

Department of State

§ 51.1

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SOURCE: 31 FR 13540, Oct. 20, 1966, unless otherwise noted.

**§ 51.1 Definitions.**

The following definitions shall be applicable to this part:

- (a) *United States* means the continental United States, the State of Hawaii, the Commonwealth of Puerto

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Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) *Department* means the Department of State of the United States of America.

(c) *Secretary* means the Secretary of State.

(d) *National* means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) *Passport* means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) *Passport Agent* means a person designated by the Department to accept passport applications.

(g) *Passport Application* means the application form for a United States passport, filled in, subscribed and executed as prescribed by the Secretary pursuant to 22 U.S.C. 213, and all documents, photos and statements submitted with the form or thereafter in support of the application. A person providing false information as part of a passport application, whether contemporaneously with the application form or at any other time, is subject to prosecution for passport fraud or perjury under all applicable criminal statutes, including but not limited to 18 U.S.C. 1001, 1541, *et seq.* and 1621.

(h) *Passport Issuing Office* means the Passport Office, a Passport Agency, a Passport Agent of the Department, or a Foreign Service Post authorized to issue passports.

(i) *Designated nationality examiner* means a person designated under § 50.1(g) of this subchapter.

[31 FR 13540, Oct. 20, 1966, as amended at 31 FR 14522, Nov. 11, 1966; 61 FR 43312, Aug. 22, 1996; 66 FR 29906, June 4, 2001]

### Subpart A—General

#### § 51.2 Passport issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department no person shall bear more than

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one valid or potentially valid U.S. passport at any one time.

[SD–165, 46 FR 2343, Jan. 9, 1981]

#### § 51.3 Types of passports.

(a) *Regular passport*. A regular passport is issued to a national of the United States proceeding abroad for personal or business reasons.

(b) *Official passport*. An official passport is issued to an official or employee of the U.S. Government proceeding abroad in the discharge of official duties. Where appropriate, dependents of such persons may be issued official passports.

(c) *Diplomatic passport*. A diplomatic passport is issued to a Foreign Service Officer, a person in the diplomatic service or to a person having diplomatic status either because of the nature of his or her foreign mission or by reason of the office he or she holds. Where appropriate, dependents of such persons may be issued diplomatic passports.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

#### § 51.4 Validity of passports.

(a) *Signature of bearer*. A passport is valid only when signed by the bearer in the space designated for his signature.

(b) *Period of validity of a regular passport*.

(1) A regular passport issued on or after February 1, 1998, to an applicant 16 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period.

(2) A regular passport issued on or after February 1, 1998 to an applicant under the age of 16 years is valid for 5 years from date of issue unless limited by the Secretary of State to a shorter period.

(3) The period of validity of a regular passport issued on or after January 1, 1983, and before February 1, 1998, unless limited by the Secretary of State to a shorter period is: 10 years from date of issue if issued to an applicant age 18 or older; five years from date of issue if issued to an applicant under age 18.

(4) The period of validity of a regular passport issued prior to January 1, 1983, is five years from date of issue.

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(c) *Period of validity of an official passport.* An official passport is normally valid for a period of 5 years from the date of issue as long as the bearer maintains the official status for which it is issued. It must be returned to the Department upon the termination of the bearer's official status.

(d) *Period of validity of a diplomatic passport.* A diplomatic passport issued on or after January 1, 1977 is valid for a period of five (5) years or so long as the bearer maintains his/her diplomatic status, whichever is shorter. A diplomatic passport which has not expired must be returned to the Department upon the termination of the bearer's diplomatic status or at such other time as the Secretary shall determine. Any outstanding diplomatic passport issued before January 1, 1977 will expire effective December 31, 1977.

(e) *Period of a regular passport issued for no fee.* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation and extension of validity.* The validity period of any passport may be limited by the Secretary to less than the normal validity period. Applications for extension of passports limited to less than the normal full validity period must be made in writing and must be submitted, with the passport, to a passport issuing Office. In no event may a passport be extended beyond the normal period of validity prescribed for such passport by paragraphs (b) through (e) of this section.

(g) *Cancellation of passport endorsed as valid only for travel to Israel.* The validity of any passport which has been issued and endorsed as valid only for travel to Israel is cancelled effective April 25, 1992. Where it is determined that its continued use is warranted, the validity of such passport may be renewed or extended for additional periods of two years upon cancellation of the Israel-only endorsement. In no event may the validity of such passport be extended beyond the normal period of validity prescribed for such passport

by paragraphs (b) through (e) of this section.

(Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 2, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp. p. 507)

[31 FR 13540, Oct. 20, 1966, as amended at 33 FR 12042, Aug. 24, 1968; 42 FR 17869, Apr. 4, 1977; 47 FR 56329, Dec. 16, 1982; 57 FR 3282, Jan. 29, 1992; 63 FR 7285, Feb. 13, 1998]

### § 51.5 [Reserved]

### § 51.6 Mutilation and alteration of passports.

Any passport which has been materially changed in physical appearance or composition, or which includes unauthorized changes, obliterations, entries or photographs may be invalidated.

### § 51.7 Verification of passports.

When required by the officials of a foreign government, an American Foreign Service office may verify a U.S. passport at the request of the bearer or of the foreign government.

### § 51.8 Cancellation of previously issued passport.

(a) Upon applying for a new passport, an applicant shall submit for cancellation any previous passport still valid or potentially valid.

(b) If an applicant is unable to produce such a passport for cancellation, he or she shall submit a signed statement setting forth the circumstances surrounding the disposition of the passport and if it is claimed to have been lost, the efforts made to recover it. A determination will then be made whether to issue a new passport and whether such passport shall be limited as to place and periods of validity.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 31 FR 14521, Nov. 11, 1966; 49 FR 16989, Apr. 23, 1984]

### § 51.9 Passport property of the U.S. Government.

A passport shall at all times remain the property of the United States and shall be returned to the Government upon demand.

### Subpart B—Application

#### § 51.20 General.

An application for a passport or for an amendment of a passport shall be completed upon such forms as may be prescribed by the Department. The passport applicant shall truthfully answer all questions, and shall state each and every material matter of fact, pertaining to his or her eligibility for a passport. All information and evidence submitted in connection with an application shall be considered a part thereof.

(22 U.S.C. 2658 and 3926)

[33 FR 12043, Aug. 24, 1968, as amended at 49 FR 16989, Apr. 23, 1984]

#### § 51.21 Execution of passport application.

(a) *First time applicants or persons who have not been issued a passport within the past fifteen years.* A person who has never been issued a passport in his or her own name, or who has not been issued a passport in his or her own name within 15 years of the date of a new application, shall appear in person before a person authorized by the Secretary to give oaths, verify the application by oath or affirmation before that authorized person, provide two recent photographs, and pay the established fees.

(b) *Persons authorized by the Secretary to give oaths.* The following persons are authorized by the Secretary to give oaths for passport purposes unless withdrawn by the Secretary in an individual case:

- (1) A passport agent;
- (2) A clerk of any Federal court;
- (3) A clerk of any State court of record or a judge or clerk of any probate court;
- (4) A postal employee designated by the postmaster at a post office which has been selected to accept passport applications;
- (5) A U.S. citizen employee of the Department of Defense designated by the Secretary of Defense to accept passport applications at a military installation within the continental United States selected to accept passport applications;

(6) A diplomatic officer, a consular officer, an overseas nationality examiner, a consular agent or a notarial officer abroad; or

(7) Any other persons specifically designated by the Secretary.

(c) *Persons in the United States who have previously been issued a full validity passport.* A person in the United States who has been issued a passport in his or her own name may obtain a new passport by filling out and mailing a specially prescribed application together with his or her previous passport, two recent photographs, and the established fee to the nearest U.S. passport agency, provided:

(1) The most recently issued previous passport was issued when the applicant was 16 years of age or older.

(2) The application is made not more than 15 years following the issue date of the previous passport;

(3) The most recently issued previous passport is submitted with the new application.

(d) *Persons outside of the United States who have previously been issued a full validity passport.* In a foreign country in which a U.S. consular district has been designated by the Secretary to receive such passport applications, a person who has been issued a passport in his or her own name may obtain a new passport by filling out a specially prescribed application and sending it (by mail or as prescribed by the Secretary), together with his or her previous passport, two recent photographs, and the established fee to the consular office in the consular district in which he or she is present, provided:

(1) The most recently issued passport was issued when the applicant was 16 years of age or older.

(2) The application is made not more than 15 years following the issue date of the previous passport;

(3) The most recently issued previous passport is submitted with the new application.

(4) In a Consular district specifically authorized by the Secretary to waive personal appearance of minors in accordance with this subsection, a U.S. consular officer may waive the age requirement established for use of the mail application, where the consular officer determines that:

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(i) The minor and, if applicable, the U.S. citizen parent(s) or legal guardian are registered in that consular district;

(ii) Mail applications abroad on behalf of minors under the age of 14 must comply with the requirements of §51.27;

(iii) The waiver of the age requirement is otherwise in the interest of consular efficiency; and,

(iv) The waiver will not otherwise compromise the integrity of the passport application process.

[44 FR 19393, Apr. 3, 1979, as amended at SD-165, 46 FR 2343, Jan. 9, 1981; 46 FR 16257, Mar. 12, 1981; 51 FR 20475, June 5, 1986; 55 FR 21538, May 25, 1990; 57 FR 59807, Dec. 16, 1992; 61 FR 43312, Aug. 22, 1996; 65 FR 39288, June 26, 2000; 66 FR 29906, June 4, 2001]

### §51.22 [Reserved]

### §51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence of citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

[SD-165, 46 FR 2343, Jan. 9, 1981]

### §51.24 Change of name.

An applicant whose name has been changed by court order or decree shall submit with his or her application a certified copy of the order or decree. An applicant who has changed his or her name by the adoption of a new name without formal court proceedings shall submit with his or her application evidence that he or she has publicly and exclusively used the adopted name over a long period of time.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### §51.25 Photographs.

(a) *Photographs of bearer.* The applicant shall submit with his or her application duplicate photographs of the size specified in the application. The

photographs should be sufficiently recent to be a good likeness of and satisfactorily identify the applicant. The photographs shall be signed in the same manner and form as required in the application.

(b) *Photographs of uniformed personnel.* Only applicants who are in the active service of the Armed Forces and proceeding abroad in the discharge of their duties may submit photographs in the uniform of the Armed Forces of the United States.

(c) *Unacceptable photographs.* A photograph with a waxed back or other coating which lessens adhesiveness is not acceptable. Newspaper or magazine pictures, snapshots, or full length photographs are not acceptable. Photographs of persons in the uniform of a civilian organization, except religious dress, will not generally be accepted.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 43 FR 1791, Jan. 12, 1978; 44 FR 19394, Apr. 3, 1979; SD-165, 46 FR 2343, Jan. 9, 1981; 49 FR 16989, Apr. 23, 1984]

### §51.26 Incompetents.

A parent, a legal guardian, or a person in loco parentis shall execute a passport application on behalf of a person declared incompetent.

### §51.27 Minors.

(a) *Definitions.* A minor is an unmarried person under the age of 18 years.

(b) *Execution of the application for minors.* (1) *Minors 14 years of age and above.* A minor aged 14 and above is required to execute an application on his or her own behalf unless, in the judgment of the person before whom the application is executed, it is not desirable for the minor to execute his or her own application. In such a case, it must be executed on behalf of the minor aged 14 and above by a parent or guardian of the minor or by a person in loco parentis.

(2) *Minors under the age of 14.* (i) Except as specifically provided in this section, both parents or each of the child's legal guardians, if any, whether applying for a passport for the first time or for a renewal, must execute the application on behalf of a minor under age 14 under penalty of perjury, and

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provide documentary evidence of parentage showing the minor's name, date and place of birth, and the names of the parent or parents.

(ii) A passport application may be executed on behalf of a minor under age 14 by just one parent or legal guardian if such person provides, under penalty of perjury:

(A) Documentary evidence that such person is the sole parent or has sole custody of the child; or

(B) A written statement of consent from the non-applying parent or guardian, if applicable, to the issuance of the passport.

(iii) An individual may apply in *loco parentis* on behalf of a minor under age 14 by submitting a notarized written statement or a notarized affidavit from both parents specifically authorizing the application. However, if only one parent provides the notarized written statement or notarized affidavit, documentary evidence that such parent has sole custody of the child must be presented.

(iv) Documentary evidence in support of an application executed on behalf of a minor under age 14 by one parent or person in *loco parentis* under paragraphs (b)(2)(ii) and (iii) of this section may include, but is not limited to, the following:

(A) A birth certificate providing the minor's name, date and place of birth and the name of the sole parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240) or a Certification of Report of Birth of a United States Citizen (DS-1350) providing the minor's name, date and place of birth and the name of the sole parent;

(C) An adoption decree showing only one adopting parent;

(D) An order of a court of competent jurisdiction granting sole custody to the applying parent or legal guardian and containing no travel restrictions inconsistent with issuance of the passport;

(E) A judicial declaration of incompetence of the non-applying parent;

(F) An order of a court of competent jurisdiction specifically permitting the applying parent's or guardian's travel with the child;

(G) A death certificate for the non-applying parent; or

(H) A copy of a Commitment Order or comparable document for an incarcerated parent.

(v) In instances when a parent submits a custody decree invoking the provisions of paragraph (d)(1) of this section, the judicial limitations on the minor's ability to travel contained in the custody decree will be given effect.

(vi) The requirements of paragraphs (b)(2)(i), (ii) and (iii) of this section may be waived in cases of exigent or special family circumstances, as determined by a Department official designated under paragraph (b)(2)(vi)(E) of this section.

(A) Exigent circumstances are defined as time-sensitive circumstances in which the inability of the minor to obtain a passport would jeopardize the health and safety or welfare of the minor or would result in the child being separated from the rest of his or her traveling party.

(B) "Time-sensitive" generally means that there is not enough time before the minor's emergency travel to obtain either the required consent of both parents/guardians or documentation reflecting a sole parent's/guardian's custody rights.

(C) Special family circumstances are circumstances in which the minor's family situation makes it impossible for one or both of the parents to execute the passport application.

(D) A parent applying for a passport for a child under age 14 under this paragraph (b)(2)(vi) must submit with the application a written statement subscribed under penalty of perjury describing the exigent or special family circumstances the parent believes should be taken into consideration in applying an exception.

(E) Determinations under this paragraph (b)(2)(vi) may be made by a senior passport adjudicator or the Deputy Assistant Secretary for Passport Services for an application filed within the United States, or a consular officer or the Deputy Assistant Secretary for Overseas Citizens Services for an application filed abroad.

(vii) Nothing contained in this section shall prohibit any Department official adjudicating a passport application on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 14 in accordance with the provisions of this regulation.

(c) Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute. At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.

(1)(i) When there is a dispute concerning the custody of a minor under age 18, a passport may be denied if the Department has on file, or is provided in the course of a passport application executed on behalf of a minor, a copy of a court order from a court of competent jurisdiction in the United States or abroad which:

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been registered with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 61 FR 6505, Feb. 21, 1996; 66 FR 29906, June 4, 2001]

**§ 51.28 Identity of applicant.**

(a) If the applicant is not personally known to the official receiving the application he or she shall establish his or her identity by the submission of a previous passport, other identifying documents or by an identifying witness.

(b) If an applicant submits an application under the provisions of paragraph (c) of § 51.21 he or she must submit a prior passport with his or her application.

(c) Any official receiving an application for a passport or any Passport Issuing Office may require such additional evidence of identity as may be deemed necessary.

(22 U.S.C. 2658 and 3926)

[33 FR 12043, Aug. 24, 1968, as amended at SD-165, 46 FR 2343, Jan. 9, 1981; 49 FR 16989, Apr. 23, 1984]

**§ 51.30 Persons unacceptable as witnesses.**

The passport issuing office will not accept as witness to a passport application a person who has received or expects to receive a fee for his services in connection with executing the application or obtaining the passport.

**§ 51.31 Affidavit of identifying witness.**

(a) An identifying witness shall execute an affidavit stating: That he or she resides at a specific address; that he or she knows or has reason to believe that the applicant is a citizen of the United States; the basis of his or her knowledge concerning the applicant; and that the information set out in his or her affidavit is true to the best of his or her knowledge and belief.

(b) If the witness has a U.S. passport, he or she shall state the place of issue and, if possible, the number and approximate date of issue.

(c) The identifying witness shall subscribe to his or her statement before the same person who took the passport application.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 31 FR 14522, Nov. 11, 1966; 49 FR 16989, Apr. 23, 1984]

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### § 51.32 Amendment of passports.

Applicants for amendment of a passport shall be made on forms prescribed by the Department.

[SD-165, 46 FR 2343, Jan. 9, 1981]

### § 51.33 Release of passport information.

Information in passport files is subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. Release of this information may be requested in accordance with the implementing regulations set forth in Subchapter R, Part 171 or Part 172 of this title.

(22 U.S.C. 2658 and 3926; 5 U.S.C. 552, 552a)

[61 FR 29940, June 13, 1996]

## Subpart C—Evidence of U.S. Citizenship or Nationality

### § 51.40 Burden of proof.

The applicant has the burden of proving that he or she is a national of the United States.

[66 FR 29907, June 4, 2001]

### § 51.41 Documentary evidence.

Every application shall be accompanied by evidence of the U.S. nationality of the applicant.

[66 FR 29907, June 4, 2001]

### § 51.43 Persons born in the United States applying for a passport for the first time.

(a) *Primary evidence of birth in the United States.* A person born in the United States in a place where official records of birth were kept at the time of his or her birth shall submit with the application for a passport a birth certificate under the seal of the official custodian of birth records. To be acceptable, a certificate must show the full name of the applicant place and date of birth, and that the record thereof was recorded at the time of birth or shortly thereafter.

(b) *Secondary evidence of birth in the United States.* If the applicant cannot submit primary evidence of birth, he or she shall submit the best obtainable secondary evidence. If a person was born at a place in the United States

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when birth records were filed, he or she must submit a “no record” certification from the official custodian of such birth records before secondary evidence may be considered. The passport issuing office will consider, as secondary evidence, baptismal certificates, certificates of circumcision, or other documentary evidence created shortly after birth but not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

(22 U.S.C. 2658 and 3926)

[38 FR 4667, Feb. 20, 1973, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.44 Persons born abroad applying for a passport for the first time.

(a) *Naturalization in on right.* A person naturalized in his or her own right as a U.S. citizen shall submit with his or her application his or her certificate of naturalization.

(b) *Derivative citizenship at birth.* (1) An applicant who claims to have derived citizenship by virtue of his or her birth abroad to a U.S. citizen parent or parents may submit his or her won certificate of citizenship (Section 1993, Revised Statutes, as amended by Act of May 24, 1934; section 201 of the Nationality Act of 1940; section 301 of the Immigration and Nationality Act of 1952).

(2) In lieu of a certificate of citizenship, the applicant may submit evidence of his or her parent(s)' citizenship at the time of his or her birth, and evidence of his or her and his or her parent(s)' residence and physical presence in the United States. The passport issuing office may require the applicant to establish the marriage of his or her parents and/or grandparents and his or her relationship to them.

(c) *Derivative citizenship subsequent to birth.* (1) An applicant who claims U.S. citizenship by virtue of the naturalization of his or her parent or parents subsequent to his or her birth may submit his or her own certificate of citizenship.

(2) In lieu of a certificate of citizenship the applicant may submit the naturalization certificate of the parent or parents through whom he or she claims U.S. citizenship. In this case, he or she must also show that he or she resided in the United States during minority

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as required by the law under which he or she claims citizenship.

(3) If an applicant claims citizenship through a mother who resumed citizenship or parent who was repatriated, he or she must submit evidence thereof. The applicant must establish also that he or she resided in the United States for the period prescribed by law.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### MARRIED WOMEN

#### §51.45 Marriage to an alien prior to March 2, 1907.

A woman citizen of the United States who married an alien prior to March 2, 1907, did not lose her U.S. citizenship unless she acquired as a result of the marriage the nationality of her husband and thereafter took up a permanent residence abroad prior to September 22, 1922.

#### §51.46 Marriage to an alien between March 2, 1907, and September 22, 1922.

(a) A woman citizen of the United States who married an alien between March 2, 1907, and September 22, 1922, lost her U.S. citizenship, except as provided in paragraph (b) of this section. At the termination of the marital relation she could resume her U.S. citizenship, if abroad, by registering as a U.S. citizen within 1 year with a Consul of the United States, or by returning to reside in the United States, or, if resident in the United States, by continuing to reside therein. (Section 3 of the Act of March 2, 1907.)

(b) A woman citizen of the United States who married an alien between April 6, 1917, and July 2, 1921, did not lose her citizenship, if the marriage terminated by death or divorce prior to July 2, 1921, or if her husband became a U.S. citizen prior to that date. She may establish her citizenship by proving her U.S. citizenship prior to marriage and the termination of the marriage or acquisition of U.S. citizenship by her husband prior to July 2, 1921.

#### §51.47 Marriage prior to September 22, 1922, to an alien who acquired U.S. citizenship by naturalization prior to September 22, 1922.

A woman citizen of the United States who lost her citizenship by virtue of her marriage to an alien between March 2, 1907, and September 22, 1922, and who reacquired U.S. citizenship through the naturalization of her husband prior to September 22, 1922, may establish her U.S. citizenship by submitting her husband's certificate of naturalization.

#### §51.48 Marriage between September 22, 1922, and March 3, 1931, to an alien ineligible to citizenship.

A woman citizen of the United States who lost her U.S. citizenship by virtue of her marriage to an alien ineligible to citizenship between September 22, 1922, and March 3, 1931, but who reacquired her citizenship by naturalization in accordance with applicable law shall submit with her application her certificate of naturalization (sec. 3 of the Act of Mar. 3, 1931).

#### §51.49 Marriage on or after September 22, 1922, to an alien eligible to naturalization.

A woman citizen of the United States who on or after September 22, 1922, married an alien eligible for naturalization did not thereby lose her U.S. citizenship and need only submit evidence of her own citizenship before a passport issuing office.

#### §51.50 Alien born woman—marriage to citizen prior to September 22, 1922.

An alien woman who acquired U.S. citizenship by virtue of her marriage to a citizen of the United States prior to September 22, 1922, shall submit with her application evidence of her husband's citizenship and of the marriage. (Section 1994 of the Revised Statutes.)

### CITIZENSHIP BY ACT OF CONGRESS OR TREATY

#### §51.51 Former nationals of Spain or Denmark.

Former nationals of Spain or Denmark who acquired nationality or citizenship of the United States under an act of Congress or treaty by virtue of

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residence in territory under the sovereignty of the United States shall submit evidence of their former nationality and of their residence in such territory.

### § 51.52 Citizenship by birth in territory under sovereignty of the United States.

A person claiming nationality or citizenship of the United States under an act of Congress or treaty by virtue of his or her birth in territory under the sovereignty of the United States shall submit evidence of his birth in such territory.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.53 Proof of resumption of U.S. citizenship.

An applicant who claims that he or she resumed U.S. citizenship or was repatriated under any of the nationality laws of the United States shall submit with the application a certificate of naturalization, a certificate of repatriation or evidence of the fact that he or she took an oath of allegiance in accordance with the applicable provisions of the law. (Act of June 29, 1906, as amended by Act of May 9, 1918; Act of June 25, 1936, as amended by Act of July 2, 1940, sections 317(b) and 323 of the Nationality Act of 1940 as amended by Acts of April 2, 1942, and August 7, 1946; Act of August 16, 1951, as amended by section 402(j) of the Immigration and Nationality Act of 1952; sections 324 and 327 of the Immigration and Nationality Act of 1952; Act of July 20, 1954).

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.54 Requirement of additional evidence of U.S. citizenship.

Nothing contained in §§ 51.43 through 51.53 shall prohibit the Department from requiring an applicant to submit other evidence deemed necessary to es-

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tablish his or her U.S. citizenship or nationality.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.55 Return or retention of evidence of citizenship.

The passport issuing office will generally return to the applicant evidence submitted in connection with an application for passport facilities. However, the passport issuing office may retain evidence when it deems necessary.

## Subpart D—Fees

### § 51.60 Form of remittance.

Passport fees in the United States shall be paid in U.S. currency or by draft, check, or money order payable to the Department of State or the Passport Office. Passport fees abroad shall be paid in U.S. currency, travelers checks, money order, or the equivalent value of the fees in local currency.

[31 FR 14522, Nov. 11, 1966]

### § 51.61 Passport fees.

Fees, including execution fees, shall be collected for the following passport services in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

(a) A fee for each passport application filed, which fee shall vary depending on whether the passport applicant is a first-time applicant or a renewal applicant and on the age of the applicant. The passport application fee shall be paid by all applicants at the time of application, except as provided in § 51.62(a), and is not refundable, except as provided in § 51.63. However, an applicant's denied application for a passport may be reconsidered without the payment of an additional passport application fee by the submission of adequate documentation within 90 days after the date of a notice of denial.

(b) A fee for execution of the passport application, except as provided in § 51.62 (b), when the applicant is required to execute the application in person before a person authorized to

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administer oaths for passport purposes. This fee shall be collected as part of the passport issuance fee at the time of application and is not refundable (see 22 CFR 51.65). When execution services are provided by an official of a state or local government or of the United States Postal Service, the fee may be retained by that entity to cover the costs of service, pursuant to an appropriate agreement with the Department of State.

(c) A fee for expedited services, if any, provided pursuant to 22 CFR 51.66.

[63 FR 5103, Jan. 30, 1998, as amended at 65 FR 14212, Mar. 16, 2000]

### § 51.62 Exemption from payment of passport or execution fee.

(a) The following persons are exempt from the payment of passport fees:

(1) An officer or employee of the U.S. proceeding abroad on official business, or the members of his or her immediate family authorized to accompany or reside with him or her abroad. The applicant shall submit evidence of the official purpose of his or her travel and if applicable his or her authorization to have dependents accompany or reside with him or her abroad.

(2) An American sailor who requires a passport in connection with his or her duties aboard an American flag-vessel.

(3) A widow, child, parent, brother, or a sister of a deceased American service member proceeding abroad to visit the grave of such service member.

(4) An employee of the United Seamen's Service who requires a passport for travel to assume or perform duties thereof. The applicant shall submit with his or her application a letter from the United Seamen's Service certifying that he or she is proceeding abroad on official business to provide facilities and services for U.S. merchant seamen.

(b) No person described in paragraph (a) (1), (2), (3), or (4) of this section shall be required to pay an execution fee when his or her application is executed before a Federal official.

(22 U.S.C. 2658 and 3926)

[33 FR 12043, Aug. 24, 1968, as amended at 37 FR 6053, Mar. 24, 1972; 49 FR 16989, Apr. 23, 1984; Redesignated at 63 FR 5103, Jan. 30, 1998.]

### § 51.63 Refunds.

A collected passport application fee shall be refunded:

(a) To any person exempt from the payment of passport fees under § 51.62 from whom fees were erroneously collected.

(b) For procedures on refunds of \$5.00 or less see § 22.6(b) of this title.

(c) The passport expedite fee will be refunded if the Passport Agency does not provide the requested expedited processing as defined in § 51.66.

[33 FR 12043, Aug. 24, 1968, as amended at 52 FR 29515, Aug. 10, 1987; 59 FR 48999, Sept. 26, 1994; Redesignated and amended at 63 FR 5103, Jan. 30, 1998; 65 FR 14212, Mar. 16, 2000]

### § 51.64 Replacement passports.

A passport issuing office shall issue a replacement passport without payment of a fee:

(a) To correct an error or rectify a mistake of the Department.

(b) When exceptional circumstances exist as determined by the Secretary.

[31 FR 13540, Oct. 20, 1966. Redesignated at 63 FR 5103, Jan. 30, 1998]

### § 51.65 Execution fee not refundable.

The fee for the execution of a passport application cannot be refunded.

[31 FR 13540, Oct. 20, 1966. Redesignated at 63 FR 5103, Jan. 30, 1998]

### § 51.66 Expedited passport processing.

(a) Within the United States, an applicant for a passport service (including issuance, amendment, extension, or the addition of visa pages) may request expedited processing by a Passport Agency. All requests by applicants for in-person services at a Passport Agency shall be considered requests for expedited processing, unless the Department has determined that the applicant is required to apply at a U.S. Passport Agency.

(b) Expedited passport processing shall mean completing processing within 3-business days commencing when the application reaches a Passport Agency or, if the application is already with a Passport Agency, commencing when the request for expedited processing is approved. The processing will be considered completed when the passport is ready to be picked

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up by the applicant or is mailed to the applicant.

(c) A fee shall be collected for expedited processing service in the amount prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1). This amount will be in addition to any other applicable fee and does not include urgent mailing costs, if any.

(d) A request for expedited processing normally will be accepted only if the applicant can document urgent departure with airline tickets showing confirmed reservation or similar evidence. The Passport Agency may decline to accept the request if it is apparent at the time it is made that the request cannot be granted.

(e) The expedite fee may be waived only where the need for expedited processing was necessary due to Department error, mistake or delay.

[59 FR 49000, Sept. 26, 1994. Redesignated and amended at 63 FR 5103, Jan. 30, 1998]

### Subpart E—Limitation on Issuance of Extension of Passports

#### § 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a court order committing him or her to a mental institution; or

(4) The applicant is the subject of a request for extradition or provisional arrest for extradition which has been presented to the government of a foreign country; or

(5) The applicant is the subject of a subpoena issued pursuant to section

1783 of title 28, United States Code, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(6) The applicant has not repaid a loan received from the United States as prescribed under §§ 71.10 and 71.11 of this chapter; or

(7) The applicant is in default on a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(8) The applicant has been certified by the Secretary of Health and Human Services as notified by a State agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount exceeding \$5,000.00.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant has not repaid a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(2) The applicant has been legally declared incompetent unless accompanied on his or her travel abroad by the guardian or other person responsible for the national's custody and well being; or

(3) The applicant is under the age of 18 years, unmarried and not in the military service of the United States unless a person having legal custody of such national authorizes issuance of the passport and agrees to reimburse the United States for any monies advanced by the United States for the minor to return to the United States; or

(4) The Secretary determines that the national's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States; or

(5) The applicant has been the subject of a prior adverse action under this section or § 51.71 and has not shown that a change in circumstances since the adverse action warrants issuance of a passport; or

(6) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant

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to chapter 47 of title 10 of the United States Code.

(Approved by the Office of Management and Budget under control number 1405-0077)

[54 FR 8531, Mar. 1, 1989, as amended at 62 FR 62695, Nov. 25, 1997]

### §51.71 Denial of passports to certain convicted drug traffickers.

(a) A passport shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a felony conviction for a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, including a felony conviction arising under:

(1) The Controlled Substances Act (21 U.S.C. 801 *et seq.*) or the Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*); or

(2) Any Federal law involving controlled substances as defined in section 802 of the Controlled Substances Act (21 U.S.C. 801 *et seq.*); or

(3) The Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) or the Money Laundering Act (18 U.S.C. 1956 *et seq.*) if the Secretary of State is in receipt of information that supports the determination that the violation involved is related to illicit production of or trafficking in a controlled substance; or

(4) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a misdemeanor conviction of a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, other than a first conviction for possession of a controlled substance, including a misdemeanor conviction arising under:

(1) The federal statutes described in §51.71(a); or

(2) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(c) Notwithstanding paragraphs (a) and (b) of this section the Secretary of State may issue a passport when the competent authority confirms, or the Secretary of State otherwise finds, that emergency circumstances or humanitarian reasons exist.

(Approved by the Office of Management and Budget under control number 1405-0077)

[54 FR 8532, Mar. 1, 1989]

### §51.72 Revocation or restriction of passports.

A passport may be revoked or restricted or limited where:

(a) The national would not be entitled to issuance of a new passport under §51.70 or §51.71; or

(b) The passport has been obtained illegally, by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

[54 FR 8532, Mar. 1, 1989, as amended at 64 FR 19714, Apr. 22, 1999]

### §51.73 Passports invalid for travel into or through restricted areas.

(a) Unless specifically validated therefore, U.S. passports shall cease to be valid for travel into or through a country or area which the Secretary has determined is:

(1) A country with which the United States is at war, or

(2) A country or area where armed hostilities are in progress; or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travelers.

(b) Any determination made under paragraph (a) of this section shall be published in the FEDERAL REGISTER along with a statement of the circumstances requiring this restriction.

(c) Unless limited to a shorter period, any such restriction shall expire at the end of one year from the date of publication of such notice in the FEDERAL

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REGISTER, unless extended or sooner revoked by the Secretary by public notice.

[45 FR 11128, Feb. 20, 1980. Redesignated at 54 FR 8532, Mar. 1, 1989]

### § 51.74 Special validation of passports for travel to restricted areas.

(a) A United States National wishing a validation of his passport for travel to, in, or through a restricted country or area may apply for a special validation to the Office of Passport Services, a passport agency, or a foreign service post authorized to issue passports. The application shall be accompanied by evidence that the applicant falls within the standards set out in paragraph (c) of this section.

(b) The Assistant Secretary of State for Consular Affairs or an authorized designee of that official shall decide whether or not to grant a special validation. The special validation shall be granted only when such action is determined to be in the national interest of the United States.

(c) An application may be considered if:

(1) The applicant is a professional reporter, the purpose of whose trip is to obtain, and make available to the public, information about the restricted area; or

(2) The applicant is a representative of the American Red Cross; or

(3) The applicant establishes that his or her trip is justified by compelling humanitarian considerations; or

(4) The applicant's request is otherwise in the national interest.

(Sec. 1, 44 Stat. 887, as amended (22 U.S.C. 211a); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp., 507; E.O. 12211, 45 FR 26685)

[45 FR 30619, May 9, 1980. Redesignated at 54 FR 8532, Mar. 1, 1989]

### § 51.75 Notification of denial or withdrawal of passport.

Any person whose application for issuance of a passport has been denied, or who has otherwise been the subject of an adverse action taken on an individual basis with respect to his or her right to receive or use a passport shall be entitled to notification in writing of the adverse action. The notification shall set forth the specific reasons for

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the adverse action and the procedures for review available under §§ 51.81 through 51.105.

(22 U.S.C. 2658 and 3926)

[33 FR 12043, Aug. 24, 1968, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.76 Surrender of passport.

The bearer of a passport which is revoked shall surrender it to the Department or its authorized representative upon demand and upon his or her refusal to do so such passport may be invalidated by notifying the bearer in writing of the invalidation.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

## Subpart F—Procedures for Review of Adverse Action

### § 51.80 The applicability of §§ 51.81 through 51.89.

(a) The provisions of §§ 51.81 through 51.89 do not apply to any action of the Secretary of State taken on an individual basis in denying, restricting, revoking or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport by reason of:

(1) Noncitizenship,

(2) Refusal under the provisions of § 51.70(a)(8),

(3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subjects of adverse action under §§ 51.70, 51.71 or 51.72.

[65 FR 39288, June 26, 2000]

### § 51.81 Time limits on hearing to review adverse action.

A person who has been the subject of an adverse action with respect to his or her right to receive or use a passport shall be entitled, upon request made within 60 days after receipt of notice of

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such adverse action, to require the Department or the appropriate Foreign Service post, as the case may be, to establish the basis for its action in a proceeding before a hearing officer. If no such request is made within 60 days, the adverse action will be considered final and not subject to further administrative review. If such request is made within 60 days, the adverse action shall be automatically vacated unless such proceeding is initiated by the Department or the appropriate Foreign Service post, as the case may be, within 60 days after request, or such longer period as is requested by the person adversely affected and agreed to by the hearing officer.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.82 Notice of hearing.

The person adversely affected shall receive not less than 5 business days' notice in writing of the scheduled date and place of the hearing.

### § 51.83 Functions of the hearing officer.

The hearing officer shall act on all requests for review under § 51.81. He shall make findings of fact and submit recommendations to the Deputy Assistant Secretary for Passport Services in the Bureau of Consular Affairs. In making his or her findings and recommendations, the hearing officer shall not consider confidential security information unless that information is made available to the person adversely affected and is made part of the record of the hearing.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984; 64 FR 19715, Apr. 22, 1999]

### § 51.84 Appearance at hearing.

The person adversely affected may appear at the hearing in person or with his or her attorney, or by his or her attorney. The attorney must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the

United States or be admitted to practice before the courts of the country in which the hearing is to be held.

(22 U.S.C. 2658 and 3926)

[36 FR 9068, May 19, 1971, as amended at 49 FR 16989, Apr. 23, 1984; 64 FR 19715, Apr. 22, 1999]

### § 51.85 Proceedings before the hearing officer.

The person adversely affected may appear and testify in his or her own behalf and may himself, or by his or her attorney, present witnesses and offer other evidence and make argument. If any witness whom the person adversely affected wishes to call is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit by the witness or order evidence to be taken by deposition. The person adversely affected shall be entitled to be informed of all the evidence before the hearing officer and of the source of such evidence, and shall be entitled to confront and cross-examine any adverse witness. The person shall, upon request by the hearing officer, confirm his or her oral statements in an affidavit for the record.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.86 Admissibility of evidence.

The person adversely affected and the Department may introduce such evidence as the hearing officer deems proper. Formal rules of evidence shall not apply, but reasonable restrictions shall be imposed as to relevancy, competency and materiality of evidence presented.

### § 51.87 Privacy of hearing.

The hearing shall be private. There shall be present at the hearing only the person adversely affected, his or her attorney, the hearing officer, official stenographers, employees of the Department directly concerned with the presentation of the case, and the witnesses.

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Witnesses shall be present at the hearing only while actually giving testimony or when otherwise directed by the hearing officer.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.88 Transcript of hearing.

A complete verbatim stenographic transcript shall be made of the hearing by a qualified reporter, and the transcript shall constitute a permanent part of the record. Upon request, the appellant or his or her counsel shall be entitled to inspect the complete transcript and to purchase a copy thereof.

(22 U.S.C. 2658 and 3926)

[31 FR 13540, Oct. 20, 1966, as amended at 49 FR 16989, Apr. 23, 1984]

### § 51.89 Decision of Deputy Assistant Secretary for Passport Services.

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affected person from submitting a new passport application as provided for in subparts B through D of this part.

[64 FR 19715, Apr. 22, 1999]

## PART 52—MARRIAGES

Sec.

- 52.1 Celebration of marriage.
- 52.2 Authentication of marriage and divorce documents.
- 52.3 Certification as to marriage laws.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658.

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### § 52.1 Celebration of marriage.

Foreign Service officers are forbidden to celebrate marriages.

[31 FR 13546, Oct. 20, 1966]

### § 52.2 Authentication of marriage and divorce documents.

(a) Whenever a consular officer is requested to authenticate the signature of local authorities on a document of marriage when he was not a witness to the marriage, he shall include in the body of his certificate of authentication the qualifying statement, “For the contents of the annexed document, the Consulate (General) assumes no responsibility.”

(b) A consular officer shall include the same statement in certificates of authentication accompanying decrees of divorce.

[31 FR 13546, Oct. 20, 1966. Redesignated at 51 FR 26247, July 22, 1986]

### § 52.3 Certification as to marriage laws.

Although a consular officer may have knowledge respecting the laws of marriage, he shall not issue any official certificate with respect to such laws.

[31 FR 13546, Oct. 20, 1966. Redesignated at 51 FR 26247, July 22, 1986]

## PART 53—PASSPORT REQUIREMENT AND EXCEPTIONS

Sec.

- 53.1 Passport requirement.
- 53.2 Exceptions.
- 53.3 Attempt of a citizen to enter without a valid passport.
- 53.4 Optional use of a valid passport.

AUTHORITY: 8 U.S.C. 1185; Proc. 3004, 18 FR 489, 3 CFR, 1949–1953 Comp., p. 180.

SOURCE: 31 FR 13546, Oct. 20, 1966, unless otherwise noted.

### § 53.1 Passport requirement.

Under section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), it is unlawful except as otherwise provided for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States without a valid passport.