

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 210, 245a, 264, and 274a

[INS No. 1399S-94]

RIN 1115-AB73

Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Supplement to proposed rule.

SUMMARY: On November 23, 1993, the Immigration and Naturalization Service (the Service) published a proposed rule in the **Federal Register** at 58 FR 61846-61850, which would reduce the number of documents that were acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). A number of significant concerns regarding the agency's proposal were raised by the public and this supplement is being issued to address those concerns before proceeding with final rulemaking. This supplement proposes to simplify compliance with the employment eligibility verification requirements by further reducing the number of Service-issued documents that are acceptable for purposes of completing the Form I-9. It also contains other improvements in the system developed by the Service, including introduction of a new, more secure employment authorization document and related regulatory changes. The aim of these changes, along with reduction in the number of acceptable documents, is to produce an employment eligibility verification system that employers can use more easily and effectively. If this is accomplished, the potential for employment discrimination based on misapplication of the employment eligibility verification requirements should also be reduced.

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 number 1399S-94 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: Cristina Hamilton (General Counsel), telephone (202) 514-2895; David Yost (Investigations), telephone (202) 514-2998; Jackie Bednarz (Adjudications), telephone (202) 514-5014. The street address is: Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536.

SUPPLEMENTARY INFORMATION: This is a supplement to the proposed rule to reduce the number of Service-issued documents that are acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). The proposed rule was published at 58 FR 61846-61850 on November 23, 1993, and provided for a 30-day comment period which expired on December 23, 1993. The rule was proposed to further simplify compliance with the employment eligibility verification requirements and to address the concerns of employers who allege confusion created by the number of acceptable documents on the Form I-9.

During the comment period, questions were raised about retaining Federal identification documents in the employment eligibility verification process and also about sharing burdens between employers and employees in re-verifying employment eligibility.

Since the comment period, a Process Action Team (PAT team) containing representatives of various Service components has continued to discuss methods of reducing the number of documents used to verify employment eligibility. One approach that the Service anticipates will be implemented by January 1, 1996, is the introduction of a new, more secure employment authorization document (EAD), the Form I-766, that will replace two other EADs, the Form I-688A and Form I-688B.

In addition, this supplement addresses other employer sanctions-related issues discussed by the PAT team that have been raised by

legislation, regulatory changes, or Service interaction with the public. These include the changes in the Higher Education Amendments of 1992 for students enrolled in the Federal Work Study Program, and clarification of the "receipt rule" in 8 CFR 274a.2(b)(1)(vi). Also discussed is the fact that an older Alien Registration Receipt Card (Form I-151) may still be used for employment eligibility verification because of a delayed effective date of the rule terminating its validity.

Besides these matters, the supplement proposes various regulatory changes related to the introduction of the new Form I-766. This will include designation in 8 CFR 264.1 of the I-766 as evidence of alien registration for I-688A holders. Changes are proposed in 8 CFR parts 210 and 245a to accommodate changing document numbers. Other revised language in 8 CFR 274a.12(c) clarifies language in the original proposed rule specifying the regulatory basis for work authorization for legalization applicants. Also proposed is regulatory language lifting a stay on the effective date of 8 CFR 274a.14(c) which terminates the validity of various paper work permits issued by the Service before June 1, 1987.

The thrust of these changes, along with reduction in the number of acceptable documents, is to reduce uncertainty on the part of employers and make the employment eligibility verification system more effective. Another benefit of a more effective system would be to reduce the potential for employment discrimination based upon misunderstandings of the employment eligibility verification requirements.

The following is a discussion of proposed changes to the proposed rule as a result of public comments, recent legislation and regulatory changes. Also discussed are changes recommended by the Process Action Team for reducing the number of documents used to verify employment eligibility and otherwise improving the verification system.

Elimination of Federal Identification Documents

The Service has determined that eliminating Federal identification cards from the category of List B identity documents is consistent with its goal of document reduction and also is consistent with its purpose in the original proposed rule of eliminating

military documents. At least one commenter noted that the Service's intentions were unclear with respect to the elimination of military identification documents because, while removing military identification documents, it had retained Federal identification cards. The Service agrees with the commenter that failure to eliminate the Federal identification card creates confusion, as many categories of military cards meet the criteria of Federal identification documents. For that reason, and because it remains the Service's objective to eliminate as many documents as possible, the Service proposes eliminating Federal identification cards.

Modifications to Section 3 of the Form I-9

During the comment period for the proposed rule, at least two commenters, one representing a significant number of employers, expressed the view that employees should be required to complete an attestation in Section 3 of the Form I-9 during the reverification process indicating that the employee is authorized to work in the United States and disclosing any future expiration date of the employee's work authorization. These recommendations are changes which the Service had previously considered and which the Service believes have merit.

At the present time, if an employee's work authorization expires, the employer must reverify that the employee continues to be eligible to work. Reverification may be accomplished either in Section 3 of the original Form I-9 or in Section 3 of a separate Form I-9 attached to the original. For subsequent reverifications, additional Form I-9 are used. The employer satisfies this requirement by reviewing the document presented by the employee and by completing Section 3—"Updating and Reverification"—on the original Form I-9, or by attaching a new Form I-9 to the original and entering the employee's name in Section 1 and completing Section 3 of the new Form I-9. The employee must present a document which shows that he or she is currently eligible to work in the United States.

This supplement to the proposed rule proposes to amend § 274a.2(b)(1)(vii) to create a requirement that the employee sign an attestation in Section 3 of the Form I-9 during the reverification process, indicating that he or she is authorized to work in the United States. In addition, the employee will be required to check the appropriate box indicating that he or she will continue to be authorized to work in the United

States indefinitely, or that he or she will be authorized to work in the United States until a certain date. If the employee's work authorization bears a future expiration date, the employee will be required to provide this date. These proposed requirements are intended to alleviate some of the burden placed upon an employer who is presented at the time of reverification with documents purporting to show the employee's new or extended employment authorization when the employer may have a suspicion that the employee is no longer employment eligible. This will make both the employer and the employee responsible for the reverification process.

Because some employees may not be able to complete Section 3 or may need it translated, the Form I-9 will be modified to include an additional Preparer/Translator Certification block for use with Section 3. It is anticipated that the existing Preparer/Translator Certification block will be removed from Section 1. A new Section 4 will be created, and will include two Preparer/Translator Certification blocks—one for use with Section 1 when the Form I-9 is initially completed, and one for use during the reverification process when Section 3 of the Form I-9 is completed.

To more clearly reflect existing law, the Service will further modify the Form I-9 by stating on the form that the recording of the employee's Social Security number in Section 1 is voluntary. It is the Service's opinion that these changes will significantly improve the employment eligibility verification system.

Clarification of the "Receipt Rule"

From inquiries outside the Service, it has become apparent that there is a common misconception among employers that the "receipt rule" contained in 8 CFR 274a.2(b)(1)(vi) permits employers to accept receipts for applications for documents at the time of reverifying employment eligibility as well as at the time of hire. The Service recognizes that an employee may lose an employment authorization document just as easily after his or her employment eligibility has been verified as before. Thus it is logical to apply the "receipt rule" to the reverification process as well. For this reason and because the Service is proposing to require an attestation by the employee at the time of reverification, the Service believes that it is now appropriate to authorize the use of receipts at the time of reverification.

This supplement proposes to provide that if an employee is unable to present a document at the time of reverification,

the receipt for an application for a replacement document must be presented not later than the expiration of the original work authorization and the replacement document must be presented not later than 90 days after the expiration of that work authorization. This rule would retain the original language of the section providing that it does not apply to aliens who indicate that they do not have work authorization at the time of hire.

This rule would not apply to aliens who would be presenting a receipt for the application for the renewal of employment authorization. These persons must have an employment authorization document evidencing renewal of their employment authorization or interim employment authorization. If an application for employment authorization has not been adjudicated within 90 days of filing, the applicant is entitled pursuant to 8 CFR 274a.13(d) to an interim employment authorization of no more than 240 days while the application is adjudicated.

The Higher Education Amendments

The Higher Education Amendments of 1992 authorized students in the Federal Work Study Program to present to the employer original or certified copies of the documents collected and maintained by an eligible institution in the admission of the student to the institution in lieu of the documents used to establish both employment eligibility and identity.

To incorporate these changes into the employment eligibility verification system, the Service proposes to amend § 274a.2(b)(1)(v) to include these documents as List A documents. Further, the revised Form I-9 will reflect the new option, and the revised Handbook for Employers (M-274) will explain that the entire admissions package, not just selected portions of the package, must be presented to the employer to satisfy the requirements of section 274A of the Act.

Validity of Form I-151 as List A Document

On September 20, 1993, the Service published a final rule in the **Federal Register** at 58 FR 48775-48780, which terminated the validity of the Alien Registration Receipt Card, Form I-151, effective September 20, 1994. The effective date was delayed until March 20, 1995, by final rule published in the **Federal Register** at 59 FR 47063, and it was further delayed until March 20, 1996, by final rule published on March 17, 1995, at 14353. The delay in the effective dates were needed to minimize

the possibility that lawful permanent residents who apply for a replacement Form I-551, Alien Registration Receipt Card, or for naturalization have their applications adjudicated before expiration of the Form I-151 on March 20, 1996.

The final rule will remove references to the Form I-151 throughout Title 8 of the Code of Federal Regulations, including the reference to the Form I-151 as a List A document in 8 CFR 274a.2(b)(1)(v). Thus the Form I-151 will be removed as a List A document when the final rule becomes effective as anticipated on March 20, 1996.

Elimination of the Form I-688B and Introduction of a More Secure Employment Authorization Document (EAD) (Form I-766)

In another employment-related matter arising since publication of the proposed rule, the Service has determined that utilizing state-of-the-art technology at one or more of its service centers will enable the Service to produce a more secure EAD which will benefit employers, aliens who have been granted employment authorization, and the Service as well. The Service is using this supplement as a vehicle to advise the public of its intention to centralize EAD production.

Currently about one half of all EAD applications are filed and processed at the service centers through Direct Mail, and the Service plans to shift almost all remaining EAD applications to Direct Mail as a new production system becomes available in the service centers. [Direct Mail is a Service program under which the public files certain applications and petitions for benefits under the Immigration and Nationality Act (Act), as amended, at service centers instead of field offices.] This partial centralization has improved inventory control, data integrity, and overall service. It has also made the employment authorization data available for verification purposes sooner than it is from decentralized work stations.

With the introduction of the new EAD, Form I-766, Form I-688B will be eliminated. This is consistent with the overall purpose of this rule and these changes are reflected in the proposed rule. Elimination of the Form I-688A, another current version of the EAD, was previously announced in the proposed rule published at 58 FR 61846 on November 23, 1993.

It is the Service's intention to eliminate both Forms I-688A and I-688B as acceptable evidence of employment authorization as of December 31, 1996. Since all Forms I-

688A and most Forms I-688B are issued for a 1-year validity period, this elimination will be accomplished in large measure by the Service's ceasing to issue Forms I-688A and I-688B on or before December 31, 1995, at which time the I-766 will be in production.

The Service will replace any cards with validity dates beyond December 31, 1996, with Forms I-766. While the Service has directed that no Form I-688A (or sticker affixed thereto) be issued or extended to a validity date beyond December 31, 1996, an undetermined number of these documents may have been inadvertently issued or extended beyond that date. Further, the Service estimates on the basis of internal data that as of December 31, 1996, there will be approximately 30,000 Forms I-688B with validity dates beyond that date, due to exceptions to the general practice of issuance in 1-year increments.

The Service has determined that the benefits of a more secure EAD justify a requirement that still-valid Forms I-688A and I-688B alike be replaced with the Form I-766. Further, the fact that the Service's adjudications function no longer receives appropriated funds means that the cost of replacing these cards must come from user fees. In both the Independent Office Appropriation Act, 31 U.S.C. 9701(a), and legislation establishing an "Immigration Examination Fee Account," Section 286(m) of the Act, 8 U.S.C. 1356, Congress has authorized the setting of fees that recover the costs of providing services to aliens. For these reasons, the Service intends to require the standard filing fee for Form I-765 from aliens in these classes applying for replacement EADs.

Holders of Forms I-688A with expiration dates beyond December 31, 1996, will be aliens with pending applications for temporary resident status under sections 210 or 245a of the Act. Current regulations at 8 CFR 103.7(b)(1) do not address the question of fees for renewal of Forms I-688A for these persons, who applied under either section 210 on Form I-700 or under section 245a on Form I-687. However, the Service has administratively exempted this class of aliens from fees for renewal of Forms I-688A since Forms I-687 and I-700 were approved for use. For the reasons discussed above, this practice will cease with introduction of the Form I-766.

Most multiple-year Forms I-688B are issued to dependents of diplomatic, consular and international officials, as well as dependents of certain exchange visitors. Similarly, current regulations at 8 CFR 103.7(b)(1) provide no exemption

of the filing fee for the Application for Employment Authorization, Form I-765, for the dependents described above. The Service has, however, administratively exempted this class of aliens from fees since Form I-765 was approved for use. For this class, too, this practice will cease with introduction of Form I-766.

The Service will accept applications to replace with Form I-766 all Forms I-688A and I-688B carrying a validity date beyond December 31, 1996, for a specified period of time. By separate notice, the Service will inform the public of the exact dates of this application period. Further, the Service will take appropriate steps to notify holders of multiple-year Forms I-688B through the Department of State and the United States Information Agency, the government agencies with the closest liaison with the affected communities.

Other regulatory changes are also needed to reflect introduction of Form I-766. In the proposed rule published November 23, 1993, the Service proposed amending 8 CFR parts 210 and 245a to reflect replacement of Form I-688A with I-688B. Since introduction of Form I-766 will make it necessary to further amend those parts, the Service proposes to replace references to specifically numbered forms with a more general reference to "employment authorization document." Current language in those sections providing for employment authorization in 6-month increments will be made consistent with language in the new 8 CFR 274a.12(c) providing for employment authorization in increments not to exceed 1 year.

Further, to clarify the regulatory basis for work authorization in 8 CFR 274a.12 for legalization applicants under sections 210 and 245a of the Act, the Service is proposing to add a paragraph to 8 CFR 274a.12(c) to include this group in that class of aliens who must apply for employment authorization while an application is pending. A similar provision was included in the proposed rule originally published, but the language proposed in this supplement makes it clear that eligibility for employment authorization is during the period in which the legalization application is pending.

Additionally, Form I-688A is designated by existing regulation as evidence of alien registration. The Service proposes to amend 8 CFR part 264 to make Form I-766, which will replace Form I-688A, evidence of alien registration in one instance. It will be such evidence only for persons who have legalization applications under sections 210 and 245a of the Act

pending before the Service (including any period of administrative review).

With the introduction of Form I-766, it is appropriate to revisit the final rule published on June 1, 1988, at 53 FR 20086-87, staying and suspending the automatic termination provisions of 8 CFR 274a.14(c). Without the stay, employment authorizations granted by the Service before June 1, 1987, for a period beyond June 1, 1988, were to be automatically terminated by regulation. The stay was imposed "to promote clarity in the issuance of employment authorization documents" while the Service continued to investigate technologies for a secure, standardized employment authorization system.

The Service's view is that the technology behind Form I-766 represents an important step toward such a system. There may still be in circulation an undetermined number of Service-issued paper work permits issued before June 1, 1987, that fall within this regulation. It has remained the Service's intent to automatically invalidate such paper documents under the terms of 8 CFR 274a.14(c), which was stayed and suspended. Consistent with the purpose of this rulemaking, then, the Service proposes to lift the stay on termination of these documents, effective December 31, 1996. Holders of such documents would be required to obtain the new, secure Form I-766.

Overall, this requirement would further reduce the number of EADs with which employers must be familiar in order to comply with Section 274A of the Act. In that regard, it is also consistent with Service plans to terminate Forms I-688A and I-688B as employment authorization documents effective December 31, 1996.

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 economic impact on a substantial number of small entities.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget (OMB). As noted in the supplementary section of this rule, this action is intended to streamline and simplify compliance

with the employment eligibility verification requirements of the Act.

Executive Order 12612

The regulation proposed herein 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this regulation will not have an impact on family well-being.

The information collection requirements contained in this rule have been cleared by OMB under the provisions of the Paperwork Reduction Act. The OMB clearance number is 1115-0136.

List of Subjects

8 CFR Part 210

Aliens, Migrant labor, Reporting and recordkeeping requirements.

8 CFR Part 245a

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 264

Administrative practice and procedure, Aliens, Registration.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—SPECIAL AGRICULTURAL WORKERS

1. The authority citation for part 210 continues to read as follows:

Authority: 8 U.S.C. 1103, 1160; 8 CFR part 2.

2. In § 210.4 paragraphs (b)(2) and (3) are revised to read as follows:

§ 210.4 Status and benefits.

* * * * *

(b) * * *

(2) *Employment and travel authorization prior to the granting of*

temporary resident status. Permission to travel abroad and to accept employment will be granted to the applicant after an interview has been conducted in connection with a nonfrivolous application at a Service office. If an interview appointment cannot be scheduled within 30 days from the date an application is filed at a Service office, authorization to accept employment will be granted, valid until the scheduled appointment date. Employment authorization, both prior and subsequent to an interview, will be restricted to increments not exceeding 1 year, pending final determination on the application for temporary resident status. If a final determination has not been made prior to the expiration date on the employment authorization document, that date may be extended upon return of the employment authorization document by the applicant to the appropriate Service office. Persons submitting applications who currently have work authorization incident to status as defined in § 274a.12(b) of this chapter shall be granted work authorization by the Service effective on the date the alien's prior work authorization expires. Permission to travel abroad shall be granted in accordance with the Service's advance parole provisions contained in § 212.5(e) of this chapter.

(3) *Employment and travel authorization upon grant of temporary resident status.* Upon the granting of an application for adjustment to temporary resident status, the service center will forward a notice of approval to the applicant at his or her last known address and to his or her qualified designated entity or representative. The applicant may appear at any Service office, and upon surrender of the previously issued employment authorization card, will be issued Form I-688, Temporary Resident Card. An alien whose status is adjusted to that of a lawful temporary resident under section 210 of the Act has the right to reside in the United States, to travel abroad (including commuting from a residence abroad), and to accept employment in the United States in the same manner as aliens lawfully admitted to permanent resident.

* * * * *

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY PUBLIC LAW 99-603, THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, AND PUBLIC LAW 100-204, SECTION 902

3. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a and 1255a note.

4. In § 245a.2 paragraph (n)(2) heading, and paragraphs (n)(2)(ii) and (n)(3) are revised to read as follows:

§ 245a.2 Application for temporary residence.

* * * * *

(n) * * *

(2) *Employment authorization prior to the granting of temporary resident status.*

* * * * *

(ii) If an interview appointment cannot be scheduled within 30 days from the date an application is filed at a Service office, authorization to accept employment will be granted, valid until the scheduled appointment date. Employment authorization, both prior and subsequent to an interview, will be restricted to increments not exceeding 1 year, pending final determination on the application for temporary resident status. If a final determination has not been made prior to the expiration date on the employment authorization document, that date may be extended upon return of the employment authorization document by the applicant to the appropriate Service office.

(3) *Employment and travel authorization upon grant of temporary resident status.* Upon the granting of an application for adjustment to temporary resident status, the service center will forward a notice of approval to the applicant at his or her last known address and to his or her qualified designated entity or representative. The applicant may appear at any Service office, and upon surrender of the previously issued employment authorization card, will be issued Form I-688, Temporary Resident Card, authorizing employment and travel abroad.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

5. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301-1305.

6. In § 264.1 paragraph (b) is amended by revising the entry for "Form I-688A" and by adding the entry for "Form I-766" to the listing of forms, in proper numerical sequence, to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(b) * * *

I-688A, Employment Authorization Card (until December 31, 1996). I-766, Employment Authorization—Applicants under sections 210 and 245a of the Immigration and Nationality Act, as amended, during such time as an application is pending before the Service, (including any period of administrative review).

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

7. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

8. Section 274a.2 is amended by:

a. Revising paragraphs (b)(1)(v)(a) (6) and (7);

b. Revising paragraph (b)(1)(v)(B)(I)(i); and by

c. Revising paragraphs (b)(1)(vi) and (vii), to read as follows:

§ 274a.2 Verification of employment eligibility.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(A) * * *

(6) An unexpired employment authorization document issued by the Immigration and Naturalization Service which contains a photograph, INS Form I-766, INS Form I-688, INS Form I-688A, (until December 31, 1996), or INS Form I-688B, (until December 31, 1996);

(7) For student participants in Federal Work-Study programs, documents collected and maintained by eligible institutions in the admission of those students to the institutions;

* * * * *

(B) * * *

(I) * * *

(i) A driver's license or identification card issued by a state (as defined in section 101(a)(36) of the Act), or

outlying possession (as defined in section 101(a)(29) of the Act) of the United States, provided the document contains a photograph and the following information: name, date of birth, and sex;

* * * * *

(vi) If an individual is unable to provide the required document or documents within the time periods specified in paragraphs (b)(1)(ii) and (iv) of this section, the individual must present a receipt for the application of the replacement document or documents within 3 business days of the hire and present the required document or documents within 90 days of the hire. If an individual is unable to provide the required document or documents within the time period specified in paragraph (b)(1)(vii) of this section, the individual must present a receipt for the application of the replacement document or documents not later than the date work authorization expires and present the required document or documents within 90 days of that expiration date. This section does not apply to an alien who indicates that he or she does not have work authorization at the time of hire. Nor does it apply to an alien who does not have at the time of reverification an employment authorization document evidencing renewal of employment authorization pursuant to 8 CFR 274a.13(d).

(vii) If an individual's employment authorization expires, the employer, recruiter or referrer for a fee must reverify on Form I-9 to reflect that the individual is still authorized to work in the United States; otherwise the individual may no longer be employed, recruited, or referred. Reverification on the Form I-9 must occur not later than the date work authorization expires. In order to reverify on the Form I-9, the employee or referred individual must present a document that either shows continuing employment eligibility or is a new grant of work authorization. The employer or recruiter or referrer for a fee must review this document, and if it appears to be genuine and to relate to the individual, reverify by noting the document's identification number and expiration date on the Form I-9. The employee must sign and date the Form I-9 in the appropriate block in section 3, thereby attesting that he or she is authorized to work in the United States. In addition, the employee must mark the appropriate box indicating that he or she is authorized to work in the United States indefinitely, or that he or she is authorized to work in the United States

until a certain date. If the employee's work authorization will expire, the employee must provide the expiration date in the appropriate space in section 3 of the Form I-9. If an individual is unable to complete section 3 of the Form I-9 or needs it translated, someone may assist him or her. The preparer or translator must read the Form to the employee, assist him or her in completing section 3—"Updating and Reverification," and have the individual sign or mark the Form in the appropriate place. The preparer or translator must then complete the "Preparer/Translator Certification" portion for section 3 of the Form I-9.

* * * * *

9. In § 274a.12, a new paragraph (c)(20) is added, to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(c) * * *

(20) Any alien who has filed a completed legalization application pursuant to either section 210 or 245A of the Act (and either 8 CFR parts 210 or 245a). Employment authorization shall be granted in increments not exceeding 1 year during the period the application is pending (including any period when an administrative appeal is pending) and shall expire on a specified date.

* * * * *

10. In § 274a.14 paragraphs (c) (1) and (2) are revised to read as follows:

§ 274a.14 Termination of employment authorization.

* * * * *

(c) *Automatic termination of temporary employment authorization granted prior to June 1, 1987.*—(1) Temporary employment authorization granted prior to June 1, 1987 pursuant to 8 CFR 109.1(b) or its redesignation as § 274a.12(c), shall automatically terminate on the date specified by the Service on the document issued to the alien, or on December 31, 1996, whichever is earlier. Automatic termination of temporary employment authorization does not preclude a subsequent application for temporary employment authorization.

(2) A document issued by the Service prior to June 1, 1987, that authorizes temporary employment authorization for any period beyond December 31, 1996, is null and void pursuant to paragraph (c)(1) of this section, and must be surrendered to the Service on the date that the temporary employment authorization terminates or on December 31, 1996, whichever is earlier. The alien shall be issued a new

employment authorization document at the time the document is surrendered to the Service if the alien is eligible for temporary employment authorization pursuant to § 274a.12(c).

* * * * *

Dated: April 25, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-15232 Filed 6-21-95; 8:45 am]

BILLING CODE 4410-10-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5224-9]

Determination of Attainment of Ozone Standard by Ashland, Kentucky, Northern Kentucky (Cincinnati area), Charlotte, North Carolina, and Nashville, Tennessee, and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to determine that the Ashland, Kentucky, Northern Kentucky, Charlotte-Gastonia, North Carolina, and Nashville, Tennessee, ozone nonattainment areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone and that certain reasonable further progress and attainment demonstration requirements, along with certain related requirements, of Part D of Title I of the Clean Air Act are not applicable for so long as the areas continue to attain the ozone standard. In the final rules section of this **Federal Register**, EPA is making these determinations without prior proposal. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and address the comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this action must be received by July 24, 1995.

ADDRESSES: Written comments should be mailed to: Kay Prince, Regulatory

Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

A copy of the air quality data and EPA's analysis are available for inspection at the following addresses:

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Commonwealth of Kentucky, Division of Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601

State of North Carolina, Air Quality Section, Division of Environmental Management, North Carolina Department of Environment, Health, and Natural Resources, Raleigh, North Carolina 27626

Environmental Management Division, Mecklenburg County Department of Environmental Protection, 700 N. Tryon Street, Charlotte, North Carolina 28202-2236

State of Tennessee, Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311-23rd Avenue, North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Kay Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555 extension 4221.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the Final Rules section of this **Federal Register**.

Dated: June 9, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

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