Allium spp. (bulb only)
Allium tuberosum
* * * * *

5. Section 318.13–4b, would be revised to read as follows:

§ 318.13–4b Administrative instructions; conditions governing the interstate movement from Hawaii of certain fruits for which treatment is required.

(a) *General instructions.* Fruits listed in this section may only be moved interstate from Hawaii in accordance with this section or in accordance with other applicable sections in this subpart.

(b) *Eligible fruits.* The following fruits may be moved interstate from Hawaii if, prior to interstate movement, they are inspected for plant pests by an inspector and are then treated for fruit flies under the supervision of an inspector with a treatment prescribed in the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at § 300.1 of this chapter: Avocados, bell peppers, carambolas, eggplants, Italian squash, litchi, longan, papayas, pineapples (other than smooth cayenne), rambutan, and tomatoes.

(c) *Subsequent handling.* All handling of fruits subsequent to treatment in Hawaii must be carried out under the supervision of an inspector and according to the inspector's instructions.

(d) *Destination restrictions.* Litchi and longan that are moved interstate from Hawaii under this section may not be moved into Florida due to the litchi rust mite (*Eriophyes litchi*). Cartons used to carry such fruits must be stamped: ''Not for movement into or distribution in FL.''

(e) *Costs and charges.* All costs of treatment and any post-treatment safeguards prescribed by an inspector must be borne by the owner of the fruits or the owner's representative. The services of an inspector during regularly assigned hours of duty and at the usual place of duty are furnished by APHIS without charge.

(f) *Department not responsible for damages.* Treatments prescribed in the PPQ Treatment Manual are judged from experimental tests to be safe for use with the fruits listed in paragraph (b) of this section. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required by an inspector.

§ 318.13–4d [Removed and reserved]

6. Section 318.13–4d would be removed and reserved.

§ 318.13–4e Removed and reserved]

7. Section 318.13–4e would be removed and reserved.

§ 318.13–4h Removed and reserved]

8. Section 318.13–4h would be removed and reserved.

Done in Washington, DC, this 11th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–17803 Filed 7–17–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 211 and 212

[INS No. 2047–00]

RIN 1115–AF65

Entry Requirements for Citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule is designed to remedy two problems that have arisen in connection with section 141(a) of the Compact of Free Association between the United States of America and the Republic of the Marshall Islands and with the Federated States of Micronesia (48 U.S.C. 1910 note), and the Compact of Free Association between the United States of America and Palau (48 U.S.C. 1931, note) (Compacts, Compact countries). That section confers on citizens of the Compact countries certain privileges to enter the United States as *nonimmigrants,* subject, however, to several exceptions set forth in section 141(a)(3)(c) and section 143 of the Compacts.

This rule will clarify the entry requirements for citizens of the Compact countries who have been adopted by citizens or lawful permanent residents of the United States. The purpose of this aspect of the rule is to prevent the abuse of the entry privileges of section 141(a) of the Compacts as a means of circumventing statutory provisions designed to protect adopted children from abuse or exploitation.

In addition, this rule will correct an omission in the codification of section 141(a) of the Compacts in 8 CFR 212.1(d). That Codification inadvertently failed to include the exceptions to entry privileges of citizens of the Compact countries. By incorporating those exceptions in 8 CFR 212.1(d)(2), the rule will bring the Immigration and Naturalization Service (Service) regulations into compliance with the Compacts.

DATES: Written comments must be submitted on or before August 17, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2047–00 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov.* When submitting comments electronically please include INS No. 2047–00 in the subject box. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Michael Biggs, Assistant Director, Residence and Status Services, Office of Adjudications, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Are the Entry Privileges of Citizens of the Compact Countries Under the Compacts, and How Does This Rule Affect Those Privileges?

The Compacts both provide in section 141(a), with certain exceptions discussed, *infra,* for the following privileges for most citizens of the Compact countries who seek to enter into the United States as *nonimmigrants.* Such citizens of the Compact countries may enter into the United States, lawfully engage in occupations, accept employment, and establish residence as *nonimmigrants* in the United States, its territories and possessions, without regard to section 212(a)(5)(A) (labor certification), (7)(A) (immigrant visa) and (B) (nonimmigrant visa) of the Immigration and Nationality Act (Act). (Previously sections 212(a)(14), (20) and (26) of the Act). This rule does not affect the existing Compact entry privileges.

The Service notes that sections 212(a)(7)(A) and (B) of the Act which are waived by section 141(a) of the Compacts contain not only visa requirements, but also a passport requirement. The waiver contained in section 141(a) of the Compacts therefore appears to include a waiver of the need to present a passport upon entry into the United States. However, practical

experience has shown that a passport or similar travel document is the only reliable means by which immigration officials can determine whether an alien is a citizen of a Compact country entitled to the privileges of section 141(a). Therefore, the Service requires that citizens of the Compact countries who seek to enter the United States as *nonimmigrants* under section 141(a) present a passport or similar travel document. This is necessary not in order to comply with the admission requirements of section 212 of the Act, but rather in order to establish entitlement to the privileges of section 141(a) of the Compacts.

What Is the Purpose of This Rule?

While this rule does not modify the substantive Compact rights of citizens of the Compact countries to enter the United States, the rule is designed to clarify the pertinent administrative regulations in two aspects. First, the rule makes it clear that citizens of the Compact countries who have been adopted by citizens or lawful permanent residents of the United States are coming to the United States presumptively to reside as *immigrants*. Therefore, they may not enter the United States as *nonimmigrants* under section 141(a), but must comply with the standard procedures for immigration, including immigrant visas. Procedures governing the immigration visas for adopted children are to be found in a 8 CFR 204.2 and 8 CFR 204.3.

Second, the rule codifies in 8 CFR 212.1(d)(2) the Compact limitations on the privileges of citizens of Compact countries to enter the United States as *nonimmigrants*. These limitations, found in sections 141(a)(3), (c) and 143 of the Compacts, were inadvertently omitted from 8 CFR 212.1(d) when that regulation was first issued.

These exceptions to the privileges of section 141(a) are briefly:

(i) Naturalized citizens of the Compact countries, unless they have been ''actual residents'' of the Compact country that had naturalized them and hold a ''certificate of actual residence,'' as those terms are defined in section 461 of the Compacts (section 141(a)(3));

(ii) Citizens of a Compact country who have taken an affirmative step to retain or acquire the nationality or citizenship of another country (section 143(a) of the Compacts);

(iii) Citizens of a Compact country who are also citizens of another country, unless they renounce that other citizenship under oath (section 143(b) of the Compacts); and

(iv) Citizens of a Compact country who seek to obtain a residence status leading to naturalization (section 141(c) of the Compacts).

Why Is the Clarification Regarding Adopted Children Necessary?

The clarification of the entry status of citizens of the Compact countries adopted by citizens or lawful permanent residents of the United States is necessary because of a practice that has developed in Compact countries. Citizens and lawful permanent residents of the United States have adopted children who are citizens of the Republic of the Marshall Islands and brought them to the United States as *nonimmigrants* under section 141(a) of the Compacts.

This practice constitutes an improper use of the privileges under section 141(a) of the Compacts. Children who enter the United State after having been adopted abroad by citizens or lawful permanent residents of the United Stated do so presumptively in order to establish permanent residence, i.e. to *immigrate*, rather than to become temporary *nonimmigrant* visitors. Moreover, the practice of entering adopted children as *nonimmigrants* also puts those children at risk by bypassing measures designed to protect them, and jeopardizes their ability to become United States citizens.

Most adopted children immigrate pursuant to section 101(b)(1)(F) of the Act. United States citizens who adopt abroad a child as defined in section 101(b)(1)(F) of the Act must file a petition with the Service to classify the child as an immediate relative before obtaining an immigrant visa for the child. Section 101(b)(1)(F) of the Act requires that the Attorney General be satisfied that proper care will be furnished to the child if admitted to the United States. The Service therefore evaluates this petition to determine the ability of the prospective adoptive parents to provide a proper home environment for the child and their suitability as parents. These determinations are based primarily on a home study, which is a requirement of section 204(d) of the Act, and criminal background checks, and are essential to protect the child.

When adoptive parents bring a child into the United States purportedly as *nonimmigrants* under the Compacts they evade, as matter of law, the statutory mandates of section 101(b)(1)(F) and section 204(d) of the Act that alien children adopted abroad by United States citizens shall not be admitted to the United States unless the suitability of the adoptive parents has been determined. By the same token such adoptive parents deprive the child, as a matter of fact, of an important protection from abuse or exploitation.

Moreover, the admission of an adoptive child as a non-immigrant under section 141(a) of the Compacts jeopardizes the child's ability to become a citizen of the United States. Section 320 of the Act, as amended by section 101 of the Child Citizenship Act of October 30, 2000, Public Law 106–395, 114 Stat. 1631, effective February 27, 2001, which provides for the automatic naturalization of certain children born outside the United States, including adopted children, requires that the child reside in the United States, ''pursuant to lawful admission for permanent residence.'' In other words, a child must enter the United States as an *immigrant* in order to be eligible for automatic naturalization under section 320 of the Act.

The Compact countries have indicated that, without the clarification envisaged in the rule, they may no longer permit the adoption of their citizens and lawful permanent residents of the United States. For all these reasons, it is important to make certain that citizens of the Compact Countries who have been adopted by United States citizens are admitted to the United States as immigrants.

What Changes Is the Service Making to the Regulations?

1. Section 211.1(a) (immigrant visas) is revised to clarify that it covers children who are citizens of a Compact country who have been adopted by citizens or lawful permanent residents of the United States. Those children therefore must present an immigrant visa in order to enter the United States. This change is necessary to distinguish these children from citizens of the Compact countries who, under the Compacts, may enter into the United States as *nonimmigrants*.

2. Section 212.1(d) (documentary requirements for nonimmigrants) is revised to incorporative five exceptions to the current text of paragraph (d). Paragraph (d) is re-designated as paragraph (d)(1) and continues to permit citizens of the Compact countries to enter into the United States, lawfully engage in occupations, accept employment, and establish residence in the United States and its territories and possessions as *nonimmigrants*, exempt from the visa and labor certification requirements with the addition of the clause, ''except as otherwise provided in paragraph (d)(2).''

3. A new paragraph (d)(2) spells out five exceptions to the basic principle embodied in paragraph (d)(1). Those citizens of the Compact countries who

come within those exceptions must comply with the standard procedures of the Act in order to enter into the United States.

These changes are necessary to implement the Compact provisions in the Code of Federal Regulations and to distinguish between those citizens of the Compact countries who are coming to the United States as *nonimmigrants* under the Compacts and those who must enter the United States as *immigrants* or under other provisions of the Act.

Thirty-Day Comment Period

The rule provides for a 30-day comment period rather than the 60-day comment period that is usually provided under Executive Order 12866. This will allow the Service to proceed with final rulemaking in a quicker manner so that the agency can expeditiously clarify the documentary requirements for adopted children from Compact countries. Without prompt clarification of the documentary requirements for an adoption of a child from the Compact countries, the Compact countries may no longer permit to the adoption of children by citizens and lawful permanent residents of the United States.

In addition, the expedition of the Service's rulemaking will control the orderly and proper admission of *nonimmigrants* from Compact countries into the United States. Currently, Service regulations are not in compliance with the Compacts, resulting in the potential for improper admissions into the United States. This occurs because the limitations of the Compact, found in sections 141(a)(3), (c) and 143 of the Compacts, were inadvertently omitted from 8 CFR 212.1(d) when that regulation was first issued.

Regulatory Flexibility Act

The Acting 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 this rule will not have a significant economic impact on a substantial number of small entities. This rule primarily affects individuals, who are entering the United States as nonimmigrants under the Compacts, and those who are entering as intending immigrants. This rule does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one-year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

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 13132

This rule 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 section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Summary Impact Statement.

Executive Order 12988 Civil Justice Reform

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting and recordkeeping requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 211

Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

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

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

1. The authority citation for part 211 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1181, 1182, 1203, 1225, 1227; 8 CFR part 2.

2. In § 211.1, paragraph (a) introductory text is revised to read as follows:

§ 211.1 Visas.

(a) *General.* Except as provided in paragraph (b) of this section, each arriving alien applying for admission (or boarding the vessel or aircraft on which he or she arrives) into the United States for lawful permanent residence, or as a lawful permanent resident returning to an unrelinquished lawful permanent residence in the United States and all children who are citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau who have been adopted by citizens of the United States or by lawful permanent residents of the United States, must present one of the following:

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

3. The authority citation for part 212 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1187, 1225, 1226, 1227, 1228, 1252, sections 141, 143, and 461, of the Compacts with the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, 48 U.S.C. 1901, note, and 1931, note, respectively; 8 CFR part 2.

4. In § 212.1, paragraph (d) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(d) *Citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau (Compact countries)*—(1) *General.* Except as provided in paragraph (d)(2) of this section, citizens of the Compact countries may enter into the United States, lawfully engage in occupations, accept employment, and establish residence as nonimmigrants in the United States and its territories and possessions without regard to section 212(a)(5)(A) (labor certification), (7)(A) (immigrant visa), and (B) (nonimmigrant visa) of the Act, provided that they possess a passport or similar travel document issued by the Compact country of which they are citizens in order to establish their entitlement to those privileges. This is pursuant to section 141(a), of the Compact between the United States of America and the Marshall Islands and the Federated States of Micronesia, 48 U.S.C. 1901, note, and of section 141(a), of the Compact between the United States of America and Palau, 48 U.S.C. 1931, note (Compacts).

(2) *Exceptions.* The following citizens of the Compact countries are not eligible for the privileges described in paragraph (d)(1) of this section and must follow standard procedures for obtaining immigrant or nonimmigrant visas, as appropriate, for entry into the United States, its territories and possessions:

(i) Children who are citizens of a Compact country who have been adopted by a United States citizen or a lawful permanent resident of the Untied States and are coming to the United States. This exception is based on sections 101(b)(1)(F) and 204(d) of the Act;

(ii) Naturalized citizens of the Compact countries, unless they have been actual residents in their country of naturalization for not less than 5 years after attaining naturalization and hold a certificate of actual residence from that country. This is pursuant to section 141(a)(3) of the Compacts. The terms ''actual resident'' and ''certificate of actual residence'' are defined in section 461 of the Compacts;

(iii) (A) Any citizen of the Republic of the Marshall Islands or of the Federated States of Micronesia who takes or has taken an affirmative step to preserve or acquire a nationality or a citizenship other than that of the Republic of the Marshall Islands or of the Federated States of Micronesia. This is pursuant to section 143(a) of the Compact with the Republic of the Marshall Islands and the Federated States of Micronesia;

(B) Any citizen of Palau who takes or has taken an affirmative step to preserve or acquire a nationality or a citizenship of another country. This is pursuant to section 143(a) of the Compact with Palau;

(iv) (A) Any citizen of the Republic of the Marshall Islands or of the Federated States of Micronesia having the privileges set forth in paragraph (d)(1) of this section who also possesses a nationality or a citizenship of a country other than that of the Republic of the Marshall Islands or the Federated States of Micronesia, and who has not renounced that additional nationality or citizenship under oath within 2 years after the effective date of the Compact (October 21, 1986, for the Republic of the Marshall Islands and November 3, 1986, for the Federated States of Micronesia), or within 6 months after becoming 21 years old, whichever is later. This is pursuant to section 143(b) of the Compact with the Republic of the Marshall Islands and the Federated States of Micronesia;

(B) Any citizen of Palau having the privileges set forth in paragraph (d)(1) of this section who also possesses the nationality or citizenship of another country and who has not renounced that additional nationality or citizenship under oath within 2 years after the effective date of the Compact with Palau (October 1, 1994), or within 6 months after becoming 21 years old, whichever is later. This is pursuant to section 143(b) of the Compact with Palau; and

(v) Citizens of the Compact countries who seek a residence status leading to naturalization. This is pursuant to section 141(c) of the Compacts.

* * * * *

Dated: July 13, 2001.

Kevin D. Rooney,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–17957 Filed 7–17–01; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–70]

Eric Joseph Epstein; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC or ''Commission'') is denying a petition for rulemaking (PRM–50–70) submitted by Eric Joseph Epstein. The petitioner requested that NRC amend its financial assurance requirements for decommissioning nuclear power reactors to: require uniform reporting and recordkeeping for all ''proportional owners'' of nuclear generating stations (defined by the petitioner as partial owners of nuclear generating stations who are not licensees), modify and strengthen current nuclear decommissioning accounting requirements for proportional owners, and order proportional owners to conduct prudency reviews to determine a balanced formula for decommissioning funding that includes not only ratepayers and taxpayers but shareholders and board members of rural electric cooperatives as well. The NRC is denying the petition because current regulations adequately address the first two requested actions and the NRC does not have the legal authority to require the third requested action.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter of denial to the petitioner are available for public inspection or copying in the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. These documents are also available at the NRC's rulemaking website at *http://ruleforum.llnl.gov.*

FOR FURTHER INFORMATION CONTACT: Brian J. Richter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1978, e-mail: *bjr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

The Petition

On May 12, 2000 (65 FR 30550), the NRC published a notice of receipt of a petition for rulemaking (PRM) filed by Eric Joseph Epstein. The petitioner requested that the NRC amend its financial assurance requirements for decommissioning nuclear power reactors to: (1) require uniform reporting and recordkeeping for all ''proportional owners'' of nuclear generating stations (defined by the petitioner as partial owners of nuclear generating stations who are not licensees); (2) modify and strengthen current nuclear decommissioning accounting requirements for proportional owners; and (3) order proportional owners to conduct prudency reviews to determine a balanced formula for decommissioning funding that includes not only ratepayers and taxpayers but