Federal user fee statute and OMB Circular A–25, User Charges. It is a benefit for which the Service is required to charge a fee. However, participation in the I–68 program is voluntary.

Each boating season, in order to make this benefit easily available, inspectors travel to boat shows, marinas, and other gatherings to issue the Form I–68. The Service's districts mount publicity campaigns to educate boaters about these requirements. The purpose of the Form I–68 fee is to recover the costs of providing these services and this special benefit to boaters, since funding is insufficient for additional personnel and new facilities, and there are no other resources available to support port expansion.

Use of Revenues

One commenter expressed concern that there was no guarantee that the money generated from these collections would be applied to efforts to deal with illegal immigration. The Service recognizes the concern of the commenter; however, consistent with the mission of the Service, inspectors at POEs have a very important dual role: that of facilitating the entry of bona fide applicants-for-admission, and that of enforcing the immigration laws by detecting inadmissible applicants and those attempting entry by fraud. The Service will use the revenue generated from the fees contained in this rule to fund the costs incurred to improve the secondary application-processing services provided at land border POEs. Consequently, the Service intends to devote appropriated resources formerly expended for secondary applicationprocessing services to staffing of vehicle and pedestrian traffic lanes at land border Ports-of-Entry. This overall increase in resources will allow the Service to better meet its mission of facilitating the entry of bona fide applicants-for-admission, providing better service to the traveling public at land border POEs, and enforcing the immigration laws by detecting inadmissible applicants and those attempting entry fraud.

Another commenter stated that the income should return to the port where it was generated. The fees have been set, to recover not only costs incurred directly at ports, but also costs—both direct and indirect—incurred by the Service for services provided to applicants-for-admission at land border POEs in connection with the six application forms described in this rule. Among the costs identified are a portion of the salaries and expenses of the port inspectors, the cost of training the inspectors, data processing, production

of forms and documents, safeguarding and accounting for the fees collected. and performing record and background checks. Consequently, the fees collected pursuant to this rule are to be used to offset the cost to all Service components, including ports, of providing these application-processing service at all land border POEs. The Service has developed a comprehensive staffing model geared to the unique requirements of land border facilities which incorporates data from each land border POE on vehicle and pedestrian traffic, projected growth, facility expansion, and other items affecting inspection service. Using the model, the Service will be able to properly allocate

Northern and Southern Border Disparities

One commenter wondered why fees are only being charged to those who cross the United States-Mexico border, and not to those who cross from Canada or travel by air from other countries. The fees described in this rule affect land border crossers at both the northern and southern borders. Two of the six forms for which fees are charged, the Form I-94 and the Form I-94W, are alien control documents issued to nonimmigrant aliens of any nationality who seek admission to the United States at either the northern or southern border. Fees for the two border crossing documents are the Form I-190, Application for Nonresident Alien Mexican Border Crossing Card, and the Form I–175, Application for Nonresident Alien Canadian Border Crossing Card. The remaining two fees are for the issuance of permits which, in the case of the Form I-444, Mexican Border Visitors Permit, is beneficial only to Mexican nationals, and in the case of the Form I-68, Canadian Border Boat Landing Permit, benefits Canadians, United States citizens, and other qualified applicants. This rule applies only to land border crossers; however, air travelers arriving at air POEs currently pay a fee.

Two commenters questioned the inequity of requiring the issuance of BCCs for Mexican nationals but not for Canadians. The differences in documentary requirements between Mexican and Canadian nationals are complex, far-reaching, and beyond the scope of this rule. Generally, nonimmigrant visa requirements imposed upon aliens of certain countries are based on treaties and the corresponding regulations of both the Department of State and the Service. Under the existing provisions, Canadian nationals are, for most nonimmigrant

categories, visa-exempt while Mexican nationals are not exempt. A BCC is an acceptable form of documentation, but it is not a required document. When entering the United States across a land border, the BCC generally provides a greater convenience to the holder than a regular nonimmigrant visa because a passport is not necessary. The issuance of BCC's is a benefit that the Service elects to provide to nonimmigrants who routinely cross the border. The Form I-586, Nonresident Alien Mexican Border Crossing Card, offers the same privileges as the nonimmigrant visa for a Mexican national seeking entry as a visitor for business (B-1) or pleasure (B-2). Alternatively, a Mexican national may apply, without charge, to an American Consulate in Mexico for a nonimmigrant visa.

Four commenters stated that implementation of a fee for Form I–68 will have an adverse impact on relations with our Canadian neighbors; however, none of the commenters explained in exactly what way this would interfere with good relations. Since the Canadian Government also plans to implement fees for many of the services it provides, an element of reciprocity exists, and there is no clear, disparate treatment on either side of the border.

Economic Impact of Fees

One commenter stated that user fees are inconsistent with the intent of the North American Free-Trade Agreement (NAFTA) to eliminate barriers to trade, and two commenters stated that fees would have a negative impact on the economies of the communities along the southern border. Facilitation of travel between NAFTA countries is of great concern to the Service. Traffic congestion at POEs, where vehicles sometimes wait hours to cross the border, costs local economies tremendous amounts of revenue in lost time and productivity, as well as severely impacting the environment. One way that this congestion can be alleviated is though additional personnel and the implementation of automated technology to expedite the services provided. Individuals traveling within 25 miles of the southern border area for short periods of time will not be affected by the fees. Only those traveling more than 25 miles or staying for longer than 72 hours will require issuance of an entry permit and payment of a fee. The revenues collected will allow the Service to recover the costs for providing the services. Article 1603.4 of the NAFTA states that each party shall limit any fees for processing applications for temporary entry of business persons to