into effect. These sentences read as follows:

* * * * *

(6) * * *

The inshell trade demand shall equal the average of the trade acquisitions of inshell filberts during the preceding three years. If the trade acquisitions during any one or all of those years was abnormally low because of crop conditions, the Board may use a prior year or years in determining the three-year average. * * *

List of Subjects in 7 CFR Part 982

Marketing agreement and order, Filberts, Hazelnuts, Oregon, and Washington.

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

Dated: October 4, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-27683 Filed 10-6-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1079

Milk in the Iowa Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the Iowa milk order. The action was requested by a cooperative association to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market. The suspension is for the months of October and November 1982.

EFFECTIVE DATE: October 7, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued September 7, 1982; published September 13, 1982 (47 FR 40181).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

Also, it has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the procedure in time to give interested parties timely notice that the limitation on the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for October 1982 would be modified. The initial request for the action was received on August 26, 1982. A notice of proposed suspension was issued on September 7, 1982, inviting interested parties to comment on the proposed action by September 20, 1982.

It has been determined that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and of the order regulating the handling of milk in the Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 40181) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment was received in favor of the proposed suspension and none were received in opposition.

After considering all relevant material, including the proposal in the aforesaid notice, the comment filed and other available information, it is hereby found and determined that for each of the months of October and November 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1079.13(d) (2) and (3) the words "50 percent in the months of September through November, and", and the words "in other months," as they appear in each subparagraph.

Statement of Consideration

This action makes inoperative for October and November 1982 cetain provisions limiting the amount of producer milk that a cooperative association or other handlers may divert from farms directly to nonpool manufacturing plants. The present order provides that a cooperative association may divert up to 50 percent of its total member milk delivered to all pool plants or diverted from them during the months of September through November and up to 70 percent all other months. Similarly, the operator of a pool plant may divert during the months of September through November up to 50 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) and up to 70 percent during all other months. The suspension would increase the diversion limitation for the months of October and November 1982 from 50 percent to 70 percent for cooperative associations and operators of pool plants.

Land O' Lakes, Inc., a cooperative association of producers, requested the suspension of the 50 percent limitation on diversions for October and November 1982. The cooperative stated that large supplies of milk in relation to Class I sales in the coming months will require more diversions of milk from farms to manufacturing plants than can be accommodated by the order without the suspension. The cooperative said that the suspension of the 50 percent requirement and the retention of the 70 percent diversion limitation would still require the receipt of 30 percent of all milk supplies at pool plants, assuring the availability of milk for fluid use. The cooperative stated that the suspension of the 50 percent diversion limitation would allow for a more efficient means of handling the reserve supplies of milk in the Iowa market.

Interested parties were given an opportunity to submit written data, views and arguments concerning the proposed suspension. The only comment received was from Land O' Lakes which supported the action on the basis that it would facilitate the orderly and economic disposition to nonpool manufacturing plants of an increasing supply of milk above fluid requirements. The proponent stated that the suspension would allow an additional 3 million pounds of milk to move directly from farms of its members to nonpool manufacturing facilities.

Reserve milk supplies within a market normally decline during the fall months. However, current marketing information indicates that this year reserve milk supplies for the Iowa market are likely to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitation and still maintain producer status for all such milk. Data for the first seven months of 1982 show that although producer milk receipts for the market was about 4 percent lower than for the same months last year the

pounds of pooled Class I milk were down nearly 8 percent from a year ago. The decline in Class I milk was due to certain handlers shifting their Class I sales from plants pooled under the Iowa order to plants regulated under other nearby orders. Thus, the quantity of producer milk needed at pool plants for Class I use during this October and November will be less than it was one year ago and a greater quantity of milk will have to be diverted to nonpool manufacturing plants. Without the suspension of the 50 percent limitation on the amount of milk that can be moved directly from farms to manufacturing plants, uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the Iowa market.

The purposes of the suspension are to insure that those producers who have been regularly supplying the Iowa market continue to share in the higher-valued fluid sales of the regulated market and to promote the efficient and orderly marketing of milk in the Iowa market. It is concluded that the supply-demand conditions in the market warrant a suspension of the 50 percent diversion limitation for the months of October and November 1982.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area. Otherwise uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the Iowa market;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date;

(c) This suspension order is the only practical means to alleviate a current marketing problem; and

(d) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition.

Therefore, good cause exists for making this suspension order effective upon publication of this document in the **Federal Register.**

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of October and November 1982.

Effective date: October 7, 1982.

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

Signed at Washington, D.C., on: October 4, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82–27541 Filed 10–6–82; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 204, 212, 214, 223, 237, 242, 245, 248, 249, and 265

Aliens and Nationality; Immigration and Nationality Act Amendments of 1981

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: These rule changes are necessitated by the enactment of the Immigration and Nationality Act Amendments of 1981. The interim rule with comment period published previously is now finalized after considering public comments. The final rule is intended to improve the efficiency of the Service by eliminating unnecessary paperwork and by providing remedial and technical changes to the existing regulations.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633–3048.

For Specific Information about Alien Change of Status: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633–3946.

For Specific Information about Alien Admission and Exclusion: Edward F. Burns, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633–3996.

SUPPLEMENTARY INFORMATION: The purpose of the Immigration and Nationality Act Amendments of 1981, Pub. L. 97–116, 95 Stat. 1611, is to improve the efficiency of the Immigration and Naturalization Service by streamlining certain Service procedures, clarifying ambiguities in the current law and eliminating unnecessary reporting requirements. An interim rule implementing the 1981 Amendments to the Act was published in the **Federal Register** on March 22, 1982 at 47 FR 12129. Comments on the interim rule were received regarding how it could be improved to best promote the Congressional intent of the 1981 Act. The following is a section-by-section analysis of the revisions made to the interim rule and an explanation why the suggestions received were or were not incorporated into the final rule.

8 CFR 204.2(c)(7) is revised for an editorial change.

8 CFR 212.2(a)–(g) were revised by the interim rule to remove the requirement that an alien, who was previously deported or removed from the United States, must obtain consent before applying for a visa, admission, or change of status if the alien has remained outside the United States for more than five successive years after the date of the last deportation or removal. Section 4 of Pub. L. 97–116 amended section 212(a)(17) of the Act to remove the consent requirement where the alien meets the requisite period of absence from the United States. Comments criticizing these revisions suggested that the requirement of five years' continuous physical presence abroad was too restrictive, and went beyond the language and spirit of the statute. The legislative history of this statute, as evidenced in page 20 of House Report 97–264, unquestionably supports the present rule. Congress intended that once an alien was deported from the United States, the alien should remain outside the United States for five continuous years unless given permission to re-enter by the Attorney General. Thus an "illegal" entry is interruptive of the five year period. Furthermore, the purpose of the statute was not to ameliorate the consequences of deportation to deserving individuals, but to eliminate unnecessary adjudications of I–212's (applications for permission to reapply for admission into the U.S. after deportation or removal) which are routinely approved for aliens who have remained outside the United States for five years. Editorial changes have been made throughout the section to improve readability.

8 CFR 212.7(b) is revised to improve readability.

8 CFR 212.10 remains as it was printed in the interim rule.

8 CFR 214.2(j)(2)(ii) is revised to improve readability.

8 CFR 214.2(j)(3) is revised to improve readability.

8 CFR Part 223 is revised for editorial correction.

8 CFR Part 237.6 is revised to improve readability.

8 CFR 242.8 is revised to improve readability.

8 CFR 242.17 remains as it was printed in the interim rule.

8 CFR 245.1 is revised to improve readability. One commenter criticized the definition of "continuous presence" as being an unduly restrictive and inappropriate interpretation of the Congressional intent. The plain language of section 245 of the Act requires "continuous presence" and does not refer to any breaks. The House Report No. 97–264 to H.R. 4327 states, at page 23, "It is the Committee's intent that brief temporary trips abroad (e.g., to visit family) should not be construed to break the continuous presence or practice requirements for an alien to benefit under these provisions." The report further points to *Rosenberg v. Flueti*, 374 U.S. 449 (1963), to justify the intent for not requiring "continuous presence." In the interest of fairness, administrative simplification, and ecomomy, the Service has decided that a fixed time limit for an individual trip of 30 days would meet the Congressional intent and allow for uniform and fair adjudication of cases under section 101(a)(27)(H) of the Act. Should an alien physician fail to qualify for special immigrant status solely due to a too lengthy absence, that physican would be eligible for 3rd or 6th preference status since the statue eliminated the requirement that the physican pass the Visa Qualifying Examination, the major hurdle for 3rd and 6th preference. Therefore, the 30-day time limit will remain in effect.

8 CFR 245.1(a)–(d) is revised to improve readability.

8 CFR 245.3 is revised to improve readability.

8 CFR 248.2 is revised to improve readability.

8 CFR 249.1 is amended to include a waiver of the grounds of excludability contained in sec. 212(a)(23) as it relates to a single conviction for simple possession of 30 grams or less of marihuana under sec. 212(h) of the Act.

8 CFR 265.1 is amended to eliminate the annual and quarterly registration of permanent resident and non-immigrant aliens; however, they must continue to report new addresses and changes of address using Form AR–11. While section 11 of Pub. L. 97–116 removes the annual and quarterly registration requirements, it still retains the authority for the Attorney General, upon ten days' notice, to require (by regulation) any aliens or class of aliens to report their current addresses and other information.

In accordance with 5 U.S.C. 605(d), the Commissioner of Immigration and Naturalization certifies that this rule will not have significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 204

Administrative practice and procedure, Adoption, Citizenship and naturalization, Infants and children, Orphans.

8 CFR Part 212

Administrative practice and procedure, Aliens, Health, Port of entry.

8 CFR Part 214

Administrative practice and procedure, Aliens, Health profession, Schools.

8 CFR Part 223

Administrative practice and procedure, Reentry permits, Aliens.

8 CFR Part 237

Administrative practice and procedure, Aliens.

8 CFR Part 242

Administrative practice and procedure, Aliens, Authority delegations.

8 CFR Part 245

Administrative practice and procedure, Aliens, Foreign officials.

8 CFR Part 248

Administrative practice and procedure, Aliens.

8 CFR Part 249

Aliens, Immigration.

8 CFR Part 265

Administrative practice and procedure, Aliens.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

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

1. In § 204.2, paragraph (c)(7) is revised to read as follows:

§ 204.2 Documents.

* * * * *

(c) * * *

(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. Immigration benefits may be obtained under sections 101(b)(1)(E) or 101(b)(2) of the Act by virtue of an adoptive relationship if the child was adopted while under the age of sixteen and the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years. Legal custody must occur after the adoption. Residence occurring prior to or after the adoption will satisfy the residence requirement. A child adopted under the age of sixteen years is a "child" for purposes of sections 101(b)(1)(E) and 101(b)(2) of the Act.

* * * * *

(Secs. 103, 204, 66 Stat. 173, 179; Sec. 2, Pub. L. 97–116, 95 Stat. 1611 (8 U.S.C. 1103, 1154))

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

2. In § 212.2, paragraphs (a) through (g) are revised to read as follows:

§ 212.2 Consent to reapply for admission after deportation, removal or departure at Government expense.

(a) *Evidence.* Any alien who has been deported or removed from the United States, who is applying for a visa, admission to the United States, or adjustment of status, must present proof to the satisfaction of the consular or immigration officer that the alien has remained outside the United States for more than five successive years following the last deportation or removal. Any alien who does not present proof of more than five successive years' absence from the United States which is satisfactory to the consular or immigration officer, or who has not remained outside the United States for the requisite period, must apply for permission to reapply as provided under this part. A temporary stay in the United States with the approval of the Attorney General, under section 212(d)(3) of the Act, does not interrupt the five-year absence requirement.

(b) *Alien applying to consular officer for nonimmigrant visa or nonresident border crossing card.* Permission to reapply for admission to the United States after deportation or removal, within five years of the date of such deportation or removal for an alien who is applying or will apply to a consular officer for nonimmigrant visa or nonresident border crossing card, shall

be requested through the consular officer and may be granted only in accordance with section 212 (a)(17) and (d)(3)(A) of the Act and § 212.4 of this part. However, the alien may apply for such permission on Form I–212 submitted to the consular officer, if the consular officer is willing to accept such application and if that officer, in forwarding Form I–212 for decision to the district director having jurisdiction over the place where the deportation or removal proceedings were held, recommends to the district director that the alien be permitted to apply on Form I–212.

(c) *Applicant for nonimmigrant visa under section 101(a)(15)(K) of the Act.* Notwithstanding the provisions of paragraph (b) of this section, any applicant for a nonimmigrant visa under section 101(a)(15)(K) of the Act who is the beneficiary of a valid visa petition approved by the Service under that section may apply for permission to reapply for admission to the United States after deportation or removal by submitting Form I–212 to the consular officer. The consular officer shall forward the Form I–212 to the Service officer having jurisdiction over the area within which the consular officer is located. If the alien is ineligible on grounds which may be waived under section 212 (g), (h), or (i) of the Act upon the applicant's marriage to the United States citizen petitioner, the consular officer shall also forward a recommendation whether the waiver should be granted.

(d) *Applicant for immigrant visa.* Any applicant for an immigrant visa who is not physically present in the United States, and who requires permission to reapply, may file Form I–212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held. If the applicant also requires a waiver under section 212 (g), (h), or (i) of the Act, a Form I–601 must be filed simultaneously with the American consul having jurisdiction over the alien's place of residence. The consul shall forward the applications to the appropriate Service officer abroad who has jurisdiction over the area within which the consul is located.

(e) *Applicant for adjustment of status.* Any applicant for adjustment of status under section 245 of the Act and Part 245 of this chapter who requires permission to reapply in conjunction with an application for adjustment of status must file an application for permission to reapply, Form I–212, with the district director having jurisdiction over the place where the alien resides. If the application under section 245 of the Act has been initiated, renewed, or is pending in a proceeding before an immigration judge, the district director shall refer the Form I–212 to the immigration judge for adjudication.

(f) *Applicant for admission at port of entry.* Any alien may request permission to reapply for admission to the United States within five years of the date of deportation or removal by filing with the district director having jurisdiction over the port or entry Form I–192 (if the alien is seeking temporary admission) or Form I–212 (if the alien is seeking lawful admission for permanent residence). However, the district director may authorize an alien seeking temporary admission at a port of entry to apply on Form I–212 for permission to reapply after deportation or removal.

(g) *Other applicants.* Any applicant for permission to reapply for admission under circumstances other than those described in paragraphs (b)–(f) of this section shall file Form I–212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held, or with the district director who exercised or is exercising jurisdiction over the most recent proceeding relating to the applicant. If the applicant is physically present in the United States but is ineligible to apply for adjustment of status, the application must be filed with the district director having jurisdiction over the alien's place of residence.

* * * * *

3. In § 212.7, paragraph (b) is revised to read as follows:

§ 212.7 Waiver of certain grounds of excludability.

* * * * *

(b) *Section 212(g) (tuberculosis and certain mental conditions).*—(1) *General.* Any alien who is ineligible for a visa and is excluded from admission into the United States under section 212(a) (1), (3), or (6) of the Act may file an Application for Waiver of Grounds of Excludability (Form I–601) under section 212(g) of the Act at an office designated in paragraph (2). The family member specified in section 212(g) of the Act may file the waiver for the applicant if the applicant is incompetent to file the waiver personally.

(2) *Locations for filing Form I–601.* Form I–601 may be filed at any one of the following offices:

(i) The American consulate where the application for a visa is being considered if the alien is outside the United States;

(ii) The Service office having jurisdiction over the port of entry where the alien is applying for admission into the United States; or

(iii) The Service office having jurisdiction over the alien if the alien is in the United States.

(3) *Section 212(a)(6) (tuberculosis).* If the alien is excludable under section 212(a)(6) of the Act because of tuberculosis, he shall execute Statement A on the reverse of page 1 of Form I–601. In addition, he or his sponsor in the United States is responsible for having Statement B executed by the physician or health facility which has agreed to supply treatment or observation; and, if required, Statement C shall be executed by the appropriate local or State health officer.

(4) *Section 212(a) (1) or (3) (certain mental conditions).*—(i) *Arrangements for submission of medical report.* 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 the 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 and of serologic test for syphilis if the alien is 15 years of age or over, and other pertinent diagnostic tests; and findings as to the current mental condition of the alien, with information as to prognosis and life expectancy and with a report of a psychiatric examination conducted by a psychiatrist who shall, in case of mental retardation, also provide an evaluation of the alien's intelligence. For an alien with a past history of mental illness, the medical report shall also contain available information on which the U.S. Public Health Service can base a finding as to whether the alien has been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery. Upon receipt of the medical report, the consular or Service office shall refer it to the U.S. Public Health Service for review.

(ii) *Submission of statement.* 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 his sponsoring family member shall submit to the consular or Service office a statement, from a clinic, hospital, institution, school, other specialized facility, or

specialist in the United States acceptable to the U.S. Public Health Service. The Statement shall specify the name and address of the clinic, hospital, institution, school, other specialized facility, or specialist, and shall affirm that the specified facility or specialist has agreed to accept the alien for all necessary diagnostic studies and medical supervision for a period of 5 years and during such period to be responsible either for providing, or for ensuring that the alien is provided such additional care, training, or schooling as the diagnostic studies indicate to be necessary; that the alien, his sponsoring family member, or other responsible person has made complete financial arrangements for payment of any charges that will be made during the 5-year period for all necessary diagnostic studies, care, and specialized training or schooling of the alien, including services to be received from the specified facility or specialist or from other sources; that the specified facility or specialist will furnish the Director, Foreign Quarantine Program, Center for Disease Control, Atlanta, Ga. 30333, an initial report, giving a current evaluation of the mental status of the alien within 30 days after his arrival; semiannual reports of his mental status for a period of 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 medical supervision of the alien to another facility or specialist; 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 or specialist as may be required in connection with semiannual reports, or of his 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 he has arrived in the United States; and that the alien will be in an outpatient, inpatient, study, or other status as determined by the responsible local physician or specialist, during the initial evaluation and during any subsequent care or observation deemed necessary.

(5) *Assurances: Bonds.* In all cases under paragraph (b) of this section the alien or his 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 will submit to such further examinations, treatment, schooling, training, and medical regimen as may be required, whether in an outpatient, inpatient, study, or other status, and that, before responsibility for the medical supervision of the alien is transferred to another facility or specialist, the alien or the sponsoring family member will obtain approval from the Director, Foreign Quarantine Program, Center for Disease Control, Atlanta, Ga. 30333. The alien, his sponsoring family member, or other responsible person 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. For procedures relating to cancellation or breaching of bonds, see Part 103 of this chapter.

* * * * *

4. Section 212.10 is reprinted for reader convenience:

§ 212.10 Section 212(k) waiver.

Any applicant for admission who is in possession of an immigrant visa, and who is excludable under section 212(a)(14), (20), or (21) of the Act, may apply to the district director at the port of entry for a waiver under section 212(k) of the Act. If the application for waiver is denied by the district director, the application may be renewed in exclusion proceedings before an immigration judge as provided in Part 236 of this chapter.

(Secs. 103, 203, 212 of the Immigration and Nationality Act, as amended by secs. 4, 5, 18 of Pub. L. 97-116, 95 Stat. 1611, 1620, (8 U.S.C. 1103, 1153, 1182)

PART 214—NONIMMIGRANT CLASSES

5. In § 214.2, paragraphs (j)(2)(ii) and (3) are revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(j) * * *

(2) * * *

(ii) *Exemptions.* From January 10, 1978 until December 31, 1983, any alien who has come or seeks to come to the United States as an exchange visitor to participate in an accredited program of graduate medical education or training, or any alien who seeks to change nonimmigrant status for such purpose, may be admitted to participate in such program without regard to the requirements stated in subparagraphs (A) and (B)(ii)(I) of section 212(j)(1) of the Act if a substantial disruption in the health services provided by such program would result from not permitting the alien to participate in the program: *Provided,* That the exemption will not increase the total number of aliens then participating in such programs to a level greater than that participating on January 10, 1978.

(3) *Aliens in cancelled programs.* When the approval of an exchange visitor program is withdrawn by the Director of the International Communication Agency, the district director shall send a notice of the withdrawal to each participant in the program. A copy of each such notice shall also be sent to the program sponsor. If the exchange visitor is currently engaged in activities authorized by the cancelled program, the participant is authorized to remain in the United States to engage in those activities until expiration of the period of stay previously authorized. The district director shall also notify participants in cancelled programs that permission to remain in the United States as an exchange visitor, or extension of stay may be obtained if the participant is accepted in another approved program and a Form IAP-66, executed by the new program sponsor, is submitted. In this case, a release from the sponsor of the cancelled program will not be required.

* * * * *

(Secs. 103, 214, 66 Stat. 173, 189; Sec. 5, Pub. L. 97-116, 95 Stat. 1612 (8 U.S.C. 1103, 1184))

PART 223—REENTRY PERMITS

6. Section 223.2 is revised to read as follows:

§ 223.2 Period of validity.

A reentry permit is valid for a maximum period of two years unless otherwise restricted. The period of validity commences from the date of issuance and not from the date the application for the permit was submitted to the Service. A reentry permit cannot be renewed.

7. Section 223.4 is revised to read as follows:

§ 223.4 Revalidation.

A reentry permit issued after December 29, 1980 is revalidated for a period of two years from the original date of issuance, except a restricted permit which: (a) Is valid for less than the maximum period allowed or (b) authorizes a limited number of entries.

(Secs. 103, 223, 66 Stat. 173, 194; sec. 6, Pub. L. 97-116, 95 Stat. 1615 (8 U.S.C. 1103, 1203))

PART 237—DEPORTATION OF EXCLUDED ALIENS

8. Section 237.6 is revised to read as follows:

§ 237.6 Deportation.

(a) *Definitions of terms.* For the purposes of this section, the following terms mean:

(1) Adjacent island—as defined in section 101(b)(5) of the Act.

(2) Foreign contiguous territory—any country sharing a common boundary with the United States.

(3) Residence in foreign contiguous territory or adjacent island—any physical presence, regardless of intent, in a foreign contiguous territory or an adjacent island if the government of such territory or island agrees to accept the alien.

(4) Aircraft or vessel—any conveyance and other mode of travel by which arrival is effected.

(b) *Place to which deported.* Any alien (other than an alien crewmember or an alien who boarded an aircraft or vessel in foreign contiguous territory or an adjacent island) who is ordered excluded shall be deported to the country where the alien boarded the vessel or aircraft on which the alien arrived in the United States. If that country refuses to accept the alien, the alien shall be deported to:

(1) The country of which the alien is a subject, citizen, or national;

(2) The country where the alien was born;

(3) The country where the alien has a residence; or

(4) Any country willing to accept the alien.

(c) *Contiguous territory and adjacent islands.* Any alien ordered excluded who boarded an aircraft or vessel in foreign contiguous territory or in any adjacent island shall be deported to such foreign contiguous territory or adjacent island if the alien is a native, citizen, subject, or national of such foreign contiguous territory or adjacent island, or if the alien has a residence in such foreign contiguous territory or adjacent island. Otherwise, the alien shall be deported, in the first instance, to the country in which is located the port at which the alien embarked for such foreign contiguous territory or adjacent island.

(d) *Land border pedestrian arrivals.* Any alien ordered excluded who arrived at a land border on foot shall be deported in the same manner as if the alien had boarded a vessel or aircraft in foreign contiguous territory.

(Secs. 103, 237 of the Immigration and Nationality Act; as amended by Sec. 7, Pub. L. 97-116, 95 Stat. 1615 (8 U.S.C. 1103, 1227))

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

9. In § 242.8, paragraph (a) is revised to read as follows:

§ 242.8 Immigration judges.

(a) *Authority.* In any proceeding conducted under this part the immigration judge shall have the authority to determine deportability and to make decisions, including orders of deportation, as provided by section 242(b) of the Act; to reinstate orders of deportation as provided by section 242(f) of the Act; to determine applications under sections 208, 212(k), 241(a)(11), 241(f), 244, 245, and 249 of the Act; to determine the country to which an alien's deportation will be directed in accordance with section 243(a) of the Act; to order temporary withholding of deportation pursuant to section 243(h) of the Act; and to take any other action consistent with applicable law and regulations as may be appropriate. An immigration judge may certify his or her decision in any case to the Board of Immigration Appeals when it involves an unusually complex or novel question of law or fact. Nothing contained in this part shall be construed to diminish the authority conferred on immigration judges under section 103 of the Act.

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10. In § 242.17, paragraph (d) is reprinted for reader convenience:

§ 242.17 Ancillary matters, applications.

* * * * *

(d) *Application for relief under section 241(f).* The respondent may apply to the immigration judge for relief from deportation under section 241(f) of the Act.

* * * * *

(Secs. 103, 208, 242 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1158, 1252))

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

11. Section 245.1 is revised to read as follows:

§ 245.1 Eligibility.

(a) *General.* Any alien who was inspected and admitted or paroled into the United States, except an alien who is ineligible to apply for adjustment of status as noted in paragraph (b) of this section, may apply for adjustment of status to permanent resident if the applicant is eligible to receive an immigrant visa and an immigrant visa is immediately available at the time of filing of the application.

(b) *Ineligible aliens.* The following categories of aliens are ineligible to apply for adjustment of status to permanent residence under section 245 of the Act:

(1) Any alien who entered the United States in transit without a visa;

(2) Any 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;

(3) Any alien who was not admitted or paroled following inspection by an immigration officer;

(4) Any alien who on or after January 1, 1977 was employed in the United States without authorization prior to filing an application for adjustment of status, except an applicant who is an immediate relative as defined in section 201(b) of the Act or a special immigrant as defined in section 101(a)(27)(H) of the Act;

(5) Any nonpreference alien who is seeking or engaging in gainful employment in the United States who is not the beneficiary of a valid individual or blanket labor certification issued by the Secretary of Labor or who is not exempt from certification requirements under section 212.8(b) of this chapter;

(6) Any alien who has or had the status of an exchange visitor under section 101(a)(15)(J) of the Act and who is subject to the foreign residence requirement of section 212(e) of the Act, unless the alien has complied with the foreign residence requirement or has been granted a waiver of that requirement, under that section;

(7) Any alien who has 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 the alien were seeking admission to the United States, entitle the alien to nonimmigrant status under those paragraphs, unless the alien first executes and submits the written waiver required by section 247(b) of the Act and Part 247 of this chapter; and

(8) Any alien who claims immediate relative status under section 201(b) or preference status under section 203(a)(1) through 203(a)(6) of the Act, unless the applicant is the beneficiary of a valid unexpired visa petition filed in accordance with Part 204 of this chapter.

(c) *Special categories.*—(1) *Alien medical graduates.* Any alien who is a medical graduate qualified for special immigrant classification under section 101(a)(27)(H) of the Act is eligible for adjustment of status. An accompanying

spouse and children also may apply for adjustment of status under this section. Temporary absences from the United States of 30 days or less do not interrupt the continuous presence requirement during which the applicant was practicing or studying medicine. Temporary absences authorized under the Service's advance parole procedures will not be considered interruptive of continuous presence when the alien applies for adjustment of status.

(2) *Nonpreference investors.*—(i) Any alien investor, if otherwise qualified, is eligible for adjustment of status if:

(A) The applicant was present in the United States on or before June 1, 1978;

(B) The applicant qualified as a nonpreference immigrant under section 203(a)(8) of the Act as in effect on or before June 1, 1978;

(C) The applicant applied for adjustment of status on or before June 1, 1978;

(D) The applicant was determined to be exempt from the labor certification requirement of section 212(a)(14) of the Act because the applicant had actually invested capital in an enterprise in the United States before that date;

(E) The applicant was a principal manager of that enterprise; and

(F) That enterprise employed one or more U.S. citizens or permanent residents other than a spouse or child of the applicant.

(ii) The employment of the U.S. citizen or permanent resident may have occurred at any time and for any period of time in the enterprise or any subsequent enterprise.

(iii) Any applicant under this section may qualify with an investment in an enterprise other than that used to establish the applicant's priority date, or may qualify without a present investment.

(iv) Any applicant will have qualified as a nonpreference immigrant on or before June 1, 1978 for purposes of this section, if the application for investor status was actually approved on or before that date, or the application was subsequently approved with a priority date on or before June 1, 1978.

(v) Any alien qualified under this subsection is exempt from the restrictions of sections 212(a)(14) and 245(c)(2) of the Act.

(vi) A spouse or children of an investor qualified under this section may also apply for adjustment of status.

(d) *Concurrent applications to overcome exclusionary grounds.* 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), (i), and (k) of the Act, as they relate to the excludability of an alien in the United States. Any applicant for adjustment under this part may also apply for the benefits of section 212(c) of the Act, for permission to reapply after deportation or removal under section 212(a)(17) of the Act, and for the benefits of section 212(a)(28)(I)(ii) of the Act. No fee is required for filing an application to overcome the exclusionary grounds of the Act if filed concurrently with an application for adjustment of status under the provisions of the Act of October 28, 1977, and of this part.

* * * * *

(Secs. 103, 245, 66 Stat. 173, 217, secs. 5, and 19, Pub. L. 97–116, 95 Stat. 1614, 1621 (8 U.S.C. 1103, 1255))

12. Section 245.3 is revised to read as follows:

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

Any application for benefits under section 13 of the Act of September 11, 1957, as amended, must be filed on Form I–485 with the district director having jurisdiction over the applicant's place of residence. The benefits under section 13 are limited to aliens who were admitted into the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Immigration and Nationality Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government which accredited the applicant and that adjustment of the applicant's status to that of an alien lawfully admitted for permanent residence would be in the national interest. Aliens whose dutes were of a custodial, clerical, or menial nature, and members of their immediate families, are not eligible for benefits under section 13. In view of the annual limitation of 50 on the number of aliens whose status may be adjusted under section 13, any alien who is prima facie eligible for adjustment of status to that of a lawful permanent resident under another provision of law shall be advised to apply for adjustment pursuant to such other provision of law. An applicant for the benefits of section 13 shall not be subject to the labor certification requirement of section 212(a)(14) of the Immigration and Nationality Act. The applicant shall be notified of the decision and, if the application is denied, of the reasons for the denial and of the right to appeal under the provisions of Part 103 of this chapter. Any applications pending with the Service before December 29, 1981 must be resubmitted to comply with the requirements of this section.

* * * * *

(Secs. 103, 245, of the Immigration and Nationality Act, as amended; 71 Stat. 642, as amended, sec. 17, Pub. L. 97–116, 95 Stat. 1619 (8 U.S.C. 1103, 1255, 1255b))

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

13. Section 248.2 is revised to read as follows:

§ 248.2 Ineligible classes.

The following categories of aliens are not eligible to change their nonimmigrant status under section 248 of the Act:

(a) Any alien in immediate and continuous transit through the United States without a visa;

(b) Any alien classified as a nonimmigrant under section 101(a)(15)(C), (D), or (K) of the Act;

(c) Any foreign medical graduate admitted as a nonimmigrant under section 101(a)(15)(J) of the Act, or who acquired such status after admission in order to receive graduate medical education or training, whether or not the alien was subject to, received a waiver of, or fulfilled the two-year foreign residence requirement of section 212(e) of the Act; and

(d) Any alien classified as a nonimmigrant under section 101(a)(15)(J) of the Act (other than an alien described in paragraph (c) of this section) who is subject to the foreign residence requirement of section 212(e) of the Act and who has not received a waiver of the residence requirement, except when the alien applies to change to a classification under section 101(a)(15)(A) or (G) of the Act.

(Secs. 103, 248 of the Immigration and Nationality Act; as amended, sec. 10, Pub. L. 97–116, 95 Stat. 1617 (8 U.S.C. 1103, 1258))

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

14. Section 249.1 is revised to read as follows:

§ 249.1 Waiver of inadmissibility.

In conjunction with an application under section 249 of the Act, an otherwise eligible alien who is inadmissible under paragraph (9), (10), or (12) of section 212(a) of the Act or so much of paragraph (23) of section 212(a) of the Act as relates to a single offense of simple possession of 30 grams or less of marihuana may request a waiver of

such ground of inadmissibility under section 212(h) of the Act. Any alien within the classes described in subparagraphs (B) through (H) of section 212(a)(28) of the Act may apply for the benefits of section 212(a)(28)(I)(ii) in conjunction with an application under section 249 of the Act.

(Secs. 103, 212, 249 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1182, 1259)

PART 265—NOTICES OF ADDRESS

15. Section 265.1 is revised to read as follows:

§ 265.1 Forms.

Except for those exempted by section 263(b) of the Act, all aliens in the United States required to register under section 262 of the Act shall report each change of address and new address within 10 days on Form AR–11. This form is available at post offices and Service offices in the United States. The completed form must be mailed to the Department of Justice, Immigration and Naturalization Service, Washington, DC 20536.

* * * * *

(Secs. 103, 265 of the Immigration and Nationality Act, as amended by sec. 11, Pub. L. 97–166, 95 Stat. 1617 (8 U.S.C. 1103, 1305))

Dated: September 24, 1982.

Alan C. Nelson.

Commissioner of Immigration and Naturalization.

[FR Doc. 82–27543 Filed 10–6–82; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Part 223

Expired Reentry Permits

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule provides official notification to alien holders of expired reentry permits that an expired reentry permit which contains valid visas or entry stamps will be returned by the designated Service official upon request for a new reentry permit. This procedure benefits the alien who no longer is required to obtain replacement visas and entry stamps after obtaining a new reentry permit.

EFFECTIVE DATE: October 7, 1982.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting, Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 633–3048.

For Specific Information: Margaret M. Smitherman, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: This rule formalizes the Service's decision to allow an alien to retain an expired reentry permit that contains valid visas or entry stamps. Previously these documents were required to be surrendered to the Service even though the existing visas were valid. This procedure created an unnecessary inconvenience for the alien who, upon receipt of a new reentry permit, was required to obtain replacement visas and entry stamps. Although this procedure is intended to benefit the alien, it in no way relieves the alien of submitting the expired reentry permit to an immigration official before a new reentry permit will be issued.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is unnecessary because the rule grants a benefit.

In accordance with 5 U.S.C. 605(b) the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities because the rule grants a benefit to the alien.

This rule is exempt from the requirement of E.O. 12291 as provided by section 1(a)(3) of the Executive Order because it relates solely to Service organization and procedure.

List of Subjects in 8 CFR Part 223

Administrative practice and procedure, Aliens, Reentry permits.

PART 223—REENTRY PERMITS

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

Section 223.3 is revised to read as follows:

§ 223.3 Expired permits.

Upon the expiration of the period of validity of a reentry permit, the permit shall be surrendered by the holder to the issuing office. If the expired permit has not been surrendered to the Service, no subsequent reentry permit shall be issued to the same alien unless the alien first surrenders the expired permit, or satisfactorily explains why the permit cannot be surrendered. However, an alien shall be permitted to retain an expired reentry permit that contains valid visas, entry stamps or documents necessary for entry into another country. The expired reentry permit shall be voided by an immigration officer by clipping the upper left hand corner of the cover and indentification page prior to returning the document to the alien.

(Secs. 103, 223 of the I&N Act, as amended; 8 U.S.C. 1103, 1203)

Dated: September 24, 1982.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 82–27540 Filed 10–6–82; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Part 274

Seizure and Forfeiture of Vehicles, Vessels and Aircraft; Immigration and Nationality Act Amendments of 1981

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts, with amendments, the Service's interim rule relating to the seizure and forfeiture of conveyances used in the unlawful transportation of aliens in violation of the Immigration and Nationality Act as amended by Pub. L. 97–116. The interim rule with comment period was promulgated on May 5, 1982 at 47 FR 19315. After considering the comments received, the Service is making appropriate amendments to specific sections of 8 CFR Part 274. The balance of Part 274 remains in effect as published on May 5, 1982.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Paul D. McClure, Criminal Investigator, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–2471.

SUPPLEMENTARY INFORMATION: On May 5, 1982, an interim rule with request for comments was published in the **Federal Register** at 47 FR 19315 to revise Part 274 of Title 8 of the Code of Federal Regulations. Part 274 was revised to implement the related section of the Immigration and Nationality Act as amended by Section 12 of Pub. L. 97–116, as well as to reorganize and rewrite the remaining regulations. The rule became effective on May 5, 1982. This final rule adopts the interim rule with appropriate amendments to Part 274. The balance of Part 274, as published on May 5, 1982, remains in effect as final regulations.

Section 12 of Pub. L. 97–116 (95 Stat. 1617; 8 U.S.C. 1324 (b)), effective December 29, 1981, brings the Immigration and Naturalization Service (INS) forfeiture law and procedures into