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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1933-98; AG Order No. 2282-99]

RIN 1115-AF10

Adjustment of Small Volume Application Fees of the Immigration Examinations Fee Account

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service's (Service) fee schedule of the Immigration Examinations Fee Account (IEFA) for certain small volume immigration adjudication and naturalization applications and petitions (Forms I-360, N-300, N-336, and N-470). Fees collected from persons filing these applications and petitions are deposited into the IEFA and used to fund the cost of processing immigration adjudication and naturalization applications and petitions and associated support services. The Service has determined that the current fees for these four small volume applications and petitions need to be adjusted. Of the four small volume applications and petitions, the fees for two are being increased and two are being decreased. This rule is necessary to ensure that the fees charged accurately reflect the cost of processing immigration adjudication and naturalization applications and petitions.

DATES: This final rule is effective January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Schlesinger, Branch Chief, Fee Policy and Rate Setting Branch, Office of Budget, Immigration and Naturalization Service, on (202) 616-2754, 425 I Street, NW., Room 6240, Washington, DC

20536. Detailed documentation of the rate-setting process is available upon request by calling (202) 616-2754.

SUPPLEMENTARY INFORMATION:

What Legal Authority Does the Service Have To Charge Fees?

1. *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Acts of 1989 and 1991*

The Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1989 (Pub. L. 100-459), authorized the Service to prescribe and collect fees to recover the cost of providing certain immigration adjudication and naturalization services. Public Law 100-459 also authorized the establishment of the IEFA in the Treasury of the United States. All revenue from fees collected for the provision of immigration adjudication and naturalization services are deposited in the IEFA and "remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees * * *." 8 U.S.C. 1356(n).

In subsequent legislation, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Acts, 1991 (Pub. L. 101-515), Congress further provided that "fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected." 8 U.S.C. 1356(m).

2. *The Independent Offices Appropriation Act, 1952*

The Service also employs the authority granted through the Independent Offices Appropriation Act, 1952 (IOAA), 31 U.S.C. 9701 (Pub. L. 82-137), commonly referred to as the "user fee statute," to develop its fees. The user fee statute directs Federal agencies to identify services provided to unique segments of the population and

to charge fees for those services, rather than supporting such services through general tax revenues. The IOAA states that "[i]t is the sense of Congress that each service or thing of value provided by an agency * * * to a person * * * is to be self-sustaining to the extent possible." 31 U.S.C. 9701(a). The IOAA further provides that charges for such services or things of value should be based on "the costs to the Government; the value of the service or thing to the recipient; the public policy or interest served; and other relevant facts." 31 U.S.C. 9701(b).

3. *The Chief Financial Officers Act of 1990*

The Service must also conform to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), Pub. L. 101-576. Section 205(a)(8) of the CFO Act requires each agency's Chief Financial Officer to "review, on a biennial basis, the fee, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value." 31 U.S.C. 902(a)(8).

Did the Service Publish a Proposed Rule To Adjust the Fees?

Yes. On May 17, 1999, the Service published a proposed rule in the **Federal Register** at 64 FR 26698, which proposed to adjust the fee schedule of the IEFA for certain small volume immigration adjudication and naturalization applications and petitions (Forms I-360, N-300, N-336, and N-470). The public was provided with a 60-day comment period which ended on July 16, 1999. The Service did not receive any comments on the proposed rule.

Accordingly, the fees for the following forms will be adjusted as follows:

Form	Old Fee	New Fee
I-360	\$80.00	\$110.00
N300	75.00	50.00
N-336	110.00	170.00
N-470	115.00	80.00

The following is a discussion of the standards and guidelines that were used to determine the fee adjustments.

What Federal Cost Accounting and Fee Setting Standards and Guidelines Were Used?

1. Office of Management and Budget (OMB) Circular No. A-25, User Charges

When developing fees for services, the Service adheres to the principles contained in OMB Circular Number A-25, User Charges. OMB Circular A-25 states that, as a general policy, a “user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.”

The guidance contained in OMB Circular A-25 is applicable to the extent that it is not inconsistent with any Federal statute. Specific legislative authority to charge fees for services takes precedence over OMB Circular A-25 when the statute expressly designates “who pays the charge; how much is the charge; [or] where collections are deposited.” When a statute does not address issues of how to calculate fees or what costs to include in the fee calculation, Federal agencies must follow the principles and guidance contained in OMB Circular A-25 to the fullest extent allowable. The guidance directs Federal agencies to charge the “full cost” of providing services when calculating fees that provide a specific benefit to recipients. OMB Circular A-25 defines full cost as “all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service.” These costs include, but are not limited to, an appropriate share of:

- * Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement;
- * Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rents or imputed rents on land, buildings, and equipment;
- * Management and supervisory costs; and
- * The costs of enforcement, collection, research, establishment of standards, and regulation.

2. Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government

When developing fees for services, the Service also adheres to the cost accounting concepts and standards recommended by the Federal Accounting Standards Advisory Board (FASAB). The FASAB was established in 1990, and its purpose is to recommend accounting standards for the Federal Government. In developing its recommendations, the FASAB considers the financial and budgetary information requirements of the Congress, executive agencies, and other users of Federal financial information.

How Did the Service Determine the Full Cost of Processing Immigration Adjudication and Naturalization Applications?

1. Phase I—Large Volume Applications/Petitions

The Service conducted a review of the IEFA in two phases to determine the full cost of processing immigration adjudication and naturalization applications. Phase I sought to develop a more consistent and reliable cost accounting methodology focusing on 30 large volume applications and petitions (volumes in excess of 10,000 per year). This resulted in a proposed rule, which detailed the Activity Based Costing (ABC) approach and methodology used, and proposed adjusted fees for 30 immigration adjudication and naturalization petitions based on the determination of the full cost to the Service to perform the required activities. The proposed rule was published in the **Federal Register** on January 12, 1998, at 63 FR 1775. The final rule was published in the **Federal Register** on August 14, 1998, at 63 FR 43604.

2. Phase II—Small Volume Applications/Petitions

In a continuing effort to refine and build upon the methodology and results of the first study, the Service implemented Phase II of the IEFA fee study. The primary objective was to add more precision to the cost model for certain small volume applications. For the purposes of the IEFA studies, small volume applications were defined as

those applications and petitions that have annual volumes of less than 10,000 application and petition receipts. The Service selected the ABC approach because it is an operationally-based technique that focuses on work activities performed that produce an output and consume resources. Table 1 provides the small volume applications that are the subject of this final rule.

TABLE 1.—SMALL VOLUME APPLICATIONS

Form	Description
I-360 ...	Petition for Amerasian, Widow(er), or Special Immigrant.
N-300 ..	Application to File Declaration of Intention.
N-336 ..	Request for Hearing on a Decision in Naturalization Procedures.
N-470 ..	Application to Preserve Residence for Naturalization Purposes.

What Processes Were Used To Determine the Adjustment of Fees?

1. Scope of Small Volume Application Review

One of the primary objectives of the IEFA Study was to evaluate the small volume applications and include the applications in the IEFA cost model. The small volume application evaluation and analysis included: (1) Incorporating small volume application expenses deducted from the IEFA budget base; and (2) assigning activity processing model activities to the small volume applications.

2. Small Volume Applications Resources

Because small volume applications were not included in the Phase I IEFA Study, amounts representing the imputed cost of the small volume applications were deducted from the budget base. For the purposes of the Phase I IEFA Study, it was assumed that the cost of processing a small volume application was equal to the fee in effect at the time. As a result, the small volume application fees were multiplied by the projected FY 1998 small volume application workload volume to identify the projected revenue to deduct from the budget base. Table 2 provides the small volume application resources deducted from the Phase I IEFA Study cost model.

TABLE 2.—SMALL VOLUME APPLICATION RESOURCES DEDUCTED FROM THE PHASE I IEFA COST MODEL

Form number	Phase I projected FY 1998 volume	Current fee	Projected resources
I-360	8,196	\$80.00	\$655,680
N-300	991	75.00	74,325
N-336	3,956	110.00	435,160
N-470	423	115.00	48,645
Total of small volume applications			1,213,810

The \$1.2 million in projected resources for processing small volume applications was deducted from the budget base of each IEFA funded program involved in processing these applications. The amount deducted from each program was based on the percentage of full time equivalents (FTEs) represented by the program in proportion to the total FTEs of the programs combined. The inclusion of small volume applications in the Phase II IEFA Study required assigning resources to the program areas.

After the small volume application resources were assigned to the respective program areas, the resources were assigned to the Application Processing Model (APM) activities based on the results of the Phase I IEFA Study FTE surveys for each program area. The APM is a narrative and graphical representation (i.e., a map or flowchart of the activities, worksteps, or tasks) of an application process. The APM was developed to show the activities involved in processing applications and to serve as the primary

basis for associating resources with cost objects (applications). The APM enabled the study team to link the resources required by the Service to perform its processing activities with the applications.

3. Assigning Activities to Small Volume Applications

With the small volume expenses included in the Phase II cost model, the next step was to assign the activities to these applications. Small volume applications are processed in the same manner as other IEFA funded applications. Therefore, the activities identified in the Phase I IEFA Study APM were used to evaluate the small volume applications. To ensure consistency with the Phase I study, the same methodology and approach was used to assign activities to applications.

In the Phase I study, the nine primary activities were assigned to the immigration adjudication and naturalization applications and petitions based on the percentage of projected workload volume for the

application or petition. These assignments were then weighted by the time required to perform each activity (cycle time) for each application or petition. The percentage of weighted volume represented by an application determines the percentage of activity cost assigned to the application. Including the small volume applications in the Phase II IEFA cost model required identifying the FY 1998 workload projections, and determining the time required to perform each small volume application activity. Once these data elements were identified, the percentage of activity costs applicable to the small volume applications was calculated.

4. Small Volume Applications

The first step in assigning the APM activities to small volume applications was to identify the projected FY 1998 workload volumes for the applications. The volumes in Table 3 represent the most recent workload projections developed by the Service and used in the fee study.

TABLE 3.—PROJECTED ANNUAL APPLICATION WORKLOAD VOLUMES

Small volume form	Description	Phase II projected annual volume
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	8,919
N-300	Application to File Declaration of Intention	1,015
N-336	Request for Hearing on a Decision in Naturalization Procedures	4,500
N-470	Application to Preserve Residence for Naturalization Purpose	382

5. Small Volume Application Data Gathering Approach

Once the small volume application business volumes were identified, the next step was to determine the activity cycle times for each application. In the Phase I IEFA Study, applications and petitions activity cycle times were identified by performing statistical sampling and observation at various service centers and district offices. The Phase I study cycle time collection relied on observing enough application

activity combinations to ensure statistical validity.

Small volume applications by definition are not processed in the same volume as other IEFA applications. The service centers and district offices do not process enough small volume applications to ensure that personal observations could be performed during site visits. As a result, the Phase II study determined that observing enough small volume application and activity combinations to ensure statistical

validity could not be performed in a timely or cost effective manner.

The study determined that the best approach to identify small volume application activity cycle times would be to conduct telephone interviews with highly experienced Service personnel involved in processing small volume applications. The highly experienced Service personnel identified were from different geographical locations. The objective of each telephone interview was to identify the activities and tasks

required to process each small volume application and to identify the estimated time required to perform the activity or task.

6. Telephone Interview Preparation

Prior to conducting each telephone interview, procedures were developed for conducting the interview. The following steps were performed prior to the interview:

Step 1. In this step, the contact person was provided with a description of the fee study and the APM definitions, and asked to review the APM, identifying the areas of the APM that applied to their application. The contact person was requested to identify any questions they had on the activities and tasks listed on the APM.

Step 2. This step consisted of a discussion, after the initial review by the contact person, of any questions that he/she had on the APM. It was important that the contact person and the interviewer have the same understanding of the APM prior to asking timing questions. The contact person was asked to determine if there were any activities or tasks for the application not listed in the APM.

Step 3. Preparation for this step involved a discussion of the application processing activities, including the "unique" and "common" activities. A determination was made on whether the small volume application was processed the same as other applications for "common" activities. It was made clear that the interviewee had to understand the terms "unique" and "common" before discussing application cycle times.

Step 4. This phase involved determining whether an activity was "unique," and making a listing of all tasks the contact person completes in the processing of the application. If the contact person does not list a particular task under an activity, the person must ascertain whether the task is either not done for that activity, or processed by another person. If processed by another

person, a contact person was obtained for that particular activity.

Step 5. This step was performed after the first four initial steps and involved the timing interview, which consisted of the following steps:

- (1) For each task listed, ask the contact person how long it takes on average to complete the task;
- (2) Ask the contact person how long they have worked for the Service, and how much experience the contact person has with his or her application;
- (3) Determine when the contact person last worked on adjudicating the application;
- (4) Ask the contact person if there are any circumstances that would make processing of the application different at other Service offices;
- (5) Determine the volume of applications processed at the contact person's location; and
- (6) Determine if the contact person is aware of any changes to the form that may affect its processing time.

7. Cycle Time Collection

After the telephone interview procedures were conducted, the Service collected cycle time estimates from the small volume application interviewees. Cycle time estimates were provided by the interviewee for each "unique" task performed in processing the small volume application. The interviewee also identified each "common" task performed in processing the small volume application. Common activity and task cycle times were collected in the Phase I IEFA Study, and represent the time required to perform an activity or task regardless of the type of application. For example, opening the mail is one of the tasks performed within the common activity "Receive Application or Petition." The activity and task are common because they require the same amount of time to perform regardless of the type of application in the envelope.

The results of the telephone interviews were compiled to determine

the cycle time required to perform each activity and task for an application. Each small volume application cycle time estimate identified in the telephone interview was weighted by the volume of the application processed at the location of the interviewee. As a result, the response of interviewees at locations processing higher quantities of an application were weighted more than the results from locations that process fewer volumes. The weighted cycle times for each location were then summed and divided by the total applications processed at all locations. The result was the normalized cycle time to perform each small volume activity.

In addition to performing interviews, the study team collected Form I-360 adjudication cycle times at the Nebraska Service Center (NSC). The study team collected cycle times by making personal observations of the time required to adjudicate the Form I-360. These procedures consisted of the following data collection assumptions:

- (1) Selection of persons to be observed would be on a random basis;
- (2) All applications received by the Service are in random order, therefore, the observation of applications processing on a first-in, first-out basis would maintain this randomness;
- (3) Site visit team members would not be restricted in their observations by site personnel; and
- (4) All site visit team members would have similar equipment and training.

The Form I-360 adjudication cycle times were weighted by the volume of the applications processed at the NSC. These results were combined with the Vermont Service Center Form I-360 telephone interview estimates to determine the cycle time to process each activity and task for the Form I-360. The cycle time estimates to perform each small volume application activity in minutes and fractions are provided in Table 4.

TABLE 4.—SMALL VOLUME APPLICATION CYCLE TIMES (MINUTES)

Activity	I-360	N-300	N-336	N-470
Receive	4.71	2.24	.89	.89
Record Fee	1.40	1.40	1.40	1.40
Input Application Data	4.68	.95	N/A	N/A
Manage Records	5.65	13.93	6.02	5.57
Adjudicate Applications	49.06	7.90	77.48	26.16
Prepare Outgoing	1.67	.65	1.83	3.35
Issue End Product	N/A	9.25	7.42	N/A
Respond to Inquiry	7.68	N/A	2.73	9.87
Total	74.85	36.32	97.77	47.24

8. *Small Volume Application Costs*

The final step in performing the small volume application analysis was to calculate the cost to process each application. With the APM activities assigned to small volume applications based on projected FY 1998 workload volumes weighted by application activity cycle times, the study team

determined the total annual cost to process each small volume application. The total small volume application activity costs were divided by the projected FY 1998 workload volumes to determine a unit cost for each small volume application activity. The sum of the small volume application activity costs is the total unit cost to process the

small volume application. (The unit cost per application identifies the cost required to produce one unit, e.g., one application, based on the activities consumed in producing that unit/application). Table 5 provides the FY 1998 activity unit cost and total unit cost to process each small volume application.

TABLE 5.—SMALL VOLUME APPLICATION FY 1998 UNIT COSTS

Activity	I-360	N-300	N-336	N-470
Receive	\$3.78	\$1.10	\$.44	\$.44
Record Fee	1.66	1.66	1.66	1.66
Input Application Data	7.00	1.02	.00
Manage Records	6.78	20.42	8.83	8.17
Adjudicate Applications	75.34	14.02	137.50	46.42
Prepare Outgoing	4.35	1.61	4.54	8.31
Issue End Product00	10.94	12.40	.00
Respond to Inquiry	10.95	.00	3.89	14.07
Total FY 1998 Unit Cost	109.86	50.77	169.26	79.07

The Service is authorized to set the immigration and naturalization fees at a level that will recover the costs of providing all immigration adjudication and naturalization services “including the costs of similar services provided without charge to asylum applicants or other immigrants.” 8 U.S.C. 1356(m). In addition, the fees must be set sufficiently high enough to recover the costs of fee waivers that are granted. However, because of the small volume associated with these applications, the amount derived from the calculation to determine waiver/exempt costs and the asylum and refugee surcharge was so

insignificant that it has not been included as part of the costs for these applications.

What Are Our Conclusions and Fee Adjustments?

The objectives of the small volume application analysis were to determine the full cost of processing the applications and to include the applications in the IEFA cost model. The small volume application analysis was performed in accordance with the methodology implemented in the Phase I IEFA Study. The analysis required incorporating small volume application

revenues into the IEFA cost model that were deducted during the Phase I IEFA Study, and identifying and quantifying drivers to assign the APM activities to the small volume applications. The unit costs identified in Table 5 represent the Service’s cost to process each small volume application.

The Service is increasing two and decreasing two of the small volume fees associated with this study. Table 6 identifies the fees to be increased as well as the fees to be decreased. The fee has been rounded to the nearest whole \$5 amount.

TABLE 6.—SMALL VOLUME APPLICATION FEE SCHEDULE ADJUSTMENTS

Form	Description	Total cost	Current fee	Proposed fee
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	\$109.86	\$80.00	\$110.00
N-300	Application to File Declaration of Intention	50.77	75.00	50.00
N-336	Request for Hearing on a Decision in Naturalization Procedures	169.26	110.00	170.00
N-470	Application to Preserve Residence for Naturalization Purposes	79.07	115.00	80.00

Regulatory Flexibility Act

The Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Of the four applications or petitions covered under this rule, only two of the fees are being increased and the other two fees are being decreased. In addition, small volume applications refer to fewer than 10,000 applications per year. Total projected revenues for all four applications or petitions for FY 1998 amounts to \$1,827,400. Normally, these

applications and petitions would generally be filed by individuals as opposed to small businesses.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, or \$100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. This rule will only affect persons who file certain applications or petitions for immigration benefits. Therefore, no actions were deemed necessary under the provisions of the

Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-

based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, because it will have an annual effect on the economy of less than \$100 million. Without the increases/decreases, the Service estimates that it will collect \$1.3 million in fees for immigration and adjudication services for these four small volume applications in FY 1998. With the fee adjustments, the Service will collect approximately \$1.8 million. The implementation of this rule will provide the Service with an additional \$.5 million in revenue over the revenue that would be collected under the old fee structure. This revenue increase is a recovery of costs based on workload volumes required to process these applications.

Executive Order 13132

This regulation 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 section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of 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, 552(a); 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 revising the entries for the following forms, to read as follows:

§ 103.7 Fees.

*	*	*	*	*
	(b)	*	*	*
	(1)	*	*	*
*	*	*	*	*

Form I-360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—\$110.00, except there is no fee for a petition seeking classification as an Amerasian.

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Form N-300. For filing an application for declaration of intention—\$50.00.

Form N-336. For filing a request for hearing on a decision in naturalization proceedings under section 336 of the Act—\$170.00.

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Form N-470. For filing an application for section 316(b) or 317 of the Act benefits—\$80.00.

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Dated: December 8, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99-32485 Filed 12-14-99; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 660

[Docket No. 990430115-9314-02; I.D. 030299B]

RIN 0648-AL48

Fisheries Off West Coast States and in the Western Pacific; Northern Anchovy/Coastal Pelagic Species Fishery; Amendment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 8 to the Northern Anchovy Fishery Management Plan. This rule removes jack mackerel north of 39° N. lat. from the Pacific Coast Groundfish Fishery Management Plan and adds four species to the management unit of the Coastal Pelagic Species (CPS) (formerly the Northern Anchovy Fishery Management Plan (FMP)); defines a new fishery management area and divides it into a limited entry zone and two new

subareas; establishes a procedure for setting annual specifications including harvest guidelines and quotas; provides for closure of the directed fishery when the directed portion of a harvest guideline or quota is taken; identifies fishing seasons for Pacific sardine and Pacific mackerel; establishes catch restrictions in the limited entry zone and, when the directed fishery for a CPS is closed, limits harvest of that species to an incidental limit set by the Southwest Regional Administrator, NMFS, (Regional Administrator); implements a limited entry program; authorizes the Regional Administrator to issue exempted fishing permits for the harvest of CPS that otherwise would be prohibited; and establishes a framework process by which management decisions could be made without amending the FMP. No regulations are required at this time to implement the overfishing definitions and designation of essential fish habitat (EFH).

The intent of this action is to implement the provisions of Amendment 8 to the Northern Anchovy Fishery Management Plan, which will prevent overfishing, maximize yield from available resources, and control increasing harvesting capacity off the Pacific coast.

DATES: Effective January 14, 2000, except for § 660.502 and § 660.512 which are effective December 15, 1999, and §§ 660.505(a),(b),(g), and 660.511 which are effective January 1, 2000.

ADDRESSES: Copies of Amendment 8, which includes the final supplemental environmental impact statement (FSEIS)/regulatory impact review may be obtained from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon, 97201. Comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements contained in this rule should be sent to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: James Morgan, Sustainable Fisheries Division, NMFS, at 562-980-4030.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council (Council) submitted Amendment 8 for Secretarial review by a letter dated December 11, 1998. On March 12, 1999,