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 affects individual visitors to the United States by removing the requirement of securing a nonimmigrant visa prior to entry into the United States beyond the U.S. Virgin Islands.

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 1 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 12612

The regulation adopted herein 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

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 § 212.1, paragraph (b) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(b) Certain Caribbean residents. (1) *British, French, and Netherlands nationals, and nationals of certain adjacent islands of the Caribbean which are independent countries.* A visa is not required of a British, French, or Netherlands national, or of a national of Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has his or her residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or in Barbados, Grenada, Jamaica, or Trinidad and Tobago, who:

(i) Is proceeding to the United States as an agricultural worker;

(ii) Is the beneficiary of a valid, unexpired indefinite certification granted by the Department of Labor for employment in the Virgin Islands of the United States and is proceeding to the Virgin Islands of the United States for such purpose, or

(iii) Is the spouse or child of an alien described in paragraph (b)(1)(i) or (b)(1)(ii) of this section, and is accompanying or following to join him or her.

(2) *Nationals of the British Virgin Islands.* A visa is not required of a national of the British Virgin Islands who has his or her residence in the British Virgin Islands, if:

(i) The alien is seeking admission solely to visit the Virgin Islands of the United States; or

(ii) At the time of embarking on an aircraft at St. Thomas, U.S. Virgin Islands, the alien meets each of the following requirements:

(A) The alien is traveling to any other part of the United States by aircraft as a nonimmigrant visitor for business or pleasure (as described in section 101(a)(15)(B) of the Act);

(B) The alien satisfies the examining U.S. Immigration officer at the port-of-entry that he or she is clearly and beyond a doubt entitled to admission in all other respects; and

(C) The alien presents a current *Certificate of Good Conduct* issued by the Royal Virgin Islands Police Department indicating that he or she has no criminal record.

* * * * *

Dated: February 10, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–3982 Filed 2–17–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 312 and 499

[INS No. 1702–96]

RIN 1115–AE02

Exceptions to the Educational Requirements for Naturalization for Certain Applicants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: On March 19, 1997, the Immigration and Naturalization Service (the Service) published a final rule in the **Federal Register** establishing an administrative process to adjudicate requests for exceptions from the English and Civics requirements of section 312 of the Immigration and Nationality Act (the Act), by persons with physical or developmental disabilities, or mental impairments. The Service offered the public the opportunity to comment on the final rule, specifically requesting comments on the appeal process and quality control procedures for disability-related adjudications.

Based on comments to the rule and current naturalization quality procedures, the Service has determined that a separate appeals process and additional quality procedures are unnecessary at this time. The Service, however, has amended the rule to include licensed doctors of osteopathy (DOs) as health care providers who are authorized to complete Form N–648,

Medical Certification for Disability Exceptions. The Service has also made minor changes to the language of the rule to avoid misinterpretation.

DATES: This final rule is effective March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Jody Marten, Office of Field Operations, Immigration Services Division, Immigration and Naturalization Service, 801 I Street NW., Suite 900, Washington, DC 20536, telephone (202) 305–4770.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1994, Congress enacted the Immigration and Naturalization Technical Corrections Act of 1994, Public Law 103–416. Section 108(a)(4) of the Technical Corrections Act amended section 312 of the Act to provide an exemption to the United States history and government (civics) requirements for persons with ''physical or developmental disabilities'' or ''mental impairments'' applying to become naturalized United States citizens. This exception complemented an existing exception for persons with disabilities from the English language requirements for naturalization. Enactment of this amendment marked the first time Congress authorized an exception from the civics requirements for any individual applying for naturalization.

On August 28, 1996, the Service published a proposed rule in the **Federal Register** at 61 FR 44227 proposing to amend 8 CFR part 312 to provide for exceptions from the section 312 requirements for persons with physical or developmental disabilities, or mental impairments. The Service received 228 comments from various sources, including Federal and state government agencies, disability rights and advocacy organizations, and private individuals. On March 19, 1997, the Service published a final rule with request for comments in the **Federal Register** at 62 FR 12915. The final rule established an administrative procedure whereby applicants with disabilities could apply for an exception to the section 312 requirements on the newly created public use Form N–648, Medical Certification for Disability Exceptions. Since significant changes were made to the proposed rule, the Service requested additional comments on the final rule.

Discussion of Comments

The Service specifically requested comments on two areas: appeal procedures and quality control. In the final rule, the Service proposed an enhancement of the current section 336 appeal process to provide, at the appellate level, an independent medical review of all Form N–648 adjudications. The Service also requested comments on any training or additional quality control measures which the Service might adopt to ensure fairness and integrity in disability-related adjudications.

The Service received 45 comments on the final rule, addressing appeal procedures and quality control, as well as other provisions in the rule and the Service's March 19, 1997, filed guidance.

Appeal Process

The Service received no comments specifically addressing the proposed enhanced appeal procedures. Five commenters, however, did reiterate their belief that the Service should set up a separate appeal process for denials of the Form N–648. The commenters stated that the Form N–648 adjudication should be separate and apart from the overall adjudication of the Form N–400, Application for Naturalization. The commenters also stated that a separate appeal process was necessary to eliminate any additional delays that may occur from adjudication of the Form N–648-delays which could potentially disadvantage persons with disabilities who already face a lengthy administrative process and may suffer a diminished ability to meet the section 312 requirements or complete the naturalization process.

As stated in the March 19, 1997, final rule, the Service does not believe a separate appeal process for the Form N–648 is in accord with the current procedures for adjudicating the Form N–400, Application for Naturalization. The Service believes that consideration of the Form N–648 is one part of the overall adjudication of an individual's Form N–400. All applicants may avail themselves of the hearing procedures already in place in the event the naturalization application is denied, by requesting a hearing on the denial under section 336 of the Act. This is not a strong basis for declining to adopt the commenters' suggestion. With the training Service adjudication officers have received in adjudicating N–648s and disability-based exceptions, the Service remains of the opinion that the current hearing procedure is sufficient for naturalization applicants with disabilities whose Form N–400s have been denied. Finally, with regard to independent medical review of the Form N–648 determination, the Service is currently conducting a pilot with the U.S. Public Health Service (PHS) through an interagency agreement, whereby PHS will provide medical staff to assist the Service with review of the Form N–648s and provide training to adjudicators on relevant medical issues. The Service believes this combined effort should provide for more timely and consistent decisions for naturalization applicants with medical disabilities.

Quality Control Procedures

Six commenters stated that there should be a separate quality control program for disability-related adjudications. Several commenters also stated that organizations or agencies with disability-related expertise, rather than the Service, should conduct quality control reviews of Form N–648 processing.

As previously stated in the March 19, 1997, final rule, the Service has instituted the Naturalization Quality Procedure (NQP), which establishes quality control procedures for review of Form N–648 adjudications. In addition, Service adjudications officers have been extensively trained on disability-related adjudications and have received supplemental guidance addressing the Service's obligations under section 504 of the Rehabilitation Act, and reiterating the need to provide accommodations and modifications to the testing procedures to allow naturalization applicants who are disabled to complete the naturalization process. The Service believes that these measures are adequate to fulfill the quality control needs noted by the commenters.

Miscellaneous Comments

Thirteen commenters requested that the Service add licensed doctors of osteopathic medicine to the list of health care providers currently authorized to complete the Form N–648 (licensed medical doctors and licensed clinical psychologists). After a review of individual state licensing procedures, academic requirements, and credentials for licensed medical doctors (MDs) and licensed osteopathic doctors (Dos), it appears to the Service that Dos, like licensed MDs and clinical psychologists, must be experienced in diagnosing persons with physical or mental, medically determinable impairments, and must also be able to attest to the origin, nature, and extent of the medical conditions. In addition, Dos have comparable training and knowledge which the Service believes are sufficient to assess a naturalization applicant's ability to meet the section 312 requirements. The Service therefore has concluded that Dos should be included among the health care

providers authorized to complete the Form N–648. Accordingly, licensed doctors of osteopathic medicine (Dos) have been included at 8 CFR 312.2(b)(2).

Eight commenters requested the Service slightly modify the definition of ''medically determinable'' found at 8 CFR 312.1(b)(3) and 312.2(b)(1), which define ''medically determinable'' as ''* * * an impairment that results from anatomical, physiological or psychological abnormalities which can be shown by medically acceptable *clinical and laboratory diagnostic techniques* to have resulted in functioning so impaired as to render an individual unable to demonstrate an understanding of [English and Civics] * * *, (emphasis added). The commenters expressed concern that use of the word ''and'' instead of ''or'' in the phrase ''clinical and laboratory diagnostic techniques'' might indicate that applicants are required to submit both clinical and laboratory evidence of their disabilities, though either clinical or laboratory diagnostic information would be adequate to establish the disability. The Service agrees and has made the recommended change in the rule.

Ten commenters requested that the Service issue further policy guidance and clarification of the requirements for reasonable accommodations under section 504 of the Rehabilitation Act of 1975 (Pub. L. 92–112). As stated in the March 19, 1997, final rule, the Service is in full compliance with section 504 of the Rehabilitation Act and provides accommodations and modifications to testing procedures when required. In addition, the Service currently makes regular accommodations and modifications for applicants who are disabled, including conducting off-site testing, interviews, and where authorized, off-site swearing-in ceremonies. The Service is currently working on additional field guidance regarding disability-related adjudications, which will provide additional instructions regarding reasonable accommodations.

Seven commenters stated that the Service should waive the oath of allegiance for persons with disabilities as a reasonable accommodation requirement under section 504 of the Rehabilitation Act of 1975. As stated in the March 19, 1997, final rule, the Service has not addressed the issue of the oath requirement in this rulemaking since Congress did not amend section 337 of the Act in the 1994 Technical Corrections Act. The Service will continue to adhere to the tenets of the Rehabilitation Act and make reasonable accommodations (e.g., off-site oath ceremonies) in cases where individuals are unable, by reason of a disability, to take the oath of allegiance in the customary way. Such accommodations remain available for individuals who are disabled who signal their willingness to become United States citizens and to give up citizenship in other countries.

Twenty-five commenters requested that the Form N–648 be revised so health care providers can complete the form and provide information about the applicant in a more comprehensive and understandable manner. The Service has made minor revisions to the Form N–648 to make it more ''user-friendly.'' On the original Form N–648, health care providers were required to complete question 3, providing a comprehensive medical diagnosis of the applicant and description of why the applicant cannot meet the basic English language and/or U.S. history and civics requirements. In addition, if the applicant has a mental disability or impairment, health care providers were required to include the Diagnostic and Statistical manual of Mental Disorders (DSM) diagnosis. The Service found that many health care providers were not responding fully to question 3. The Service, therefore, has expanded this question, creating three new questions to ensure a more accurate and complete response. The Service also has eliminated the second part of question 4, regarding when an applicant's condition was first manifested. The Service believes this question is addressed in response to one of the other questions.

Regulatory Flexibility Act

The 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 the rule will not have a significant economic impact on a substantial number of small entities. This rule is amended to add licensed doctors of osteopathy (Dos) as health care providers authorized to complete the Form N–648 and to revise portions of the Form N–648 for easier completion by health care providers.

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 12612

This regulation will not have substantial direct effect 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 1 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 Fairness 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 12988, Civil Justice Reform

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

Paperwork Reduction Act

The information collection requirement (Form N–648) which was previously approved by the Office of Management and Budget (OMB) under OMB control number 1115–0205, has been revised. Accordingly, under the Paperwork Reduction Act (PRA), the Service will forward this revised information to OMB for review and approval in accordance with 5 CFR part 1320. Interested parties will have the opportunity to comment on changes to the form under established PRA clearance procedures.

List of Subjects

8 CFR Part 312

Citizenship and naturalization, Education.

8 CFR Part 499

Citizenship and naturalization.

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

PART 312—EDUCATIONAL REQUIREMENTS FOR NATURALIZATION

1. The authority citation for part 312 continues to read as follows:

Authority: 8 U.S.C. 1103, 1423, 1443, 1447, 1448.

§ 312.1 [Amended]

2. Section 312.1(b)(3) is amended in the last sentence by revising the phrase ''clinical and laboratory'' to read ''clinical or laboratory.''

§ 312.2 [Amended]

3. Section 312.2(b)(1) is amended in the last sentence by revising the phrase ''clinical and laboratory'' to read ''clinical or laboratory''.

4. Section 312.2(b)(2) is amended in the first sentence by revising the phrase ''medical doctor'' to read ''medical or osteopathic doctor''.

PART 499—NATIONALITY FORMS

5. The authority citation for part 499 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

6. Section 499.1 is amended in the table by revising the entry for Form ''N–648'' to read as follows:

§ 499.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title and description
*	*	*
N–648	2–4–99	Medical Certification for Disability Exceptions.

Dated: February 10, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–3985 Filed 2–17–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–317–AD; Amendment 39–10904; AD 98–24–19]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 series airplanes. That AD currently requires revising the Performance Section of the Airplane Flight Manual (AFM) to provide the flightcrew with procedures to adjust landing distances for landings performed with the anti-icing system active. That AD also requires revising the Limitations Section of the AFM to prohibit certain types of approaches with the anti-icing system active. This document corrects a typographical error that resulted in reference to a supplement of the AFM that does not exist. This correction is necessary to ensure that the appropriate supplement of the AFM is revised.

DATES: Effective December 10, 1998.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 10, 1998 (63 FR 65050, November 25, 1998).

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, ACE–118A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: On November 16, 1998, the Federal Aviation Administration (FAA) issued AD 98–24–19, amendment 39–10904 (63 FR 65050, November 25, 1998), which applies to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 series airplanes. That AD requires revising the Performance Section of the Airplane Flight Manual (AFM) to provide the flightcrew with procedures to adjust landing distances for landings performed with the anti-icing system active. That AD also requires revising the Limitations Sections of the AFM to prohibit certain types of approaches with the anti-icing system active. That AD was prompted by a report that increased (i.e., higher than normal) flight idle thrust may occur when the anti-icing system is active. The actions required by that AD are intended to ensure that the flightcrew is advised of appropriate landing field lengths when operating with the anti-icing system active, and that instrument approaches at certain flap settings are prohibited with the anti-icing system active. Increased flight idle thrust when the anti-icing system is active, if not corrected, could result in landing overrun.

Need for the Correction

As published, AD 98–24–19 contains a typographical error in paragraph (a)(2) of the AD. That paragraph specified a revision to the Limitations Section of Supplement 12 of the FAA-approved AFM; however, the correct supplement is Supplement 6. Supplement 12 of the AFM does not exist.

The FAA has determined that a correction to AD 98–24–19 is necessary. The correction will ensure that the appropriate supplement of the AFM is revised.

Correction of Publication

This document corrects the error and revises the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 10, 1998.

Since this action only corrects a typographical error, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.