

Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 286

[INS No. 2179-01]

RIN 1115-AG46

Increase of the Immigration User Fee From \$6 to \$7

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service (Service) collects a fee from every passenger arriving at a port-of-entry in the United States aboard a commercial aircraft or commercial vessel (or having been "preinspected" at a place outside the United States prior to such arrival), except those individuals exempted under section 286(e) of the Immigration and Nationality Act (Act) or under 8 CFR part 286. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 2002, Public Law 107-77, dated November 28, 2001, increased the fee from \$6 to \$7. This rule amends Service regulations in light of this fee change by removing the current reference to \$6 in the regulations in favor of a reference to the fee amount prescribed in section 286(d) of the Act as amended. This technical change to the regulations is being taken so that it will be unnecessary for the Service to amend the text of its regulations each time the user immigration fee is statutorily changed in the future.

EFFECTIVE DATE: This final rule is effective May 1, 2002.

FOR FURTHER INFORMATION CONTACT: Georgia Mayers, Chief of Cash Management, Office of Finance, Immigration and Naturalization Service,

425 I Street, NW., Room 6034, Washington, DC 20536, telephone (202) 305-1200.

SUPPLEMENTARY INFORMATION:

What Is the Immigration User Fee?

Beginning in Fiscal Year 1987, the Service was authorized by Congress via the 1987 Appropriations Act for the Department of Justice, Public Law 99-591, to collect an immigration user fee for each passenger arriving in the United States by commercial air or sea conveyance. Immigration user fee funds are used to operate air and sea inspection services and to fund other related activities.

How Will the Service Use the Fees That Are Collected?

As provided by law, the user fees that are collected may be used, among other things, to:

- Provide immigration inspection and preinspection services for commercial aircraft and vessels;
- Provide overtime immigration inspection services for commercial aircraft or vessels;
- Administer debt recovery, including the establishment and operation of a national collections office;
- Expand, operate, and maintain information systems for nonimmigrant control and debt collection;
- Detect fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline personnel regarding such detection;
- Provide detention and removal services for: inadmissible aliens arriving on commercial aircraft and vessels and for any inadmissible alien who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and
- Administer removal and asylum screening proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from the presentation of fraudulent documents and the failure to present documentation and for any inadmissible alien who has attempted illegal entry into the United States by avoiding immigration inspection at air or sea ports-of-entry.

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What Changes Is the Service Making to This Rule?

This rule amends 8 CFR 286.2(a) by removing the specific fee amount of \$6 and inserting a more general reference to the immigration fee prescribed in section 286(d) of the Act. This action is being taken so that in the future the Service will not have to amend the text of its regulations each time a change in the user fee occurs by statute.

Which Tickets Will Be Affected by This Rule?

The immigration user fee is normally collected at the time that a ticket or document for transportation to the United States is issued. All tickets and documents for transportation issued on or after May 1, 2002 will be subject to the \$7 immigration user fee.

How Will the Public Be Notified of Future Changes to the Immigration User Fee?

The Service intends to publish notices in the **Federal Register** describing any changes to the immigration user fee including the date upon which any new fee must be collected by persons issuing tickets or transportation documents.

Did Public Law 107-77 Make Any Other Changes Relating to Immigration User Fees?

Yes, Public Law 107-77 also authorized the Attorney General to charge and collect \$3 per individual for the immigration inspection or preinspection of each commercial vessel passenger whose journey originated in the United States or in any place set forth in section 286(e)(1) of the Act, unless the passengers arrived by regularly scheduled Great Lakes international ferries or Great Lakes vessels on the Great Lakes or connecting waterways. Regulations implementing the \$3 fee will be published in the **Federal Register** at a later date as a separate rulemaking.

Good Cause Exception

The Service's implementation of this rule as a final rule is based upon the "good cause" exception found at 5 U.S.C. 553(b)(A). Advance notice and comment on this regulation is both impractical and unnecessary. This rule merely amends Service regulations to conform with a statutorily mandated fee increase by removing any reference to a

specific fee amount in favor of adding a more general reference to section 286(d) of the Act which sets forth both the legal authority and amount of the immigration user fee.

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. This rule requires carriers to charge and collect a user fee for certain air and sea passengers arriving in the United States. Since the passengers rather than the carriers ultimately pay the immigration inspection user fee, and they are not considered small entities as the term is defined in 5 U.S.C. 601(6), this rule does not bear an impact on 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 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 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. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

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 or power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is 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 286

Air carriers, Immigration, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, part 286 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 286—IMMIGRATION USER FEE

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

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

2. Section 286.2(a) is revised to read as follows:

§ 286.2 Fee for arrival of passengers aboard commercial aircraft or commercial vessels.

(a) A fee, in the amount prescribed in section 286(d) of the Act, per individual is charged and collected by the Commissioner for the immigration inspection of each passenger aboard a commercial aircraft or commercial vessel, arriving at a port-of-entry in the United States, or for the preinspection of a passenger in a place outside the United States prior to such arrival, except as provided in § 286.3.

* * * * *

Dated: March 7, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02-7737 Filed 3-29-02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01-062-2]

Change in Disease Status of the Czech Republic Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding the Czech Republic to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in native-born animals in that region. The Czech Republic had already been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States, so the effect of the interim rule was a continued restriction on the importation of ruminants that have been in the Czech Republic and meat, meat products, and certain other products of ruminants that have been in the Czech Republic. The interim rule was necessary in order to update the disease status of the Czech Republic regarding bovine spongiform encephalopathy.

EFFECTIVE DATE: The interim rule became effective on June 8, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Senior Staff Veterinarian, National Center for Import and Export, Products Program, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-3277.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective June 8, 2001, and published in the **Federal Register** on December 4, 2001 (66 FR 62913, Docket No. 01-062-1), we amended the regulations in 9 CFR part 94 by adding the Czech Republic to the list of regions where bovine spongiform encephalopathy (BSE) exists. The Czech Republic had previously been listed in § 94.18(a)(2) as a region that presents an undue risk of introducing BSE into the United States. However, due to the detection of BSE in native-born animals in that region, the interim rule was necessary to update the disease status of the Czech Republic regarding BSE.

Comments on the interim rule were required to be received on or before