

a commodity trading advisor registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of the activities described in § 30.4(d) unless the commodity trading advisor, at or before the time it engages in such activities, first provides each qualified eligible client with the Risk Disclosure Statement set forth in § 4.34(b)(2) of this chapter and the statement in § 4.7(b)(2)(i)(A) of this chapter.

(2) With respect to participants who do not satisfy the requirements of qualified eligible participants, as defined in § 4.7(a)(1)(ii) of this chapter, a commodity pool operator registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of the activities described in § 30.4(c) unless the commodity pool operator, at or before the time it engages in such activities, first provides each prospective participant with the Disclosure Document required to be furnished to customers or potential customers pursuant to § 4.21 of this chapter and files the Disclosure Document in accordance with § 4.26 of this chapter. With respect to clients who do not satisfy the requirements of qualified eligible clients, as defined in § 4.7(b)(1)(ii) of this chapter, a commodity trading advisor registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of the activities described in § 30.4(d) unless the commodity trading advisor, at or before the time it engages in such activities, first provides each prospective client with the Disclosure Document required to be furnished customers or potential customers pursuant to § 4.31 of this chapter and files the Disclosure Document in accordance with § 4.36 of this chapter.

\* \* \* \* \*

Dated: May 21, 1999.

By the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

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## DEPARTMENT OF STATE

### 22 CFR Parts 41 and 42

#### [Public Notice 3048]

#### Visas: Documentation of Nonimmigrants—Passport and Visa Waivers; Deletion of Obsolete Visa Procedures and Other Minor Corrections

**AGENCY:** Bureau of Consular Affairs, Department of State.

**ACTION:** Final Rule.

**SUMMARY:** This rule revises the Department's regulations regarding the waiver of the passport and nonimmigrant visa requirement for aliens applying for entry to the United States in an unforeseen emergency. This revision is necessary to make clear that the passport and/or visa are required but, in cases of unforeseen emergency, the alien may apply for a waiver.

This rule also removes the Department's regulation regarding the transfer of nonimmigrant visas in light of the Department's decision to treat a request for the transfer of a visa to a new travel document as an application for a new visa.

Finally, this rule corrects an existing regulation relating to aliens traveling with extended-validity immigrant visas to make clear that a consular officer need reinterview only aliens who intend to enter the United States more than six months after the date of visa issuance.

**EFFECTIVE DATE:** May 28, 1999.

**FOR FURTHER INFORMATION CONTACT:** H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, (202) 663-1204.

#### SUPPLEMENTARY INFORMATION:

##### Waiver of Passport and Visa

The Department's regulation at 22 CFR 41.2(j), as currently worded, incorrectly implies that a passport and visa are not required where an alien is applying for admission in cases of unforeseen emergency. In fact, INA 212(a)(7)(B)(i) does require a passport and visa, however, INA 212(d)(4) provides for a waiver of this requirement in certain specified circumstances. Under the provisions of INA 212(d)(4), the Attorney General and the Secretary of State, acting jointly, may waive the passport and/or visa requirements of INA 212(a)(7)(B)(i) on the basis of an unforeseen emergency. On January 11, 1994 [59 FR 1473], the Department of State published a rule that authorized the district director of the Immigration and Naturalization Service to exercise the Department of

State's function with respect to the passport and visa waiver under the provisions of INA 212(d)(4)(A). The Department makes clear in this rule that only if the alien applies for and is granted such a waiver by the INS district director may an alien be admitted to the United States without a passport and/or visa.

##### Transfer of Nonimmigrant Visas

The Department's regulation at 22 CFR 41.114 addresses the transfer of a valid nonimmigrant visa from one travel document to another. In accordance with this regulation, the consular officer could transfer a visa without fee to a different travel document if the visa remained valid and the consular officer determined that the applicant remained eligible. In fact, such cases are technically reapplications since consular officers readjudicate the case to determine the alien's eligibility to receive a visa and, if the alien is eligible, issue an entirely new visa. It is appropriate for the Department to charge a processing fee for such readjudication, as well as any applicable reciprocity fee. The Department, therefore, is removing the regulation concerning transfer of visas. Applicants who do not wish to apply for new visas, may travel with their old, but still valid visas, and a valid passport.

##### Extended Visa Validity

On May 21, 1997 [62 FR 27693], the Department amended 42.72(e)(4) to reflect the new immigrant visa validity of 6 months. In updating this regulation, the addition of the word "no" unintentionally changed the meaning of this regulation which, as amended, implied that an alien must appear for a second interview before traveling to the United States even if the alien is traveling within the six-month visa validity. This was not the Department's intent. This rule corrects this error.

##### Regulatory Analysis and Notices

##### Final Rule

The Department is publishing this rule as a final rule under the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3) and 553(d)(3). The clarification of the waiver requirement is necessary to conform to the INS regulation and practice. The abolition of transferred visas reflects the costs of processing a machine-readable visa for the new document, and the law now requires a fee for such service. The clarification of the period before a second visa interview is required benefits the applicant.

### The Regulatory Flexibility Act

Pursuant to section 605 of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and the Assistant Secretary for Consular Affairs hereby certifies that it is not expected to have a significant economic impact on a substantial number of small entities.

### E.O. 12988 and E.O. 12866

The Department has reviewed this rule as required under E.O. 12998 and determined it to be in compliance therewith. This rule is exempt from review under E.O. 12866, but the Department has reviewed the rule internally to ensure consistency therewith. The rule does not directly or indirectly affect states or local governments or Federal relationships and does not create unfunded mandates.

### 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 paperwork requirements.

### List of Subjects in 22 CFR Parts 41 and 42

Aliens, Immigrants, Nonimmigrants, Passports and visas, Waivers.

In view of the foregoing, the Department amends 22 CFR parts 41 and 42 as follows:

### PART 41—[AMENDED]

1. The authority citation for part 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104.

2. Amend § 41.2 to revise paragraph (j) to read as follows:

**§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.**

\* \* \* \* \*

(j) Except as provided in paragraphs (a) through (i) and (k) through (m) of this section, all aliens are required to present a valid, unexpired visa and passport upon arrival in the United States. An alien may apply for a waiver of the visa and passport requirement if, either prior to the alien's embarkation abroad or upon arrival at a port of entry, the responsible district director of the Immigration and Naturalization Service (INS) in charge of the port of entry concludes that the alien is unable to present the required documents because of an unforeseen emergency. The INS

district director may grant a waiver of the visa or passport requirement pursuant to INA 212(d)(4)(A), without the prior concurrence of the Department of State, if the district director concludes that the alien's claim of emergency circumstances is legitimate and that approval of the waiver would be appropriate under all of the attendant facts and circumstances.

\* \* \* \* \*

### § 41.114 [Removed]

3. Remove § 41.114.

### PART 42—[AMENDED]

4. The authority citation for part 42 continues to read as follows:

**Authority:** 8 U.S.C. 1104.

### § 42.72 [Amended]

5. Amend § 42.72, paragraph (e)(4) by deleting the word "no" in the first sentence.

Dated: April 30, 1999.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs.*

[FR Doc. 99-13537 Filed 5-27-99; 8:45 am]

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### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Part 1650

### Revision of Debt Collection Regulation

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** The Equal Employment Opportunity Commission (EEOC) is revising its regulation on debt collection to provide general debt collection standards and to implement the administrative wage garnishment provisions of the Debt Collection Improvement Act (DCIA) of 1996. This final rule adopts the federal claims collection standards issued jointly by the General Accounting Office (GAO) and the Department of Justice (DOJ) in 4 CFR Parts 101-105 and the regulation on administrative wage garnishment issued by the Department of the Treasury at 31 CFR 285.11.

**EFFECTIVE DATE:** May 28, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Schlageter, Assistant Legal Counsel, or Susan Murphy, Senior Attorney, Office of Legal Counsel, at (202) 663-4669 (voice), (202) 663-7026 (TDD). This final rule is also available in the following formats: large print, braille, electronic file on computer disk, and audio-tape. Copies may be obtained

from the EEOC's Publication Center by calling 1-800-669-3362 (voice) or 1-800-669-6820 (TDD).

**SUPPLEMENTARY INFORMATION:** EEOC is revising its regulation on debt collection found in 29 CFR Part 1650 to indicate that it follows the federal claims collection standards of the Department of Justice and the General Accounting Office at 4 CFR Parts 101-105. A statement of adoption by cross-reference is being added to each of the subparts of 29 CFR Part 1650.

EEOC is also adding a new subpart D to implement administrative wage garnishment provisions under section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358 (April 26, 1996). Here, EEOC is adopting by cross-reference the administrative wage garnishment regulation issued by the Department of the Treasury at 31 CFR 285.11. Under the DCIA, a federal agency that is collecting delinquent nontax debt may administratively garnish the debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. EEOC's debt collection program does not necessitate procedures different from those established by the Department of the Treasury, and therefore the Commission is adopting the Treasury regulation. This new subpart will also contain the statement of adoption by cross-reference of the federal claims collection standards issued by the Department of Justice and the General Accounting Office.

We are issuing a final rule rather than a notice of proposed rulemaking because we have determined, for good cause, that publication of a proposed rule and solicitation of comments are not necessary. Good cause also exists for waiving the 30-day delay in effectiveness as to these revisions. These amendments concern matters of agency practice and procedure. Their purpose is to incorporate without change existing regulations of the Departments of Justice and the Treasury and the General Accounting Office, which were the subject of public comment when promulgated by those agencies. Incorporation of the federal claims collection standards reflects existing requirements and longstanding Commission practice.

### Regulatory Procedures

#### *Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354, as amended by Pub. L. 104-121), the Commission has reviewed this regulation, and by approving it, certifies