

(i) Cover page. Include the lead agency for administering the plan and an abstract of 200 words or less for each proposed project.

(ii) Project purpose. Clearly state the specific issue, problem, interest, or need to be addressed. Explain why each project is important and timely.

(iii) Potential Impact. Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project(s).

(iv) Financial Feasibility. For each project, provide budget estimates for the total project cost. Indicate what percentage of the budget covers administrative costs.

(v) Expected Measurable Outcomes. Describe at least two or three, discrete, quantifiable, and measurable outcomes that directly and meaningfully support each project's purpose. The outcome measures must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(vi) Goal(s). Describe the overall goal(s) in one or two sentences for each project.

(vii) Work Plan. Explain briefly how each goal and measurable outcome will be accomplished for each project. Be clear about who will do the work. Include appropriate time lines.

(viii) Project Oversight. Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration.

(ix) Project Commitment. Describe how all grant partners commit to and work toward the goals and outcome measures of the proposed project(s).

(x) Multi-state Projects. If the project is a multi-state project, describe how the States are going to collaborate effectively with related projects with one state assuming the coordinating role.

§ 1290.7 Review of grant applications.

(a) Applications will be reviewed and approved for conformance with the provisions in § 1290.6. AMS may contact the applicant for additional information or clarification.

(b) Incomplete applications as of the deadline for submission will not be considered.

§ 1290.8 Grant agreements.

(a) After approval of a grant application, AMS will enter into a grant agreement with the State department of agriculture.

(b) AMS grant agreements will include at a minimum the following:

(1) The activities in the approved State plan.

(2) Total amount of Federal financial assistance that will be advanced.

(3) Terms and conditions pursuant to which AMS will fund the project(s).

§ 1290.9 Reporting and oversight requirements.

(a) An annual performance report will be required of all State department's of agriculture within 90 days after the completion of the first year of the project(s), until the expiration date of the grant period. If the grant period is one year or less, then only a final performance report (see paragraph (b) of this section) is required. The annual performance report shall include the following:

(1) Briefly summarize activities performed, targets, and/or performance goals achieved during the reporting period to meet project outcome measures.

(2) Note unexpected delays or impediments as well as favorable or unusual developments.

(3) Outline work to be performed during the next reporting period.

(4) Comment on the level of grant funds expended to date.

(b) A final performance report will be required by the State department of agriculture within 90 days following the expiration date of the grant period. The final progress report shall include the following:

(1) An outline of the issue, problem, interest, or need.

(2) How the issue or problem was approached via the project.

(3) How the annual outcome measures of the project were achieved.

(4) Results, conclusions, and lessons learned.

(5) How progress has been made to achieve long term outcome measures.

(6) Additional information available (e.g. publications, Web sites).

(7) Contact person for each project with telephone number and e-mail address.

(c) A final SF-269A "Financial Status Report (Short Form)" (SF-269 "Financial Status Report (Long Form)" if the project(s) had program income) is required within 90 days following the expiration date of the grant period.

(d) AMS will monitor States, as it determines necessary, to assure that projects are completed in accordance with the approved State plan. If AMS, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP.

(e) States shall diligently monitor performance to ensure that time schedules are being met, project work within designated time periods is being accomplished, and other performance measure are being achieved.

§ 1290.10 Audit requirements.

Each year that a State receives a grant under the SCBGP, a State is required to conduct an audit of the expenditures of SCBGP funds in accordance with Government auditing Standards (Government Auditing Standards 2003 Revision GAO-03-673G). The audit shall be conducted no later than 60 days after the expiration date of the grant period. The State shall submit to AMS not later than 30 days after completion of the audit, a copy of the audit results with an executive summary.

Dated: April 14, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6-5944 Filed 4-19-06; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Parts 103 and 299

[DHS Docket No. USCIS-2005-0062]

RIN 1615-AB19

Establishment of a Genealogy Program

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Proposed rule.

SUMMARY: This rule proposes to establish a Genealogy Program within U.S. Citizenship and Immigration Services to process requests for historical records of deceased individuals. Currently, such requests are processed as Freedom of Information Act requests by the Freedom of Information Act/Privacy Act program adding unnecessary delays to the process. A separate Genealogy Program would ensure a timely response to requests for genealogical and historical records.

DATES: Written comments must be submitted on or before June 19, 2006.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS-2005-0062, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: You may submit comments directly to USCIS by e-mail at rfs.regs@dhs.gov. Include DHS Docket No. USCIS-2005-0062 in the subject line of the message.

- Mail: The Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529. To ensure proper handling, please reference DHS Docket No. USCIS-2005-0062 on your correspondence. This mailing address may also be used for paper, disk, or CD-ROM submissions.

- Hand Delivery/Courier: U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529. Contact Telephone Number is (202) 272-8377.

FOR FURTHER INFORMATION CONTACT: Ave Maria Sloane, Chief—Genealogy Program, Office of Records Services (ORS), U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Washington, DC 20529, telephone (202) 272-8240.

SUPPLEMENTARY INFORMATION:

Part I—Public Participation

Part II—Background and Purpose

- A. Historical Records
- B. Genealogical Research Requests

Part III—New Program Functions

- A. Operation of the New Genealogy Program
- B. Index Search Request
- C. Historical Records Request
- D. Procedures for Requesting an Index Search or Search for Historical Records
- E. Personal Information Concerning Children of the Subject of the Record
- F. Requests by Historical and Genealogical Researchers Falling Outside the Genealogy Program
- G. Reference Services Provided by This New Program
- H. Users of Genealogy Program Services
- I. Requests for Historical Records and the FOIA/PA Program
- J. Requests for Records Where the Requester is Not Sure the Records are Historical

Part IV—Determination of Fees

- A. Number of Requests
- B. Processing Tracking
- C. Description of Two Services
- D. Estimating Requests and Receipts
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Part V—Regulatory Requirements

- A. Regulatory Flexibility Act
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- E. Executive Order 13132
- F. Executive Order 12988
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List of Subjects

PART 103—Powers and Duties; Availability of Records

PART 299—Immigration Forms

Part I—Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. The Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) also invite comments that relate to the economic, privacy, or federalism affects that might result from this proposed rule. Comments that will provide the most assistance to USCIS in developing these procedures will make reference to a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and DHS docket No. USCIS-2005-0062 for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. See **ADDRESSES** above for information on how to submit comments.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected at the Office of the Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529.

Part II—Background and Purpose

The demand for historical records by historical and genealogical researchers, as well as other members of the public, has grown dramatically over the past several years. Currently, USCIS processes requests for historical records under USCIS' Freedom of Information Act (FOIA)/Privacy Act (PA) program. Historical records that are the subject of a FOIA request usually are released in full because the subjects of the requested documents are deceased and therefore no FOIA exemptions apply to withhold the information. *Cf.* OMB Guidelines, 40 FR 28948, 28951 (1975). The only exception is for classified historical records, which can only be released after being declassified. *See* Executive Order 12958, as amended by Executive Order 13292, 68 FR 15315 (March 28, 2003). Classified information is information that requires protection against unauthorized disclosure in the

interest of national security. *See id.* The large volume of genealogical requests (average of 10,000 combined search and records requests per year over the last 4 years) received by USCIS FOIA/PA offices contributes to the USCIS FOIA/PA backlog. For this reason, it became apparent that the FOIA/PA program was not the most efficient means of processing requests for historical records.

A separate Genealogy Program would create a dedicated program to serve this unique category of requesters. Removing genealogy research from the immense FOIA group of "all" requesters would improve service to historical researchers, genealogists, and other members of the public. It would also greatly reduce the number of FOIA requests and improve the ability of USCIS to respond to requests for other non-historical records and materials. Requesters making a request that qualifies as a genealogical research request for historical records under this rule would submit such a request directly with the Genealogy Program. If the Genealogy Program determines that the request does not qualify as a genealogical research request, it would return the request (along with any fees submitted with the request) to the requester and inform the requester to resubmit the request to the USCIS FOIA/PA office for processing under the FOIA. Conversely, if a requester would send a request to the USCIS FOIA/PA office that is determined by that office to qualify as a genealogical research request, the USCIS FOIA/PA office would return the request to the requester and inform the requester to resubmit the request to the Genealogy Program for processing. In proposed 8 CFR 103.40(a), this rule defines the term, "genealogical research request." In proposed 8 CFR 103.39, this rule describes what records qualify as historical. The terms, "historical records" and "genealogical research request" are discussed below.

A. Historical Records

The USCIS Genealogy Program will apply to "historical records," a new term introduced by this proposed rule. Historical records are files, forms, and documents collected by the Immigration and Naturalization Service (INS) and maintained by USCIS that include:

- Naturalization Certificate Files;
- Forms AR-2;
- Visa Files;
- Registry Files; and
- A-Files numbered below 8 million.

Naturalization Certificate Files (C-Files) are records from September 27, 1906 to April 1, 1956, relating to U.S.

naturalizations and the issuance of evidence of naturalization or citizenship. Forms AR-2 are Alien Registration Forms on microfilm that were completed by all aliens age 14 and older who resided in or entered the United States between August 1, 1940 and March 31, 1944. These forms contain identification information, as well as information regarding the alien's employment and arrival to the United States. Visa Files are records from July 1, 1924 to March 31, 1944 containing the arrival information of immigrants admitted for permanent residence from July 1, 1924 to March 31, 1944 under the Immigration Act of 1924. Registry Files are records from March 2, 1929 to March 31, 1944 containing arrival information of immigrants who entered the United States prior to July 1, 1924, and for whom no arrival records could later be found. A-Files are case files on individuals containing all immigration records created or consolidated since April 1, 1944 to the present. This rule

only deems historical those A-File records numbered below 8 million and containing documents dated prior to May 1, 1951. Other A-File records, therefore, will be subject to the FOIA/PA program. USCIS chose these two criteria as the dividing line because May 1, 1951 is the date that the 8 million series began, and is within the decade that the last record series prior to the advent of the A-File, C-Files, was closed.

Designation of a record as historical neither speaks to the value or worth of any given record, nor relates to what the Archivist of the United States might designate as worthy of permanent preservation. Rather, this convention was employed by USCIS solely to identify records of advanced age for which there is high demand from genealogical researchers. Any record filed within any record system other than one identified as historical by this proposed rule, regardless of the date of the record or the subject's date of birth,

will not be available under the Genealogy Program. Those records outside the scope of the Genealogy Program can still be requested through the FOIA/PA or other available programs.

B. Genealogical Research Requests

This proposed rule defines a genealogical research request as a request from a member of the public for searches and/or copies of historical records relating to a deceased person. Requests to locate USCIS documents to support a separate application or petition for benefits from USCIS would not meet this definition. For example, requests to replace a lost naturalization certificate would not qualify as genealogical research requests.

The chart below lists the records that the public would be able to request from the Genealogy Program versus the records that the public would be able to request from the FOIA/PA office.

| Genealogy program | FOIA/PA office |
|--|--|
| Files of deceased subjects | Files of living subjects. |
| C-Files from 9/27/1906 to 4/1/1956 | Naturalization records on or after 4/1/1956. |
| Visa Files from 7/1/1924 to 5/1/1951 | Visa records on or after 5/1/1951 in A-Files. |
| A-Files below 8 million and documents therein dated prior to 5/1/1951. | A-Files above 8 million and documents therein dated on or after 5/1/1951 |
| Registry Files from 3/2/1929 to 3/31/1944 and registry records from 4/1/1944 to 4/30/1951. | Registry records on or after 5/1/1951 in A-Files. |
| AR-2 Files from 8/1/1940 to 3/31/1944 and Alien Registration Forms from 3/31/1944 to 4/30/1951 in A-Files. | Alien Registration Forms on or after 5/1/1951 in A-Files. |

Part III—New Program Functions

Currently, all requests for historical records are processed by the USCIS FOIA/PA program. The FOIA/PA program depends upon the Office of Records Services/Office of Records Management (ORS/ORM) offices to search indices and locate and retrieve responsive records and files. If ORS/ORM does not find any records that respond to the FOIA request, ORS/ORM will transmit a "no record" response to FOIA/PA and FOIA/PA will inform the requester that no records have been found that respond to the FOIA request. If ORS/ORM provides responsive records to the FOIA/PA program, FOIA/PA professionals review the documents for any issues arising under the Freedom of Information or Privacy Acts and mail copies of the records to the requester. Genealogical requests are identified as "third party" requests (requests from other than the subject), and since the subjects of the requests are deceased, the deceased subjects themselves no longer have privacy interests in the records. See OMB Guidelines, 40 FR 28948, 28951

(deceased persons do not enjoy Privacy Act protections); Department of Justice, Office of Information and Privacy, Freedom of Information Act Guide (May 2004) (noting "longstanding FOIA rule that death extinguishes one's privacy rights"), available at <http://www.usdoj.gov/oip/exemption6.htm#privacy>. But cf. *National Archives and Records Admin. v. Favish*, 541 U.S. 157 (2004) (holding that surviving relatives may have protectible privacy interest in "death images of the deceased," personal details about circumstances surrounding individual's death, and other information concerning deceased where disclosure would cause "a disruption of the relatives' peace of minds"). As a result, genealogical requests for unclassified records routinely pass through the FOIA/PA program without requiring any analysis for exemption application under FOIA, and serve only to contribute to the FOIA/PA backlog.

The new Genealogy Program would search indices and locate and retrieve responsive records and files. Once a requester has demonstrated that the

subject of the record is deceased by providing a death certificate, obituary, or other form as proof of death, routine record copies and information would be reviewed and mailed directly to the requester.

The new Genealogy Program would serve the public demand in a more expeditious fashion. The program would put requesters and the genealogy staff in direct communication thus providing a dedicated queue and point of contact for genealogists and other researchers seeking access only to those records described as historical records as defined under 8 CFR 103.39.

Finally, the new Genealogy Program would either release historical records as requested, or, rather than deny release, redirect the requester to the FOIA/PA Program for further consideration of the request. If the FOIA/PA Program ultimately denies the requested information, the requester may seek an appeal of the FOIA/PA denial under the current procedures specified in 6 CFR 5, 8 CFR 103.10(c), and 8 CFR 103.10(d)(3).

A. Operation of the New Genealogy Program

Due to the nature of historical records, it is hard to predict what types of records (if any) exist on a given immigrant. ORS/ORM must search various indices before determining whether any record exists, how many separate records exist, and where those records might be located. The actual location and retrieval of records involves a separate process, which itself varies according to record format (microfilm or textual). Combining both activities (index searching and record retrieval/processing) into one request would result in extraordinarily high fees for historical and genealogical researchers, especially for those for whom no record is found. For this reason, USCIS proposes separating index search requests from record copy requests, and proposes that each be requested separately from the Genealogy Program.

Researchers would choose from one of two types of requests depending on the amount of information they have available regarding records of their immigrant ancestor. They could: (1) Request a search of the index if they are unable to identify a specific historical record, or (2) request that they be provided copies of historical records the requester can identify by file number.

B. Index Search Request

Most researchers would begin with a request for a search of the index in order to obtain the information necessary to request a specific record. Upon receipt of an index search request, the Genealogy Program would search the indices for references to the subject named in the request. If found, it would send all pertinent information about each record indicated (*i.e.*, file number, location, or other identifying information) to the researcher. If no record is found, the researcher would be notified.

Genealogy Program index searches may result in locating records no longer maintained by USCIS. The public would be able to contact the Genealogy Program for information regarding which records are no longer maintained by USCIS. Search results indicating a naturalization record in USCIS custody also will contain information directing researchers to alternate sources for copies of court naturalization records held by the National Archives or by state and local courthouses. Search results indicating a Visa File also will contain information allowing a researcher to locate ship passenger arrival list records at the National

Archives. All index information about all records would be provided to the requester.

C. Historical Records Request

Using information obtained from the index search (or found during prior research), researchers also could submit a request for records in which they identify the record sought to the Genealogy Program Office. In response to a record request, the Genealogy Program Office would retrieve the specified record for duplication, review, and release.

D. Procedures for Requesting an Index Search or Search for Historical Records

Requests could be submitted via the Internet at a genealogy Web site to be developed for this purpose or by mailing a completed Form G-1041, Genealogy Search Request, or Form G-1041A, Genealogy Record Request, to the Genealogy Program Office.

The success of each index search request would depend on the amount and accuracy of information provided by the researcher. No search could be initiated regarding an individual without at least a full name, year of birth, and country of birth. In cases of immigrants with common names, an exact date and place of birth, alternate spellings of the name and aliases, as well as an approximate date of arrival and/or the immigrant's residence at the time of naturalization, may be necessary to ensure a successful and definitive search.

Records stored in different file series are located using a variety of methods, most of which require a specific file number. The most reliable record requests would be based on, and include, specific file identification data received from previous index search requests. The success of record requests submitted from researchers without any previous index search would depend entirely upon whether the researcher provides the exact information needed to retrieve the specific record sought. Full instructions on what information is needed to retrieve specific files would be available on the USCIS genealogy Web site and in pamphlet form.

In addition, when a request is made for records of an immigrant whose date of birth is less than 100 years ago, the researcher would have to provide documentary evidence that the subject is deceased. For the purposes of the Genealogy Program, USCIS presumes that immigrants born more than 100 years ago are deceased. *Schrecker v. U.S. Dep't of Justice*, 349 F.3d 657, 664-65 (D.C. Cir. 2003). Thus, when the subject of a record request was born less

than 100 years prior to the date of the request, primary or secondary documentary evidence of the subject's death would be required. The requestor would bear the burden of establishing to the satisfaction of the Genealogy Program Office that the subject is deceased. Acceptable documentary evidence includes, but is not limited to death records, published obituaries, published death notices or published eulogies, church or bible records, photographs of gravestones, and/or copies of official documents relating to payment of death benefits. No records would be released in the case of an immigrant born less than 100 years prior to the request date until evidence of the subject's death is received.

E. Personal Information Concerning Children of the Subject of the Record

Information about a subject's children may be found in many historical records and may consist of the child's name, date of birth, place of birth, and residence as of the date of the record. The Genealogy Program will not release personal information concerning a subject's children.

F. Requests by Historical and Genealogical Researchers Falling Outside the Genealogy Program

Due to the history of individual immigrants, immigration and nationality benefits, and recordkeeping, some old immigrant records now exist within A-Files numbered above 8 million. As previously noted, A-Files numbered above 8 million are not considered historical records and could not be made available under the Genealogy Program. Researchers seeking A-Files numbered 8 million or above, or records dated after May 1, 1951, would have to request their ancestors' files under the FOIA/PA program. The Genealogy Program would provide those requesters the information necessary to submit a FOIA/PA request to the appropriate office.

G. Reference Services Provided by This New Program

In addition to standard information and instructions printed on USCIS Genealogical Search and Request forms (G-1041 and G-1041A), USCIS would provide reference materials in pamphlet form and on the USCIS Web site. Information for genealogists would include a review of various DHS record series, the information typically contained in those records, and instructions for filing requests. In addition, DHS would direct genealogists to resources containing information regarding immigration and

naturalization records not in USCIS custody.

Information for historical researchers would include descriptions of resources available at USCIS or the National Archives and Records Administration (NARA) that support the study of immigration records history, as well as the history of U.S. immigration law and policy.

H. Users of Genealogy Program Services

The primary user of the Genealogy Program would be individuals seeking records of their ancestors for genealogical and family history purposes. Additionally, USCIS anticipates a small number of requests to come from historians and social scientists seeking historical records of individual immigrants whom they can identify by name, date of birth, place of birth, or by file number, and from professional genealogists and researchers involved in their location.

I. Requests for Historical Records and the FOIA/PA Program

Under this proposed rule, all requests for records designated as historical records would no longer fall under the FOIA/PA program and would have to be submitted to the new Genealogy Program Office. The experience of the FOIA/PA program office is that those records identified as historical records in 8 CFR 103.39 are routinely released without need for redaction or withholding. This is why this new program is being proposed to serve customers who seek historical records.

Once the final rule is published and effective, the FOIA/PA program will return all FOIA/PA requests for historical records and direct the researcher to submit a genealogy request. Of course, some genealogists will seek records not included within the definition of historical records, thus some genealogists will continue to be served by the FOIA/PA program office.

As discussed above, with implementation of the Genealogy Program to satisfy requests for older, historical records, the FOIA/PA program will be able to focus on more current records presenting FOIA and privacy issues.

J. Requests for Records Where the Requester Is Not Sure the Records Are Historical

The Genealogy Program Office would accept search requests in which the subject likely is to be found in an historical record. If the search results reference any record not included within the definition of historical records, the Genealogy Program Office

would transmit the file index information to the requestor and also include instructions for requesting that file under USCIS FOIA/PA guidelines.

Part IV—Determination of Fees

This rule proposes fee ranges for index searches and for copies of historical records as described in 8 CFR 103.7(b)(1). USCIS invites the public to comment on the proposed fee ranges, considering in particular USCIS's estimated costs to run the Genealogy Program and the fees charged by other agencies providing similar services. In a final rule, USCIS will set one fee amount for each type of service. As provided by statute, these fees would be deposited into the Immigration Examinations Fee Account. *See* 8 U.S.C. 1356(n), (t).

The search fee recovers the full cost of the search. The costs involved in searching the DHS indices and transmitting search results to a requester are the same whether or not any record is found. Thus, the Genealogy Program Office could not refund the search fee if the requested records are not found by USCIS.

Similarly, the Genealogy Program Office would charge a fee for all record services in which the requested record is located, regardless of whether or not it is determined that the record is subject to release. The Genealogy Program Office would refund a fee when the record request is based upon file information previously provided by the Genealogy Program Office in response to an index search request, or if the Genealogy Program Office is unable to locate the file when later requested under a Genealogy Record request.

The fee ranges were set in accordance with section 286(t) of the INA, 8 U.S.C. 1356(t), which authorizes USCIS to set fees for providing research and information services at a level that will ensure the recovery of the full costs of providing all such services. Charts setting forth the full costs that formed the basis for the fee ranges proposed in this rule are included below. The full cost includes items such as management and personnel costs (salaries and benefits), physical overhead, consulting, materials and supplies, utilities, insurance, travel, and rent of building space and equipment. Full costs also include the cost of research and information collection, establishment of procedures and standards, and issuance of regulations. The fees also were set in accordance with Office of Management and Budget (OMB) Circular A-25, which requires that user fees recover the full cost of services provided.

A. Number of Requests

The estimated total number of requests under the new program is projected at or in excess of 26,000 per year. The total number includes an estimated 15,250 search requests, 6,619 requests for copies of microfilmed records, and 4,728 requests for copies from textual files. These estimates are based on the annual number of genealogical FOIA/PA requests received in previous years and anticipated growth in requests. In the last four-year period, the USCIS FOIA/PA program received an average of 10,000 genealogical requests per year. These requests are for a combined index search and copy of records. These figures will be far greater in the Genealogy Program since the program will count a request for an index search separately from a request for a record copy. NARA receives a similar number of requests for copies of immigration records each year (*i.e.*, 11,000 to 12,000 per year). While some requests may be discouraged by the imposition of fees, other potential users have informed the FOIA/PA program they would submit one or more genealogical request(s) if they could be assured a more expeditious response. Finally, USCIS expects in the short-term to receive requests from individuals who previously filed requests with the FOIA/PA program to request a second search under the new program. For these reasons, we expect the actual number of genealogical requests to increase, rather than decrease, under the new program.

B. Processing Tracking

USCIS has studied the methodologies to respond to search and retrieval requests. A number of efficiencies were proposed to better process the searches and request tracking. An automated system is being developed which will allow for quicker and more comprehensive searches, customer request and response tracking, and provide for better metrics to measure productivity.

C. Description of Two Services

USCIS proposes two separate costs for the separate services to be offered by the Genealogy Program.

- The first cost relates to the index search service, which, in addition to the paperwork and data entry standard to processing all requests, requires a detailed search of the master index microfilm and other related microfilm indices.
- The second cost relates to the retrieval, reproduction, and processing of historical records and files. This

activity includes: Processing standard requests, identifying records stored on microfilm or at Federal Record Centers, preparing and submitting requests for those files at the Federal Record Centers to be pulled and shipped to the Genealogy Program Office, copying of records from microfilm or paper and the processing of those copies, reassembling files, shipping of files from and to a storage facility, and per-file fees paid to NARA for retrieving and refiling hard copy records.

D. Estimating Requests and Receipts

The estimate for requests and receipts is based on USCIS's experience in processing genealogical-type requests under the FOIA/PA program and the experience of other organizations offering genealogical resources. USCIS used weighted risk analysis to project the number of requests for searches, microfilm records, and textual records. USCIS also projected a five percent annual growth. The results of the

analysis indicate that USCIS would receive about: 15,500 search requests in the first year; 6,500 requests for microfilmed records; and 5,000 requests for textual records.

After determining the cost of different services and estimating the number of requests for each service submitted each year, it was possible to calculate annual costs over 2 years, as well as the start-up costs required to launch the new program.

START-UP AND RECURRING COSTS

| Cost category | Start-up | Annual operating costs (actual dollars) | |
|---|----------------|---|------------------|
| | | Year 1 | Year 2 |
| Office Furnishings | \$20,000 | \$0 | \$0 |
| Personnel/Costs | 15,000 | 675,000 | 675,000 |
| Office Equipment | 150,000 | 3,000 | 3,000 |
| Travel | 2,000 | 2,000 | 2,000 |
| Training | 8,375 | 5,000 | 5,000 |
| Website and Lockbox fees | 2,000 | 4,000 | 4,000 |
| Postage | | 41,665 | 43,748 |
| Equipment Repairs and Maintenance | | 2,000 | 2,000 |
| Subscriptions/Publications/Association fees | 500 | 1,000 | 1,000 |
| Supplies | | 4,400 | 4,400 |
| Design and Development | 5,000 | 2,000 | 2,000 |
| Operation and Maintenance of the search system for 10 users | | 260,250 | 270,660 |
| Software Maintenance | | 3,000 | 3,000 |
| Marketing | 5,000 | 10,000 | 6,000 |
| Subtotal | 207,875 | 1,013,315 | 1,021,808 |
| NARA charges (record request costs only) | | 34,000 | 35,000 |
| Total | 207,875 | 1,047,315 | 1,056,808 |

Fees to cover estimated costs were determined by computing the start-up costs and operating costs for the first 2 fiscal years. The total cost for each service was divided by the expected

volume of requests over the same two-year period. The fees for the records request portion were adjusted (accounting for the slightly higher fee for record requests) by also factoring in

the costs directly attributable, such as NARA pull fees for record requests and off-site record retrievals.

| Service | Approximate requests—2 years | | Costs (actual dollars)—2 years | | | | User fees (rounded) |
|--------------------|------------------------------|--------------|--|-------------------------|----------------------------|------------------|---------------------|
| | Volume | Percent | Yearly NARA costs for record requests only | Allocated by percentage | Total | | |
| | | | | | Yearly costs (except NARA) | Start-up | |
| Index Search | 31,000 | 57 | | \$1,160,020 | \$118,489 | \$1,278,509 | \$41.00 |
| Record Request: | | | | | | | |
| Micro-film | 13,000 | 24 | 0.00 | 488,430 | 49,890 | 538,320 | 41.00 |
| Textual | 10,000 | 19 | 69,000 | 386,673 | 39,496 | 495,169 | 50.00 |
| Total | 54,000 | | 69,000 | 2,035,123 | 207,875 | 2,311,998 | |

Based upon this calculation and consideration of fees charged by other agencies for comparable services, discussed below, this rule proposes an estimated user fee range as follows:

(1) *Index search service:* This service is designed for customers who are unsure whether USCIS has any record of their ancestor, or who suspect a record

exists but cannot identify that record by number. The index search service would identify any historical records relating to the subject and provide the researcher with all the information needed to request the record(s). The proposed fee range for this service is \$16.00 to \$45.00.

(2) *Record/file services:* This service is designed for customers who can identify a specific record or file to be retrieved, copied, reviewed, and released. Customers may identify one or more files in a single request. However, separate fees would apply to each file requested. The proposed fee range for this service is \$16.00 to \$45.00 for each

file on microfilm retrieved, and \$26.00 to \$55.00 for each textual file retrieved.

The Genealogy Program fee ranges proposed under this rule are comparable to the fees of similar institutions providing similar services. As previously noted, a flat fee both to search and/or retrieve all historical records would be excessively high in comparison to that of other agencies. For this reason, the Genealogy Program proposes to offer both a search service and a record retrieval service, each of which is based on the cost of providing that specific service and thus providing the requester the option of obtaining the additional information found. The proposed fee ranges were set to provide the best possible service to the public, including enhanced photocopies, other suggested sources to find information, and a better description of the information received than is now possible under the existing FOIA/PA processing.

While USCIS considered the fees charged by similar organizations, no other organization provides exactly the same service because they do not hold precisely the same variety or volume of records. A description of comparable organizations, as well as the fees they charge, is provided as follows:

The NARA field facilities hold Federal court copies of naturalization records and will search them, court by court, for a fee ranging from \$1 to \$10, depending on the rules of the facility. Several state archives hold state court copies of naturalization records and charge fees for searching those records, then charge additional fees for copying and shipping. State archive fees differ from state to state. For example, the North Dakota archives charge a \$5 search fee, the Pennsylvania archives charge \$10 per search, and the Connecticut archives charge non-residents \$15 for searches. Still, many court copies of naturalization records are not centralized in any Federal or state archive but remain scattered among county and municipal courthouses. Some clerks of the court will provide records free, others charge fees ranging from \$1 to \$25, and others do not provide search assistance.

USCIS also considered the fees to those paid by researchers to two other Federal agencies: NARA and the Social Security Administration (SSA). NARA collects a fee of \$17.25 to search immigrant passenger arrival records, but only if the requester can name a specific ship list to be searched. SSA charges a fee of \$27 for copies of original Social Security Number applications if the requester provides the Social Security Number, and \$29 for copies of original

Social Security Number applications if the requester does not provide the Social Security Number. SSA also offers electronic extracts of the same records for \$16 and \$18 respectively. In all such cases, when SSA provides these services, they apply to only one series of records (unlike a USCIS search and retrieval of multiple record series).

Lower fees on the part of some organizations result from the fact that some or all of their indices and/or records are automated. Higher fees generally were charged for locating, retrieving and copying hard copy files. USCIS historical record series are comprised of hard copy C-Files, Visa Files, Registry Files, and A-Files numbered below 8 million and records therein dated before May 1, 1951. The National Archives fee to copy a similar textual file in its entirety is \$37.

Genealogy fees will be reviewed biennially and will likely be adjusted to more accurately reflect the actual cost as work is performed under new processes and procedures of the Genealogy Program. Furthermore, the initial start-up cost must be recovered over the first 2 years of the program. After 2 years, the fee review will reflect retirement of that debt and be adjusted accordingly.

E. Record Copy Fee Where the Copy Is Illegible

If requesters receive an illegible copy of a record, the Genealogy Program would charge the requester the same record copy fee. The costs involved in locating, retrieving, reproducing, and reviewing an historical record remain the same regardless of the quality of the copy. Some historical records exist on deteriorating microfilm, and those images have faded over time. The Genealogy Program would make every effort to produce the best possible reproduction of all microfilm records. Accordingly, the program would provide researchers with a record printed directly from the film rather than a copy of a print, or a scanned copy of a print. Prints taken directly from the old microfilm are generally the best quality copy available. In many cases, researchers will find they can improve the legibility of microfilm prints themselves using a photocopy machine's darker or lighter settings. The Genealogy Program also will have the benefit in sharing with enhanced technology as it is implemented in the USCIS Records program.

F. Fee Waivers

Due to the small amount of the fees, the normally discretionary nature of these requests, and the general authority of section 286(t) of the INA, 8 U.S.C.

1356(t), to recover full costs, DHS has determined that fee waivers will not be granted in this program.

Part V—Regulatory Requirements

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule affects professional genealogists and other members of the public requesting historical records from USCIS. As discussed below, the main source of genealogy requests is from individuals doing personal research, rather than from small entities, such as professional genealogists. Genealogy was described as a \$200 million per year industry by The Wall Street Journal, ranging from individual researchers to multimillion-dollar companies; in addition, the growth of the Internet has spurred interest and a rapidly growing number of hobbyists pursuing genealogy. According to the "Occupational Outlook Quarterly," (Bureau of Labor Statistics, Fall 2000), a 1997 survey of certified genealogists found that 57 percent work part-time, 34 percent work full-time, and 9 percent are hobbyists. In 2001 there were over 300 certified genealogists and currently, the Association of Professional Genealogists has a membership of 1,500 (<http://www.apgen.org/publications/press/1500.htm>). As the National Genealogical Society notes, "Aside from librarians, archivists, and publishers, most professional genealogists have other sources of income and may 'moonlight' as genealogists until they become established. Those who make a living purely from client research in genealogy probably number no more than a few dozen." (<http://www.ngsgenealogy.org/eduprofessional.htm>)

With the growth of the Internet in recent years, the number of individuals and hobbyists has grown at a much faster rate. In fact, <http://www.myfamily.com>, one of the larger online information sources for genealogy, announced in 2004 a paid subscriber base of more than 1.5 million

members. Much of the growth in genealogy as a sector arises from providing individuals the means of conducting their own family history research through online databases and research tools. The growing dominance of individual hobbyists suggests that individuals rather than professionals are the primary requesters of historical records. Professional genealogists tend to be hired when individuals hit a "brick wall," or a particular problem that they cannot resolve. This suggests that professional researchers tend to focus on aspects of genealogy research other than the standard index searches or record requests that would be submitted to USCIS's Genealogy Program.

Over the past 4 years, USCIS has received an average of 10,000 combined index search and/or records requests for historical records per year. Each request for an index search, record search, or both an index and record search was counted as one request to make up the 10,000. Based on an estimated increase in the demand for historical information, and the fact that the Genealogy Program will treat index search requests and records requests as separate rather than combined requests, DHS expects total requests to reflect a significantly higher number than when the FOIA Program handled genealogical requests. DHS estimates that it will receive 15,250 index search requests, 6,619 requests for microfilm records, and 4,728 requests for textual records for a combined total of 26,597 requests, totaling a cost ranging from \$468,832 to \$1,232,895 under the proposed fee structure.

DHS has determined that requests for historical records are being made by individuals and has not found any evidence that professional genealogists submit FOIA requests to USCIS for their clients. If professional genealogists and researchers have submitted such requests, they are not identifying themselves as a commercial requester and thus cannot be segregated in the data. Genealogists typically advise clients on how to submit their own requests. Reasons for this practice include the time required for a response to the request and the belief that records are more releasable to a relative rather than an unrelated third party. Based on discussions with professional genealogists, requests generated by professional genealogists and researchers who fall under the approved definition from the Small Business Association of a small entity in this category, All Other Professional, Scientific, and Technical Services with annual average receipt of \$6 million or

less, are well below 5 percent of the total number of requests. If it is assumed that professional genealogists and researchers account for 5 percent of the requests, and these costs are borne exclusively by the 1,500 members of the Association of Professional Genealogists, the average impact would be \$28.49 per year. The average impact would be even lower still once the universe of professional genealogists is expanded to include entities who are not members of the Association of Professional Genealogists.

These practices arise from the nature of the genealogy sector. Professional genealogists charge anywhere from \$10 to \$100 per hour, with an average of \$30 to \$60 per hour, according to the Association of Professional Genealogists (<http://www.apgen.org/articles/hire.html>). Expenses, such as record requests and copies, often are charged to the client as an additional expense. Specialists typically charge a relatively higher fee (<http://www.progenealogists.com/compare.htm>). In addition, many professionals require a retainer of \$300 to \$500. See Sue P. Morgan, "What You Should Know before Hiring a Professional Genealogist," available at <http://www.genservices.com/docs/HiringAPro.htm>. Depending on the depth of the research, the fees for a genealogical study can be substantial. At a retainer of \$300, the proposed fee range of \$16 to \$45 for an index search by the Genealogical Program is only 5.3 to 15 percent of the retainer, and it is typically paid directly by the client, not the researcher. This does not suggest a substantial burden on researchers. Given the low number of professional genealogists and researchers that would be impacted by this rule, the resulting degree of economic impact would not require a Regulatory Flexibility Analysis to be performed. Consequently, DHS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

B. Unfunded Mandates Reform Act of 1995

This proposed 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 will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This proposed 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. In the previous four fiscal years, USCIS received an average of 10,000 combined search and record requests that fell under the definition of genealogy. To do a search and provide a record for each of these requests, USCIS would generate between \$468,832 to \$1,232,895 in offsetting revenue. These requests are currently handled through the USCIS FOIA/PA program at no recoverable cost to USCIS. Private vendors also do genealogical research and there are various historical documents maintained by private companies. The Genealogy Program will have no impact on these companies since we are only offering the same legacy INS documents as we provided previously at no charge.

D. Executive Order 12866

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), requires a determination whether a regulatory action is "significant" and therefore subject to review by OMB and subject to the requirements of the Executive Order. USCIS has determined that this proposed rule is a "significant regulatory action" under Executive Order 12866, section 3(f). Accordingly, it has been submitted to OMB for review and approval.

USCIS assessed both the costs and benefits of this proposed rule as required by Executive Order 12866, section 1(b)(6), and has determined that the benefits of this regulation justify its costs. The anticipated benefits of this proposed rule include: (1) Relieve the FOIA/PA program from burdensome requests that require no FOIA/PA expertise; (2) place requesters and the Genealogy staff in direct communication; (3) provide a dedicated queue and point of contact for genealogists and other researchers seeking access to those records described as historical records; (4) generate sufficient revenue to cover expenses as a fee for service program and, (5) reduce the time to respond to these requests.

The cost to the public of this proposed rule ranges from a \$16 to \$45 fee for index search requests, \$16 to \$45 fee for requests for a copy of a file on microfilm, or \$26 to \$55 fee for requests for a copy of a textual file. USCIS is authorized to charge a fee to recover the full costs of providing research and information services under section 286(t) of the INA, 8 U.S.C. 1356(t). Other sources exist for many types of genealogical research and it is not evident that every search by a genealogist would require access to the Genealogy Program at USCIS. Based upon these proposed fees, it is possible to approximate the impact of fees on individual and professional genealogists and researchers. USCIS expects to receive in the future approximately 15,250 genealogical (name) index search requests per year, which, at \$16 to \$45 per search, would yield \$240,000 to \$675,000; in addition, there would be a total of 6,619 requests for microfilmed records and 4,728 requests for textual records (*i.e.*, hard copy files). A fee range of \$16 to \$45 for microfilmed records would yield \$105,904 to \$297,855. A fee range of \$26 to \$55 to pull textual records would yield \$122,928 to \$260,040. Therefore, the total fees collected by the Genealogy Program would yield \$468,832 to \$1,232,895.

Establishing the new Genealogy Program will benefit both individuals and researchers making genealogy requests for historical records as well those seeking information under the current FOIA/PA program by allowing a more timely response for both sets of requests. USCIS estimates that it processed an average of 10,000 combined index search and record requests for genealogical information over the past 4 fiscal years through the existing FOIA/PA program. These can be released without redaction or withholding, eliminating the need for FOIA/PA analysis. A new program specifically designed to handle these requests would expedite the process and improve services to historical researchers, genealogists and the general public. For example, the proposed rule does not increase information collection requirements of the rule. In fact, the introduction of e-filing presents an opportunity to simplify the information collection process and expedite handling. At the same time, the resources of the FOIA/PA program could be applied more efficiently to requests more directly related to immigration, citizenship, or naturalization benefits that require more detailed FOIA/PA analysis.

E. Executive Order 13132

Executive Order 13132 requires DHS to develop a process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.” Such policies are defined in the Executive Order to include rules that 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.”

USCIS analyzed this proposed rule in accordance with the principles and criteria in the Executive Order and has determined that it would not have a substantial direct effect 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, USCIS has determined that this proposed rule does not have federalism implications. It provides for alternate document handling procedures that do not implicate state government.

F. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988. That Executive Order requires agencies to conduct reviews, before proposing legislation or promulgating regulations, to determine the impact of those proposals on civil justice and potential issues for litigation. The Executive Order requires that agencies make reasonable efforts to ensure the regulation clearly identifies preemptive effects, effects on existing Federal laws and regulations, identifies any retroactive effects of the proposal, and other matters. DHS has determined that this proposed regulation meets the requirements of Executive Order 12988 because it does not involve retroactive effects, preemptive effects, or other matters addressed in the Order.

G. Paperwork Reduction Act

This proposed rule requires the submission of Form G-1041 or Form G-1041A when requesting a search or record from the USCIS. The Forms G-1041 and G-1041A are considered an information collection. Accordingly, the Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and

affected agencies. Comments are encouraged and will be accepted for sixty days until June 19, 2006.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202-272-8352 or via e-mail at rfs.regs@dhs.gov. When submitting comments by e-mail please make sure to add Form Number G-1041 or G-1041A (whichever is appropriate) in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New information Collection.

(2) *Title of the Form/Collection:* Genealogy Search Request and Genealogy Record Request.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G-1041, and G-1041A, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and households. Form G-1041 is provided as a convenient means for persons to provide data necessary to perform a search of historical agency indices. Form G-1041A provides a convenient means for persons to identify a particular record desired under the

Genealogy Program. Forms G-1041 and G-1041A will be used by researchers, historians, and social scientists seeking ancestry information for genealogical, family history and heir location purposes. The forms may also be used by United States citizens seeking historical records to support a foreign application for dual citizenship.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 16,000 responses (Form G-1041, 10,000 responses, and Form G-1041A, 6,000 responses) at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: <http://uscis.gov/graphics/formsfee/forms/pr/index.htm>.

If additional information is required, contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529, (202) 272-8377.

List of Subjects

8 CFR Part 103

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

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

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

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

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

Authority: 5 U.S.C. 301, 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Public Law 107-296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*), E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7 is amended by:

- Adding the entries “G-1041” and “G-1041A”, in proper alpha/numeric sequence, in paragraph (b)(1); and by
- Revising the next to last sentence in Paragraph (c)(1).

The additions and revisions read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form G-1041. For filing requests for searches of indices to historical records to be used in genealogical research. There is a fee of \$16 to \$45 for each index search request.

Form G-1041A. For filing requests for copies of historical records to be used in genealogical research. There is a fee of \$16 to \$45 for each file copy from microfilm requested and a fee of \$26 to \$55 for each textual file copy requested.

* * * * *

(c) * * *

(1) * * * The fees for Form I-907, Request for Premium Processing Services, and for Forms G-1041 and G-104A, Genealogy Program request forms, may not be waived.

* * * * *

3. Section 103.38 is added to read as follows:

§ 103.38 Genealogy program.

(a) *Purpose.* The Department of Homeland Security, (DHS) U.S. Citizenship and Immigration Services (USCIS) Genealogy Program is a fee-for-service program designed to provide genealogical and historical records and reference services to genealogists, historians, and others seeking documents maintained within the historical record systems.

(b) *Scope and limitations.* Sections 103.38 through 103.41 comprise the regulations of the Genealogy Program. The regulations apply only to searches of and records maintained within those record series determined by the Genealogy Program Office (GPO) to be historical records as described in 8 CFR 103.39. The regulations set forth the procedures by which individuals may request searches for historical records and, if responsive records are located, obtain copies of those records.

4. Section 103.39 is added to read as follows:

§ 103.39 Historical records.

Historical Records are files, forms, and documents now located within the following records series:

(a) *Naturalization Certificate Files (C-Files), from September 27, 1906 to April 1, 1956.* Copies of records relating to all U.S. naturalizations in Federal, state, county, or municipal courts, overseas military naturalizations, replacement of old law naturalization certificates, and the issuance of Certificates of Citizenship in derivative, repatriation, and resumption cases. The majority of

C-Files exist only on microfilm.

Standard C-Files generally contain at least one application form (Declaration of Intention and/or Petition for Naturalization, or other application) and a duplicate certificate of naturalization or certificate of citizenship. Many files contain additional documents, including correspondence, affidavits, or other records. Only C-Files dating from 1929 onward include photographs.

(b) *Microfilmed Alien Registration Forms, from August 1, 1940 to March 31, 1944.* Microfilmed copies of 5.5 million Alien Registration Forms (Form AR-2) completed by all aliens age 14 and older, resident in or entering the United States between the dates given. The two-page form called for the following information: Name; name at arrival; other names used; street address; post-office address; date of birth; place of birth; citizenship; sex; marital status; race; height; weight; hair and eye color; date, place, vessel, and class of admission of last arrival in United States; date of first arrival in United States; number of years in United States; usual occupation; present occupation; name, address, and business of present employer; membership in clubs, organizations, or societies; dates and nature of military or naval service; whether citizenship papers filed, and if so date, place, and court for declaration or petition; number of relatives living in the United States; arrest record, including date, place, and disposition of each arrest; whether or not affiliated with a foreign government; signature, and fingerprint.

(c) *Visa Files, from July 1, 1924 to March 31, 1944.* Original arrival records of immigrants admitted for permanent residence under provisions of the Immigration Act of 1924. Visa forms contain all information normally found on a ship passenger list of the period, as well as the immigrant's places of residence for 5 years prior to emigration, names of both the immigrant's parents, and other data. Attached to the visa in most cases are birth records or affidavits. Also attached may be marriage, military, or police records.

(d) *Registry Files, from March 2, 1929 to March 31, 1944.* Original records documenting the creation of immigrant arrival records for persons who entered the United States prior to July 1, 1924, and for whom no arrival record could later be found. Most files also include documents supporting the immigrant's claims regarding arrival and residence (*i.e.*, proofs of residence, receipts, employment records).

(e) *A-Files numbered below 8 million (A8000000), and documents therein dated prior to May 1, 1951.* Individual

alien case files (A-files) became the official file for all immigration records created or consolidated since April 1, 1944. A-numbers ranging up to approximately 6 million were issued to aliens and immigrants within or entering the United States between 1940 and 1945. The 6 million and 7 million series of A-numbers were issued between circa 1944 and May 1, 1951. Any documents dated after May 1, 1951, though found in an A-File numbered below 8 million, will remain subject to FOIA/PA restrictions.

5. Section 103.40 is added to read as follows:

§ 103.40 Genealogical research requests.

(a) *Nature of requests.* Genealogy research requests are requests for searches and/or copies of historical records relating to a deceased person, usually for genealogy and family history research purposes.

(b) *Manner of requesting genealogical searches and records.* Requests must be submitted on Form G-1041, Genealogy Search Request, or Form G-1041A, Genealogy Record Request, and mailed to the address listed on the form. Requests may also be submitted via the Internet at a genealogy Web site to be developed for this purpose. A separate request on Form G-1041 must be submitted for each individual searched, and that form will call for the name, aliases, and all alternate spellings relating to the one individual immigrant. Form G-1041A may be submitted to request one or more separate records relating to separate individuals.

(c) *Information required to perform index search.* As required on Form G-1041, all requests for index searches to identify records of individual immigrants must include the immigrant's full name (including variant spellings of the name and/or aliases, if any), date of birth, and place of birth. The date of birth must be at least as specific as a year, and the place of birth must be at least as specific as a country (preferably the country name as it existed at the time of the immigrant's immigration or

naturalization). Additional information about the immigrant's date of arrival in the United States, residence at time of naturalization, name of spouse and names of children may be required to ensure a successful search.

(d) *Information required to retrieve records.* As required on Form G-1041A, requests for copies of historical records or files must identify the record by number or other specific data used by the Genealogy Program Office to retrieve the record. C-Files must be identified by naturalization certificate number. Forms AR-2 and A-Files numbered below 8 million must be identified by Alien Registration Number. Visa Files must be identified by the Visa File Number. Registry Files must be identified by Registry File Number (for example, R-12345).

(e) *Information required for release of records.* Subjects will be presumed deceased if their birth date is more than 100 years prior to the date of the request. In other cases, the subject is presumed to be living until the requestor establishes to the satisfaction of the Genealogy Program Office that the subject is deceased. As required on Form G-1041A, primary or secondary documentary evidence of the subject's death will be required (including but not limited to death records, published obituaries or eulogies, published death notices, church or bible records, photographs of gravestones, and/or copies of official documents relating to payment of death benefits). All documentary evidence must be attached to Form G-1041A or submitted in accordance with instructions provided on Form G-1041A.

(f) *Processing of index search requests.* Each request for index search services will generate a search of the indices to determine the existence of responsive historical records. If no record is found, the researcher will be notified. If records are indicated, the researcher will be provided with search results including the type of record found and the file number or other information identifying the record that is required to support a request for record copies.

(g) *Processing of record copy requests.* Upon receipt of requests identifying specific records by number or other identifying information, the requested record(s) will be retrieved, duplicated, reviewed, and mailed to the requester. If a document is located and found but is not subject to release, the document(s) will be transferred to the FOIA/PA program for treatment as a FOIA/PA request as described in 8 CFR 103.10. Document retrieval charges will apply in all cases where documents are retrieved.

6. Section 103.41 is added to read as follows:

§ 103.41 Genealogy request fees.

(a) *Genealogy search fee.* A fee of \$16 to \$45 will be charged for filing each search request. The fee is not refundable.

(b) *Genealogy records fees.* For the retrieval, duplication, review, and release of each historical record, a fee of \$16 to \$45 for records on microfilm or a fee of \$26 to \$55 for textual records will be charged. The Genealogy Program Office will refund this fee only when the record request is based upon file information previously provided by the Genealogy Program Office in response to an index search request, and the Genealogy Program Office is unable to locate the file when later requested under a Genealogy Record request.

(c) *Manner of submission.* All fees must be submitted in the exact amount with Form G-1041 or Form G-1041A, remitted in accordance with 8 CFR 103.7(a)(1).

PART 299—IMMIGRATION FORMS

7. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103; 8 CFR part 2.

8. Section 299.1 is amended in the table by adding Form "G-1041" and Form "G-1041A", in proper alpha/numeric sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

| Form No. | Edition date | Title |
|----------|--------------|----------------------------|
| G-1041 | | Genealogy Search Request. |
| G-1041A | | Genealogy Records Request. |

9. Section 299.5 is amended in the table by adding Form "G-1041" and

Form "G-1041A", in proper alpha/numeric sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

| Form No. | Form title | Currently assigned OMB control No. |
|----------|---------------------------|------------------------------------|
| G-1041 | Genealogy Search Request | 1615-XXXX |
| G-1041A | Genealogy Records Request | 1615-XXXX |

Dated: April 13, 2006.
Michael Chertoff,
Secretary.
 [FR Doc. E6-5947 Filed 4-19-06; 8:45 am]
BILLING CODE 4410-10-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE242; Notice No. 23-06-02-SC]

Special Conditions: Approved Model List Installation of AmSafe Inflatable Restraints in Normal and Utility Category Non-23.562 Certified Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed special conditions; request for comments.

SUMMARY: This notice proposes special conditions for the installation of an AmSafe, Inc., Inflatable Two-, Three-, Four or Five-Point Restraint Safety Belt with an Integrated Airbag Device on various airplane models. These airplanes, as modified by AmSafe, Inc., will have novel and unusual design features associated with the lap belt or shoulder harness portion of the safety belt, which contains an integrated airbag device. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before May 22, 2006.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE-7, Attention: Rules Docket, Docket No. CE242, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the

above address. Comments must be marked: CE242. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Mark James, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 901 Locust, Kansas City, Missouri, 816-329-4137, fax 816-329-4090, e-mail *mark.james@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to CE242." The postcard will be date stamped and returned to the commenter.

Background

On August 19, 2005, AmSafe, Inc., Aviation Inflatable Restraints (AAIR) Division, 1043 North 47th Avenue, Phoenix, AZ 85043, applied for a supplemental type certificate for the installation of an inflatable restraint in various airplane models certificated before the dynamic structural

requirements as specified in 14 CFR part 23, section 23.562 took effect.

The inflatable restraint system is either a two-, three-, four, or five-point safety belt restraint system consisting of a shoulder harness and a lap belt with an inflatable airbag attached to either the lap belt or the shoulder harness. The inflatable portion of the restraint system will rely on sensors to electronically activate the inflator for deployment. The inflatable restraint system will be made available on the pilot, co-pilot, and passenger seats of these airplanes.

In the event of an emergency landing, the airbag will inflate and provide a protective cushion between the occupant's head and structure within the airplane. This will reduce the potential for head and torso injury. The inflatable restraint behaves in a manner that is similar to an automotive airbag, but in this case, the airbag is integrated into the lap or shoulder belt. While airbags and inflatable restraints are standard in the automotive industry, the use of an inflatable restraint system is novel for general aviation operations.

The FAA has determined that this project will be accomplished on the basis of providing the same current level of safety of the airplanes original certification basis. The FAA has two primary safety concerns with the installation of airbags or inflatable restraints:

- That they perform properly under foreseeable operating conditions; and
- That they do not perform in a manner or at such times as to impede the pilot's ability to maintain control of the airplane or constitute a hazard to the airplane or occupants.

The latter point has the potential to be the more rigorous of the requirements. An unexpected deployment while conducting the takeoff or landing phases of flight may result in an unsafe condition. The unexpected deployment may either startle the pilot, or generate a force sufficient to cause a sudden movement of the control yoke. Either action could result in a loss of control of the airplane, the consequences of which are magnified due to the low operating altitudes during these phases of flight. The FAA has considered this