currently operable. A family cap of \$50, family defined to include husband, wife and/or children under the age of 18 years of age, will be imposed so as to not unduly burden families who often travel together across the border. Applicants under the age of 14 will be required to complete and submit the application, but will not be required to pay the application fee. Additionally, a 'system costs fee" will be assessed to approved applicants who wish to participate in the system to cover the costs of additional technology. Information about the fee, including the amount, will be included in publications made available to the public prior to and/or during the application process. Law enforcement and security concerns peculiar to the southern border of the United States, in addition to the additional documentation required of Mexican nationals by the Immigration and Nationality Act, augments the degree that specialized devices, decals, technologies, and other methods are necessary to inspect applicants for entry. The use of technology, decals, and other devices or methods used to identify and inspect persons through DCL's on the southern border increases the cost to the INS of a DCL on that border. By charging a system costs fee for each vehicle using the DCL, the cost of operating the DCL will be fairly distributed among users of the DCL. All revenue generated by the PORTPASS program will directly support inspections on the land border, and facilitate traffic flow through designated POEs. Fees collected will cover the costs of:

(1) Hiring additional immigration inspectors, including all associated personnel costs;

(2) Expanding, operating and maintaining information systems for nonimmigrant control;

(3) Construction costs, including those associated with the addition of new primary traffic lanes (with the concurrence of the General Services Administration);

(4) Procuring detection devices and conducting training in the identification of fraudulent documents used by applicants for illegal entry into the United States;

(5) Other costs associated with the operation of the PORTPASS program; and

(6) Costs associated with the administration of the Land Border Inspection Fee Account.

The Service's implementation of this rule a an interim rule, with provision for post-promulgation public comment, is based on the "good cause" exception

found at 5 U.S.C. 553(d)(3). The reason and necessity for immediate implementation of this interim rule are as follows: Expanding the pilot program will directly benefit the traveling public by expediting their entry into the United States. In order to evaluate the effectiveness and utility of the PORTPASS project, and make a determination whether to continue and/ or expand such projects, data must be collected. Pilot projects are due to expire September 30, 1996. Therefore, it is in the best interest of the traveling public to expand the land border user fee pilot program as soon as possible. All pilot projects are focused on the traveling public as customers and are designed to directly benefit large populations. Proceeding with an interim regulation at this time will allow the affected agencies and the public to gain maximum benefits from the pilot program.

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 because of the following factors. The rule applies to individuals, not small entities, and provides a clear benefit to participants by allowing expeditious passage through a POE. Although there is a fee charged for this service, participation is voluntary.

Executive Order 12866

This rule is not 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, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations proposed 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.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Aliens, Authority delegations (Government agencies), Freedom of Information, Privacy Act, Reporting and recordkeeping requirements.

8 CFR Part 235

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

8 CFR Part 286

Fees, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 299

Administrative practice and procedure, Aliens, Forms, Immigration, Reporting and recordkeeping requirements.

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, 1201, 1252 note, 1252b, 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. In § 103.7, paragraph (b)(1) is amended by revising the entry for "Form I–823", to read as follows:

*

§103.7 Fees.

* *

- (b) * * *
- (1) * * *

Form I–823. For application to an Inspections Facilitation Program under section 286 of the Act—\$25.00, with the maximum amount of \$50.00 payable by a family (husband, wife, and minor children under 18 years of age). This fee may be waived for applicants seeking

*