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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[INS No. 2217-02]

RIN 1115-AG71

Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with requests for comments.

SUMMARY: This rule will amend the Immigration and Naturalization Service (Service) regulations governing review and certification of Service approved schools and will continue the implementation of the process by which schools may be approved to obtain access to the Student and Exchange Visitor Information System (SEVIS). On October 30, 2001, the President issued Homeland Security Directive No. 2 (Directive 2) requiring the Service to conduct periodic reviews of all institutions certified to receive nonimmigrant students. The Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107-173 (Border Security Act), enacted May 14, 2002, also requires a periodic review of school approval. While the Service has an existing process for certifying and decertifying schools, the Service is requiring that all schools must apply for certification, in accordance with these new mandates, prior to being allowed to enroll in SEVIS.

DATES: Effective date. This interim rule is effective September 25, 2002.

Comment date. Comments must be submitted on or before November 25, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2217-02 on your correspondence. Comments may also be submitted electronically to the Service at insregs@usdoj.gov. When submitting comments electronically, you must include INS No. 2217-02 in the subject heading so that your comments can be routed to the appropriate program office. Comments may be inspected at the above address by calling (202) 514-3291 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Maura Deadrick, Immigration and Naturalization Service, 425 I Street NW, Washington DC 20536, telephone number (202) 514-3228.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (Act) establishes the F nonimmigrant visa classification for foreign students who wish to come to the United States temporarily to attend an academic or language training institution. Section 101(a)(15)(M)(i) of the Act establishes the M nonimmigrant visa classification for foreign students who wish to come to the United States temporarily to attend a vocational education institution. An F or M nonimmigrant student may enroll in a particular school only if the Attorney General has approved the school for the attendance of F and M nonimmigrants. The Service exercises the Attorney General's authority to approve, or withdraw the approval of, schools that desire to admit F and M nonimmigrant students. The current regulations are codified in 8 CFR 214.3 and 214.4.

On October 30, 2001, the President issued Homeland Security Directive No. 2 (Directive 2) requiring the Service to conduct periodic reviews of all institutions approved to accept nonimmigrant students.

More recently, section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Border Security Act), Public Law 107-173, enacted May 14, 2002, requires the Service to review all schools approved by the Service for attendance by F or M

nonimmigrant students within 2 years of the passage of the Border Security Act. The Border Security Act also requires the Service to conduct periodic reviews of the approval of schools every 2 years thereafter.

The Service's proposed SEVIS implementation rule, 67 FR 34862 (May 16, 2002), establishes the regulatory framework for SEVIS and provides that the use of SEVIS will become mandatory for all schools on a mandatory compliance date of January 30, 2003. Once the final SEVIS implementation rule is adopted, and the mandatory compliance date is reached, all Service-approved schools will be required to use SEVIS for the admission of new students and for the issuance of new forms for existing students. Once a school is approved and enrolled in SEVIS, it must issue Forms I-20 for all newly enrolled students from SEVIS. Furthermore, if a current student needs a new Form I-20 the school must enter the student into SEVIS at that time in order to issue a SEVIS Form I-20. The school may enter all of its current students prior to January 30, 2003 if it so desires, but is not required to do so. Following the mandatory compliance date, all new incoming foreign students must be entered into SEVIS. Schools must enter all current or continuing students, into SEVIS by the end of the next academic cycle. For example, in a semester academic calendar if a current student is returning for a 2003 summer session, as that would most likely be the next academic cycle, that student must be entered into SEVIS in order to verify current enrollment. Another example might be if the student is within a quarter academic calendar, the 2003 spring quarter would be when that student must be entered into SEVIS.

To facilitate the review of all Service-approved schools and to ensure the enrollment of all eligible schools in SEVIS in a timely manner, the Service has implemented a two-phased process for school review and SEVIS enrollment.

Phase I was a preliminary enrollment period for certain currently accredited schools. 67 FR 44344 (July 1, 2002). Eligible schools who applied during the preliminary enrollment period were granted preliminary access to SEVIS prior to paying the full certification fee or submitting to a full certification review. Preliminary enrollment began

on July 1, 2002, and closed with the publication of this rule, as provided in 8 CFR 214.12(b). Those schools that have electronically submitted a Form I-17 in SEVIS, under preliminary enrollment as provided in 8 CFR 214.12 prior to September 25, 2002, will be adjudicated in accordance with the preliminary enrollment requirements. Schools that have begun to fill out Form I-17 in SEVIS and saved the form as a draft, but who have not electronically submitted the form in SEVIS prior to September 25, 2002, will be required to pay the certification fee prior to certification in SEVIS in accordance with this rule.

This interim rule implements Phase II of the transition to SEVIS and provides that all schools not already approved to use SEVIS—including a school that would have been eligible for preliminary enrollment under 8 CFR 214.12 but did not apply for preliminary enrollment—must undergo a certification review, and pay the associated fee, prior to enrollment in SEVIS.

This rule implements Directive 2 and the Border Security Act by requiring each school that is currently approved for attendance by F and M nonimmigrants to undergo a review by the Service for approval in SEVIS no later than the SEVIS mandatory compliance date. This opportunity to review currently-approved schools will help ensure the integrity of the SEVIS program.

Petition for Initial Approval for Use of SEVIS

The school should begin the review process by accessing the SEVIS Web site at www.ins.usdoj.gov/sevis. By entering the basic contact information required, the school official that will be filing the petition for access to SEVIS will be issued a temporary user ID and password for SEVIS. Using this ID and password, the school official will access SEVIS on-line and complete and electronically submit the Form I-17 and the required fee.

In order to be reviewed by the Service and be granted access to SEVIS prior to the mandatory compliance date, schools are strongly encouraged to submit an electronic Form I-17 to the Service using SEVIS no less than 75 days prior to the compliance deadline. The Service cannot guarantee timely final action on any Form I-17 petition not filed at least 75 days prior to the SEVIS mandatory compliance deadline. In general, Forms I-17 will be adjudicated in a timely manner within 6 months of filing in accordance with the Service's backlog reduction plan. A school that has a

Form I-17 pending adjudication in SEVIS after the mandatory compliance date will be unable to issue Forms I-20 until approved and granted SEVIS access.

A school's approval will be automatically withdrawn as of the day following the SEVIS mandatory compliance date if the school has not submitted an electronic Form I-17 to initiate the certification review process by then. If a school's approval is withdrawn, the school may not issue any Forms I-20 for new F or M nonimmigrant students. Currently enrolled students must transfer to a different Service-approved school no later than the next semester, quarter, trimester or other academic term.

Review of Petitions for Initial Certification and Enrollment in SEVIS

The current regulations, in 8 CFR 214.3, provide for a paper-based application process, in which the school seeking Service approval must submit a paper Form I-17 together with specific forms of documentation. The evidentiary requirements are currently contained in 8 CFR 214.3(b) and (c) and the instructions on Form I-17. With the advent of electronic filing of the Form I-17, the school will not be required to present the accompanying documentation until the time of the on-site visit, as discussed below.

The purpose of certification review under this rule is two-fold: both to establish the bona fides of the school with regard to its educational or vocational programs, and also to review the adequacy of the school's past and current efforts to comply with the existing requirements governing foreign students. The Service recognizes that many schools are already accredited by educational organizations recognized by the Department of Education, or are approved by state education agencies. Accordingly, the Service will coordinate with the Department of Education and other appropriate education agencies regarding the documentation needed to establish the bona fides of such schools. However, neither the Department of Education nor other education agencies currently maintain information regarding the compliance of each school with the existing requirements of the Service's regulations governing foreign students. Accordingly, the Service will still need to conduct a certification review for such schools to determine the adequacy of the school's compliance with the foreign student requirements. The Service will review and adjudicate the electronic Form I-17, as supplemented by the results of the completed on-site visit. During the on-

site visit any signatures or supporting documentation will be collected and will be provided to the Service with the on-site report. Schools will receive notice of full certification approval, denial, or request for evidence via a SEVIS-generated electronic mail.

If a Service Officer requires clarification, updated documentation or further evidence to properly adjudicate the Form I-17, a request for evidence will be issued. Schools will receive notice of a request for evidence via a SEVIS-generated electronic mail, which will identify specific information or clarification the Service requires.

Approved schools will be enrolled in SEVIS and the Designated School Officials (DSO) listed on the electronic Form I-17 will be issued permanent user ID and passwords. If denied, the petitioner will receive e-mail notification through SEVIS and written notification from the Service.

If a school is denied certification, the school will receive written notice of the reasons for the denial and of the process for seeking review of such denial. The Service intends to issue a notice of proposed rulemaking in the near future to revise the withdrawal and appeal processes for schools in the foreign student program.

On-Site Reviews

This rule provides for an on-site visit as part of the certification. At the time of the on-site review, the school will be able to present supporting documentation evidencing its eligibility for Service approval.

The Service will determine by risk analysis the order in which schools will undergo an on-site review. All vocational (M) schools, flight schools, and language schools will be required to complete an on-site review before the Service will allow them to enroll in SEVIS. However, upon the discretion of the Service, the Service may allow conditional enrollment in SEVIS for accredited schools or for public secondary schools, prior to an on-site visit. Such schools will still be required to pay the associated on-site review fee when filing their Form I-17. If the Service does conditionally enroll schools in SEVIS, prior to an on-site visit, those schools will be subject to the full-scale review and on-site visit at a later date. The Service may request certain supporting information from schools in making a determination for conditional enrollment. Schools granted conditional enrollment may ultimately be denied certification based upon the results of the on-site review.

In general, all schools need to establish that they are bona fide

institutions of learning with the financial ability to remain a viable institution. The Service will utilize Department of Education information, as appropriate, to assist in the verification of the school's bona fides. The required supporting documentation is specific to the type of school petitioning. The evidentiary requirements are currently contained in 8 CFR 214.3(b) and (c) and in the instructions on the Form I-17. More detailed information and examples of the evidentiary documentation that the Service will accept from each school type will be made available on the Service's website.

Upon review of the findings of the on-site visit and any supporting documentation, a Service officer will determine the school's eligibility for approval. If the school was required to undergo the certification review, including an on-site visit, prior to enrollment in SEVIS, the school will be enrolled in SEVIS if approved. Schools that were approved for preliminary enrollment by the Service under 8 CFR 214.12, or that are conditionally enrolled in SEVIS under the Service's discretionary authority as provided in this rule under 8 CFR 214.3(h)(2) without an on-site visit, must complete the full certification review process prior to May 14, 2004. Until an on-site visit is conducted, a school enrolled in SEVIS under preliminary enrollment or conditional enrollment will be permitted to operate in SEVIS. After an on-site visit is conducted and the review process is completed, if approved, the school will be fully certified and may continue in SEVIS. If, after the on-site visit, the Service denies full certification, the Service will send electronic notification through SEVIS to the school indicating the reasons for the denial and the process for seeking review of such denial.

Subsequent Certification Reviews Every 2 Years

This interim rule only governs the initial process for certification of schools prior to enrollment in SEVIS (or, for schools previously approved for preliminary enrollment in SEVIS pursuant to 8 CFR 214.12, for initial certification prior to May 2004). However, both Directive 2 and the Border Security Act require the Service to conduct periodic reviews of all Service-approved schools. Accordingly, every school that completes the certification process under this rule must be reviewed every 2 years thereafter. This is a departure from the current practice, in which a school's approval continues indefinitely, unless

the Service affirmatively withdraws the approval. For this reason, the Service is striking the provision in 8 CFR 214.3(e)(2) relating to indefinite approval and inserting a reference to clarify that schools must be approved every two years.

At this time, this rule simply amends 8 CFR 214.3(h) to note that the Border Security Act requires a review of all approved schools every 2 years. The Service will implement, in a separate rulemaking proceeding, more specific procedures for schools to apply for a subsequent certification review—after having completed the initial certification process under this rule.

Fee for the Initial Filing of Form I-17

As the Service will be requiring on-site reviews prior to the initial approval of Form I-17, a new fee is necessary to support the review. The new fee includes the current internal Service cost, \$230, for the review of the Form I-17, as well as the cost of the on-site review, \$350, for a total of \$580.

The primary difference between the Internet system and the paper system is how the school submits Form I-17. Instead of the current, paper-based process of the school having to request the form, fill out the form, and mail to the Service, the school will now electronically complete and submit the form to the Service. As stated above, the \$580 fee includes both the base cost of processing of the Form I-17 and the on-site visit. In addition, the cost of the on-site review must be paid for each additional campus listed on the Form I-17B, with the exception of secondary public school systems. The per-campus cost is due to the fact that each campus will be subject to an on-site review. For instance, if School X, when submitting the Form I-17, lists two additional campuses, the total fee paid by School X is \$1280 (\$580 + \$350 + \$350). Instructions for electronic payment of the fee will be included on the Internet for schools when applying for review and enrollment in SEVIS.

Calculation of the New Fee

Federal guidelines require the Service to establish and collect application fees to recover the full cost of providing immigration and naturalization services, rather than supporting these services with tax revenue. This rule requires all schools not already approved to use SEVIS to pay the certification fee prior to certification in SEVIS. If a school pays this fee and is granted enrollment in SEVIS prior to the on-site review, the school will not be required to pay the fee again at the time of that on-site

review. All schools must pay the same certification fee.

The fee for initial certification is \$580. A certification fee also will be charged for each subsequent 2-year recertification. While the fee will be revisited every 2 years to assure that the Service is charging no more and no less than the full costs of the school review, the Service anticipates a fee for recertification that is comparable to the initial certification fee.

This fee is based on the internal Service cost, \$230, plus the average cost of a required site visit to the school to perform a compliance verification, \$350. The \$230 internal Service cost was established previously and is not changed by this interim rule. *See* 66 FR 65811 (December 21, 2001).

The additional \$350 cost for an on-site visit and compliance verification was calculated, and procurement strategy formulated, as follows: The Service will hire contractors to make the site visits and produce standard reports for the Service to consider before approving any school's use of SEVIS. The Service intends to award multiple contracts to ensure that there is enough capacity to handle a large number of school applicants.

In early June 2002, the Service issued a request for proposals to six vendors who have "schedule contracts" with the General Services Administration (GSA) and are available to perform services of this type for federal departments and agencies. The GSA requires agencies to request proposals from at least three vendors before entering an agreement with a vendor for services, but in this case the Service elected to solicit proposals from six vendors. The statement of work for the vendors describes the type of site visits required. Site visits will include collection of supporting documentation submitted by the school, a tour of the campus, an interview with school officials, and a review of selected school records relating to the school's compliance with applicable standards under 8 CFR 214.3. The statement of work also includes a template to be used on site by the vendor to collect the above mentioned information and prepare a report. In order to expedite the certification process, vendors will be required to deliver these reports to the Service within 10 working days from the time that the site visit is requested. The information in this report will assist the Service in verifying both the bona fides of the school and, in the case of currently approved schools, the continued compliance with recordkeeping and reporting requirements. Each vendor is required

to have a nationwide network of qualified and trustworthy employees available to perform these site visits. On this basis, five vendors submitted proposals to the Service to perform these services, with a fixed price per on-site review.

The Service derived the on-site review portion of the fee by taking the three lowest-priced proposals and taking the average of their fixed prices proposed for the first 2 years of the contract. The Service did not take the lowest bid with one contractor, because using only one contractor would not provide sufficient assurance that a large number of reviews could be completed within a short period of time and with the level of quality that is required. The Service also did not give preferential weight to any one bid when calculating this average cost because the Service cannot anticipate the geographic or numerical capacity, quality, or timeliness of any one vendor. The Service believes that this method will take advantage of the economies offered by competitive pricing, without sacrificing quality or capacity to conduct a large number of on-site reviews during a short period of time. In addition, the calculation excluded the highest bid proposed because the Service believes that three vendors should be sufficient. The calculation excluded years 3 through 5 of the vendor proposals because Federal guidelines require the Service to reconsider all fees on a 2 year cycle. Therefore, the Service will review the certification/re-certification fee in 2 years to ensure that it is charging no more and no less than the full costs of providing this service.

Certification Fee for Public Schools

While the current regulations at 8 CFR 103.7(b)(1) exempt all publicly owned or operated institutions from the payment of the Form I-17 fee, because the Service will be conducting an on-site review of all approved schools every 2 years, as well as for any schools applying for initial approval, a fee payment is now necessary to fund this comprehensive plan for review. Although public schools were historically exempt from the Form I-17 adjudication fee, there is no adequate basis to continue such an exemption. The Service incurs processing and internal review costs for adjudicating any Form I-17, regardless of whether a school is a public or private institution.

A public secondary school or school system owned or operated as a public educational institution or system by the United States or a state or political subdivision thereof is required to pay

only the \$580 fee for the entire school system, and not an additional fee for each school within that system. However, public, postsecondary schools with more than one campus must pay a fee for each school or campus.

Initial Form I-17 Petitions for School Approval That Were Filed by Schools Prior to September 25, 2002, But Have Not Yet Been Adjudicated

A school that filed an initial petition for school approval, Form I-17, with the Service, but not via SEVIS under preliminary enrollment, prior to September 25, 2002, and whose petition is still pending approval before the Service on that date, has two options.

The Service will contact the school to determine whether the school would like to re-file the Form I-17 electronically through SEVIS. If the school does intend to re-file electronically, the school would be required to undergo a full-scale review, including an on-site visit prior to being granted enrollment in SEVIS. The school would not have to pay the internal Service cost portion of the Form I-17 processing fee, \$230, as it paid that portion of the fee at the time of filing the original Form I-17. However, as such a school would still have to undergo an on-site review, the school would be required to pay the cost of that review, \$350 per campus. This additional fee would be paid as part of the electronic Form I-17 submission process.

If the school informs the Service that it does not wish to re-file in SEVIS, the Service will review and adjudicate the paper Form I-17 petition as submitted. If it wishes to enroll foreign students after the mandatory compliance date, such a school must still apply for certification in SEVIS, pay the full amount of the certification fee, and undergo a full scale review in accordance with this rule if it wishes to enroll foreign students after the mandatory compliance date.

All schools will be required to submit a Form I-17 electronically in SEVIS. One of the primary purposes of SEVIS is to transition to electronic filing and reporting. As an e-Gov system, SEVIS requires additional information that was not required in the older, paper-based, process, such as e-mail addresses. However, once a school has entered their Form I-17 electronically and been approved, the Service believes that utilizing SEVIS will reduce the school's burden, for example, by facilitating certain updates to the Form I-17 directly via SEVIS. Accordingly, schools must enter their own data into SEVIS.

Good Cause Exception

This rule is effective on publication in the **Federal Register**. The Service finds that good cause exists both for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553, and for making this rule immediately effective, rather than having it enter into force 30 days after publication. The USA PATRIOT Act, Public Law 107-56, mandates that SEVIS be fully implemented prior to January 1, 2003. Further, the Border Security Act requires the Service to review all schools within 2 years of its enactment. In order to meet the mandate for complete functionality of SEVIS while ensuring the integrity of data in SEVIS, a timely review of all schools is necessary prior to allowing a school to access SEVIS. Additionally, the provision for review of all approved schools is an important part of helping to safeguard against the abuse of the traditional American openness to foreign students by foreign terrorists. Because of the vital national security concerns that underpin Directive No. 2, the USA PATRIOT Act, and the Border Security Act, it would be contrary to the public interest to observe the requirements of 5 U.S.C. 533(b) and (d).

Regulatory Flexibility Act

The Commissioner, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that although this rule will have an economic impact on schools, the impact should not be significant since the \$580 is not a substantial amount when considered in relation to the revenue generated by schools during the fiscal year. This money can easily be recouped through student fees or slight budget adjustments. Additionally, the information a school must submit is information that should be readily available to the school. Thus, any economic impact will not be "significant."

The fee is calculated based on the cost of conducting on-site visits, compliance verification, and staffing requirements.

Unfunded Mandates Reform Act of 1995

Section 502 of the Enhanced Security and Visa Entry Reform Act of 2002, Public Law 107-173, dated March 14, 2002, requires the Service to conduct a review of the institutions certified to receive nonimmigrants under section 101(a)(15) (F) or (M) of the Act on a recurring 2-year basis. Although the Service will be charging a fee (to recover the cost of certification), and the fee will have an impact on State public

secondary schools and State universities, the Service has drafted the regulation to reduce the impact. For example, in the State of Virginia, the Fairfax County Public School system has 24 public high schools yet the Service would only require that the county pay a fee of \$580 instead of \$13,920 (\$580 x 24 schools). Although the formula would be different for State universities that would require that they pay the \$580 fee for each campus, the State universities would more than recoup the cost in the tuition they charge students. The Service estimates that the total cost every two years for the certification of all schools (including State universities and public secondary schools) covered under this rule will be \$8.7 million (15,000 schools including universities with multiple campuses x \$580 = \$8.7 million) plus \$162,000 (time spent by the school to undergo a site visit review based on the number of respondents (15,000) x 65 minutes (1.08) per response x \$10 (average hourly rate) = \$162,000) equaling \$8.9 million that is far below the \$100 million threshold.

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

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

Executive Order 13132

As discussed above, the fee charged by the Service to recover the cost of certification will have an impact on State public secondary schools and State universities. However, the Service has drafted the regulation to reduce the impact. In the case of public secondary schools, the Service will charge one fee per school system, not a fee for each school within that system. Additionally, although State universities will be charged a fee for each campus, such institutions can recoup the cost in the tuition they charge students. Accordingly, the Service finds that this rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

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

Paperwork Reduction Act of 1995

The information collection requirement to electronically enroll in SEVIS has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act. The OMB control number for this collection is 1115-0252.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

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

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

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

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

2. Section 103.7(b)(1) is amended by revising the entry for "Form I-17", to read as follows:

§ 103.7 Fees.

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| (b) | * | * | * | |
| (1) | * | * | * | |
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Form I-17. For filing a petition for school approval or recertification—\$580 plus \$350 per additional campus listed on Form I-17B.

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PART 214—NONIMMIGRANT CLASSES

3. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1101 note, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104-208, 110 Stat. 3009-708; Pub. L. 106-386, 114 Stat. 1477-1480; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

4. Section 214.3 is amended by:

- a. Revising the section heading;
- b. Adding a new paragraph (a)(1)(i);
- c. Adding and reserving a new paragraph (a)(1)(ii);
- d. Revising paragraphs (d), (e)(2), and (h).

The additions and revisions read as follows:

§ 214.3 Approval of schools for enrollment of F and M nonimmigrants.

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| (a) | * | * | * |
| (1) | * | * | * |

(i) *Filing a petition after the SEVIS mandatory compliance date.* Any school or school system seeking approval for attendance by nonimmigrant students after the SEVIS mandatory compliance date must electronically file a petition for initial approval using the Student and Exchange Visitor Information (SEVIS). To electronically file a petition, the petitioning school must access SEVIS on the Internet and provide the following information: the school's name; the first, middle, and last name of the contact person for the school; and the email address of the contact person. Once this basic information has been submitted, the school will be issued a temporary ID and password in order to access the SEVIS site to complete and submit an electronic Form I-17.

(ii) [Reserved.]

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(d) *Interview of petitioner.* An authorized representative of the petitioner may be required to appear in person before an immigration officer prior to the adjudication of the petition to be interviewed under oath concerning the eligibility of the school for approval.

(e) * * *

(2) *General.* Upon approval of a petition, the district director shall notify the petitioner. An approved school is required to report immediately to the district director having jurisdiction over the school any material modification to its name, address, or curriculum for a determination of continued eligibility for approval. The approval is valid only for the type of program and student specified in the approval notice. The approval may be withdrawn in accordance with the provisions of 8 CFR 214.4, and is subject to review every 2 years.

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(h) *SEVIS certification and school review.*—

(1) *Review of schools for initial enrollment in SEVIS.* Each school that is currently approved for attendance by nonimmigrants under section 101(a)(15)(F)(i) or 101(a)(15)(m)(i) of the Act, is required to apply for review by the Service for continuation of approval and access to SEVIS no later than the SEVIS mandatory compliance date.

(i) *SEVIS certification process.* In order to ensure that the Service has sufficient time to review and adjudicate all submitted Forms I-17 prior to the SEVIS mandatory compliance date, schools must electronically complete a Form I-17 in SEVIS and submit a certification fee of \$580 at least 75 days prior to the SEVIS mandatory compliance date. A school may still submit a Form I-17 any time prior to the SEVIS mandatory compliance date. However schools that file petitions less than 75 days prior to the SEVIS mandatory compliance date may experience a period during which they may not issue Forms I-20 as the Service completes the review process. Schools may begin the review process by accessing the SEVIS website and entering the basic contact information required in order to receive a temporary user ID and password for SEVIS. Using this ID and password, the school official will again access the SEVIS website and complete and submit the electronic Form I-17.

(ii) *Preliminary enrollment in SEVIS.* Schools that were approved for preliminary enrollment by the Service under 8 CFR 214.12 must complete the certification review process, including submission of the required fee, prior to May 14, 2004.

(2) *Service adjudication.* The Service will review the electronic Form I-17 information submitted in SEVIS and will require an on-site visit of the school. If the Service approves the certification request, SEVIS will be updated to reflect the approval and will automatically generate permanent passwords and IDs for all Designated School Officials listed. Upon the discretion of the Service, certain schools may be conditionally enrolled in SEVIS prior to the on-site visit, as provided in § 214.12(e). If the Service does allow a school to enroll in SEVIS prior to an on-site review, the school will be subject to a full-scale review and on-site visit at a later date. If the Service denies SEVIS certification, the Service will send electronic notification through SEVIS to the school and mail written notification that includes the reasons for denial and the process for seeking review of such denial.

(3) *Two-year review of school approval.* The Service will review the approval of a school every 2 years and will charge a recertification fee to review a school's compliance with the reporting requirements of paragraph (g)(2) of this section and continued eligibility for approval pursuant to paragraph (e) of this section. If the Service determines that a recertification should be denied, the school will be notified of the reasons for denial and the process for seeking review of such denial.

(4) *Periodic review of approved schools.* In addition, the Service may, at any time, review the approval of a school to verify compliance with the reporting requirements of paragraph (g)(2) of this section and continued eligibility for approval pursuant to paragraph (e) of this section. The Service shall also, upon receipt of notification, evaluate any changes made to the name, address, or curriculum of an approved school to determine if the changes have affected the school's eligibility for approval. The Service may require the school under review to furnish a currently executed Form I-17 without fee, along with supporting documents, as a petition for continuation of school approval when there is a question about whether the school still meets the eligibility requirements. If upon completion of the review, the Service determines that the school is not eligible for continued access to SEVIS, the Service will institute withdrawal proceedings in accordance with 8 CFR 214.4(b).

* * * * *

5. Section 214.4 is amended by adding a new paragraph (a)(3), to read as follows:

§ 214.4 Withdrawal of school approval.

(a) * * *

(3) *Automatic withdrawal as of SEVIS mandatory compliance date.* The present approval of any school that has not filed for enrollment in SEVIS by the mandatory compliance date for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act is automatically withdrawn as of the day following the mandatory compliance date for SEVIS. Given the time necessary to conduct a review of each school, the Service will review and adjudicate Form I-17 petitions for approval in SEVIS prior to the SEVIS mandatory compliance date only for Form I-17 petitions filed at least 75 days prior to this mandatory date. If a Form I-17 petition is filed less than 75 days prior to the mandatory compliance date and is not adjudicated prior to the mandatory compliance date, the school will not be authorized to access SEVIS and will be unable to issue any SEVIS Forms I-20 until the adjudication is complete.

Dated: September 19, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002-SW-28-AD; Amendment 39-12885; AD 2002-19-05]

RIN 2120-AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 212 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 212 helicopters that currently requires, at specified intervals, inspecting for a cracked tail boom and replacing any cracked tail boom. That AD also requires modifying the tail fin and tail boom within 100 hours time-in-service (TIS). This amendment requires modifying and visually inspecting