

amount of securities that may be sold under this safe harbor is limited to a percentage of the shares outstanding or a percentage of the average weekly trading volume of an issuer's securities. Rule 144(e) prescribes that the average weekly trading volume for a class of securities will be calculated using the average weekly reported volume of trading in such securities on all national securities exchanges and/or reported through the automated quotation system of a registered securities association during the four calendar weeks preceding the dates outlined in Rule 144(e). The markets were open for only one day during the week beginning on September 10, 2001. Accordingly, that week will not provide a representative trading volume. Therefore, the Commission believes that the week of September 10, 2001 should be excluded from the calculation of the average weekly reported volume of trading in an issuer's securities under Rule 144(e) during a four calendar week period, and an additional prior week should be included, for a total of four calendar weeks.

B. Rule 10b5-1 Plans

In May 2001, the Commission staff issued interpretations regarding the termination of a written plan for trading securities that satisfies the affirmative defense conditions of Rule 10b5-1(c).⁵ The affirmative defense is available only for plans that are "entered into in good faith and not as part of a plan or a scheme to evade" the insider trading rules. Questions 15(b) and 15(c) of the staff's interpretations make clear that a written plan may be terminated through either the affirmative termination of the plan itself or the deemed termination of the plan through the cancellation of one or more plan transactions. Therefore, for example, if a plan previously had specified that sales be made during the week of September 17, 2001, a security holder would be terminating the plan if he or she cancelled that sale in order to continue to hold the securities. The interpretations also state that termination of a plan could affect the availability of the Rule 10b5-1(c) defense for prior plan transactions if the termination calls into question whether the plan was "entered into in good faith and not as part of a plan or scheme to evade" the insider trading rules within the meaning of Rule 10b5-1(c)(1)(ii). The absence of good faith or presence of a scheme to evade would eliminate the

Rule 10b5-1(c) defense for prior transactions under the plan.

Due to the tragic events of September 11, 2001 and the subsequent closure of the U.S. equity and options markets, the Commission believes that termination of a written plan established prior to September 11, 2001 will not, by itself, call into question whether the plan was "entered into in good faith and not as part of a plan or scheme to evade" the insider trading rules within the meaning of Rule 10b5-1(c)(1)(ii) if the plan is terminated between September 11, 2001 and September 28, 2001, inclusive. Thus, the Commission believes that availability of the Rule 10b5-1(c) defense for transactions under the written plan would not be affected solely by termination of that plan between September 11, 2001 and September 28, 2001.

List of Subjects in 17 CFR Parts 211, 231 and 241

Securities.

Amendment of the Code of Federal Regulations

For the reasons set forth in the preamble, we are amending title 17, chapter II of the Code of Federal Regulations as follows:

PART 211—INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

1. Part 211, Subpart A, is amended by adding Release No. FR-58A and the release date of September 21, 2001 to the list of interpretive releases.

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. Part 231, is amended by adding Release No. 33-8005A and the release date of September 21, 2001, to the list of interpretive releases.

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

3. Part 241, is amended by adding Release No. 34-44820A and the release date of September 21, 2001, to the list of interpretive releases.

Dated: September 21, 2001.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-24187 Filed 9-26-01; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 01-69]

Name Change of User Fee Airport in Ocala, FL

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the list of user fee airports in the Customs Regulations to reflect that the name of the user fee airport located in Ocala, Florida, has been changed from Ocala Regional Airport to Ocala International Airport. User fee airports are those which, while not qualifying for designation as an international or landing rights airport because of insufficient volume or value of business, have been approved by the Commissioner of Customs to receive the services of Customs officers on a fee basis for the processing of aircraft entering the United States and their passengers and cargo.

EFFECTIVE DATE: September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Bruner, Office of Field Operations, 202-927-2290.

SUPPLEMENTARY INFORMATION:

Background

User fee airports are those which, while not qualifying for designation as an international or landing rights airport because of insufficient volume or value of business, have been approved by the Commissioner of Customs to receive the services of Customs officers on a fee basis for the processing of aircraft entering the United States and their passengers and cargo.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of Customs business at the airport is insufficient to justify the availability of Customs services at the airport and the governor of the State in which the airport is located approves the designation. Generally, the type of airport that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

Section 122.15(b), Customs Regulations (19 CFR 122.15(b)), sets forth a list of the user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b. Section 122.15(b) was most

⁵ See, Division of Corporation Finance: Manual of Publicly Available Telephone Interpretations, Fourth Supplement (May 30, 2001). These interpretations are available at www.sec.gov/interp/telephone/phonesupplement4.htm.

recently updated by a final rule published in the **Federal Register** (65 FR 31263) on May 17, 2000.

This document amends § 122.15(b) to reflect that the name of the user fee airport located in Ocala, Florida, has been changed from Ocala Regional Airport to Ocala International Airport.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely reflects the changed name of a user fee airport that has already been designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b and neither imposes additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Ruling, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

Amendment to the Regulations

Part 122, Customs Regulations (19 CFR part 122) is amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

2. Section 122.15(b) is amended by removing the name "Ocala Regional Airport" in the "Name" column adjacent to "Ocala, Florida" in the

"Location" column and adding in its place "Ocala International Airport".

Charles W. Winwood,

Acting Commissioner of Customs.

Approved: September 20, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01-24167 Filed 9-26-01; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AB30

Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Delegation of Authority To Adjudicate Petitions; Deferral of Effective Date

AGENCY: Employment and Training Administration, Labor.

ACTION: Interim final rule with request for comments; deferral of effective date of final rule.

SUMMARY: The Department of Labor (DOL or Department) is deferring the effective date of its final rule implementing the delegation of authority to adjudicate petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States. The Immigration and Naturalization Service (INS) is also delaying the delegation of INS' authority to the Department to adjudicate petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States. The Department has the need for additional time to effectively implement the delegation of authority, develop new systems and procedures, and to train and brief members of the affected public and the employment and training community in the new systems and procedures. Therefore the Department has determined to defer the effective date of the Final Rule promulgated at 65 FR 43538 (July 13, 2000). Comments are being requested on this action. The rule being deferred amends the Employment and Training Administration (ETA) regulations to implement the delegation of authority to adjudicate petitions for temporary nonimmigrant agricultural workers (H-2A's) from the INS to the Department.

DATES: The effective date of the final rule in FR Doc. 00-17641, published at

65 FR 43538 (July 13, 2000), was deferred from November 13, 2000, until October 1, 2001, by an interim final rule published in FR Doc. 00-28897, published at 65 FR 67628 (November 13, 2000). This interim final rule defers the effective date of the final rule until September 27, 2002.

Comments: Comments are invited on the deferral of the effective date. Submit comments on or before October 29, 2001.

ADDRESSES: Send comments to Assistant Secretary of Labor for Employment and Training, Attention: Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW., Room N-4456, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Denis M. Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW., Room N-4456, Washington, DC 20210. Telephone (202) 693-2953 (this is not a toll-free number)

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL or Department) published a final rule in this rulemaking in the **Federal Register** at 65 FR 43538 (July 13, 2000), with an effective date of November 13, 2000, implementing a delegation of authority from the INS to the Department to adjudicate petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States. Concurrently, the INS published a Final Rule at 65 FR 43528 (July 13, 2000) with an effective date of November 13, 2000, transferring to the Secretary of Labor the authority to adjudicate petitions for temporary agricultural workers and the authority to decide appeals on these decisions and to make determinations for revocation of petition approvals.

Subsequently, the INS at 65 FR 67616 (November 13, 2000) published a final rule and DOL at 65 FR 67628 (November 13, 2000) published an interim final rule (IFR) deferring the effective dates of their final rules. The Department in its IFR invited comments on the deferral of the effective date. No comments were received by DOL on the deferral of the effective date.

The Department also reopened and extended the comment period at 65 FR 50170 (August 17, 2000) on a companion notice of proposed rulemaking (NPRM) published at 65 FR 43545 (July 13, 2000) setting forth implementation measures necessary to the successful implementation of the delegation of authority to adjudicate petitions. Among the implementation measures was a new Form ETA 9079,