under the applicable provisions of GR-345.

* * * * *

(b) *Transaction identification number.* * * *

(3) In the case of wheat exported prior to sale reported under GR-345, such number shall be the Export Unsold Number.

* * * * *

5. Section 778.8 is amended to read as follows:

§ 778.8 Clearance on exportation or shipment from the United States.

(a) *Wheat exported or shipped from the United States.* As part of the reporting requirements of these regulations, the exporter shall furnish to the Bureau of Customs at the point of export from the United States or shipment to Canada in bond of any wheat, one copy of the on-board vessel bill of lading or if the exportation or shipment is by rail or truck one copy of the bill of lading or manifest showing the quantity exported or shipped. This copy of the bill of lading or manifest (except in the case of wheat shipped to Canada in bond) shall show the transaction identification number which the Director provided the exporter on receipt of the report of intention to export as specified in § 778.7. In the case of wheat samples of 100 pounds or less exported without charge to the recipient, the exporter shall use the code number "EX-100" as the transaction identification number. In the case of wheat shipped to Canada in bond, the exporter shall use the code number "CBS-100" as the transaction identification number. The copy of the bill of lading or manifest containing the transaction identification number will be transmitted by the Bureau of Customs to CCC for comparison with other information concerning the acquisition and surrender of certificates by the exporter covering the wheat referred to in the bill of lading or manifest.

(b) *Exports of wheat shipped to Canada in bond.* A copy of Canadian Government Form B-14, "Customs Canada—Entry For Export Ex-Sufferance Warehouse", obtained from the Canadian Customs Service will be used by CCC for comparison with other information concerning the acquisition and surrender of certificates by the exporter covering the exportation from Canada of wheat which had been shipped to Canada in bond.

6. Section 778.9 is amended to read as follows:

§ 778.9 Reports of wheat shipped to Canada in bond and reports of wheat exported.

(a) *Report of wheat shipped to Canada in bond.* The exporter shall submit to the Kansas City Commodity Office not later than 30 days after each shipment of wheat to Canada in bond, or such later date as may be approved in writing by the Director of the Kansas City Commodity Office for good cause shown by the exporter, a Report of Wheat Exported, Form CCC-518, covering such shipment. The report shall show:

(1) Date of shipment from United States port.

(2) Net bushels shipped.

(3) Port of shipment.

(4) Name of vessel, or other carrier identification.

(5) Name and address of exporter.

(6) Date of report.

(7) Signature of an authorized official of the exporter.

(8) Enter in remarks "Shipment to Canada in bond for exportation at a later date".

(b) *Report of wheat exported.* The exporter shall submit to the Kansas City Commodity Office not later than 15 days after each exportation of wheat, or such later date as may be approved in writing by the Director for good cause shown, a Report of Wheat Exported, Form CCC-518 (except in the case of exports under GR-261, donations abroad, and wheat samples exported without charge to the recipient). If the exporter is entitled at such time to a refund or credit against the cost of certificates, the related Application for Wheat Export Payment, form CCC-357, as provided in GR-345 should accompany the report. The Report of Wheat Exported shall show:

(1) Date of exportation of the wheat.

(2) Net bushels exported.

(3) Port of exportation.

(4) Name of vessel, or other carrier identification.

(5) CCC registration number assigned under GR-345 or other identification number as set forth in § 778.7.

(6) Face value of certificates required to be acquired and surrendered for the wheat exported.

(7) Amount of certificate refund or credit under GR-345 applicable to the transaction and to be applied against the amount payable for certificates.

(8) Serial number(s) and face value of any Form CCC-145 export certificates surrendered to CCC with the Report of Exportation.

(9) Amount of any certificates previously purchased from CCC specifically for the exportation, and the date of payment.

(10) Amount remitted to CCC with the report for purchase of certificates.

(11) Name and address of exporter.

(12) Date of report.

(13) Signature of an authorized official of the exporter.

§ 778.10 [Amended]

7. Section 778.10 *Penalties* is amended by changing paragraphs (a) and (b) to add after the word "who" wherever it appears, the word "knowingly".

(Secs. 379a to 379j, 52 Stat. 31, as amended by 76 Stat. 626, 78 Stat. 178 and 79 Stat. 1202, 7 U.S.C. 1379 a to j).

Effective date. This amendment shall be effective as to shipments of wheat to Canada in bond on and after November 3, 1965, and as to violations of § 778.10 (a) and (b) on and after July 1, 1964.

Issued at Washington, D.C., on November 23, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-12785; Filed, Nov. 29, 1965; 8:49 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 189, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 910.489 (Lemon Regulation 189, 30 F.R. 14523) are hereby amended to read as follows:

§ 910.489 Lemon Regulation 189.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 37,200 cartons;

(ii) District 2: 111,600 cartons.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 24, 1965.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 65-12787; Filed, Nov. 29, 1965; 8:50 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

SUBCHAPTER A—GENERAL PROVISIONS

[Order 349-65]

PART 1—DEFINITIONS

PART 3—BOARD OF IMMIGRATION APPEALS

Miscellaneous Amendments

By virtue of the authority vested in me by section 103 of the Immigration and Nationality Act, 66 Stat. 173 (8 U.S.C. 1103), section 161 of the Revised Statutes (5 U.S.C. 22), and section 2 of Reorganization Plan No. 2 of 1950 it is hereby ordered as follows:

1. Section 1.1(b) of Title 8 of the Code of Federal Regulations is amended to read as follows:

§ 1.1 Definitions.

* * * * *

(b) The term "act" means the Immigration and Nationality Act, as amended.

* * * * *

2. Section 3.1(b)(5) of that title is amended to read as follows:

§ 3.1 Board of Immigration Appeals.

* * * * *

(b) *Appellate jurisdiction.* * * *

(5) Decisions on petitions filed in accordance with section 204 of the act (except petitions to accord preference classifications under section 203(a)(3) or section 203(a)(6) of the act, or a petition on behalf of a child described in section 101(b)(1)(F) of the act), and decisions on requests for revalidation and decisions revoking the approval of such petitions, in accordance with section 205 of the act, as provided in Parts 204 and 205, respectively, of this chapter.

* * * * *

The amendments made by this order shall become effective on December 1, 1965.

The amendments made by this order are editorial in nature and do not impair any substantive or procedural right of any individual. Therefore, compliance with the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) as to notice of proposed rule making and as to delayed effective date is unnecessary.

Dated: November 24, 1965.

NICHOLAS DEB. KATZENBACH,
Attorney General.

[F.R. Doc. 65-12784; Filed, Nov. 29, 1965; 8:50 a.m.]

SUBCHAPTER B—IMMIGRATION REGULATIONS

IMPLEMENTATION OF ACT OF OCTOBER 3, 1965

Miscellaneous Amendments

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on November 4, 1965 (30 F.R. 13956), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and in which there was set out the terms of proposed amendments to Parts 103, 204, 205, 206, 211, 212, 212a, 221, 235, 242, 243, 245, 249, and 299.

Representations which were received concerning the proposed rules of November 4, 1965, have been considered and those proposed rules have been amended in the following respects:

Section 103.1(e) (1), (2), and (4) have been amended to preclude an appeal to the regional commissioner when the denial is based upon the lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act; the second sentence of § 204.1(c) has been amended to provide for the submission of Department of Labor Form ES-575A and a sentence was added at the end of the paragraph to provide that no appeal shall lie when the petition is denied for lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act; the second sentence of § 204.1(d) has been amended by deleting the word "any" and inserting the word "the"; the fourth sentence of § 204.1(d) has been amended by deleting the words "or consular", and a sentence was added at the end of the paragraph to provide that no appeal shall lie when the petition is denied for lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act; the word "legal" was inserted in the first sentence of § 204.2(b)(2) and in the second sentence of § 204.2(d) (3) and (5); § 204.2(f) has been revised to provide for the utilization of Department of Labor Form ES-575A; § 204.2(g) has been amended to provide for the utilization of Department of Labor Forms ES-575A and B; the introductory sentence of § 205.1 was amended to point up the automatic revocation if the listed circumstances occur prior to the commencement of the beneficiary's journey to this country; § 205.1(b)(2) was amended by deleting the words "before the beneficiary's journey to the United States commences"; § 205.1(c) was amended by inserting a sentence before the last sentence thereof in line with the amendment of § 103.1(e)(4); § 212.7(b)(2) has been amended for clarification; § 214.2(h)(3) has been amended by adding a sentence between the existing fourth and fifth sentences thereof to provide for the automatic termination of nonimmigrant petitions; § 221.1 has been amended by deleting the words "and shall be in the sum of not less than $500" in the next to the last sentence and by deleting the last sentence thereof; the last sentence of § 235.9(a) has been amended to show that the 2-year period commences on the date of the conditional entry; § 235.9(c) has been added to provide for the termination of conditional entrant status; Part 245 has been amended to distinguish the eligible classes, to provide for the use of Department of Labor Forms ES-575A and B in a nonpreference case, to provide for the processing of section 203(a)(7) proviso adjustment cases according to date of arrival, and to provide for an interview in such cases, which may be waived for children under fourteen years of age; § 299.1 has been amended to add Department of Labor Forms ES-575A and B.

The amendatory regulations as set out below are adopted.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS

1. Subparagraphs (1) through (7) of paragraph (e) of § 103.1 *Delegations of authority* are amended to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(e) *Regional commissioners.* The activities of the Service within their respective regional areas, including the following appellate jurisdiction specified in this chapter:

(1) Decisions on third-preference petitions, as provided in § 204.1(c), except when the denial of the petition is based upon the lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act;

(2) Decisions on sixth-preference petitions, as provided in § 204.1(d), except when the denial of the petition is based upon the lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act;

(3) Decisions on orphan petitions, as provided in § 204.1(b);

(4) Decisions on requests for revalidation of certain petitions, as provided in § 205.1(c), except when the denial of the request for revalidation of a petition for third or sixth preference is based upon the lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act;

(5) Decisions revoking approval of certain petitions, as provided in § 205.3;

(6) Decisions on applications for permission to reapply for admission to the United States after deportation or removal, as provided in § 212.2;

(7) Decisions on applications for waiver of certain grounds of excludability, as provided in § 212.7(a);

* * * * *

§ 103.2 [Amended]

2. The fourth sentence of paragraph (a) *General* of § 103.2 *Applications, petitions, and other documents* is amended to read as follows: "Applications or petitions received in any Service office shall be stamped to show the time and date of their actual receipt and, unless otherwise specified in Part 204 of this chapter or returned because they are improperly executed, shall be regarded as filed when so stamped."

§ 103.7 [Amended]

3. The following item in paragraph (c) *Additional fees* of § 103.7 *Records and fees* is revoked:

For filing application for waiver of grounds of exclusion contained in section 212(a)(14) of the Act $10.00

4. The last item in paragraph (c) *Additional fees* of § 103.7 *Records and fees* is amended to read as follows:

For filing application for waiver of grounds of excludability under section 212 (h) or (i) of the Act (only a single application and fee shall be required when the alien is applying simultaneously for a waiver under both those sections) $25.00

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

The headnote to Part 204 is amended as set forth above and that part is amended to read as follows:

AUTHORITY: The provisions of this Part 204 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 101, 201, 203, 204, 212, 245, 66 Stat. 166, 175, 178, 179, 182, 217; 8 U.S.C. 1101, 1151, 1153, 1154, 1182, 1255.

§ 204.1 Petition.

(a) *Relative.* A petition to accord preference classification under section 203(a) of the Act or classification as an immediate relative under section 201(b) of the Act, other than a child as defined in section 101(b)(1)(F) of the Act, shall be filed on a separate Form I-130 for each beneficiary and shall be accompanied by a fee of $10. The petition shall be filed in the office of the Service having jurisdiction over the place where the petitioner is residing in the United States. When the petitioner resides outside of the United States, the petition shall be filed with the foreign office of the Service designated to act on the petition which can be ascertained by consulting the nearest American consul. The following American consular officers are also authorized to approve any petition on Form I-130 when the petitioner and the beneficiary are physically present in the area over which the consular officers have jurisdiction: American consular officers assigned to visa-issuing posts in South America (except Venezuela), areas of Asia lying to the east of the western borders of Afghanistan and Pakistan (but not including Hong Kong and adjacent islands, Taiwan, Japan, Okinawa, Korea, and the Philippines), Australia, New Zealand, and Africa (excluding posts in the United Arab Republic, the Mediterranean islands, and Portuguese island possessions); while such consular officers are authorized to approve such petitions, they shall refer any petition which is not clearly approvable to the appropriate Service office outside the United States for decision. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal to the Board within 15 days after mailing of the notification of the decision in accordance with the provisions of Part 3 of this chapter. Without the approval of a separate petition in his behalf, an alien spouse or a child as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Act, may be accorded the same classification as his spouse or parent whom he is accompanying or following to join, if the immediate issuance of a visa or conditional entry is not otherwise available under the provisions of section 203(a) (1) through (8) of the Act.

(b) *Orphan.* A petition in behalf of a child defined in section 101(b)(1)(F) of the Act shall be filed by the U.S. citizen spouse in the office of the Service having jurisdiction over the place where the petitioner is residing on Form I-600, shall identify the child, and shall be accompanied by a fee of $10. When the petitioner resides outside of the United States, the petition shall be filed with the foreign office of the Service designated to act on the petition which can be ascertained by consulting the nearest American consul. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of the right to appeal in accordance with the provisions of Part 103 of this chapter. If the petitioner or spouse intends to proceed abroad to locate an orphan for adoption, a request in writing may be submitted to the district director in whose jurisdiction the petitioner resides to initiate preliminary processing prior to filing a petition.

(c) *Member of the professions or an alien of exceptional ability in the sciences or arts.* A petition to classify the status of an alien under section 203(a)(3) of the Act shall be filed on Form I-140 by such alien or by any person on his behalf. A separate Form I-140 executed under oath or affirmation and accompanied by Form ES-575A and a fee of $10 must be submitted for each beneficiary before the petition may be accepted by the Service and considered properly filed. The petition shall be filed in the office of the Service having jurisdiction over the place in the United States where the alien intends to reside. An alien abroad who desires to submit a petition in his own behalf must execute the oath or affirmation on the petition before a Service or consular officer abroad. That officer will furnish the address of the Service office in the United States to which the alien should send the petition. The beneficiary and the petitioner may be required, as a matter of discretion, to appear in person before an immigration or consular officer prior to the adjudication of the petition and be interrogated under oath concerning the allegations in the petition. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. However, no appeal shall lie from a decision denying the petition for lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act.

(d) *Aliens who will perform skilled or unskilled labor.* A person, firm, or organization desiring and intending to employ within the United States an alien entitled to classification as a preference immigrant under section 203(a)(6) of the Act shall file a petition on Form I-140. A separate form must be submitted for each beneficiary, executed under oath or affirmation, accompanied by a fee of $10, and by the required certification of the Secretary of Labor specified in § 204.2(g) before it may be accepted by the Service and considered properly filed. The petition shall be filed in the office of the Service having jurisdiction over the place where the alien's services are to be performed. The beneficiary and the petitioner may be required, as a matter of discretion, to appear in person before an immigration officer prior to the adjudication of the petition and be interrogated under oath concerning the allegations in the petition. The petitioner shall be notified of the decision and, if the petition is denied, the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. However, no appeal shall lie from a decision denying the petition for lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act.

§ 204.2 Documents.

(a) *General.* When the beneficiary is in the United States, his passport and Form I-94, if one was issued to him, shall be submitted with the petition.

(b) *Evidence of U.S. citizenship*—(1) *Birth in the United States.* A petition filed under § 204.1 (a) or (b) by a U.S. citizens whose citizenship is based on birth in the United States must be accompanied by his birth certificate; or, if his birth certificate is unobtainable, a copy of his baptismal certificate under seal of the church, showing his place of birth and a date of baptism occurring within 2 months after birth; or if his birth or baptismal certificate cannot be obtained, affidavits of two U.S. citizens who have personal knowledge of his birth in the United States. A native-born citizen of the United States who files a petition while physically outside the United States may establish his birth by presenting his valid unexpired U.S. passport containing the date and place of his birth in the United States. A statement executed by a consular officer, certifying the petitioner to be a U.S. citizen and the bearer of a valid U.S. passport showing him to be a native-born citizen, may be accepted in lieu of the passport. When a native-born member of the armed forces of the United States serving outside the United States submits a petition without documentary proof of his birth in the United States, a statement from the appropriate authority of the armed forces to the effect that the personnel records of the armed forces show the petitioner was born in the United States on a certain date may be accepted as proof of his birth in the United States if the approving officer finds that to require documentary proof of the petitioner's birth in the United States would cause the petitioner unusual delay or hardship.

(2) *Birth outside the United States.* A petition filed under § 204.1 (a) or (b)

by a United States citizen born abroad who became a citizen through the naturalization or citizenship of a parent or husband, and who has not been issued a certificate of citizenship in his or her own name, must be accompanied by evidence of the citizenship and marriage of such parent or husband, as well as the legal termination of any prior marriages. In addition, if the petitioner claims citizenship through a parent, he must submit his birth certificate and a separate statement showing the date, port, and means of all his arrivals and departures into and out of the United States. If the petitioner is a naturalized citizen of the United States whose naturalization occurred within 90 days immediately preceding the filing of the petition, or if it occurred prior to September 27, 1906, the naturalization certificate must accompany the petition.

(c) *Evidence of lawful admission for permanent residence.* The status of a petitioner who claims that he is a lawful permanent resident alien of the United States will be verified from official records of the Service. In the absence of such a record, the petitioner shall be required to establish that he is a lawful permanent resident alien by the submission of evidence such as his passport bearing a Service endorsement reflecting a lawful admission for permanent residence, his Form I-151 alien registration receipt card, or his immigrant identification card.

(d) *Evidence of family relationship between petitioner and beneficiary*—(1) *General.* A petition filed under § 204.1 (a) must be accompanied by evidence of family relationship.

(2) *Petition for a spouse.* If a petition is submitted on behalf of a wife or husband, it must be accompanied by a certificate of marriage to the beneficiary and proof of the legal termination of all previous marriages of both wife and husband.

(3) *Petition for child.* If a petition is submitted by a mother on behalf of a child, regardless of the child's age, the birth certificate of the child showing the name of the mother must accompany the petition. If a petition is submitted by a father or stepparent on behalf of a child, regardless of age, a certificate of marriage of the parents, proof of legal termination of their prior marriages, and the birth certificate of the child must accompany the petition.

(4) *Petition for a brother or sister.* If a petition is submitted on behalf of a brother or sister, the birth certificate of the petitioner and the birth certificate of the beneficiary, showing a common mother, must accompany the petition. If the petition is on behalf of a brother or sister having a common father and different mothers, the marriage certificate of the petitioner's parents, and the beneficiary's parents, and proof of the legal termination of the parents' prior marriages, if any, must accompany the petition.

(5) *Petition in behalf of a parent.* If a petition is submitted in behalf of a mother, the petitioner's birth certificate showing the name of the mother must accompany the petition. If a petition is submitted on behalf of a father or stepparent, the petitioner's birth certificate and the marriage certificate of his parent and stepparent must accompany the petition, as well as proof of the legal termination of their prior marriages, if any.

(6) *Married women.* If either the petitioner or the beneficiary is a married woman, her marriage certificate must accompany the petition. However, when the relationship between the petitioner and beneficiary is that of a mother and child, regardless of the child's age, the mother's marriage certificate need not be submitted if the mother's present married name appears on the birth certificate of the child.

(7) *Relationship by adoption.* If the petitioner and the beneficiary are related to each other by adoption, a certified copy of the adoption decree must accompany the petition.

(e) *Evidence required to accompany petition for orphan*—(1) *General.* A petition filed in behalf of an orphan under § 204.1(b) must be accompanied by evidence of the U.S. citizenship of the petitioning husband or wife as provided in § 204.2(b); a certificate of marriage of the petitioner and spouse and proof of legal termination of their previous marriages, if any; proof of age of the orphan in the form of a birth certificate, or if such certificate is not available other evidence of his birth; evidence that the petitioner and spouse are able to care for the orphan properly, such as letters from employers, banks and accountants, financial statements, copies of income tax returns; a certified copy of the adoption decree together with certified translation, if the orphan has been lawfully adopted abroad; evidence that the sole or surviving parent is incapable of providing for the orphan's care and has in writing irrevocably released the orphan for emigration and adoption if the orphan has only one parent; and fingerprint charts of the petitioning husband and spouse on Form FD-258.

(2) *Preadoption requirements.* If the orphan is to be adopted in the United States, the petitioner must submit evidence of compliance with the preadoption requirements, if any, of the state of the orphan's proposed residence, except any such requirements that cannot be complied with prior to the child's arrival in the United States.

(3) *Beneficiary adopted abroad without having been seen and observed.* An orphan who is adopted abroad without having been personally seen and observed by the petitioning husband and wife prior to or during the adoption proceedings shall be processed as a child coming to the United States for adoption. Before a petition in behalf of such a child is approved, the petitioner and spouse must submit a statement indicating their willingness and intent to readopt the child in the United States. Unless the Service has already ascertained from the appropriate State authority that readoption is permissible in that State, the petitioner shall be required to submit evidence in the form of a statement from the court having jurisdiction over adoption, the State department of welfare, or the attorney general of the State, indicating that readoption is permissible. As in the case of a petition for any other orphan coming to the United States for adoption, evidence of compliance with the preadoption requirements, if any, of the State of proposed residence must be submitted.

(f) *Evidence of professional status or of exceptional ability in sciences or arts.* A petition seeking to classify an alien as a member of a profession or as an alien with exceptional ability in the sciences or arts within the meaning of section 203(a)(3) of the Act must be submitted to the Service with Form ES-575A executed in accordance with the instructions attached to that form and accompanied by the evidence of the beneficiary's qualifications specified in those instructions. Unless the profession is included in the list for which the Secretary of Labor has issued a blanket certification under section 212(a)(14) of the Act and the alien is clearly qualified as a member of that profession, or the alien is clearly not within the purview of section 203(a)(3) of the Act, the Service will refer Form ES-575A and supporting documents to the Bureau of Employment Security, Department of Labor. The documents supporting a petition in behalf of a member of the professions or in behalf of an alien with exceptional ability in the arts or sciences, whose eligibility is based in whole or in part on high education, shall include a certified copy of the alien's school record. The record must show the period of attendance, major field of study, and the degrees or diplomas awarded. If the alien has received a license or other official permission to practice his profession, the license or other official permit to practice must also be submitted. If the alien's eligibility is based on exceptional ability in the sciences or the arts, documentary evidence thereof, such as affidavits by the alien's present or former employers or by recognized experts familiar with the alien's work, or published material, must be submitted by the petitioner. Each such affidavit must set forth the name and address of the affiant, state how he acquired his knowledge of the alien's qualifications, state the place where and the dates during which the alien acquired his exceptional ability, and must describe in detail the duties performed by the alien. When any material published by or about the alien is submitted, it must be accompanied by information as to the date, place, and title of the publication. After review of any Form ES-575A and supporting documents referred by the Service the Bureau of Employment Security will notify the Service of its determination with respect to the issuance of a certification under section 212(a)(14) of the Act, and will also advise concerning the beneficiary's qualifications as a member of a profession or as an alien of exceptional ability in the sciences or arts. The current list of professions for which the blanket certification under section 212(a)(14) of the Act has been issued may be obtained from the principal offices of the Service.

(g) *Evidence required to accompany petition for skilled or unskilled labor.* A visa petition to accord an alien classification under section 203(a)(6) of the Act may be filed only if it is accompanied by the certification of the Secretary of Labor issued under section 212(a)(14) of the Act. The petitioner may apply for the certification by submitting to the local State Employment Service Form ES-575A and B properly executed in accordance with the instructions on the form, together with the documentary evidence specified in the instructions. If a certification is issued to the petitioner, it will be endorsed on Form ES-575A. An advisory opinion by the Bureau of Employment Security, Department of Labor, concerning the beneficiary's qualifications will also be endorsed on the form. Upon receipt of the certification on Form ES-575A by the petitioner it shall be attached to and filed with the petition in the office of the Service having jurisdiction over the intended place of employment. Form ES-575B, and the documentary evidence of the beneficiary's qualifications for the position in which he is to be employed, shall also be attached to the petition. If the alien's eligibility is based in whole or in part on high education or attendance at a technical or vocational school, the evidence must include a certified copy of his school record. The record must show the period of attendance, the major field of study, and the degrees or diplomas awarded. If the alien's eligibility is based on technical training, specialized experience, or exceptional ability, documentary evidence thereof, such as affidavits or published material, must be submitted by the petitioner. Affidavits must be made by the alien's present and former employers or by recognized experts familiar with the alien's work. Each such affidavit must set forth the name and address of the affiant and state how he acquired his knowledge of the alien's qualifications, state the place where and the dates during which the alien gained his experience, and must describe in detail the duties performed by the alien, any tools used, and any supervision received or exercised by the alien. When any material published by or about the alien is submitted, it must be accompanied by information as to date, place, and title of publication. A current list of occupations for which the Secretary of Labor has determined a certification under section 212(a)(14) of the Act will not be issued may be obtained from the principal offices of the Service.

§ 204.3 Disposition of approved petitions.

If the beneficiary of an approved petition will apply to an American consulate for a visa, the approved petition shall be forwarded to the consulate designated by the petitioner. When the beneficiary of an approved petition will file an application for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service for consideration in connection with that application.

§ 204.4 Validity of approved petitions.

The approval of a petition to classify an alien as a preference immigrant under section 203(a) (3) or (6) of the Act shall remain valid for a period of 1 year from the date of any individual certification issued by the Secretary of Labor pursuant to section 212(a)(14) of the Act; if a blanket certification has been issued covering the alien's profession or occupation, the approval shall remain valid for a period of 1 year from the date of approval. The approval of a petition to classify an alien as a preference immigrant under section 203(a) (1), (2), (4), or (5) or as an immediate relative under section 201(b) of the Act shall remain valid for a period of 5 years from the date of approval. The validity of any petition under this section may be revoked pursuant to the provisions of Part 205 of this chapter prior to the 1- or 5-year limitations set forth herein.

§ 204.5 Automatic conversion of classification of beneficiary.

(a) *By change in beneficiary's marital status.* (1) A currently valid petition classifying the child of a U.S. citizen as an immediate relative under section 201(b) of the Act, or classifying the unmarried son or unmarried daughter of a U.S. citizen under section 203(a)(1) of the Act, shall be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries.

(2) A currently valid petition classifying the married son or married daughter of a U.S. citizen for preference status under section 203(a)(4) of the Act shall, upon the presentation of satisfactory evidence of the legal termination of the beneficiary's marriage, be regarded as approved for preference status under section 203(a)(1) of the Act or, if the beneficiary is under 21 years of age, for status as an immediate relative under section 201(b) of the Act, as of the date of termination of the marriage.

(b) *By beneficiary's attainment of the age of 21 years.* A currently valid petition classifying the child of a U.S. citizen as an immediate relative under section 201(b) of the Act shall, if the beneficiary is still unmarried, be regarded as approved for preference status under section 203(a)(1) of the Act as of the beneficiary's attainment of his 21st birthday.

(c) *By petitioner's naturalization.* Effective upon the date of naturalization of a petitioner who had been lawfully admitted for permanent residence, a currently valid petition according preference status under section 203(a)(2) of the Act to the petitioner's spouse, unmarried son, or unmarried daughter, shall be regarded as approved to accord status as an immediate relative under section 201(b) of the Act to the spouse, and unmarried son or unmarried daughter who is under 21 years of age, and to accord preference status under section 203(a)(1) of the Act to the unmarried son or unmarried daughter who is 21 years of age or older.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

The headnote to Part 205 is amended as set forth above and that part is amended to read as follows:

AUTHORITY: The provisions of this Part 205 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 101, 201, 203, 204, 205, 212, 66 Stat. 166, 175, 178, 179, 180, 182; 8 U.S.C. 1101, 1151, 1153, 1154, 1155, 1182.

§ 205.1 Automatic revocation.

The approval of a petition made under section 204 of the Act and in accordance with Part 204 of this chapter is revoked as of the date of approval if any of the following circumstances occur before the beneficiary's journey to the United States commences:

(a) *Relative petitions.* (1) Upon formal notice of withdrawal filed by the petitioner with the officer who approved the petition.

(2) Upon the death of the petitioner or beneficiary.

(3) Upon the legal termination of the relationship of husband and wife when a petition has accorded status as the spouse of a citizen or lawful resident alien, respectively, under section 201(b), or section 203(a)(2) of the Act.

(4) Upon a beneficiary accorded immediate relative status as the child of a U.S. citizen reaching the age of 21, except that such petition is valid to accord a status under section 203(a)(1) of the Act if the beneficiary remains unmarried, and a status under section 203(a)(4) of the Act in the event of marriage, for a period of 5 years from the date of initial approval or last revalidation.

(5) Upon the marriage of a beneficiary accorded a status as a son or daughter of a U.S. citizen under section 203(a)(1) of the Act, except that such petition is valid to accord a status under section 203(a)(4) of the Act for a period of 5 years from the date of initial approval or last revalidation.

(6) Upon the marriage of a beneficiary accorded a status as a son or daughter of a lawful resident alien under section 203(a)(2) of the Act.

(7) Upon the expiration of 5 years from the date of initial approval or last revalidation.

(b) *Other petitions.* (1) The beneficiary is an alien seeking classification under section 203(a) (3) or (6) of the Act and is not issued a visa on or prior to the expiration date of approval shown on the approved petition.

(2) The petitioner dies, goes out of business, or files a written withdrawal of the petition.

(3) The certification required by section 212(a)(14) of the Act is cancelled, withdrawn, or expires.

(c) *Revalidation.* Any petition approved under section 204 of the Act, which was automatically revoked, may be revalidated by a district director retroactively as of the date of the initial approval, if the requirements of section 204 of the Act currently exist. The following American consular officers are also authorized to revalidate any petition on Form I-130 when the petitioner and the beneficiary are physically present in the area over which the consular officers have jurisdiction: American consular officers assigned to visa-issuing posts in South America (except Venezuela), areas of Asia lying to the east of the western borders of Afghanistan and Pakistan (but not including Hong Kong and adjacent islands, Taiwan, Japan, Okinawa, Korea, and the Philippines), Australia, New Zealand, and Africa (excluding posts in the United Arab Republic, the Mediterranean islands and Portuguese island possessions); while such consular officers are authorized to revalidate such petitions, they shall refer any petition which is not clearly subject to revalidation to the appropriate Service office outside the United States for decision. A petitioner may request revalidation of a petition approved under section 204 of the Act. Before the petition may be revalidated, the beneficiary's current eligibility must be established. The petitioner shall be notified of the decision on his request for revalidation and, if revalidation is not granted, of the reasons therefor, and shall have 15 days after the mailing of the notification of decision within which to appeal, as provided in Part 3 of this chapter, if the petition was filed for a preference under paragraph (1), (2), (4), or (5) of section 203(a) of the Act, or for an immediate relative as defined in section 201(b) of the Act other than a child as defined in section 101(b)(1)(F) of the Act, or as provided in Part 103 of this chapter, if the petition was filed for a preference under paragraph (3) or (6) of section 203 (a) of the Act, or for a child as defined in section 101(b)(1)(F) of the Act. However no appeal shall lie from a decision denying a request for revalidation of a petition filed for a preference under paragraph (3) or (6) of section 203(a) of the Act if the denial is based on the lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act. When a visa petition has been approved, and subsequently a new petition by the same petitioner is approved in behalf of the same beneficiary, the latter approval shall be regarded as a revalidation of the original petition.

(d) *Notice.* When it shall appear to a district director that the approval of a petition has been automatically revoked, he shall cause a notice of such revocation to be sent promptly to the consular office having jurisdiction over the visa application and a copy of such notice to be mailed to the petitioner's last known address.

§ 205.2 Revocation on notice.

The approval of a petition made under section 204 of the Act and in accordance with Part 204 of this chapter may be revoked on any ground other than those specified in § 205.1 by any officer authorized to approve such petition when the propriety of such revocation is brought to the attention of the Service, including requests for revocation or reconsideration made by consular officers.

§ 205.3 Procedure.

Revocation of approval of a petition under § 205.2 shall be made only upon notice to the petitioner who shall be given an opportunity to offer evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval. If upon reconsideration the approval previously granted is revoked, the petitioner shall be informed of the decision with the reasons therefor and shall have 15 days after the mailing of the notification of decision within which to appeal as provided in Part 3 of this chapter, if the petition was filed for a preference under paragraph (1), (2), (4), or (5) of section 203(a) of the Act, or for an immediate relative as defined in section 201(b) of the Act other than a child as defined in section 101(b)(1)(F) of the Act, or as provided in Part 103 of this chapter, if the petition was filed for a preference under paragraph (3) or (6) of section 203(a) of the Act, or for a child as defined in section 101(b)(1)(F) of the Act, and the consular office having jurisdiction over the visa application shall be notified of the revocation.

PART 206—REVOCATION OF APPROVAL OF PETITIONS

Part 206 is revoked.

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

§ 211.2 [Amended]

Section 211.2 *Passports* is amended by deleting the words "first-preference quota immigrant" and inserting in lieu thereof the words "third-preference immigrant."

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

§ 212.2 [Amended]

1. The second sentence of § 212.2 *Consent to reapply for admission after deportation, removal, or departure at Government expense* is amended by deleting the words "section 212 (g) or (h)" and inserting in lieu thereof the words "section 212 (g), (h), or (i)" wherever they appear.

§ 212.5 [Amended]

2. Paragraph (b) *Refugee-escapees* of § 212.5 *Parole of aliens into the United States* is revoked.

§ 212.7 [Amended]

3. The headnote to paragraph (a) of § 212.7 *Waiver of certain grounds of excludability* is amended to read *"Section 212 (h) or (i)"* and the first sentence of paragraph (a) is amended by deleting the words "section 212 (g) or (h)" and inserting in lieu thereof the words "section 212 (h) or (i)."

4. Paragraph (b) of § 212.7 *Waiver of certain grounds of excludability* is amended to read as follows:

(b) *Section 212(g) (tuberculosis and certain mental conditions).* An alien who is an applicant for an immigrant visa and who, pursuant to section 212(g) of the Act, is seeking a waiver of his excludability under section 212(a) (1), (3), or (6) of the Act shall file (or if the alien is incompetent to do so, the family member specified in section 212(g) shall file) an application on Form I-601 at the consular office considering the application for a visa. An alien who is applying at a port of entry for admission to the United States, or who is within the United States and who is under any proceeding before the Service in which a waiver pursuant to section 212(g) is required before it may be determined that he is not excludable under section 212(a) (1), (3), or (6) of the Act, may file an application on Form I-601 with the Service office having jurisdiction over the port of entry or place where he is located.

(1) *Section 212(a)(6) (tuberculosis).* If the alien is excludable under section 212(a)(6) of the Act because of tuberculosis, he or his sponsoring family member shall submit with his Form I-601 a statement by a State, territorial, or local health department, or by a recognized hospital or other institution in the United States engaged in the treatment of tuberculosis. The statement shall include the name and address of the facility where the alien will be treated, and shall affirm (i) that arrangements have been made for any treatment and observation required for proper management of the alien's condition, in conformity with local standards of medical practice, and that upon arrival at such facility the alien will be placed in an inpatient or outpatient status as determined by the responsible local physician; (ii) that such facility will submit the following to the U.S. Quarantine Station, Rosebank, Staten Island, N.Y., 10305: An initial report giving a clinical evaluation of the alien, including necessary X-ray films, within 30 days after the alien's arrival at the hosiptal or other institution (or, if within 30 days after receipt of notice from the U.S. Public Health Service that the alien has arrived in the United States he has not reported to the facility, a notice of his failure to report), and a report of the final disposition of the case; and (iii) that complete financial arrangements for the alien's care have been made by the alien, the sponsoring family member, or other responsible person; or that the eligibility of the alien under the dependents medical care provisions of sections 1071–1085 of title 10 of the United States Code has been established. Whenever the required statement is submitted by a hospital or other institution, it must bear an endorsement by a State, territorial, or local health department affirming its recognition of the facility as being qualified to engage in the treatment of tuberculosis, unless the U.S. Public Health Service shall have determined that the facility is qualified for that purpose.

(2) *Section 212(a) (1) and (3) (certain mental conditions)*. If the alien is excludable under section 212(a) (1) or (3) (because of mental retardation, or because of a past history of mental illness), he or his sponsoring family member shall submit an executed Form I-601 to the consular or Service office with a statement that arrangements have been made for submission to that office of a medical report. The medical report shall contain a complete medical history of the alien, including details of any hospitalization or institutional care or treatment for any physical or mental condition; findings as to the current physical condition of the alien, including reports of chest X-ray examination, of serologic test for syphilis, and other pertinent diagnostic tests; findings as to the current mental condition of the alien, with information as to prognosis and life expectancy; and a report of a psychiatric examination conducted by a psychiatrist and, in case of mental retardation, a report of a psychologist. Upon receipt of the medical report, the consular or Service office shall refer it to the U.S. Public Health Service for review. Upon being notified that the medical report has been reviewed by the U.S. Public Health Service and determined to be acceptable, the alien or the sponsoring family member shall submit as directed by the U.S. Public Health Service a statement from a hospital, institution, school, or other specialized facility, or specialist in the United States acceptable to the U.S. Public Health Service which shall include the name and address of the hospital, institution, school, or other specialized facility, or specialist, and shall affirm that such facility or specialist has agreed to accept the alien for all necessary diagnostic studies, care, training, or schooling for a period of at least 5 years; that complete financial arrangements have been made by the alien, the sponsoring family member, or other responsible person for payment for all care, training, or schooling to be provided to the alien; that upon arrival at the designated facility or specialist's office in the United States, the alien will be placed in an outpatient, inpatient, or other status as determined by the responsible local physician or specialist; that such facility or specialist will provide the U.S. Quarantine Station, Rosebank, Staten Island, N.Y., 10305, with the following: an initial report giving a current evaluation of the mental status of the alien, or a notice of the alien's failure to report to the facility or specialist, within 30 days after the facility or specialist receives notice from the U.S. Public Health Service that the alien has arrived in the United States; prompt notification of the death of the alien, of his departure without approval of the facility or specialist, or of his failure to report to the facility as may be required; and semiannual reports of the alien's mental status for a period of at least 5 years, even if he has been discharged from care, training, or schooling, unless approval has been granted by the U.S. Public Health Service to transfer responsibility for the care and observation of the alien to another facility or specialist.

(3) *Assurances; bonds*. In all cases under this paragraph (b) the alien or sponsoring family member shall also submit an assurance that the alien will comply with any special travel requirements as may be specified by the U.S. Public Health Service and that upon the admission of the alien into the United States, he will proceed directly to the facility or specialist specified for the initial evaluation, and submit to such further examination, treatment, schooling, training, and medical regimen as may be required, whether on an inpatient, outpatient, or other basis, and that before responsibility for the care, observation, training, or schooling of the alien is transferred to another facility or specialist the alien or the sponsoring family member will obtain approval from the U.S. Quarantine Station, Rosebank, Staten Island, N.Y., 10305. The alien, the sponsoring family member, or some other responsible individual shall provide such assurances or bond as may be required to assure that the necessary expenses of the alien will be met and that he will not become a public charge.

5. The fourth sentence of paragraph (c) *Section 212(e)* of § 212.7 *Waiver of certain grounds of excludability* is amended by deleting the words "Part 205" and inserting in lieu thereof the words "Part 204."

PART 212a—ADMISSION OF CERTAIN ALIENS TO PERFORM SKILLED OR UNSKILLED LABOR

Part 212a is revoked.

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

The following sentence is inserted between the existing fourth and fifth sentences of subparagraph (3) *Admission, employment, and extension* of paragraph (h) *Temporary employees* of § 214.2 *Special requirements for admission, extension, and maintenance of status*. "The approval of any petition is automatically terminated when the petitioner dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives in the United States."

PART 221—ADMISSION OF VISITORS OR STUDENTS

Part 221 is added to read as follows:

§ 221.1 Admission under bond.

The district director having jurisdiction over the intended place of residence of an alien may accept a bond on behalf of an alien defined in section 101(a)(15) (B) or (F) of the Act prior to the issuance of a visa to the alien upon receipt of a request directly from a U.S. consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond. All bonds given as a condition of admission of an alien under section 221 (g) of the Act shall be executed on Form I-352.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interprets or applies secs. 101, 221, 66 Stat. 166, 191; 8 U.S.C. 1101, 1201)

PART 235—INSPECTION OF ALIENS APPLYING FOR ADMISSION

Section 235.9 is added to read as follows:

§ 235.9 Conditional entries.

(a) *Application*. A separate application for conditional entry under section 203(a)(7) of the Act shall be executed and submitted by each applicant on Form I-590 to the officer in charge of the nearest Service office outside the United States. Each applicant under this paragraph shall appear in person before an immigration officer and excepting a child under 14 years of age shall, prior to the adjudication of his application, be interrogated under oath concerning his eligibility for conditional entry into the United States. Conditional entry will not be authorized until a medical examination has been completed and until assurances of employment and housing in the United States for a period of 2 years on Form I-591 and assurances of transportation from the applicant's place of abode to point of final destination in the United States have been provided. The approval of an application by an officer in charge outside the United States authorizes the district director at a port of entry to effect the conditional entry of the applicant upon arrival at such port within 4 months after the date of the approval. Upon arrival, every conditional entrant 14 years old or over shall execute Form I-592. For the purposes of section 203 (g) and (h) of the Act, the 2-year period shall commence on the date of the applicant's conditional entry into the United States.

(b) *Inspection of conditional entrant as to admissibility for permanent residence*. Two years subsequent to conditional entry in the United States, each conditional entrant shall be required to appear before an immigration officer. The conditional entrant, if over 14 years of age, shall be interrogated by an immigration officer under oath and a determination of admissibility shall be made in accordance with Parts 235 and 236 of this chapter. Except as provided in Parts 245 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under section 212 (g), (h), or (i) of the Act, insofar as they relate to the excludability of an alien in the United States.

(c) *Termination of conditional entrant status*. Whenever a district director has reason to believe that a conditional entrant under section 203(a) (7), whose status has not otherwise been terminated or changed, is or has become inadmissible to the United States under any provision of section 212(a) of the Act (except section 212(a)(20)), he shall cause to be served upon the alien, in accordance with the provisions of § 235.6, Form I-122, Notice to Alien Detained for Hearing by a Special Inquiry Officer. The alien shall be referred for inquiry before a special inquiry officer in accordance with the provisions of sections 235, 236, and 237 of the Act and of this chapter. The special inquiry officer, if he determines that the alien is not inadmissible to the United States or, if inadmissible, that the alien is prima facie eligible for a waiver of the grounds of excludability pursuant to sections 212 (g), (h), or (i) of the Act, shall order the proceedings terminated and shall refer the matter to the district director for further proceedings in accordance with section 203(g) of the Act. Such order shall be without prejudice to reinstitution of proceedings or institution of new proceedings under this section. No appeal shall lie from a decision of a district director denying an application for a waiver under section 212 (g), (h), or (i) of the Act, but such denial shall be without prejudice to the renewal of the application in the course of proceedings before a special inquiry officer. The special inquiry officer, if he determines that the alien is inadmissible to the United States for permanent residence under any provision of the Act except section 212(a)(20) and that the alien is not entitled to the benefits of sections 212 (g), (h), or (i) of the Act, shall order the termination of the alien's conditional entry and shall make such further order as may be proper. From the decision of the special inquiry officer an appeal shall lie in accordance with the provisions of § 236.5 of this chapter.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

§ 242.17 [Amended]

The sixth sentence of paragraph (c) *Temporary withholding of deportation* of § 242.17 *Ancillary matters, application* is amended to read as follows: "The respondent has the burden of satisfying the special inquiry officer that he would be subject to persecution on account of race, religion, or political opinion as claimed."

PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

§ 243.8 [Amended]

The second sentence of § 243.8 *Imposition of sanctions* is amended to read as follows: "The sanctions imposed on residents of the Union of Soviet Socialist Republics, Czechoslovakia, and Hungary pursuant to section 243(g) may be waived in an individual case for the beneficiary of a petition accorded a status under section 201(b) or section 203(a) (1), (2), (4), or (5) of the Act, and may also be waived for the beneficiary of a petition accorded a status under section 203(a) of the Act who resides in Hungary."

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

The headnote to Part 245 is amended as set forth above and that part is amended to read as follows:

AUTHORITY: The provisions of this Part 245 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 101, 201, 203, 204, 212, 245, 247; 66 Stat. 166, 175, 178, 179, 182, 217, and 218; 8 U.S.C. 1101, 1151, 1153, 1154, 1182, 1255, and 1257.

§ 245.1 Eligibility.

(a) *General.* An alien who on arrival in the United States was serving in any capacity on board a vessel or aircraft, or was destined to join a vessel or aircraft in the United States to serve in any capacity thereon, or was not admitted or paroled following inspection by an immigration officer is not eligible for the benefits of section 245 of the Act.

(b) *Exchange aliens.* Pursuant to section 212(e) of the Act, an alien who has or has had the status of an exchange alien or of a nonimmigrant under section 101(a)(15)(J) of the Act is not eligible for the benefits of section 245 of the Act unless he has complied with the foreign-residence requirements of section 212(e) of the Act or has been granted a waiver thereof.

(c) *Officials and treaty aliens.* An alien who has a nonimmigrant status under paragraph (15)(A), (15)(E), or 15(G) of section 101(a) of the Act, or has an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under any of such paragraphs of section 101(a) of the Act is not eligible for the benefits of section 245 of the Act unless he first executes and submits with his application the written waiver required by section 247(b) of the Act and Part 247 of this chapter. A member of the immediate family of an alien having status under section 101(a)(15) (A) or (G) of the Act, and a spouse or child of an alien having status under section 101(a)(15)(E) of the Act may apply for adjustment of status only if such member, spouse, or child executes the written waiver required by section 247(b) of the Act, irrespective of whether the principal alien also applies for adjustment and executes such waiver.

(d) *Immediate relatives under section 201(b) and preference aliens under section 203(a)(1) through 203(a)(6).* An applicant who claims immediate relative status under section 201(b) or preference status under section 203(a)(1) through 203(a)(6) of the Act is not eligible for the benefits of section 245 of the Act unless he is the beneficiary of a valid unexpired visa petition filed in accordance with Part 204 of this chapter and approved to accord him such status.

(e) *Nonpreference aliens.* An applicant who is a nonpreference alien who is seeking adjustment of status for the purpose of engaging in gainful employment in the United States is not eligible for the benefits of section 245 of the Act unless he presents with his application a certification issued by the Secretary of Labor under section 212(a)(14) of the Act, or unless he establishes that he is a qualified member of a profession included in the list of professions for which the Secretary of Labor has issued a blanket certification under that section. An applicant who is a nonpreference alien may have his employer or prospective employer apply for the certification by submitting to the local State Employment Service Form ES-575A and B, properly executed in accordance with the instructions on the form, together with the documentary evidence specified in the instructions. If a certification is issued, it will be endorsed on Form ES-575A. An advisory opinion of the Bureau of Employment Security, Department of Labor, concerning the applicant's qualifications will also be endorsed on the form. Upon receipt of the certification on Form ES-575A by the applicant's employer or prospective employer, the employer or prospective employer shall transmit it to the applicant. The applicant shall attach it to his application and shall file the application in the office of the Service having jurisdiction over the area in which he resides. Form ES-575B and the documentary evidence of the applicant's qualifications to perform the duties of the position reflected therein, and all other documents required by the application for adjustment of status, shall also be attached thereto.

(f) *Exercise of discretion under sections 212 (g), (h), and (i) of the Act.* Except as provided in Parts 235 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under sections 212 (g), (h), and (i) of the Act, insofar as they relate to the excludability of an alien in the United States.

(g) *Availability of immigrant visa.* If the applicant is a preference or nonpreference alien, the current Department of State Visa Office Bulletin will be consulted to determine whether an immigrant visa is immediately available; an immigrant visa is considered available for accepting and processing the application if the applicant has a priority date on the waiting list which is not more than 90 days later than the date shown in the bulletin. The application shall not be approved until an immigrant visa number has been allocated by the Department of State. Information as to immediate availability of an immigrant visa may be obtained at the nearest Service office.

§ 245.2 Application.

An application by an alien after he has been served with an order to show cause or warrant of arrest shall be made and considered only in proceedings under Part 242 of this chapter. In any other case an alien who believes that he meets the eligibility requirements of section 245 of the Act and § 245.1 shall apply on Form I-485 to the district director having jurisdiction over his place of residence. An application under this section shall be accompanied by a record of the applicant's birth, Form I-94, if one was issued to the applicant, his passport, and evidence such as an affidavit of support or a letter from an employer to establish that the applicant is not likely to become a public charge. The spouse of an alien beneficiary of a visa petition under section 204 of the Act shall submit, in addition to the foregoing, a marriage certificate and proof of legal termination of prior marriages, if any, of each spouse; each child under 21 years of age of such a beneficiary shall submit the marriage certificate of his parents, together with proof of the legal termination of their prior marriages, if any, unless such documents have been submitted by one of his parents. The applicant shall be notified of the decision and if the application is denied of the reasons therefor. No appeal shall lie from the denial of an application by the district director but such denial shall be without prejudice to the alien's right to renew his application in proceedings under Part 242 of this chapter.

§ 245.3 Adjustment of status under section 13 of the Act of September 11, 1957.

An application for the benefits of section 13 of the Act of September 11, 1957, shall be filed on Form I-485 with the district director having jurisdiction over the applicant's place of residence. The benefits of section 13 of the Act of September 11, 1957, shall be accorded only to an alien who was admitted to the United States under the provisions of either section 101(a)(15)(A) (i) or (ii) or 101(a)(15)(G) (i) or (ii) of the Act and who performed diplomatic or semi-diplomatic duties. Aliens whose duties were of a custodial, clerical, or manual nature are not eligible. The applicant shall be notified of the decision and if the application is denied of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter.

§ 245.4 Adjustment of status under the proviso to section 203(a)(7) of the Act.

The provisions of section 245 of the Act and this part shall govern the adjustment of status provided for in the proviso to section 203(a)(7) of the Act. Processing of applications for adjustment under the proviso to section 203 (a)(7) and this section shall be initiated in each district in the chronological order in which the applicants last arrived in the United States.

§ 245.5 Documentary requirements.

The provisions of Part 211 of this chapter relating to the documentary requirements for immigrants shall not apply to an applicant under this part.

§ 245.6 Medical examination.

Upon acceptance of an application, the applicant shall be required to submit to an examination by a medical officer of the U.S. Public Health Service, whose report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record. Any applicant certified under paragraph (1), (2), (3), (4), or (5) of section 212(a) of the Act may appeal to a board of medical officers of the U.S. Public Health Service as provided in section 234 of the Act and Part 235 of this chapter.

§ 245.7 Interview.

Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. The interview may be waived in the case of a child under the age of 14.

PART 249—CREATION OF RECORDS OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE

§ 249.1 [Amended]

1. Section 249.1 *Waiver of inadmissibility* is amended by deleting the words "section 212(g)" and inserting in lieu thereof the words "section 212(h)."

§ 249.2 [Amended]

2. Section 249.2 *Application* is amended by deleting the date "June 28, 1940," in the third sentence and inserting in lieu thereof the date "June 30, 1948."

PART 299—IMMIGRATION FORMS

§ 299.1 [Amended]

The list of forms in § 299.1 *Prescribed forms* is amended in the following respects:

1. The following form is added in numerical sequence:

Form No.; Title and description

I-592 Declaration of Conditional Entrant at Time of Arrival.

2. The following form is inserted between the existing fourth and fifth forms:

Form No.; Title and description

ES-575 Application for Alien Employment Certification:
(Part I—Statement of Qualifications of Aliens (ES-575A)).
(Part II—Job Offer for Alien Employment (ES-575B)).

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The basis and purpose of the above-prescribed regulations are to implement the Act of October 3, 1965.

This order shall become effective on December 1, 1965. Compliance with the requirements of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relating to delayed effective date is unnecessary and would serve no useful purpose in this instance because the persons affected by the regulations prescribed will not require additional time to prepare for the effective date of the regulations.

Dated: November 24, 1965.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 65-12796; Filed, Nov. 29, 1965; 8:50 a.m.]

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

Nonimmigrant Documentary Waiver

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

Paragraph (b) of § 212.1 *Documentary requirements for nonimmigrants* is amended to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(b) *British, French, and Netherlands nationals and nationals of certain adjacent islands of the Caribbean which are independent countries.* A visa is not required of a British, French, or Netherlands national, or a national of Jamaica or Trinidad and Tobago, who has his residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or in Jamaica or Trinidad and Tobago, for admission or stay in Puerto Rico, the Virgin Islands of the United States, or as an agricultural worker in the United States.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on December 1, 1965. Compliance with the requirements of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relating to delayed effective date is unnecessary and would serve no useful purpose in this instance because the persons affected thereby will not require additional time to prepare for the effective date of the regulations.

Dated: November 24, 1965.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 65-12795; Filed, Nov. 29, 1965; 8:50 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Miscellaneous Amendments

Under the provisions of section 170 of the Atomic Energy Act of 1954, as amended, the holder of a license for a production or utilization facility is required to have and maintain financial protection to cover public liability claims and the Commission is required to indemnify the licensee and other persons indemnified against public liability claims in excess of the amount of financial protection required. Subsection 170b. requires that for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100 electrical megawatts or more, the amount of financial protection required shall be the maximum amount available from private sources. For other li-