

TITLE 75: OFFICE OF THE GOVERNOR

SUBCHAPTER 75-10.1 CERTIFICATES OF IDENTITY REGULATIONS

Subchapter Authority: 3 CMC § 4123; Executive Order 94-3 § 201.

Subchapter History: Adopted 17 Com. Reg. 13819 (Nov. 15, 1995) (repealing the 1978 Certificates of Identity Regulations); Proposed 17 Com. Reg. 13724 (Oct. 15, 1995); Adopted 1 Com. Reg. 47 (Nov. 16, 1978); Proposed 1 Com. Reg. 33 (Oct. 16, 1978).

Commission Comment: 1 CMC §§ 2051-2053 create an Office of the Governor within the Commonwealth government, charged with the duties provided by law.

PL 1-8, tit. 1, ch. 3, §§ 5 and 6 (effective Aug. 10, 1978) originally created an Office of Immigration and Naturalization within the Office of the Attorney General, responsible for the day-to-day supervision and administration of matters involving immigration, emigration and naturalization. See 1 CMC §§ 2171-2172 (1999).

PL 1-6 (effective July 14, 1978), codified at 3 CMC §§ 4121-4132, provides for the issuance of certificates of identity to interim citizens of the United States, as defined in the act. See 3 CMC § 4121. 3 CMC §§ 4122 and 4123 authorize the Chief of Immigration to issue certificates of identity and to promulgate rules and regulations to accomplish the purposes of the act and enforce its provisions.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 §§ 103, 201 and 301:

Section 103. Department of Commerce.

The Department of Commerce and Labor is redesignated the Department of Commerce.

...

Section 201. Passports and Certificates of Identity.

The functions of the Attorney General and the Immigration and Naturalization Officer (including those as Chief of Immigration) relating to Certificates of Identity or United States passports are transferred to the Governor and delegated to the Special Assistant for Administration. The Special Assistant for Administration may designate any qualified officer or employee of the Commonwealth Government to serve as an examining officer pursuant to 3 CMC § 4126.

Section 301. Department of Labor and Immigration.

(a) Department Established. There is hereby established a Department of Labor and Immigration which shall have at its head a Secretary of Labor and Immigration.

...

(c) Immigration.

(1) The Office of Immigration and Naturalization is re-designated the Immigration Service and is transferred to the Department of Labor and Immigration as a division of that department. The Immigration Service shall have at its head a Director of Immigration, who shall have all the powers assigned by law to the Immigration and Naturalization Officer, except any power transferred pursuant to Section 201 of this plan. The position of Immigration and Naturalization Officer is abolished.

(2) All functions of the Attorney General relating to immigration and naturalization, are transferred to the Secretary of Labor and Immigration except:

- (A) any function transferred pursuant to Section 201 of this plan,
- (B) the hearing of immigration appeals as provided in 3 CMC § 4336(d), and
- (C) the constitutional function of legal representation.

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The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returned the immigration functions of the executive branch to the Office of the Attorney General. According to Executive Order 03-01 § 101:

Section 101. Office of the Attorney General: Division of Immigration. The Division of Immigration, Department of Labor and Immigration is transferred to the Office of the Attorney General to be headed by a Director of Immigration who shall be appointed and serve at the pleasure of the Attorney General. The position shall be exempted from the civil service system pursuant to PL 13-1.

- (a) The Director of Immigration shall:
- (1) have powers and duties set forth in 3 CMC § 4311;
 - (2) enforce, under the supervision of the Attorney General, 3 CMC §§ 4121 et seq., the Commonwealth Entry and Deportation Act, as amended; and
 - (3) perform any function regarding immigration and naturalization matters including passport matter transferred pursuant to Executive Order 94-3, § 201 to the Special Assistant for Administration.

See 1 CMC §§ 2171-2173 (2004); see also the commission comment to NMIAC chapter 5-40.1.

Executive Order 2007-09 transfers “all functions of the Office of the Governor relating to certificates of identity or United States passports” to the Office of the Attorney General, Division of Immigration. 29 Com. Reg. 26699 (Aug. 17, 2007). EO 07-09 was signed on August 1, 2007. Section 206 of EO 07-09 provides that the effective date shall be 60 days after submission to the legislature unless specifically modified or disapproved by a majority of the members of each house of the legislature. 29 Com. Reg. 26700 (Aug. 17, 2007). As of August 31, 2007, EO 07-09 had not been modified or disapproved by the legislature.

The Office of Immigration and Naturalization promulgated the 1978 Certificates of Identity Regulations pursuant to PL 1-6.

On October 15, 1995, the Office of the Special Assistant for Administration, Office of the Governor, published notice of intent to repeal “existing regulations concerning application and procedures regarding the issuance of certificates of identity” pursuant to Executive Order 94-3 § 201. According to the public notice:

It has been brought to this Office’s attention that some residents of the Commonwealth continue to request the issuance of certificates of identity pursuant to 3 CMC §§ 4111 et seq. (Public Law 1-6) and the rules and regulations adopted by the Chief of Immigration Service pursuant to 3 CMC § 4123 (located in Volume 1 No. 2 of the Commonwealth Register, pages 47-52). However, the intended purpose of Public Law 1-6 has long been satisfied. The issuance of certificates of identity was intended to be for a limited duration and only for those residents defined by 4 CMC § 4111 to be interim citizens of the United States until such time as the Covenant was fully implemented with the official termination of the Trusteeship Agreement.

The termination occurred with the issuance of Presidential Proclamation No. 5564 on November 3, 1986 (51 Fed. Reg. 40399 (Nov. 3, 1986), reprinted in the Commonwealth Code preface materials). Afterwards, there was no further need for the Commonwealth Government to issue certificates of identity. The Proclamation effectively implemented Section 301 of the Covenant, thereby establishing the right of U.S. citizenship to those persons who had been deemed to be interim citizens. Those persons who had been interim citizens became eligible to apply for U.S. Passports.

U.S. citizens residing in the Commonwealth who desire to travel either to a foreign country or to another U.S. jurisdiction can and should do so with a U.S. Passport issued by the Passport Office of the U.S. Department of State. U.S. citizens residing in the Commonwealth are encouraged to

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file an application with our local U.S. Passport Office located at the Joeten Building in Dandan, Saipan, MP 96950. (Please refer to the attached documents for more information on Application Requirements for U.S. Passports, as well as other related info.).

Therefore, because there is no valid government function served by the continued issuance of such certificates, and in accordance with the Governor's September 12, 1995, memorandum, it is this Office's intention to repeal existing Rules and Regulations concerning applications and procedures regarding the issuance of certificates of identity.

See 17 Com. Reg. at 13725 (Oct. 15, 1995).

[Regulations repealed by subsequent regulation.]