

peanut lots must be reported to AMS by November 1, 1997. This reporting date applies to only AMS' peanut import regulation and does not supersede other reporting dates for those peanuts that may be established by the Customs Service or other agencies. For peanuts imported after the quotas are filled, this rule extends the reporting period from 23 to 120 days, thus, reducing or eliminating the burden of requesting an extension of the reporting period.

An interim final rule concerning this action was issued by the Department on September 19, 1997, and published in the **Federal Register** on September 25, 1997. Copies were mailed by AMS to all known peanut importers, exporters, customs brokers and appropriate embassies. That rule provided for a 30-day comment period which ended October 27, 1997. Three comments were received.

One comment was received from the executive director of the Peanut Shellers Association of America, which stated that its members handle approximately 65 percent of the peanuts used in the United States. The Association supports the interim final rule extending the deadline for importers to report compliance with the peanut import regulation. The commenter also stated that some of the Association members request that AMS collect needed information from its inspection service and chemical laboratories. This request will be reviewed and considered for further rulemaking, if appropriate. It will be addressed in a subsequent proposed rulemaking for 1998 peanut imports.

A second comment was received from a major peanut importing company, which also is a handler of domestically produced peanuts. The commenter supports extension of the reporting period.

The final comment was received from a regional peanut growers cooperative. The commenter agreed that the single reporting date of November 1 is better than the original regulation's date of 30 days after entry of a peanut shipment. The comment, however, disagreed that extensions should be granted to those importers who were unable to meet the November 1 deadline. It was necessary to provide for such extensions in order to allow peanut importers sufficient time to meet the quality and reporting requirements for 1997 peanut imports. Also, because of the volume of certifications being filed simultaneously by approximately 30 importers, AMS needs time to review filed documents and complete reviews of each importers peanut entries.

Based on the comments received, no changes will be made to the interim final rule as published.

The action is a relaxation of the reporting time period which benefits peanut importers who are experiencing difficulty meeting the established reporting time period requirements.

After consideration of all relevant material presented, including the necessity by AMS to provide peanut importers sufficient time to meet the quality and reporting requirements of the peanut import regulation, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (62 FR 50241, September 25, 1997) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR Part 999 is amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

Accordingly, the interim final rule amending 7 CFR Part 999.600 which was published at 62 FR 50241 on September 25, 1997, is adopted as a final rule without change.

Dated: March 9, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-6772 Filed 3-16-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 204, 208, 209, 244, 245, 264, 299, 316, 332, and 335

[INS No. 1891-97]

RIN 1115-AF03

Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service; Requiring Completion of Criminal Background Checks Before Final Adjudication of Naturalization Applications

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service

(Service) regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act (Act). This rule implements certain provisions of the Department of Justice Appropriations Act, 1988, which prohibit the Service from accepting fingerprint cards (Form FD-258) for the purpose of conducting criminal background checks on applicants and petitioners for immigration benefits prepared by any individual or entity other than the Service, a registered State or local law enforcement agency, a United States consular office at a United States embassy or consulate, or a United States military installation abroad. The rule also announces the termination of the Designated Fingerprinting Services (DFS) certification program. In addition, this rule establishes a \$25 service fee for fingerprinting by the Service, and requires Service receipt of a definitive response from the Federal Bureau of Investigation (FBI) before final adjudication of a naturalization application.

DATES:

Effective date: This interim rule is effective March 29, 1998.

Comment date: Written comments must be submitted on or before May 18, 1998.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please refer to INS No. 1891-97 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:

Ann Palmer or Thomas E. Cook, Office of Naturalization Operations, Immigration and Naturalization Service, 801 I Street, NW., Room 935, Washington, DC 20536, telephone (202) 305-0539.

SUPPLEMENTARY INFORMATION:

Background

1. What is the Designated Fingerprinting Services (DFS) Program?

The Designated Fingerprinting Services (DFS) program allowed qualified individuals, businesses, and law enforcement agencies to apply to the Service for certification as a DFS entity to provide fingerprinting services to applicants and petitioners for immigration benefits. The primary purposes of the program were to facilitate the processing of applications

and petitions for benefits and protect the integrity of the fingerprinting process. The Service developed the DFS program as a result of reports from the United States Department of Justice, Inspector General, and United States General Accounting Office which found that the Service's unregulated fingerprinting policy, in effect since 1982, did not provide sufficient security controls. Under the DFS program, the Service accepted fingerprint cards (Form FD-258) filed with applications and petitions for immigration benefits only if they were prepared by a designated Service employee, an approved DFS entity, an intending DFS entity that had submitted an application for certification prior to March 1, 1997, or a law enforcement agency registered as a DFS entity.

2. How Did the Service Implement the DFS Certification Program?

On May 15, 1995, the Service published a notice of proposed rulemaking in the **Federal Register** at 60 FR 25856 proposing to implement the DFS certification program, which set forth the certification requirements and application procedures for individuals and entities interested in providing fingerprinting services to applicants and petitioners for immigration benefits. The Service also specified a date by which it would no longer accept fingerprint cards prepared by unauthorized entities.

On June 4, 1996, after a 60-day public comment period, the Service published a final rule in the **Federal Register** at 61 FR 28003, formally implementing the DFS certification program. The final rule became effective July 5, 1996. However, due to the insufficient number of certification applications received by the Service, and to ensure that adequate fingerprinting services were available to all applicants and petitioners for immigration benefits, the Service published a final rule in the **Federal Register** on November 7, 1996, at 61 FR 57583, extending the effective date of the DFS certification program to March 1, 1997.

Legislative Authority

1. Why is the Service Terminating the Designated Fingerprinting Services Certification Process?

On November 26, 1997, the Department of Justice Appropriations Act, 1998 (Pub. L. 105-119, 111 Stat. 2440) was enacted. This legislative change necessitates elimination of the DFS program. Pursuant to this legislation, effective December 3, 1997, the Service can accept fingerprint cards (Form FD-258) for the purpose of

conducting criminal background checks on applications and petitions for immigration benefits only if prepared by a Service office, a registered State or local law enforcement agency, a United States consular office at a United States embassy or consulate, or a United States military installation abroad. Accordingly, the Service is removing the DFS certification process from its regulations.

2. How Will the Service Implement the New Fingerprint Requirements?

To comply with Public Law 105-119, 111 Stat. 2440, the Service is establishing a new program to fingerprint applicants and petitioners for immigration benefits. The Service is opening new offices, known as Application Support Centers (ASCs), and establishing mobile fingerprinting centers nationwide to fingerprint applicants and petitioners for immigration benefits. The Service will also fingerprint applicants and petitioners for immigration benefits in certain Service field offices and, in less populated areas, is entering into cooperative agreements with designated State or local law enforcement agencies (DLEA) which have registered with the Service to provide fingerprinting services to applicants and petitioners for immigration benefits. This new fingerprinting program applies only to acceptance of Form FD-258, Applicant Card, submitted to the Service in connection with applications and petitions for immigration benefits.

3. How Does the New Legislation Affect Filing of Applications and Petitions for Immigration Benefits?

Under the Service's new fingerprinting program, effective on December 3, 1997, the Service began accepting fingerprinting cards with applications and petitions for immigration benefits only if prepared by the Service, registered State or local law enforcement agencies, a United States consular office at a United States embassy or consulate, or a United States military installation abroad.

Effective March 29, 1998, applicants and petitioners for immigration benefits residing in the United States will be required to file applications and petitions without completed fingerprint cards. After filing, the Service will notify applicants and petitioners to appear at an ASC or other Service-designated location, including designated State or local law enforcement agencies, to be fingerprinted. Applicants and petitioners residing outside of the United States submit completed

fingerprint cards prepared by the Service, a United States consular office or a United States military installation abroad with applications and petitions for immigration benefits.

a. How Has the Fingerprinting Process for Naturalization Been Changed?

Effective December 3, 1997, naturalization applications from individuals residing in the United States (as defined in section 101(a)(38) of the Act) have been filed without completed fingerprint cards. After filing the Form N-400, these naturalization applicants have been notified to appear at an ASC or other Service-designated location to be fingerprinted. Naturalization applications from individuals residing outside of the United States have been filed with completed fingerprint cards prepared by a United States consular office at a United States embassy or consulate or a United States military installation abroad.

b. How Has the Fingerprinting Process for Immigration Benefits Other Than Naturalization Been Changed?

Effective on December 3, 1997, applicants and petitioners for immigration benefits other than naturalization have filed applications and petitions with completed fingerprint cards prepared by State or local law enforcement agencies registered with the Service to provide fingerprinting services.

Effective on March 29, 1998, applications and petitions for all immigration benefits other than naturalization, including asylum applications, from individuals residing in the United States, will be filed without completed fingerprint cards. After filing, these individuals, who require fingerprinting in connection with applications and petitions, will be notified to appear at an ASC or other Service-designated location to be fingerprinted. Under this new process, the Service will continue to give special consideration to processing of fingerprint cards associated with orphan petitions to ensure timely and flexible adjudication of these cases.

Effective December 3, 1997, applications and petitions for immigration benefits other than naturalization from individuals residing outside of the United States have been filed with completed fingerprint cards prepared by the Service, a United States consular office at a United States embassy or consulate, or a United States military installation abroad.

4. Will Applicants and Petitioners Who Were Fingerprinted by a DFS Entity Need to Be Re-fingerprinted?

Fingerprint cards submitted with properly filed applications and petitions for any immigration benefit which were accepted by the Service before December 3, 1997, will be processed in accordance with the regulations in effect at the time of acceptance. For purposes of implementing this rule, fingerprint cards are deemed accepted by the Service before December 3, 1997, if: (1) The application or petition was hand delivered to a Service office before December 3, 1997; or (2) the application or petition was postmarked before December 3, 1997, and was received in a Service office before December 6, 1997. Applicants and petitioners whose properly completed fingerprint cards were accepted before December 3, 1997, will not ordinarily be required to be re-fingerprinted in accordance with these new fingerprinting procedures, unless the Attorney General determines that it is necessary to re-fingerprint an applicant or petitioner. For example, the Attorney General may decide to take an additional set of fingerprints for an asylum applicant in order to comply with the identity provisions of section 208(d)(5)(A)(i) of the Act or in cases in which the Federal Bureau of Investigation rejects a fingerprint card. However, beginning on December 3, 1997, for naturalization applicants and on March 29, 1998, for applicants and petitioners for other benefits, the Service will notify applicants and petitioners who file a completed fingerprint card prepared by a DFS entity to be re-fingerprinted at an ASC or other Service-designated location.

5. Why is the Service Charging a Fee for Fingerprinting Services?

In Pub. L. 105-119, 111 Stat. 2440, Congress authorized the Service to charge a fee for fingerprinting in connection with the new fingerprinting program. Accordingly, the Service will charge the fee necessary to recover the administrative and support costs of the new fingerprinting program, and for the collection, safeguarding, and accounting of the fees. All fingerprinting fees initially collected from applicants and petitioners for immigration benefits will be deposited into the Immigration Examinations Fee Account established by 8 U.S.C. 1356(m)-(p). However, the Service will not begin charging the fee for fingerprinting applicants and petitioners for immigration benefits until March 29, 1998. This service fee for fingerprinting will apply only to applications and petitions for

immigration benefits filed on or after March 29, 1998. Therefore, applicants and petitioners for immigration benefits who file before March 29, 1998, but who are scheduled to be fingerprinted by the Service on or after March 29, 1998, will be fingerprinted by the Service without charge. This delay in collecting the fee for fingerprinting services will allow the Service to ensure that the new ASCs and mobile fingerprinting centers are operating efficiently.

6. What Fee is Being Established for Fingerprinting by the Service?

In the interest of fairness and based on a Service-determined cost estimate, during the early stages of the new fingerprinting program, the service fee for fingerprinting by the Service is established at \$25 per applicant, petitioner, beneficiary, sponsor, or other individual required by Service regulations or form instructions to be fingerprinted in connection with an application or petition for immigration benefits. The Service anticipates that this \$25 fee will not recover all Service costs for fingerprinting individuals for immigration benefits at present. However, the Service plans to conduct a fee analysis under provisions of Office of Management and Budget Circular A-25 in the near future to determine the full cost to the Service of fingerprinting individuals for immigration benefits.

Congress has also authorized registered State and local law enforcement agencies and United States consular offices at United States embassies or consulates, or United States military installations abroad to charge a fee for fingerprinting applicants and petitioners for immigration benefits.

7. How Will Applicants and Petitioners Submit the Fee for Fingerprinting by the Service?

The one-time \$25 fee for fingerprinting by the Service must be submitted at the time of filing the application or petition, in addition to the filing fee for the application or petition. However, applicants and petitioners residing abroad who are fingerprinted at United States consular offices or military installations abroad do not need to be fingerprinted by the Service. Therefore, these applicants and petitioners will submit the completed fingerprint cards at the time of filing the application or petition for immigration benefits, and do not need to submit the \$25 fee for fingerprinting by the Service. In addition, asylum applicants are exempt from submitting the fee for fingerprinting by the Service in connection with filing an application for asylum and withholding of removal.

Applications and petitions for immigration benefits filed by individuals residing in the United States submitted without the \$25 service fee for fingerprinting by the Service or with the incorrect service fee for fingerprinting, will not be rejected as improperly filed. The Service will notify applicants or petitioners to submit the correct fee for fingerprinting, and will withhold processing of the application or petition, including scheduling for fingerprinting, until the correct fingerprinting fee is received. Failure by an applicant or petitioner to submit the correct fee for fingerprinting by the Service within the time allotted in a notice to the applicant or petitioner will result in denial of the application or petition due to abandonment.

8. How Does Public Law 105-119 Affect Adjudication of Naturalization Applications?

The new legislation codifies current Service policy that the Service must receive confirmation from the Federal Bureau of Investigation (FBI) that a full criminal background check has been completed on applicants for naturalization before final adjudication of the application. This interim rule requires the Service to receive a definitive response from the FBI that a criminal background check has been completed before notifying applicants for naturalization to appear before a Service officer for the mandatory examination on the Form N-400, Application for Naturalization.

Explanation of Changes

What Changes is the Service Making to its Regulations?

1. Changes in § 103.1

In § 103.1, paragraph (f)(3)(iii)(NN) is amended to remove the Form I-850, Application for Certification for Designated Fingerprinting Services, from the list of decisions of which the Associate Commissioner for Examinations exercises jurisdiction. This change is necessary because the Service is eliminating the DFS certification program.

2. Changes in § 103.2

In § 103.2, paragraphs (a)(1) and (a)(7)(i) are revised to allow the Service to treat as properly filed applications and petitions which require completion of fingerprint cards but which are submitted without the \$25 fee for fingerprinting by the Service. Paragraph (a)(7)(ii) is revised to allow the Service to reject applications or petitions as improperly filed if the check or other financial instrument used to pay the

fingerprinting fee is returned to the Service as not payable. Paragraphs (b)(9), (b)(10)(i), (b)(13), and (b)(14) are revised to include requests that applicants and petitioners for immigration benefits appear for fingerprinting at a Service office or other location designated by the Service, and to allow the Service to deny the applications and petitions of individuals who fail to appear for fingerprinting. Paragraph (e) is revised to eliminate the DFS program and establish new fingerprinting procedures for applicants and petitioners for immigration benefits.

3. Changes in § 103.7

In § 103.7, paragraph (b)(1) is amended to add the fee for fingerprinting by the Service, and to remove the fee for the Form I-850, Application for Certification for Designated Fingerprinting Services. Charging a fee for fingerprinting is necessary to fund the Service's new fingerprinting program, and the fee is established at \$25 per individual who requires fingerprinting. The fee for the Form I-850, Application for Certification for Designated Fingerprinting Services, is being removed because the form relates to the DFS program and the Service is canceling the DFS program by publication of this interim rule.

4. Changes in § 204.3 and § 204.4

In §§ 204.3 and 204.4, the Service is amending the regulations to require the Form I-600A, Application for Advanced Processing of Orphan Petition, the Form I-600, Petition to Classify Orphan as an Immediate Relative, and the Form I-360, Petition for Amerasian, Widow or Special Immigrant, filed on behalf of an Amerasian child of a United States citizen to be filed without completed fingerprint cards, and to require the prospective adoptive parents, other adult members of the prospective adoptive parents' household, and sponsors of Amerasian children to appear at a Service office, or other location designated by the Service, for fingerprinting in accordance with the new fingerprinting procedures being established in § 103.2(e).

5. Changes in § 208.7, § 208.10, and § 208.14

In § 208.7, the Service is amending the regulations to clarify that failure to follow requirements for fingerprint processing may affect an asylum applicant's eligibility for employment authorization. In § 208.10, the Service is amending the regulations to include failure to follow the requirements for

fingerprint processing as a ground for dismissal of a case or waiver of an adjudication by an asylum officer. In § 208.14, the Service is amending the regulations to permit referral of an asylum application when the applicant is deemed to have waived adjudication by an asylum officer.

6. Changes in § 209.1 and § 209.2

In §§ 209.1 and 209.2, the Service is amending the regulations to require refugee entrants and aliens granted asylum to appear at a Service office, or other location designated by the Service, for fingerprinting in accordance with the new fingerprinting procedures being established in § 103.2(e) after filing the application, rather than submitting the fingerprints on a completed fingerprint card with the application.

7. Changes in § 244.6

In § 244.6, the Service is amending the regulations to require applicants for temporary protected status to appear at a Service office, or other location designated by the Service, for fingerprinting in accordance with the new fingerprinting procedures being established in § 103.2(e) after filing the Form I-821, Application for Temporary Protected Status, rather than submitting the fingerprints on a completed fingerprint card with the application.

8. Changes in § 245.7

In § 245.7, the Service is amending the regulations to require applicants for benefits under section 599E of Public Law 101-167 to appear at a Service office, or other location designated by the Service, for fingerprinting in accordance with the new fingerprinting procedures being established in § 103.2(e) after filing the Form I-485, Application to Register Permanent Residence or Adjust Status, rather than submitting the fingerprints on a completed fingerprint card with the application.

9. Changes in § 264.2 and § 264.5

In §§ 264.2 and 264.5, the Service is amending the regulations to require applicants for creation of a record of permanent residence and for a replacement alien registration card to appear at a Service office, or other location designated by the Service, for fingerprinting in accordance with the new fingerprinting procedures being established in § 103.2(e) after filing the application, rather than submitting the fingerprints on a completed fingerprint card with the application.

10. Changes in § 299.1 and § 299.5

In §§ 299.1 and 299.5, the Service is amending the regulations to remove the Form I-850, Application for Certification for Designated Fingerprinting Services, and the Form I-850A, Attestation by Designated Fingerprinting Service Certified to Take Fingerprints, from the listing of forms. These changes are necessary because the forms relate to the DFS program and, by publication of this interim rule, the Service is terminating the DFS program in order to comply with the new legislation relating to fingerprinting applicants and petitioners for immigration benefits.

11. Changes in § 316.4

In § 316.4, the Service is amending the regulations to require applicants for naturalization to file a complete application without a fingerprint card, and to appear at a Service office, or other location designated by the Service, for fingerprinting in accordance with the new fingerprinting procedures being established in § 103.2(e) after filing the Form N-400, Application for Naturalization.

12. Changes in § 332.2

In § 332.2, the Service is amending the regulations to remove references to fingerprinting services being provided by non-profit organizations. The change is necessary because the new legislation relating to fingerprinting applicants and petitioners for immigration benefits prohibits the Service from accepting fingerprint cards prepared by any organization other than the Service, registered State or local law enforcement agencies, United States consular offices, or United States military installations abroad.

13. Changes in § 335.2

The FBI currently performs criminal background checks on applicants for naturalization and notifies the Service of the results of these checks. It has been Service policy to request applicants for naturalization to appear for examination on the application only after receiving such a notice from the FBI. In § 335.2, the Service is amending the regulations to require a definitive response from the FBI on the criminal background check on an applicant for naturalization. A definitive response is defined as a response from the FBI that: (1) An applicant does not have an administrative or criminal record; (2) an applicant does not have an administrative or criminal record; or (3) an applicant's fingerprints cannot be classified for purposes of conducting a criminal background check, despite the

FBI's receipt of two properly prepared fingerprint cards. In the case of an applicant whose fingerprints cannot be classified, Service quality assurance procedures require the applicant to submit police clearances to the Service before final adjudication of the naturalization application.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C 553(b)(B) and (d)(3). The reason and necessity for immediate implementation of this interim rule without prior notice and comment is that new legislation prohibiting the Service from accepting fingerprint cards unless prepared by a Service office, a registered State or local law enforcement agency, a United States consular office at a United States embassy or consulate, or a United States military installation abroad, became effective December 3, 1997.

This rule is needed in order to establish the new fingerprinting process for applications and petitions filed on or after December 3, 1997. Accordingly, any delays in the implementation of the new fingerprinting process required by this law will result in unnecessary delays in the filing and adjudication of applications and petitions for immigration benefits, without a corresponding public benefit. Furthermore, Congress addressed its intent to permit the Service to use interim regulatory authority in the early stages of this program. In particular, the Congressional Record of November 13, 1997, at page H10837 notes:

An interim regulation may be employed in the early stages of the program, to implement all aspects of the program, including setting of a fingerprint fee, while the normal studies to justify a fee regulation are being conducted.

For these reasons, the Commissioner has determined that delaying the implementation of this rule would be unnecessary and contrary to the public interest, and that there is good cause for dispensing with the requirements of prior notice. However, the Service welcomes public comment on this interim rule and will address those comments prior to the implementation of the final rule.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will

not have a significant economic impact on a substantial number of small entities. This rule, which provides procedures for the taking and submission of fingerprints under the standards of the new legislation, relates to applicants and petitioners for immigration benefits and does not have a significant adverse effect on small businesses. Any adverse economic impact on DFS entities is necessitated by the new legislation which, as of December 3, 1997, prohibits the Service from accepting fingerprint cards unless prepared by the Service, a registered State and local law enforcement agency, a United States consular office at a United States embassy or consulate, or a United States military installation abroad.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect of 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 Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 12612

The regulation adopted herein 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

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

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 204

Administrative practice and procedure, Aliens, Employment, Immigration, Petitions.

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 209

Aliens, Immigration, Refugees.

8 CFR Part 244

Administrative practice and procedure, Aliens.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 264

Aliens, Registration and fingerprinting, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

8 CFR Part 316

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 332

Citizenship and naturalization, Education, Reporting and recordkeeping requirements.

8 CFR Part 335

Administrative practice and procedure, Authority delegations (Government agencies), Citizenship and naturalization, Reporting and recordkeeping requirements.

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

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

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

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

§ 103.1 [Amended]

2. Section 103.1 is amended by:

a. Removing the “; and” at the end of paragraph (f)(3)(iii)(MM) and adding a period in its place; and by

b. Removing paragraph (f)(3)(iii)(NN).

3. Section 103.2 is amended by:

a. Revising paragraph (a)(1);

b. Revising paragraph (a)(7);

c. Revising paragraph (b)(9);

d. Revising the heading for paragraph (b)(10);

e. Revising paragraph (b)(10)(i);

f. Revising paragraph (b)(13);

g. Revising paragraph (b)(14); and by

h. Revising paragraph (e), to read as follows:

§ 103.2 Applications, petitions, and other documents.

(a) *Filing.* (1) *General.* Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions (including where an application or petition should be filed) being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. The form must be filed with the appropriate filing fee required by § 103.7. Except as exempted by paragraph (e) of this section, forms which require an applicant, petitioner, sponsor, beneficiary, or other individual to complete Form FD-258, Applicant Card, must also be filed with the service fee for fingerprinting, as required by § 103.7(b)(1), for each individual who requires fingerprinting. Filing fees and fingerprinting service fees are non-refundable and, except as otherwise provided in this chapter, must be paid when the application is filed.

(7) *Receipt date.*—(i) *General.* An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and, unless otherwise specified in part 204 or part 245 of this chapter, shall be regarded as properly filed when so stamped, if it is properly signed and executed and the required filing fee is attached or a waiver of the filing fee is

granted. An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions, and ones in which the check or other financial instrument used to pay the filing fee is subsequently returned as non-payable will not retain a filing date. An application or petition taken to a local Service office for the completion of biometric information prior to filing at a Service Center shall be considered received when physically received at a Service Center.

(ii) *Non-payment.* If a check or other financial instrument used to pay a filing fee is subsequently returned as not payable, the remitter shall be notified and requested to pay the filing fee and associated service charge within 14 calendar days, without extension. If the application or petition is pending and these charges are not paid within 14 days, the application or petition shall be rejected as improperly filed. If the application or petition was already approved, and these charges are not paid, the approval shall be automatically revoked because it was improperly filed. If the application or petition was already denied, revoked, or abandoned, that decision will not be affected by the non-payment of the filing or fingerprinting fee. New fees will be required with any new application or petition. Any fee and service charges collected as the result of collection activities or legal action on the prior application or petition shall be used to cover the cost of the previous rejection, revocation, or other action.

(b) * * *

(9) *Request for appearance.* An applicant, a petitioner, a sponsor, a beneficiary, or other individual residing in the United States at the time of filing an application or petition may be required to appear for fingerprinting or for an interview. A petitioner shall also be notified when a fingerprinting notice or an interview notice is mailed or issued to a beneficiary, sponsor, or other individual. The applicant, petitioner, sponsor, beneficiary, or other individual may appear as requested by the Service, or prior to the dates and times for fingerprinting or of the date and time of interview:

(i) The individual to be fingerprinted or interviewed may, for good cause, request that the fingerprinting or interview be rescheduled; or

(ii) The applicant or petitioner may withdraw the application or petition.

(10) *Effect of a request for initial or additional evidence for fingerprinting or interview rescheduling.*—(i) *Effect on processing.* The priority date of a

properly filed petition shall not be affected by a request for missing initial evidence or request for other evidence. If an application or petition is missing required initial evidence, or an applicant, petitioner, sponsor, beneficiary, or other individual who requires fingerprinting requests that the fingerprinting appointment or interview be rescheduled, any time period imposed on Service processing will start over from the date of receipt of the required initial evidence or request for fingerprint or interview rescheduling. If the Service requests that the applicant or petitioner submit additional evidence or respond to other than a request for initial evidence, any time limitation imposed on the Service for processing will be suspended as of the date of request. It will resume at the same point where it stopped when the Service receives the requested evidence or response, or a request for a decision based on the evidence.

* * * * *

(13) *Effect of failure to respond to a request for evidence or appearance.* If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. Except as provided in § 335.6 of this chapter, if an individual requested to appear for fingerprinting or for an interview does not appear, the Service does not receive his or her request for rescheduling by the date of the fingerprinting appointment or interview, or the applicant or petitioner has not withdrawn the application or petition, the application or petition shall be considered abandoned and, accordingly, shall be denied.

(14) *Effect of request for decision.* Where an applicant or petitioner does not submit all requested additional evidence and requests a decision based on the evidence already submitted, a decision shall be issued based on the record. Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the application or petition. Failure to appear for required fingerprinting or for a required interview, or to give required testimony, shall result in the denial of the related application or petition.

* * * * *

(e) *Fingerprinting.*—(1) *General.* Service regulations in this chapter, including the instructions to benefit applications and petitions, require certain applicants, petitioners, beneficiaries, sponsors, and other individuals to be fingerprinted on Form

FD-258, Applicant Card, for the purpose of conducting criminal background checks. On and after December 3, 1997, the Service will accept Form FD-258, Applicant Card, only if prepared by a Service office, a registered State or local law enforcement agency designated by a cooperative agreement with the Service to provide fingerprinting services (DLEA), a United States consular office at United States embassies and consulates, or a United States military installation abroad.

(2) *Fingerprinting individuals residing in the United States.* Beginning on December 3, 1997, for naturalization applications, and on March 29, 1998, for all other applications and petitions, applications and petitions for immigration benefits shall be filed as prescribed in this chapter, without completed Form FD-258, Applicant Card. After the filing of an application or petition, the Service will issue a notice to all individuals who require fingerprinting and who are residing in the United States, as defined in section 101(a)(38) of the Act, and request their appearance for fingerprinting at a Service office or other location designated by the Service, to complete Form FD-258, Applicant Card, as prescribed in paragraph (b)(9) of this section.

(3) *Fingerprinting individuals residing abroad.* Individuals who require fingerprinting and whose place of residence is outside of the United States, must submit a properly completed Form FD-258, Applicant Card, at the time of filing the application or petition for immigration benefits. In the case of individuals who reside abroad, a properly completed Form FD-258, Applicant Card, is one prepared by the Service, a United States consular office at a United States embassy or consulate or a United States military installation abroad. If an individual who requires fingerprinting and is residing abroad fails to submit a properly completed Form FD-258, Applicant Card, at the time of filing an application or petition, the Service will issue a notice to the individual requesting submission of a properly completed Form FD-258, Applicant Card. The applicant or petitioner will also be notified of the request for submission of a properly completed Form FD-258, Applicant Card. Failure to submit a properly completed Form FD-258, Applicant Card, in response to such a request within the time allotted in the notice will result in denial of the application or petition for failure to submit a properly completed Form FD-258, Applicant Card. There is no appeal

from denial of an application or petition for failure to submit a properly completed Form FD-258, Applicant Card. A motion to re-open an application or petition denied for failure to submit a properly completed Form FD-258, Applicant Card, will be granted only on proof that:

(i) A properly completed Form FD-258, Applicant Card, was submitted at the time of filing the application or petition;

(ii) A properly completed Form FD-258, Applicant Card, was submitted in response to the notice within the time allotted in the notice; or

(iii) The notice was sent to an address other than the address on the application or petition, or the notice of representation, or that the applicant or petitioner notified the Service, in writing, of a change of address or change of representation subsequent to filing and before the notice was sent and the Service's notice was not sent to the new address.

(4) *Submission of service fee for fingerprinting—(i) General.* The Service will charge a fee, as prescribed in § 103.7(b)(1), for fingerprinting at a Service office or a registered State or local law enforcement agency designated by a cooperative agreement with the Service to provide fingerprinting services. Applications and petitions for immigration benefits shall be submitted with the service fee for fingerprinting for all individuals who require fingerprinting and who reside in the United States at the time of filing the application or petition.

(ii) *Exemptions—(A) Individual residing abroad.* Individuals who require fingerprinting and who reside outside of the United States at the time of filing an application or petition for immigration benefits are exempt from the requirement to submit the service fee for fingerprinting with the application or petition for immigration benefits.

(B) *Asylum applicants.* Asylum applicants are exempt from the requirement to submit the service fee for fingerprinting with the application for asylum.

(iii) *Insufficient service fee for fingerprinting; incorrect fees.* Applications and petitions for immigration benefits received by the Service without the correct service fee for fingerprinting will not be rejected as improperly filed, pursuant to paragraph (a)(7)(i) of this section. However, the application or petition will not continue processing and the Service will not issue a notice requesting appearance for fingerprinting to the individuals who require fingerprinting until the correct

service fee for fingerprinting has been submitted. The Service will notify the remitter of the filing fee for the application or petition of the additional amount required for the fingerprinting service fee and request submission of the correct fee. The Service will also notify the applicant or petitioner, and, when appropriate, the applicant or petitioner's representative, as defined in paragraph (a)(3) of this section, of the deficiency. Failure to submit the correct fee for fingerprinting in response to a notice of deficiency within the time allotted in the notice will result in denial of the application or petition for failure to submit the correct service fee for fingerprinting. There is no appeal from the denial of an application or petition for failure to submit the correct service fee for fingerprinting. A motion to re-open an application or petition denied for failure to submit the correct service fee for fingerprinting will be granted only on proof that:

(A) The correct service fee for fingerprinting was submitted at the time of filing the application or petition;

(B) The correct service fee for fingerprinting was submitted in response to the notice of deficiency within the time allotted in the notice; or

(C) The notice of deficiency was sent to an address other than the address on the application or petition, or the notice of representation, or that the applicant or petitioner notified the Service, in writing, of a change of address or change of representation subsequent to filing and before the notice of deficiency was sent and the Service's notice of deficiency was not sent to the new address.

(iv) *Non-payment of service fee for fingerprinting.* If a check or other financial instrument used to pay a service fee for fingerprinting is subsequently returned as not payable, the remitter shall be notified and requested to pay the correct service fee for fingerprinting and any associated service charges within 14 calendar days. The Service will also notify the applicant or petitioner and, when appropriate, the applicant or petitioner's representative as defined in paragraph (a)(3) of this section, of the non-payment and request to pay. If the correct service fee for fingerprinting and associated service charges are not paid within 14 calendar days, the application or petition will be denied for failure to submit the correct service fee for fingerprinting.

4. In § 103.7, paragraph (b)(1) is amended by adding the entry "For fingerprinting by the Service" before the entry "DCL System Costs Fee" to the listing of fees, to read as follows:

§ 103.7 Fees.

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

For fingerprinting by the Service. A service fee of \$25 will be charged by the Service for fingerprinting each applicant, petitioner, sponsor, or other individual who is required to complete Form FD-258 in connection with an application or petition for an immigration benefit (other than asylum) and whose residence is in the United States, as defined in section 101(a)(38) of the Act.

§ 103.7 [Amended]

5. In § 103.7, paragraph (b)(1) is amended by removing the entry for "Form I-850" from the listing of fees.

PART 204—IMMIGRANT PETITIONS

6. The authority citation for part 204 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

7. Section 204.3 is amended by:

- a. Adding the word "and" at the end of paragraph (c)(1)(iii);
b. Removing paragraph (c)(1)(iv);
c. Redesignating paragraph (c)(1)(v) as paragraph (c)(1)(iv);
d. Removing paragraph (c)(1)(vi); and
e. Adding a new paragraph (c)(3), to read as follows:

§ 204.3 Orphans.

* * * * *

(c) * * *

(3) After receipt of a properly filed advanced processing application, the Service will fingerprint each member of the married prospective adoptive couple or the unmarried prospective adoptive parent, as prescribed in § 103.2(e) of this chapter. The Service will also fingerprint each additional adult member of the prospective adoptive parents' household, as prescribed in § 103.2(e) of this chapter. The Service may waive the requirement that each additional adult member of the prospective adoptive parents' household be fingerprinted when it determines that such adult is physically unable to be fingerprinted because of age or medical condition.

* * * * *

8. Section 204.4 is amended by:

- a. Removing paragraph (f)(1)(iv); and
b. Revising the second sentence of paragraph (d)(1), to read as follows:

§ 204.4 Amerasian child of a United States citizen.

* * * * *

(d) * * *

(1) * * * If the preliminary processing is completed in a satisfactory

manner, the director shall advise the petitioner to submit the documentary evidence required in paragraph (f)(1) of this section and shall fingerprint the sponsor in accordance with § 103.2(e) of this chapter. * * *

* * * * *

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

9. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 8 CFR part 2.

10. Section 208.7 is amended by revising paragraph (a)(2), to read as follows:

§ 208.7 Employment authorization.

(a) * * *

(2) The time periods within which the alien may not apply for employment authorization and within which the Service must respond to any such application and within which the asylum application must be adjudicated pursuant to section 208(d)(5)(A)(iii) of the Act shall begin when the alien has filed a complete asylum application in accordance with §§ 208.3 and 208.4. Any delay requested or caused by the applicant shall not be counted as part of these time periods, including delays caused by failure without good cause to follow the requirements for fingerprint processing. Such time periods shall also be extended by the equivalent of the time between issuance of a request for evidence pursuant to § 103.2(b)(8) of this chapter and the receipt of the applicant's response to such request.

* * * * *

11. Section 208.10 is revised to read as follows:

§ 208.10 Failure to appear at an interview before an asylum officer or failure to follow requirements for fingerprint processing.

Failure to appear for a scheduled interview without prior authorization may result in dismissal of the application or waiver of the right to an interview. Failure to comply with fingerprint processing requirements without good cause may result in dismissal of the application or waiver of the right to an adjudication by an asylum officer. Failure to appear shall be excused if the notice of the interview or fingerprint appointment was not mailed to the applicant's current address and such address had been provided to the Office of International Affairs by the applicant prior to the date of mailing in accordance with section 265 of the Act and regulations promulgated thereunder, unless the

asylum officer determines that the applicant received reasonable notice of the interview or fingerprinting appointment. Failure to appear at the interview or fingerprint appointment will be excused if the applicant demonstrates that such failure was the result of exceptional circumstances.

12. Section 208.14 is amended by revising paragraph (b)(2), to read as follows:

§ 208.14 Approval, denial, or referral of application.

* * * * *

(b) * * *

(2) If the alien appears to be deportable, excludable or removable under section 240 of the Act, the asylum officer shall either grant asylum or refer the application to an immigration judge for adjudication in deportation, exclusion, or removal proceedings. An asylum officer may refer such an application after an interview conducted in accordance with § 208.9, or if, in accordance with § 208.10, the applicant is deemed to have waived his or her right to an interview or an adjudication by an asylum officer.

* * * * *

PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

12. The authority citation for part 209 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1157, 1158, 1159, 1228, 1252, 1282; 8 CFR part 2.

13. Section 209.1 is amended by revising the third sentence of paragraph (b), to read as follows:

§ 209.1 Admission for permanent residence after 1 year.

* * * * *

(b) * * * If the refugee entrant has been physically present in the United States for at least 1 year, Form G-325A, Biographic Information, will be processed, and the refugee entrant shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter. * * *

14. Section 209.2 is amended by removing the second sentence of paragraph (c), and adding two sentences in its place, to read as follows:

§ 209.2 Adjustment of status of alien granted asylum.

* * * * *

(c) * * * A separate application must be filed by each alien. If the alien is 14 years of age or older, the application must be accompanied by a completed Form G-325A, Biographic Information, and the alien shall be fingerprinted on Form FD-258, Applicant Card, as

prescribed in § 103.2(e) of this chapter.

* * *

* * * * *

PART 244—TEMPORARY PROTECTED STATUS FOR NATIONAL OF DESIGNATED STATES

15. The authority citation for part 244 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254, 1254a note, 8 CFR part 2.

16. Section 244.6 is revised to read as follows:

§ 244.6 Application.

An application for Temporary Protected Status shall be made in accordance with § 103.2 of this chapter except as provided herein. Each application must be filed with the filing and fingerprinting fees, as provided in § 103.7 of this chapter, by each individual seeking temporary protected status, except that the filing fee for those aliens who are nationals of El Salvador, and are between the ages of 14 and 65 (inclusive), and are requesting work authorization. Each application must consist of a completed Form I-821, Application for temporary protected status, Form I-765, Application for Employment Authorization, two identification photographs (1 1/2" × 1 1/2"), and supporting evidence as provided in § 240.9 of this chapter. Every applicant who is 14 years of age or older shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

17. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; 8 CFR part 2.

18. Section 245.7 is amended by revising paragraph (a), to read as follows:

§ 245.7 Adjustment of status of certain Soviet and Indochinese parolees under the Foreign Operations Appropriations Act for Fiscal Year 1990 (Pub. L. 101-167).

(a) *Application.* Each person applying for benefits under section 599E of Public Law 101-167 (103 Stat. 1195, 1263) must file Form I-485, Application to Register Permanent Residence or Adjust Status, with the director having jurisdiction over the applicant's place of residence and must pay the appropriate filing and fingerprinting fee, as prescribed in § 103.7 of this chapter. Each application shall be accompanied

by Form I-643, Health and Human Services Statistical Data for Refugee/Asylee Adjusting Status, and the results of a medical examination given in accordance with § 245.8. In addition, if the applicant has reached his or her 14th birthday but is not over 79 years of age, the application shall be accompanied by a completed Form G-325A, Biographic Information, and the applicant shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

19. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301-1305.

20. Section 264.2 is amended by:

- a. Removing and reserving paragraph (c)(1)(iii);
- b. Removing and reserving paragraph (c)(2)(iii);
- c. Removing the phrase “, or his/her fingerprints on Form FD-258” from paragraph (c)(3);
- d. Redesignating paragraphs (d) through (h) as paragraphs (e) through (i), respectively; and by
- e. Adding a new paragraph (d), to read as follows:

§ 264.2 Application for creation of record of permanent residence.

* * * * *

(d) *Fingerprinting.* After filing an application, each applicant 14 years of age or older shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

* * * * *

21. Section 264.5 is amended by:

- a. Removing paragraph (e)(1)(v);
- b. Redesignating paragraphs (e)(3)(i) and (e)(3)(ii) as paragraphs (e)(3)(ii) and (e)(3)(iii);
- c. Adding the word “fingerprinting,” immediately after the phrase “person filing,” in newly redesignated paragraph (e)(3)(iii); and by
- d. Adding a new paragraph (e)(3)(i), to read as follows:

§ 264.5 Application for a replacement Alien Registration Card.

* * * * *

(e) * * *

(3) * * *

(i) *Fingerprinting.* After filing an I-90 application, each applicant shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

* * * * *

PART 299—IMMIGRATION FORMS

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

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

§ 299.1 [Amended]

23. Section 299.1 is amended in the table by removing the entries for Form “I-850” and “I-850A”.

§ 299.5 [Amended]

24. Section 299.5 is amended in the table by removing the entries for Forms “I-850” and “I-850A”.

PART 316—GENERAL REQUIREMENTS FOR NATURALIZATION

25. The authority citation for part 316 continues to read as follows:

Authority: 8 U.S.C. 1103, 1181, 1182, 1443, 1447; 8 CFR part 2.

26. Section 316.4 is amended by:

- a. Adding the word “and” at the end of paragraph (a)(2);
- b. Removing paragraph (a)(3);
- c. Redesignating paragraph (a)(4) as paragraph (a)(3);
- d. Redesignating paragraph (b) as paragraph (c); and by
- e. Adding a new paragraph (b), to read as follows:

§ 316.4 Application; documents.

* * * * *

(b) Each applicant who files Form N-400, Application for Naturalization, shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

* * * * *

PART 332—NATURALIZATION ADMINISTRATION

27. The authority citation for part 332 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443, 1447.

§ 332.2 [Amended]

28. Section 332.2 is amended by:

- a. Removing the words “and fingerprinting” from the section heading; and by
- b. Removing the phrase “, fingerprinting services or both” from the end of the first sentence.

PART 335—EXAMINATION ON APPLICATION FOR NATURALIZATION

29. The authority citation for part 335 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443, 1147.

30. Section 335.2 is amended by:

- a. Redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively; and by

b. Adding a new paragraph (b), to read as follows:

§ 335.2 Examination of applicant.

* * * * *

(b) *Completion of criminal background checks before examination.*

The Service will notify applicants for naturalization to appear before a Service officer for initial examination on the naturalization application only after the Service has received a definitive response from the Federal Bureau of Investigation that a full criminal background check of an applicant has been completed. A definitive response that a full criminal background check on an applicant has been completed includes:

(1) Confirmation from the Federal Bureau of Investigation that an applicant does not have an administrative or a criminal record;

(2) Confirmation from the Federal Bureau of Investigation that an applicant has an administrative or a criminal record; or

(3) Confirmation from the Federal Bureau of Investigation that two properly prepared fingerprint cards (Form FD-258) have been determined unclassifiable for the purpose of conducting a criminal background check and have been rejected.

* * * * *

Dated: March 10, 1998.

Doris Meissner,

Commissioner, Immigration, and Naturalization Service.

[FR Doc. 98-6828 Filed 3-16-98; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

RIN 3150-AF78

Electronic Freedom of Information Act: Implementation; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on January 20, 1998 (63 FR 2873). This action is necessary to correct miscellaneous errors in the codified text of the final rule.

DATES: Effective February 19, 1998.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, D.C.

20555-0001, telephone 301-415-7162, e-mail dlm1@nrc.gov.

1. On page 2878, in the second column, in the first sentence of § 9.21(b), insert a hyphen between "publicly" and "available," and in the second line of the introductory text of § 9.21(c), insert a hyphen between "publicly" and "available."

2. On page 2878, in the third column, in the last line of § 9.21(f), the Internet address is corrected to read "http://www.nrc.gov/."

3. On page 2833, in the third column, the section heading for § 9.45 is corrected to read, "§ 9.45 Annual report to the Attorney General of the United States", and in the first sentence of § 9.45(b), the ":" is removed after the word "as", and the Internet address is corrected to read "http://www.nrc.gov/."

Dated at Rockville, Maryland, this 11th day of March 1998.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 98-6822 Filed 3-16-98; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ASW-20]

Revision of Class E Airspace; Eastland, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; Request for comments.

SUMMARY: This amendment revises the Class E airspace at Eastland, TX. The development of a Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) and a Global Positioning System (GPS) SIAP to runway (RWY) 35 at Eastland Municipal Airport, Eastland, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations at Eastland Municipal Airport, Eastland, TX.

DATES: Effective 0901 UTC, June 18, 1998.

Comments must be received on or before May 1, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98-ASW-20, Fort Worth, TX 76193-0520.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0520, telephone 817-222-5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR Part 71 revises the Class E airspace at Eastland, TX. The development of NDB and GPS SIAP's to RWY 35 at Eastland Municipal Airport, Eastland, TX, has made this action necessary. The intended effect of this action is to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations at Eastland Municipal Airport, Eastland, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final