the approximate costs of services rendered. Therefore, the Service believes that these fees are not inconsistent with the terms of the NAFTA.

Three commenters felt that imposition of a fee for Form I-68 would cause economic hardship to the communities along the United States/Canada border. The Service does not agree with the comment and believes that the annual fee is nominal for the benefit that is derived. The Service is required to recover the costs of providing this benefit inasmuch as the Federal user fee statute and regulations require that recipients of special benefits bear the costs associated with providing the specific services. The Service does not expect the fee to significantly deter boaters from obtaining a permit so they may land and enjoy the amenities offered in nearby communities.

Reasonableness of Fee

Two commenters stated that the fee for Form I–68 will impose an economic burden on the individuals requiring the form, who already pay many other taxes and fees, and one commenter felt the fee was unreasonable. The fees included in this rule are not excessive, and are considerably lower than many similar fees charged by Federal, state, and local governments for similar services.

Most of the fees, once paid, allow the applicant to avail him or herself of the benefit for an extended period of time. The CBCC, at \$30, is currently valid indefinitely, and the replacement BCC, at \$26, is valid for 10 years. The Form I-68, at \$16, allows entry for 1 year, and the Form I-94W at \$6, is issued for a period of 90 days. The Form I-94, depending on the nonimmigrant classification under which the applicant is entering, may be valid for years, with the normal visitor for pleasure being granted a minimum of 6 months for a fee of \$6. The Form I–444, with a fee of \$4, may be issued for a period not to exceed 30 days.

In addition, the Service has adopted a family cap. Formerly, Forms I–444 and I–68 allowed multiple family members, and unrelated individuals traveling in a group, to apply on one form. The family cap essentially allows children the benefit without a fee so as not to impose an undue burden on families traveling across the southern border for short periods of time, and on families enjoying recreational boating along the northern border.

As stated previously, the fees were determined by an analysis of documentprocessing services and associated costs, and are calculated to recover the direct and indirect costs to the Service of providing these special services and benefits.

One commenter stated that there is no reason for a United States citizen to pay to obtain Form I-68, since there is no penalty for failure to report for immigration purposes, and that those who do obtain Form I-68 do so only to appear to comply with a non-existent immigration inspection requirement. Although United States citizens are not subject to the immigration laws, the regulations at 8 CFR 235.1 require that application to enter the United States must be made in person to an immigration officer at a United States POE at a time when the port is open for inspection. This section also states that a person claiming United States citizenship must establish that fact to the examining immigration officer. That is why United States citizens are specifically included in the I-68 regulations. While criminal prosecution, loss of citizenship, or deportation will not apply to a United States citizen who has not complied with inspection requirements, the potential inconvenience in establishing that he or she is not subject to the immigration laws if encountered by Service enforcement officers may prove to be significant to most law-abiding boaters and render obtaining the I-68 worthwhile.

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 the rule will not have a significant economic impact on a substantial number of small entities. The fees proposed in this rule, calculated to cover only the costs of providing the service, are nominal, and will apply only to individuals, not small entities.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under E.O. 12866, section 3(f), Regulatory Planning and Review. Although this rule requires user fees, the fees are necessary to recover the cost to the Federal Government for processing and issuing specified documents at United States land border Ports-of-Entry for business and pleasure. Title 31 U.S.C. and OMB Circular A-25 require that recipients bear the cost of receiving special benefits. As such, a cost analysis of the INS services provided and associated indirect cost resulted in the

fees established herein, which are consistent with Federal user fee statutes and regulations and do not exceed the full cost that may be recovered by the Service.

Executive Order 12612

The regulations adopted herein 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will have no effect on family well-being.

Paperwork Reduction Act

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections(s) are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Aliens, Authority delegation (Government agencies), Fees, Forms.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas.

8 CFR Part 217

Aliens, Passports and visas.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Port-of-entry.

8 CFR Part 264

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 286

Fees, Immigration, Reporting and recordkeeping requirements.

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