Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–31 Airbus Industrie: Amendment 39–11318. Docket 99–NM–175–AD.

Applicability: Model A340 series airplanes, certificated in any category; except those on which Airbus Modification 45302 has been accomplished.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the right inboard attachment lug of the main fitting of the center landing gear (CLG), which could result in failure of the CLG, accomplish the following:

Inspection

(a) For airplanes on which Airbus Industrie Modification 43028 (reference Airbus Service Bulletin A340–32–4083) has not been accomplished: Prior to the accumulation of 150 flight cycles on the CLG, or within 7 days after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking of the right inboard attachment lug of the main fitting of the CLG, in accordance with Airbus Service Bulletin A340–32–4091, Revision 01, dated June 3, 1998.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) For airplanes on which Airbus Industrie Modification 43028 (reference Airbus Service Bulletin A340–32–4083) has been accomplished: Prior to the accumulation of 1,020 flight cycles on the CLG, or within 7 days after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking of the right inboard attachment lug of the main fitting of the CLG, in accordance with Airbus Service Bulletin A340–32–4091, Revision 01, dated June 3, 1998.

(c) If any cracking is found during any inspection required by paragraph (a) or (b) of this AD: Prior to further flight, replace the CLG with a new or serviceable CLG in accordance with Airbus Service Bulletin A340–32–4091, Revision 01, dated June 3, 1998; or accomplish the optional terminating action specified in paragraph (e).

Note 3: Accomplishment of the detailed visual inspections or replacement of the CLG in accordance with Airbus Service Bulletin A340–32–4091, dated February 17, 1997, is acceptable for compliance with the actions specified by paragraphs (a), (b), and (c) of this AD.

(d) Repeat the inspections required by paragraph (a) or (b), as applicable, at intervals not to exceed 7 days until accomplishment of the optional terminating action specified in paragraph (e) of this AD.

Optional Terminating Action

(e) Installation of an improved CLG in accordance with Airbus Service Bulletin A340–32–4097, Revision 01, dated April 16, 1998, or Revision 02, dated June 24, 1998, constitutes terminating action for the repetitive inspection requirement of paragraph (d) of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) The actions shall be done in accordance with Airbus Service Bulletin A340–32–4091, Revision 01, dated June 3, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 97–363–076(B) R2, dated July 15, 1998, as revised by Erratum, dated August 12, 1998.

(i) This amendment becomes effective on October 5, 1999.

Issued in Renton, Washington, on September 8, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–23995 Filed 9–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF STATE

22 CFR Part 40

[Public Notice 3105]

RIN 1400–AA79

VISAS: Regulations Regarding Public Charge Requirements Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: This final rule amends Department of State regulations pertaining to the issuance of visas by establishing uniform procedures for the acceptance of affidavits of support by consular posts abroad as required by the Immigration and Nationality Act (INA). Publication of this rule is necessary to ensure proper adjudication of immigrant

visas pursuant to changes made to the INA by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA). The rule imposes new requirements on immigrant visa applicants.

EFFECTIVE DATES: This final rule is effective as of December 17, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Acker, Visa Regulations Coordinator, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Washington, DC, 20520–0106 (ackerrl@sa1wpoa.us-state.gov).

SUPPLEMENTARY INFORMATION: The Department published an interim rule, Public notice 2674 at 62 FR 67563, December 29, 1997, with a request for comments, for title 22, § 40.41, Code of the Federal Regulations. The rule was proposed to fully implement the provisions of section 343 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA), Pub. L. 104–208. That section requires changing the previous subparagraph (C) of INA 212(a)(4) to subparagraph (D) and adding a new subparagraph (C). The new subparagraph (C) provided that aliens applying in the immediate-relative, family-based and certain employment visa categories must be found ineligible unless the applicant is the beneficiary of an affidavit of support filed under INA 213A which is sufficient (meaning one that demonstrates the sponsor has income and assets equaling at least 125% of the current minimum Federal Poverty Guidelines to meet the requirements of that section). The employment based petitions are limited to those instances where a sponsoring relative is the petitioning employer or owns a 5% or more interest in the entity that is the petitioning employer.

The Immigration and Naturalization Service has promulgated rules and forms for the implementation of this procedure. Accordingly, the Department is adding to and/or changing its regulations at 22 CFR 40.41 to reflect the new affidavit of support requirements.

Comments

The interim rule for comment was published at 62 FR 67563. The comment period was closed on February 27, 1998 and the Department received 3 timely comments in response to the interim rule. After considering the comments received, the Department has adopted the interim rule in its entirety.

Analysis of Comments

The commentators' primary focus regarded the ability of a Consular Officer to find a visa applicant inadmissible, based on a likelihood of becoming a public charge, even if a qualifying Form I–864, Affidavit of Support, had been submitted. Since the affidavit of support requirements had been met, the commentators argued, Consular Officers should be limited in their discretion to find an applicant inadmissible.

While the Department appreciates the commentators' concern, the language of INA 212 (a)(4) supports consular discretion and the examination of multiple factors in determining the likelihood of an individual becoming a public charge, as opposed to the mere acceptance of a facially sufficient affidavit of support. According to the language of INA 212 (a)(4)(A), if it is the Consular Officer's opinion the applicant is likely to become a public charge, then such applicant is inadmissible and, therefore, unqualified for visa issuance. INA 212 (a)(4)(B) states that the Consular Officer shall consider, ''at a minimum,'' factors including the applicant's age, health, family status, assets, resources, financial status, and education and skills. In addition to those requirements, the affidavit of support may be considered.

Any regulations promulgated pursuant to this statute should reflect the language of the INA. Such is the case with the interim rule as proposed. It incorporates the requirements of new INA 212 (A)(4)(C) by requiring the completion of an affidavit of support, but permits the Consular Officer to base his adjudication of the case on the totality of the circumstances surrounding the applicant. The rule makes clear that although Form I–864 is a necessary part of certain immigrant visa applications, it is not, in and of itself, wholly adequate to find that an applicant satisfies the public charge requirements. It is a threshold requirement necessary to begin public charge considerations, but it is not an end.

This is not to say, however, that a sufficient affidavit of support is not given great weight in the Consular Officer's determination. In many cases, the affidavit will be enough to issue a visa. And, in the event the Consular Officer finds the affidavit of support inadequate, a Consular Officer is instructed to be sure that there is a clear, well-documented basis for the determination that the applicant is likely to become a public charge. The Department has issued guidance to Consular Officers to this effect.

One commentator expressed a concern that the myriad factors that are within a Consular Officer's discretion to consider, in addition to a sufficient affidavit of support, would harm an applicant's chances of obtaining a visa since these other factors would add prejudicial uncertainty to the process. Although the commentator is correct that the additional factors can be complicated, there is no change in this respect as a result of the regulation since public charge determinations historically have contemplated numerous factors. In any event, under the statute a consular officer must consider such additional factors.

Another commentator maintained that an applicant who had met the minimum income requirement, but was otherwise unemployable, should be allowed to submit a non-legally-binding affidavit of support (presumably from another individual) if the Consular Officer, in his discretion, determines that a Joint Sponsor is not warranted. INA 213A(a)(1)(B) states that an affidavit is not acceptable by a consular officer to establish non-excludibility as a public charge unless it is legally enforceable. Therefore, the submission of a non-legally-binding affidavit of support by an alien in any of those categories for which Form I–864, is required while not precluded, will not establish that an applicant is not excludable as a public charge.

Finally, one commentator was concerned that Consular Officers would be influenced by what was perceived as a more stringent interpretation of the statute as stated by INS in its interim regulation at 8 CFR 213a.2(c)(2)(v), published at 62 FR 54346, October 10, 1997. This concern, however, is based upon an inaccurate interpretation of the regulation. It does not burden an applicant with any greater requirements. The regulation merely restates, albeit in different language than the Department's regulation, that a Consular Officer is to use his or her statutorily authorized discretion in determining public charge issues. This construction is supported by the Department.

Final Rule

The interim rule amended the Department's regulations at 22 CFR 40.41 to establish uniform procedures for using the affidavit of support in adjudicating immigrant visas. Since the Department does not feel it necessary to further amend the regulations as published in the interim rule, the interim rule is being incorporated herein as a final rule.

List of Subjects in 22 CFR Part 40

Aliens, Immigrants, Nonimmigration, Passports and visas.

Accordingly, the interim rule amending 22 CFR part 40 which was

published on December 29, 1997 is adopted as a final rule without change.

Dated: August 27, 1999.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–24184 Filed 9–17–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 290

RIN 1010–AC21

Appeal Procedures; Correction

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Correcting amendments.

SUMMARY: MMS is correcting an amendment to rules governing the appeal of Royalty Management Program and Delegated States Orders. This correction results from a technical error made in a recent final rule.

EFFECTIVE DATE: Effective on May 13, 1999.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432, FAX (303) 231–3385, e-Mail David.Guzy@mms.gov.

SUPPLEMENTARY INFORMATION:

Background

MMS is making corrections to a final rule published in the **Federal Register** on May 13, 1999 (64 FR 26240). The final rule, effective May 13, 1999, amended among other things, 30 CFR part 290, Subpart B—Appeals of Royalty Management Program and Delegated States Orders. Subpart B applies to all Federal and Indian mineral leases onshore and on the Outer Continental Shelf regardless of the statutory authority under which the lease was issued or maintained. This correction adds two sections to 30 CFR part 290, subpart B. Before May 13, 1999, these sections were found in 30 CFR 243.3 Exhaustion of administrative remedies, and in 30 CFR 243.4 Service of official correspondence. These sections were inadvertently omitted from the May 13, 1999, final rule.

Amendments to these sections were proposed in the **Federal Register** on January 12, 1999 (64 FR 1986), under part 242, subpart D—Appeals and Service, sections 242.302 through 242.305. However, we are not adopting those amendments at this time. Rather, we simply are replacing former sections 30 CFR 243.3 and 243.4 with minor modifications to reflect changes in the final rule published May 13, 1999, and other changes to conform to the plain language of part 290.

Need for Correction

As published, the final regulations in 30 CFR part 290, subpart B, inadvertently omitted the provisions regarding exhaustion of administrative remedies and service of official correspondence. Without these provisions, it is unclear where recipients of orders should seek resolution to royalty disputes and how those orders must be served. Therefore, because this was an administrative error, MMS determines under 5 U.S.C. 553(b) that notice and comment are unnecessary and contrary to public interest. Thus, good cause exists to issue this final rule. MMS also determines for the same reasons to make this rule effective immediately. Further, to avoid any gap in coverage, we are adding those provisions in this correction, effective retroactively to the date of the final rule, i.e., May 13, 1999.

Although we received public comments on sections 242.302 through 242.305 of the proposed rule, we are not addressing those comments at this time because we are not finalizing those sections of the proposed rule in this correction. We will address those comments at the same time we address all the remaining matters from the January 12, 1999, proposed rule.

List of Subjects in 30 CFR Part 290

Administrative practice and procedure.

Dated: September 10, 1999.

Sylvia V. Baca,

Acting Assistant Secretary—Land and Minerals Management.

Accordingly, 30 CFR part 290, subpart B, is corrected by making the following correcting amendments:

PART 290—APPEALS PROCEDURES

1. The authority citation for part 290 remains as follows:

Authority: 5 U.S.C. 301 *et seq.*; 43 U.S.C. 1331 *et seq.*

2. Add §§ 290.110 and 290.111 to Subpart B—Appeals of Royalty Management Program and Delegated State Orders to read as follows:

* * * * *

§ 290.110 How do I exhaust administrative remedies?

(a) To exhaust administrative remedies, you must appeal an MMS Royalty Management Program (RMP) or delegated State order:

(1) To the MMS Director (or the Deputy Commissioner of Indian Affairs when Indian lands are involved); and

(2) Subsequently to the Interior Board of Land Appeals under 30 CFR part 290, subpart B, and 43 CFR part 4.

(b) This section does not apply if an order was made effective by:

(1) The Director;

(2) The Assistant Secretary for Land and Minerals Management;

(3) The Assistant Secretary for Indian Affairs; or

(4) The Interior Board of Land Appeals under 43 CFR part 4.

§ 290.111 How will MMS and delegated States serve official correspondence?

(a) *Method of service.* The Royalty Management Program (RMP) or a delegated State will serve official correspondence by sending the document by certified or registered mail, return receipt requested, to the addressee of record established in paragraph (b) of this section. Instead of certified or registered mail, RMP or a delegated State may deliver the document personally to the addressee of record and obtain a signature acknowledging the addressee's receipt of the document. Official correspondence includes all orders that are appealable under this subpart.

(b) *Addressee of record.* (1) The addressee of record for administrative correspondence for refiners participating in the Government's Royalty-in-Kind (RIK) Program is the position title, department name and address, or individual name and address identified in the executed royalty oil sale contract. The refiner/purchaser may identify, in writing, a different position title, department name and address, or individual name and address for billing purposes. The refiner must notify MMS, in writing, of all addressee changes.

(2) The addressee of record for serving official correspondence on anyone required to report energy and mineral resources removed from Federal and Indian leases to the RMP Production Accounting and Auditing System is the most recent position title, department name and address, or individual name and address that RMP has in its records for the reporter/payor. The reporter/payor is responsible for notifying RMP, in writing, of any addressee changes.

(3) The addressee of record for serving official correspondence concerning onshore Federal leases is the current lessee of record with the Bureau of Land Management. For Indian leases, the addressee of record is the current lessee of record with the Bureau of Indian Affairs. For offshore leases, the addressee of record is the current lessee