

Also, we find it necessary to revise our protest procedure set forth in § 154.94(h)(8). This procedure currently calls for a protest to be filed only in response to the filing of a blanket affidavit. However, in the case of sections 102(d) and 108 gas, a rate change filing to establish the base rate must be filed once under each rate schedule when a producer receives a final determination of eligibility applicable to the first well or wells under such rate schedule which qualify for the section 102(d) or 108 base rate. This procedure will be used to establish the contractual authority to charge the 102(d) and 108 rates as well as to satisfy the notice requirements of the Natural Gas Act. We shall amend § 154.94(h)(8) in order to provide an opportunity for parties to protest each rate change filing that may be required for the establishment of the section 102(d) or 108 base rate.

Finally, § 157.40 of the regulations is amended herein to provide that small producers may charge the rate prescribed in sections 102(d) and 108 of the NGPA pursuant to the blanket certificate provided for in § 157.40(b).

The Commission is making these amendments effective upon the date of issuance upon a finding that good cause exists to proceed without compliance with the notice, public procedure, and effective date provisions of 5 U.S.C. 553. These changes in rate filing requirements must be immediately effective in order to avoid an unduly disruptive transition from the pricing rules established under the Natural Gas Act to those prescribed under the NGPA. For this reason, the Commission has found it necessary to make these amendments effective upon issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. 717 et seq.; Department of Energy Organization Act, P.L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 154 and 157 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective immediately.

By the Commission.
Kenneth F. Plumb,
Secretary.

§ 154.94 [Amended]

1. Section 154.94(h) is amended as follows:

(a) By deleting "or 102(a)" in the first sentence of paragraph (h)(1) and inserting in lieu thereof ", 106(a), 102(d) or 108".

(b) By revising subparagraph (h)(2)(i), adding two sentences at the end of

subparagraph (h)(2)(iii), adding a new subparagraph (h)(4)(iii), and adding a new sentence at the end of subparagraph (h)(8), to read as follows:

§ 154.94 Changes in rate schedules.

* * *

(h) *Blanket filing.* * * *

(2) *Base rate.* * * *

(i) *Definition.* "Base rate" means a just and reasonable rate under the NGPA applicable to a first sale of natural gas or a rate under sections 102(d) or 108 of the NGPA for which a jurisdictional agency's determination of eligibility has become final within the meaning of § 273.102 of this chapter.

* * *

(iii) *Date of base rate.* * * * In the case of natural gas eligible under section 102(d) or 108 of the NGPA, a rate change filing under the preceding paragraphs of this section to collect the applicable maximum lawful price which is filed within thirty days of the date a determination of eligibility has become final under § 273.102 of this chapter takes effect on the date such determination becomes final or the date of initial deliveries, whichever is later. In the case of final determinations made before March 31, 1979, such rate change filings take effect on the date of final determination if the rate change is filed on or before April 30, 1979.

* * *

(4) *Effective date of coverage under affidavit.* * * *

(iii) Affidavits filed with respect to natural gas eligible under section 102(d) or 108 of the NGPA, and filed concurrently with rate change filings to collect the base rate, become effective as to deliveries pursuant to a first sale beginning on the date the rate change filing takes effect.

* * *

(8) *Protest procedure.* * * * In the case of natural gas eligible under section 102(d) or 108 of the NGPA, any protest to a rate change filing required to be filed under the preceding paragraphs of this section shall be filed within thirty days after the filing of the rate change filing, or in the case of a rate change filing filed before April 30, 1979, on or before May 31, 1979.

Appendix A to § 154.94 [Amended]

2. Appendix A to § 154.94 is amended in paragraph (1) of the Blanket Affidavit Filing under § 154.94(h) by deleting "or 106(a)" and inserting in lieu thereof ", 106(a), 102(d) or 108".

Exhibit A to § 154.94 [Amended]

3. Instruction for Completing Exhibit A to § 154.94 is amended by deleting "or

102(a)" and inserting in lieu thereof in I. *General Instructions*, "106(a), 102(d) or 108".

4. Section 157.40(c) is amended in subparagraph (c)(6) by:

(a) Deleting "or 106(a)" and inserting in lieu thereof ", 106(a), 102(d) or 108".

(b) Moving subparagraph (c)(6) to the end of subparagraph (c)(1) and redesignating it § 157.40(c)(1)(v).

[Docket No. RM79-31]

[FR Doc. 79-10039 Filed 4-2-79; 8:45 am]

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TREASURY DEPARTMENT

Customs Service

19 CFR Part 101

Ports of Entry and Customs Stations, Changes in the Customs Field Organization

Correction

In FR Doc. 79-6573 appearing at page 12029 in the issue for Monday, March 5, 1979, in the third column of page 12029, in the ninth line of the description of geographical boundaries of the Sault Ste. Marie, Michigan, port of entry, change "... sections 24, 25, 26, and 33 ..." to read "... sections 24, 25, 26, and 35 ...".

[T.D. 79-74]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 184

Agar-Agar; Direct Food Substances Affirmed as Generally Recognized as Safe

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that agar-agar is generally recognized as safe (GRAS) as a direct human food ingredient with specific limitations. The safety of this ingredient has been evaluated under the comprehensive safety review being conducted by this agency.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 19, 1977 (42 FR 41876), the agency proposed to affirm that agar-agar is GRAS for use as a direct human food ingredient with specific limitations. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on agar-agar, reports of teratogenic and mutagenic tests for the ingredient, and the report of the Select Committee on GRAS Substances (the Select Committee) have been made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing that agar-agar be affirmed as GRAS, the Commissioner of Food and Drugs gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of the sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of agar-agar approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), if the prior-sanctioned use could be affirmed as safe on the basis of information and data then available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of prior-sanctioned use for agar-agar were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of agar-agar under conditions different from those set forth in this regulation has been waived.

Twenty-two comments were received in response to the Commissioner's proposal and supporting data and information on agar-agar. A summary of the comments and the Commissioner's conclusions on them follow:

1. Eighteen comments contained information indicating higher current levels of use for agar-agar than those permitted in the proposal for confections, frostings, and soft candy. Several of these comments stated that

they were unaware of or did not recognize the importance of the 1971 request by the National Academy of Sciences/National Research Council (NAS/NRC) to furnish data relating to agar-agar usage and, therefore, did not participate in that survey. One of these comments, submitted by a candy manufacturer, reported a use level of 1.2 percent agar-agar used as a stabilizer and thickener in soft candy. The other 17 comments, submitted by trade associations and agar-agar users or suppliers, reported levels of from 0.4 percent to 2.0 percent agar-agar for use as a stabilizer and thickener in confections and frostings.

The Commissioner recognizes that the 1971 NAS/NRC survey was not comprehensive and, in fact, probably represented only 60 percent of food ingredient users in the United States. The Commissioner concludes that the usage levels reported in the comments for agar-agar in confections, frostings, and soft candy represent current good manufacturing practice. Although these new reported levels represent higher levels of use for agar-agar than were reported in the 1971 survey, and higher levels than those upon which the Select Committee based its safety evaluation, the Commissioner has determined that there are adequate safety data to support these higher levels of use in these limited food categories. These maximum usage levels are, therefore, included in this regulation. It is emphasized, however, that these higher permitted levels are not an authorization for use of this ingredient at any level higher than is necessary to achieve the intended effect in a specific food.

2. Four comments were received from a trade association and three users and suppliers requesting that agar-agar usage levels be established at from 0.5 percent to 1.8 percent in confections and frostings, 0.8 percent to 1.5 percent in baked goods, and 1.2 percent to 2.5 percent in all other food categories. However, no evidence was submitted with these comments to indicate that these requested levels represented current usage by food manufacturers.

Suggested or unsubstantiated usage levels do not necessarily represent current good manufacturing practice within the food industry. To establish that a certain usage level represents current good manufacturing practice, appropriate usage data based on a firsthand knowledge of current use of the ingredient in food processing should be submitted. Such adequate data is required to support new or extended uses of agar-agar in food. The Commissioner concludes that, except for

the levels suggested for confections and frostings, the usage levels for agar-agar suggested in these four comments do not represent current good manufacturing practice and cannot be affirmed as GRAS.

3. It was noted in the proposal that the Select Committee expressed concern about the possibility that harmful concentrations of certain toxic heavy metals may be accumulated in commercial agar-agar if algae are harvested from coastal waters contaminated with these metals. The Commissioner has shared this concern and has investigated the background levels of individual heavy metals in agar-agar during the comment period. This investigation was part of a larger survey of 26 elements found in several sea-derived food ingredients, including red and brown algae, agar-agar, alginates, and carrageenan. For the elements of toxic concern, the highest levels that were reported in this investigation were less than 10 parts per million (ppm) arsenic, less than 2 ppm cadmium, 0.06 ppm selenium, and less than 10 ppm lead. Mercury was not reported in this study. All of the samples in this FDA study were reported to have levels at or below the limits of detection for each of the four elements measured. A trade association also presented unpublished heavy metal analyses of 10 samples of agar-agar obtained from different sources. The levels found in these analyses were 0.05 ppm arsenic, 0.015 ppm cadmium, 0.01 to 0.09 ppm lead, 0.01 to 0.06 ppm mercury, and 0.02 ppm selenium. The significantly higher levels reported in the FDA study, compared with those in the trade association study, can be attributed to the much greater sensitivity of the FDA methodology.

The Commissioner concludes that the calculated levels of intake of these heavy metals resulting from the use of agar-agar in food are extremely low and of no toxicological significance. The Commissioner further concludes that there is no need to adopt specific heavy metal specifications for the continued safe use of agar-agar, other than those recommended by the "Food chemicals Codex," 2d Ed. (1972).¹ Therefore, no change in the proposed food-grade specifications for agar-agar has been adopted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated

¹ Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave, NW., Washington, DC 20037.

to the Commissioner (21 CFR 5.1), Parts 182 and 184 are amended as follows:

182.7115 [Deleted]

1. In Part 182 by deleting § 182.7115 *Agar-agar*.

2. In Part 184 by adding new § 184.1115 to read as follows:

§ 184.1115 Agar-agar.

(a) Agar-agar (CAS Reg. No. PM 9002-

18-0) is a dried, hydrophylic, colloidal polysaccharide extracted from one of a number of related species of red algae (class *Rhodophyceae*).

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),¹ which is incorporated by reference.

(c) The ingredient is used in food in accordance with § 184.1(b)(2) under the following conditions:

Maximum Usage Levels Permitted

Foods (as served)	Percent	Functions
Baked goods and baking mixes, § 170.3(n)(1) of this chapter.	0.8	Drying agent, § 170.3(o)(7) of this chapter; flavoring agent, § 170.3(o)(12) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.
Confections and frostings, § 170.3(n)(9) of this chapter.	2.0	Flavoring agent, § 170.3(o)(12) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter; surface finisher, § 170.3(o)(30) of this chapter.
Soft candy, § 170.3(n)(38) of this chapter.	1.2	Stabilizer and thickener, § 170.3(o)(28) of this chapter.
All other food categories.	25	Flavoring agent, § 170.3(o)(12) of this chapter; formulation aid, § 170.3(o)(14) of this chapter; humectant, § 170.3(o)(16) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective May 3, 1979.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: March 27, 1979.

William F. Randolph,

Acting Association Commissioner for Regulatory Affairs.

Note: Incorporation by reference was approved by the Director of the Office of the Federal Register on July 10, 1973 and is on file at the Federal Register Library.

[Docket No. 77N-0043]

[FR Doc. 79-10108 Filed 4-2-79; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 11

Appointment of Foreign Service Officers

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: These amendments reflect changes in policy and procedures being followed by the Department of State and the Board of Examiners of the Foreign Service in the appointment of Foreign Service officers through lateral entry.

EFFECTIVE DATES: January 1, 1979 for the exclusion of appointees to the Minority FSR Junior Officer Program and the Mustang Program from certain lateral entry procedures; December 15, 1976 for the elimination of the citizenship of spouse requirement for appointment; and November 1, 1978, for deletion of the "youngest 5 percent" requirement.

FOR FURTHER INFORMATION CONTACT: Wever Gim. (202) 235-9392.

SUPPLEMENTARY INFORMATION: The following summary highlights the major amendments to Part 11 of Title 22, Code of Federal Regulations:

1. The introductory sentence of § 11.11 is amended to reflect that candidates appointed to the Minority FSR Junior Officer Program or the Mustang Program on or after January 1, 1979 are subject to the commissioning and tenure process of the Career Candidate Program.

2. Section 11.11(d)(1) is amended to reflect the elimination of the citizenship of spouse requirement.

3. Section 11.11(d)(2) is amended to provide that appointees to the Minority FSR Junior Officer Program or the Mustang Program must meet the lateral entry service requirements on the date of commissioning action by the Commissioning and Tenure Board.

4. Section 11.11(d)(3)(i) is amended to eliminate the requirement that candidates for lateral entry must be no younger than the average of the youngest 5 percent of the officers

already in the class for which the candidates are applying.

5. Section 11.11(d)(4) is amended to eliminate certain exceptions to the certification of need requirement.

6. Other sections are amended to reflect editorial changes stemming from amendments mentioned above or from current organizational structure.

Compliance with 5 U.S.C. 553 (80 Stat. 383) as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendments to 22 CFR 11.11 are beneficial to individuals applying for lateral entry into the Foreign Service and involve management functions which are exempt from 5 U.S.C. 553. Accordingly, section 11.11 of Title 22, Code of Federal Regulations, is amended as set forth below.

1. The introductory paragraph of section 11.11 and paragraphs (d)(1), (d)(2)(i), (d)(3)(i) and (d)(4) are amended to read as follows:

§ 11.11 Lateral entry appointments of Foreign Service officers to classes 1 through 7.

Appointments of Foreign Service officers, under the provisions of section 517 of the Foreign Service Act of 1946, as amended, are governed by the regulations in this section, except that paragraphs (d)(4) through (j) of this section do not apply to candidates who, on or after January 1, 1979, (a) were appointed to the Foreign Service under the Minority FSR Junior Officer Program, or (b) were accepted into the Mustang Program. Such candidates are subject to the commissioning and tenure process of the Career Candidate Program (see Foreign Affairs Manual Circular No. 749 or successor regulation).

(d) **Eligibility requirements—(1) Citizenship.** Each person appointed as a Foreign Service officer must be a citizen of the United States.

(2) **Service.** (i) On the date of application, or in the case of a candidate specified in the introductory paragraph of this section, on the date of commissioning action by the Commissioning and Tenure Board, a candidate must have completed at least 3 years of service (4 years if under age 31) in a position of responsibility in a Federal Government agency or agencies. For this purpose, a position of responsibility is defined as service as a Foreign Service Reserve or Foreign Service Reserve Unlimited officer at class 7, as Foreign Service Staff officer at class 6, in the Civil Service at GS-9, or in the Armed Forces of the United States at the grade of first lieutenant or

lieutenant junior grade, or higher. The duties and responsibilities of the position occupied by the applicant must have been similar or closely related to that of a Foreign Service officer in terms of knowledge, skills, abilities, and overseas work experience. To be eligible, an applicant must have been or currently be in a grade or classes comparable to FSO-6 (FSO-7 if the applicant is a career Foreign Service Staff or Foreign Service Reserve officer of the Department of State currently serving in the Foreign Service under the Mustang Program or the Minority FSR Junior Officer Program), or be receiving a base salary at least equal to the first salary step of that class.

(3) *Age.* (i) On the date of application, a candidate for lateral entry must be at least 30 years old and under 54 (under 50 if applying for appointment initially as a Foreign Service Reserve officer (FSO candidate)). The minimum age for appointment under the lateral entry program is 31, either as an FSO or as an FSR (FSO candidate). The maximum age for a Foreign Service officer appointment is 54 and the maximum age for appointment as a Foreign Service Reserve officer (FSO candidate) is age 50.

(4) *Certification of need.* The Department must certify that there is a need for the applicant as an additional Foreign Service officer in all cases.

2. Other paragraphs within § 11.11 are changed editorially to read as follows:

(b) *Magnitude.* (1) The Department places no numerical limitation on the lateral appointment of Foreign Service Reserve, Foreign Service Reserve Unlimited, Foreign Service Staff, and Civil Service officers on its rolls who apply and are certified on the basis of need by personnel management authorities for examination and are found qualified by the Board of Examiners.

(d) *Eligibility requirements.* (1) * * *

(2) *Service.* (i) * * *

(ii) Candidates who lack the required number of years of Federal service will be considered if they apply under the provisions of paragraph (b)(3) of this section. If found qualified, the candidate will be employed as a Foreign Service Reserve officer (FSO candidate) at the conclusion of the required 3 years of service, the candidate's performance record will be reviewed by the Board of Examiners to determine if it is

sufficiently meritorious to justify appointment as a Foreign Service officer. If there is an affirmative finding, the candidate will be certified for such an appointment. If the candidate's performance record does not justify such certification the candidacy is terminated.

(3) *Age.* (i) * * *

(ii) The foregoing limitation regarding minimum age is not applicable to candidates of the Department of State currently serving in the Foreign Service under the Mustang Program or the Minority FSR Junior Officer Program, for whom the minimum age is 21.

(e) *Recruitment.* (1) * * *

(2) The Department also considers highly qualified applicants from other agencies of the Government and from outside the Federal service who meet the statutory and other eligibility requirements, and for whom there has been a certification of need as an additional Foreign Service officer. Appointments from these sources for the limited vacancies available are made on a competitive basis to fill specific needs after assuring that the vacancies cannot be filled by Foreign Service officers.

(f) *Methods of application.*—(1) *Forms.* * * *

(2) *Board action.* The Board of Examiners establishes a file for each applicant, placing therein all available documentation of value in evaluating the applicant's potential for appointment as a Foreign Service officer. The file is reviewed initially to determine if the applicant meets the statutory and other eligibility requirements and to assess the applicant's skills relative to the needs of the Service. The examination of candidates is based on the needs of the Service for specific skills and experience.

(g) *Examination for lateral entry.*—(1) *General provisions.* The filing of an application with the Board of Examiners for the Foreign Service does not in itself entitle an applicant to examination. The decision whether to proceed with an oral examination, as well as with a detailed background investigation, is made by the Board of Examiners after determining eligibility for appointment, medical qualifications, and a thorough review of the applicant's qualifications. Each applicant's background, experience, performance, and other related documentation are carefully studied and evaluated. Careful consideration is given to the functional needs of the Service in making this assessment. A certification of need to the Board of Examiners by the

Department's personnel management authorities is required before proceeding further with the examination. An oral examination is granted only in those cases where the applicant is found to possess superior qualifications, proven ability, and, at the middle levels, high potential for advancement.

(2) *Class of appointment.* In determining the class at which applicants are considered for appointment, the initial presumption is that the applicant is eligible for examination for the Foreign Service officer class which equates with the salary level at the time of examination. In evaluating qualifications and in conducting oral examinations, panels carefully assess applicants to determine whether their total qualifications compare favorably with officers at their current class level. However, the Board of Examiners, at its discretion, may certify an applicant for appointment as a Foreign Service officer at a class other than that equating to the salary in those instances where the Board determines that the applicant's qualifications clearly warrant such action. An applicant's total qualifications, as evaluated by the examining panels and the Board, will have an important bearing on the decision to certify an applicant for appointment at a class other than that which equates to the applicant's current salary.

(h) *Nature of examination.*—(1)

Medical. A medical examination is required for the applicant and any dependents who will reside with the applicant on tours abroad. Applicants and their dependents shall meet the physical requirements for full Foreign Service duty. Normally, failure to meet the medical requirements will preclude appointment as a Foreign Service officer. In exceptional cases, the appropriate Deputy Assistant Secretary for Personnel may grant a waiver of the physical requirements in the interest of the Service.

(5) *Written essay.* Applicants other than Department officers scheduled to take an oral examination will usually be asked to write an essay on the day of the examination on a topic to be specified to enable the panel of deputy examiners to judge the ability of the applicants to express themselves effectively and appropriately in writing.

(6) *Oral examination.* (i) * * *

(ii) The panel is responsible for determining whether the applicants are functionally qualified for work in the Service and whether they: (a) Would be

suitable representatives abroad for the United States; (b) have the potential to advance in the Foreign Service; and (c) have the background and experience to make a contribution to the Foreign Service.

(8) *Finding of examination panels.* Determination of duly constituted panels of examiners and deputy examiners are final, unless modified by specific action of the Board of Examiners for the Foreign Service for applicants already employed by the Department for whom a certification of need has been issued. The applications of all other applicants will be considered by a Final Review Panel after the results of security, medical reference checks and language tests are at hand. The Final Review Panel shall take into account the grade assigned by the examining panel as well as information developed subsequently concerning the applicant and a final numerical grade will be given. The applicant's file will then be placed before the Board of Examiners for review. If approved by the Board, the candidate's name will be entered on the rank-order register for the class and functional specialty for which the candidate has been found qualified.

(i) *Certification for appointment.* (1) Applicants already employed by the Department for whom a certificate of need has been issued will be certified by the Board of Examiners for appointment after satisfactorily completing all aspects of the examination. The class and salary for which they have been found qualified will be specified in the certification.

(j) *Termination of eligibility.* Applicants who have qualified but have not been appointed because of lack of vacancies will be dropped from the rank-order register 24 months after their names are entered on the register. The Chairman of the Board of Examiners may extend their eligibility period when, in the Chairman's judgment, such extension is justified.

(k) *Interchange of Foreign Service officers and Foreign Service information officers between the Department of State and the International Communication Agency.* As the result of an agreement between the Department of State and the International Communication Agency, Foreign Service officers desiring to become Foreign Service information officers and Foreign Service information officers desiring to become Foreign Service officers may

apply for lateral entry under the following provisions:

(2) *Certification of need—(i) From Foreign Service officer (FSO) to Foreign Service information officer (FSIO) status.* When a Foreign Service officer wishes to convert to Foreign Service information officer status, a certification of need is required from the Director, Office of Personnel Services, International Communication Agency, and approval is required by the appropriate Deputy Assistant Secretary for Personnel, Department of State, for the officer's release to the International Communication Agency.

(ii) *From Foreign Service information officer (FSIO) to Foreign Service officer (FSO) status.* When a Foreign Service information officer wishes to convert to Foreign Service officer status, a certification of need is required from the appropriate Deputy Assistant Secretary for Personnel, Department of State, and approval is required by the Director, Office of Personnel Services, International Communication Agency, for the officer's release to the Department of State.

(3) *Waiver of oral examination.* The oral examination requirement for lateral entry candidates from the Department of State to the International Communication Agency and vice versa is waived for candidates who otherwise satisfy the requirements established under paragraphs (d)(1), (2), and (3), paragraphs (h), (1), (2), and (3), and other appropriate provisions of this section. A review by the Board of Examiners is not required. The Executive Director of the Board of Examiners for the Foreign Service will certify the eligibility of candidates for appointments after the provisions under paragraph (k)(2)(i) or (ii) of this section, as appropriate, have been met.

(Secs. 212, 302, 303, 516, 517, 60 Stat. 1001, as amended, 1002, 1008, as amended; (22 U.S.C. 827, 842, 843, 911).

Dated: March 28, 1979.

For the Secretary of State.

Ben H. Read,

Under Secretary for Management, Department of State.

[Dept. Reg. 108.773]

[FR Doc. 79-10219 Filed 4-2-79; 845 am]

BILLING CODE 4710-15-M

DEPARTMENT OF STATE

22 CFR Part 51

Passports; Waiver of Personal Appearance for Certain Applicants Abroad

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department's regulation governing the execution of passport applications is revised to extend to certain Foreign Service Posts abroad authority to accept passport applications in certain cases without requiring the personal appearance of applicants before consular officers. In addition, the Department regulation pertaining to photographs which are acceptable for use in passports is revised to eliminate the arbitrary period of time within which the picture must have been taken.

EFFECTIVE DATE: April 4, 1979.

FOR FURTHER INFORMATION CONTACT:

A. R. Mackay, (202) 632-4770.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register (43 FR 51410, November 3, 1978) inviting interested persons to submit comments concerning the amendment by December 29, 1978. No unfavorable comments were received; therefore, the proposed amendment is adopted, without change, as set forth below.

For the Secretary of State.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

March 7, 1979.

In Title 22 CFR §§ 51.21 and 51.25 are amended as follows:

1. Section 51.21 is revised to read:

§ 51.21 Execution of passport application.

(a) *First-time applicants or persons who have not been issued a passport within 8 years of the date of a new application.* 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 8 years of the date of a new application, shall appear in person, verify the application by oath or affirmation before a person authorized by the Secretary to give oaths, 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:

- (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;