are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996–97 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) Pub. L. 103–66 requires the Department to impose an administrative assessment on peanuts received or acquired for the account of non-signatory handlers; (3) the 1996–97 crop year began on July 1, 1996, and the marketing agreement and Pub. L. 103–66 require that the rate of assessment for the crop year apply to all peanuts handled during the crop year; (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other budget actions issued in past years; and (5) an interim final rule was published on this action which provided a 30-day comment period, and no comments were received.

List of Subjects

7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

Note: These sections will appear in the Code of Federal Regulations.

Accordingly, the interim final rule amending 7 CFR parts 997 and 998 which was published at 61 FR 35594 on July 8, 1996, is adopted as a final rule without change.

Dated: November 19, 1996.

Sharon Bomer Lauritsen,

Acting Director Fruit and Vegetable Division.

[FR Doc. 96–30035 Filed 11–22–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1748–96; AG Order No. 2063–96]

RIN 1115–AE27

Periods of Lawful Temporary Resident Status and Lawful Permanent Resident Status To Establish Seven Years of Lawful Domicile

AGENCY: Immigration and Naturalization Service (INS), Executive Office for Immigration Review (EOIR), Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends Department of Justice regulations that limit discretion to grant an application for relief under section 212(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(c), by expanding the class of aliens eligible for section 212(c) relief. This interim rule allows an alien who has adjusted to lawful permanent resident status pursuant to section 245A, 8 U.S.C. 1255a, or section 210, 8 U.S.C. 1160, of the Act to use the combined period of his or her status as a lawful temporary resident and lawful permanent resident to establish seven (7) years of lawful domicile in the United States for purposes of eligibility for section 212(c) relief. This interim rule will provide uniformity between the regulation and case law.

DATES: This interim rule is effective November 25, 1996. Written comments must be submitted on or before December 26, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attention: Public Comment Clerk. To ensure proper handling, please reference INS number 1748–96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305–0470; David M. Dixon, Chief Appellate Counsel, Immigration and Naturalization Service, Suite 309, 5113 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 756–6257.

SUPPLEMENTARY INFORMATION: Under recent case law, an alien who has acquired lawful permanent resident status under section 245A of the Act may accrue the seven (7) years of lawful domicile required for purposes of section 212(c) relief from the date of his or her application for temporary resident status. *See Robles* v. *INS,* 58 F.3d 1355 (9th Cir. 1995); *Avelar-Cruz* v. *INS,* 58 F.3d 338 (7th Cir. 1995); *Castellon-Contreras* v. *INS,* 45 F.3d 149 (7th Cir. 1995). The current regulation allows an alien to apply for section 212(c) relief only if he or she has established at least seven consecutive years of lawful permanent resident status immediately prior to filing the application *See* 8 CFR 212.3(f)(2). The Board of Immigration Appeals (BIA) has determined that, in cases arising in the Ninth Circuit, an alien may use the period of temporary resident status to establish the requisite seven years. *See In re Carlos Cazares-Alvarez,* Interim Decision 3262 (BIA 1996). However, in cases arising in circuits without such a temporary resident status rule, the BIA has determined that the current regulation requires seven years of lawful permanent resident status. *See In re Hector Ponce de Leon-Ruiz,* Interim Decision 3261 (BIA 1996). The BIA has referred these cases to the Attorney General pursuant to 8 CFR 3.1(h)(1)(ii) to resolve the issue. The issue raised in *White* v. *INS,* 75 F.3d 213 (5th Cir. 1996) (whether 8 CFR 212.3(f)(2) is consistent with 8 U.S.C. 1182(c) and therefore is entitled to deference), has been addressed and rendered moot by section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104–208, 110 Stat. 3009 (September 30, 1996) (repealing section 212(c) and substituting other relief), effective April 1, 1997, codified at section 240A of the Immigration and Nationality Act as amended. The *White* court computed the years of lawful unrelinquished domicile (including the years of lawful temporary resident status) rather than lawful permanent residence in determining eligibility for relief.

This interim rule will permit an alien to demonstrate lawful domicile for section 212(c) relief purposes by combining his or her status as a lawful temporary resident and as a lawful permanent resident under section 245A or section 210 of the Act. This rule,

which is necessary for consistency between the regulation and case law, will become effective immediately.

The Department's implementation of this rule as a interim rule, with provision for post-promulgation public comment, is based upon the ''good cause'' exception found at 5 U.S.C. 553(d)(3). The reasons and necessity for immediate implementation of this interim rule are as follows: (1) To resolve the conflict among the circuits regarding this issue; (2) to respond to the controversy raised by the BIA decisions; (3) to render moot the decisions referred to the Attorney General by the BIA; and (4) to provide a benefit to those aliens who meet its criteria. An abbreviated comment period of 30 days is necessary because of the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, supra, which repeals the provision for section 212(c) relief and substitutes other relief, effective April 1, 1997. This regulation thus will be applicable only in the case of aliens in proceedings and who have filed an application for section 212(c) relief as of the effective date. Nothing in this regulation is intended to affect, nor will it affect, the operation of the Illegal Immigration Reform and Immigrant Responsibility Act, *supra*, to applications for relief pending on the general effective date of that act.

The Attorney General, 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 adverse economic impact on a substantial number of small entities. It will affect certain individual aliens, not small entities. This rule does not constitute significant regulatory action within the meaning of section 3(f) of Executive Order 12866, nor does it have federalism implications warranting the preparation of a Federalism Assessment in accordance with section 6(b) of Executive Order 12612.

List of Subjects in 8 CFR Part 212

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

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. In § 212.3 paragraph (f)(2) is revised to read as follows:

§ 212.3 Application for the exercise of discretion under section 212(c).

* * * * *

(f) * * *

(2) The alien has not maintained lawful domicile in the United States, as either a lawful permanent resident or a lawful temporary resident pursuant to section 245A or section 210 of the Act, for at least seven consecutive years immediately preceding the filing of the application;

* * * * *

Dated: November 19, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–29996 Filed 11–22–96; 8:45 am]

BILLING CODE 4410–10–M

8 CFR Part 245

[INS No. 1373–95]

RIN 1115–AD12

Adjustment of Status to That of Person Admitted for Permanent Residence: Interview

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts without change an interim rule published in the Federal Register by the Immigration and Naturalization Service (the Service) on November 2, 1992, which allows the Service to determine when interviews are needed to adjudicate applications for adjustment of status to that of a lawful permanent resident alien. This action is considered necessary to promote more efficient adjudications and convenience to the public.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Gerard Casale, Senior Adjudications Officer, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

Section 245 of the Immigration and Nationality Act (the Act) provides that the status of certain aliens in the United States may be adjusted to that of lawful permanent residents at the discretion of the Attorney General under such regulations as she may prescribe. This process, known as adjustment of status, is governed by section 245 of the Act and 8 CFR part 245. Pursuant to 8 CFR 245.6, an applicant over the age of 14 is generally required to be interviewed by an officer of the Service.

On November 2, 1992, the Service published an interim rule with request for public comments in the Federal Register, at 57 FR 49374–49375. The rule revised 8 CFR 245.6 to allow the Service to conduct interviews only in cases where it determines that an interview is necessary. The rule also eliminated a provision allowing interviews to be waived for persons who had applied before November 20, 1990, for adjustment of status under the Cuban Adjustment Act of November 2, 1996, since that specific provision was no longer needed.

The interim rule became effective on November 2, 1992. Interested persons were invited to submit written comments regarding the interim rule on or before December 2, 1992. The Service received five written comments regarding the rule. Since the closing of the period for public comment, no new factors have affected the stated basis for the interim rule. Meanwhile, significant increases in total application receipts have underscored the need for promoting efficient use of adjudications resources. The following discussion summarizes the issues involved in the interview determination rule, including those raised by the commenters, and the conclusions reached by the Service.

Fraud

Traditionally, the interview of applicants for adjustment of status has been seen as an important element in the Service's ability to detect and deter fraud. On that account, one commenter opposed the change to selective interviewing. Citing reports indicating a significant number of fraudulent marriages connected with petitions for immigration benefits, he concluded that the prospect of an interview deters additional persons from fraudulently claiming eligibility for lawful permanent resident status. The Service shares this interest in avoiding the creation of opportunities for fraud. However, the conversion to select interviewing does not assure any particular applicants that they will not be interviewed and does not limit the Service's ability to interview a particular applicant for permanent resident status. Interviews of a significant number of applicants, particularly those claiming eligibility based on a recent marriage, will continue. In fact, the Service intends to conduct interviews in all cases in which