The request for an extension of time must give the reasons why the final appeal form was not filed within the time limit prescribed in this section. If in the judgment of the Board the reasons given establish that the party has good cause for not filing the final appeal form within the time limit prescribed, the Board will consider the appeal to have been filed in a timely manner. The Board will use the standards found in § 320.10(e) of this part in determining if good cause exists.

(b) Where a timely appeal seeking waiver of recovery of an erroneous payment has been filed with the three-member Board, the Board shall not commence recovery of the erroneous payment by suspension or reduction of a monthly benefit payable by the Board until a decision with respect to such appeal seeking waiver has been made and notice thereof has been mailed to the claimant.

21. The heading of § 320.40 is revised, and a new paragraph(d) is added to read as follows:

§ 320.40 Procedure before the Board on appeal from a decision of a hearings officer.

* * * * *

(d) Any party may submit additional argument in writing with the appeal to the Board. No party shall have the right to an oral presentation before the Board except where the Board so permits. Such presentation may be limited in form, subject matter, length, and time as the Board may indicate to the parties.

22. Section 320.49 is revised to read as follows:

§ 320.49 Determination of date of filing.

(a) *General rule.* Except as otherwise provided in paragraph (b) of this section, for purposes of this part, a document or form is filed on the day it is received by an office of the Board or by an employee of the Board who is authorized to receive it at a place other than one of the Board's offices.

(b) *Other dates of filing.* The Board will also accept as the date of filing the date a document or form is mailed to the Board by the United States mail, if using the date the Board receives it would result in the loss or lessening of rights. The date shown by a U.S. postmark will be used as the date of mailing. If the postmark is unreadable, or there is no postmark, the Board will consider other evidence of when the document or form was mailed to the Board.

(c) *Use of electronic mail.* By agreement between a base-year employer and the Board, any document required to be filed with the Board or any notice required to be sent to the employer may be transmitted by electronic mail.

Dated: December 11, 2002.

By Authority of the Board,

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–31640 Filed 12–16–02; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF STATE

22 CFR Part 40

[Public Notice 4218]

Visas: Uncertified Foreign Health-Care Workers

AGENCY: Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule changes the requirements pertaining to the issuance of visas to certain foreign health care workers. It provides that an alien who seek to enter the United States to perform health-care services (other than a physician) is excludable unless the alien presents a certificate establishing the alien's competency in a specific health care field issued by the Commission on Graduates of Foreign Nursing Schools (CGFNS) or another credentialing organization approved by the Attorney General through the Immigration and Naturalization Service (INS). The promulgation of this rule is necessary in order to comply with U.S. laws regarding the inadmissibility of aliens into the United States. The rule will result in the imposition of a requirement for certain visa applicants seeking to enter the United States as health care workers to obtain documentation of their professional credentials and qualifications from approved private credentialing agencies and provide that documentation to a consular officer in order to qualify for visa issuance.

DATES: Effective date: This interim rule is effective on December 17, 2002.

Comment date: The Department will consider comments submitted on or before February 18, 2003.

ADDRESSES: Please submit comments in duplicate to Chief, Legislation and Regulations Division, Visa Services, Department of State, 20520–0106, by e-mail to *VisaRegs@state.gov,* or by fax at 202–663–3898.

FOR FURTHER INFORMATION CONTACT: Penafrancia D. Salas, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, 202–663–2878.

SUPPLEMENTARY INFORMATION:

What Is the Authority for This Rule?

Section 343 of the Illegal Immigration Reform and Immigrant Responsibility Ac (IIRIRA), Pub. L. 104–208, 110 Stat. 3009, 636–37 (1996), created a new ground of inadmissibility and visa ineligibility now codified as section 212(a)(5)(C) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(5)(C). It provides that, subject to section 212(r) of the INA, an alien who seeks to enter the United States for the purpose of performing labor as a health care worker, other than as a physician, is excludable (inadmissible) unless the alien presents to the consular officer a certificate from the CGFNS or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services (HHS) verifying that:

(a) The alien's education, training, license, and experience meet all applicable statutory and regulatory requirements for admission to the United States under the classification specified in the application; are comparable with that required for an American health care worker of the same type; are authentic; and, in the case of a license, unencumbered; and

(b) The alien has the level of competence in oral and written English considered by the Secretary of HHS in consultation with the Secretary of Education, to be appropriate for the health care work of the kind in which the alien will be engaged; as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

(c) If a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing or certification examination, that the alien has passed such an examination.

INA section 212(r) mandates separate certification procedures for certain aliens seeking to enter the United States to perform nursing services. In general, such procedures apply to those aliens who already possess a valid State license and who received their nursing training in a country where the quality of education and the English proficiency of nursing graduates have been recognized by the CGFNS as meeting its standards.

How Is the Department Amending Its Regulations?

The Department is adding a new section to its regulations at 22 CFR 40.53 that instructs a consular officer to obtain the appropriate statutorily required certification of competency from an alien seeking to enter the United States to perform services in certain health care occupations, prior to issuing an immigrant or a nonimmigrant visa to the alien.

Does the Department Intend To Continue To Exercise Its Discretion Under Section 212(d)(3)(A) of the INA to Temporarily Waive This Inadmissibility for Nonimmigrant Aliens Seeking To Enter the United States as Health Care Workers Where There May Be Conflict With the North American Free Trade Agreement (NAFTA)?

The Department and INS have exercised their joint discretion under section 212(d)(3)(A) to waive the certification requirement for nonimmigrants due to a possible conflicting obligation of the United States under NAFTA. The Department will continue to use its discretion to temporarily waive this inadmissibility for nonimmigrant health care workers until concerned Executive branch agencies resolve the apparent conflict.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule is based upon the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The amendment to the regulation simply implements a legislative mandate without interpretation and codifies current practices. Therefore, the Department has determined that it is appropriate to publish this rule as an interim rule. Nevertheless, the Department will solicit comments from the public.

The Regulatory Flexibility Act

The Department of State, pursuant with the Regulatory Flexibility Act (5 U.S.C. 605(b), has assessed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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 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 export markets.

Executive Order 12866

Although this rule is being promulgated in conjunction with the Immigration and Naturalization Service, a domestic agency, the Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department has reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 13132

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 sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 40

Aliens, Nonimmigrants, Immigrants, Documentation, Passports and visas.

For the reasons set forth in the preamble, the Department is amending the regulations at 22 CFR part 40 to read as follows:

PART 40—[AMENDED]

1. The authority citation for part 40 shall continue to read:

Authority: 8 U.S.C. 1104.

2. Section 40.53 is added to read as follows:

§ 40.53 Uncertified Foreign Health-Care Workers.

(a) Subject to paragraph (b) of this section, a consular officer must not issue a visa to any alien seeking admission to the United States for the purpose of performing services in a health care occupation, other than as a physician, unless, in addition to meeting all other requirements of law and regulation, the alien provides to the officer a certification issued by the Commission On Graduates of Foreign Nursing Schools (CGFNS) or another credentialing service that has been approved by the Attorney General for such purpose, which certificate complies with the provisions of sections 212(a)(5)(C) and 212(r) of the Act, 8 U.S.C. 1182(a)(5)(C) and 8 U.S.C. 1182(r), respectively, and the regulations found at 8 CFR 212.15.

(b) Paragraph (a) of this section does not apply to an alien:

1. Seeking to enter the United States in order to perform services in a non-clinical health care occupation as described in 8 CFR 212.15(b)(1); or

2. Who is the immigrant or nonimmigrant spouse or child of a foreign health care worker and who is seeking to accompany or follow to join as a derivative applicant the principal alien to whom this section applies; or

3. Who is applying for an immigrant or a nonimmigrant visa for any purpose other than for the purpose of seeking entry into the United States in order to perform health care services as described in 8 CFR 212.15.

Dated: November 29, 2002.

George C. Lannon,

Acting Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 02–31603 Filed 12–16–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 4217]

Exchange Visitor Program; Correction

AGENCY: Department of State.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to a regulation published in the **Federal Register** by the United States Information Agency (USIA) on May 28, 1997 [62 FR 28801]. The regulation relates to requests for a