

which is incorporated by reference at § 300.1 of this chapter.

(c) Each shipment of pears must be accompanied by a phytosanitary certificate issued by the Chinese Ministry of Agriculture stating that the conditions of paragraphs (a) and (b) of this section have been met.

Done in Washington, DC, this 18th day of May 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95-12748 Filed 5-23-95; 8:45 am]

BILLING CODE 3410-34-P

## 7 CFR Part 354

[Docket No. 94-074-1]

RIN 0579-AA68

### User Fees—Commercial Aircraft and Vessels; Phytosanitary Certificates

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the user fee regulations by lowering the fees charged for certain agricultural quarantine and inspection services we provide in connection with the arrival of an international commercial aircraft at a port in the customs territory of the United States. We are also proposing to amend the user fee regulations by raising the fees charged for export certification of plants and plant products. We have determined, based on a review of our user fees, that the fees must be adjusted to reflect the actual cost of providing these services. In addition, we are proposing to amend the user fee regulations to clarify the exemption for certain vessels which sail only between the United States and Canada.

**DATES:** Consideration will be given only to comments received on or before June 23, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 94-074-1, Regulatory Analysis and Development, PPD, APHIS, suite 3CO3, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 94-074-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations, contact Mr. Don Thompson, Staff Officer, Port Operations, PPQ,

APHIS, 4700 River Road Unit 136, Riverdale, MD 20737-1236, (301) 734-8295.

For information concerning rate development, contact Ms. Donna Ford, PPQ User Fees Section Head, FSSB, BAD, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737-1232, (301) 734-5901.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 7 CFR 354.3 (referred to below as the "regulations") contain provisions for the collection of user fees for certain international services provided by the Animal and Plant Health Inspection Service (APHIS). In this docket we are proposing to amend 2 user fees: (1) The user fee for servicing international commercial aircraft arriving at ports in the customs territory of the United States; and (2) the user fee for certifying plants and plant products for export. We are also proposing to clarify the exemption from user fees which applies to certain vessels which sail only between the United States and Canada. Each amendment is discussed separately below.

##### International Commercial Aircraft

One service our user fees cover is the cost of agricultural quarantine and inspection (AQI) services provided by APHIS in connection with the arrival of an international commercial aircraft at a port in the customs territory of the United States. (The customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

The current user fee for international commercial aircraft became effective on January 1, 1993, following the publication of an interim rule in the **Federal Register** on December 31, 1992 (Docket No. 92-148-1, 57 FR 62468-62473). At that time the fee was set at \$61.00. This fee was later affirmed in a document published in the **Federal Register** on November 9, 1993 (Docket No. 92-148-2, 58 FR 59354-59356).

As we have stated in previous proposed and final regulations, we intend to monitor our user fees and review them at least annually to determine whether the fees should be adjusted. After reviewing the fees that were collected in FY 1993 and FY 1994 and calculating our cost and revenue projections for FY 1995, we have determined that the fee for international commercial aircraft needs to be lowered from \$61.00 to \$53.00 for each arrival. This is necessary to avoid collecting

more revenue than needed to cover the costs of the services we provide.

##### Calculation of User Fees for Commercial Aircraft

To calculate the adjusted user fees for commercial aircraft, we determined the total projected cost of providing AQI services in FY 1995 for international commercial aircraft. The cost of providing these services in FY 1993 and FY 1994 served as a basis for calculating our projected FY 1995 costs. It is important to note that each year in the budget process, Congress limits or specifies how much APHIS can withdraw from the AQI User Fee Account. For FY 1993, APHIS was authorized to spend \$83.3 million. For FY 1994 we were authorized to spend \$91.6 million, plus \$6.9 million to cover additional AQI program needs.

In FY 1992, APHIS established accounting procedures to segregate AQI user fee program costs. We published a detailed description of these procedures in the **Federal Register** on December 31, 1992 (57 FR 62469-62471), as part of a document (Docket No. 92-148-1) amending some of our user fees.

As part of our accounting procedures, we established distinct accounting codes to record costs that can be directly related to each inspection activity. At the State level and below, the following costs are direct-charged to the AQI User Fee Account: Salaries and benefits for inspectors and canine officers, supervisors (such as officers-in-charge) and clerical staff, user-fee-specific equipment, contracts, and large supply items such as x-ray equipment or uniforms.

Other costs that cannot be directly charged to individual accounts are charged to "distributable" accounts established at the State level. The following types of costs are charged to distributable accounts: utilities, rent, telephone, vehicles, office supplies, etc. The costs in these distributable accounts are prorated (or distributed) among all the activities that benefit from the expense, based on the ratio of the costs that are directly charged to each activity divided by the total costs directly charged to each account at the field level. For example, if a State office performs work on domestic programs, AQI user fee programs, and AQI appropriated programs, the costs are distributed among each program, based on the percentage of the direct costs for that activity at the field level that is charged to that activity. Costs incurred at the regional, headquarters program staff, and agency-level support offices are also prorated to the separate AQI

activities based on the percentage of the costs that were directly charged to each activity at the field level, as discussed above.

Under these accounting procedures, we calculated the total cost of providing AQI services in FY 1993 and FY 1994 by determining the amounts in each direct-charge account, then adding the pro rata share of the distributable accounts maintained at the State, regional, headquarters, and agency levels. In FY 1993, it cost APHIS approximately \$13.9 million to provide services to commercial aircraft; in FY 1994 the cost was approximately \$17.5 million.

We projected that in FY 1995, it will cost APHIS a total of \$18.9 million to provide inspection services for international commercial aircraft. Of this total, \$15.7 million is for program delivery costs, which are costs incurred at the State level and below. The total also includes \$1.7 million for a pro rata share of the program direction and support costs, as explained above, which include items at the regional and headquarters program staff levels. Finally, the total includes \$1.5 million for a pro rata share of agency-level support costs, as discussed above, which include activities that support the entire agency, such as recruitment and development, legislative and public affairs, regulations development, regulatory enforcement, budget and accounting services, and payroll and purchasing services. The exceptions are costs for billing and collection services, legal counsel, and rate development services. These costs are directly related to user fee activities, so these costs are directly added to the user fee activities they support and are not included in the proration of agency-level costs.

For the commercial aircraft user fee, we also have the authority to include an amount that would provide for a reasonable reserve balance in the AQI User Fee Account (referred to below as "the Account"). We defined a "reasonable reserve balance" as equal to 3 months' normal operating expenses. We have now accumulated a reserve balance equal to this amount in the Account for international aircraft. Therefore, the reserve component of this user fee would be eliminated in our proposed fee adjustments.

#### Volumes

We estimated the annual number of international commercial aircraft that would be subject to inspection. The estimates, which were based on our FY 1993 and FY 1994 collection history, were then used as a basis for projecting activity volumes for FY 1995.

A total of 357,442 commercial aircraft were subject to inspection during FY 1993. During FY 1993, we revised the aircraft clearance fee from \$76.75 per arrival to \$61.00 per arrival. The decrease became effective for all aircraft arriving in the United States on or after January 1, 1993. To arrive at the FY 1993 volume for aircraft, we divided the first quarter collections (October 1 through December 31, 1992) of \$6,187,047.75 by \$76.75, the per arrival fee, for a total first quarter volume of 80,613. We divided the 3 remaining quarter collections of \$16,886,569.00 by \$61.00, the revised per arrival fee, for a volume total of 276,829 for the remainder of the fiscal year. This produced a total FY 1993 volume of 357,442. Our FY 1994, volume projection is 350,293. To arrive at the FY 1994 volume for aircraft, we divided our projected FY 1994 collections of \$21,367,873.00 by \$61.00, the per arrival fee, for a volume total of 350,293. While the actual volume went down in FY 1994, we do not expect that to happen again in FY 1995. In fact, in FY 1995 we are projecting a modest volume increase of 2 percent. Therefore, we applied a 2 percent increase to the FY 1994 volume of 350,293 to arrive at a projected FY 1995 commercial aircraft volume of 357,299.

#### Fee Adjustments and Rounding of Fees

In calculating the adjusted user fees, our final step was to divide the sum of the cost of providing service by the projected number of international commercial aircraft subject to inspection, thereby arriving at a "raw" fee.

For the commercial aircraft user fee, the raw fee was \$52.99; rounding this fee up to the nearest quarter yields a fee of \$53.00. Rounding up ensures that the fee would be easy to calculate and collect. The lower fee of \$53.00 would be sufficient to recover the full cost of providing aircraft inspection services, without collecting more revenue than needed to cover the costs of the services provided.

#### Commercial Vessels

Another AQI service we offer is inspection of commercial vessels of 100 net tons or more. Certain categories of commercial vessels are exempt from paying APHIS user fees under the current regulations. Among those is "any vessel which sails only between United States and Canadian ports" (see current § 354.3(b)(2)(vi)).

The United States Customs Service (Customs), U.S. Department of the Treasury, collects APHIS user fees and remits them to us. Customs has

requested that we amend our regulations to make it easier for them to determine which vessels are exempt from our fees.

Under our regulations, certain vessels are exempt from paying APHIS user fees. Customs must determine, when reviewing the paperwork presented for each arriving vessel, which vessels are exempt. In order to ensure that they have the necessary information to make this determination, Customs has requested that we amend § 354.3(b)(2)(vi) of our regulations to require Masters of vessels in the United States-Canada trade arriving from Canada to certify, in the "Remarks" block of the General Declaration, Customs Form 1301, that the vessel has sailed solely between the United States and Canada for the previous 2 years.

The proposed certification would be placed in a document which vessels arriving in the United States are required, under Customs regulations in 19 CFR 4.7, to present to the Customs official on duty at the port of arrival. In addition to helping Customs to more accurately and efficiently collect APHIS user fees, the proposed requirement would also clarify that vessels which "sail only between United States and Canada ports" are vessels which have done so for at least the previous 2 years. The 2-year restriction is necessary to ensure that pests and regulated articles brought on board the vessel at ports outside Canada or the United States no longer pose a pest or disease risk. This requirement is identical to requirements in our regulations concerning the handling and disposal of garbage from places outside the United States (see 7 CFR 330.400 and 9 CFR 95.4).

#### Phytosanitary Certificates

In addition to AQI services, our user fees also cover the issuance of phytosanitary certificates for the export of plants and plant products. Phytosanitary certificates are issued in accordance with 7 U.S.C. 147a and regulations in 7 CFR part 353. These documents certify agricultural products as being free from plant pests, according to the phytosanitary requirements of the foreign countries to which the plants or plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States. These certificates must be issued in accordance with 7 CFR part 353 to be accepted in international commerce.

The user fees for some phytosanitary certificates issued by APHIS became effective on March 17, 1993, upon publication of a final rule in the **Federal Register** on March 17, 1993 (Docket 92-

088-2, 58 FR 14305-14307). The user fees for other phytosanitary certificates issued by APHIS became effective on February 9, 1992, following the publication of a final rule in the **Federal Register** on January 9, 1992 (Docket No. 91-135, 57 FR 755-773). The fees were set at: (1) \$30.00 for a certificate for a commercial shipment; (2) \$19.00 for a certificate for certain low-value commercial shipments; (3) \$19.00 for a certificate for a non-commercial shipment; (4) \$30.00 for a certificate for reexport of a commercial shipment; (5) \$19.00 for a certificate for reexport of certain low value commercial shipments; (6) \$30.00 for a processed product certificate for a commercial shipment; (7) \$6.00 for reissuing any certificate or certificate for reexport (see current 7 CFR 354.3(g)(5)). In addition, there is a \$6.00 user fee for processing unissued phytosanitary certificates of all types (see 7 CFR 354.3(h)).

After reviewing the fees for phytosanitary certificates that were collected in FY 1993 and FY 1994 and calculating our cost and revenue projections for FY 1995, we have determined that, for the reasons discussed below, the fees need to be adjusted in order to recover the full cost of providing services. Therefore, we are proposing to raise our user fees for phytosanitary certificates as follows: (1) to \$50.00 for a certificate for a commercial shipment; (2) to \$23.00 for a certificate for certain low-value commercial shipments; (3) to \$23.00 for a certificate for a non-commercial shipment; (4) to \$50.00 for a certificate for reexport of a commercial shipment; (5) to \$23.00 for a certificate for reexport of certain low value commercial shipments; (6) to \$50.00 for a processed product certificate for a commercial shipment; (7) to \$7.00 for reissuing any certificate or certificate for reexport. In addition, we are proposing to raise the user fee for processing unissued phytosanitary certificates of all types to \$7.00.

#### **Calculation of User Fees for Phytosanitary Certificates**

To calculate the adjusted user fees for phytosanitary certificates, we determined the total projected cost of providing phytosanitary certificate services in FY 1995. The cost of providing these services in FY 1993 and FY 1994 served as a basis for calculating our projected FY 1995 costs.

In FY 1992, APHIS established accounting procedures to segregate phytosanitary certificate-related costs. We established distinct accounting codes to record costs that can be directly related to this activity. At the State level

and below, the following costs are charged directly to the phytosanitary certificate user fee account: salaries and benefits for inspectors, supervisors (such as officers-in-charge) and clerical staff, user-fee-specific equipment, contracts, and large supply items such as uniforms.

Other costs that cannot be directly charged to individual accounts are charged to "distributable" accounts established at the State level. The following types of costs are charged to distributable accounts: utilities, rent, telephone, vehicles, office supplies, etc. The costs in these distributable accounts are prorated (or distributed) among all the activities that benefit from the expense, based on the ratio of the costs that are directly charged to each activity divided by the total costs directly charged to each account at the field level. For example, if a State office performs work on domestic programs and phytosanitary certificate programs, the costs are distributed among each program, based on the percentage of the direct costs for that activity at the field level that is charged to that activity. Costs incurred at the regional, headquarters program staff, and agency-level support offices are also prorated to the separate phytosanitary certificate-related activities, based on the percentage of the costs that were directly charged to each activity at the field level, as discussed above.

Under these accounting procedures, we calculated the total cost of providing phytosanitary certificate services in FY 1993 and FY 1994 by determining the amounts in each direct-charge account, then adding the pro rata share of the distributable accounts maintained at the State, regional, headquarters, and agency levels. In FY 1993, it cost APHIS approximately \$3.5 million to issue phytosanitary certificates, and it cost APHIS approximately \$4.1 million in FY 1994. We project our FY 1995 costs to be \$4.6 million. Of this total, \$3.83 million is for program delivery costs, which are costs incurred at the State level and below. The total also includes \$389,000 for a pro rata share of the program direction and support costs, as explained above, which include items at the regional and headquarters program staff levels. Finally, the total includes \$384,000 for a pro rata share of agency-level support costs, as discussed above, which include activities that support the entire agency, such as recruitment and development, legislative and public affairs, regulations development, regulatory enforcement, budget and accounting services, and payroll and purchasing services. The exceptions are costs for billing and collection services,

legal counsel, and rate development services. These costs are directly related to user fee activities, so these costs are directly added to the user fee activities they support and are not included in the proration of agency-level costs.

To calculate the adjusted user fees for phytosanitary certificates, we determined the total projected cost of issuing phytosanitary certificates in FY 1995, based on our costs to provide these services in FY 1993 and FY 1994.

Under our accounting procedures, we calculated the total cost of issuing phytosanitary certificates in FY 1993 by determining the amount in each direct-charge account, then adding the prorata share of the distributable accounts maintained at the State, regional, headquarters, and agency levels.

We then used a weighted average method to develop the rate for each type of phytosanitary certificate. The average time to complete each type of certificate was calculated. Each type of phytosanitary certificate fee was assigned a weighted value. This was done by comparing the time value for each certificate type relative to the time value for commercial certificates. The time value of commercial certificates was 2.45. This was weighted 1.00 (2.45/2.45). Non-commercial certificates were given a value of 0.46 (1.13/2.45), and reissued certificates were given a value of 0.14 (0.35/2.45).

We then applied the weighted values to our volume estimates for FY 1995 to determine the weighted transaction amounts. The total number of transactions for each category was then added and divided into the total program cost. In this way we arrived at an average per inspection cost of \$49.84. We multiplied the average per inspection cost by the activity weight. This produced the weighted average cost for each type of certificate. The raw fees calculated using this method were: \$49.84 for commercial phytosanitary certificates; \$22.76 for non-commercial phytosanitary certificates; and \$7.05 for reissued and returned phytosanitary certificates. We then rounded the raw fees for commercial and non-commercial certificates up to the nearest quarter, for final fees of \$50.00 and \$23.00. Due to the small number of reissued and returned certificates which we process, and in order to make collecting fees easier, we rounded the raw fee for these certificates down for a final fee of \$7.00.

#### *Executive Order 12866 and Regulatory Flexibility Act*

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the

purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This proposed rule, if adopted, would increase the user fees for phytosanitary certificates to recover the cost to APHIS of providing export certification services for plants and plant products. This proposed rule, if adopted, would also reduce the user fee for international commercial aircraft to correspond with the cost to APHIS of providing services. Amendments to user fees are necessary to adjust for changes in service volume and in costs.

Federal phytosanitary certificates are issued in accordance with the International Plant Protection Convention. They certify that agricultural products moving between countries are free from injurious insects and diseases. These certificates must be issued by APHIS to be accepted in international commerce, and must accompany the majority of agricultural commodities (except livestock products) traded. Traded commodities generally include cereals and grains (such as soybeans, wheat, and corn), fruit and vegetables, and other horticultural products. In 1993, the value of exported agricultural products requiring phytosanitary certificates was estimated at \$3 billion.

Current user fees for phytosanitary certificates do not fully recover APHIS's costs for services performed. In the past fiscal year, the total cost of providing phytosanitary certificate services was \$3,487,347, while total fee collections amounted only to \$2,875,716. The reason for the discrepancy is that we overestimated the number of certificates that would be issued, thereby underestimating the cost of issuing each certificate. The total program cost for the 1994-1995 fiscal year, which we must recover through user fees, is estimated at \$4,643,385. This amount includes costs associated with program delivery, program direction and support, agency support, departmental charges, and Office of the General Counsel services. If the proposed fee increases are adopted, estimated collections would rise to \$4,717,947.

Exporters of agricultural commodities would be affected by this rule. The Regulatory Flexibility Act requires APHIS to address the economic impact of imposing user fees on "small" entities. The Small Business Administration (SBA) criteria for a small wholesale business engaged in the trading of fresh fruits and vegetables is that the business have 100 or fewer employees. SBA criteria for a small crop production business is that it have annual revenues up to \$500,000.

Approximately 90,000 phytosanitary certificates were issued in 1993. Certificates for commercial shipments are issued to wholesale businesses engaged in the trading of fresh fruits and vegetables, and to crop production businesses. Certificates are also issued to export brokers who handle shipments of produce from various sources. The proportion of exporters in this group which may qualify as small is unknown. It is likely that a large number of these brokers employ fewer than 100 workers.

In general, the value of an average commercial shipment is likely to be well over the proposed \$50 user fee. Given that the total value of agricultural products requiring phytosanitary certificates exported in 1993, estimated at \$3 billion, is much larger in magnitude than the \$4.7 million in total user fee collection, any impact on U.S. producers/exporters is expected to be small.

Phytosanitary certificates for noncommercial exporters are generally issued to individuals and to exporters of low value commodities. The user fee for this category of phytosanitary certificate is proposed to increase from \$19 to \$23, an increase of 21 percent. Although user fees represent a proportionately larger share of the total value of noncommercial and low-value exports, these small exports may possess a much higher value in the foreign country than in the United States. Moreover, exports by individuals may be gift items with nonmonetary values offsetting some of the impact of the fee increase.

SBA criteria for a small airline is that it have 1,500 or fewer employees. Data from the 1988 Census indicates that there were 67 domestic and international airline operators employing a total of 481,000 employees. Although the size distribution of air carriers that enter the customs territory of the United States is unknown, the impact of the proposed user fee change, regardless of carrier size, is positive—we are proposing a 13 percent user fee reduction, from \$61 to \$53 per aircraft. The lower fee is sufficient to recover the full cost of providing aircraft inspection services, without collecting more revenue than needed to recover costs. The estimated cost to provide inspection services for international commercial aircraft in FY 1995 is \$18.9 million. At the proposed user fee of \$53 per aircraft and a projected FY 1995 commercial aircraft volume of 357,299, total collections would amount to \$18.9 million.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not

have a significant economic impact on a substantial number of small entities.

#### *Executive Order 12372*

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### *Executive Order 12778*

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 1515-00-62.

#### **List of Subjects in 7 CFR Part 354**

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 would be amended as follows:

#### **PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES**

1. The authority citation for part 354 would continue to read as follows:

**Authority:** 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.3 would be amended as follows:

a. By revising paragraph (b)(2)(vi) to read as set forth below.

b. In paragraph (e)(1), the last sentence, by removing "\$61" and adding "\$53" in its place.

c. In paragraph (g)(5)(i)(A), by removing "\$30" and adding "\$50" in its place.

d. In paragraph (g)(5)(i)(B), by removing "\$19" and adding "\$23" in its place.

e. In paragraph (g)(5)(ii), by removing "\$19" and adding "\$23" in its place.

f. In paragraph (g)(5)(iii)(A), by removing "\$30" and adding "\$50" in its place.

g. In paragraph (g)(5)(iii)(B), by removing "\$19" and adding "\$23" in its place.

h. In paragraph (g)(5)(iv), by removing "\$30" and adding "\$50" in its place.

i. In paragraph (g)(5)(v), by removing "\$6" and adding "\$7" in its place.

j. In paragraph (h)(2), by removing "\$6" and adding "\$7" in its place.

**§ 354.3 User fees for certain international services.**

\* \* \* \* \*

(b)(2)(vi) Any vessel which sails only between United States and Canadian ports, when the Master of such vessel arriving from Canada certifies, in the "Remarks" block of the General Declaration, Customs Form 1301, that the vessel has sailed solely between the United States and Canada for the previous 2 years.

(Approved by the Office of Management and Budget under control number 1515-00-62).

\* \* \* \* \*

Done in Washington, DC, this 19th day of May 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95-12750 Filed 5-23-95; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 264

[INS No. 1686-95]

RIN 1115-AD87

#### **Removal of Form I-151, Alien Registration Receipt Card, From the Listing of Forms Recognized as Evidence of Registration for Lawful Permanent Resident Aliens**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the Immigration and Naturalization Service ("the Service") regulations by removing Form I-151, Alien Registration Receipt Card, from the listing of forms recognized as evidence of registration as a lawful permanent resident alien. This rule is necessary to complete the establishment of the current Alien Registration Receipt Card, Form I-551, as the exclusive alien registration receipt card for use by permanent resident aliens.

**DATES:** Written comments must be submitted on or before July 24, 1995.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference INS No. 1686-95 on your correspondence. Comments are available for public inspection at this location by calling (202) 514-3048 to arrange an appointment.

**FOR FURTHER INFORMATION CONTACT:** Gerard Casale, Senior Adjudications Officer, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536, telephone (202) 514-5014.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 20, 1993, the Service published a final rule in the **Federal Register** at 58 FR 48775-48780, establishing the Form I-551, Alien Registration Receipt Card, as the exclusive form of registration for lawful permanent resident aliens, by terminating the validity of the old Form I-151, Alien Registration Receipt Card. In addition, the final rule provided the procedures by which a lawful permanent resident alien in possession of a Form I-151 or a prior alien registration document, such as the Form AR-3 or AR-103, could replace these documents with the current Form I-551. The final rule provided that the amendments to 8 CFR part 264 concerning the procedures for applying for a replacement card became effective on October 20, 1993. The final rule also provided that the effective date for the removal of references to the Form I-151 from 8 CFR parts 204, 211, 223, 223a, 235, 251, 252, 247a, 299, 316, and 334 would be September 20, 1994. On September 14, 1994, the Service published a final rule at 59 FR 47063, delaying the effective date of the amendments to 8 CFR parts 204, 211, 223, 235, 251, 252, 247a, 299, 316, and 334, from September 20, 1994, until March 20, 1995. On March 17, 1995, a final rule was published in the **Federal Register** at 60 FR 14353, further delaying the effective date of the amendments to 8 CFR parts 204, 211, 235, 251, 252, 274a, 299, 316, and 334, from March 20, 1995, until March 20, 1996.

#### **Removal of Form I-151 From the List of Prescribed Service Forms**

The Service's reasons for terminating the validity of the Form I-151, Alien Registration Receipt Card have been discussed in detail in the previous notice of proposed rulemaking published on May 28, 1993, at 58 FR 31000-31003, and in the final rulemaking published on September 20, 1993, at 58 FR 48775-48780, which considered and addressed the public comments received. These rulemakings advised the public of the Service's conclusion that the current Form I-551 Alien Registration Receipt Card must be established as the exclusive Alien Registration Receipt card because "it is no longer sound public policy to recognize Alien Registration Receipt Cards that predate the use of the Form I-551." 58 FR 48775 (September 20, 1993).

In the course of that rulemaking process, however, the intended removal of Form I-151 from the list of prescribed Service forms in 8 CFR 264.1(b) was inadvertently omitted. By removing the Form I-151 from that list, the proposed rule would correct that previous omission and complete the I-151 card replacement program's declared objective of establishing the current Form I-551 as the sole Alien Registration Receipt Card recognized by the Service. The Service intends that this rule, if adopted, would take effect on March 20, 1996, the date on which the validity of the old Form I-151 Alien Registration Receipt Card will terminate under the final rule published March 17, 1995, at 60 FR 14353. By taking effect upon the same date, the proposed rule would preclude any discrepancy or confusion over the effective date on which the validity of the old cards will terminate.

#### *Regulatory Flexibility Act*

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that the rule will not have a significant adverse economic impact on a substantial number of small entities because of the following factors. The provisions of this rule merely clarify the requirements of existing regulations concerning documentation of lawful permanent resident aliens. As such, the new provisions have no significant adverse economic impact on the small entities.