

---

## **DOS Final Rule Eliminates Board of Appellate Review for Loss of Citizenship**

Cite as "AILA InfoNet Doc. No. 08102161 (posted Oct. 21, 2008)"

[Federal Register: October 20, 2008 (Volume 73, Number 203)]

[Rules and Regulations]

[Page 62196-62197]

From the Federal Register Online via GPO Access [[wais.access.gpo.gov](http://wais.access.gpo.gov)]

[DOCID:fr20oc08-3]

-----  
DEPARTMENT OF STATE

22 CFR Parts 7 and 50

[Public Notice: 6398]

Board of Appellate Review; Review of Loss of Nationality

AGENCY: State Department.

ACTION: Final rule.

-----  
SUMMARY: This rule eliminates the Department's Board of Appellate Review (L/BAR), which had been authorized to review certain Department determinations, in particular those related to loss of citizenship and passport denials. Because L/BAR's jurisdiction has been superseded or made obsolete, and in large part replaced by review of loss of citizenship and passport matters by the Bureau of Consular Affairs, this rule eliminates L/BAR and authorizes on a discretionary basis an alternative, less cumbersome review of loss of nationality determinations by the Bureau of Consular Affairs.

DATES: This rule is effective October 20, 2008.

FOR FURTHER INFORMATION CONTACT: Monica A. Gaw, Office of Policy Review and InterAgency Liaison, Overseas Citizens Services, who may be reached at (202) 736-9110, e-mail [GAWMA@state.gov](mailto:GAWMA@state.gov).

SUPPLEMENTARY INFORMATION: The Department published an interim final rule, Public Notice 6298 at 73 FR 41256 (July 18, 2008), with 60 days for post-promulgation comment, amending 22 CFR by removing the regulations in Part

[[Page 62197]]

7 that established the Board of Appellate Review (L/BAR) and revising Sec. 50.51 to provide for an alternative method of review of loss of nationality determinations on a discretionary basis.

The rule was discussed in detail in Public Notice 6298, as were the Department's reasons for making the changes to the regulations. There were no comments to the interim final rule published July 18, 2008. The Department is now promulgating a final rule with no changes.

#### Regulatory Findings

##### Administrative Procedure Act

The Department published this rule as an interim final rule on July 18, 2008, with 60 days for post-promulgation comment, in accordance with the exemption contained in 5 U.S.C. 553(a)(2) for matters relating to agency management or personnel.

##### Regulatory Flexibility Act

Since this action is exempt from the notice and comment procedures contained in 5 U.S.C. 553, and no other statute mandates such procedures, no analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) is required. However, these changes to the regulations are hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 13272, section 3(b).

##### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

#### Executive Order 12866

The Department does not consider this rule to be a "significant regulatory action" within the scope of section 3(f)(1) of Executive Order 12866. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

#### Executive Order 12988--Civil Justice Reform

The Department has reviewed this regulation in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### 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 on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have significant federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

#### National Environmental Policy Act

The Department has analyzed this regulation for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4327) and has determined that it will not have any effect on the quality of the environment.

#### The Paperwork Reduction Act of 1995

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq.

#### List of Subjects

22 CFR Part 7

Board of Appellate Review.

22 CFR Part 50

Citizenship, Nationality, Loss of Nationality.

Accordingly, the interim rule amending 22 CFR parts 7 and 50 published at 73 FR 41256, July 18, 2008 is adopted as final without change.

Dated: October 7, 2008.

Janice L. Jacobs,

Assistant Secretary of State, Bureau of Consular Affairs, Department of State.

[FR Doc. E8-24472 Filed 10-17-08; 8:45 am]

BILLING CODE 4710-06-P

---

Copyright © 1993–2008, American Immigration Lawyers Association.  
Suite 300, 1331 G Street, NW, Washington, DC 20005  
Copyright & Reprint Policy