DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 2089–00]

RIN 1115–AE73

Additional Authorization To Issue Certificates for Foreign Health Care Workers; Speech-Language Pathologists and Audiologists, Medical Technologists and Technicians, and Physician Assistants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the regulations of the Immigration and Naturalization Service (Service), to enable the Commission on Graduates of Foreign Nursing Schools (CGFNS) to issue certificates to aliens seeking admission as, or adjustment of status to permanent residents on the basis of the following occupations: Speech language pathologist and audiologists, medical technologist (also known as ''clinical laboratory scientist''), physician assistant, and medical technician (also known as ''clinical laboratory technician''). The Service has consulted with the Department of Health and Human Services before promulgating this interim regulation. This rule ensures that foreign health care workers have the same training, education and licensure as similarly employed United States workers.

DATES: *Effective Date:* This interim rule is effective March 19, 2001.

Comment date: Written comments must be submitted on or before March 19, 2001.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference the INS No. 2089–00 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION:

What Are the Provisions of 8 U.S.C. 1182(a)(5)(C)?

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Public Law No. 104–208, section 343, 110 Stat. 3009, 636–37 (1996) created a new ground of inadmissibility now codified at 8 U.S.C. 1182(a)(5)(C), section 212(a)(5)(C) of the Immigration and Nationality Act (Act). It provides that an alien who seeks to enter the United States for the purpose of performing labor as a health care worker, other than a physician, is inadmissible unless the alien presents a certificate from CGFNS or an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services (HHS) verifying:

(1) that the alien's education, training, license, and experience meet all applicable statutory and regulatory requirements for admission into the United States under the classification specified in the application; are comparable with that required for an American health care worker of the same type; are authentic and, in the case of a license, unencumbered;

(2) the alien has the level of competence in oral and written English considered by the Secretary of HHS, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write English; and,

(3) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting an applicant's success on the profession's licensing or certification examination, the alien has passed such a test, or has passed such an examination. Section 212(r) of the Act mandates separate certification procedures for certain aliens.

How Has the Service Implemented 8 U.S.C. 1182(a)(5)(C)?

Section 212(a)(5)(C) of the Act became effective upon enactment on September 30, 1996. Shortly thereafter, the Service met and conferred with HHS, the Department of Labor (DOL), the Department of Education (DOE), the Department of Commerce (DOC), the Office of the United States Trade Representative (USTR), and the Department of State (DOS) to reach consensus on the best approach for implementation. In addition to meetings among the affected agencies, several meetings were held with interested organizations including CGFNS, the American Occupational Therapists Association, the National Board for Certification in Occupational Therapy (NBCOT), the Federated State Board of Physical Therapy, and the American Physical Therapy Association.

The Service in consultation with HHS initially identified, on the basis of the legislative history, seven categories of health care workers subject to the provisions of 8 U.S.C. 1182(a)(5)(C). The seven categories are nurses, physical therapists, occupational therapists, speech-language pathologists, medical technologists (also known as ''clinical laboratory scientist''), medical technicians (also known as ''clinical laboratory technicians'') and physician assistants. Upon the suggestion of HHS, this rule lists the alternative terms ''clinical laboratory scientist'' and ''clinical laboratory technician'' to reflect both the legislative history and current health professions categorizations.

After weighing the complexity of the implementation issues, anticipating the length of time for rule making, and considering the need for health care facilities across the country to remain fully staffed and provide a high quality of service to the public, the DOS and the Service agreed to exercise their statutory discretion under 8 U.S.C. 1182(d)(3), section 212(d)(3) of the Act, and have granted a blanket waiver of inadmissibility to nonimmigrant health care workers until final regulations are promulgated. The blanket waiver of inadmissibility applies to nonimmigrant health care workers already in possession of nonimmigrant visas and visa exempt aliens, including Canadians applying for classification pursuant to 8 U.S.C. 1184(e), section 214(e) of the Act (TN classification). The Service published an interim rule (First Interim Rule) in the **Federal Register** on October 14, 1998 at 63 FR 55007 in which the adoption of this policy regarding nonimmigrant health care workers was announced. The First Interim Rule amended 8 CFR part 212 and 245. A formal application or fee is not required for a nonimmigrant health care worker to obtain the waiver. Nonimmigrant health care workers are admitted on a multiple entry Form I–94 for 1 year. In addition, otherwise admissible dependents are also authorized admission into the United States for the specific dates of stay authorized for the principal alien. A new waiver is not required if the nonimmigrant health care worker makes an application for admission to the United States during

the validity period of the previously issued Form I–94. Nonimmigrants applying for TN classification are not required to pay the admission fee described at 8 CFR 214.6(f) when applying for admission during the validity period of the previously issued Form I–94. Finally, nonimmigrant health care workers are eligible for extensions of the waiver and corresponding extensions of stay in increments of 1 year.

The Services has issued two interim rules implementing the certification requirements of section 212(a)(15)(C) of the Act with respect to immigrant health care workers. The First Interim Rule, previously referenced, and a Second Interim Rule which was published in the **Federal Register** on April 30, 1999 at 64 FR 23174. The Second Interim Rule also amended 8 CFR part 212.

What Were the Provisions of the 1st and 2nd Interim Rules?

The First Interim Rule temporarily enabled CGFNS to issue certificates to immigrants coming to the United States to work in the field of nursing, and temporarily authorized NBCOT to issue certificates in the field of occupational therapy. The Service adopted the First Interim Rule without the notice and comment period ordinarily required by 5 U.S.C. 553 because it found that delay in the implementation of 8 U.S.C. 1182(a)(5)(C) could adversely affect the provision of health care, particularly in medically under-served areas for nursing and occupational therapy. Given this context, the Service identified two criteria for the selection of certifying organizations on a temporary basis:

(1) That a sustained level of demand for foreign workers for the particular occupation exists; and

(2) That an organization with an established track record in providing credentialing services exists.

The First Interim Rule defined the term ''sustained level of demand'' as the presence of an existing demand for foreign health care workers in a particular occupation that is expected to continue in the foreseeable future. The term ''organizations with an established track record'' was defined as an organization which has a record of issuing actual certificates, or documents similar to a certificate, that are generally accepted by the state regulatory bodies as certificates that an individual has met certain minimal qualifications. The Service found, on the basis of information provided by DOL, that there was a sustained level of demand for foreign workers in nursing and occupational therapy. After consultation with HHS, CGFNS and NBCOT were found to qualify as organizations with an established track record in providing credentialing services for nursing and occupational therapy respectively. As required by 8 U.S.C. 212(a)(5)(C), the rule also established the appropriate English language competency levels for foreign nurses and occupational therapists, and specified exemptions from English language proficiency testing.

The First Interim Rule provided that the Service would apply the two criteria to other organizations seeking authorization to issue certificates while the interim rule remained in effect. Finally, the Service deferred consideration of whether CGFNS is authorized to issue certificates for other health care occupations.

The Second Interim Rule temporarily enabled CGFNS to issue certificates to immigrants coming to the United States to work in the fields of occupational therapy and physical therapy, and temporarily authorized the Foreign Credentialing Commission on Physical Therapy (FCCPT) to issue certificates in physical therapy. As with the First Interim Rule, the Service adopted the Second Interim Rule without the notice and comment period ordinarily required by 5 U.S.C. 553 because it found that delay in the implementation of 8 U.S.C. 1182(a)(5)(C) could adversely affect the provision of health care in medically under-served areas. The Service, in consultation with HHS, evaluated CGFNS' and FCCPT's applications for authorization to issue certificates under the criteria promulgated by the First Interim Rule. The Service found that both CGFNS and FCCPT met the ''establishment or proven track record'' criterion. With respect to the second criterion, the Service relied on its findings in the First Interim Rule to conclude that there was a sustained level of demand for occupational therapists. In addition, after considering data compiled by DOL, the Service concluded that there was a sustained level of demand for physical therapists that could adversely affect the provision of health care in medically under-served areas. The Second Interim Rule also established the appropriate English language competency levels for physical therapists.

Why Is the Service Promulgating a Third Interim Rule To Implement 8 U.S.C. 1182(a)(5)(C)?

After careful consideration, the Service believes that it is in the public interest to temporarily adopt this rule without notice and comment procedures, and that it would be impracticable to do otherwise. The Service will invite post promulgation comments to this temporary rule. In addition the Service anticipates publishing a Notice of Proposed Rule Making (NPRM) within the next 6 months.

The IIRIRA was a major, complex legislative scheme, which significantly changed existing immigration law and imposed many administrative duties upon the Service. Many provisions of the IIRIRA, including section 343 became immediately effective. The Service had a tremendous responsibility to rapidly promulgate numerous regulations implementing the new provisions of the law. Since enactment of the IIRIRA, the Service has diligently worked on an NPRM to implement 8 U.S.C. 1182(a)(5)(C) via ordinary notice and comment procedure, but has experienced considerable administrative difficulty in coordinating the needs and concerns of the large number of federal agencies and private interested parties affected by 8 U.S.C. 1182(a)(5)(C). Several substantive issues require the technical expertise of other agencies and further consultation before they can be definitively addressed. For example, the provisions of 8 U.S.C. 1182(a)(5)(C) may affect United States obligations under international treaties to facilitate the movement of professionals. Second, the Service is required to further define which, if any, other health care occupations fall under the ambit of the statute. Because of the delays in promulgating the larger rule, the Service believes the promulgation of this regulation as an interim rule is imperative to enable the Service to execute its adjudicative functions and to eliminate a growing backlog of pending immigrant applications filed by aliens seeking to immigrate to the United States as speech language pathologists and audiologists, medical technologists, physicians assistants and medical technicians. The Service has held such immigrant petitions in abeyance until promulgation of implementing regulations and as a result, certain immigrant health care workers have suffered extended periods of separation from family members and petitioning employers have been forced to operate without needed employees.

What Criteria Will the Service Use To Evaluate Organizations Applying for Authority to Issue Certifications?

The Service will continue to use the ''proven track record'' criterion previously promulgated in the First and Second Interim Rules. The legislative history of the IIRIRA indicates that the factors to be considered for selection of

credentialing organizations are the following (1) the independence and freedom of material conflicts of interest of the organization regarding whether an alien receives a visa; (2) whether the organization has the ability to evaluate credentials and English competency; (3) whether the organization maintains comprehensive and current information on foreign educational institutions; and (4) whether the organization can conduct examinations outside of the United States. *See* H.R. REP. NO. 104–828 at 227 (1996). The Service intends to fully address each of these factors in the NPRM. However since this is a temporary rule, the Service believes that the ''proven track record'' criterion adequately addresses the factors outlined in the legislative history.

After careful consideration, the Service has decided it will not use the ''sustained level of demand'' criterion utilized in the First and Second Interim Rules. As discussed *supra,* the Service promulgated those interim rules under the rationale that failure to process immigrant petitions for certain health care occupations would adversely affect the provision of health care in medically under-served areas. Given that rationale for promulgation of those interim rules, ''sustained level of demand'' was initially an important consideration in the approval of credentialing organizations. In contrast, the Service is promulgating this interim rule because it has experienced tremendous administrative difficulty in promulgating permanent regulations due to the complexity of the issues to be addressed, and because the Service is unable to execute its adjudicative functions with respect to a growing backlog of petitions without an implementing regulation. Therefore, ''sustained level of demand'' is not a relevant consideration at this time because the Service is unable to execute its adjudicative function with respect to these occupations.

What Is the Purpose of This Interim Rule?

The purpose of this interim rule is to provide notice that CGFNS may issue certificates pursuant to section 212(a)(5)(C) of the Act, on a temporary basis, to foreign health care workers coming to the United States as immigrants or applicants for adjustment of status to work in the occupations of speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants, and medical technicians (clinical laboratory technicians).

This rule does not establish procedures for the Service to accept certificates issued by CGFNS or equivalent credentialing organizations to aliens seeking temporary admission to the United States to perform services in a health care occupation. An alien's application for admission as a nonimmigrant will be processed pursuant to the Service's temporary policies previously described.

This interim rule also lists the passing scores for the English language tests for the occupations of speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants, and medical technicians (clinical laboratory technicians). This interim rule also amends the regulations concerning what organizations may administer the English language tests to reflect recent changes concerning one of the testing organizations.

Has CGFNS Shown That It Has an Established Track Record?

Based on consultations with HHS, the Service finds that CGFNS has an established track record in issuing certificates for speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants and medical technicians (clinical laboratory technicians). In addition to 20 years of experience in evaluating the credentials of foreign nurses, CGFNS has experience beyond nursing with regard to educational comparability and credentials evaluation. CGFNS has an extensive database covering health-related academic programs in foreign countries, much of which is applicable beyond nursing. Finally CGFNS, through their credential evaluation service, has evaluated foreign credentials, including educational degrees and foreign licenses for psychiatric technicians, physician assistants, emergency medical technicians and other occupations. With the establishment of ''Professional Standards Committees'' CGFNS has developed certification standards that may be used to assess comparability for the occupations of speech language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants and medical technicians (clinical laboratory technicians).

What Are the Passing English Test Scores for Speech-Language Pathologists and Audiologists, Medical Technologist (Clinical Laboratory Scientists), and Physician Assistants?

In order to obtain a certificate, the alien must demonstrate to the credentialing organization that he or she has passed either the English tests given by the Educational Testing Service or the Michigan English Language Assessment Battery (MELAB). In order to obtain a certificate an alien must be competent in written, oral, and spoken English.

The HHS has determined that speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), and physician assistants must obtain the following scores on the English tests administered by the Educational Testing Service (ETS): Test of English as a Foreign Language (TOEFL): paper-based 540, computer-based 207; Test of Written English (TWE): 4.0; Test of Spoken English (TSE): 50.

The HHS has determined that speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), and physician assistants must obtain the following scores on the English tests administered by the Michigan English Language Assessment Battery (MELAB): Final Score 79; Oral Interview 3+. It is noted that, effective June 30, 2000, the MELAB Oral Interview Speaking Test is no longer being given overseas and is only being administered in the United States and Canada. Applicants may take MELAB Parts 1, 2 and 3, plus the TSE offered by the ETS. In addition, the exemptions for the English language tests described in § 212.15(g)(2) apply to the occupations of speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), and physician assistants.

What Are the Passing English Test Scores for Medical Technicians (Clinical Laboratory Technicians)?

In order to obtain a certificate, the alien must demonstrate to the credentialing organization that he or she has passed either the English tests given by the Educational Testing Service or the Michigan English Language Assessment Battery (MELAB). In order to obtain a certificate an alien must be competent in written, oral, and spoken English.

The HHS has determined that medical technicians (clinical laboratory technicians) must obtain the following scores on the English tests administered by ETS: TOEFL: paper-based 530, computer-based 197; TWE: 4.0; TSE: 50.

The HHS has determined that medical technicians (clinical laboratory technicians) must obtain the following scores on the English tests administered by the MELAB: Final Score 77; Oral Interview 3+. Again, the MELAB Oral Interview Speaking Test is no longer being given overseas and is only being

administered in the United States and Canada. Applicants may take MELAB Parts 1, 2 and 3, plus the TSE offered by the ETS. In addition, the exemptions for the English language tests described in § 212.15(g)(2) apply to the occupation of medical technicians (clinical laboratory technicians).

What Aliens Are Exempt From the English Tests?

According to § 212.15(g)(1), aliens who have graduated from a college, university, or professional training school located in Australia, Canada, (except Quebec), Ireland, New Zealand, the United Kingdom, and the United States are exempt from the English language requirement.

Does This Interim Rule Alter Any of the Service's Policies With Respect to the Admission of Nonimmigrant Health Care Workers?

No, this rule enables CGFNS to issue certificates to foreign health care workers seeking admission as immigrants or adjustment of status in the occupations previously discussed. It does not alter any of the Service's policies with respect to the admission of nonimmigrant aliens coming to perform services in health care occupations that were described in the first interim rule.

How Does This Rule Amend the Existing Regulation?

This interim rule amends the regulation at § 212.15(c) by adding the occupations of speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants, and medical technicians (clinical laboratory technicians) to the list of occupations.

This interim rule also amends the regulation at § 212.15(e) to add the occupations of speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants, and medical technicians (clinical laboratory technicians) to the list of occupations for which CGFNS can issue certificates.

Finally, this interim rule amends the regulation at § 212.15(g) to list the passing English scores for the occupations of speech-language pathologists and audiologists, medical technologists (clinical laboratory scientists), physician assistants, and medical technicians (clinical laboratory technicians). This interim rule further amends the regulations at § 212.15(g) by describing the changes in testing that have been instituted by MELAB.

Good Cause Exception

This interim rule is effective 60 days from the date of publication in the **Federal Register**, and the Service invites post-promulgation comments to be weighed and considered in the forthcoming NPRM. For the following reasons, the Service for good cause finds that it is in the public interest to temporarily adopt this rule without notice and comment procedures, and that it would be impracticable to do otherwise.

First, the Service has diligently worked on an NPRM for 8 U.S.C. 1182(a)(5)(C), but has experienced considerable administrative difficulty in coordinating the needs and concerns of the large number of federal agencies and private interested parties affected by 8 U.S.C. 1182(a)(5)(C). Several substantive issues, including how the provisions of 8 U.S.C. 1182(a)(5)(C) affect United States obligations under international treaties, and how to define which occupations fall under the ambit of the statute, require the technical expertise of other agencies and further consultation before they can be definitively addressed.

Second, the Service believes that promulgation of this regulation as an interim rule is imperative to enable the Service to execute its adjudicative functions with respect to pending immigrant applications filed by aliens seeking to immigrate to the United States as speech language pathologists, medical technologists, physician assistants and medical technicians. Such immigrant applications have been held in abeyance until promulgation of implementing regulations resulting in a backlog. Further, because these immigrant applications have been held in abeyance, certain immigrant health care workers have unfortunately suffered extended periods of separation from family members and petitioning employers have been forced to operate without needed employees. In the long term, the Service's continued policy with respect to these immigrants could have the unintended consequence of chilling future immigration of alien health care workers in these occupations.

While the Service plans to issue an NPRM in 6 months that covers more than this interim rule, it does not anticipate speedy promulgation of a final rule due to the numerous public comments expected in response to the NPRM. In light of this, the Service finds that it would be contrary to the public interest to continue to hold these immigrant applications in abeyance pending final rules when the admission or adjustment of these aliens under temporary procedures will only serve to benefit the public health.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted in a way to minimize the economic impact that it has on small business while meeting its intended objective. The health care workers who will be issued certificates are not considered small entities as the term is defined in 5 U.S.C. 601(6).

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 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 costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under E.O. 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget (OMB) for review.

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, 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.

Paperwork Reduction Act

The information required on the certificate for health care workers showing that the alien possesses proficiency in the skills that affect the provision of health care services in the United States (as provided in § 212.15(f)) is considered an information collection that has been approved for use by the Office of Management and Budget (OMB) under OMB control number 1115–0226. It is estimated that the number of respondents will increase as a result of adding the five additional health care occupations listed in § 212.15(c). Accordingly, the Service will submit an adjustment form to OMB increasing the total annual burden hours.

List of Subjects in 8 CFR Part 212

Administrative practice and procedures, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

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

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

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.15 is amended by:

a. Adding new paragraphs (c)(4) through (c)(7);

b. Revising paragraph (e)(1);

c. Revising paragraph (g)(3)(i); and

d. Adding new paragraphs (g)(4)(iv) and (g)(4)(v), to read as follows:

§ 212.15 Certificates for foreign health care workers.

* * * * *

(c) * * *

(4) Speech-Language Pathologists and Audiologists.

(5) Medical Technologists (Clinical Laboratory Scientists).

(6) Physician Assistants.

(7) Medical Technicians (Clinical Laboratory Technicians).

* * * * *

(e) * * *

(1) The Commission on Graduates of Foreign Nursing Schools may issue certificates pursuant to 8 U.S.C. 1182(a)(5)(C), and section 212(a)(5)(C) of the Act for the occupations of nurse (licensed practical nurse, licensed vocational nurse, and registered nurse), physical therapist, occupational therapist, speech-language pathologist and audiologist, medical technologist (clinical laboratory scientist), physician assistant, and medical technician (clinical laboratory technician).

* * * * *

(g) * * *

(3) * * *

(i) Michigan English Language Assessment Battery (MELAB). Effective June 30, 2000, the MELAB Oral Interview Speaking Test is no longer being given overseas and is only being administered in the United States and Canada. Applicants may take MELAB Parts 1, 2, and 3, plus the Test of Spoken English offered by the Educational Testing Service.

* * * * *

(4) * * *

(iv) *Speech-language pathologists and Audiologists, medical technologists (clinical laboratory scientists), and physician assistants.* An alien coming to the United States to perform labor as a speech-language pathologist and audiologist, a medical technologist (clinical laboratory scientist), or a physician assistant must have the following scores to be issued a certificate: ETS: TOEFL: Paper-Based 540, Computer-Based 207; TWE: 4.0; TSE: 50; MELAB: Final Score 79; Oral Interview: 3+.

(v) *Medical technicians (clinical laboratory technicians).* An alien coming to the United States to perform labor as a medical technician (clinical laboratory technician) must have the following scores to be issued a certificate: ETS: TOEFL: Paper-Based 530, Computer-Based 197; TWE: 4.0; TSE: 50; MELAB: Final Score 77; Oral Interview: 3+.

Dated: November 28, 2000.

Mary Ann Wyrsch,

Acting Commissioner, Immigration and Naturalization Service.

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BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG54

List of Approved Spent Fuel Storage Casks: FuelSolutions Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the FuelSolutions cask system to the list of approved spent fuel storage casks. This amendment allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

EFFECTIVE DATE: This final rule is effective on February 15, 2001.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail spt@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule in 10 CFR part 72 entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' containing procedures and criteria for obtaining NRC approval of dry storage cask designs.