

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2002 Raisin Diversion Program is well underway and this action should be made effective as soon as possible.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 67 FR 42471 on June 24, 2002, is adopted as a final rule with the following change:

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 989.156, paragraph (b)(6) is revised as follows:

989.156 Raisin diversion program.

* * * * *

(b) * * *

(6) A statement that all persons with an equity interest in the grapes in the production unit to be diverted, in the vines, or the land on which the grapes were produced consent to the filing of the application.

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Dated: January 23, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–1964 Filed 1–23–03; 5:09 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 286

[INS No. 2180–01]

RIN 1115–AG47

Establishment of a \$3 Immigration User Fee for Certain Commercial Vessel Passengers Previously Exempt

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations, as required by

law, to provide for the collection of a \$3 fee for commercial vessel passengers previously exempt under section 286(e)(1) of the Immigration and Nationality Act (Act), other than passengers on Great Lakes ferries and other Great Lakes vessels. This rule amends the Service regulations to require certain commercial vessel operators or their ticketing agents to charge and collect a \$3 user fee from every commercial vessel passenger whose journey originated in the United States, Canada, Mexico, a territory or possession of the United States, or an adjacent island except those individuals exempted under section 286(e) of the Act.

DATES: This final rule is effective February 27, 2003.

FOR FURTHER INFORMATION CONTACT: Penny Pastiva, Border Management Branch, Office of Budget, Immigration and Naturalization Service, 425 I Street, NW., Room 5236, Washington, DC 20536, telephone (202) 514–6254.

SUPPLEMENTARY INFORMATION:

Authority To Collect an Immigration User Fee

In the 1987 Appropriations Act for the Department of Justice, Public Law 99–591, Congress directed the Service beginning in fiscal year (FY) 1987 to collect an immigration user fee for each passenger arriving in the United States by commercial air or sea conveyance (with limited exceptions). As provided by law, in section 286 of the Act, the user fees that are collected may be used, among other things, to:

- Provide immigration inspection and preinspection services for commercial aircraft and vessels;
- Provide overtime immigration inspection services for commercial aircraft or vessels;
- Administer debt recovery, including the establishment and operation of a national collections office;
- Expand, operate, and maintain information systems for nonimmigrant control and debt collection;
- Detect fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline and vessel personnel regarding such detection;
- Provide detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any inadmissible alien who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and,

- Administer removal and asylum screening proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels, including immigration removal proceedings resulting from the presentation of fraudulent documents and the failure to present documentation and for any inadmissible alien who has attempted illegal entry into the United States by avoiding immigration inspection at air or sea ports-of-entry.

Requirement To Charge a \$3 Inspection Fee

In section 109 of the Department of Justice Appropriations Act, 2002, Public Law 107–77, title I, enacted on November 28, 2001, Congress amended section 286(e) of the Act to authorize the Attorney General to charge and collect a user fee from certain previously-exempt commercial vessel passengers. Prior to the enactment of this law, commercial vessel passengers whose journeys originated in Canada, Mexico, a State, territory or possession of the United States, or an adjacent island, were statutorily exempt from paying the Immigration User Fee prescribed by section 286(d) of the Act. While these vessel passengers were exempt from paying the fee, the Service was still required to provide inspection services. This exemption resulted in the Service's inability to invest in necessary staffing and technology resources. The new fee will enhance inspection operations and related inspection activities that support seaport immigration inspection.

Section 202 of chapter 2, title I of the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, Public Law 107–206, signed August 2, 2002, amended section 286(e)(3) of the Act to remove any discretionary authority not to collect the fee from commercial vessel passengers otherwise covered by the provision (principally, by changing “The Attorney General is authorized to charge and collect” to “The Attorney General shall charge and collect”).

Comments on the Service's Proposed Rule Implementing Section 286(e)(3) of the Act

The Service published a proposed rule in the **Federal Register** on April 3, 2002, at 67 FR 15753, authorizing the collection of a \$3 fee for certain commercial vessel passengers previously exempt under section 286(e)(1) of the Act. The proposed rule was published with a 30-day comment period, which closed on May 3, 2002. On May 14, 2002, the Service reopened

the comment period until May 28, 2002 (67 FR 34414).

The Service received a total of 36 comments on the proposed rule. Comments were received from a broad spectrum of individuals and organizations, including 7 ferry and cruise ship companies, 3 transportation advocacy groups, 5 city and county groups, 3 elected officials, 2 port authorities, 1 tourism board, and 15 interested individuals. All the comments were carefully considered before preparing this final rule. The following is a discussion of these comments and the Service's response.

1. Applicability to Ferries

The primary concerns expressed in the comments received all related to international ferry operations in the Pacific Northwest. All comments received on this subject were similar and made three main arguments: (1) There is no justification for imposing this fee on ferries of the Pacific Northwest while excluding the Great Lakes ferries; (2) the \$3 fee represents a disproportionately high percentage of the cost of using a ferry in the State of Washington; and (3) the \$3 fee will have a negative economic impact on the international ferry operators in the Pacific Northwest and on related businesses in the tourism industry. One commenter, the Airports Council International—North America, strongly supported implementation of the \$3 fee for commercial vessel passengers.

The justification for excluding Great Lakes ferries and other Great Lakes vessels in the proposed rule was simple: Congress itself made special provisions for the Great Lakes by specifically exempting Great Lakes vessels from the authorization in section 286(e)(3) of the Act. Furthermore, the recent amendment to section 286(e)(3) of the Act removes whatever discretion the Service might have had to make exceptions for commercial vessel passengers other than the Great Lakes exception, including on the basis of economic impact. Because the amendment in the 2002 Supplemental Appropriations Act provides that the Attorney General "shall" charge this fee, the Service is required to adhere to the terms of the statutory language, which limited exceptions to the Great Lakes vessels and ferries. Therefore, the final rule applies to any commercial vessel (as defined in the Service's existing regulations at 8 CFR 286.1(d) to include "any civilian vessel being used to transport persons or property for compensation or hire") other than the Great Lakes vessels.

One commenter requested the Service make this rule effective for ferries sometime beyond the 30 days after date of publication effective date for other vessels in order to give ferry operators additional time to comply. The Service considered this comment but declined to make a special exception for ferries regarding the effective date of this rule.

2. Collection of the Fee

In addition to the ferry-specific concerns about the impact discussed above, there were other concerns expressed in the comments about the effective date when the \$3 fee would be collected, and the amount of the fee collected.

In order to clarify the fee collection requirement, the Service has amended § 286.2(b) to make clear that the \$3 fee will be assessed based on bookings or reservations made on or after February 27, 2003. By using the booking date, the cruise line or other commercial vessel operator can accurately communicate to passengers both the cost of the passage and the applicable fees for which they are responsible. This provides clear guidance on when fee collections are due and results in an ease of administration for operators whose passengers will be subject to the \$3 fee.

Regarding the amount of the fee, the Service notes that it has been set by law, and the FY 2002 Supplemental Appropriation Act requires the collection of the \$3 fee for certain commercial vessel passengers who were previously exempt, except for the Great Lakes exception provided by Congress.

3. Other Changes

Finally, the Service has made minor stylistic corrections to the proposed rule's changes to 8 CFR 286.3(a).

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. Immigration user fees are already being collected by commercial vessel carriers and/or their ticketing agents in connection with voyages originating in areas already covered by the fee. Since the passengers rather than the carriers ultimately pay the immigration inspection user fee, these passengers are not considered small entities as that term is defined in 5 U.S.C. 601(6), and this rule does not have a significant economic impact

upon a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost 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.

1. Impact of the \$3 fee on cruise ships generally. The Service estimates that approximately 8 million cruise ship passengers per year who were previously statutorily exempt from paying the Immigration User Fee will now be required to pay this fee. The Service therefore estimates that the Immigration User Fund will receive \$24 million in additional revenue per year from the fees paid by these passengers. The imposition of the \$3 statutory fee is not anticipated to result in an economic burden for the cruise ship industry. When compared to the price of the average cruise, the \$3 fee is very small and is not expected to affect cruise booking decisions.

2. Impact of the \$3 fee on ferries. The \$3 immigration inspection fee imposed by this rule is likely to impose a greater proportionate burden on the service provided by ferry operators (in areas other than the statutorily-exempted Great Lakes areas) because the \$3 fee is larger in relation to the cost of a ferry ticket as compared to a cruise ship

ticket. The Service has been informed that the \$3 fee could increase the price of an adult ticket for a ferry in Washington State by an average of 20 to 25 percent, with larger percentage increases for lower-priced child and infant tickets. Commenters feared a significant loss of ferry business due to the imposition of this fee, in some cases possibly causing operators to drop seasonal international service.

The Service estimates that one million passengers enter into the United States per year using Pacific Northwest ferries. If passenger volume after the imposition of the \$3 fee were to remain constant, the Service's Immigration User Fund could receive as much as \$3 million annually from ferry passengers. However, based on comments received, the Service expects that the imposition of the \$3 fee will result in a decrease in the number of ferry passengers, as travelers switch to alternative transportation modes. Accordingly, the Service is unable to estimate the amount that will actually be collected.

While the Service is sympathetic to arguments presented by commenters concerned about the likely disproportionate impact of this \$3 fee on ferry passengers, it has no discretion under the statute to provide any exemption, waiver, or other accommodation to ferries other than for the Great Lakes ferries, which Congress exempted by law.

3. Benefits of this rule. For years, the Service has been providing the immigration inspection services for commercial vessel operators (including ferries) on voyages originating in the United States, Canada, Mexico, a territory or possession of the United States, or an adjacent island, but has not—until the statutory change being implemented by this rule—been able to charge commercial vessel passengers the immigration user fee for doing so. These services are described further in the Supplementary Information for this rule. The \$3 fee is appropriate to offset the costs of seaport inspection services provided, allows for the investment in new resources towards improving the inspection process at seaports, and allows the Service to meet customer service requirements. These services and activities funded by the immigration user fee benefit the national security by screening arriving aliens for possible threats and also benefit the general public by complementing other immigration enforcement activities and speed the processing of legitimate travelers.

Executive Order 13132

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

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 286

Air carriers, Immigration, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, part 286 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 286—IMMIGRATION USER FEE

1. The authority citation for part 286 continues to read as follows:

Authority: 8 U.S.C. 1103, 1356; 8 CFR part 2.

2. Section 286.2 is amended by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b), to read as follows:

§ 286.2 Fee for arrival of passengers aboard commercial aircraft or commercial vessels.

* * * * *

(b) A fee, in the amount prescribed in section 286(e)(3) of the Act, per individual, is charged and collected by the Commissioner for the immigration inspection at a port-of-entry in the United States, or for the preinspection in a place outside the United States of each commercial vessel passenger whose journey originated in the United States, Canada, Mexico, territories or possessions of the United States, or adjacent islands, except as provided in § 286.3. All tickets or documents for

transportation on voyages that are booked on or after February 27, 2003, will be subject to this immigration user fee.

* * * * *

3. Section 286.3 is amended by revising the introductory text, and by revising paragraph (a), to read as follows:

§ 286.3 Exceptions.

The fees set forth in §§ 286.2(a) and 286.2(b) shall not be charged or collected from passengers who fall within any one of the following categories:

(a) Persons arriving at designated ports-of-entry by the following vessels, when operating on a regular schedule: Great Lakes international ferries or Great Lakes vessels on the Great Lakes and connecting waterways;

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Dated: December 26, 2002.

Michael J. Garcia,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 03–1808 Filed 1–27–03; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R–1129]

Reporting and Disclosure Requirements for State Member Banks With Securities Registered Under the Securities Exchange Act of 1934

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has adopted a final rule to reflect the amendments made to section 12(i) of the Securities Exchange Act of 1934 by the Sarbanes-Oxley Act of 2002. These amendments vest the Board with the authority to administer and enforce several of the enhanced reporting, disclosure and corporate governance obligations imposed by the Sarbanes-Oxley Act with respect to state member banks that have a class of securities registered under the Securities Exchange Act of 1934.

DATES: The final rule is effective on April 1, 2003.

FOR FURTHER INFORMATION CONTACT: Kieran J. Fallon, Senior Counsel (202–452–5270), or Walter R. McEwen, Counsel (202–452–3321), Legal Division; Terrill Garrison, Supervisory Financial Analyst (202–452–2712), Division of Banking Supervision and