



United States Department of State

*Assistant Secretary of State
for Consular Affairs*

Washington, D.C. 20520

October 14, 2016

Dear Ms. Bellucci:

Thank you for your September 12 petition regarding Final Rule RIN 1400-AD97, Public Notice Number 9678, which concerns various changes and updates to the Department of State's passport rules as a result of the passage of International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders ("IML").

Your petition suggests that the Final Rule incorporated an incorrect and overbroad definition of "covered sex offenders" as it relates to the implementation of the passport identifier provision of the IML, which can be found at 22 U.S.C. 212b. Thank you for pointing out this discrepancy. On September 27, the Department of State published a correction to the Final Rule, replacing the prior definition of covered sex offender (42 U.S.C. 16935a) with the specific definition of covered sex offender (22 U.S.C. 212b(c)(1)) as it concerns the passport identifier provision of the IML. See 81 F.R. 66184.

Your next concern is the denial of passport cards to covered sex offenders. As you know, 22 U.S.C. 212b prohibits the Department from issuing a passport to a covered sex offender unless that passport contains a unique identifier. Upon implementation of the passport identifier provision of the IML, the passport book of a covered sex offender will be endorsed with a short written statement. Due to the physical and technological limitations of passport cards, the Department cannot print endorsements on passport cards. Therefore, consistent with the law, those persons subject to the law cannot be issued this type of passport. This was clarified in the discussion in the "Supplementary Information" portion of the original rule-making: "The rule provides for denial of passport cards to these same covered sex offenders, as passport cards are not able to contain the unique identifier required by 22 U.S.C. 212b." This does not mean, however, that covered sex offenders cannot apply for and receive a passport book with the unique

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passport identifier. We will be informing those covered sex offenders who only apply for a passport card of this avenue.

Your petition also questions the revocation of passports previously issued to covered sex offenders without the required marking. The current passports of covered sex offenders remain valid for travel without the unique passport identifier unless they are notified in writing by the Department that their passports are revoked. At that time, a covered sex offender may apply for a new U.S. passport book that contains the unique identifier, by executing a new application and submitting the appropriate fees.

Finally, the Department's unique passport identifier is being done in accordance with the terms of the IML. The Department is obligated to implement U.S. law as passed by Congress and signed by the President, which includes the IML. As the rulemaking implements that law, comment by the public was unnecessary and the Department published the rulemaking without notice and comment under the "good cause" exemption of 5 USC 553(b).

We hope this information is helpful to you. Thank you for your inquiry.

Sincerely,

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