Niobrara
Park
Platte
Sheridan
Uinta
Washakie
Weston

Done in Washington, D.C., on February 23, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: March 28, 1983.

[FR Doc. 83-8722 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR PART 1033

Milk in the Ohio Valley Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of milk plants under the Ohio Valley Federal milk order. The suspension makes inoperative for the months of April through September 1983 the requirement that a distributing plant dispose of not less than 45 percent of its receipts as route disposition in March through August, and 50 percent during September through February, in order to be a pool plant. The action was requested by a proprietary handler operating four distributing plants pooled under the order to assure the efficient disposition of milk not needed for fluid use and still maintain pool status for its distributing plants and producer status for dairy farmers who regularly have supplied the fluid milk needs of the market. No comments were received in opposition to a notice of proposed suspension.

EFFECTIVE DATE: April 5, 1983.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 7, 1983; published March 11, 1983 (48 FR 10371).

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

It also 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 required suspension procedures in time to include April 1983 in the suspension period. The initial request for this action was received March 2, 1983. A notice of proposed suspension was issued on March 7, 1983, inviting interested parties to comment on the proposed action by March 18, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This 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 Ohio Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on March 11, 1983, (48 FR 10371) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded an opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of April through September 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1033.12, paragraph (a)(2).

Statement of Consideration

This action makes inoperative for April through September 1983 the provision requiring a distributing plant to dispose of not less than 45 percent of its receipts as route disposition during the months of March through August, and 50 percent during September through Febraury, in order to remain pooled. The suspension was requested by Beatrice Foods Company, a proprietary handler which operates four pool distributing plants under the order.

The suspension is necessary because of producer milk deliveries in the Ohio Valley market which are increasing both seasonally and over the levels of previous years. At the same time milk production is at its seasonal peak, Beatrice anticipates a decline in Class I disposition from its plants due to summer closure of schools and the resulting loss of fluid sales to schools.

For January 1983, producer receipts in the Ohio Valley market were 3.8 percent over December 1982 production and 5.3 percent above January 1982. With the combination of increasing production and summer school closures, Beatrice states that it expects that the proportion of milk regularly associated with its distributing plants which will be needed to meet its route disposition requirements will be less than 45 percent in the months of April through August, and less than 50 percent in the month of September this year.

In the absence of suspension action, Beatrice indicated that it would be necessary to make costly and inefficient movements of milk solely for the purpose of pooling its distributing plants and the milk of dairy farmers who regularly have supplied the fluid milk needs of the market.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. A cooperative association delivering substantial quantities of its members' milk to three of Beatrice's pool distributing plants on a year-round basis supported the suspension in order to avoid incurring substantial costs in transporting its members' milk solely for the purpose of maintaining pool status for producers regularly associated with the market.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies that are in excess of fluid milk requirements. This action will eliminate the possibility that Beatrice Foods Company would find it necessary to make uneconomic movements of milk in order to assure the producer status of dairy farmers who are regular suppliers of milk for the fluid market.

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 assure the orderly marketing of milk in the marketing area in that substantial quantities of milk producers who regularly supply the market otherwise could be excluded from the marketwide

pool, thereby causing a disruption in the orderly marketing of milk;

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views opposing this suspension were received.

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

List of Subjects in 7 CFR Part 1033

Milk Marketing Orders,
Milk,
Dairy Products.

It is therefore ordered, That the aforesaid provisions in § 1033.12(a)(2) of the order are hereby suspended for April through September 1983.

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

Effective date: April 5, 1983.

Signed at Washington, D.C., on: March 30, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-8816 Filed 4-4-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records; Revisions to Service Fee Schedule

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the fee schedule of the Immigration and Naturalization Service. Changes to the fee schedule are necessary to place the financial burden of providing special services and benefits, which do not accrue to the public at large, on the individual recipients. Charges have been adjusted to more nearly reflect the current recovery cost of providing the benefits and services, taking into account public policy and other pertinent facts as required by law.

EFFECTIVE DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT:

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

For Specific Information: Ruth M. L. Homan, Director, Finance Staff, Immigration and Naturalization Service, 425 Eye St., NW., Washington, D.C. 20536, Telephone: (202) 633–3027.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service (INS) published a proposed rule on August 26, 1982 at 47 FR 37556 to amend the schedule of fees charged by the Service for the processing and adjudication of applications, petitions, motions and requests submitted by the public, and to provide a means by which an appealing party could obtain a transcript of a hearing commercially. Comments were received from more than 25 individuals and organizations, including professional and service associations, universities, attorneys, non-profit organizations, immigration judges, field directors, and members of the general public. All of the comments received were fully considered before preparing this final rule. The following summary addresses the substantive comments received and explains changes made to the fees and those proposed fees which are not being implemented.

I. Transcripts

Subsequent to the proposed rule, the functions of the Board of Immigration Appeals were transferred under the newly created Executive Office for Immigration Review (EOIR) which is directly under the Department of Justice (48 FR 8038, 8056 dated February 25, 1983). The proposed rule to amend 8 CFR 3.9 provided a mechanism for appealing parties to obtain transcripts of hearings commercially. However, this proposal is not being adopted at this time in view of the organizational changes which have occurred.

II. Fees

A. In general

Most of the comments received on the proposed fee schedule address the level of the fee amounts in general rather than specifically criticizing one proposed fee. Several commenters suggested that certain fees were too low considering the value of the services to the recipients. Others were concerned that some fee increases were too large for recipients to bear, suggesting that any necessary increase in revenue received by the Service should instead come from budgetary resources.

31 U.S.C. 483a requires Federal agencies to establish a fee system in which a benefit or service provided to or for any person be self-sustaining to the fullest extent by the fee schedule. Fees are neither intended to replace nor to be influenced by the budgetary process and related considerations, but instead, to be governed by the total cost to the agency to provide the service. A policy of setting fees according to the value of the service to the recipient, as some commenters have suggested, would violate this principle. The Service has therefore attempted to ascertain as accurately as possible the cost of providing each specific benefit or service and to set the pertinent fee accordingly.

Since the regulations provide for the waiver of a fee when it is shown that the recipient is unable to pay, the new fee schedule should not prohibit applications or requests on the basis of the inability to pay as some of the comments suggested. Furthermore, several fees for administrative appeal processes and for filing naturalization petitions are at less than full cost recovery recognizing longstanding public policy and the interest served by these processes.

B. Specific fees

1. *Non-immigrant student applications.* Several comments were received objecting to the proposed $15 fee for processing an application, Form I–538, for extension of stay, employment authorization, or school transfer by a non-immigrant student. The general concern was that charging such a fee would impose an overly burdensome economic hardship on foreign students, thereby damaging the foreign student exchange.

However, in view of the substantial financial commitment that is necessary prior to seeking an education in the United States, it is not likely the amount of this fee will adversely influence decisions on participation of foreign students in our domestic educational programs. The benefits applied for under Form I–538 normally arise because a student was not able to meet previously made commitments and must seek a change in status. The Service believes that Form I–538 benefits accrue directly to these individuals and this cost should not be borne by the general taxpaying public. Because there are provisions for fee waiver, these benefits will not be withheld from those who truly lack financial resources to meet this fee requirement and the fee will provide equity by charging those who can.

In the proposed rule, the Service inadvertently included in the list of motions exempted from a fee a motion to reopen or reconsider a decision on a

Form I-538 application. Since in the proposed and final rule, a fee is now required for all student Form I-538 applications, a motion filed to reopen or reconsider a student application is no longer exempted.

2. *Fees for Appeal Processes.* The proposed rule provided for a new $50 fee for filing an appeal to the Board of Immigration Appeals from a bond decision of an immigration judge. This new fee is not implemented in view of the recent creation of the Executive Office for Immigration Review (EOIR).

Fees for filing an application for stay of deportation under Part 243 of 8 CFR, filing an application for suspension of deportation under section 244 of the Act, filing an appeal to the BIA, and filing an application for temporary withholding of deportation under section 243(h) of the Act, which were proposed to be increased to $110, will remain at the current levels of $70, $75, $50, and $50 respectively. The proposed fee increases are not being implemented because these matters fall within the jurisdiction of the EOIR. A number of commenters were opposed to increasing the fees for administrative appeals; however, since these fees are not being increased by this final rule, the issues raised are moot. Any future changes to these fees may be initiated by the EOIR under Part 3 of 8 CFR. Further, in order to avoid disparity between the fee for filing an appeal to the BIA and fees for filing administrative appeals within the Service, the proposed increases to the fee for filing an appeal on Form I-290B and the fee for filing a motion to reopen or reconsider an administrative decision under the immigration laws are not adopted and the currently prescribed fees of $50 remain in effect.

3. *Orphan petitions.* Effective February 28, 1983, a new application (Form I-600A) was added to the fee schedule for requesting advance processing of an orphan petition. Advance processing of orphans was previously filed on Form I-600 and this application carries the same fee as the Form I-600. Accordingly, the fee for Form I-600 and Form I-600A is increased from $35 to $50 as proposed for Form I-600.

The following represents a summary of the fees as proposed, adopted, and those which remain unchanged:

Form/application	Proposed fee	Adopted fee	Action
Form G-641 application	$15.00	$15.00	Adopted as proposed.
For certification	2.00	2.00	Do.
For attestation	2.00	2.00	Do.
Form I-17	50.00	50.00	Do.
Form I-90	15.00	15.00	Do.
Form I-102	15.00	15.00	Do.
Form I-129B	35.00	35.00	Do.
Form I-129F	35.00	35.00	Do.
Form I-130	35.00	35.00	Do.
Form I-131	15.00	15.00	Do.
Form I-140	50.00	50.00	Do.
Form I-191	50.00	50.00	Do.
Form I-192	35.00	35.00	Do.
Form I-193	15.00	15.00	Do.
Form I-196	15.00		U.S. citizen ID card discontinued.
Form I-212	35.00	35.00	Adopted as proposed.
Form I-246	110.00	70.00	Fee remains at current level: jurisdiction with EOIR.
Form I-258A	110.00	75.00	Do.
Form I-290A	110.00	50.00	Do.
Form I-290B	110.00	50.00	Fee remains unchanged.
Form I-485	50.00	50.00	Adopted as proposed.
Form I-506	15.00	15.00	Do.
Form I-538	15.00	15.00	Do.
Form I-539	15.00	15.00	Do.
Form I-570	15.00	15.00	Do.
Form I-600	50.00	50.00	Do.
Form I-600A	Same as I-600	50.00	Increased w/I-600 proposal.
Form I-601	35.00	35.00	Adopted as proposed.
Form I-612	50.00	50.00	Do.
Form N-400	35.00	35.00	Do.
Form N-410	15.00	15.00	Do.
Form N-455	15.00	15.00	Do.
Form N-470	15.00	15.00	Do.
Form N-565	15.00	15.00	Do.
Form N-577	15.00	15.00	Do.
Form N-580	15.00	15.00	Do.
Form N-600	35.00	35.00	Do.
Motion to reopen or reconsider	110.00	50.00	Fee remains at current level.
Request for temporary withholding of deportation	110.00	50.00	Fee remains at current level: jurisdiction with EOIR.
Request for statistical tabulations	Cost	Cost	No change.
Passenger travel tables	7.00	7.00	Do.
N-300/315	15.00	15.00	Adopted as proposed.
N-405/407	50.00	50.00	Do.

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.

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

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records, Authority delegations (Government agencies), Fees, Forms, Freedom of Information Act, Organization and functions (Government agencies).

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

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

Paragraph (b) of § 103.7 is revised to read as follows:

§ 103.7 Fees.

* * * * *

(b) *Amounts of fees*—(1) The following fees and charges are prescribed:

Form I-17. For filing application for school approval, except in the case of a school or school system owned or operated as a

Form G-641. For filing application for verification of information contained in Service records—$15.00

For certification of true copies, each—$2.00

For attestation under seal—$2.00

public educational institution or system by the United States or a state or political subdivision thereof—$50.00

Form I-90. For filing application for Alien Registration Receipt Card (Form I-551) in lieu of an obsolete card or in lieu of one lost, mutilated or destroyed, or in a changed name—$15.00

Form I-102. For filing application (Form I-102) for Arrival-Departure Record (Form I-94) or Crewman's Landing Permit (Form I-95), in lieu of one lost, mutilated, or destroyed—$15.00

Form I-129B. For filing petition to classify nonimmigrant as temporary worker or trainee under section 214(c) of the Act—$35.00

Form I-129F. For filing petition to classify nonimmigrant as fiancee or fiance under section 214(d) of the Act—$35.00

Form I-130. For filing petition to classify status of alien relative for issuance of immigrant visa under section 204(a) of the Act—$35.00

Form I-131. For filing application for issuance of reentry permit—$15.00

Form I-140. For filing petition to classify preference status of an alien on basis of profession or occupation under section 204(a) of the Act—$50.00

Form I-191. For filing application for discretionary relief under section 212(c) of the Act—$50.00

Form I-192. For filing application for discretionary relief under section 212(d)(3) of the Act, except, in an emergency case, or where the approval of the application is in the interest of the United States Government—$35.00

Form I-193. For filing application for waiver of passport and/or visa—$15.00

Form I-212. For filing application for permission to reapply for an excluded or deported alien, an alien who has fallen into distress and has been removed as an alien enemy, or an alien who has been removed at Government expense in lieu of deportation—$35.00

Form I-246. For filing application for stay of deportation under Part 243 of this chapter—$70.00

Form I-256A. For filing application for suspension of deportation under section 244 of the Act—$75.00

Form I-290A. For filing appeal from any decision under the immigration laws in any type of proceedings (except a bond decision) over which the Board of Immigration Appeals has appellate jurisdiction in accordance with section 3.1(b) of this Chapter. (The fee of $50 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision)—$50.00

Form I-290B. For filing an appeal from any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction. (The fee of $50 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision).—$50.00

Form I-485. For filing application on Form I-485 for permanent residence status or for creation of a record of lawful permanent residence.—$50.00

Form I-506. For filing application for change of nonimmigrant classification under section 248 of the Act.—$15.00

Form I-538. For filing application by a nonimmigrant student (F-1) for an extension of stay, a school transfer or permission to accept or continue employment or practical training.—$15.00

Form I-539. For filing application for extension of stay of a nonimmigrant, other than one described in section 101(a)(15)(F) or 101(a)(15)(J) of the Act, and, upon a basis of reciprocity, a nonimmigrant described in section 101(a)(15)(A)(iii) or 101(a)(15)(G)(v) of the Act.—$15.00

Form I-570. For filing application for issuance or extension of refugee travel document.—$15.00

Form I-600. For filing petition to classify orphan as an immediate relative for issuance of immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.—$50.00

Form I-600A. For filing application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required).—$50.00

Form I-601. For filing application for waiver of ground 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 sub-sections.—$35.00

Form I-612. For filing application for waiver of the foreign-residence requirement under section 212(e) of the Act.—$50.00

Form N-400. For filing application for certificate of citizenship on Form N-400 by a parent, and the issuance thereof, under section 341 of the Act.—$35.00

Form N-410. For filing motion for amendment of petition for naturalization when motion is for the convenience of the petitioner.—$15.00

Form N-455. For filing application for transfer of petition for naturalization under section 335(i) of the Act, except when transfer is of a petition for naturalization filed under the Act of October 24, 1968, P.L. 90-633.—$15.00

Form N-470. For filing application for section 316(b) or 317 of the Act benefits.—$15.00

Form N-565. For filing application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; or for a certificate of citizenship in a changed name under section 343(b) or (d) of the Act.—$15.00

Form N-577. For filing application for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(e) of the Act—$15.00

Form N-580. For filing application for a certificate of naturalization or repatriation under section 343(a) of the Immigration and Nationality Act or the 12th subdivision of section 4 of the Act of June 29, 1906—$15.00

Form N-600. For filing application for certificate of citizenship under section 309(c) or section 341 of the Act—$35.00

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws (except on applications filed by exchange visitors on Form IAP-66, Cuban refugees on Form I-485A filed under the Act of November 2, 1966, or A-1, A-2 or G-4 nonimmigrants on Form I-566 for which no fee is chargeable). When the motion to reopen or reconsider is made concurrently with any application under the immigration laws, the application will be considered an integral part of the motion and only the fee for filing the motion or the fee for filing the application, whichever is greater, is payable. (The fee of $50 will be charged whenever a motion is filed by or on behalf of two or more aliens and the aliens are covered by one decision)—$50.00

Request. For filing application for temporary withholding of deportation under section 243(h) of the Act—$50.00

Request. For special statistical tabulations a charge will be made to cover the cost of the work involved—Cost

Request. For set of monthly, semiannual, or annual tables entitled "Passenger Travel Reports via Sea and Air" [1]—$7.00

[1] Available from Immigration & Naturalization Service for years 1975 and before. Later editions are available from the United States Department of Transportation, contact: United States Department of Transportation, Transportation Systems Center, Kendall Sqaure, Cambridge, MA. 02142.

(2) Fees for production or disclosure of records under 5 U.S.C. 552 shall be charged in accordance with the regulations of the Department of Justice, 28 CFR 16.9.

(3) Except as otherwise provided in paragraph (c) of this section, for services performed under section 344(a) of the Act the clerk of the court shall charge, collect, and account for the following fees:

Form N-300/315. For receiving and filing a declaration intention—$15.00

Form N-405/407. For making, filing, and docketing a petition for naturalization—$50.00

* * * * *

(Sec. 103, 66 Stat. 173, 31 U.S.C. 483a; 8 U.S.C. 1103, OMB Cir. A-25)

Dated: March 17, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-8723 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Parts 214 and 248

Nonimmigrant Classes; Change of Nonimmigrant Classification; Revisions in Regulations Pertaining to Nonimmigrant Students and the Schools Approved for Their Attendance

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service is revising the regulations regarding F-1 academic students and F-1 students in language training programs to eliminate burdensome paperwork. The Service is also publishing regulations pertaining to the new M-1 nonimmigrant visa classification for vocational or nonacademic students not in language training programs, which was created by the Immigration and Nationality Act Amendments of 1981, Pub. L. 97-116. In addition, the Service is revising its regulations relating to schools approved for attendance by F-1 and M-1 students in order to control abuses by mala fide schools.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, 425 I Street NW., Washington, D.C. 20536, Telephone (202) 633-3048
For Specific Information: Alice Strickler, Immigration Examiner, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-5015.

SUPPLEMENTARY INFORMATION: On May 28, 1982, the Service published proposed regulations relating to nonimmigrant students and the schools approved for their attendance in the **Federal Register** at 47 FR 23463. The thirty-day comment period was to end on June 28, 1982. On June 25, 1982, however, due to requests for additional time within which to submit written comments, the Service, in 47 FR 27565, extended the comment period for an additional thirty days until July 27, 1982.

The regulations proposed to eliminate the requirement for the filing and adjudication of applications for extension of stay, permission to transfer from one school to another, and permission to engage in practical training for F-1 students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, and other academic institutions, and in language training programs. (As a result of section 2(a)(1) of the Immigration and Nationality Act Amendments of 1981, Pub. L. 97-116, 95 Stat. 1161, as of June 1, 1982, the F-1 visa classification was limited to those students.)

The regulations also proposed procedures for the efficient administration of that portion of section 2(a)(2) of the Immigration and Nationality Act Amendments of 1981 (section 101(a)(15)(M) of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15)(M), which pertains to creation of an M nonimmigrant visa classification for vocational or nonacademic students not in language training programs. The M-1 classification went into effect on June 1, 1982; however, until August 1, 1983, prior regulations relating to F-1 students continue to apply to M-1 students.

In addition, the Service proposed revisions in the regulations relating to schools approved for attendance by nonimmigrant students to make more effective use of institutional sponsorship of the students by the schools and to control abuses by mala fide schools. These proposals included new record-keeping and reporting requirements, additional ground for withdrawing the approval of a school for attendance by nonimmigrant students, and a one-time recertification process under which all schools seeking to continue their approvals would reapply for approval and reaffirm their intent to comply with Service regulations.

Eighty-two individuals and organizations submitted written comments on the proposed regulations. Many of the individuals and organizations offered numerous comments on various different aspects of the proposals. The Service has carefully analyzed all comments and has identified six major areas of concern, as well as a variety of general and technical points. The six major areas of concern are:

(1) Return to the prior policy of duration of status for F-1 students,

(2) School transfer for F-1 students as a notification procedure instead of as an adjudication procedure,

(3) Off-campus employment authorization for F-1 students,

(4) Practical training for F-1 students,

(5) The strictness of the provisions on M-1 students, and

(6) The record-keeping and reporting requirements.

Duration of Status

Under prior regulations, a student was admitted for or otherwise granted the period of time necessary to complete the course of study indicated on the Certificate of Eligibility, Form I-20A, issued by the school the student planned to attend. Under the proposed regulations, an F-1 student would be admitted for duration of status, which would be the period of time during which the student is pursuing a full course of study in one or more educational programs and any period or periods of authorized practical training, plus thirty days.

Thirty individuals and organizations were generally in favor of the proposal on duration of status, while twenty individuals and organizations were generally opposed to it. Eleven individuals and organizations stated specifically that they were in favor of the proposal, while twelve individuals and organizations stated specifically that they were against it. In general, those in favor of the proposal saw it as a means of eliminating burdensome paperwork. Those against it were concerned about a perceived lack of control over F-1 students.

Under § 214.2(f)(5) of this final rule, the Service is reinstituting the policy of duration of status for F-1 students but is limiting duration of status to the period of time during which the student is pursuing a full course of study in only one educational program (e.g. elementary school, high school, bachelor's degree, or master's degree) and any period or periods of authorized practical training, plus thirty days. A student desiring to pursue a course of study in another educational program must apply for an extension of stay, and, if applicable, a school transfer. Furthermore, a student who has completed one educational program and who desires to complete another educational program at the same level of educational attainment (for example, a second master's degree) must also apply for an extension of stay and, if applicable, a school transfer.

The duration of status policy which the Service is implementing has several advantages. It will reduce the Service workload and eliminate unnecessary paperwork for the public. A bona fide student who does not complete a course of study on the expected date of completion indicated on Form I-20A because of illness, academic difficulties, change in major field of study, or school transfer does not need to apply for an extension of stay as under prior regulations. The duration of status

policy which the Service is implementing also provides more control over F-1 students than the proposed procedure. Furthermore, the Service is instituting a procedure with its newly developed student and schools enhancement to its new computerized recordkeeping system which will monitor students in duration of status with a minimum of paperwork. Under the procedure, the schools will be sent computer-generated lists of students Service records indicate are attending the school. The designated school officials will then be requested to indicate whether each student listed is pursuing a full course of study. Appropriate action will be taken regarding those students who are not pursuing full courses of study.

The decision to return to duration of status is based on the results of the Iranian Student Registration Program, which involved the largest group of students in the United States from any one country at the time it began. As of May 18, 1981, 88 percent of these students were found to be in status including 3.6 percent who had been reinstated. Duration of status had been in effect from the beginning of the registration program on November 13, 1979 until February 23, 1982. The Service therefore has reason to believe that, with the extra control afforded by limiting duration of status to one educational program, coupled with the Service's computerized record-keeping system, the new duration of status policy will achieve excellent control over F-1 students with greatly reduced paperwork.

School Transfer

Under prior regulations, students desiring to transfer from one school to another had to apply to the Service for permission to do so. Under the proposed regulations, no application would be necessary for an F-1 student to effect a school transfer. The designated school official at the old school would be responsible for all the necessary paperwork.

Thirty-three individuals and organizations were generally in favor of the proposal on school transfer as a notification procedure, while fifteen individuals and organizations were generally opposed to it. Thirteen individuals and organizations stated specifically that they were in favor of the proposal, while five individuals stated specifically that they were against it. Four comments expressed concern that the procedure has the potential for abuse by school officials who might wish to prevent students from transferring.

Those in favor of school transfer as a notification procedure were impressed with its efficiency. Those opposed to it were concerned not only about a perceived lack of control over F-1 students, but also about a claimed conflict of interest. Some even suggested that the procedure involves an illegal delegation of authority.

Under § 214.2(f)(8) of the final rule, the Service is instituting school transfer within the same educational program as a notification procedure, but with a change in the procedure. The designated official at the old school does not have sole responsibility for the paperwork involved. The designated official at the new school shares in that responsibility. Furthermore, the student must report the failure of a designated official at the old school to follow the required procedure. This change in the procedure will eliminate the possibility of abuse by school officials who might attempt to keep students from transferring.

The charges of conflict of interest and illegal delegation of authority are based upon a misunderstanding of the transfer procedure, which is only a notification procedure and does not involve any adjudication on the part of the school official. The official will make a recommendation, but this recommendation is nothing more than an advisory opinion to be used by the Service in determining which students should be interviewed concerning their status.

Permitting school transfer without an adjudication will not cause the Service to lose control over F-1 students. Failure to notify the Service that an F-1 student intends to transfer to another school is a new ground in the regulations for withdrawing the approval of a school. Furthermore, the school officials' recommendations will assist the Service in locating F-1 students who are not maintaining their status.

In addition, the Service is planning to institute procedures for looking into the cases of students whose Forms I-20A indicate that they may not have sufficient resources to pay for all costs at the schools to which they transfer and of students who transfer more than a certain number of times. The purpose in so doing is to ascertain whether these students are bona fide nonimmigrant students.

One comment suggested that school transfer not be permitted until the student has attended the old school for at least one term. Other comments were opposed to requiring a student to apply for reinstatement to student status if the student has not been pursuing a full course of study at the school the student was last authorized to attend but desires to transfer to another school.

No purpose would be served by requiring a student to attend the old school for one whole term prior to being permitted to transfer to another school provided that it is possible for the student to transfer to another school before completing the term. For example, different schools could have terms that begin at different times. A student who has not been pursuing a full course of study at the school the student was last authorized to attend, however, is out of status and should be required to apply to the Service for reinstatement to student status. Furthermore, it would be difficult to maintain control over F-1 students with school transfers not being adjudicated by the Service if out of status students were permitted to transfer without any contact with the Service. For an out of status student reinstatement is the most appropriate procedure for that contact.

Off-Campus Employment Authorization

Prior regulations permitted students to apply for employment authorization based upon economic necessity at any time. Under the proposed regulations, F-1 students would not be permitted to apply for employment authorization during their first full year in the United States.

Three individuals and one organization indicated support for the proposed work bar. Two individuals gave reasons, namely the dilemma of United States resident students seeking scarce employment and the fact that students have received assurances from their sponsors that they would be fully supported in the United States.

Fourteen individuals and organizations were opposed to the proposed work bar because they found that it would be harsh in those cases of genuine emergency resulting in funds being cut off. Three of the comments suggested that the work bar apply only during the first academic year in the United States, not during the first full year.

One comment was in favor of the Service's continuing to adjudicate applications for off-campus employment for F-1 students, while eleven comments were opposed to this. One comment expressed a desire that the provisions on off-campus employment be liberalized. Another comment suggested that F-1 students be permitted to work off-campus without demonstrating economic necessity. Other comments were in favor of greatly limiting or eliminating off-campus employment authorization for F-1 students.

Section 214.2(f)(9)(ii) of the final rule institutes the proposed provisions on off-campus employment without any substantive change. The reason for imposing a work bar on F-1 students during their first full year in the United States is that applicants for student status must furnish documentary evidence of their ability to support themselves during that year. Moreover, an application for employment authorization is normally denied during the student's first year in the United States. This provision eliminates frivolous applications for employment authorization.

Under the circumstances, the provision on off-campus employment which the Service is instituting is reasonable. The more stringent provisions suggested, however, would be unduly harsh. On the other hand, the requirement that the student demonstrate economic necessity and that the Service authorize off-campus employment minimizes any adverse effect on the employment of United States resident students seeking employment.

Practical Training

Prior regulations required that students apply to the Service for permission to engage in practical training. The proposed regulations would permit designated school officials to grant practical training authorization for F-1 students.

Twenty-nine individuals and organizations were generally in favor of the proposal that designated school officials authorize practical training for F-1 students, while fourteen individuals and organizations were generally opposed to it. Ten individuals and organizations stated specifically that they were in favor of the proposal, while seven individuals and organizations stated specifically that they were against it. Those in favor of it saw it as an efficient means of eliminating paperwork and delays in granting benefits. Those opposed felt it involved a conflict of interest. Some, as in the case of the school transfer proposal, suggested that it was an illegal delegation of authority. One comment pointed out that it would lend itself to possible fraud in obtaining work-authorized social security cards since Social Security Administration personnel would not be able to verify the authenticity of the signature of every designated school official.

In addition to the above comments on practical training, nineteen comments were against the Service's proposal to require that students have job offers before they may be granted permission to engage in practical training. The primary reason for the opposition was that it would be virtually impossible for nonimmigrant students to find work under the proposal because of the difficulty in obtaining a definite job offer without permission to engage in practical training. Eleven comments indicated that periods of practical training during the course of study, not only upon completion of the course of study, would be desirable from the point of view of the student's total training.

The Service has decided not to adopt the proposal to permit designated school officials to grant practical training authorization to F-1 students. The Service will continue to adjudicate applications for practical training for these students. The proposed regulation did raise concerns regarding the propriety of delegating decision making to individuals outside the Service. Unlike the provision on school transfer for F-1 students as a notification procedure, the proposal on practical training would have required an adjudication on the part of the designated school official. Moreover, the proposed provision could have lent itself to fraud in obtaining work-authorized social security cards.

As a result of the comments on these issues, the Service is also not adopting the proposal requiring that F-1 students have job offers before they may be granted practical training authorization, and the Service is adding a provision to § 214.2(f)(10)(i) under which practical training may be authorized for an F-1 student during the student's annual vacation if the practical training is recommended by the designated school official as beneficial to the student's academic program. This provision, however, does not increase the total months of practical training which may be authorized.

Various suggestions were made which the Service is not adopting that practical training be eliminated for some or all students. The Service believes that restrictions of this type would impede the development of knowledge and skills which occurs through meaningful practical training experiences and their subsequent transfer to other countries.

Provisions on M-1 Students

Under the proposed rule, M-1 students would be admitted for the period of time necessary to complete their courses of study plus thirty days or for one year, whichever is less. Applications would have to be made for extensions of stay, school transfer, and practical training. School transfer would not be permitted after a student has been in M-1 status for six months unless the student is unable to remain at the school to which initially admitted due to circumstances beyond the student's control. M-1 students would not be permitted to accept employment except when employment for practical training is authorized. Employment for practical training would never exceed six months. An M-1 student would not be permitted to change educational objective. An M-1 student would be eligible for reinstatement to student status, if, among other things, the student's violation of status occurred because the school to which the student was admitted ceased operation or the student was unable to pursue a full course of study due to illness. Furthermore, under the proposed rule, an M-1 student would use a Certificate of Eligibility for Nonimmigrant (M-1) Student Status, Form I-20M-N, on which the student would have to certify that the education or training which the student receives in the United States can be utilized in the student's home country and that a course of study of comparable quality and cost is unavailable to the student in the home country.

The proposed rule also provided for denial of a change of nonimmigrant classification to that of an M-1 student if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change to classification as an alien temporary worker under section 101(a)(15)(H) of the Act, 8 U.S.C. 1101(a)(15)(H), for denial of a change of classification from that of an M-1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the education or training which the student received while an M-1 student enables the student to meet the qualifications for temporary worker classification, and for denial of a change of classification from that of an M-1 student to that of an F-1 student.

A few comments were received on the proposals concerning M-1 studends. These comments stated that the M-1 proposals were overly strict.

The Service is implementing most of the proposals on M-1 students. This is in accordance with the legislative intent that the regulations relating to M-1 students be strict. In House Report 97-264 dated October 2, 1981, which accompanied Public Law 97-116, the Committee makes it quite clear that the legislative intent of section 101(a)(15)(M)(i) of the Act relating to M students was to afford maximum control over this group of students. The report refers to testimony by the Department of State before the Subcommittee on Immigration, Refugees, and International

Law in the 94th Congress regarding "the high percentage of foreign students enrolled in vocational educational programs in fields of little or no applicability to their own country." The purpose of the separation of students into two classifications was to permit closer scrutiny of length of stay and employment abuses by nonacademic students. Furthermore, the report states that the "Committee has retained language programs in the current 'F' category on advice from INS that such schools comply with INS regulations and reporting requirements." Since the Committee noted a difference in compliance with Service regulations by the two groups of students, they obviously intended the provisions relating to those two groups of students to be different.

The limitation on the admission period for M-1 students and the requirement for filing applications for extension of stay, school transfer, and practical training are intended to afford maximum control over M-1 students. The prohibitions against a change in educational objective and against transfer to another school after six months in the United States are intended to control abuses by students who attempt to prolong their stay in the United States by making unnecessary changes in educational objectives or schools. The limitation on the amount of practical training that can be authorized recognizes that most M-1 students come to the United States for shorter periods of time than F-1 students. It also ensures against abuse of the M-1 classification as an easy way to come to the United States to work, as does the prohibition against employment authorization except employment for practical training. The proposed prohibitions against certain changes in nonimmigrant classification ensure against the use of the M-1 classification to obtain another nonimmigrant classification.

Nevertheless, in this rule, the Service is tempering the strictness of some of the provisions. In § 214.2(m)(16), M-1 students are permitted to apply for reinstatement to student status on the same basis as F-1 students. This recognizes the needs of certain students in deserving cases. The requirement that an M-1 student be offered an actual job before being eligible to apply for practical training is not being adopted in § 214.2(m)(14)(ii) for the same reason that it is being eliminated for F-1 students, namely the difficulty in finding a job without having permission to work. The requirement for a certification on Form I-20M-N that the education or training which the student receives in the United States can be utilized in the student's home country and that a course of study of comparable quality and cost is unavailable to the student in the home country is also not adopted because of the difficulty in administering it.

Record-Keeping and Reporting Requirements

Seven individuals and one organization expressed concern that their furnishing the information required by the proposed regulations would cause them to violate the Family Educational Rights and Privacy Act of 1974 or Buckley Amendment (Section 438 of the General Education Provisions Act, as amended by Pub. L. 93-568, 20 U.S.C. 1232g, December 31, 1974).

The Service believes that Form I-20 contains an effective consent by a student for release of information from the student's school records once the student signs Form I-20. The student authorizes the named school and any school to which the student transfers to provide any information from the student's records which is needed to determine if the student is maintaining lawful status. This consent appears on both Form I-20A and Form I-20M. Signing this consent is a condition of issuance of an F-1 or M-1 visa or a change of nonimmigrant status to F-1 or M-1 status. The consent is an effective method of insulating the school from an allegation that it is in violation of the Buckley Amendment. Once the consent is in existence, and it is assumed the consent exists for an F-1 or M-1 student or the Service would not have accepted Form I-20, neither the school official nor the Service officer needs physical possession of the consent when a request for information under the reporting requirements is made.

Two individuals supported the new reporting requirements on the grounds that these requirements would enable the Service to monitor the foreign student program. Nine individuals and organizations, on the other hand, were generally against or concerned about the record-keeping or reporting requirements, or both. They felt that records on foreign students should more appropriately be kept by the Service, that the Service should already have the necessary information in its records, that the information goes beyond that needed to determine whether students are maintaining nonimmigrant status, that the information should be required only for individual students and not large numbers of students, and that only information which has a bearing on immigration matters should be required. Thirteen comments were specifically against the requirement for reporting new students who register on the grounds that this is burdensome or that this is unnecessary because the schools must also report students who do not register. One of the comments suggested that, if this provision is instituted, the procedure be a very simple one. One of the comments suggested that schools provide rosters of all F-1 students enrolled but that they not report failure to register or termination of studies. Four comments expressed concern about the costs and burdens of record keeping and reporting.

Section 214.3(g)(1) institutes the record-keeping requirements as proposed with the changes discussed below. The Service believes that these requirements will enhance the Service's ability to monitor the foreign student program. This regulation, however, is really a clarification of an existing requirement, since the consent on Form I-20 already authorizes schools to give the Service any information from the student's records necessary to determine if the students are maintaining their status. As suggested in one comment, a provision is added in § 214.3(g)(1) that if a student who is out of status is restored to status, the school the student is attending is responsible for maintaining records on the student. Employment authorization is removed from the record-keeping requirements as suggested in three comments. The schools may not have this information since the Service will continue to adjudicate applications for off-campus employment. Country of citizenship is added as suggested in two comments. Otherwise, a school would possibly not be able to comply with a request for lists of students by country of citizenship if such a request should be necessary. In addition, as suggested in one comment, a requirement is added that the schools keep on file the student's application for admission to the school and the supporting documents referred to in § 214.3(k).

The Service is not adopting the requirement that the schools report within sixty days of each registration period each new student who registers and the former requirement that the schools report individual students on Forms I-20B and I-20N. Instead, § 214.3(g)(2) requires that the designated school officials update computer-generated lists of F-1 and M-1 students attending the schools when the Service sends the schools these lists. A record-keeping requirement is added in § 214.3(g)(1) that schools maintain information necessary to identify each student, such as date and place of birth,

and to determine the student's immigration status.

The requirement for updating lists of students in order to update Service records will be far less burdensome for the schools and the Service than having the schools make separate reports on each new student who registers and individual reports on Forms I-20B and I-20N. With respect to the suggetion that schools provide their own rosters of all F-1 students, this procedure would not be acceptable because it would not be in the appropriate format for Service needs.

While some of the information which the Service is requiring the schools to maintain in their records will be available in Service records, not all of it is available and must be furnished by the schools. The Service is asking the schools to verify and update the other information to insure the accuracy of Service records. The Service may not have current information on students in duration of status who may not come into contact with the Service for long periods of time; it is therefore important for the schools to keep records on these students.

Most schools normally keep records on students in attendance. It is consequently neither unreasonable nor unduly burdensome for the schools to keep records on the immigration status of their F-1 or M-1 students. It should be noted that all the information the schools are being requested to keep is directly related to the immigration status of their F-1 or M-1 students.

General Comments

Numerous comments of a general nature were made. Relevant comments are discussed below.

One comment was in favor of not implementing these regulations until Form I-20 is revised. Another comment suggested that implementation be delayed at least six months to allow adequate planning time. The Service has delayed the effective date of this rule to allow sufficient time to develop a student and schools enhancement to the Service's computerized record-keeping system and to make new and revised forms available to the public.

Six comments expressed concern regarding costs or paperwork burden of compliance with these regulations. With the modifications adopted in these final regulations, the Service believes that this concern is unfounded. As pointed out previously, the requirement the Service is instituting for updating lists of students which the Service sends the schools should be much simpler to comply with than the former requirement for making separate reports on individual students. Furthermore, most schools already keep records on students and, under prior regulations, school officials had to complete certifications on the applications which students file for extensions of stay, school transfer, and permission to engage in employment or practical training. As a result of this rule, far fewer applications for extension of stay and school transfer will need to be filed for F-1 students. This will easily compensate for any paperwork involved in the new procedure for school transfer for F-1 Students, not to mention the elimination of delays in granting school transfer to F-1 students.

Three comments suggested a review of the costs or burden of compliance with these regulations. One of these comments suggested that the review be done one year after implementation. The Service will be evaluating the program on a continual basis.

Three comments suggested workshops or meetings to instruct the public on the implementation of these regulations. The Service will continue normal liaison meeting with groups of foreign student advisors.

Technical Comments

Numerous suggestions of a technical nature were also made, many of which were adopted. Those comments which were adopted are discussed below.

With respect to the admission process for F and M nonimmigrants, one comment pointed out, regarding the requirement in § 214.2(f)(1)(i)(B) that a student be destined to the school specified in the student's visa, that the regulation should reflect that Canadian students do not need visas to enter the United States. Therefore, the wording, "unless the student is exempt from the requirement for presentation of a visa" is included in that paragraph and in a comparable provision relating to M nonimmigrants in § 214.2(m)(1)(i)(B). Two comments suggested clarification of the disposition of Form I-20B upon admission of an F-1 student. The disposition of this form is clarified in § 214.2(f)(1)(ii) relating to F-1 students, and the disposition of Form I-20M relating to M-1 students is clarified in § 214.2(m)(1)(ii). Two comments pointed out that the dependents of an F-1 student should be permitted to enter the United States to join the F-1 student even if the student has entered the United States before the beginning of classes. The Service agrees and is adding wording to § 214.2(f)(3) to permit this for F nonimmigrants and to § 214.2(m)(3) to permit this for M nonimmigrants.

In addition, as suggested in three comments, the Service is not adopting the provision which appeared in proposed § 214.2(f)(4)(ii) exempting certain F-1 students from the requirement of presenting Forms I-20 when returning to the United States after temporary absences to attend the schools which they were previously authorized to attend. The reason is that, under duration of status, these students would be able to present the same Form I-94, Arrival-Departure Records, for years after the students had failed to maintain their status unless they were required to present evidence of current enrollment in school.

Various technical changes are being made in the provisions regarding duration of status as a result of suggestions made. The wording in § 214.2(f)(5)(ii) now provides, as suggested in four comments, that the spouse and children of an F-1 student, as well as the student, are automatically granted duration of status. Two comments requested clarification of whether the I-94's of students automatically granted duration of status will be noted only when the students come into contact with the Service. Section 214.2(f)(5)(ii) provides that F-1 students need not present Forms I-94 to the Service to have the forms noted.

Three comments stated that the wording "only one of the quarters" should be changed to "any one of the quarters." This is being done in § 214.2(f)(5)(iii). In addition, as suggested in one comment, wording is added to § 214.2(f)(5)(iii) which will enable students to continue to maintain status even if the students are required to reduce their courses of study due to illness. A comparable change is made in § 214.2(m)(10)(iii) relating to extension of stay for M-1 students.

With respect to the definition of "full course of study" for F-1 students in § 214.2(f)(6), three comments suggested including postdoctoral study or research in the definition to clarify that the F-1 classification may be used for this purpose. This suggestion is being adopted. The Service is also adopting a suggestion that "semester hours" be substituted for "credit hours" in the part of the definition relating to undergraduate study at a college or university since semester hours are a more precise measurement. In the same part of the definition, on the advice of the Department of Education, the Service is adding "quarter hours . . . per academic term in those institutions using standard semester, trimester or quarter-hour systems."

Three comments suggested using the Veterans Administration's standards in the definition of "full course of study". The wording "where all undergraduate students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes" is added to the part of the definition relating to undergraduate study. This wording is largely from the Veterans Administration's standards. The Veterans Administration's standards are also being applied to the definition of "full course of study" for F-1 students as it relates to language training programs in § 214.2(f)(6) and for M-1 students as it relates to study in vocational or other nonacademic curriculums other than in language training programs in § 214.2(m)(9). Twenty clock hours of attendance a week is changed to eighteen if the dominant part of the course of study consists of classroom instruction and twenty-five clock hours a week to twenty-two hours a week if the dominant part of the course of study consists of shop or laboratory work.

One comment suggested clarification of the term "equivalent" in the definition of "full course of study". In the definitions of "full course of study" for both F-1 and M-1 students, "as determined by the district director" is added after "equivalent." In those instances where it is unclear whether the student's course load constitutes a full course of study, the district director will make the determination.

The Service is making various technical changes in the provisions on school transfer for F-1 students as a result of public comments. One comment suggested that the requirement that the student show evidence of adequate funding for the course of study be added. The wording "is financially able to attend the school to which the student intends to transfer" is added to the eligibility requirements in § 214.2(f)(8)(i). The Service is also making a comparable change in the provision relating to M-1 students in § 214.2(m)(11)(i). One comment suggested that the school official at the school the student was last authorized to attend be referred to as the "previous" school official for purposes of clarity. Wording to clarify this point is added to §214.2(f)(8)(ii). In addition, the Service is adopting a suggestion that there be a limit on the amount of time a student may remain out of school while transferring from one school to another by requiring in § 214.2(f)(8)(iv) that the student enroll in the new school in the first term or session which begins after the student leaves the previous school.

Various technical suggestions were made regarding the provision on on-campus employment for F-1 students. The Service is adopting, in § 214.2(f)(9)(i), a suggestion that on-campus employment be defined. In addition, the Service is adopting in that same paragraph, a suggestion that it be clarified that it is possible for a student to engage in on-campus employment for purposes of practical training after completion of a course of study.

Various technical suggestions were made regarding the provision on off-campus employment authorization for F-1 students. One comment suggested that the term "calendar year" not be used when referring to the period of time during which off-campus employment is prohibited since this term usually applies to the period from January 1 through December 31. Instead, "first full year" is being used in § 214.2(f)(9)(ii). Three comments suggested clarification of the length of time during which off-campus employment may be authorized. The Service is stipulating in § 214.2(f)(9)(iii) that the adjudicating officer is to specify the period of time during which employment is authorized up to the expected date of completion of the student's course of study. One comment suggested clarification of whether a student may continue off-campus employment when the student transfers from one school to another. The Service is indicating in § 214.2(f)(9)(iii) that off-campus employment authorization is terminated when the student transfers from one school to another. The reason for this is that the costs at the new school may be quite different from those at the old school.

One comment pointed out that if a student with employment authorization travels abroad, the student normally surrenders Form I-94, which has the only record of that employment authorization. The Service will issue to each nonimmigrant student upon his or her initial admission to the United States a Form I-20 ID copy which will not be surrendered when the student departs from the United States. The form will have the student's initial admission number or unique identifying number in the Service's computerized record-keeping system. The purpose of the form is to enable the Service to use the same admission number each time the student is admitted to the United States so that a new file is not created on the student each time. The form will also be endorsed to reflect any employment authorization granted to the student. Section 214.2(f)(9)(iv) explains that a student may under certain circumstances resume previously authorized employment after a temporary absence from the United States.

With respect to the provisions on reinstatement to student status for F-1 students, one comment suggested clarification of proposed § 214.2(f)(9)(iv). That paragraph, which is being redesignated as § 214.2(f)(12)(i)(D), is restated more clearly.

Four comments pointed out a need for clarification of the criteria for F-1, as opposed to M-1, classification. Section 214.3(a)(2) addresses this issue. It is expected that, at the time of the one-time recertification process, the question of which schools are approved for attendance of F—1 students, which schools are approved for attendance of M-1 students, and which schools are approved for attendance of both types of students will be resolved in those instances where it has not already been determined.

The Service is making some technical changes, based on public comments, in the provisions relating to approved schools. In § 214.3(k), "or other records of courses taken" is added after "transcripts". One comment pointed out that not all students have transcripts, especially vocational students. Two comments indicated a need for clarification of whether a school may have more than one designated official or only one. The Service is stipulating in § 214.3(l) that no school or institution may have more than five designated officials at any one time except that in a multi-campus institution, no campus may have more than five designated officials at any one time. This limitation will permit the schools to have a certain amount of flexibility without having so many designated officials that the provision is difficult to administer.

The Service is also making technical changes in the provisions relating to withdrawal of school approval as a result of public comments. The words "valid and substantive" are inserted before the word "reason" in § 214.4(a)(1). The words "academic advisor", major professor, or school counselor" are removed in § 214.4(a)(1)(iv), and the words "or recommendation" are removed from that same provision.

With respect to change of nonimmigrant classification, one comment requested an explanation of the procedures when neither applications nor fees are required. These procedures are explained in § 248.3(b).

Service Initiated Changes

The Service has made editorial changes to improve readability. The Service has also made necessary changes in paragraph designation and other necessary technical changes which came to its attention.

Sections 214.1(b) and 214.1(c) are revised to include provisions regarding the new M classification and conform them to other provisions in this rulemaking.

In both §§ 214.2(f)(1)(i)(A) and 214.2(m)(1)(i)(A), wording is added to clarify that Form I-20A-B and Form I-20M-N must be supported by the documentary evidence of the student's financial ability required by those forms.

In both proposed §§ 214.2(f)(1) and 214.2(m)(1), the sentence regarding the action taken by the inspecting officer is not adopted because of a change in the procedure due to the institution of the Form I-20 ID copy.

Sections 214.2(f)(2) and 214.2(m)(2) are added to describe the requirements concerning the newly instituted Form I-20 ID copy.

Both §§ 214.2(f)(3) and 214.2(f)(4) reflect the use of either a properly endorsed page 4 of Form I-20A-B or a new Form I-20A-B for the spouse and minor children of an F-1 student to present at the time of their applications for admission to the United States when following to join the student and for an F-1 student to present when returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend. Similarly, both §§ 214.2(m)(3) and 214(m)(4) are amended to reflect the use of either a properly endorsed page 4 of Form I-20M or a new Form I-20M-N for the spouse and minor children of an M-1 student to present at the time of their applications for admission to the United States when following to join the student and for an M-1 student to present when returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend.

In § 214.2(f)(5)(i) relating to duration of status, the Service is adding a reference to agreements between the United States and foreign countries under which passports from those countries are recognized as valid for the return of the bearers to those countries for a period of six months beyond dates of expiration of the passports.

In §§ 214.2(f)(6)(iii) and 214.2(f)(6)(iv), liberal arts, fine arts, and other nonvocational programs are added to the definition of a full course of study for F-1 students.

In §§ 214.2(f)(6)(v) and 214.2(m)(9)(iv), the term "high school" is substituted for the term "secondary" in order to conform the language more closely with the statutory language.

Section 214.2(f)(9)(i) includes an explanation of the amount of time an F-1 student may engage in on-campus employment when school is, and is not, in session. In § 214.2(f)(9)(ii), "temporary absence" is clarified to mean five months or less. In § 214.2(f)(9)(iii) relating to off-campus employment, the Service is stipulating that the adjudicating officer must endorse employment authorization on the student's Form I-20 ID copy if the application is granted. In that same paragraph, a provision provides that permission to engage in off-campus employment is terminated when the need for that employment ceases.

Section 214.2(f)(10)(i)(C) is amended to permit practical training to be authorized for an F-1 student after completion of all course requirements for the degree if the student is in a bachelor's degree program.

In §§ 214.2(f)(10)(ii)(A)(2) and 214.2(m)(14)(ii)(B), the wording "or intended future employment in the student's home country if the future employment will make use of the student's education in the United States" is not adopted. Without a job offer's being required for an application to accept practical training, this provision would be extremely difficult to administer.

In § 214.2(f)(10)(iii), the Service is permitting the adjudicating officer to grant an F-1 student not in a language training program permission to accept temporary employment for practical training for not more than twelve months if the student has been offered temporary employment for practical training or to continue temporary employment for practical training for not more than eight months. This amendment is intended to eliminate unnecessary applications for practical training.

In both §§ 214.2(f)(10)(v) and 214.2(m)(14)(iv), two sentences are added to explain that an F-1 or M-1 student who is readmitted to the United States for the remainder of an authorized period of practical training must be returning to the United States to perform the authorized practical training and may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

Section 214.2(f)(11) is added to indicate that an F-1 student may not file an appeal when an application for extension of stay, school transfer, or permission to accept or continue off-campus employment or practical training is denied.

Sections 214.2(f)(13) and 214.2(m)(17) are added to describe the requirements concerning new school code suffixes to be added to school file numbers.

Section 214.2(m)(6) provides for conversion of vocational or other nonacademic students previously in F-1 status to M-1 status on the effective date of this regulation, instead of on June 1, 1982. Section 214.2(m)(7) is added to explain the period of stay of a student already in M-1 status on the effective date of this regulation. Section 214.2(m)(8) is added to indicate that a nonimmigrant automatically converted to M status or previously in M status whose stay is affected by these regulations need not present Form I-94 to the Service.

Section 214.2(m)(9) relating to the definition of "full course of study" for M-1 students includes study at a community college, junior college or postsecondary vocational or business school.

Section 214.2(m)(11)(ii) reflects that sixty days after having filed an application for school transfer, an M-1 student may effect the transfer subject to approval or denial of the application. A comparable provision appears in § 214.2(f)(7)(iv) relating to school transfer for an F-1 student in conjunction with an application for extension of stay.

Wording in proposed § 214.2(m)(12)(ii) that if an application for practical training for an M-1 student is granted, the authorized period is deemed to commence either on the date the student begins practical training or sixty days after the student completes the course of study, whichever is earlier, is not adopted because an M-1 student may be granted only one period of practical training.

Section 214.2(m)(13) provides that a student already in M-1 status on the effective date of these regulations or a student automatically converted to M-1 status who was previously authorized off-campus employment may continue to work until the date of expiration of the previously authorized period of employment.

Section 214.2(m)(14)(i) is added to indicate when practical training may be authorized for an M-1 student. Section 214.2(m)(14)(iii) provides that the adjudicating officer must endorse permission for an M-1 student to engage in practical training and the period of time during which it is authorized on the student's I-20 ID copy. This paragraph also provides for an M-1 student to be

granted an additional thirty days within which to depart from the United States after completion of the practical training.

The admission number from the student's Form I-20 ID copy is added to the record-keeping requirements in § 214.3(g)(1). This requirement is necessary because of the implementation of the student enhancement of the Service's computerized record-keeping system.

Section 214.3(h)(2)(i) is amended to provide that the one-time recertification process for approved schools will begin on August 1, 1983 and to indicate that the Service, but not necessarily the district directors, must notify the schools regarding the one-time recertification process.

In sections 214.3(h)(2)(ii) and 214.4(a)(2), the effective date of the automatic withdrawal of a school's approval is added.

Section 214.3(l) is amended to reflect that the names, titles, sample signatures, and statements of new designated school officials must be submitted to the Service within thirty days.

Section 214.4(a)(1) is added to include failure to comply with section 214.3(g)(1) without a subpoena as another ground for withdrawal of a school's approval.

In section 214.4(a)(1)(iv), the wording "statement or" is added before the word "certification" and the wording "school transfer or" is substituted for "practical training authorization."

Other sections are amended to include provisions relating to the newly devised Form I-20 ID copy.

Commissioner's Certification

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with record-keeping and reporting requirements, compliance with them will not result in a significant effect on the economy or operation of the affected institutions or individuals. The rule is not a major rule within the meaning of section 1(b) of EO 12291.

List of Subjects

8 CFR Part 214

Aliens, Employment, Schools, Students.

8 CFR Part 248

Administrative practice and procedure, Aliens.

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

PART 214—NONIMMIGRANT CLASSES

1. In § 214.1, paragraphs (b) and (c) are revised to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(b) *Readmission of nonimmigrants under section 101(a)(15) (F), (J), or (M) to complete unexpired periods of previous admission or extension of stay.*—(1) *Section 101(a)(15)(F).* The inspecting immigration officer shall readmit for duration of status as defined in § 214.2(f)(5)(iii), any nonimmigrant alien whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) and who is applying for readmission under section 101(a)(15)(F) of the Act, if the alien:

(i) Is admissible;

(ii) Is appplying for readmission after an absence from the United States not exceeding thirty days solely in contiguous territory or adjacent islands;

(iii) Is in possession of valid passport unless exempt from the requirement for presentation of a passport; and

(iv) Presents, or is the accompanying spouse or child of an alien who presents, an Arrival-Departure Record, Form I-94, issued to the alien in connection with the previous admission or stay, the alien's Form I-20 ID copy, and either:

(A) A properly endorsed page 4 of Form I-20A-B if there has been no substantive change in the information on the student's most recent Form I-20A since the form was initially issued; or

(B) A new Form I-20A-B if there has been any substantive change in the information on the student's most recent Form I-20A since the form was initially issued.

(2) *Section 101(a)(15)(J).* The inspecting immigration officer shall readmit for the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) and who is applying for readmission under section 101(a)(15)(J) of the Act, if the alien:

(i) Is admissible;

(ii) Is applying for readmission after an absence from the United States not exceeding thirty days solely in contiguous territory or adjacent islands;

(iii) Is in possession of a valid passport unless exempt from the requirement for the presentation of a passport; and

(iv) Presents, or is the accompanying spouse or child of an alien who presents, Form I-94 issued to the alien in connection with the previous admission or stay or copy three of the last Form IAP-66 issued to the alien. Form I-94 or Form IAP-66 must show the unexpired period of the alien's stay endorsed by the Service.

(3) *Section 101(a)(15)(M).* The inspecting immigration officer shall readmit for the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) and who is applying for readmission under section 101(a)(15)(M) of the Act, if the alien:

(i) Is admissible;

(ii) Is applying for readmission after an absence not exceeding thirty days solely in contiguous territory;

(iii) Is in possession of valid passport unless exempt from the requirement for presentation of a passport; and

(iv) Presents, or is the accompanying spouse or child of an alien who presents, Form I-94 issued to the alien in connection with the previous admission or stay, the alien's Form I-20 ID copy, and a properly endorsed page 4 of Form I-20M-N.

(c) *Extension of stay.*—(1) *General.* Any nonimmigrant alien defined in section 101(a)(15) (A) (i) or (ii) or (G)(i), (ii), (iii), or (iv) of the Act is to be admitted for, or granted a change of nonimmigrant classification for, as long as that alien continues to be recognized by the Secretary of State for that status. The alien need not apply for an extension of stay. Any nonimmigrant alien defined in section 101(a)(15) (C), (D), or (K) of the Act, or any alien admitted in transit without a visa, is ineligible for an extension of stay. A nonimmigrant defined in section 101(a)(15) (F) or (M) of the Act shall apply for an extension of stay on Form I-538. A nonimmigrant alien defined in section 101(a)(15)(J) of the Act shall apply for an extension of stay on Form IAP-66. An alien in any other nonimmigrant classification shall apply for an extension of stay on Form I-539. Except as provided in paragraph (c)(3) of this section, each alien seeking an extension of stay generally must execute and submit a separate application for extension of stay to the district office having jurisdiction over the alien's place of temporary residence in the United States.

(2) *Time of filing application.* The application must be submitted at least fifteen days but not more than sixty days before the expiration of the alien's currently authorized stay. If failure to file a timely application is found to be excusable, an extension of stay may be granted, but the extension must date

from the time of expiration of the previously authorized stay.

(3) *Family members of principal alien.* Regardless of whether a principal nonimmigrant alien's spouse and minor unmarried children accompanied the principal alien to the United States, the spouse and children may be included in the principal alien's application for extension of stay without any additional fee. Extensions granted to members of a family group must be for the same period of time. If one member is eligible for only a six-month extension and another for a twelve-month extension, the shorter period will be granted to all members of the family.

(4) *Decision on application for extension of stay.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason(s) for the denial. The applicant may not appeal the decision.

(5) *Less than thirty days' additional time.* When, because of conditions beyond an alien's control or other special circumstances, an alien needs an additional period of less than thirty days beyond the previously authorized stay within which to depart from the United States, the alien may present the alien's Form I-94 or, in the case of a nonimmigrant defined in section 101(a)(15) (F) or (M) of the Act, the alien's Form I-20 ID copy, at the district office having jurisdiction over the alien's place of temporary residence in the United States. The requested time may be granted without a formal application.

(6) *Bonds.* For procedures on cancellation and breaching of bonds, see §§ 101.6 (c) and (e) of this chapter.

* * * * *

2. Section 214.2(f) is revised to read as follows:

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

* * * * *

(f) *Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.*—(1) *Admission of student.*—(i) *Eligibility for admission.* Except as provided in paragraph (f)(4) of this section, an alien seeking admission to the United States under section 101(a)(15)(F)(i) of the Act (as an F-1 student) and the student's accompanying F-2 spouse and minor children, if applicable, are not eligible for admission unless—

(A) The student presents a Certificate of Eligibility for Nonimmigrant (F-1) Student Status, Form I-20A-B, properly and completely filled out by the student and by the designated official of the school to which the student is destined and the documentary evidence of the student's financial ability required by that form; and

(B) It is established that the student is destined to and intends to attend the school specified in the student's visa, unless the student is exempt from the requirement for presentation of a visa.

(ii) *Disposition of Form I-20A-B.* When a student is admitted to the United States, the inspecting officer shall forward Form I-20A-B to the Service's processing center. The processing center shall forward the Form I-20B to the school which issued the form to notify the school of the student's admission.

(2) *Form I-20 ID copy.* The first time an F-1 student comes into contact with the Service for any reason, the student must present to the Service a Form I-20A-B properly and completely filled out by the student and by the designated official of the school the student is attending or intends to attend. The student will be issued a Form I-20 ID copy with his or her admission number. The student must have the Form I-20 ID copy with him or her at all times. If the student loses the Form I-20 ID copy, the student must request a new Form I-20 ID copy on Form I-102 from the Service office having jurisdiction over the school the student was last authorized to attend.

(3) *Spouse and minor children following to join student.* The F-2 spouse and minor children following to join an F-1 student are not eligible for admission to the United States unless they present, as evidence that the student is or will, within sixty days, be enrolled in a full course of study or is engaged in approved practical training, either—

(i) A properly endorsed page 4 of Form I-20A-B if there has been no substantive change in the information on the student's most recent Form I-20A since the form was initially issued; or

(ii) A new Form I-20A-B if there has been any substantive change in the information on the student's most recent Form I-20A since the form was initially issued.

(4) *Temporary absence.*—(i) *General.* An F-1 student returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend must present either—

(A) A properly endorsed page 4 of Form I-20A-B if there has been no substantive change in the information on the student's most recent Form I-20A since the form was initially issued; or

(B) A new Form I-20A-B if there has been any substantive change in the information on the student's most recent Form I-20A since the form was initially issued.

(ii) *Student who transferred between schools.* If an F-1 student has been authorized to transfer between schools and is returning to the United States from a temporary absence in order to attend the school to which transfer was authorized as indicated on the student's Form I-20 ID copy, the name of the school to which the student is destined does not need to be specified in the student's visa.

(5) *Duration of status.*—(i) *General.* Subject to the condition that the alien's passport is valid for a minimum period of six months at all times while in the United States (including any automatic revalidation accorded by agreement between the United States and the country which issued the alien's passport) unless the alien is exempt from the requirement for presentation of a passport.

(A) Any alien admitted to the United States as an F-1 student is to be admitted for duration of status as defined in paragraph (f)(5)(iii) of this section; and

(B) Any alien granted a change of nonimmigrant classification to that of an F-1 student is considered to be in status for duration of status as defined in paragraph (f)(5)(iii) of this section.

(ii) *Conversion to duration of status.* Any F-1 student in a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or in a language training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The dependent spouse and children of the student are also automatically granted duration of status if they are maintaining F-2 status. Any alien converted to duration of status under this paragraph need not present Form I-94 to the Service. This paragraph constitutes official notification of conversion to duration of status. The Service will issue a new Form I-94 to the alien when the alien comes into contact with the Service.

(iii) *Meaning of duration of status.* For purposes of this chapter, duration of status means the period during which the student is pursuing a full course of study in one educational program (e.g., elementary school, high school, bachelor's degree program, or master's degree program) and any period or periods of authorized practical training, plus thirty days following completion of the course of study or authorized practical training within which to depart

from the United States. An F-1 student at an academic institution is considered to be in status during the summer if the student is eligible, and intends, to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer, however, is considered to be in status during that vacation provided that the student is eligible, and intends, to register for the next term and the student has completed the equivalent of an academic year prior to taking the vacation. An F-1 student who is compelled by illness to interrupt or reduce a course of study may be permitted to remain in the United States in duration of status for the time necessary to complete the course of study provided that it is established that the student will pursue a full course of study upon recovery from the illness.

(6) *Full course of study.* Successful completion of the course of study must lead to the attainment of a specific educational or professional objective. For purposes of this paragraph, a college or university is an institution of higher learning which awards recognized associate, bachelor's, master's, doctor's, or professional degrees. Schools which devote themselves exclusively or primarily to vocational, business, or language instruction are not included in the category of colleges or universities. A "full course of study" as required by section 101(a)(15) (F)(i) of the Act means:

(i) Postgraduate study or postdoctoral study or research at a college or university, or undergraduate or postgraduate study at a conservatory or religious seminary, certified by a designated school official as a full course of study;

(ii) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter-hour systems, where all undergraduate students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by the district director) except when the student needs a lesser course load to complete the course of study during the current term;

(iii) Study in a postsecondary language, liberal arts, fine arts, or other nonvocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve hours of instruction a week, or its equivalent as determined by the district director;

(iv) Study in any other language, liberal arts, fine arts, or other nonvocational training program, certified by a designated school official to consist of at least eighteen clock hours of attendance a week provided that the dominant part of the course of study consists of classroom instruction and twenty-two clock hours a week provided that the dominant part of the course of study consists of laboratory work; or

(v) Study in a primary or academic high school curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

(7) *Extension of stay.*—(i) *General.* Any F-1 student who has completed or has been pursuing a full course of study in one educational program and who wishes to complete another educational program must apply for an extension of stay. Any F-1 student who has completed one educational program and who desires to complete another educational program at the same level of educational attainment, for example, a second master's degree, must also apply for an extension of stay. If the student also wishes to transfer to another school, the student must apply for a school transfer in the same application. If the student has not been pursuing a full course of study at the school the student was last authorized to attend, the student must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section.

(ii) *Eligibility.* An F-1 student may be granted an extension of stay if it is established that the student:

(A) Is a bona fide nonimmigrant currently maintaining student status; and

(B) Is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(iii) *Application.* An F-1 student must apply for an extension of stay on Form I-538. A student's F-2 spouse and children desiring an extension of stay must be included in the application. A student's F-2 spouse or children are not eligible for an extension of stay unless the student is granted an extension of stay. The student must submit the application to the Service office having jurisdiction over the school the student was last authorized to attend at least fifteen days but not more than sixty days before the expiration of the student's currently authorized stay. The application must be accompanied by the student's Form I-20 ID copy, and the Forms I-94 of the student's spouse and children, if applicable.

(iv) *School transfer in conjunction with an application for extension of stay.* If an F-1 student wishes to transfer to another school upon completion of an educational program, the student's application for extension of stay and school transfer must be accompanied by Form I-20A-B properly and completely filled out by the student and by the designated official of the school the student wishes to attend. Sixty days after having filed an application for extension of stay and school transfer, an F-1 student may effect the transfer subject to approval or denial of the application. Any F-1 student who transfers without complying with this regulation or whose application is denied after transfer is considered to be out of status. If the application for transfer is approved, the approval of the transfer will be retroactive to the date of filing the application. The adjudicating officer shall endorse the name of the school to which the transfer has been authorized on the student's Form I-20 ID copy. The officer shall also endorse Form I-20B to indicate that a school transfer has been authorized and forward it with Form I-20A to the Service's processing center for file updating. The processing center shall forward Form I-20B to the school to which transfer has been authorized to notify the school of the action taken.

(v) *Period of stay.* If an application for extension of stay is granted, the student and the student's spouse and children, if applicable, are to be granted duration of status as defined in paragraph (f)(5)(iii) of this section.

(8) *School transfer within the same educational program.*—(i) *Eligibility.* An F-1 student is eligible to transfer to another school if the student:

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend;

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Procedure at school student was last authorized to attend.* Except in

conjunction with an application for extension of stay as provided in paragraph (f)(7) of this section, an F-1 student who wants to transfer between schools must obtain from the school to which the student intends to transfer a properly completed Form I-20A-B relating to the student's eligibility for F-1 status. The student must give the Form I-20A-B to the school the student was last authorized to attend. The designated official of the school which the student was last authorized to attend must:

(A) Endorse Form I-20 Transfer to reflect the fact that the student has indicated the intent to transfer between schools and to give the recommendation of the designated school official at the school the student was last authorized to attend concerning the proposed transfer and the reasons for that recommendation if it is negative;

(B) Submit the endorsed Form I-20 Transfer with Form I-20A to the Service's processing center within thirty days of the date the student gave the official the Form I-20A-B.

(C) Send Form I-20B to the school to which the student intends to transfer to notify that school that Form I-20 Transfer has been submitted to the Service; and

(D) Give to the student the student transfer copy of Form I-20 Transfer within thirty days of the date the student gave the official a copy of the Form I-20A-B.

(iii) *Procedure at school to which the student transfers.* Within thirty days of the date the student registers at the new school, the designated school official at that school must endorse the student's Form I-20 ID copy to indicate the name of the school to which the student has transferred and the name, title, and signature of the designated school official of that school.

(iv) *General.* Except as provided in paragraph (f)(7)(iv) of this section, an F-1 student is authorized to transfer from one approved school to another if the procedures described in paragraphs (f)(8) (ii) and (iii) of this section are followed. In the case of a school transfer under paragraphs (f)(8) (ii) and (iii) of this section, a student who transfers to another school without furnishing to the designated official of the school the student was last authorized to attend a properly completed Form I-20A-B from the school the student intends to attend is considered to be out of status. In the case of a school transfer under paragraphs (f)(8) (ii) and (iii) of this section, if the designated school official at the school the student was last authorized to attend does not follow the procedure described in paragraph (f)(8)(ii) of this section, the student is considered to be out of status unless the student reports this noncompliance with the regulations, in writing, to the Service office having jurisdiction over that school, within forty days of the date the student gave the official the copy of Form I-20A-B. Any student who does not enroll in the new school in the first term or session which begins after the student leaves the previous school is considered to be out of status; however, if the student is entitled to a vacation as provided in paragraph (f)(5)(iii) of this section, the student may enroll in the new school in the first term or session which begins after that vacation. If a student who has not been pursuing a full course of study at the school the student was last authorized to attend desires to attend a different school, the student must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section. In the case of a school transfer under paragraphs (f)(8) (ii) and (iii) of this section, if a student transfers to an approved school other than the one to which the student initially indicated the intent to transfer, the student must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section.

(9) *Employment.*—(i) *On-campus employment.* On-campus employment means employment performed on the school's premises. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study. An F-1 student may, therefore, engage in this kind of on-campus employment or any other on-campus employment which will not displace a United States resident. Employment authorized under this paragraph must not exceed twenty hours a week while school is in session. An F-1 student authorized to work under this paragraph however, may work full-time when school is not in session (including during the student's vacation) if the student is eligible, and intends, to register for the next term or session. The student may not engage in on-campus employment after completion of the student's course or courses of study, except employment for practical training as authorized under paragraph (f)(10) of this section.

(ii) *Application for off-campus employment.* Off-campus employment is prohibited for students who remain in the United States in F-1 status for one year or less. Off-campus employment is also prohibited during the first year in the United States for students who remain in the United State in F-1 status for more than one year. If a student pursues more than one course of study, off-campus employment is prohibited only during the first year of study in the United States. The first year of study means the first full year in the United States in bona fide F-1 status. A temporary absence of five months or less from the United States during the first full year does not disqualify an F-1 student from being eligible for employment authorization. An F-1 student in a program longer than one year must apply for employment authorization on Form I-538 accompained by the student's Form I-20 ID copy. The student must submit the application to the office of this Service having jurisdiction over the school the student was last authorized to attend. The designated school official must certify on Form I-538 that the student—

(A) Is in good standing as a student who is carrying a full course of study as defined in paragraph (f)(6) of this section;

(B) Has demonstrated economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification;

(C) Has demonstrated that acceptance of employment will not interfere with the student's carrying a full course of study; and

(D) Has agreed not to work more than twenty hours a week when school is in session.

(iii) *Conditions for off-campus employment.* If off-campus employment is authorized, the adjudicating officer shall endorse the authorization on the student's Form I-20 ID copy and shall note the dates on which the employment authorization begins and ends. The employment authorization may be granted up to the expected date of completion of the student's current course of study. A student has permission to engage in off-campus employment only if the student receives his or her Form I-20 ID copy endorsed to that effect. Off-campus employment authorized under this section must not exceed twenty hours a week while school is in session. Any student authorized to work off-campus, however, may work full-time when school is not in session (including during the student's vacation) if the student is eligible, and intends, to register for the next term or session. Permission to engage in off-campus employment is terminated when the student transfers from one school to another or when the need for that employment ceases. Furthermore, a student may not engage in off-campus employment after

completion of the student's course or courses of study except as authorized under paragraph (f)(10) of this section.

(iv) *Temporary absence of F-1 student granted off-campus employment authorization.* If a student who has been granted off-campus employment authorization departs from the United States temporarily and is readmitted to the United States during the period of time when employment is authorized, the student may resume the previously authorized employment. The student must be returning to attend the same school the student was authorized to attend when permission to accept off-campus employment was granted.

(v) *Effect of strike or other labor dispute.* Authorization for all employment, whether or not part of an academic program, is automatically susended upon certification by the Secretary of Labor or the Secretary's designee to the Commissioner of Immigration and Naturalization or the Commissioner's designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or a joint employer does business.

(vi) *Spouse and children of F-1 student.* The F-2 spouse and children of an F-1 student may not accept employment.

(10) *Practical training.*—(i) *When practical training may be authorized.* Temporary employment for practical training may be authorized only—

(A) After completion of the course of study if the student intends to engage in only one course of study;

(B) After completion of at least one course of study if the student intends to engage in more than one course of study;

(C) After completion of all course requirements for the degree if the student is in a bachelor's, master's, or doctoral degree program;

(D) Before completion of the course of study if the student is attending a college, university, seminary, or conservatory which requires practical training of all degree candidates in a specified professional field and the student is a candidate for a degree in that field; or

(E) Before completion of the course of study during the student's annual vacation if recommended by the designated school official as beneficial to the student's academic program.

(ii) *Application for practical training.*—(A) *General.* An F-1 student must apply for permission to accept or continue employment for practical traning on Form I-538 accompanied by the student's Form I-20 ID copy. The designated school official must certify on form I-538 that—

(1) The proposed employment is for the purpose of practical training;

(2) The proposed employment is related to the student's course of study;

(3) Upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(B) *Application to accept practical training after completion of course of study.* A student must file an application for permission to accept practical training after completion of a course of study not more than sixty days before completion of the course of study, nor more than thirty days after completion of the course of study. The application must be submitted to the Service office having jurisdiction over the school the student was last authorized to attend. The student need not have been offered temporary employment for practical training.

(C) *Application to continue practical training after completion of course of study.* A student must file an application for permission to continue employment for practical training after completion of a course of study at least fifteen days but not more than sixty days before the expiration of the applicant's currently authorized practical training. The application must be submitted to the Service office having jurisdiction over the actual place of employment. It must be accompanied by a letter from the applicant's employer stating the applicant's occupation, the exact date employment began, and the date the employment will terminate, and describing in detail the duties of the applicant's occupation.

(D) *Application for practical training before completion of course of study.* A student must submit an application for permission to engage in practical training before completion of the course of study to the Service office having jurisdiction over the school the student was last authorized to attend. The student need not have been offered temporary employment for practical training unless the student is applying for permission to continue practical training. In that case, the application must be accompanied by a letter from the student's employer stating the student's occupation, the exact date employment began, and the date the employment will terminate, and describing in detail the duties of the student's occupation.

(iii) *Duration of practical training.* If permission to engage in employment for practical training is granted, the adjudicating officer shall endorse the permission on the student's Form I-20 ID copy and shall note on that form the dates on which the practical training permission begins and ends. A student may engage in employment for practical training only when the student receives the Form I-20 ID copy endorsed to that effect. Provided that the student's course of study is of at least twelve months' duration, the Service may grant a student not in a language training program permission to accept temporary employment for practical training for six months or less if the student has not been offered temporary employment for practical training; for twelve months or less if the student has been offered temporary employment for practical training; or to continue temporary employment for practical training for eight months or less. The period of practical training which may be granted during a student's vacation, however, is limited to the length of the vacation rounded off to the closest number of months. A student may not be granted a period of practical training which would result in the student's being engaged in practical training for more than twelve months in the aggregate. When the course of study is of less than twelve months' duration, an F-1 student not in a language training program may be granted permission to engage in employment for practical training for an aggregate number of months not exceeding the length of the student's course of study. An F-1 student in a language training program may be granted employment for practical training for a period or periods of time equal to one month for each four months during which the student carried a full course of study at the school(s) the student was authorized to attend in the United States. Practical training authorized after completion of a course of study is deemed to commence on the date the student begins employment or sixty days after completion of the course of study, whichever is earlier. Permission to accept employment for practical training may not be granted if the training applied for cannot be completed within the maximum period of time for which the student is eligible. In such a case, the student may, upon graduation, apply for a change to another nonimmigrant classification which would permit the student's accepting employment.

(iv) *Alternate work/study courses.* An F-1 student enrolled in a college, university, conservatory or seminary having alternate work/study courses as a part of the regular curriculum

available within the student's program of study may participate in those courses without obtaining a change of status and without obtaining permission to accept employment. Periods of actual off-campus employment which are part of a work/study program, however, are considered to be practical training. They, therefore, must be deducted from the total practical training time for which the student is eligible.

(v) *Temporary absence of F-1 student granted practical training.* An F-1 student who has been granted permission to accept employment for practical training and who departs from the United States temporarily, may be readmitted for the remainder of the authorized period indicated on the student's Form I-20 ID copy. The student must be returning to the United States to perform the authorized practical training. A student may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

(11) *Decision on application for extension, permission to transfer to another school, or permission to accept or continue off-campus employment or practical training.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason or reasons for the denial. The applicant may not appeal the decision.

(12) *Reinstatement to student status.*—(i) *General.* A district director may consider reinstating to F-1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an F-1 student and who has overstayed the authorized period of stay or who has otherwise violated the conditions of his or her status only if the student—

(A) Establishes to the satisfaction of the district director that the violation of status resulted from circumstances beyond the student's control or that failure to receive reinstatement to lawful F-1 status would result in extreme hardship to the student;

(B) Makes a written request for reinstatement accompanied by a properly completed Form I-20A-B from the school the student is attending or intends to attend and the student's Form I-20 ID copy;

(C) Is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I-20A-B;

(D) Has not been employed off-campus without authorization, or, as a fulltime student, has continued on-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship or other on-campus employment which did not displace a United States resident after the expiration of the authorized period of stay; and

(E) Is not deportable on any ground other than section 241(a)(2) or (9) of the Act.

(ii) *Decision.* If the district director reinstates the student, the district director shall endorse Form I-20B and the student's Form I-20 ID copy to indicate that the student has been reinstated, return the Form I-20 ID copy to the student, and forward Form I-20B with Form I-20A to the Service's processing center for file updating. The processing center shall forward Form I-20B to the school which the student is attending or intends to attend to notify the school of the student's reinstatement. If the district director does not reinstate the student, the student may not appeal that decision.

(13) *School code suffix on Form I-20A-B.* Each school system, other than an elementary or secondary school system, approved prior to August 1, 1983 for attendance by F-1 students must assign permanent consecutive numbers to all schools within its system. The number of the school within the system which an F-1 student is attending or intends to attend must be added as a three-digit suffix following a decimal point after the school file number on Form I-20A-B (e.g. .001). If an F-1 student is attending or intends to attend an elementary or secondary school in a school system or a school which is not part of a school system, a suffix consisting of a decimal point followed by three zeros must be added after the school file number on Form I-20A-B. The Service will assign school code suffixes to those schools it approves beginning August 1, 1983. No Form I-20A-B will be accepted after August 1, 1983 without the appropriate three-digit suffix.

* * * * *

§ 214.2 [Amended]

3. The existing § 214.2(m) is redesignated as § 214.2(n) and the following new § 214.2(m) is added:

* * * * *

(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs.*—(1) *Admission of student.*—(i) *Eligibility for admission.* Except as provided in paragraph (m)(4) of this section, an alien seeking admission to the United States under section 101(a)(15)(M)(i) of the Act (as an M-1 student) and the student's accompanying M-2 spouse and minor children, if applicable, are not eligible for admission unless—

(A) The student presents a Certificate of Eligibility for Nonimmigrant (M-1) Student Status, Form I-20M-N, properly and completely filled out by the student and by the designated official of the school to which the student is destined and the documentary evidence of the student's financial ability required by that form; and

(B) It is established that the student is destined to and intends to attend the school specified in the student's visa unless the student is exempt from the requirement for presentation of a visa.

(ii) *Disposition of Form I-20M-N.* When a student is admitted to the United States, the inspecting officer shall forward Form I-20M-N to the Service's processing center. The processing center shall forward Form I-20N to the school which issued the form to notify the school of the student's admission.

(2) *Form I-20 ID copy.* The first time an M-1 student comes into contact with the Service for any reason, the student must present to the Service a Form I-20M-N properly and completely filled out by the student and by the designated official of the school the student is attending or intends to attend. The student will be issued a Form I-20 ID copy with his or her admission number. The student must have the Form I-20 ID copy with him or her at all times. If the student loses the Form I-20 ID copy, the student must request a new Form I-20 ID copy on Form I-102 from the Service office having jurisdiction over the school the student was last authorized to attend.

(3) *Spouse and minor children following to join student.* The M-2 spouse and minor children following to join an M-1 student are not eligible for admission to the United States unless they present, as evidence that the student is or will, within sixty days, be enrolled in a full course of study or is engaged in approved practical training, either—

(i) A properly endorsed page 4 of Form I-20M-N if there has been no substantive change in the information on the student's most recent Form I-20M since the form was initially issued; or

(ii) A new Form I-20M-N if there has been any substantive change in the information on the student's most recent Form I-20M since the form was initially issued.

(4) *Temporary absence.*—(i) *General.* An M-1 student returning to the United States from a temporary absence to attend the school which the student was previously authorized to attend must present either—

(A) A properly endorsed page 4 of Form I-20M-N if there has been no substantive change in the information on the student's most recent Form I-20M since the form was initially issued; or

(B) A new Form I-20M-N if there has been any substantive change in the information on the student's most recent Form I-20M since the form was initially issued.

(ii) *Student who transferred between schools.* If an M-1 student has been authorized to transfer between schools and is returning to the United States from a temporary absence in order to attend the school to which transfer was authorized as indicated on the student's Form I-20 ID copy, the name of the school to which the student is destined does not need to be specified in the student's visa.

(5) *Period of stay.* An alien admitted to the United States as an M-1 student is to be admitted for the period of time necessary to complete the course of study indicated on Form I-20M plus thirty days within which to depart from the United States or for one year, whichever is less. An alien granted a change of nonimmigrant classification to that of an M-1 student is to be given an extension of stay for the period of time necessary to complete the course of study indicated on Form I-20M plus thirty days within which to depart from the United States or for one year, whichever is less.

(6) *Conversion to M-1 status of students in established vocational or other recognized nonacademic institutions, other than in language training programs, who were F-1 students prior to June 1, 1982.* A student in an established vocational or other recognized nonacademic institution, other than in a language training program, who is in status as an F-1 student under section 101(a)(15)(F)(i) of the Act in effect prior to June 1, 1982 and the student's F-2 spouse and children, if applicable, are—

(i) Automatically converted to M-1 and M-2 status respectively; and

(ii) Limited to the authorized period of stay shown on their Forms I-94 plus thirty days within which to depart from the United States or to an authorized period of stay which expires one year from August 1, 1983, whichever is less.

(7) *Period of stay of student already in M-1 status.* A student in an established vocational or other recognized nonacademic institution, other than in a language training program, who is already in M-1 status and the student's M-2 spouse and children, if applicable, are limited to the authorized period of stay shown on their Forms I-94 plus thirty days within which to depart from the United States or to an authorized period of stay which expires one year from August 1, 1983, whichever is less.

(8) *Issuance of new I-94.* A nonimmigrant whose status is affected by paragraph (m)(6) or (m)(7) of this section need not present Form I-94 to the Service. Either paragraph constitutes official notification to a student whose status is affected by it of that status. The Service will issue a new Form I-94 to an alien whose status is affected by either paragraph when that alien comes into contact with the Service.

(9) *Full course of study.* Successful completion of the course of study must lead to the attainment of a specific educational or vocational objective. A "full course of study" as required by section 101(a)(15)(M)(i) of the Act means—

(i) Study at a community college or junior college, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter-hour systems, where all students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by the district director) except when the student needs a lesser course load to complete the course of study during the current term;

(ii) Study at a postsecondary vocational or business school, other than in a language training program except as provided in § 214.3(a)(2)(iv), which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) and (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve hours of instruction a week, or its equivalent as determined by the district director;

(iii) Study in a vocational or other nonacademic curriculum, other than in a language training program except as provided in § 214.3(a)(2)(iv), certified by a designated school official to consist of at least eighteen clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least twenty-two clock hours a week if the dominant part of the course of study consists of shop or laboratory work; or

(iv) Study in a vocational or other nonacademic high school curriculum, certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

(10) *Extension of stay.*—(i) *Eligibility.* An M-1 student may be granted an extension of stay if it is established that the student—

(A) Is a bona fide nonimmigrant currently maintaining student status; and

(B) Is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(ii) *Application.* An M-1 student must apply for an extension of stay on Form I-538. A student's M-2 spouse and children desiring an extension of stay must be included in the application. A student's M-2 spouse or children are not eligible for an extension of stay unless the student is granted an extension of stay. The student must submit the application to the Service office having jurisdiction over the school the student was last authorized to attend at least fifteen days but not more than sixty days before the expiration of the student's currently authorized stay. The application must also be accompanied by the student's Form I-20 ID copy and the Forms I-94 of the student's spouse and children, if applicable.

(iii) *Period of stay.* If an application for extension of stay is granted, the student and the student's spouse and children, if applicable, are to be given an extension of stay for the period of time necessary to complete the course of study plus thirty days within which to depart from the United States or for one year, whichever is less. An M-1 student who has been compelled by illness to interrupt or reduce a course of study may be granted an extension of stay without being required to change nonimmigrant classification provided that it is established that the student will pursue a full course of study upon recovery from the illness.

(11) *School transfer.*—(i) *Eligibility.* An M-1 student may not transfer to another school after six months from the date the student is first admitted as, or changes nonimmigrant classification to that of, an M-1 student unless the student is unable to remain at the school to which the student was initially admitted due to circumstances beyond the student's control. An M-1 student may be otherwise eligible to transfer to another school if the student—

(A) Is a bona fide nonimmigrant;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend;

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Procedure.* An M-1 student must apply for permission to transfer between schools on Form I-538 accompanied by the student's Form I-20 ID copy and the Forms I-94 of the student's spouse and children, if applicable. The Form I-538 must also be accompanied by Form I-20M-N properly and completely filled out by the student and by the designated official of the school which the student wishes to attend. The student must submit the application for school transfer to the Service office having jurisdiction over the school the student was last authorized to attend. Sixty days after having filed an application for school transfer, an M-1 student may effect the transfer subject to approval or denial of the application. An M-1 student who transfers without complying with this regulation or whose application is denied after transfer pursuant to this regulation is considered to be out of status. If the application is approved, the approval of the transfer will be retroactive to the date of filing the application, and the student will be granted an extension of stay for the period of time necessary to complete the course of study indicated on Form I-20M plus thirty days within which to depart from the United States or for one year, whichever is less. The adjudicating officer must endorse the name of the school to which transfer is authorized on the student's Form I-20 ID copy. The officer must also endorse Form I-20N to indicate that a school transfer has been authorized and forward it with Form I-20M to the Service's processing center for file updating. The processing center shall forward Form I-20N to the school to which the transfer has been authorized to notify the school of the action taken.

(iii) *Student who has not been pursuing a full course of study.* If an M-1 student who has not been pursuing a full course of study at the school the student was last authorized to attend desires to attend a different school, the student must apply for reinstatement to student status under of paragraph (m)(16) of this section.

(12) *Change in educational objective.* An M-1 student may not change educational objective.

(13) *Employment.* Except as provided in paragraph (m)(14) of this section, M-1 students may not accept employment. A student already in M-1 status on August 1, 1983 or a student converted to M-1 status under paragraph (m)(6) of this section who was authorized off-campus employment under the regulations previously in effect, however, may continue to work until the date of expiration of the previously authorized period of employment. The M-2 spouse and children of an M-1 student may not accept employment.

(14) *Practical training.*—(i) *When practical training may be authorized.* Temporary employment for practical training may be authorized only after completion of the student's course of study.

(ii) *Application.* An M-1 student must apply for permission to accept employment for practical training on Form I-538 accompanied by the student's Form I-20 ID copy. The student must submit the application to the Service office having jurisdiction over the school the student was last authorized to attend. The application must be submitted prior to the expiration of the student's authorized period of stay and not more than sixty days before nor more than thirty days after completion of the course of study. The designated school official must certify on Form I-538 that—

(A) The proposed employment is recommended for the purpose of practical training;

(B) The proposed employment is related to the student's course of study; and

(C) Upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(iii) *Duration of practical training.* If permission to engage in employment for practical training is granted, the adjudicating officer shall endorse the permission on the student's Form I-20 ID copy and shall note the dates on which the practical training permission begins and ends. The student has permission to engage in employment for practical training only if and when the student receives the Form I-20 ID copy endorsed to that effect. The student may be granted one period of practical training for a period of time equal to one month for each four months during which the student pursued a full course of study, but not to exceed six months, plus an additional thirty days within which to depart from the United States. Permission to accept employment may not be granted if the training applied for cannot be completed within the maximum period of time for which the applicant is eligible.

(iv) *Temporary absence of M-1 student granted practical training.* An M-1 student who has been granted permission to accept employment for practical training and who temporarily departs from the United States, may be readmitted for the remainder of the authorized period indicated on the student's Form I-20 ID copy. The student must be returning to the United States to perform the authorized practical training. A student may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

(v) *Effect of strike or other labor dispute.* Authorization for all employment for practical training is automatically suspended upon certification by the Secretary of Labor or the Secretary's designee to the Commissioner of Immigration and Naturalization or the Commissioner's designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or joint employer does business.

(15) *Decision on application for extension, permission to transfer to another school, or permission to accept employment for practical training.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason(s) for the denial. The applicant may not appeal the decision.

(16) *Reinstatement to student status.*—(i) *General.* A district director may consider reinstating to M-1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an M-1 student and who has overstayed the authorized period of stay or who has otherwise violated the conditions of his or her status only if—

(A) The student establishes to the satisfaction of the district director that the violation of status resulted from circumstances beyond the student's control or that failure to receive reinstatement to lawful M-1 status would result in extreme hardship to the student;

(B) The student makes a written request for reinstatement accompanied by a properly completed Form I-20M-N from the school the student is attending or intends to attend and the student's Form I-20 ID copy;

(C) The student is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I-20M-N;

(D) The student has not been employed without authorization; and

(E) The student is not deportable on any ground other than section 241(a)(2) or (9) of the Act.

(ii) *Decision.* If the district director reinstates the student, the district director shall endorse Form I-20N and the student's Form I-20 ID copy to indicate that the student has been reinstated, return the Form I-20 ID copy to the student, and forward Form I-20N with Form I-20M to the Service's processing center for file updating. The processing center shall forward Form I-20N to the school which the student is attending or intends to attend to notify the school of the student's reinstatement. If the district director does not reinstate the student, the student may not appeal that decision.

(17) *School code suffix on Form I-20M-N.* Each school system, other than a secondary school system approved prior to August 1, 1983 for attendance by M-1 students must assign permanent consecutive numbers to all schools within its system. The Number of the school within the system which an M-1 student is attending or intends to attend must be added as a three-digit suffix following a decimal point after the school file number on Form I-20M-N (e.g. .001). If an M-1 student is attending or intends to attend a secondary school in a school system or a school which is not part of a school system, a suffix consisting of a decimal point followed by three zeros must be added after the school file number on Form I-20M-N. The Service will assign school code suffixes to those schools it approves beginning August 1, 1983. No Form I-20M-N will be accepted after August 1, 1983 without the appropriate three-digit suffix.

* * * * *

4. Section 214.3 is amended by removing the words "Office of Education" and "Education Directory, Higher Education" from paragraph (b) and inserting, in their place, the words "Department of Education" and "Education Directory, Colleges and Universities," respectively and by removing the words "Office of Education," "Education Directory, Higher Education" and "Office" from paragraph (c) and inserting, in their place, the words "Department of Education," "Education Directory, Colleges and Universities", and "Department" respectively. Section 214.3 is amended further by revising paragraphs (a), (e), (g), (h), (i), and (k) and by adding new paragraph (l) to read as follows:

§ 214.3 Petitions for approval of schools.

(a) *Filing petition.*—(1) *General.* A school or school system seeking approval for attendance by nonimmigrant students under sections 101(a)(15)(F)(i) or 101 (a)(15)(M)(i) of the Act, or both, shall file a petition on Form I-17 with the district director having jurisdiction over the place in which the school or school system is located. Separate petitions are required for different schools in the same school system located within the jurisdiction of different district directors. A petition by a school system must specifically identify by name and address those schools included in the petition. The petition must also state whether the school or school system is seeking approval for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act: or both.

(2) *Approval for F-1 or M-1 classification, or both.*—(i) *F-1 classification.* The following schools may be approved for attendance by nonimmigrant students under section 101(a)(15)(F)(i) of the Act:

(A) A college or university, i.e., and institution of higher learning which awards recognized bachelor's, master's doctor's or professional degrees.

(B) A community college or junior college which provides instruction in the liberal arts or in the professions and which awards recognized associate degrees.

(C) A seminary.

(D) A conservatory.

(E) An academic high school.

(F) An elementary school.

(G) An institution which provides language training, instruction in the liberal arts or fine arts, instruction in the professions, or instruction or training in more than one of these disciplines.

(ii) *M-1 classification.* The following schools are considered to be vocational or nonacademic institutions and may be approved for attendance by nonimmigrant students under section 101(a)(15)(M)(i) of the Act:

(A) A community college or junior college which provides vocational or technical training and which awards recognized associate degrees.

(B) A vocational high school.

(C) A school which provides vocational or nonacademic training other than language training.

(iii) *Both F-1 and M-1 classification.* A school may be approved for attendance by nonimmigrant students under both sections 101(a)(15)(F)(i) and 101(a)(15)(M)(i) of the Act if it has both instruction in the liberal arts, fine arts, language, religion, or the professions and vocational or technical training. In that case, a student whose primary intent is to pursue studies in liberal arts, fine arts, language, religion, or the professions at the school is classified as a nonimmigrant under section 101(a)(15)(F)(i) of the Act. A student whose primary intent is to pursue vocational or technical training at the school is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

(iv) *English language training for a vocational student.* A student whose primary intent is to pursue vocational or technical training who takes English language training at the same school solely for the purpose of being able to understand the vocational or technical course of study is classified as a nonimmigrant under section 101(a)(15)(M)(i) of the Act.

* * * * *

(e) *Approval of petition.*—(1) *Eligibility.* To be eligible for approval, the petitioner must establish that—

(i) It is a bona fide school;

(ii) It is an established institution of learning or other recognized place of study;

(iii) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and

(iv) It is, in fact, engaged in instruction in those courses.

(2) *General.* Upon approval of a petition, the district director shall notify the petitioner. The approval of a school for attendance by nonimmigrant students is valid only as long as the school continues to operate in the manner represented on the petition. The approval is also valid only for the type of student, i.e., F-1 or M-1 or both, specified in the approval notice. The approval may be withdrawn in accordance with the provisions of §214.4.

* * * * *

(g) *Record-keeping and reporting requirements.*—(1) *Record-keeping requirements.* An approved school must keep records containing certain specific information and documents relating to each F-1 or M-1 student to whom it has issued a Form I-20A or I-20M while the student is attenidng the school and until the school notifies the Service, in accordance with the requirements of paragraph (g)(2) of this section, that the student is not pursuing a full course of study. The school must keep a record of having complied with the reporting requirements for at least one year. If a student who is out of status is restored to status, the school the student is attending is responsible for maintaining these records following receipt of notification from the Service that the student has been restored to status. The designated school official must make the information and documents required by

this paragraph available to and furnish them to any Service officer upon request. The information and documents which the school must keep on each student are as follows:

(i) The admission number from the student's Form I-20 ID copy.

(ii) Country of citizenship.

(iii) Address and telephone number.

(iv) Status, i.e., full-time or part-time.

(v) Course load.

(vi) Date of commencement of studies.

(vii) Degree program and field of study.

(viii) Expected date of completion.

(ix) Visa type.

(x) Termination date and reason, if known.

(xi) The documents referred to in paragraph (k) of this section.

(xii) Information specified by the Service as necessary to identify the student, such as date and place of birth, and to determine the student's immigration status.

(2) *Reporting requirements.* At intervals specified by the Service but not more frequently than once a term or session, the Service's processing center shall send each school (to the address given on Form I-17 as that to which the list should be sent) a list of all F-1 and M-1 students who, according to Service records, are attending that school. A designated school official at the school must note on the list whether or not each student on the list is pursuing a full course of study and give, in addition to the above information, the names and current addresses of all F-1 or M-1 students, or both, not listed, attending the school and other information specified by the Service as necessary to identify the students and to determine their immigration status. The designated school official must comply with the request, sign the list, state his or her title, and return the list to the Service's processing center within sixty days of the date of the request.

(h) *Review of school approvals.*—(1) *Regular review of school approvals.* The district director shall review from time to time the approval granted to each school in his or her district. The purpose of the review is to determine whether the school meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. The district director may require each school whose approval is reviewed to furnish a currently executed Form I-17 as a petition for continuation of school approval without fee together with the supporting documents specified in paragraph (b) of this section. If, upon completion of the review, the district director finds that the approval should not be continued, the district director shall institute withdrawal proceedings in accordance with § 214.4(b).

(2) *One-time recertification process.*—(i) *General.* Beginning on August 1, 1983, the Service shall notify, in writing, each approved school that it must submit a petition for continuation of its school approval. Within sixty days of receipt of the notification, each school desiring to continue its approval must submit to the Service—

(A) Form I-17 without fee;

(B) The names, titles, and sample signatures of its designated officials as defined in paragraph (l)(1) of this section;

(C) A statement signed by each designated official certifying that the official has read the Service regulations relating to nonimmigrant students, namely §§ 214.1(b), 214.2(f), and 214.2(m); the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248.1(c), 248.1(b), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming the official's intent to comply with these regulations; and

(D) The supporting documents specified in paragraph (b) of this section.

(ii) *Withdrawal of school approval.* The purpose of the one-time recertification process is to enable the Service to update its records and review the approval of each school desiring to continue its approval to determine whether it meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. If, upon completion of the review, the Service finds that the approval should not be continued, the district director having jurisdiction over the school shall institute withdrawal proceedings in accordance with § 214.4(b). If an approved school fails to submit a petition for continuation of school approval in accordance with this paragraph, its approval will be automatically withdrawn. The district director shall advise the school of an automatic withdrawal of a school's approval pursuant to this paragraph. The effective date of the withdrawal is the date of the notice of that withdrawal. Automatic withdrawal of a school's approval is without prejudice to consideration of a new petition for school approval.

(i) *Administration of student regulations by the Immigration and Naturalization Service.* District directors in the field shall be responsible for conducting periodic reviews on the campuses under the jurisdiction of their offices to determine whether students are complying with Service regulations including keeping their passports valid for a period of six months at all times when required. Service officers shall take appropriate action regarding violations of the regulations.

* * * * *

(k) *Issuance of Certificate of Eligibility.* A designated official of a school that has been approved for attendance by nonimmigrant students must certify Form I-20A or I-20M, but only after page 1 has been completed in full. A Form I-20A-B or I-20M-N issued by an approved school system must state which school within the system the student will attend. The form must be issued in the United States. Only a designated official shall issue a Certificate of Eligibility, Form I-20A-B or I-20M-N, to a prospective student and only after the following conditions are met:

(1) The prospective student has made a written application to the school.

(2) The written application, the student's transcripts or other records of courses taken, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

(l) *Designated official.*—(1) *Meaning of term "designated official".* As used in §§ 214.1(b), 214.2(f), 214.2(m), 214.4 and this section, a "designated official" or "designated school official" means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official. The president, owner, or head of a school or school system must designate a designated official. The designated official may not delegate this designation to any other person. Each school or institution may have up to five designated officials at any one time. In a multi-campus institution, each campus may have up to five designated officials at any one time. In an elementary or

secondary school system, however, the entire school system is limited to five designated officials at any one time.

(2) *Name, title, and sample signature.* Petitions for school approval must include the names, titles, and sample signatures of designated officials. An approved school must report to the Service office having jurisdiction over it any changes in designated officials and furnish the name, title, and sample signature of the new designated official within thirty days of each change.

(3) *Statement of designated official.* A petition for school approval must include a statement by each designated official certifying that the official has read the Service regulations relating to nonimmigrant students, namely §§ 214.1(b), 214.2(f), and 214.2(m); the Service regulations relating to change of nonimmigrant classification for students, namely §§ 214.1(c), 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely this section and the regulations relating to withdrawal of school approval namely, § 214.4; and affirming the official's intent to comply with these regulations. An approved school must also submit to the Service office having jurisdiction over it such a statement from any new designated official within thirty days of each change in designated official.

5. Section 214.4 is amended by removing the words "Office of Education" from paragraph (e) and inserting, in their place, the words, "Department of Education". Section 214.4 is amended further by revising paragraph (a) to read as follows:

§ 214.4 Withdrawal of school approval.

(a) *General.*— (1) *Withdrawal on notice.* If a school's approval is withdrawn on notice as provided in paragraphs (b), (c), (d), (e), (f), (g), (h), (i) (j), and (k) of this section, the school is not eligible to file another petition for school approval until at least one year after the effective date of the withdrawal. The approval by the Service, pursuant to sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) or both, of the Act, of a petition by a school or school system for the attendance of nonimmigrant students will be withdrawn on notice if the school or school system is no longer entitled to the approval for any valid and substantive reason including, but not limited to, the following:

(i) Failure to comply with § 214.3(g)(1) without a subpoena.

(ii) Failure to comply with § 214.3(g)(2).

(iii) Failure of a designated official to notify the Service that an F-1 student intends to transfer to another school as required by § 214.2(f)(8)(ii).

(iv) Willful issuance by a designated official of a false statement or certification in connection with a school transfer or an application for employment or practical training.

(v) Any conduct on the part of a designated official which does not comply with the regulations.

(vi) The designation as a designated official of an individual who does not meet the requirements of § 214.3(l)(1).

(vii) Failure to provide the Service with the names, titles, and sample signatures of designated officials as required by § 214.3(l)(2).

(viii) Failure to submit statements of designated officials as required by § 214.3(l)(3).

(ix) Issuance of Forms I-20A or I-20M to students without receipt of proof that the students have met scholastic, language or financial requirements.

(x) Issuance of Forms I-20A or I-20M to aliens who will not be enrolled in or carry full courses of study as defined in §§214.2(f)(6) or 24.2(m)(9).

(xi) Failure to operate as a bona fide institution of learning.

(xii) Failure to employ qualified professional personnel.

(xiii) Failure to limit its advertising in the manner prescribed in § 214.3(j).

(xiv) Failure to maintain proper facilities for instruction.

(xv) Failure to maintain accreditation or licensing necessary to qualify graduates as represented in the petition.

(xvi) Failure to maintain the physical plant, curriculum, and teaching staff in the manner represented in the petition for school approval.

(xvii) Failure to comply with the procedures for issuance of Forms 1-20A or 1-20M as set forth in § 214.3(k).

(2) *Automatic withdrawal.* If an approved school terminates its operations, approval will be automatically withdrawn as of the date of termination of the operations. If an approved school changes ownership, approval will be automatically withdrawn sixty days after the change of ownership unless the school files a new petition for school approval within sixty days of that change of ownership. The district director must review the petition to determine whether the school still meets the eligibility requirements of § 214.3(e). If, upon completion of the review, the district director finds that the approval should not be continued, the district director shall institute withdrawal proceedings in accordance with paragraph (b) of this section. Automatic withdrawal of a school's approval is without prejudice to consideration of a new petition for school approval.

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

6. Section 248.1 is amended by revising paragraph (b) and by adding paragraphs (c) and (d). Paragraphs (b), (c), and (d) read as follows:

§ 248.1 Eligibility.

* * * * *

(b) *Maintenance of status.* In determining whether an applicant has continued to maintain nonimmigrant status, the district director shall consider whether the alien has remained in the United States for a longer period than that authorized by the Service. The district director shall consider any conduct by the applicant relating to the maintenance of the status from which the applicant is seeking a change. An applicant may not be considered as having maintained nonimmigrant status within the meaning of this section if the applicant failed to submit an application for change of nonimmigrant classification before the applicant's authorized temporary stay in the United States expired, unless the district director determines that—

(1) The failure to file a timely application is excusable;

(2) The alien has not otherwise violated the nonimmigrant status;

(3) The alien is a bona fide nonimmigrant; and

(4) The alien is not the subject of deportation proceedings under Part 242 of this chapter.

(c) *Change of nonimmigrant classification to that of a nonimmigrant student.* A nonimmigrant applying for a change to classification as a student under sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act is not considered ineligible for such a change solely because the applicant may have started attendance at school before the application was submitted. The district director shall deny an application for a change to classification as a student under section 101(a)(15)(M)(i) of the Act if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change of nonimmigrant classification to that of an alien temporary worker under section 101(a)(15)(H) of the Act. Furthermore, an alien may not change from classification as a student under section 101(a)(15)(M)(i) of the Act to that of a student under section 101(a)(15)(F)(i) of the Act.

(d) *Application for change of nonimmigrant classification from that of a student under section 101(a)(15)(M)(i) to that described in section 101(a)(15)(H).* A district director shall deny an application for change of nonimmigrant classification from that of an M-1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the education or training which the student received while an M-1 student enables the student to meet the qualifications for temporary worker classification under section 101(a)(15)(H) of the Act.

7. Section 248.3 is amended by revising paragraph (b), by adding new paragraphs (c) and (d), and by redesignating existing paragraphs (c) and (d) as (e) and (f), respectively. Paragraphs (b), (c), and (d) read as follows:

§ 248.3 Application.

* * * * *

(b) *Application and fee not required.* For a change of nonimmigrant classification to a classification under section 101(a)(15)(A) or 101(a)(15)(G) of the Act, the Department of State must send a letter to the district director. For all other changes of nonimmigrant classification as described below, the applicant must submit a letter to the district director requesting the change of nonimmigrant classification. Neither an application nor a fee is required for the following changes of nonimmigrant classification:

(1) A change to classification under section 101(a)(15) (A) or (G) of the Act.

(2) A change to classification under sections 101(a)(15) (A) or (G) of the Act for an immediate family member, as defined in 22 C.F.R. 41.1, of a principal alien whose status has been changed to such a classification.

(3) A change to the appropriate classification for the nonimmigrant spouse or child of an alien whose status has been changed to a classification under sections 101(a)(15) (E), (F), (H), (I), (J), (L), or (M) of the Act.

(4) A change of classification from that of a visitor for pleasure under section 101(a)(15)(B) of the Act to that of a visitor for business under the same section.

(5) A change of classification from that of a student under section 101(a)(15)(F)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(F)(ii) of the Act or vice versa.

(6) A change from any classification within section 101(a)(15)(H) of the Act to any other classification within section 101(a)(15)(H) of the Act provided that the requisite Form I-129B visa petition has been filed and approved.

(7) A change from classification as a participant under section 101(a)(15)(J) of the Act to classification as an accompanying spouse or minor child under that section or vice versa.

(8) A change from classification as an intra-company transferee under section 101(a)(15)(L) of the Act to classification as an accompanying spouse or minor child under that section or vice versa.

(9) A change of classification from that of a student under section 101(a)(15)(M)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(M)(ii) of the Act or vice versa.

(c) *Fee not required.* No fee is required for a request for change to exchange alien classification under section 101(a)(15)(J) of the Act made by an agency of the United States Government. In such a case, the agency may submit Form IAP-66, Certificate of Eligibility for Exchange-Visitor (J-1) Status, together with its request in lieu of Form I-506, Application for Change of Nonimmigrant Status.

(d) *Change of classification not required.* The following do not need to request a change of classification:

(1) An alien classified as a visitor for business under section 101(a)(15)(B) of the Act who intends to remain in the United States temporarily as a visitor for pleasure during the period of authorized admission; or

(2) An alien classified under sections 101(a)(15)(A) or 101(a)(15)(G) of the Act as a member of the immediate family of a principal alien classified under the same section, or an alien classified under section 101(a)(15) (E), (F), (H), (I), (J), (L), or (M) of the Act as the spouse or child who accompanied or followed to join a principal alien who is classified under the same section, to attend school in the United States, as long as the immediate family member, spouse or child continues to be qualified for and maintains the status under which the family member, spouse or child is classified.

* * * * *

(Sec. 101(a)(15)(F), 101(a)(15)(M), 214 and 248, Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15)(F), 1101(a)(15)(M), 1184 and 1258)

Dated: March 21, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83-8728 Filed 4-4-83; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 238

Contracts With Transportation Lines: Addition of San Juan Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds San Juan Airlines, Inc. to the listing of carriers which have entered into agreements with the Service regarding transportation lines bringing aliens to the United States from or through foreign contiguous territory or adjacent islands and lines bringing aliens destined to the United States into such territory or islands. No transportation line is permitted to land any alien in the United States unless it has entered into such a contract.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.2 is published pursuant to 5 U.S.C. 552. The Service entered into written contracts with San Juan Airlines, Inc. on March 9, 1983 under the provisions of section 238(a) and (b) of the Immigration and Nationality Act, 8 U.S.C. 1228(a) and (b), to provide for the entry and inspection of aliens coming to the United States from or through Canada. The agreements require San Juan Airlines, Inc., to submit to and comply with all the requirements of the Immigration and Nationality Act which would apply if it was bringing such aliens directly to ports of the United States. No transportation line is allowed to land any alien passengers in the United States unless it has entered into the required agreements.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the listing and is editorial in nature.

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.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of Section 1(a) of E.O. 12291.