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DEPARTMENT OF STATE

[Public Notice 5523]

22 CFR Part 41

RIN 1400-AC06

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Correction

AGENCY: Department of State.

ACTION: Correcting amendments.

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SUMMARY: This document contains corrections to the final rule published in the Federal Register of June 30, 2006. The rule expanded guidance to consular offices for the review of nonimmigrant visa issuances and refusals.

DATES: Effective Date: This rule is effective on August 25, 2006.

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SUPPLEMENTARY INFORMATION:

Why Is the Department Correcting This Rule?

The rule as published on June 30, 2006 (71 FR 37494), contained an amendment to 22 CFR 41.121, governing review nonimmigrant visa refusals, as well as an addition to 22 CFR 41.113 providing guidelines

for review of nonimmigrant visa issuances. Due to a clerical error, the first appearance of the words "refusal" and "issuance" in their respective rules is transposed, so that the first appearance of the word "issuance" in 41.113 (i) appears as "refusal" and the first appearance of the word "refusal" in 41.121 (c) appears as "issuance". The purpose of this correction is to reverse that transposition so that the purpose of each rule change is clear.

#### List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Immigration, Nonimmigrants, Passports and visas, Students.

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Accordingly, 22 CFR part 41 is corrected by making the following correcting amendments:

#### PART 41--VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

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

Authority: 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681-795 through 2681-801. Additional authority is derived from section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Pub. L. 104-208, 110 Stat. 3546.

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2. In Sec. 41.113, revise paragraph (i) to read as follows:

Sec. 41.113 Procedures in issuing visas.

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(i) Nonimmigrant visa issuances must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with applicable laws and procedures. Visa issuances must be reviewed without delay; that is, on the day of issuance or as soon as is administratively possible. If the reviewing officer disagrees with the decision and he or she has a consular commission and title, the reviewing officer may assume responsibility and readjudicate the case. If the reviewing officer does

not have a consular commission and title, he or she

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must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement.

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3. In Sec. 41.121, revise paragraph (c) to read as follows:

Sec. 41.121 Refusal of individual visas.

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(c) Nonimmigrant refusals must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with laws and procedures. If the ground(s) of ineligibility upon which the visa was refused cannot be overcome by the presentation of additional evidence, the refusal must be reviewed without delay; that is, on the day of the refusal or as soon as it is administratively possible. If the ground(s) of ineligibility may be overcome by the presentation of additional evidence, and the applicant has indicated the intention to submit such evidence, a review of the refusal may be deferred for not more than 120 days. If the reviewing officer disagrees with the decision and he or she has a consular commission and title, the reviewing officer can assume responsibility and readjudicate the case. If the reviewing officer does not have a consular commission and title, he or she must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement.

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Dated: August 7, 2006.  
Stephen A. Edson,  
Deputy Assistant Secretary, Visa Services, Department of State.  
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