and Naturalization Service (the Service) to charge a fee for the processing and issuance of specified documents at land border Ports-of-Entry (POEs). The fees are necessary to cover the costs of providing these services which benefit certain applicants at land border POEs. The revenue generated by the collection of fees for these application-processing services will enable the Service to improve service to the public at land border POEs.

**FFECTIVE DATE:** October 9, 1995. **FOR FURTHER INFORMATION CONTACT:** Marie De Soto, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536, telephone (202) 514–1798.

## SUPPLEMENTARY INFORMATION:

## General

The Service published a proposed rule on April 12, 1994, at 59 FR 17283, to amend the regulations to allow the Service to charge a fee for processing and issuing specified documents at land border Ports-or-Entry (POEs). Consistent with 31 U.S.C. 9701 and OMB Circular A-25, User Charges, the proposed rule identified application services that currently are provided free-of-charge and for which it would be appropriate to impose a fee. The services identified are tasks commonly performed in secondary inspection such as examining documents, conducting record checks, and interviewing applicants in order to issue permits for extended stays in the United States. In addition, the services provides to applicants-for-admission at POEs, border crossing cards and boating permits; documents that may require extensive interviews, record checks, document production, and other timeconsuming paperwork. Specifically, the proposed rule included fees for the processing of Form I-94, Arrival/ Departure Record; Form I-94W, Nonimmigrant Visa Waiver Arrival/ Departure Form; Form I-444, Mexican Border Visitors Permit; Form I-68, Canadian Border Boat Landing Permit; Form I-175, Application for Nonresident Alien Canadian Border Crossing Card for issuance of Form I-185, Nonresident Alien Canadian Border Crossing Card (CBCC); and Form I–190, Application for Nonresident Alien Mexican Border Crossing Card, to replace a lost, stolen, or mutilated Nonresident Alien Border Crossing Card (BCC), Form I-586.

All interested parties were invited to submit comments on the proposed rule by June 13, 1994. The Service received 22 comments and considered each of the comments in preparing the final rule. Commenters included private individuals, Chambers of Commerce, local government representatives, small business owners, members of Congress, and Service employees. Since most discussed several issues, the total number of comments exceeds the number of persons who commented.

## **Discussion of Comments**

Support for Fees

Eight of the commenters expressed general support for fees for services, with recommendations that the revenues be used to address the illegal immigration problem in the United States. The fees were set to recover only the costs associated with providing the document-processing services and related benefits to certain land border crossing applicants. The revenues generated by these fees are to be used for the purpose of funding the costs incurred to provide these application processing services. It is anticipated that the implementation of the fees-forservices charge will enable the Service to improve inspection services at the land border. Once the fee revenues are available, appropriated resources formerly allocated to fund these document-processing services may be redirected to augment staffing of vehicle and pedestrian traffic lanes at land border Ports-of-Entry. The resulting benefit would be improved facilitation of traffic through the POEs.

One commenter proposed that in addition to charging for the Form I-190 to replace a lost, stolen, or mutilated Form I-586, a \$4.00 fee be imposed for a temporary border crossing card pending issuance of the Form I-586. Another commenter suggested that the fee for the Form I-68 should be higher and that a \$25.00 charge was more appropriate and comparable with a Canadian fee for inspecting United States boats. While the Service recognizes the concerns of the commenters, any additional fees beyond those that were in the proposed rule would have to be the subject of a separate rule. Increasing the fee for the Form I-68 from \$16.00 to \$25.00 would not be consistent with Federal user fee statutes and regulations which require that the fee be set to recover the full costs of providing the services. A cost analysis of the services provided, including the indirect costs associated with these services, resulted in the fees, as established. The Service will conduct periodic reviews of the fees, changes to issuance procedures, and methods used in determining fees and, when

warranted, adjustments to the fees will be made.

## Justification for Fees

Two commenters suggested that the Government should be required to provide service to the public, and that to charge individuals for that service is not necessary or warranted. On the contrary, the Federal user fee statute (31 U.S.C. 9701) and regulations require that recipients of special benefits bear the costs of providing those services. The Office of Management and Budget (OMB) Circular A-25, User Charges, states as a general policy that reasonable charges should be imposed to recover the full cost to the Federal Government of rendering such services. In July 1993, the Office of the Inspector General completed an audit of services performed and special benefits provided by the Service. This audit disclosed a number of services currently being provided free-of-charge by the Service for which it would be appropriate to impose a fee including the Canadian Border Boat Landing Permit, Form I-68, and applications for Border Crossing Cards, Forms I-190 and I-175. The audit concluded that the Service was not in compliance with OMB directives with regard to these services, and that failure to collect fees for services resulted in the cost being paid by the general public out of the general fund appropriation. In an effort to comply with federal directives, the Service determined which services and benefits are currently provided without charge to certain beneficiaries and for which it would be appropriate to impose a fee, culminating in this rule.

Two commenters, objecting to the fee for Form I–68, stated that, if boaters refuse to obtain Form I–68 because of the fee, the Service will be forced to provide additional personnel and facilities where none exist to inspect boaters upon arrival in the United States. However, pursuant to 8 CFR 100.4, persons entering the United States may only present themselves to an immigration officer at those ports designated as Class A Ports-of-Entry at a time when the port is open for inspection.

The I–68 provision is the only exception to this reporting requirement. The provision extends to boaters the opportunity of recreational boating without reporting for inspection during each outing. A boater who refuses to obtain Form I–68 is otherwise required to expend the time, expense, and effort to report to an open, staffed POE.

The I-68 is clearly a specific benefit that the Service provides to an identifiable recipient, as defined by