

FOR FURTHER INFORMATION CONTACT:
William C. Nelson, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9295.

SUPPLEMENTARY INFORMATION:
History

On January 13, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class C airspace areas at Roanoke Regional/Woodrum Field, VA, and Rochester-Monroe County Airport, NY, and to establish a Class E airspace area at Roanoke Regional/Woodrum Field, VA (60 FR 3018).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Class C and E airspace designations are published in paragraphs 4000 and 6002, respectively, of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class C and E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Roanoke Regional/Woodrum Field, VA, Class C airspace area by amending the effective hours to coincide with the associated radar approach control facility's hours of operation and by changing the name of the Rochester-Monroe County Airport to Greater Rochester International Airport. This action will not change the designated boundaries or altitudes of these Class C airspace areas. In addition, this action establishes the Roanoke Regional/Woodrum Field, VA, Class E airspace area when the associated radar approach control facility is not in operation.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a

"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 4000—Subpart C-Class C Airspace
* * * * *

AEA NY C Greater Rochester International Airport, NY (Revised)

Greater Rochester International Airport, NY (Lat. 43°07'08" N., long. 77°40'21" W.)

That airspace extending upward from the surface to and including 4,600 feet MSL within a 5-mile radius of the Greater Rochester International Airport; and that airspace extending upward from 2,100 feet MSL to 4,600 feet MSL within a 10-mile radius of the airport.
* * * * *

AEA VA C Roanoke Regional/Woodrum Field, VA (Revised)

Roanoke Regional/Woodrum Field, VA (Lat. 37°19'31" N., long. 79°58'31" W.)

That airspace extending upward from the surface to and including 5,200 feet MSL within a 5-mile radius of the Roanoke Regional/Woodrum Field; and that airspace extending upward from 3,800 feet MSL to and including 5,200 feet MSL within a 10-mile radius of the airport from the 004° bearing from the airport clockwise to the 104° bearing from the airport; and that airspace extending upward from 3,400 feet MSL to and including 5,200 feet MSL from the 104°

bearing from the airport clockwise to a line formed by a point at the 274° bearing from the airport at 5 miles direct to a point at the 257° bearing from the airport at 10 miles. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
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Paragraph 6002—Class E Airspace Areas Designated as a Surface Area for an Airport
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AEA VA E2 Roanoke Regional/Woodrum Field, VA (New)

Roanoke Regional/Woodrum Field, VA (Lat. 37°19'31" N., long. 79°58'31" W.)

Within a 5-mile radius of the Roanoke Regional/Woodrum Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.
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Issued in Washington, DC, on February 1, 1995.

Nancy B. Kalinowski,
Acting Manager, Airspace—Rules and Aeronautical Information Division.

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DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 43

[Public Notice 2163]

Visas: Documentation of Immigrants Under Section 132 of Public Law 101-649, as Amended

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule, with request for comments.

SUMMARY: Pub. L. 103-416, the Act of October 25, 1994, the Immigration and Nationality Technical Corrections Act of 1994, further amends section 132 of Public Law 101-649 to authorize the issuance during Fiscal Year 1995 of those immigrant visas authorized during the three fiscal years of the Transitional Diversity Program but not used during that period. The amendments became effective upon signature and the available visas are to be issued during the Fiscal Year now in progress. Accordingly, the Department is promulgating an interim rule in order to create a basis for initiating the necessary processing and inviting comments.

DATES: This rule is effective February 8, 1995. Interested persons are invited to

submit written comments on or before March 10, 1995.

ADDRESSES: Written comments, with a reference to this rule to ensure proper and timely handling, may be submitted in duplicate to the Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC, 20522-0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Bureau of Consular Affairs, (202) 663-1184.

SUPPLEMENTARY INFORMATION:

General

Section 217 of Pub. L. 103-416 amends section 132 of Pub. L. 101-649 to extend the life of the provision through fiscal year 1995. Section 132 provided for the issuance of specified amounts of immigrant visas during fiscal years 1992, 1993, and 1994. This program came to be known as the AA-1 program, from the entry code used by INS to identify for statistical purposes admissions of aliens who qualified under the program. Natives of specified countries were authorized to compete for consideration during each of the three years by applying during an application period established for each of the years. The annual limitation was set at 40,000 with not less than 40%—16,000—reserved for natives of Ireland.

Section 132 was amended to modify the provision in several respects for the second and third years. Pertinent here were amendments which authorized the total of visas unused in the first or second fiscal year to be added to the total for the second or third year, as applicable, and which authorized the total reserved for natives of Ireland to be increased in the second and third years by the shortfall in usage by natives of Ireland in the preceding year.

Section 217 of Pub. L. 103-416 further extends this program but does so in a very limited way. First, the numerical limitation for fiscal year 1995 is established as solely the total of immigrant visas unused in the program during fiscal year 1994. *There is no new annual limitation of 40,000.*

Second, aliens entitled to compete for the available visas will be limited to those who are natives of countries qualified under this program who also have applied for consideration under the new Diversity Lottery provided for in section 203(c) of the Immigration and Nationality Act, as amended, and in section 42.33 of Title 22, United States Code. *There will be no new mail-in period to allow aliens to apply to*

compete for the visas available under this extension.

Finally, aliens entitled to compete for the AA-1 program numbers available during fiscal year 1995 will not have to present evidence of a firm commitment for employment in the U.S., but will be subject to the requirement established by section 203(c)(2) for applicants under the Diversity Lottery—a showing that they have at least a high school education or its equivalent or that, within the preceding five years, they have had at least two years of work experience in an occupation requiring at least two years of training or experience.

Numerical Limitation and Its Apportionment

As pointed out above, the numerical limitation for fiscal year 1995 is limited to the number of immigrant visas which were available during the previous fiscal years but not used during those years. The total unused was 1,404. Thus, during fiscal year 1995 1,404 visas will be available to natives of qualifying countries.

Now, the apportionment of that total is interesting. Section 132(c) specifies that a minimum of 40 percent of a fiscal year limitation shall be made available to natives of the foreign state which received the greatest number of visas under the program established by section 314 of the Immigration Reform and Control Act. That same section, as amended, also provides that, if usage of visas by natives of that foreign state falls short of the total available in a fiscal year, the amount of shortfall is to be added to the 40 percent minimum during the next fiscal year.

The foreign state so described was Ireland. Application of the above rules to the available numbers produces the following results—

40 percent of 1404=562 (rounded to the nearest whole number)
 Visas reserved for natives of Ireland, FY 94—22,555
 Visas actually used by natives of Ireland, FY 94—21,804
 Shortfall for FY 94—751
 Visas available for natives of Ireland, FY 95—562+751=1,313
 Visas available for natives of other qualifying countries—91.

Section 217 also provides that any visas available to natives of countries other than Ireland are to be distributed among the regions established under the Diversity Lottery in proportion to the usage by region of visas under the AA-1 program during fiscal years 1992 and 1993. Regionally, the usage during the two fiscal years cited was distributed as follows:

Europe—85.93%
 Asia—11.51%
 South America, Mexico, Central America, and the Caribbean—2.02%
 Africa—0.54%

It will be noted that two of the six regions established for Diversity Lottery purposes are not listed above—North America and Oceania. No countries in the Oceania region qualified for participation in the AA-1 program and, thus, usage of visas by natives of countries in that region was necessarily zero.

The omission of North America has a different basis. The only two countries in the region are Canada and the Bahamas. Canada was a country which qualified for the AA-1 program in fiscal year 1993, although not in fiscal year 1992. On the other hand, Canada does not qualify for participation in the DV-1 lottery and, thus, the Bahamas is the only country in the North America Region which does qualify. The Bahamas was not, however, a country which qualified to participate in the AA-1 program. For this reason, natives of the Bahamas who applied for the DV-1 lottery could not be issued AA-1 visas under this carry-over provision. Accordingly, the Department did not take into account usage by North America in determining how to apportion the 91 visas available for natives of AA-1 countries other than Ireland.

Apportioning the 91 visas among the four regions in accordance with the percentages indicated above produces the following numbers—

Europe—78
 Asia—10
 South America, Mexico, Central America, and the Caribbean—2
 Africa—1

Selection of Immigrants

Small as the numbers of visas available under this provision are, the question of how to select recipients has been troublesome. Section 217 itself prohibits any separate mail-in to compete for these visas and requires that recipients be selected from among those who applied to compete for selection in the fiscal year 1995 Diversity Lottery. By the time section 217 was enacted, the mail-in period for that lottery was complete, the computer-generated random selection had been made and notifications had been sent to the winners. The Department's decision as to how to handle selection of the recipients of these visas has been heavily influenced by that fact.

First, as to non-Irish competitors for these visas, the number of registrants for

the Diversity Lottery is so large compared to the visas available that it will not be necessary to go beyond those already registered and notified of their qualification to compete in the Diversity Lottery. The Department envisions that the visas available for each region will be made available according to regional rank order numbers to natives of AA-1 qualifying countries who are determined to be ineligible to receive a DV-1 visa under section 212(a)(6)(C) or 212(e), or who could not obtain a DV-1 visa because of the regional or percentage limitation.

The situation regarding Irish Diversity Lottery applicants is rather different. The number of aliens registered for the Diversity Lottery who could compete for the 1,313 Irish visas is only 2,416—2,151 from the Republic of Ireland; 265 from Northern Ireland. [In the AA-1 program, Northern Ireland was required by law to be treated as part of Ireland. In the Diversity Program, Northern Ireland is required by law to be treated as a separate foreign state.] Given the very high percentage of natives of Ireland who were registered for visas under the AA-1 program but failed to pursue their applications, the Department believes that it is necessary to register additional Irish applicants beyond those registered for the DV-1 program for the express purpose of producing a pool of Irish applicants sufficient to ensure use of all the AA-1 visa numbers carried over from the previous fiscal years.

Accordingly, the Department is registering an additional quantity of natives of Ireland beyond those registered for competition for the Diversity visas. These applicants will not compete for Diversity visas as their rank order numbers will not justify permitting them to do so. They will, however, compete for the 1,313 AA-1 visas carried over to the current fiscal year.

Interim Rule

The implementation of this rule, with provision for post-promulgation public comments, is based upon the "good cause" exception found at 5 U.S.C. 553 (b)(B) and 553(d)(3). The amendments authorizing the Department to continue issuing visas under the Transitional Diversity Program throughout fiscal year 1995 took effect October 25, 1994.

This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule would not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has

been reviewed as required under E.O. 12778 and certified to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department to ensure consistency with the objectives thereof.

List of Subjects in 22 CFR Part 43

Aliens, Immigrants, Numerical limitations, Registration, Visas.

Accordingly, title 22, part 43 of the Code of Federal Regulations, is amended as follows:

PART 43—[AMENDED]

1. The authority citation for part 43 is revised to read:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1153 note, 108 Stat. 4315.

2. Part 43 is amended by adding a new subpart C to read as follows:

Subpart C—Documentation of Immigrants Under Section 217 of Public Law 103-416

Sec.

- 43.21 General.
- 43.22 Definitions.
- 43.23 Eligibility for consideration.
- 43.24 Order of consideration.
- 43.25 Numerical limitations.
- 43.26 Fees.
- 43.27 Eligibility to receive a visa.

§ 43.21 General.

Except as specifically provided in this subpart, the provisions of the Immigration and Nationality Act, as amended, and of parts 40 and 42 of this chapter shall apply to application for, consideration of, and issuance or refusal of, immigrant visas under section 217 of Pub. L. 103-416.

§ 43.22 Definitions.

The definitions set forth in paragraphs (a), (c) and (d) of § 43.12 shall apply to application for, consideration of, and issuance or refusal of, immigrant visas under section 217 of Pub. L. 103-416.

§ 43.23 Eligibility for consideration.

(a) *Natives of adversely affected foreign states other than Ireland.* Natives of adversely affected foreign states other than Ireland shall be eligible for consideration for issuance of a visa under this subpart only if they have been registered for consideration for issuance of a visa during fiscal year 1995 under section 203(c) of the Immigration and Nationality Act, as amended.

(b) *Natives of Ireland.* Natives of Ireland, as that country is defined in § 43.12(d) shall be eligible for consideration for issuance of a visa under this 103-416.

(1) They have been registered for consideration for issuance of a visa

under section 203(c) of the Immigration and Nationality Act, as amended; or

(2) They have been separately registered for this purpose from among those natives of Ireland who petitioned for consideration under section 203(c) of the Immigration and Nationality Act, as amended, but were not selected under the procedures established under § 42.33.

§ 43.24 Order of consideration.

(a) *Natives of Ireland.* Consideration for issuance of a visa under this subpart shall be given to natives of Ireland in order of diversity rank number whose application for a visa under section 203(c) of the Immigration and Nationality Act, as amended, has been refused under section 212(a)(6)(C) or 212(e) of such Act, or both, or whose application could not be processed to a conclusion because of the applicable regional or foreign state limitation. Such consideration shall thereafter be given to natives of Ireland separately registered for this purpose as provided in § 43.23(b)(2) and such consideration shall be given in the rank order established by such registration.

(b) *Natives of adversely affected countries other than Ireland.* Consideration for issuance of a visa under this subpart shall be given to natives of adversely affected countries other than Ireland in order of regional diversity rank number whose application for a visa under section 203(c) of the Immigration and Nationality Act, as amended, has been refused under section 212(a)(6)(C) or 212(e) of such Act, or both, or whose application registered for consideration for issuance of a visa under such section 203(c) could not be processed to a conclusion because of the applicable regional or foreign state limitation.

§ 43.25. Numerical limitations.

(a) *Centralized control.* Centralized control of the numerical limitations established pursuant to section 217 of Pub. L. 103-416 and this subpart is established in the Department.

(b) *Numerical limitation for natives of Ireland.* The numerical limitation for natives of Ireland shall be determined by multiplying by 0.40 the number of immigrant visas available under section 132 of Pub. L. 101-649 during fiscal year 1994 to natives of adversely affected countries which were not used by such natives and by adding to the result of that calculation the number of visas available under such section 132 during fiscal year 1994 to natives of Ireland which were not used by such natives.

(c) *Numerical limitation for natives of adversely affected countries other than Ireland.*

(1) *Overall.* The overall numerical limitation for natives of adversely affected countries other than Ireland shall be the difference between the total number of visas available under section 132 of Pub. L. 101-649 during fiscal year 1994 but not used during such fiscal year and the number computed pursuant to paragraph (b) of this section.

(2) *Regional apportionment.* The overall numerical limitation determined as provided in paragraph (c)(1) of this section shall be apportioned among the regions established by section 203(c)(1)(F) of the Immigration and Nationality Act, as amended, as follows—Africa: 0.54%; Asia: 11.51%; Europe: 85.93%; North America—none; Oceania: None; and South America, Mexico, Central America, and the Caribbean; 2.02%.

(d) *Allocation of immigrant visa numbers.* Within the limitations specified in paragraphs (b) and (c) of this section, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and the granting of adjustment of status.

§ 43.26 Fees.

An applicant who is to be given consideration under this subpart and who is notified or otherwise informed thereof shall remit to the Department a fee of \$25 in such manner as the Department shall specify in the notification or other communication to the applicant. The fee shall be \$25 regardless of whether or not the applicant has a spouse and/or child(ren) who intend to accompany or follow to join the applicant. The remittance shall be negotiable in such form as the Department shall specify.

§ 43.27 Eligibility to receive a visa.

The eligibility of an applicant for a visa under section 217 of Pub. L. 103-416 shall be determined as provided in the Immigration and Nationality Act, as amended, and parts 40 and 42 of subchapter E-Visas except that—

(a) Section 212(e) of the Immigration and Nationality Act, as amended, shall not apply to such an applicant; and

(b) The provisions of § 40.105 of this chapter shall apply to such an applicant.

Dated: February 2, 1995.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

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DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 64

[AG Order No. 1947-95]

Designation of Officers and Employees of the United States for Coverage Under Section 1114 of Title 18 of the United States Code

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Part 64 of title 28, Code of Federal Regulations, designates categories of federal officers and employees who, in addition to those already designated by statute, warrant the protective coverage of federal criminal law. This designation confers federal jurisdiction to prosecute the killing, attempted killing, kidnaping, forcible assault, intimidation or interference with any of the federal officers or employees designated by this regulation while they are engaged in or on account of the performance of their official duties. This order adds to the list of covered federal officers and employees federal administrative law judges not previously covered and employees of the Office of Workers' Compensation Programs of the Department of Labor who adjudicate and administer claims under the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act and its extension, and the Black Lung Benefits Act. The order also makes technical corrections and deletes duplicative designations.

DATES: This final rule is effective February 8, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Incontro, Deputy Chief, or Stephen M. Weglian, Attorney, Terrorism and Violent Crime Section, Criminal Division, Department of Justice, Washington, D.C. 20530, telephone (202) 514-0849.

SUPPLEMENTARY INFORMATION: Part K of chapter X of the Comprehensive Crime Control Act of 1984, Pub. L. 98-473, title II, § 1012, 98 Stat. 2142 (1984), amended 18 U.S.C. 1114, which prohibits the killing of designated federal employees, to authorize the Attorney General to add by regulation other federal personnel who will be protected by this section. The categories of federal officers and employees covered by section 1114 are also protected, while engaged in or on account of the performance of their official duties, from a conspiracy to kill, 18 U.S.C. 1117; kidnaping, 18 U.S.C.

1201(a)(5); forcible assault, interference, or intimidation, 18 U.S.C. 111; and threat of assault, kidnap or murder with intent to impede, intimidate, or retaliate against such officer or employee, 18 U.S.C. 115.

In order to implement this legislation initially, the Department conducted a survey of all federal agencies to determine which federal employees, other than those already listed in 18 U.S.C. 1114, should be protected under the statute. The result of this survey was the promulgation of Attorney General Order No. 1177-87, 52 FR 4767, February 17, 1987, creating 28 CFR part 64. Section 64.1 states the purpose of the regulation. Section 64.2 originally listed 21 categories of federal employees who were considered appropriate for coverage under section 1114 and the other statutory provisions. Consistent with the purpose and legislative history of section 1114, these categories of federal employees were selected because their jobs involve inspection, investigative or other law enforcement responsibility or their work involves a substantial degree of physical danger from the public and may not be adequately addressed by available state or local law enforcement resources. Part 64 has been amended four times to add additional categories of personnel (Attorney General Order No. 1326-89, 54 FR 9043, March 3, 1989; Attorney General Order No. 1394-90, 55 FR 3945, February 6, 1990; Attorney General Order No. 1508-91, 56 FR 32327, July 16, 1991; Attorney General Order No. 1636-92, 57 FR 56444, November 30, 1992).

Attorney General Order No. 1636-92 established an interim rule that, besides making various technical modifications to Part 64, added these categories of employees: (1) attorneys and employees assigned to perform or to assist in performing, investigative, inspection or audit functions of the Office of the Inspector General of certain designated Federal entities as that term is defined by section 8E of the Inspector General Act of 1978, as amended, 5 U.S.C. App 3 section 8E, and of the Merit Systems Protection Board and the Selective Service System; (2) attorneys, accountants, investigators, administrative judges and other employees of the U.S. Securities and Exchange Commission assigned to perform or to assist in performing investigative, inspection or other law enforcement functions; (3) biologists and technicians of the U.S. Fish and Wildlife Service who are participating in sea lamprey control operations; (4) officers and employees of the Federal Aviation Administration, the Federal