

the Board recommends the initial percentages in September and has the option of recommending an increase in the free and export percentages and a decrease in the reserve percentage later in the marketing year. If the Department concurs with the Board's recommendation, the recommended percentages may be established or modified.

Section 984.49(b)(1) establishes a deadline of February 15 for the Board to recommend to the Secretary an increase in the free percentage and a decrease in the reserve percentage. On February 10, 1995, the Board unanimously recommended suspension of that deadline. This action will suspend the phrase "On or before February 15 of the marketing year," in section 984.49(b)(1) and will authorize the Board to recommend an increase in the free percentage and a decrease in the reserve percentage at any time during the marketing year, which ends on July 31.

In the past, many export markets were undeveloped and the domestic market provided better returns than export markets. The reserve percentage was used as a tool to keep the domestic walnut market from being oversupplied and the export percentage was used as a tool to place an orderly flow of California walnuts into the export market at prices that were competitive with foreign walnuts. Even though the free walnuts were allowed to be shipped to export markets, free walnuts were not price competitive with walnuts from other countries and consequently were not diverted to export markets. Under former marketing conditions, sufficient information relating to the domestic market was available prior to February 15 so that the Board could make an appropriate recommendation for final free and reserve percentages.

Under present marketing conditions, walnut export markets are well established and have returns equal to or higher than those received in the domestic market. As a result, the Board can recommend setting an export percentage of 0 percent which will preclude the shipment of reserve walnuts to export markets. The export market will then be supplied with only free walnuts. By setting a reserve percentage and keeping the export percentage at 0 percent, the Board can remove a quantity of walnuts in excess of domestic and export market demands.

When large shipments of reserve walnuts were exported, the February 15 deadline for recommending a decrease in the reserve gave handlers approximately five months to export the remainder of their reserve after the final

reserve percentage was known. Since exports have now become a viable market for free walnuts, the Board may need more flexibility to consider later data on free shipments to revise its estimate of trade demand. The Board may also need more flexibility to consider the July forecast of the next crop to decide if the desirable carryout should be increased to supplement a short crop.

In addition, the order requires handlers to file monthly shipment reports that are due on the fifth day of the following month. Each additional monthly report the Board receives from handlers after the February 15 deadline, gives the Board a more accurate picture of the levels of shipments of walnuts for the current marketing year. More information is also available at that time on the foreign walnut crop, the pecan supply which directly, competes with walnuts, exchange rates, and foreign and domestic economic conditions. This information will allow the Board to better estimate the current and prospective domestic and export demand and supply conditions for California walnuts. Finally, later in the marketing year, the Board can better estimate the amount of the current crop of walnuts that should be carried over to the next marketing year. By allowing decisions to be made later in the season on a reserve program, the industry can better evaluate marketing conditions.

The Board estimates that sufficient information will be available by early June, but marketing conditions may cause the Board to wait longer before making a final recommendation on the free and reserve percentages. The suspension of the February 15 deadline will allow the Board more flexibility in dealing with the dynamic marketing conditions of the California walnut industry and in turn provide for more orderly marketing of walnuts.

A proposed suspension order was published in the **Federal Register** on June 2, 1995, (60 FR 28744). That action provided a 30-day comment period which ended on July 3, 1995. No comments were received.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board, it is determined that, under the conditions presently existing in the walnut industry, the February 15 deadline in section 984.49(b)(1) does not tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 533) because: (1) The Board will meet September 1995 to consider the need for volume control during the 1995-96 marketing year; (2) preliminary industry discussions on the need for volume control during 1995-96 are expected to begin soon and prompt implementation of the suspension will foster more meaningful discussions; (3) the industry is aware of this action, which was unanimously recommended by the Board at a public meeting and all interested persons in attendance were given the opportunity to provide input; and (4) interested persons were given the opportunity to submit written comments on the suspension of the February 15 deadline and none were received.

#### List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

#### PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

#### § 984.49 [Suspended in part]

2. In § 984.49 paragraph (b)(1), the words "On or before February 15 of the marketing year," are suspended.

Dated: July 31, 1995.

**David R. Shipman,**

*Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.*

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#### DEPARTMENT OF JUSTICE

#### Immigration and Naturalization Service

8 CFR Parts 103, 212, 217, 235, 264, 286

[INS No. 1603-93]

RIN 1115-AD30

#### Charging of Fees for Services at Land Border Ports-of-Entry

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations to allow the Immigration

and Naturalization Service (the Service) to charge a fee for the processing and issuance of specified documents at land border Ports-of-Entry (POEs). The fees are necessary to cover the costs of providing these services which benefit certain applicants at land border POEs. The revenue generated by the collection of fees for these application-processing services will enable the Service to improve service to the public at land border POEs.

**EFFECTIVE DATE:** October 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Marie De Soto, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, telephone (202) 514-1798.

**SUPPLEMENTARY INFORMATION:**

**General**

The Service published a proposed rule on April 12, 1994, at 59 FR 17283, to amend the regulations to allow the Service to charge a fee for processing and issuing specified documents at land border Ports-or-Entry (POEs). Consistent with 31 U.S.C. 9701 and OMB Circular A-25, User Charges, the proposed rule identified application services that currently are provided free-of-charge and for which it would be appropriate to impose a fee. The services identified are tasks commonly performed in secondary inspection such as examining documents, conducting record checks, and interviewing applicants in order to issue permits for extended stays in the United States. In addition, the services provided to applicants-for-admission at POEs, border crossing cards and boating permits; documents that may require extensive interviews, record checks, document production, and other time-consuming paperwork. Specifically, the proposed rule included fees for the processing of Form I-94, Arrival/Departure Record; Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form; Form I-444, Mexican Border Visitors Permit; Form I-68, Canadian Border Boat Landing Permit; Form I-175, Application for Nonresident Alien Canadian Border Crossing Card for issuance of Form I-185, Nonresident Alien Canadian Border Crossing Card (CBCC); and Form I-190, Application for Nonresident Alien Mexican Border Crossing Card, to replace a lost, stolen, or mutilated Nonresident Alien Border Crossing Card (BCC), Form I-586.

All interested parties were invited to submit comments on the proposed rule by June 13, 1994. The Service received 22 comments and considered each of

the comments in preparing the final rule. Commenters included private individuals, Chambers of Commerce, local government representatives, small business owners, members of Congress, and Service employees. Since most discussed several issues, the total number of comments exceeds the number of persons who commented.

**Discussion of Comments**

*Support for Fees*

Eight of the commenters expressed general support for fees for services, with recommendations that the revenues be used to address the illegal immigration problem in the United States. The fees were set to recover only the costs associated with providing the document-processing services and related benefits to certain land border crossing applicants. The revenues generated by these fees are to be used for the purpose of funding the costs incurred to provide these application processing services. It is anticipated that the implementation of the fees-for-services charge will enable the Service to improve inspection services at the land border. Once the fee revenues are available, appropriated resources formerly allocated to fund these document-processing services may be redirected to augment staffing of vehicle and pedestrian traffic lanes at land border Ports-of-Entry. The resulting benefit would be improved facilitation of traffic through the POEs.

One commenter proposed that in addition to charging for the Form I-190 to replace a lost, stolen, or mutilated Form I-586, a \$4.00 fee be imposed for a temporary border crossing card pending issuance of the Form I-586. Another commenter suggested that the fee for the Form I-68 should be higher and that a \$25.00 charge was more appropriate and comparable with a Canadian fee for inspecting United States boats. While the Service recognizes the concerns of the commenters, any additional fees beyond those that were in the proposed rule would have to be the subject of a separate rule. Increasing the fee for the Form I-68 from \$16.00 to \$25.00 would not be consistent with Federal user fee statutes and regulations which require that the fee be set to recover the full costs of providing the services. A cost analysis of the services provided, including the indirect costs associated with these services, resulted in the fees, as established. The Service will conduct periodic reviews of the fees, changes to issuance procedures, and methods used in determining fees and, when

warranted, adjustments to the fees will be made.

*Justification for Fees*

Two commenters suggested that the Government should be required to provide service to the public, and that to charge individuals for that service is not necessary or warranted. On the contrary, the Federal user fee statute (31 U.S.C. 9701) and regulations require that recipients of special benefits bear the costs of providing those services. The Office of Management and Budget (OMB) Circular A-25, User Charges, states as a general policy that reasonable charges should be imposed to recover the full cost to the Federal Government of rendering such services. In July 1993, the Office of the Inspector General completed an audit of services performed and special benefits provided by the Service. This audit disclosed a number of services currently being provided free-of-charge by the Service for which it would be appropriate to impose a fee including the Canadian Border Boat Landing Permit, Form I-68, and applications for Border Crossing Cards, Forms I-190 and I-175. The audit concluded that the Service was not in compliance with OMB directives with regard to these services, and that failure to collect fees for services resulted in the cost being paid by the general public out of the general fund appropriation. In an effort to comply with federal directives, the Service determined which services and benefits are currently provided without charge to certain beneficiaries and for which it would be appropriate to impose a fee, culminating in this rule.

Two commenters, objecting to the fee for Form I-68, stated that, if boaters refuse to obtain Form I-68 because of the fee, the Service will be forced to provide additional personnel and facilities where none exist to inspect boaters upon arrival in the United States. However, pursuant to 8 CFR 100.4, persons entering the United States may only present themselves to an immigration officer at those ports designated as Class A Ports-of-Entry at a time when the port is open for inspection.

The I-68 provision is the only exception to this reporting requirement. The provision extends to boaters the opportunity of recreational boating without reporting for inspection during each outing. A boater who refuses to obtain Form I-68 is otherwise required to expend the time, expense, and effort to report to an open, staffed POE.

The I-68 is clearly a specific benefit that the Service provides to an identifiable recipient, as defined by

Federal user fee statute and OMB Circular A-25, User Charges. It is a benefit for which the Service is required to charge a fee. However, participation in the I-68 program is voluntary.

Each boating season, in order to make this benefit easily available, inspectors travel to boat shows, marinas, and other gatherings to issue the Form I-68. The Service's districts mount publicity campaigns to educate boaters about these requirements. The purpose of the Form I-68 fee is to recover the costs of providing these services and this special benefit to boaters, since funding is insufficient for additional personnel and new facilities, and there are no other resources available to support port expansion.

#### *Use of Revenues*

One commenter expressed concern that there was no guarantee that the money generated from these collections would be applied to efforts to deal with illegal immigration. The Service recognizes the concern of the commenter; however, consistent with the mission of the Service, inspectors at POEs have a very important dual role: that of facilitating the entry of bona fide applicants-for-admission, and that of enforcing the immigration laws by detecting inadmissible applicants and those attempting entry by fraud. The Service will use the revenue generated from the fees contained in this rule to fund the costs incurred to improve the secondary application-processing services provided at land border POEs. Consequently, the Service intends to devote appropriated resources formerly expended for secondary application-processing services to staffing of vehicle and pedestrian traffic lanes at land border Ports-of-Entry. This overall increase in resources will allow the Service to better meet its mission of facilitating the entry of bona fide applicants-for-admission, providing better service to the traveling public at land border POEs, and enforcing the immigration laws by detecting inadmissible applicants and those attempting entry fraud.

Another commenter stated that the income should return to the port where it was generated. The fees have been set, to recover not only costs incurred directly at ports, but also costs—both direct and indirect—incurred by the Service for services provided to applicants-for-admission at land border POEs in connection with the six application forms described in this rule. Among the costs identified are a portion of the salaries and expenses of the port inspectors, the cost of training the inspectors, data processing, production

of forms and documents, safeguarding and accounting for the fees collected, and performing record and background checks. Consequently, the fees collected pursuant to this rule are to be used to offset the cost to all Service components, including ports, of providing these application-processing service at all land border POEs. The Service has developed a comprehensive staffing model geared to the unique requirements of land border facilities which incorporates data from each land border POE on vehicle and pedestrian traffic, projected growth, facility expansion, and other items affecting inspection service. Using the model, the Service will be able to properly allocate resources.

#### *Northern and Southern Border Disparities*

One commenter wondered why fees are only being charged to those who cross the United States-Mexico border, and not to those who cross from Canada or travel by air from other countries. The fees described in this rule affect land border crossers at both the northern and southern borders. Two of the six forms for which fees are charged, the Form I-94 and the Form I-94W, are alien control documents issued to nonimmigrant aliens of any nationality who seek admission to the United States at either the northern or southern border. Fees for the two border crossing documents are the Form I-190, Application for Nonresident Alien Mexican Border Crossing Card, and the Form I-175, Application for Nonresident Alien Canadian Border Crossing Card. The remaining two fees are for the issuance of permits which, in the case of the Form I-444, Mexican Border Visitors Permit, is beneficial only to Mexican nationals, and in the case of the Form I-68, Canadian Border Boat Landing Permit, benefits Canadians, United States citizens, and other qualified applicants. This rule applies only to land border crossers; however, air travelers arriving at air POEs currently pay a fee.

Two commenters questioned the inequity of requiring the issuance of BCCs for Mexican nationals but not for Canadians. The differences in documentary requirements between Mexican and Canadian nationals are complex, far-reaching, and beyond the scope of this rule. Generally, nonimmigrant visa requirements imposed upon aliens of certain countries are based on treaties and the corresponding regulations of both the Department of State and the Service. Under the existing provisions, Canadian nationals are, for most nonimmigrant

categories, visa-exempt while Mexican nationals are not exempt. A BCC is an acceptable form of documentation, but it is not a required document. When entering the United States across a land border, the BCC generally provides a greater convenience to the holder than a regular nonimmigrant visa because a passport is not necessary. The issuance of BCC's is a benefit that the Service elects to provide to nonimmigrants who routinely cross the border. The Form I-586, Nonresident Alien Mexican Border Crossing Card, offers the same privileges as the nonimmigrant visa for a Mexican national seeking entry as a visitor for business (B-1) or pleasure (B-2). Alternatively, a Mexican national may apply, without charge, to an American Consulate in Mexico for a nonimmigrant visa.

Four commenters stated that implementation of a fee for Form I-68 will have an adverse impact on relations with our Canadian neighbors; however, none of the commenters explained in exactly what way this would interfere with good relations. Since the Canadian Government also plans to implement fees for many of the services it provides, an element of reciprocity exists, and there is no clear, disparate treatment on either side of the border.

#### *Economic Impact of Fees*

One commenter stated that user fees are inconsistent with the intent of the North American Free-Trade Agreement (NAFTA) to eliminate barriers to trade, and two commenters stated that fees would have a negative impact on the economies of the communities along the southern border. Facilitation of travel between NAFTA countries is of great concern to the Service. Traffic congestion at POEs, where vehicles sometimes wait hours to cross the border, costs local economies tremendous amounts of revenue in lost time and productivity, as well as severely impacting the environment. One way that this congestion can be alleviated is through additional personnel and the implementation of automated technology to expedite the services provided. Individuals traveling within 25 miles of the southern border area for short periods of time will not be affected by the fees. Only those traveling more than 25 miles or staying for longer than 72 hours will require issuance of an entry permit and payment of a fee. The revenues collected will allow the Service to recover the costs for providing the services. Article 1603.4 of the NAFTA states that each party shall limit any fees for processing applications for temporary entry of business persons to

the approximate costs of services rendered. Therefore, the Service believes that these fees are not inconsistent with the terms of the NAFTA.

Three commenters felt that imposition of a fee for Form I-68 would cause economic hardship to the communities along the United States/Canada border. The Service does not agree with the comment and believes that the annual fee is nominal for the benefit that is derived. The Service is required to recover the costs of providing this benefit inasmuch as the Federal user fee statute and regulations require that recipients of special benefits bear the costs associated with providing the specific services. The Service does not expect the fee to significantly deter boaters from obtaining a permit so they may land and enjoy the amenities offered in nearby communities.

#### *Reasonableness of Fee*

Two commenters stated that the fee for Form I-68 will impose an economic burden on the individuals requiring the form, who already pay many other taxes and fees, and one commenter felt the fee was unreasonable. The fees included in this rule are not excessive, and are considerably lower than many similar fees charged by Federal, state, and local governments for similar services.

Most of the fees, once paid, allow the applicant to avail him or herself of the benefit for an extended period of time. The CBCC, at \$30, is currently valid indefinitely, and the replacement BCC, at \$26, is valid for 10 years. The Form I-68, at \$16, allows entry for 1 year, and the Form I-94W at \$6, is issued for a period of 90 days. The Form I-94, depending on the nonimmigrant classification under which the applicant is entering, may be valid for years, with the normal visitor for pleasure being granted a minimum of 6 months for a fee of \$6. The Form I-444, with a fee of \$4, may be issued for a period not to exceed 30 days.

In addition, the Service has adopted a family cap. Formerly, Forms I-444 and I-68 allowed multiple family members, and unrelated individuals traveling in a group, to apply on one form. The family cap essentially allows children the benefit without a fee so as not to impose an undue burden on families traveling across the southern border for short periods of time, and on families enjoying recreational boating along the northern border.

As stated previously, the fees were determined by an analysis of document-processing services and associated costs, and are calculated to recover the direct and indirect costs to the Service of

providing these special services and benefits.

One commenter stated that there is no reason for a United States citizen to pay to obtain Form I-68, since there is no penalty for failure to report for immigration purposes, and that those who do obtain Form I-68 do so only to appear to comply with a non-existent immigration inspection requirement. Although United States citizens are not subject to the immigration laws, the regulations at 8 CFR 235.1 require that application to enter the United States must be made in person to an immigration officer at a United States POE at a time when the port is open for inspection. This section also states that a person claiming United States citizenship must establish that fact to the examining immigration officer. That is why United States citizens are specifically included in the I-68 regulations. While criminal prosecution, loss of citizenship, or deportation will not apply to a United States citizen who has not complied with inspection requirements, the potential inconvenience in establishing that he or she is not subject to the immigration laws if encountered by Service enforcement officers may prove to be significant to most law-abiding boaters and render obtaining the I-68 worthwhile.

#### **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. The fees proposed in this rule, calculated to cover only the costs of providing the service, are nominal, and will apply only to individuals, not 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 E.O. 12866, section 3(f), Regulatory Planning and Review. Although this rule requires user fees, the fees are necessary to recover the cost to the Federal Government for processing and issuing specified documents at United States land border Ports-of-Entry for business and pleasure. Title 31 U.S.C. and OMB Circular A-25 require that recipients bear the cost of receiving special benefits. As such, a cost analysis of the INS services provided and associated indirect cost resulted in the

fees established herein, which are consistent with Federal user fee statutes and regulations and do not exceed the full cost that may be recovered by the Service.

#### **Executive Order 12612**

The regulations adopted 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 addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will have no effect on family well-being.

#### **Paperwork Reduction Act**

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections(s) are contained in 8 CFR 299.5, Display of Control Numbers.

#### **List of Subjects**

##### *8 CFR Part 103*

Administrative practice and procedures, Aliens, Authority delegation (Government agencies), Fees, Forms.

##### *8 CFR Part 212*

Administrative practice and procedure, Aliens, Immigration, Passports and visas.

##### *8 CFR Part 217*

Aliens, Passports and visas.

##### *8 CFR Part 235*

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Port-of-entry.

##### *8 CFR Part 264*

Aliens, Reporting and recordkeeping requirements.

##### *8 CFR Part 286*

Fees, Immigration, Reporting and recordkeeping requirements.

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

**PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS**

1. The authority citation for part 103 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by adding, in proper numerical sequence, the following forms to the list of forms, to read as follows:

**§ 103.7 Fees.**

- (b) \* \* \*
- (1) \* \* \*

Form I-68. For application for issuance of the Canadian Border Boat Landing Permit under section 235 of the Act—\$16.00. The maximum amount payable by a family (husband, wife, unmarried children under 21 years of age, parents of either husband or wife) shall be \$32.00.

\* \* \* \* \*

Form I-94. For issuance of Arrival/Departure Record at a land border Port-of-Entry—\$6.00.

Form I-94W. For issuance of Nonimmigrant Visa Waiver Arrival/Departure Form at a land border Port-of-Entry under section 217 of the Act—\$6.00.

\* \* \* \* \*

Form I-175. For issuance of Nonresident Alien Canadian Border Crossing Card (Form I-185)—\$30.00.

Form I-190. For issuance of replacement Nonresident Alien Mexican Border Crossing Card (Form I-586) in lieu of one lost, stolen, or mutilated—\$26.00.

\* \* \* \* \*

Form I-444. For issuance of a Mexican Border Visitors Permit issued in conjunction with presentation of a Mexican Border Crossing Card or multiple-entry B-1/B-2 nonimmigrant visa to proceed for a period of more than 72 hours but not more than 30 days and to travel more than 25 miles from the Mexican border but within the 5-state area of Arizona, California, Nevada, New Mexico, or Texas—\$4.00. The maximum amount payable by a family (husband, wife, children under 21 years of age, and parents of either husband or wife) shall be \$8.00.

\* \* \* \* \*

**PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE**

3. The authority citation for part 212 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR part 2.

4. Section 212.6 is amended by revising paragraph (e) to read as follows:

**§ 212.6 Nonresident alien border crossing cards.**

\* \* \* \* \*

(e) *Replacement.* If a nonresident alien border crossing card has been lost, stolen, mutilated, or destroyed, the person to show the card was issued may apply for a new card as provided for in this section. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application for the replacement card. The holder of a Form I-185, I-186, or I-586 which is in poor condition because of improper production may be issued a new form without submitting fee or application upon surrendering the original card.

\* \* \* \* \*

**PART 217—VISA WAIVER PILOT PROGRAM**

5. The authority citation for part 217 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1187; 8 CFR part 2.

6. Section 217.2 is amended by revising paragraph (c) to read as follows:

**§ 217.2 Eligibility.**

\* \* \* \* \*

(c) *Applicants arriving at land border Ports-of-Entry.* Any applicant arriving at a land border Port-of-Entry must provide evidence to the immigration officer of financial solvency and a domicile abroad to which the applicant intends to return. An applicant arriving at a land border Port-of-Entry will be charged a fee as prescribed in § 103.7(b)(1) of this chapter for issuance of Form I-94W, nonimmigrant Visa Waiver Arrival/Departure Form.

\* \* \* \* \*

**PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION**

7. The authority citation for part 235 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, and 1252.

**§ 235.1 [Amended]**

8. In § 235.1, paragraph (e) is amended by revising the phrase “without application or fee,” in the first sentence to read: “upon application and payment of a fee prescribed under § 103.7(b)(1) of this chapter.”

9. In § 235.1, paragraph (f)(1) introductory text, paragraph (f)(2), and paragraph (g)(1) are revised to read as follows:

**§ 235.1 Scope of examination.**

\* \* \* \* \*

(f) \* \* \*

(1) *Nonimmigrants.* Each nonimmigrant alien, except as indicated

below, who is admitted to the United States shall be issued a completely executed Form I-94 which must be endorsed to show: Date and place of admission, period of admission, and nonimmigrant classification. A nonimmigrant alien who will be making frequent entries into the United States over its land borders may be issued a Form I-94 which is valid for any number of entries during the validity of the form. A nonimmigrant alien entering the United States at a land border Port-of-Entry who is issued Form I-94 will be charged a fee as prescribed under § 103.7(b)(1) of this chapter. In the case of a nonimmigrant alien admitted with the classification TN (Trade, North American Free Trade Agreement (NAFTA)), the specific occupation of such alien as set forth in Appendix 1603.D.1 of the NAFTA shall be recorded in item number 18 on the reverse side of the arrival portion of Form I-94, and the name of the employer shall be noted on the reverse side of both the arrival and departure portions of Form I-94. The departure portion of Form I-94 shall bear the legend “multiple entry.” A Form I-94 is not required by:

\* \* \* \* \*

(2) *Paroled aliens.* Any alien paroled into the United States under section 212(d)(5) of the Act, including any alien crewmember, shall be issued a completely executed Form I-94 which must include:

- (i) Date and place of parole;
- (ii) Period of parole; and
- (iii) Conditions under which the alien is paroled into the United States. A fee shall not be required for Form I-94 when it is issued for the purpose of paroling an alien into the United States.

(g) *Mexican Border Visitors Permit, Form I-444.* (1) Any Mexican national exempt from issuance of a Form I-94 under paragraph (f)(1) (iii) or (iv) of this section shall be issued a Mexican Border Visitor’s Permit, Form I-444, whenever:

(i) The period of admission sought is more than 72 hours but not more than 30 days; or

(ii) The applicant desires to travel more than 25 miles from the Mexican border but within the 5-state area of Arizona, California, Nevada, New Mexico, or Texas. A separate Form I-444 will be issued for each applicant for admission and a fee as prescribed under § 103.7(b)(1) of this chapter shall be charged for each applicant, or until the family cap is reached.

(i) The period of admission sought is more than 72 hours but not more than 30 days; or

(ii) The applicant desires to travel more than 25 miles from the Mexican border but within the 5-state area of Arizona, California, Nevada, New Mexico, or Texas. A separate Form I-444 will be issued for each applicant for admission and a fee as prescribed under § 103.7(b)(1) of this chapter shall be charged for each applicant, or until the family cap is reached.

\* \* \* \* \*

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

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

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

11. A new § 264.4 is revised to read as follows:

**§ 264.4 Application to replace a Nonresident Alien Border Crossing Card.**

An application for a replacement Nonresident Alien Border Crossing Card must be filed pursuant to § 212.6(e) of this chapter. An application for a replacement Form I–185, Nonresident Alien Canadian Border Crossing Card, must be filed on Form I–175. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application. An application for a replacement Form I–586, Nonresident Alien Border Crossing Card, must be filed on Form I–190. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application to replace a lost, stolen, or mutilated card.

\* \* \* \* \*

**PART 286—IMMIGRATION USER FEE**

12. The authority citation for part 286 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1356; 8 CFR part 2.

13. A new § 286.9 is added to read as follows:

**§ 286.9 Fee for processing applications and issuing documentation at land border Ports-of-Entry.**

(a) *General.* A fee may be charged and collected by the Commissioner for the processing and issuance of specified Service documents at land border Ports-of-Entry. These fees, as specified in § 103.7(b)(1) of this chapter, shall be dedicated to funding the cost of providing application-processing services at land border ports.

(b) *Forms for which a fee may be charged.* (1) A nonimmigrant alien who is required to be issued, or requests to be issued, Form I–94, Arrival/Departure Record, for admission at a land border Port-of-Entry must remit the required fee for issuance of Form I–94 upon determination of admissibility.

(2) A nonimmigrant alien applying for admission at a land border Port-of-Entry as a Visa Waiver Pilot Program applicant pursuant to § 217.2(c) or § 217.3(c) of this chapter must remit the required fee for issuance of Form I–94W upon determination of admissibility.

(3) A Mexican national in possession of a valid nonresident alien border

crossing card or nonimmigrant B–1/B–2 visa who is required to be issued Form I–444, Mexican Border Visitors Permit, pursuant to § 235.1(g) of this chapter, must remit the required fee for issuance of Form I–444 upon determination of admissibility.

(4) A citizen or lawful permanent resident alien of the United States, Canadian national, or lawful permanent resident of Canada having a common nationality with Canadians, who requests Form I–68, Canadian Border Boat Landing Permit, pursuant to § 235.1(e) of this chapter, for entry to the United States from Canada as an eligible pleasure boater on a designated body of water, must remit the required fee at time of application for Form I–68.

(5) A Canadian national or a lawful permanent resident of Canada having a common nationality with nationals of Canada, who submits Form I–175, Application for Nonresident Alien Canadian Border Crossing Card, must remit the required fee at time of application for Form I–185.

(6) A Mexican national who submits Form I–190, Application for Nonresident Alien Mexican Border Crossing Card, for replacement of a lost, stolen, or mutilated Form I–586, Nonresident Alien Border Crossing Card, must remit the required fee at time of application for a replacement Form I–586.

Dated: May 23, 1995.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Airspace Docket No. 95–AWP–9]

**Revocation of Class D Airspace Area at Miramar Naval Air Station (NAS), CA**

**AGENCY:** Federal Aviation Administration [FAA], DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revokes the Class D airspace area at Miramar NAS, CA. This airspace is presently contained within the San Diego, CA, Class B surface area, and is no longer required. **EFFECTIVE DATE:** 0901 UTC, November 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Charles Register, System Management Specialist, System Management Branch, AWP–530, Air Traffic Division,

Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

**SUPPLEMENTARY INFORMATION:**

**History**

On June 9, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by revoking the Class D airspace area at Miramar NAS, CA (60 FR 30481). This airspace is presently located within the San Diego, CA, Class B surface area, and is no longer required.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes the Class D airspace area at Miramar NAS, CA. This airspace is presently located within the San Diego, CA, Class B surface area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows: