

depressed prices for better quality avocados and resulted in lower overall returns to producers. Plentiful supplies of avocados had allowed for higher quality avocados to be offered at a relatively lower cost, encouraging consumption by presenting a higher quality product.

However, Hurricane Andrew, in August of 1992, reduced production acreage from approximately 9,000 acres to less than 6,000 acres with many non-producing trees in the remaining acreage. Production in the 1991-92 season was 1,110,105 bushels. In the 1992-93 season, production fell to 283,666 bushels and in the 1993-94 season it was at 174,712 bushels. In response to this reduced production the committee requested and was granted a temporary suspension of grade requirements for fresh avocados shipped in certain containers to destinations within the production area in Florida. The relaxation for the 1993-94 season was published as a final rule at 58 FR 34684, on June 29, 1993, and for the 1994-95 season by a final rule published at 59 FR 33417 on June 29, 1994. These temporary relaxations were requested and granted under the assumption that production would return to pre-Hurricane Andrew levels.

Although the 1994-95 season recovered to 778,951 bushels, it is still well below the levels reached prior to the hurricane. Also, changing economic and environmental priorities of the South Florida area are capping the growth on Florida avocado production. Future production is expected to remain flat at approximately 700,000 bushels annually, or to increase only slightly. The committee considers production levels set prior to Hurricane Andrew as unattainable.

The temporary grade relaxations of the last two seasons were successful in making additional supplies of fruit available to meet consumer needs consistent with crop and market conditions. The relaxations demonstrated that there is a market for lower quality avocados in the production area. Also, better quality avocados did not suffer depressed prices due to the availability of the lower quality fruit.

The container and marking requirements clearly identify graded avocados from non-graded avocados. Those avocados sold in the production area which are not subject to grade cannot be packed in regulated containers. This allows customers to readily identify graded versus those not meeting grade.

This continued relaxation provides Florida avocado growers and handlers

with an opportunity to sell, in the production area, fresh avocados which would otherwise be culled during the packing process, thus making additional avocados available to consumers. This rule is expected to facilitate the movement of fresh market avocados sold within the production area.

This relaxation only applies to Florida avocados shipped to destinations within the production area. Thus, the U.S. No 2 grade requirement will continue to apply unchanged to avocados shipped to destinations outside the production area, as well as to all avocados shipped to any destination in those containers whose size and type are specified in § 915.305. Also unchanged by this action are current maturity, container, pack, and inspection requirements for all fresh Florida avocado shipments under the avocado marketing order.

Avocados imported into the United States must grade at least U.S. No. 2, as provided in § 944.28 (7 CFR 944.28). Since this rule does not change the minimum grade requirement of U.S. No. 2 specified in § 915.306 for avocados handled to points outside the production area, there is no need to change the avocado import regulation. Section 8e of the Act (7 U.S.C. 608e-1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

This rule reflects the committee's and the Department's appraisal of the need to relax the grade requirements for certain avocados grown in Florida. The Department's view is that this action will have a beneficial impact on producers and handlers since it will permit avocado handlers to make additional supplies of fruit available to meet consumer needs consistent with crop and market conditions.

Based on these considerations, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (60 FR 42769, August 17, 1995), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule amending 7 CFR part 915 which was published at 60 FR 42769 on August 17, 1995, is adopted as a final rule without change.

Dated: November 3, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95-27813 Filed 11-9-95; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 287

[INS No. 1717-95]

RIN 1115-AE15

Subpoena Issuance Authority

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends existing Immigration and Naturalization Service (Service) regulations by adding the Assistant Chief Patrol Agency Officer position to the lists of those immigration officers who may issue and designate service of subpoenas under this section. These changes will reduce unnecessary delay in the processing of criminal and civil investigations by reducing the need to transfer case files between offices for signatures. These changes will allow the Service to maximize its use of personnel and resources. The rule is in keeping with current organizational command structure and program responsibility within a Border Patrol sector.

EFFECTIVE DATE: December 13, 1995.

FOR FURTHER INFORMATION CONTACT: Alan R. Conroy, Assistant Chief Border Patrol, Immigration and Naturalization Service, 425 I Street, N.W., Washington, DC 20536, Telephone: (202) 514-3073.

SUPPLEMENTARY INFORMATION: The Service is modifying section 287.4(a)(1) and 287.4 (c) of its existing regulations to add Assistant Chief Patrol Agent positions to those immigration officials authorized to issue and designate service of subpoenas. One of the Service

priorities is the apprehension and removal of criminal aliens. The authority for Assistant Chief Patrol Agents to issue subpoenas will allow for greater flexibility in the processing of these aliens. The subpoena is issued in criminal or civil investigations to require the production of documentary evidence, for use in a Service-related case. Currently employees above and below the Assistant Chief level have the power to issue subpoenas. Implementation of the rule will add continuity to the Immigration and Naturalization Service and the Border Patrol chains of command. The Service's implementation of this rule as a final rule, without provision for public comment, is based upon the exception found in 5 U.S.C. 553(b)(B). This rule related to agency management and is administrative in nature. Thus, the comment period and noticed are deemed unnecessary and contrary to the public interest.

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 Federal Assessment.

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).

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), had 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. The regulation is administrative in nature and the rule relates only to agency management.

List of Subjects in 8 CFR Part 287

Immigration, Law enforcement officers.

For the reasons set forth in the preamble, part 287 in chapter I of title

8 of the Code of Federal Regulations, is amended as set forth below.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

1. The authority citation for Part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357, 8 CFR part 2.

2. In Section 287.4 paragraphs (a)(1) and (c) are revised to read as follows:

§ 287.4 Subpoena.

(a) * * *

(1) *Criminal or civil investigations.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, Assistant Chief Patrol Agents, Officers-in-Charge, Patrol Agents in Charge, Assistant District Directors, Investigations, Supervisory Criminal Investigators (Anti-Smuggling), Regional Directors, Office of Professional Responsibility, Service Center Directors, and Assistant District Directors for Examinations, may issue a subpoena requiring the production of records and evidence for use in criminal or civil investigations.

* * * * *

(c) *Service.* A subpoena issued under this section may be served by any person, over 18 years of age not a party to the case, designated to make such service by the District Director, Deputy District Director, Chief Patrol Agent, Deputy Chief Patrol Agent, Assistant Chief Patrol Agent, Patrol Agent in Charge, Officer in Charge, Assistant District Director, Investigations, Supervisory Criminal Investigator (Anti-Smuggling), Regional Director, and Office of Professional Responsibility, having administrative jurisdiction over the office in which the subpoena is issued. Service of the subpoena shall be made by delivering a copy thereof to the person named therein and by tendering to him/her the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpoena is issued on behalf of the Service, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpoena.

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Dated: October 10, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-27919 Filed 11-9-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-NM-28-AD; Amendment 39-9430; AD 95-23-10]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 737 series airplanes, that requires revising the FAA-approved Airplane Flight Manual (AFM) to provide the flightcrew with additional procedures for shutting down the auxiliary power unit (APU) when an APU fire is indicated. This amendment is prompted by reports indicating that a latent electrical failure exists in the fire extinguishing system for the APU; this failure could prevent the APU from shutting down and fire extinguishant from discharging into the APU compartment in the event of an APU fire. The actions specified by this AD are intended to ensure that the flightcrew is provided with procedures for shutting down the APU in the event of an APU fire.

EFFECTIVE DATE: December 13, 1995.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Bray, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2681; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737 series airplanes was published in the Federal Register on June 2, 1995 (60 FR 28763). That action proposed to require revising the Emergency Procedures and Limitations Sections of the FAA-approved Airplane Flight Manual (AFM) to provide the flightcrew with these additional procedures for shutting down the APU when an APU fire is indicated.

Interested persons have been afforded an opportunity to participate in the