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DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice: 5571]
RIN: 1400-AC27

Passport Procedures--Amendment to Restriction of Passports
Regulation

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This final rule amends part 51 at Title 22 of the Code of Federal Regulations to change a ground of denying, revoking or canceling a passport. The final rule amends the existing regulation at section 51.70(a) in Title 22 of the Code of Federal Regulations which requires the Secretary of State to deny a passport to a person who has been certified by the Secretary of Health and Human Services to be in arrears of child support by an amount exceeding \$5000 by changing it to \$2500 in accordance with Section 7303 of Public Law 109-171, the Deficit Reduction Act of 2005.

EFFECTIVE DATE: October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Consuelo Pachon, Office of Passport Policy, Planning and Advisory Services, Bureau of Consular Affairs, 2100 Pennsylvania, Avenue, NW., Suite 3000, Washington, DC, telephone number 202-663-2662.

SUPPLEMENTARY INFORMATION: Section 452(k) of the Social Security Act, 42 U.S.C. 652 (the ``Act'') required that the Secretary of Health and Human Services transmit to the Secretary of State a certification by a State agency in accordance with the requirements of Section 42 U.S.C. 654(31) of the Act of a determination that an individual owes arrearages of child support in an amount exceeding \$5000 and requires that the Secretary of State shall upon receipt of such certification by the Secretary of Health and Human Services, refuse to issue a passport to such individual. The Act also authorizes the Secretary to revoke, restrict, or limit a passport previously issued to such an individual. Section 51.70(a) of the passport regulations in Title 22 of the Code of

Federal Regulations provides the grounds for denial of passports for other than non-citizenship. Section 51.70(a)(8) to Title 22 of the Code of Federal Regulations requires that the Secretary of State refuse to issue a passport, except one limited for direct return to the United States, to a person who has been certified by the Secretary of Health and Human Services to be in arrears of child support by an amount exceeding \$5000.

Section 7303 of the Deficit Reduction Act of 2005, Public Law 109-171, amended Section 452(k)(1) (42 U.S.C. 652(k)(1)) by decreasing the amount of child support arrearage triggering passport denial from \$5,000 to \$2,500.

Regulatory Findings

Administrative Procedure Act

No notice of proposed rulemaking is required under the Administrative Procedure Act (APA) because this regulation falls under the exception for good cause of 5 U.S.C. 553(b)(3)(B) in that notice to the public is unnecessary. The requirements of Public Law 109-171 are clear, do not allow for agency discretion, and permit no alternative interpretation.

Regulatory Flexibility Act

The DOS, 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 United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Department of State does not consider this rule to be a ``significant regulatory action'' under Executive Order 12866, section 3(f). In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in

that Executive Order.

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.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Passports and visas.

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Accordingly, for the reasons set forth in the preamble, the part 51 to Title 22 is amended as follows:

22 CFR PART 51--PASSPORTS

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

Authority: 22 U.S.C. 211a, 213, 2651a, 2671(d)(3), 2714, and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966-1970 Comp. p. 570; Sec. 236 Pub. L. 106-113, 113 stat. 1501A-430; 18 U.S.C. 1621(a)(2); 42 U.S.C. 652, as amended by Sec. 370 Pub. L. 104-193 and Sec. 7303 Pub. L. 109-171.

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2. Section 51.70(a)(8) is amended by removing the phrase ``\$5,000.00'' and adding in its place ``\$2,500.00''.

Dated: September 20, 2006.

Maura Harty,
Assistant Secretary for Consular Affairs, Department of State.
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