1. In paragraph (d)(1)(iii) *Example 2.* (ii), in the second sentence, the language "As a result, the sole activity of O serves the private interests of these artists." is removed and the language "As a result, the principal activity of O serves the private interests of these artists." is added in its place.

■ 2. In paragraph (f)(2)(iv) *Example 2.* (iii), in the sixth sentence, the language "Beginning in Year 4, however, as O's exempt function activities grow, the size and scope of the excess benefit transactions that occurred in Year 3 become less and less significant as compared to the size and extent of O's regular and ongoing exempt function activities." is removed and the language "Beginning in Year 4, however, as O's exempt function activities grow, the size and scope of the excess benefit transactions that occurred in Year 3 become less and less significant as compared to the size and scope of O's regular and ongoing exempt function activities." is added in its place.

■ 3. In paragraph (f)(2)(iv) *Example 4.* (iii), in the fourth sentence, the language "By adopting a conflicts of interest policy and significant new contract review procedures and by terminating C, O has implemented safeguards that are reasonably calculated to prevent future violations." is removed and the language "By adopting a conflicts of interest policy and new contract review procedures and by terminating C, O has implemented safeguards that are reasonably calculated to prevent future violations." is added in its place.

\* \* \* \* \*

LaNita Van Dyke,

Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel (Procedure and Administration).

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BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1, 301, and 602

[TD 9394]

RIN 1545-BD80

#### Special Rules To Reduce Section 1446 Withholding

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.