

(e) Subject to the provisions of this section and conditions specified in the Agreement, a producer's payment eligibility shall be adjusted at the end of each quarter, and figured as follows:

(1) Unless CCC otherwise determines, the extra production in energy from eligible inputs will be converted to gross payable units by:

(i) If, as measured under paragraph (f) of this section, a units per gallon conversion factor is applicable, multiplying the applicable conversion factor times the number of gallons of increased bioenergy; or

(ii) If, as measured under paragraph (f) of this section, a gallons per unit conversion factor is applicable, dividing the gallons of increased bioenergy by the applicable conversion factor.

(2) Gross payable units, calculated using paragraph (e)(1) of this section, shall then be converted to net payable units by dividing the gross payable units, for producers whose annual bioenergy production is:

(i) Less than 65 million gallons, by 2.5;

(ii) Equal to or more than 65 million gallons, by 3.5;

(3) The net payable unit amount calculated under paragraph (e)(2) of this section, shall be then converted to a gross payment by multiplying that commodity amount by the per unit value for the commodity determined as follows:

(i) For those agricultural commodities with established terminal market prices, CCC will use the applicable terminal market price for the last day of the program quarter that KCCO, FSA announces daily, adjusted by the county average differential for the county in which the plant is located and the applicable quality factors CCC determines. For this purpose the terminal market and county average differential CCC uses wording for different locations will, to the extent practicable, be the same as that CCC uses under other major CCC commodity programs for determining marketing loan gains and other matters.

(ii) For those agricultural commodities that do not, as CCC determines, have acceptable established terminal prices, the price shall be as CCC determines, based on such market data as appears to be appropriate for a fair evaluation.

(4) The gross payment calculated under paragraph (e)(3) of this section may, when CCC determines it necessary, be reduced to a net payment by multiplying the gross payment figure by the proration factor determined under paragraph (d) of this section.

(f) *Announcing conversion factors.* When the commodity's conversion factor has been established, that factor will be announced in the annual sign-up announcement for the FY. If the commodity's conversion factor is not determined when the sign-up is announced, the conversion factor will be provided in the cover letter that accompanies accepted Agreements sent to producers. Also, the announcement will indicate commodities which use a units per gallon versus a gallons per unit conversion factor for purposes of the calculations required in paragraph (e) of this section.

6. Amend § 1424.12 by revising paragraphs (a) and (b) to read as follows:

#### § 1424.12 Appeals.

(a) Any participant who is subject to an adverse determination made under this part may appeal the determination by filing a written request with the Deputy Administrator at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, DC 20250-0550. To receive consideration, the participant must file the appeal within 30 days after written notice of the decision which is the subject of the appeal is mailed or otherwise made available to the participant. An appeal shall be considered to have been filed when personally delivered in writing to the Deputy Administrator or when the properly addressed request, postage paid, is postmarked. The Deputy Administrator may accept and act upon an appeal even though it is not timely filed if, in the judgement of the Deputy Administrator, circumstances warrant such action.

(b) The regulations at 7 CFR part 11 apply to decisions made under this part.

\* \* \* \* \*

Signed in Washington, DC, on September 20, 2002.

**James R. Little,**  
*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02-24539 Filed 9-30-02; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Parts 103, 214, 248 and 264

[INS No. 2059]

**RIN 1115-AF29**

### Procedures for Processing Temporary Agricultural Worker (H-2A) Petitions by the Secretary of Labor

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** On July 13, 2000, the Immigration and Naturalization Service (Service) published a final rule in the **Federal Register** to delegate to the Department of Labor (DOL) the authority to adjudicate petitions for temporary agricultural workers (H-2A). On the same date, in conjunction with that action, the Service published a proposed rule in the **Federal Register**, at 65 FR 43535, providing additional instructions and information on how to petition for agricultural workers (H-2A) once the delegation of authority became effective.

In a separate final rule published elsewhere in this issue of the **Federal Register**, the Service is withdrawing that final rule delegating authority to DOL. Accordingly, for the same reasons, the Service is withdrawing this related proposed rule.

**DATES:** The proposed rule amending 8 CFR parts 103, 214, 248 and 264 published in the **Federal Register** at 65 FR 43535 is withdrawn as of October 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mari F. Johnson, Adjudications Officer, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 353-8177.

#### SUPPLEMENTARY INFORMATION:

*Purpose of Delegating Adjudication of Certain H-2A Petitions to the DOL*

In an attempt to streamline the processing of petitions filed for agricultural workers, the Service, in consultation with the DOL, decided to delegate its authority to adjudicate certain H-2A petitions to the DOL. It was estimated that the delegation of authority would shorten the processing time of H-2A petitions by as much as 10 days.

\* \* \* \* \*

*Regulations Delegating H-2A Authority to DOL and Extensions of the Effective Date*

On July 13, 2000, the Service published a final rule in the **Federal Register** at 65 FR 43528–43534 delegating the authority to adjudicate certain H-2A petitions for the temporary employment of nonimmigrant aliens in agriculture in the United States to the DOL. The final rule, which amended 8 CFR parts 103 and 214, was to take effect on November 13, 2000. The Service subsequently published final rules to delay the effective date of this transfer of H-2A authority until October 1, 2002. 65 FR 67616 (Nov. 13, 2000); 66 FR 49514 (Sept. 28, 2001).

*Proposed Regulations Regarding Procedures for Processing H-2A Petitions*

On July 13, 2000, and concurrently with the H-2A final delegation of authority rule, the Service published a proposed rule for comment proposing among other things, that all petition requests, extensions of stay, and change of status petitions must be filed with DOL and that the current Service petition fee would be collected by DOL as part of the combined fee.

Concurrently with publication of Service's proposed rule the DOL published at 65 FR 43545 a companion notice of proposed rulemaking (NPRM) setting forth implementation measures necessary for the successful implementation of the delegation of authority to adjudicate petitions.

On August 17, 2000, at 65 FR 50166 the Service reopened and extended the comment period for the proposed rule. Also on August 17, 2000, at 65 FR 50170 the DOL reopened and extended the comment period on its NPRM. In order to obtain additional information from the public relating to the delegation such as the consolidation of forms and the appropriate fees as well as other issues.

*Changes Contained in the Proposed Rule*

The Service's proposed rule required that alien workers sign a petition request for change of status or extension of stay. The Service also proposed that all petition requests including extension of stay and change of status petitions be filed with the DOL. Finally, the rule proposed that the Service's petition filing fee will be collected by DOL.

*Comments Received on the Proposed Rule*

The Service received 20 comments on the proposed rule. The majority of the

commenters expressed dissatisfaction with the Service's delegation of authority to DOL and requested that the Service grant additional time for comments from the public on the delegation. The commenters also expressed concern that it would be difficult for alien beneficiaries to sign the petition.

*Events Necessitating the Withdrawal of the Proposed and Final Rule*

For the reasons explained in the final rule, published elsewhere in this issue of the **Federal Register**, the Service has withdrawn the delegation of H-2A authority contained in the final rule published on July 13, 2000, at 65 FR 43528–45534. Because the delegation of authority will not take place, the Service is also withdrawing this proposed rule which was published in the **Federal Register** on July 13, 2000, at 65 FR 43535.

**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 this rule will not have a significant economic impact on a substantial number of small entities. This rule is administrative in nature and merely withdraws a proposed rule published in the **Federal Register**.

**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 one 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 12866**

This rule is 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. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

**Executive Order 13132**

This rule 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 section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**Executive Order 12988 Civil Justice Reform**

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

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a proposed rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

Accordingly, the proposed rule amending 8 CFR parts 103, 214, 248 and 264 published in the **Federal Register** at 65 FR 43535 is withdrawn.

Dated: September 13, 2002.

**James W. Ziglar,**

*Commissioner, Immigration and Naturalization Service.*

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**BILLING CODE 4410–10–P**

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2001–NM–172–AD]**

**RIN 2120-AA64**

**Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.