La Crosse, WI, La Crosse Rgnl, VOR RWY 36, Amdt 32A, CANCELLED
Menomonie, WI, Menomonie Muni-Score Field, RNAV (GPS) RWY 9, Amdt 1
Menomonie, WI, Menomonie Muni-Score Field, RNAV (GPS) RWY 27, Amdt 1
Menomonie, WI, Menomonie Muni-Score Field, Takeoff Minimums and Obstacle DP, Amdt 2
West Bend, WI, West Bend Muni, LOC RWY 31, Orig-D, CANCELLED
Berkeley Springs, WV, Potomac Airpark, RNAV (GPS) RWY 11, Amdt 1A
Berkeley Springs, WV, Potomac Airpark, RNAV (GPS) RWY 29, Amdt 1A
Berkeley Springs, WV, Potomac Airpark, Takeoff Minimums and Obstacle DP, Amdt 2
Parkersburg, WV, Mid-Ohio Valley Rgnl, ILS OR LOC RWY 3, Amdt 14C
Parkersburg, WV, Mid-Ohio Valley Rgnl, RNAV (GPS) RWY 3, Amdt 2C
Parkersburg, WV, Mid-Ohio Valley Rgnl, RNAV (GPS) RWY 10, Orig-C
Parkersburg, WV, Mid-Ohio Valley Rgnl, RNAV (GPS) RWY 21, Amdt 2D
Parkersburg, WV, Mid-Ohio Valley Rgnl, RNAV (GPS) RWY 28, Orig-C
Parkersburg, WV, Mid-Ohio Valley Rgnl, VOR RWY 21, Amdt 17D
Casper, WY, Casper/Natrona County Intl, LOC RWY 8, Orig, CANCELLED
Powell, WY, Powell Muni, NDB RWY 31, Amdt 2C
Powell, WY, Powell Muni, RNAV (GPS) RWY 13, Orig-C
Powell, WY, Powell Muni, RNAV (GPS) RWY 31, Orig-C

[FR Doc. 2019–07830 Filed 4–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 41 and 42

[Public Notice 10481]

RIN 1400–AE64

Refusal Procedures for Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule is largely technical in nature and conforms a narrow aspect of the Department's visa regulations to the law. The current regulation requires consular officers either to grant or deny every visa application; however, the law requires consular officers to take a different action, *i.e.,* discontinue granting visas, when a country has been sanctioned for denying or delaying accepting one or more of its nationals subject to a final order of removal from the United States. This rule will modify the current regulation to reflect this option for consular officers to discontinue granting visas to individuals in sanctioned countries.

DATES: This rule is effective on April 22, 2019.

FOR FURTHER INFORMATION CONTACT: Taylor Beaumont, Acting Chief, Legislation and Regulations Division, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485–8910, *VisaRegs@state.gov.*

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

The Department of State is promulgating this rule to provide guidance to consular officers implementing section 243(d) of the Immigration and Nationality Act, as amended, codified at 8 U.S.C. 1253(d) (hereinafter INA 243(d)), which is a tool for the U.S. government to use to stop the growth of an alien population in the United States that the U.S. government is having difficulty removing, due to a lack of cooperation by the country of nationality. At the same time compelling foreign governments to cooperate on removing from the United States aliens subject to final orders of removal is an important U.S. government objective. This rule makes clear that discontinuation of visa granting is an acceptable alternative to issuing or refusing a properly executed visa application, and sets out procedures for discontinuation of visa issuance when INA 243(d) applies.

Section 243(d) of the INA provides that the Secretary of State—following notification from the Secretary of Homeland Security that the government of a foreign country has denied or unreasonably delayed accepting an alien who is the citizen, subject, national, or resident of that country and is subject to a final order of removal from the United States—shall order consular officers in that foreign country to ''discontinue granting'' immigrant visas, nonimmigrant visas, or both to citizens, subjects, nationals, or residents in that country. This provision initially existed in Section 243(g) of the INA, but was limited to immigrant visas. In 1996, Congress re-designated the provision as Section 243(d) and added discontinuation of the granting of nonimmigrant visas by U.S. consular officers in the country as a potential additional sanction against a country that denies or unreasonably delays accepting a covered individual. The Secretary of State imposes such visa sanctions by issuing an order to consular officers that describes the category or categories of visas and applicants subject to discontinuation of visa granting; the order can include escalation measures if initial sanctions prove ineffective at encouraging the foreign government's cooperation on removals. For example, the Secretary could order consular officers to discontinue granting B–1 and B–2 visas for personal travel by ministers of a foreign government, with an escalation measure that requires discontinuation of F-category student visas for members of the same foreign officials' families after 6 months, if the country remains uncooperative on removals.

Current regulations describing a consular officer's authority to refuse visas state that the officer must issue or refuse a visa when a ''properly completed and executed'' visa application is submitted (*see* 22 CFR 41.121(a) and 22 CFR 42.81(a) (relating to nonimmigrant and immigrant visas, respectively)), but make no reference to a consular officer ''discontinuing granting'' a visa when the Secretary of State issues an INA 243(d) order. INA 243(d) sanctions are referenced only in 22 CFR 42.71(a), prohibiting a consular officer from issuing an immigrant visa when barred by sanctions under INA 243(d), unless the sanction has been waived by DHS. This rule will better inform the public of the third option established by statute, by inserting language in 22 CFR 41.121(a) and 22 CFR 42.81(a) indicating that the consular officer may discontinue granting (*i.e.,* suspend issuance of) a visa, as an alternative to issuance or refusal, in the manner described in the two new sections.

Two new sections, 22 CFR 41.123 and 22 CFR 42.84, (relating to nonimmigrant and immigrant visas, respectively), describe procedures for consular officers who discontinue granting visas to applicants who fall within the scope of an INA 243(d) order. These sections explain, among other things, that beginning on the effective date of the Secretary's INA 243(d) order, no visas that fall within the scope of the order may be issued, but, in cases where an alien has applied for a visa that falls within that scope of the order and the alien is found to be ineligible for such visa, the application may be refused. The new sections also explain that discontinuance of granting may not be waived, but once the sanction under INA 243(d) is lifted, consular officers within the affected post must complete adjudication of the visa application, consistent with regulations and Department guidance, such as the Foreign Affairs Manual (FAM).

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule because it is exempt from notice and comment under the foreign affairs exemption of the Administrative Procedure Act (APA), 5 U.S.C. 553(a). In light of the impact sanctions have on bilateral relations, it is clear this rule ''implicates matters of diplomacy directly.'' *City of N.Y.* v. *Permanent Mission of India to the U.N.,* 618 F.3d 172, 202 (2d Cir. 2010).

In addition to providing a tool for the U.S. government to stem the growth of populations of an alien population in the United States that the U.S. government is having difficulty removing, due to a lack of cooperation by the country of nationality, INA 243(d) creates a tool for use in U.S. diplomatic efforts: A means of prompting foreign governments to acquiesce in a request by the United States to take back the foreign government's nationals by discontinuing grants of visas to that government's nationals. Indeed, Section 243(d) is a key component of U.S. diplomatic efforts. The provision comes into play only after notification to the Secretary of State that the Secretary of Homeland Security has exhausted all appropriate efforts for a foreign government to accept its nationals who have been ordered removed from the United States and the foreign government has refused to make any significant progress on the issue. It functions by lending weight to the efforts of the Secretary of Homeland Security and incentivizing a recalcitrant government to retract its refusal. And it ceases to operate when the Secretary of State is notified that the government at issue has acceded to the Secretary of Homeland Security's request. Thus, every exercise of Section 243(d) directly implicates actual diplomacy; a regulation creating the procedure for using this tool likewise has similar consequences. Therefore, this regulation is exempt from 5 U.S.C. 553 of the APA because it involves a foreign affairs function of the United States.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth by the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. Any economic impact the rule may seem to have actually is attributable to the underlying law, INA 243(d), which this rule directly implements.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804. The Department is aware of no monetary effect on the economy that would directly result from this rulemaking, nor will there be any increase in costs or prices; or any effect on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866/Executive Order 13563

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866. This rule governs the technical aspects of visa procedures required for implementation of INA 243(d), ensuring that guidance regarding that statue is clear and consistent across visa categories and posts.

The exercise of authority under INA 243(d), consistent with this regulation, would restrict the ability of some visa applicants, including potentially large numbers of visa applicants from a given country who apply for visas in that country, from obtaining U.S. visas—, which could in turn have economic impact on individual transactions within the United States associated with the applicant's proposed purpose of travel. Consular officers may not discontinue granting visas under this regulation for any purpose beyond that explicitly authorized already by INA 243(d), which authorizes the Secretary of Homeland Security to notify the Secretary of State that a country has denied or unreasonably delayed accepting an alien subject to a final order of removal, and thereafter requires the Secretary of State to issues an order describing the scope of visa sanctions to be imposed.

Historically, the Secretary of State has strategically tailored visa sanctions to achieve critical foreign policy objectives, taking into account the circumstances of the country or population being targeted by the sanctions. There is no set formula, though, notably State has never issued a blanket refusal for visas from the country in question. For some countries, sanctions begin by targeting officials who work in the ministries responsible for accepting the return of that country's nationals, with escalation scenarios that target family members of those officials and, potentially, officials of other ministries, and then other categories of applicants, if initial sanctions do not prove effective at encouraging greater cooperation on removals by the targeted government. For other countries, sanctions could begin more broadly. As provided for in INA 243(d), any country that fails to cooperate in the repatriation of its nationals subject to final orders of removal from the United States may be subject to sanctions, the scope of which will depend on the circumstances at the time the sanctions are implemented.

Since the law was modified to cover nonimmigrant visas in 1996, 318 visa applicants have been affected, and sanctions have been imposed on 10 countries: Guyana (2001), The Gambia (2016), Cambodia, Eritrea, Guinea, and Sierra Leone (2017); Burma and Laos (2018); and Ghana and Pakistan (2019). During this same time period, tens of millions of aliens have received nonimmigrant visas including, collectively, millions of applicants from the 10 countries affected. Given the scope of historic INA 243(d) sanctions, and the scale of nonimmigrant visa travel to the United States as a whole, the economic impact of INA 243(d) visa sanctions to date has been *de minimis,* but far broader sanctions could be imposed to achieve the objectives of INA 243(d). Because future application of these sanctions is based on unpredictable actions by foreign governments; complex assessments by DHS that cannot be pre-determined; and strategic foreign policy-related decisions by the Secretary of State, taking into account the circumstances of the bilateral relationship at the particular time, the Department is unable to estimate any particular future economic impact of INA 243(d) sanctions.

The Office of Management and Budget (OMB) has determined that this is a significant regulatory action under Executive Order 12866. As such, OMB has reviewed this regulation.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563: Improving Regulation and Regulatory Review

The Department has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of Executive Order 13771, because its likely impact is *de minimis.*

Paperwork Reduction Act

This rule does not impose new or revised information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects

22 CFR Part 41

Aliens, Foreign officials, Immigration, Documentation of nonimmigrants, Passports and visas.

22 CFR Part 42

Immigration, Passports and visas.

For the reasons stated in the preamble, the Department of State amends 22 CFR parts 41 and 42 as follows:

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 1. The authority citation for part 41 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1201, 1202, 1253; 6 U.S.C. 236; Public Law 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

■ 2. In § 41.121, the section heading and paragraph (a) are revised to read as follows:

§ 41.121 Refusal of nonimmigrant visas.

(a) *Grounds for refusal.* Nonimmigrant visa refusals must be based on legal grounds, such as one or more provisions of INA 212(a), INA 212(e), INA 214(b) or (f) or (l) (as added by Section 625 of Pub. L. 104–208), INA 221(g), INA 222(g), or other applicable law. Certain classes of nonimmigrant aliens are exempted from specific provisions of INA 212(a) under INA 102 and, upon a basis of reciprocity, under INA 212(d)(8). When a visa application has been properly completed and executed in accordance with the provisions of the INA and the implementing regulations, the consular officer must issue the visa, refuse the visa, or, pursuant to an outstanding order under INA 243(d), discontinue granting the visa.

* * * * *

■ 3. Add § 41.123 to read as follows:

§ 41.123. Discontinuance of Granting Nonimmigrant Visa Pursuant to INA 243(d).

(a) *Grounds for discontinuance of granting a visa.* Consular officers in a country subject to an order by the Secretary under INA 243(d) shall discontinue granting nonimmigrant visas for categories of nonimmigrant visas specified in the order of the Secretary (or his or her designee), and pursuant to procedures dictated by the Department.

(b) *Discontinuance procedure*—(1) *Applications refused or discontinued only.* Starting on the day the Secretary's (or designee's) order to discontinue granting visas takes effect (effective date), no visas falling within the scope of the order, as described by the order, may be issued in the referenced country to an applicant who falls within the scope of the order, except as otherwise expressly provided in the order or related Department instructions. Beginning on the effective date, a consular officer must refuse the visa if the individual is not eligible for the visa under INA 212(a), INA 221(g), or other applicable law, but if the applicant is otherwise eligible, must process the application by discontinuing granting, regardless of when the application was filed, if the applicant falls within the scope of the order and no exception applies. The application processing fee will not be refunded. The requirement to discontinue issuance may not be waived, and continues until the sanction is terminated as described below.

(2) *Geographic applicability.* Visa sanctions under INA 243(d) only apply to visa issuance in the country that is sanctioned. If a consular officer has a reason to believe that a visa applicant potentially subject to INA 243(d) sanctions is applying at a post outside the sanctioned country to evade visa sanctions under INA 243(d) (*e.g.,* the applicant provides no credible explanation for applying outside the country), the consular officer will transfer the case to the consular post in the consular district where INA 243(d) sanctions apply, review any other applicable Department instructions, and proceed accordingly. When cases are transferred to a consular district where INA 243(d) sanctions apply, the adjudication will be subject to the discontinuation of issuance under the sanctions.

(c) *Termination of sanction.* The Department shall notify consular officers in an affected country when the sanction under INA 243(d) has been lifted. After notification, normal consular operations may resume consistent with these regulations and guidance from the Department. Once the sanction under INA 243(d) is lifted, no new application processing fee is required in cases where issuance has been discontinued pursuant to an INA 243(d) order, and consular officers in the affected post must adjudicate the visa consistent with regulations and Department guidance. Consular officers may require applicants to update the visa application forms, must conduct any necessary adjudicatory steps, and may re-interview the applicant to determine eligibility.

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 4. The authority citation for part 42 continues to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1201, 1202, 1253; 6 U.S.C. 236; Public Law 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

■ 5. In § 42.81, the section heading and paragraph (a) are revised to read as follows:

§ 42.81 Procedure in refusing immigrant visas.

(a) *Grounds for refusal.* When a visa application has been properly completed and executed before a consular officer in accordance with the provisions of the INA and the implementing regulations, the consular

officer must issue the visa, refuse the visa under INA 212(a) or 221(g) or other applicable law or, pursuant to an outstanding order under INA 243(d), discontinue granting the visa.

* * * * *

■ 6. Add § 42.84 to read as follows:

§ 42.84 Discontinuance of Granting Immigrant Visa Pursuant to INA 243(d).

(a) *Grounds for discontinuance of granting a visa.* Consular officers in a country subject to an order by the Secretary under INA 243(d) shall discontinue granting immigrant visas for categories of immigrant visas specified in the order of the Secretary (or his or her designee), and pursuant to procedures dictated by the Department.

(b) *Discontinuance procedure*—(1) *Applications refused or discontinued only.* Starting on the day the Secretary's (or designee's) order to discontinue granting visas takes effect (effective date), no visas falling within the scope of the order, as described by the order, may be issued in the referenced country to an applicant who falls within the scope of the order, except as otherwise expressly provided in the order or related Department instructions. Beginning on the effective date, a consular officer must refuse the visa if the individual is not eligible for the visa under INA 212(a), INA 221(g), or other applicable law, but if the applicant is otherwise eligible must process the application by discontinuing granting, regardless of when the application was filed, if the applicant falls within the scope of the order and no exception applies. The application processing fee will not be refunded. The requirement to discontinue issuance may not be waived, and continues until the sanction is terminated as described below. In the case of diversity immigrant selectees applying under INA 203(c), if the discontinuance of granting has not been lifted by the end of the fiscal year, the applicant will not be eligible for a diversity visa for that fiscal year, regardless of the status of the diversity immigrant visa application at the time 243(d) sanctions were imposed.

(2) *Geographic applicability.* Visa sanctions under INA 243(d) only apply to visa issuance in the country that is sanctioned. If a consular officer has a reason to believe that a visa applicant potentially subject to INA 243(d) sanctions is applying at a post outside the sanctioned country to evade visa sanctions under INA 243(d), (*e.g.,* the applicant provides no credible explanation for applying outside the country) the consular officer will transfer the case to the consular post in the consular district where INA 243(d) sanctions apply, review any other applicable Department instructions and proceed accordingly. When cases are transferred to a consular district where INA 243(d) sanctions apply, the adjudication will be subject to the discontinuation of issuance under the sanctions.

(b) *Termination of sanction.* The Department shall notify consular officers in an affected country the sanction under INA 243(d) has been lifted. After notification, normal consular operations may resume consistent with these regulations and guidance from the Department. Once the sanction under INA 243(d) is lifted, no new application processing fees are required in cases where issuance has been discontinued pursuant to an INA 243(d) order, and consular officers in the affected post must adjudicate the visa application consistent with regulations and Department guidance. Consular officers may require applicants to update the visa application forms, must conduct any necessary adjudicatory steps, and may re-interview to determine eligibility. In numerically controlled immigrant visa categories, an applicant's immigrant visa priority date may no longer be current once sanctions under INA 243(d) are lifted, in which case the applicant must await visa availability.

Dated: April 11, 2019

Carl C. Risch,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 2019–08061 Filed 4–19–19; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0160]

RIN 1625–AA00

Safety Zone; Sabine River, Orange, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX. This action is necessary to protect persons and vessels from hazards associated with a high-speed Jet Ski race competition in Orange, TX. Entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur or a designated representative.

DATES: This rule is effective from 10 a.m. on April 27, 2019 through 6 p.m. on April 28, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0160 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Scott Whalen, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409–719–5086, email *Scott.K.Whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Marine Safety Unit Port Arthur
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable. This safety zone must be established by April 27, 2019 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the dates of the high-speed races and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because immediate action is needed to protect persons and vessels from the potential