

DEPARTMENT OF HOMELAND SECURITY**8 CFR Part 103****[CIS No. 2224-02]****RIN 1615-AA83****Electronic Signature on Applications and Petitions for Immigration and Naturalization Benefits****AGENCY:** Department of Homeland Security.**ACTION:** Interim final rule with request for comments.

SUMMARY: On March 1, 2003, the Immigration and Naturalization Service (Service) transferred from the Department of Justice to the Department of Homeland Security (DHS), pursuant to the Homeland Security Act of 2002, Public Law 107-296. The Service's immigration services function transferred to the Bureau of Citizenship and Immigration Services (BCIS) of the DHS. This rule amends the DHS regulations concerning the signature requirement for applications and petitions filed with the BCIS by specifically permitting applicants and petitioners to sign electronically. This change is necessary to allow the BCIS to begin accepting electronically filed applications and petitions as required by law. By accepting electronically filed applications and petitions, the BCIS expects to streamline its information collection processes, improve customer service, move towards fulfilling the mandates of the Government Paperwork Elimination Act (GPEA), and support the feasibility study for online filing mandated by the Public Law 107-296. The BCIS requests comments on this rule and particularly on how it can best implement electronic signature and filing.

DATES: *Effective date:* This rule is effective on May 29, 2003.

Comment date: Written comments must be submitted on or before June 30, 2003.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, 425 I Street NW., Room 4034, Washington, DC 20536. To ensure proper handling please reference CIS No. 2224-02 on your correspondence. Comments may also be submitted electronically to the Bureau at insregs@usdoj.gov. When submitting comments electronically to the Bureau, you must include CIS No. 2224-02 in the subject box so that the comments can be routed to the appropriate office

for review. Comments are available for public inspection at the above address by calling (202) 514-3291 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Ann Palmer, Special Assistant, Bureau of Citizenship and Immigration Services, 800 K Street NW., Room 1000, Washington, DC 20536, telephone (202) 514-6442.

SUPPLEMENTARY INFORMATION:**Background**

Why Is the BCIS Amending the Regulations to Specifically Permit Electronic Signatures on Applications and Petitions?

The BCIS has embarked on a 10-year effort to modernize the immigration services program. This effort is designed to improve the efficiency, integrity, and customer service of the program. A part of this effort is to provide for electronic filing of immigration and naturalization applications and petitions to minimize the requisite reporting burden on the public. Central to the electronic filing initiative is the ability to provide for an electronic signature on the required benefit applications and petitions. Electronic filing and the acceptance of electronic signatures is authorized by the GPEA (44 U.S.C. 3504). The GPEA provides that the Office of Management and Budget (OMB) must ensure that no later than 5 years from October 21, 1998, executive agencies provide for the option of electronic submission of information, when practicable, as a substitute for paper. To implement the GPEA, this interim rule adopts a regulatory change to permit electronic filing and signatures. It also provides for the use and acceptance of electronic signatures, when practicable.

Moreover, section 461 of the Homeland Security Act of 2002 (effective January 24, 2003) provides that the Secretary of Homeland Security shall conduct a study of the feasibility of online filing. Information received in reply to this publication as well as evaluation of this initial phase of the program will be used in conducting the feasibility study as mandated in the Homeland Security Act of 2002. Section 461 of the Homeland Security Act of 2002 also provides that the Secretary shall establish an electronic tracking system for applications in order to provide applicants with access to the status of their applications. This system was brought online on September 28, 2002.

Accordingly, to successfully accomplish the electronic immigration benefit filing initiative the current DHS's regulations must be amended.

Current regulations at 8 CFR 103.2(a)(2) require that all applications and petitions filed with the BCIS be signed. However, they do not specify the format of the required signature. The BCIS currently collects all application and petition information, including signatures, on paper, but is preparing to begin offering the electronic filing of certain immigration benefit applications in order to meet the goals of the 10-year immigration services modernization program and the obligations under GPEA. In addition, courts appear to recognize electronic signatures supported by appropriate authentication safeguards if the governing statute or rule specifically permits them. Therefore, this rule amends the regulations at 8 CFR 103.2(a)(2) to specifically permit applicants and petitioners to electronically sign their applications or petitions filed electronically with the BCIS. This change will allow the BCIS to accept electronically filed applications and petitions without diminishing the certification made under penalty of perjury by applicants and petitioners that the application or petition, and all evidence submitted with it is true and correct.

What Method of Electronic Signature Does the BCIS Intend To Implement?

When electronic filing is implemented, the electronic versions of the applications and petitions will display a statement that by selecting the "Signature" block, the applicant or petitioner is certifying under penalty of perjury that the application or petition is true and correct. The applicant or petitioner would then be required to select the "Signature" block of his or her application or petition in order to submit it to the BCIS. The applicant or petitioner would receive a confirmation number electronically to acknowledge that the BCIS has accepted the application and electronic signature. The applicant or petitioner would also be encouraged, but not required, to print, sign, and date in permanent ink the application or petition, and maintain a paper copy of the electronic submission for his or her records.

How Does the BCIS Plan To Implement Electronic Filing?

The GPEA directs agencies to offer customers the option of electronic submission of information, when practicable, as a substitute for paper. However, the BCIS does not currently have the technology necessary to support full implementation of electronic filing for all applications and petitions for immigration and