access through an Automated Permit Port (APP) on the northern border. If fingerprints are required, a separate fingerprint processing fee will be charged.

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PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

3. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, and 1252.

§235.1 [Amended]

4. In §235.1, paragraph (a) is amended by:

(a) Adding the word "either" between the words "made" and "in person", and by

(b) Removing the period after the word "inspection" and adding the phrase "or as provided in § 235.13."

5. A new §235.13 is added to read as follows:

§235.13 Automated inspection services.

(a) PORTPASS Program. (1) Definitions. (i) Port Passenger Accelerated Service System (PORTPASS). A system in which certain ports-of-entry (POEs) are identified and designated by the Service as providing access to the United States for a group of identified, low-risk, border crossers. Participants in the PORTPASS program are inspected, identified, and screened in advance of approval for participation in the program by an immigration officer, and may apply to enter the United States through a dedicated commuter lane (DCL) or through an automated permit port (APP). Such advance inspection and identification, when the enrolled participant also satisfies the conditions and requirements set forth in §235.13(b), satisfies the reporting requirements of §235.1(a). Each use of the PORTPASS system constitutes a separate application for entry by the program participant.

(ii) Automated Permit Port (APP). A POE designated by the Service to provide access to the United States by an identified, low-risk, border crosser through the use of automation when the POE is not staffed. An APP has limited hours of operation and is located at a remote location on a land border. This program is limited to the northern border of the United States.

(iii) Dedicated Commuter Lane (DCL). A special lane set apart from the normal flow of traffic at a busier land border POE which allows an accelerated inspection for identified, low-risk travelers. This program is limited to the northern border of the United States and the California-Mexico border.

(iv) *System costs fee.* A fee charged to participants to cover the cost of implementing the PORTPASS system.

(2) Designation of POEs for PORTPASS access. The following criteria shall be used by the Service in the selection of a POE if classifying that POE as having PORTPASS access under the pilot program:

(i) The location has an identifiable group of low-risk border crossers;

(ii) The institution of PORTPASS access will not significantly inhibit normal traffic flow;

(iii) The POE selected for access via a DCL has a sufficient number of Service personnel to perform primary and secondary inspection functions.

(3) General eligibility requirements for PORTPASS program applicants. Applicants must be citizens or lawful permanent residents of the United States, or other non-immigrants as determined eligible by the Commissioner of the Service. Non-United States citizens must meet all applicable documentary and entry eligibility requirements of the Act. Applicants must agree to furnish all information requested on the application, and must agree to terms set forth for use of the PORTPASS program. Notwithstanding the provisions of 8 CFR part 264, applicants may be required to submit fingerprints on Form FD-258 or in the manner prescribed by the Service for the purpose of determining eligibility for participation in the PORTPASS program.

(4) Application. (i) Application for PORTPASS access shall be made on Form I–823, Application—Inspections Facilitation Program. Applications may be submitted during regular working hours at the port-of-entry having jurisdiction over the port-of-entry for which the applicant requests access. Applications may also be submitted by mail. Each applicant must present himself or herself for inspection and positive identification prior to approval of the application. Each person seeking PORTPASS access must file a separate application."

(ii) Applications must be supported by evidence of citizenship, and, in the case of lawful permanent residents of the United States, evidence of legal permanent resident status in the United States. Evidence of residency must be submitted by all applicants. Alien applicants requiring a valid visa must be in possession of such documentation and any other documentation as required by the Act at the time of the application, at the time of each entry, and at all times while present in the United States.

(iii) A completed application must be accompanied by the fee as prescribed in § 103.7(b)(1) of this chapter. Each PORTPASS applicant 14 years of age or older must complete the application and pay the application fee. Applicants under the age of 14 will be required to complete the application, but will not be required to pay the application fee. The district director having jurisdiction over the POE where the applicant requests access may, in his or her discretion, waive the application fee.

(iv) Each vehicle registered by a PORTPASS participant must be inspected and approved by the Service prior to use in the PORTPASS system.

(v) An application may be denied in the discretion of the district director having jurisdiction over the POE where the applicant requests access. Notice of such denial shall be given to the applicant. There is no appeal from the denial, but denial is without prejudice to reapplying for this or any other Service benefit.

(vi) Applications approved by the Service will entitle the applicant to seek entry via a designated PORTPASS Program POE for a period of 1 year from the date of approval of the application unless approval is otherwise withdrawn.

(5) In addition to the conditions set forth in § 235.13(b), participants must agree to the following:

(i) The installation and/or use of any and all decals, devices, technology or other methodology deemed necessary by the Service to ensure inspection of the person(s) seeking entry through a DCL, in addition to any monetary deposit assessed by the Service pending return of any and all such decals, devices, technology, and other methodology in undamaged condition;

(ii) The payment of a system costs fee as determined by the Service as necessary to cover the costs of any and all decals, devices, technology, or other methodology used to identify and inspect persons seeking access through the DCL.

(6) The district director having jurisdiction over the POE where the participant has access may, in his or her discretion, waive the deposit and "system costs fee."

(b) Conditions for participation in the PORTPASS Program. Upon being inspected and positively identified by an immigration officer and found admissible and eligible for participation in the PORTPASS program, a participant in the PORTPASS program must agree to abide by the following conditions: