of imported merchandise. Further, the actual or potential Customs workload (i.e., number of transactions per year) at the proposed port of entry must meet one of several alternative minimum requirements, among which are 15,000 passenger arrivals per year. Finally, facilities at the proposed port of entry must include cargo and passenger facilities, warehousing space for the secure storage of imported cargo pending final Customs inspection and release, and administrative office space, inspection areas, storage areas and other space necessary for regular Customs operations.

The request for port of entry status states that there will be several Federal Government benefits if the port of entry is approved. As tourism is on the rise in the Fort Myers area and there is an ever increasing demand for goods in that area, the SFIA airport located within the proposed port of entry would assist in moving aircraft, passengers and cargo efficiently.

The proposed port of Fort Myers is serviced by air, by highway and by railroad spur. SFIA is ranked the 56th busiest airport in North America. It is located three miles from Interstate 75, providing easy access to other points in Florida and the United States. The airport is adjacent to a railroad spur which allows Seminole Gulf Railway to provide freight service to the area.

The proposed port of Fort Myers includes all of Lee County, Florida. In a 70 mile radius, including Sarasota, the population is already well over one million people.

The proposed port of Fort Myers meets the criteria for a port of entry in terms of number of international passengers; SFIA far exceeds the 15,000 international passengers per year criterion. In 1996, Customs cleared flights carrying 57,962 arriving international passengers at SFIA. There were 58,431 outbound international passengers during the same time period.

All the U.S. government agencies which must be included in a port are already in place because SFIA is currently a user fee airport. In addition, Customs has the concurrence of other necessary federal agencies. The facilities required for these other federal agencies are already present because SFIA is a user fee airport. The requisite electronic data processing systems are also in place.

Based on the information provided above, Customs believes that Fort Myers meets the current standards for port of entry designations set forth in T. D. 82–37, as revised by T. D. 86–14 and T. D. 87–65. If Fort Myers is established as a port of entry, SFIA would lose its status as a user fee airport.

Proposed Limits of Port of Entry

The geographical limits of the proposed port of entry of Fort Myers, Florida, would be the same as those of Lee County, Florida, which includes SFIA and the city of Fort Myers.

Proposed Amendments

If the proposed port of entry designation is adopted, the list of Customs ports of entry in 19 CFR 101.3(b)(1) and the list of user fee airports in § 122.15(b) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Third Floor, 1300 Pennsylvania Avenue N.W., Washington, D.C.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

The Regulatory Flexibility Act and Executive Order 12866

Customs establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this document is being issued for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Agency organization matters such as this are exempt from consideration under Executive Order 12866.

Drafting Information: The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

D. M. Browning,

Acting Commissioner of Customs.

Approved: February 23, 1998.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–6882 Filed 3–16–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 2763]

Bureau of Consular Affairs; Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Filing an Application

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Proposed rule.

SUMMARY: Consular offices abroad have been experiencing an ever-increasing volume of nonimmigrant visa (NIV) applications. Some have had to begin declining to accept new applications from persons denied as intending immigrants in the recent past. This proposed rule would put this practice on a regulatory footing by formalizing a non-acceptance-for-six-months policy with respect to a new application from an alien whose prior NIV application has been refused under the provisions of INA 214(b).

DATES: Written comments must be received on or before May 18, 1998.

ADDRESSES: Written comments should be submitted, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20520–0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, CA/VO/L/R, Department of State, Washington, D.C. 20520–0106, (202) 663–1204.

SUPPLEMENTARY INFORMATION: Section 214(b) of the Immigration and Nationality Act (INA) establishes a presumption that an alien is an intending immigrant unless he or she can establish entitlement to a nonimmigrant classification. Moreover, for certain classes of nonimmigrants, there is also a statutory requirement incorporated in the definitions of those nonimmigrant classifications (INA 101(a)(15)) that the alien establish that he or she has a residence abroad which

the alien has no intention of abandoning. This is most commonly shown by possession of a well-paying job, a home, family or other ties, etc. which would, in themselves, compel the alien to return voluntarily to that place after a temporary period in the United States. Traditionally, the class of nonimmigrant most likely to fail this test is visitor for business or pleasure (''B'') under INA 101(a)(15)(B). An applicant may request reconsideration by the refusing consular officer and all refusals must, by regulation (41.121(c)), be reviewed within 120 days by a senior officer, who looks at the information as originally before the consular officer. While an applicant may also file an entirely new application, the sooner such a new application is filed after the original application, the less likely it is that conditions relevant to the intending immigrant issue will have so changed as to warrant issuance of a visa on the new application.

Nonetheless, at a number of consular offices, significant resources are spent on ''re-applications'' based on nothing more than the original application, resources that the posts cannot afford no matter how strong their ''service'' orientation. Many posts continue to experience increasing workloads without concomitant increasing staffs. Some posts have therefore instituted local policies, similar to the proposed rule, to limit expenditure of time and space on the many re-applications which are non-meritorious, while reserving discretion to accept re-applications in special circumstances, such as genuine (documentable) emergencies. The Department believes it preferable to have this procedure reflected in uniformly applicable regulations as other procedures generally are.

The rules at 22 CFR 41.103(a) outline the general procedures for filing an application for a nonimmigrant visa, and are thus the logical location for this proposed rule. No regulation could prevent an alien from filling out an application form; it is possible, however, to prevent its ''filing'', i.e., acceptance for adjudication by a consular officer.

This rule is proposed under the authority of INA 104 which invests in the Secretary of State the right to promulgate regulations necessary to administer immigration laws relating to the duties and functions of consular officers.

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 imposes no reporting or record-keeping action on the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act. This rule has been reviewed as required under E.O. 12998 and determined to be in compliance therewith.

This rule is exempt from review under E.O. 12866, but has been reviewed internally to ensure consistency therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports, Visas.

In view of the foregoing, 22 CFR Part 41 is proposed to be amended as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read:

Authority: 8 U.S.C. 1104.

2. Section 41.103 is amended by adding paragraph (a)(4), to read as follows:

§ 41.103 Filing an application and Form OF–156

* * * * *

(4) A consular officer may refuse to accept for adjudication an application for a nonimmigrant visa from an applicant whose prior application at that post was denied under the provisions of INA 214(b) within the preceding six months, unless the applicant presents significantly different new evidence or evidence of a genuine emergency.

* * * * *

Dated: March 10, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–6826 Filed 3–16–98; 8:45 am]

BILLING CODE 4710–06–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–30; RM–9228]

Radio Broadcasting Services; Shenandoah, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Daryl A. Alligood requesting the allotment of Channel 296A to Shenandoah, Virginia, as the community's first local aural transmission service. Channel 296A can be allotted to Shenandoah in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.1 kilometers (1.3 miles) northeast of the community in order to avoid a short-spacing conflict with the licensed operation of Station WCHG(FM), Channel 296A, Hot Springs, Virginia. The coordinates for Channel 296A are 38–30–00 NL and 78–36–33 WL. Since the proposal is located within the protected areas of the National Radio Astronomy Observatory ''Quiet Zone'' at Green Bank, West Virginia, petitioner will be required to comply with the notification requirement of § 73.1030(a) of the Commission's Rules.

DATES: Comments must be filed on or before April 27, 1998, and reply comments on or before May 12, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Daryl A. Alligood, 1104 New Mill Drive, Chesapeake, Virginia 23320 (petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 98–30, adopted February 25, 1998, and released March 6, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.