

**DEPARTMENT OF JUSTICE****8 CFR Part 3****28 CFR Part 0**

[EOIR No. 126F; AG Order No. 2297-2000]

RIN 1125-AA28

**Executive Office for Immigration Review; Board of Immigration Appeals; 21 Board Members****AGENCY:** Executive Office for Immigration Review, Justice.**ACTION:** Final rule.

**SUMMARY:** This final rule amends the regulations relating to the organization of the Executive Office for Immigration Review by adding to the Board of Immigration Appeals (Board) an additional Vice Chairman position and two Board Member positions, thereby expanding the Board to 21 permanent members. This rule also eliminates the position of Chief Attorney Examiner. These amendments are necessary to maintain an effective, efficient system of appellate adjudication in light of the Board's increasing caseload.

**EFFECTIVE DATE:** This final rule is effective April 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** Charles Adkins-Blanch, Acting General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041; telephone (703) 305-0470.

**SUPPLEMENTARY INFORMATION:** This final rule expands the Board to 21 permanent members by adding one Vice Chairman position and two Board Member positions. This rule also eliminates the position of Chief Attorney Examiner in the organizational hierarchy of the Board. These changes are necessary to maintain an effective, efficient system of appellate adjudication in light of the Board's increasing caseload. This rule amends 8 CFR part 3 and 28 CFR part 0 to reflect these changes in the Board's organization.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not necessary because this rule relates to agency procedure and practice.

**Regulatory Flexibility Act**

The Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

**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, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. 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**

The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f). Accordingly, this rule has not been reviewed by the Office of Management and Budget.

**Executive Order 13132**

This rule 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.

**Plain Language Instructions**

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Charles Adkins-Blanch, Acting General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041; telephone (703) 305-0470.

**List of Subjects***8 CFR Part 3*

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

*28 CFR Part 0*

Authority delegations, (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

Accordingly, for the reasons set forth in the preamble, part 3 of chapter I of title 8 of the Code of Federal Regulations and part 0 of chapter I of title 28 of the Code of Federal Regulations are amended as follows:

**PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

1. The authority citation for 8 CFR part 3 continues to read as follows:

**Authority:** 5 U.S.C. 301; 8 U.S.C. 1103; 1252 note, 1252b, 1324b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949-1953 Comp., p. 1002.

**Subpart A—Board of Immigration Appeals**

2. In § 3.1:

a. Amend paragraph (a)(1) by revising the second sentence.

b. Amend paragraph (a)(1) by removing the words "or the Chief Attorney Examiner" in the eleventh sentence.

c. Amend paragraph (a)(2) by revising the third sentence.

d. Amend paragraph (a)(2) by removing the last two sentences.

e. Amend paragraph (a)(4)(ii) by removing the words "Vice Chairman" and adding in their place the words "one of the Vice Chairmen" in the third sentence.

f. Amend paragraph (a)(4)(ii) by removing the words "Vice Chairman are both" and adding in their place the words "Vice Chairman are all" in the fourth and fifth sentences.

g. Amend paragraph (a)(4)(ii) by removing the words "the Vice Chairman" and adding in their place the words "one of the Vice Chairmen" in the sixth sentence.

The revisions read as follows:

**§ 3.1 General authorities.**

(a)(1) \* \* \* The Board shall consist of a Chairman, two Vice Chairmen, and eighteen other members. \* \* \*

(2) \* \* \* The Chairman shall be assisted in the performance of his duties by two Vice Chairmen.

\* \* \* \* \*

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

3. The authority citation for 28 CFR part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519

### Subpart U—Executive Office for Immigration Review

4. Amend § 0.116 by revising the first sentence to read as follows:

#### § 0.116 Board of Immigration Appeals.

The Board of Immigration Appeals shall consist of a Chairman, two Vice Chairmen, and eighteen other members. \* \* \*

Dated: March 31, 2000.

**Janet Reno,**

*Attorney General.*

[FR Doc. 00–8653 Filed 4–13–00; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 245

[INS No. 1825–97]

RIN 1115–AE25

#### Adjustment of Status for Certain Polish and Hungarian Parolees

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

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts, with changes, the interim rule the Immigration and Naturalization Service (Service) published in the **Federal Register** on May 23, 1997. The interim rule provided for the adjustment to lawful permanent resident status of certain alien parolees from Poland or Hungary who were paroled into the United States between November 1, 1989, and December 31, 1991, and established terms that enabled these individuals to apply for permanent resident status. This final rule responds to a comment the Service received by adding a list of the eligibility requirements for adjustment under this provision.

**DATES:** This final rule is effective May 15, 2000.

**FOR FURTHER INFORMATION CONTACT:** Michael Valverde, Program Analyst,

Immigration and Naturalization Service, Adjudications Division, 425 I Street, NW, Room 3214, Washington, DC 20536, telephone (202) 514–3228.

#### SUPPLEMENTARY INFORMATION:

##### Background

*What Authority Provides for Adjustment of Status for Nationals From Poland or Hungary?*

Section 646 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, dated September 30, 1996, provides for the adjustment to lawful permanent resident status for certain nationals of Poland or Hungary who, after having been denied refugee status, were inspected and granted parole in the United States during the period beginning on November 1, 1989, and ending on December 31, 1991.

*How Did the Service Implement the Provisions of Section 646 of the IIRIRA?*

On May 23, 1997, the Service published an interim rule in the **Federal Register** at 62 FR 28314, which added § 245.12, to establish the procedures by which eligible aliens may obtain the benefits of section 646(b) of the IIRIRA. The public was given a 60-day period to comment on the interim rule.

*What Comments did the Service Receive?*

The Service received one written comment on the interim rule. The commenter noted the eligibility requirements for benefits, under section 646 of Public Law 104–208, were not stated in the Immigration and Nationality Act (Act). The commenter felt it was necessary to state the eligibility requirements for benefits in this rule for prospective applicants.

The Service agrees with the commenter that eligibility requirements for benefits, under section 646 of Public Law 104–208, are not stated in the Act. Accordingly, the Service has incorporated these statutory requirements into § 245.12(a)(3) and (4) of the final rule.

*What Other Changes to the Final Rule did the Service Make?*

The Service is also amending § 245.12 to reflect changes made by section 308 of the IIRIRA. Section 308 redesignated several sections of the Act, including section 232 of the Act regarding medical examinations. An applicant's medical examination must comply with § 232.1 and § 245.5 to meet the eligibility requirements for adjustment of status. Accordingly, the Service is amending § 245.12(a) by adding a reference to § 232.1. Section 245.12(a) in the interim

rule made reference to collecting information on Form I–643, Health and Human Services Statistical Data, as a part of the filing process. However, the reference to Form I–643 has been removed because it does not properly apply to applicants under section 646 of the IIRIRA, but rather to refugees.

#### 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 this rule will not have a significant economic impact on a substantial number of small entities because this rule affects individuals who are adjusting status to permanent resident.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. 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 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost 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, Immigration and Naturalization Service, to be a “significant regulatory action” under Executive Order (E.O., 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget (OMB) has waived its review under section 6(a)(3)(A).

#### Executive Order 13132

This rule 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