§ 50.51

(a) A person desiring to renounce U.S. nationality under section 349(a)(5) of the Immigration and Nationality Act shall appear before a diplomatic or consular officer of the United States in the manner and form prescribed by the Department. The renunciant must include on the form he signs a statement that he absolutely and entirely renews his U.S. nationality together with all rights and privileges and all duties of allegiance and fidelity thereof pertaining.

(b) The diplomatic or consular officer shall forward to the Department for approval the oath of renunciation together with a certificate of loss of nationality as provided by section 358 of the Immigration and Nationality Act. If the officer's report is approved by the Department, copies of the certificate shall be forwarded to the Immigration and Naturalization Service, Department of Justice, and to the person to whom it relates or his representative.

§ 50.50 Renunciation of nationality.

§ 50.51 Review of finding of loss of nationality.

(a) There are no prescribed "procedures for administrative appeal" of issuance of a Certificate of Loss of Nationality for purposes of §358 of the Immigration and Nationality Act (8 U.S.C. 1501) and no mandatory administrative review procedure prior to resort to judicial processes under §360 of the Immigration and Nationality Act (8 U.S.C. 1503). Nevertheless, the Department may in its discretion review determinations of loss of nationality at any time after approval of issuance of the Certificate of Loss of Nationality to ensure consistency with governing law (see INA §§349 and 356, 8 U.S.C. 1481 and 1488). Such reconsideration may be initiated at the request of the person.
concerned or another person determined in accordance with guidance issued by the Department to have a legitimate interest.

(b) The primary grounds on which the Department will consider reversing a finding of loss of nationality and vacating a Certificate of Loss of Nationality are:

1. The law under which the finding of loss was made has been held unconstitutional; or
2. A major change in the interpretation of the law of expatriation is made as a result of a U.S. Supreme Court decision; or
3. A major change in the interpretation of the law of expatriation is made by the Department, or is made by a court or another agency and adopted by the Department; and/or
4. The person presents substantial new evidence, not previously considered, of involuntariness or absence of intent at the time of the expatriating act.

(c) When the Department reverses a finding of loss of nationality, the person concerned shall be considered not to have lost U.S. nationality as of the time the expatriating act was committed, and the Certificate of Loss of Nationality shall be vacated.

(d) Requesting the Department to reverse a finding of loss of nationality and vacate a Certificate of Loss of Nationality is not a prescribed “procedure for administrative appeal” for purposes of §358 of the Immigration and Nationality Act (8 U.S.C. 1501). The Department’s decision in response to such a request is not a prescribed “procedure for administrative appeal” for purposes of §358 of the Immigration and Nationality Act (8 U.S.C. 1501). The issuance of a Certificate of Loss of Nationality by the Department is a “final administrative determination” and “final administrative denial” for purposes of §§338 and 360 of the Immigration and Nationality Act (8 U.S.C. 1501 and 1503), respectively.

[73 FR 41258, July 18, 2008]

PART 51—PASSPORTS

Sec.

51.1 Definitions.