

is the owner of the farm, as of May 13, 2002, to which the peanut quota was to be transferred; or

(4) Have owned a farm with a peanut quota which is protected under a Conservation Reserve Program contract in accordance with part 1410 of this chapter;

(b) Notwithstanding any provision of paragraph (a) of this section, CCC may determine that a person is an eligible peanut quota holder with respect to an amount of peanut quota for the purposes of this section, to the exclusion of all other persons in order to provide for the fair and equitable administration of this part so long as the total amount of eligible quota pounds for all program participants does not exceed the quantity of peanut quota that was available to all quota holders in the 2001 crop year.

(c) Sales and transfers of farms and peanut quotas may be disregarded by CCC when:

(1) Such sales and transfers were required to be reported to FSA under part 729 of this title; or

(2) It is otherwise determined by CCC that it would be unfair and inequitable in the overall administration of the program to make or modify an eligibility determination based on claims of transfers or sales that preceded January 1, 2002.

§ 1412.7 Contract provisions.

(a)(1) CCC will, on a per-farm basis, offer to enter into a contract with each eligible peanut quota holder on such farm under which CCC will provide a payment in five equal installments in each of the 2002 through 2006 fiscal years or in one lump sum payment in any such fiscal year as selected by such holder.

(2) Eligible peanut quota holders who elect to receive five equal installments payments will receive the fiscal year 2002 payment no later than December 31, 2002 and, as determined by CCC, between January 2 and January 31 in each of the years 2003 through 2006.

(3) Eligible peanut quota holders who elect to receive one lump sum payment may specify the fiscal year in which they wish to receive a payment. CCC will determine the day in such fiscal year that the payment will be made by CCC.

(b) The amount of each payment made under paragraph (a)(2) of this section shall be the product determined by multiplying:

(1) \$0.11 per pound; times

(2) The amount of eligible quota pounds of the eligible peanut quota holder.

(c) The amount of each payment made under paragraph (a)(3) of this section shall be the product determined by multiplying the product determined under paragraph (b) of this section times five.

(d) After a payment option has been selected under paragraph (a) of this section and a payment has been made by CCC, no change in the payment option will be allowed except as authorized by the Executive Vice President, CCC.

§ 1412.8 Contract liability.

All signatories to a contract are jointly and severally liable for contract violations and resulting repayments and liquidated damages.

§ 1421.9 Misrepresentation and scheme or device.

A person who is determined to have:

(a) Erroneously represented any fact affecting a program determination made in accordance with this subpart;

(b) Adopted any scheme or device that tends to defeat the purpose of the program; or

(c) Made any fraudulent representation affecting a program determination made in accordance with this subpart, must refund all payments received on all contracts entered into under this subpart, plus interest as determined in accordance with part 1403 of this chapter, and pay to CCC liquidated damages as specified in the contract.

§ 1412.10 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof made to any person under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the peanut quota or the farm for which a peanut quota had been established under part 729 of this title by any creditor or any other person.

(b) Any person eligible to receive a payment made under this subpart may assign the payment in accordance with part 1404 of this chapter.

§ 1412.11 Other regulations.

(a) The provisions of part 12 of this title, the controlled substance provisions of part 718 of this title, and the payment limitation provisions of part 1400 of this chapter shall not be applicable to payments made under this subpart.

(b) The provisions of part 707 of this title relating to the making of payments in the event of the death of a program participant and in the event of other

special circumstances shall apply to payments made under this subpart.

Signed in Washington, DC, on September 25, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02-24816 Filed 9-27-02; 11:20 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[INS No. 1946-98; AG Order No. 2617-2002]

RIN 1115-AF29

Delegating the Secretary of Labor the Authority To Adjudicate Certain Temporary Agricultural Worker (H-2A) Petitions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Withdrawal of final rule.

SUMMARY: On July 13, 2000, the Immigration and Naturalization Service (Service) published a final rule in the **Federal Register**, delegating the adjudication of certain petitions for agricultural workers (H-2A) to the United States Department of Labor (DOL). Subsequently, the effective date for that final rule was delayed until October 1, 2002. On November 8 and 16, 2001, the DOL held public briefings concerning the delegations. Based on the public response at these briefings the DOL has determined that the delegation of authority for adjudicating H-2A petitions would not benefit the public as initially contemplated. In consideration of DOL's actions and subsequent events, the delegation of authority does not appear to be appropriate at this time. Accordingly the Attorney General is withdrawing the July 13, 2000, final rule delegating authority to the DOL.

DATES: The final rule amending 8 CFR parts 103 and 214 published in the **Federal Register** at 65 FR 43528 (July 13, 2000) and deferred at 65 FR 67616 (November 13, 2000) and 66 FR 49514 (September 28, 2001) 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 Department of Justice in consultation with the DOL, decided that the Attorney General's authority to adjudicate certain H-2A petitions should be delegated 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 Attorney General 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.

Also on July 13, 2000, the DOL published a final rule at 65 FR 43538 with an effective date of November 13, 2000, implementing the above-mentioned delegation of authority from the Service to the DOL.

On November 13, 2000, the Service published a final rule at 65 FR 67616, and DOL published an interim final rule at 65 FR 67628, each delaying the effective date of their respective July 13, 2000, H-2A rules until October 1, 2001.

On September 28, 2001, the Service at 66 FR 49514 published a subsequent final rule, and on September 27, 2001, DOL at 66 FR 49275 published another interim final rule with requests for comments, further delaying the effective date of the H-2A final rule until October 1, 2002. DOL also published a proposed rule at 66 FR 49329 on September 27, 2001 in conjunction with its interim rule of the same date announcing that it was holding two public briefings in order to obtain additional comments concerning the delegation of authority.

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 at 65 FR 43535 published a companion notice of proposed rulemaking (NPRM) for public comment, proposing among other things that all petition requests, extensions of stay, and change of status petitions would 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 the Service's proposed rule, the DOL published at 65 FR 43545 a companion 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. This action was taken 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.

Events Necessitating the Withdrawal of the Final Rule

The DOL held two public briefings to obtain additional information regarding the delegation of authority. The briefings were held at Washington, DC on November 8, 2001, and in Monterrey, California on November 16, 2001. After considering the comments received from the public at these two briefings, the DOL determined that the delegation of authority would not be a benefit to the public as initially contemplated. The attendees at these two briefings overwhelmingly disapproved of the transfer of authority between the two agencies, arguing that it would complicate the labor certification process rather than streamline it. Further, the attendees at the briefings expressed reservations about DOL's plans to consolidate the Service's Form I-129, Petition for Nonimmigrant Worker, with DOL's Form ETA-750A, Application for Alien Labor Certification.

In addition, subsequent to the initial proposal to delegate authority to DOL, the Service has changed its procedures and now requires that security checks be performed prior to the adjudication of any type of application and petition. The Service is more suited to perform these checks rather than the DOL.

Finally, the Administration has proposed that the nation's immigration function be reorganized within the newly established Department of Homeland Security. As a result, it does not appear that the delegation is appropriate at this time.

In consideration of these factors, the final rule published on July 13, 2000, at 65 FR 43528-45534 is being withdrawn in this final rule. In addition, in a document published elsewhere in this issue of the **Federal Register**, the Service is withdrawing the proposed

rule that was published in the **Federal Register** on July 13, 2000, at 65 FR 43535.

The final rule published on July 13, 2000, can be withdrawn without further notice and comment because the delegation of authority to adjudicate petitions from the Attorney General to the Secretary of Labor constitutes a rule of agency practice or procedure within the meaning of section 5 U.S.C. 533(b)(A), and accordingly is exempt from the Administrative Procedure Act's notice and comment procedures. These procedural rules would not have made a substantive change in the rules, but instead would have transferred an existing procedural function from the one agency to another permitting employers to omit one step in the process of importing foreign agricultural workers. This rule nullifies that planned transfer, maintaining the status quo.

Regulatory Flexibility Act

The Attorney General, 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 final 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 effect 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 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. 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, 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

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, relating to Civil Justice Reform.

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 final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Accordingly, the final rule amending 8 CFR parts 103 and 214 published in the **Federal Register** at 65 FR 43528 (July 13, 2000) is withdrawn.

Dated: September 27, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02-25031 Filed 9-27-02; 1:00 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-22-AD; Amendment 39-12892; AD 2002-19-12]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-200B, -300, -400, -400D, and -400F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747-200B, -300, -400, -400D, and -400F series airplanes; that currently requires repetitive inspections to detect cracking of fire extinguisher discharge tubes in certain engine struts, and corrective action, if necessary. For certain airplanes, that AD also provides for an optional modification of the fire extinguisher discharge tubes, which constitutes terminating action for the repetitive inspections. This amendment makes the previously optional modification of the fire extinguisher discharge tubes mandatory for all affected airplanes and adds one airplane to the applicability. This amendment is prompted by a report that the check tee valve at the top of an engine strut can be damaged such that no extinguishing agent can get to the engine. The actions specified by this AD are intended to prevent blockage of the check tee valve and cracks in the fire extinguisher discharge tubes in the engine struts, preventing the fire extinguishing agent from being delivered to the engine or reducing the amount delivered to the engine, which could permit a fire to spread from the engine to the wing of the airplane.

DATES: Effective November 5, 2002.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of November 5, 2002.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 25, 2000 (65 FR 18881, April 10, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the

Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2686; fax (425) 227-1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 687-4241, fax (425) 227-1232. Questions or comments may also be sent via the Internet using the following address: judy.golder@faa.gov. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000-07-10, amendment 39-11664 (65 FR 18881, April 10, 2000); which is applicable to certain Boeing Model 747-200B, -300, -400, -400D, and -400F series airplanes; was published in the **Federal Register** on April 3, 2002 (67 FR 15755). The action proposed to continue to require repetitive inspections to detect cracking of fire extinguisher discharge tubes in certain engine struts, and corrective action, if necessary. The action proposed to require a modification of the fire extinguisher discharge tubes, which would constitute terminating action for the repetitive inspections, and also proposed to add one additional airplane to the applicability.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Give Credit for Modification Per Original Issue of Service Bulletin

Several commenters, including the Air Transport Association of America (on behalf of its members), request that the FAA revise the proposed AD to give credit for modifications accomplished in accordance with the original issue of Boeing Service Bulletin 747-26-2233, dated May 11, 1995. (Paragraph (b) of the proposed AD refers to Boeing Alert Service Bulletin 747-26A2233, Revision 1, dated November 16, 2000, as the