Register on January 2, 2018 (83 FR 77). Copies of the proposed rule were sent via email to Board members and tart cherry handlers. The proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending February 1, 2018, was provided to allow interested persons to respond to the proposal.

Two comments were received. Both commenters urged adoption of the changes, noting the Board had worked hard on this proposal and had listened to the industry as part of the process. Accordingly, no changes will be made to the rule as proposed, based on the comments received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation of the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

[Subpart Redesignated as Subpart A]

■ 2. Redesignate ''Subpart—Order Regulating Handling'' as ''Subpart A—Order Regulating Handling''.

[Subpart Redesignated as Subpart B and Amended]

■ 3. Redesignate ''Subpart—Administrative Rules and Regulations'' as subpart B and revise the heading to read as follows:

Subpart B—Administrative Requirements

■ 4. In § 930.162:

■ a. Revise the sentences at the end of paragraphs (b)(1) and (b)(2);

■ b. Redesignate paragraphs (c)(3),(4), and (5) as paragraphs (c)(4),(5), and (6);

■ c. Add new paragraph (c)(3); and

■ d. Add paragraph (h).

The revisions and additions read as follows:

§ 930.162 Exemptions.

* * * * *

(b) * * *

(1) * * * In addition, the maximum duration of any credit activity is five years from the date of the first shipment.

(2) * * * In addition, shipments of tart cherries or tart cherry products in new market development and market expansion outlets are eligible for handler diversion credit for a period of five years from the handler's date of the first shipment into such outlets.

* * * * *

(c) * * *

(3) When applying to the Board for an exemption for the use of domestic tart cherry products in markets not currently served by the domestic industry, handlers may provide a verifiable statement from the buyer of its intent to use domestic tart cherry products to the Board staff for review in lieu of review by the subcommittee as detailed in paragraph (d) of this section. A verifiable statement is defined as a written statement from the buyer that it will use domestic tart cherries in products or markets not currently supplied by domestic sources, which will be reviewed and documented by Board staff.

* * * * *

(h) *Extensions and transfers.* (1) If no shipments are made within the first year of any approved exemption project from the date of approval, new applications for a similar project (same market or product) are eligible for approval; *provided that,* handlers with an approved exemption project have the opportunity to apply to the subcommittee for a six-month extension of this time period.

(2) For projects granted extensions, if no shipment is made prior to the end of the extension period, new applications for the same market or project are eligible for approval.

[Subpart Redesignated as Subpart C]

■ 5. Redesignate ''Subpart—Assessment Rates'' as ''Subpart C—Assessment Rate''.

Dated: July 2, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–14516 Filed 7–5–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 212

[Docket No: USCBP–2016–0003]; [CBP Decision No. 18–06]

RIN 1651–AB09

Elimination of Nonimmigrant Visa Exemption for Certain Caribbean Residents Coming to the United States as H–2A Agricultural Workers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This finalizes interim amendments to the Department of Homeland Security's (DHS) regulations, published in the **Federal Register** on February 8, 2016, that eliminated the nonimmigrant visa exemption for certain Caribbean residents seeking to come to the United States as H–2A agricultural workers and the spouses or children who accompany or follow these workers to the United States. As a result of the interim final rule, these nonimmigrants are required to have both a valid passport and visa. The Department of State (DOS) revised its regulations in a parallel interim final rule and is issuing a parallel final rule to adopt all interim changes as final.

DATES: This rule is effective on August 6, 2018.

FOR FURTHER INFORMATION CONTACT: Stephanie E. Watson, U.S. Customs and Border Protection, Office of Field Operations, (202) 325–4548, or via email at *Stephanie.E.Watson@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 8, 2016, DHS published an interim final rule (IFR) in the **Federal Register** (81 FR 6430) requiring a British, French, or Netherlands national, or a national of Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has his or her residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or in Barbados, Grenada, Jamaica, or Trinidad and Tobago, to obtain a valid, unexpired visa if the alien is proceeding to the United States as an H–2A agricultural worker. The IFR also

eliminated the visa exemption for spouses and children accompanying or following to join such workers. Additionally, the IFR eliminated a visa exemption for workers in the U.S. Virgin Islands, as well for their spouses and children accompanying or following to join such workers, pursuant to an unexpired indefinite certification granted by the Department of Labor (DOL). DOS published a parallel rule in the **Federal Register** on the same day. *See* 81 FR 5906; *see also* 81 FR 7454 (correction).[1]

The H–2A nonimmigrant classification applies to an alien seeking to enter the United States to perform agricultural labor or services of a temporary or seasonal nature in the United States. Prior to the DHS and DOS interim final rules, H–2A agricultural workers were generally required to possess and present both a passport and a valid unexpired H–2A visa when entering the United States. Certain residents of the Caribbean, however, were exempted by regulation from having to possess and present a valid unexpired H–2A visa to be admitted to the United States as a temporary agricultural worker. Specifically, a visa was not required for H–2A agricultural workers who are British, French, or Netherlands nationals, or nationals of Barbados, Grenada, Jamaica, or Trinidad and Tobago, who have their residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or in Barbados, Grenada, Jamaica, or Trinidad and Tobago. Additionally, a visa was not required for the spouse or child accompanying or following such an H–2A agricultural worker to the United States.

DHS, in conjunction with DOS, determined that the nonimmigrant visa exemption for these classes of Caribbean residents, when coming to the United States as H–2A agricultural workers or as the spouses or children accompanying or following these workers, was outdated and incongruent with the visa requirement for other H–2A agricultural workers from other countries. Both departments determined that eliminating the visa exemption furthered the national security interests of the United States and ensured that these applicants for admission, like other H–2A agricultural workers, would be appropriately screened via DOS's visa issuance process prior to arrival in the United States. By requiring a visa, DOS can ensure that these persons possess positive evidence of the intended purpose of their stay in the United States upon arrival at a U.S. port of entry. Removing the visa exemption also lessens the possibility that persons who pose security risks to the United States, as well as other potential immigration violators, may improperly gain admission to the United States.

II. Discussion of Comments

A. Overview

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures pursuant to the good cause and foreign affairs exceptions in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(a)(1), respectively), the IFR provided for the submission of public comments that would be considered before adopting the interim amendments as final. The prescribed 30-day public comment period closed on April 8, 2016. During this time, DHS received three comments. Two of the comments were supportive of the rule and one was critical of it.

B. Discussion

For ease of discussion, DHS has divided the one critical comment received on the IFR into two subparts that raise related, but separate, issues.

Comment: The commenter stated that, by eliminating this exemption, DHS is upending a long-standing opportunity for individuals from these specific locations to easily come to the United States and earn substantially more money than they could at home. According to the commenter, implementation of this rule, which creates new costs and inconveniences for individuals from these areas, could dramatically decrease or essentially prevent these workers from coming to the United States. The commenter states that, in the case of a Jamaican worker, the cost of securing a visa will be more than the average Jamaican worker could likely afford.

Response: While the visa exemption for agricultural workers from the specified Caribbean countries dates back more than 70 years, it was created primarily to address U.S. labor shortages during World War II by expeditiously providing a source of agricultural workers from the British Caribbean to meet the needs of agricultural employers in the southeastern United States. This basis for the exemption no longer exists and continuing to provide an exemption for these individuals would be incongruent with the visa requirements for H–2A workers from other countries. While removing this exemption may make the process more difficult for individuals from these specified areas, it creates an equitable standard for everyone who would like to enter the United States as an H–2A agricultural worker or as the spouse or child accompanying or following such an individual. It also better ensures that individuals from the specified Caribbean areas seeking admission as H–2A nonimmigrants, and their spouses and children, are in fact eligible for admission under the desired classification and permits greater screening for potential fraudulent employment. Furthermore, by eliminating this exemption, the United States Government is better situated to ensure that workers are protected from illegal employment and recruitment-based abuses, including the imposition of fees prohibited under 8 CFR 214.2(h)(5)(xi).

Comment: According to the same commenter, in eliminating this exemption, DHS and DOS are making the United States less secure by creating an incentive for individuals to seek to enter the United States illegally. The commenter states that the employers who would have hired the aliens affected by the IFR will now look to fill their positions by hiring other workers, potentially even illegal migrants, who may be willing to work for minimum wage or less. The commenter states that the new demand for inexpensive labor may encourage aliens to attempt to migrate to the United States illegally.

Response: The exemption itself posed a security risk to the United States. Prior to the amendments in the IFR, H–2A agricultural workers from these specified Caribbean areas did not undergo the same visa issuance process as H–2A applicants from other countries. These individuals did not have to undergo a face-to-face consular interview and the associated fingerprint and security checks prior to seeking admission at a U.S. port of entry. As of February 19, 2016, the effective date of the IFR, these individuals have been subject to the same procedures as other H–2A applicants, providing consistency with the applicable procedures required for applicants from other countries, which include a more thorough screening afforded by the visa application process.

DHS does not believe that requiring these individuals to obtain a visa will encourage illegal migration. Rather, removing this exemption lessens the possibility that persons who pose security risks to the United States, as well as other potential immigration

[1] There was one substantive difference between the DOS and DHS IFRs. The DOS IFR removed Antigua from its list of exempt countries in its title 22 regulations. The DHS title 8 regulations did not include Antigua in its list of exempt countries. As such, the DHS IFR did not reference Antigua.

violators, may improperly gain admission to the United States. As mentioned above, although the removal of this exemption may make the process more difficult for individuals from these specified areas, it creates an equitable standard for H–2A applicants and furthers the national security interests of the United States.

Comment: The two supportive comments stated that the amendments in the IFR improve national security, facilitate the legitimate movement of people into the United States, and promote equality among all individuals seeking to come to the United States as temporary agricultural workers. One commenter also noted that the amendments provide protection for H–2A workers by ensuring that they learn more about their rights and responsibilities when being interviewed for a visa.

Response: CBP agrees with these comments and concurs that the amendments to the regulations support the benefits described.

C. Conclusion

After careful consideration of the comments received, for the reasons stated above, as well as the reasons outlined in the interim final rule, CBP is adopting the interim regulations, published on February 8, 2016, as final without change.

III. Statutory and Regulatory Requirements

A. Executive Orders 13563, 12866, and 13771

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

OIRA has designated this rule not significant under Executive Order 12866. Nonetheless, DHS has considered the potential costs and benefits of this rule, as presented below, to inform the public of the costs and benefits of this rule.

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866. *See* Section 4 of Executive Order 13771 and OMB's Memorandum titled ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017).[2] Additionally, in this memorandum, OMB indicated that when a final rule neither increases nor decreases the cost of the interim final rule, the regulatory action does not need to be offset under this executive order. This final rule does not increase or decrease the cost of the interim final rule. For this reason, as well, this rule is not subject to the offset requirements of Executive Order 13771.

Prior to publishing the IFR in February 2016, a British, French, and Netherlands national and a national of Barbados, Grenada, Jamaica, and Trinidad and Tobago, who have his or her residence in a British, French, or Netherlands territory located in the adjacent islands of the Caribbean area or in Barbados, Grenada, Jamaica, or Trinidad and Tobago, were not required to obtain a visa before traveling to the United States as H–2A agricultural workers. The IFR required these prospective H–2A agricultural workers to obtain a visa prior to travel to the United States. Any spouses or children of these workers also now have to obtain a visa before being brought to the United States. Since 99 percent of such workers [3] came from Jamaica, our analysis will focus on that country. The IFR also eliminated the visa exemption for workers in the U.S. Virgin Islands pursuant to an unexpired indefinite certification granted by DOL. Because these certifications have been obsolete for many years,[4] eliminating them has no effect on the economy; hence, we will ignore this provision for the remainder of the analysis.

Data on the number of visa applications Jamaican travelers need to obtain as a result of this rule is not available. A U.S Citizenship and Immigration Services (USCIS) database tracks the number of petitions for H–2A workers from Jamaica, but does not include the spouses or children who now also need visas to travel to the United States. A CBP database tracks the number of Jamaican nationals arriving under the H–2A program, but counts multiple arrivals by a single person as separate arrivals. For the purposes of this analysis, we use the number of petitions as our primary estimate of the number of visas that are needed under this rule. We use the number of total travelers from Jamaica under the H–2A program to illustrate the upper bound of costs that could result from this rule.

Employers petitioned on behalf of an annual average of 190 workers from Jamaica under this program from FY 2011–2015 [5] and an annual average of 4,215 Jamaicans arrived during that time period,[6] which includes arrivals by H–2A agricultural workers as well as their spouses and children. This number also includes multiple arrivals in the same year by the same individuals. Because the number of unique individuals arriving from Jamaica under the H–2A program is not available, we calculate costs based on a range of 190 (our primary estimate) to 4,215 prospective visa applicants. The current nonimmigrant visa application processing fee, also called the Machine-Readable Visa (MRV) fee, is $190. We assume this fee will be paid by the employer for the workers and by the employees for their spouses and children. We estimate that the imposition of the fee costs workers or employers between $36,100 (our primary estimate) and $800,850 per year.

Under this rule, workers are required to apply for a visa using Form DS–160 and undergo an interview at a U.S. embassy or consulate prior to traveling to the United States. According to the Paperwork Reduction Act estimate for Form DS–160,[7] the Department of State estimates that the visa application takes 1.25 hours to complete. The interview itself typically lasts approximately 5–10 minutes; however, when accounting for potential wait time, the interview process may take up to 2 hours. Since the only U.S. embassy in Jamaica is in Kingston, visa applicants may have to travel up to 3.5 hours each way to appear for an interview, depending on their location. We therefore assume that filling out the D–160, traveling to and from the embassy for the visa interview, and the visa interview itself will require

[2] This memorandum is available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf.*

[3] Source: Communication with the Office of Field Operations (OFO) on October 11, 2016.

[4] *See* section 3 of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982, Public Law 97–271, 96 Stat. 1157, as amended (8 U.S.C. 1255 note).

[5] Source: Communication with USCIS on October 17, 2016.

[6] Source: CBP's BorderStat Database (internal database), accessed October 5, 2016.

[7] The supporting statement for Form DS–160 is available here: *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201707-1405-001.*

a total of 10.25 hours of the applicant's time. To the extent the actual time burden to travel to and from the interview is less than we estimated, costs would be lower. Using the average Jamaican wage rate of $3.62/hour [8] and a range of 190 to 4,215 workers per year, we estimate the cost of the time to Jamaican workers as a result of this rule to be between $7,050 (our primary estimate) and $156,398 per year. Combining this with the cost of the visa application fee, we estimate that the total annual cost of this rule is between $43,150 and $957,248.

We are unable to quantify the benefits of this rule; therefore we discuss the benefits qualitatively. Requiring these prospective H–2A agricultural workers to obtain visas ensures that they are properly screened prior to arrival in the United States. This lessens the possibility that a person who poses a security risk to the United States and other potential immigration violators may improperly gain admission to the United States. DHS has determined that visitors from the countries affected by this rule are not a lower security risk than those coming from other countries; therefore, CBP believes that they should be subject to the same screening. Also, prescreening and appearing before consular officers provide greater opportunities to ensure compliance with DHS and DOL H–2A rules, including those regulatory provisions prohibiting the payment of fees by workers in connection with or as a condition of employment or recruitment.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare a regulatory flexibility analysis that describes the effect of a proposed rule on small entities when the agency is required to publish a general notice of proposed rulemaking. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Since a general notice of proposed rulemaking was not necessary, a regulatory flexibility analysis is not required.

C. 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 are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Executive Order 13132

The 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, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Amendments to the Regulations

For the reasons set forth above, the interim final rule amending 8 CFR part 212, which was published at 81 FR 6430 on February 8, 2016, is adopted as final without change.

Dated: June 14, 2018.

Kristjen Nielsen,

Secretary.

[FR Doc. 2018–14534 Filed 7–5–18; 8:45 am]

BILLING CODE P

[8] Derived from International Labor Organization's ILOSTAT internet Database. Available at *http://www.ilo.org/ilostat.* Accessed October 12, 2016. Our weekly wage estimate (18,832 Jamaican Dollars per week) is from the ''Mean nominal monthly earnings of employees by type of scenario'' report for all sectors in 2013 which is the last data year available. Our weekly hours worked estimate (40.7 hours per week) is from the ''Hours of work, by economic activity'' report for all sectors in 2008 which is the last year available for this data point. We converted the wage rate to U.S. dollars using the currency converter available at *http://www.xe.com/currencyconverter/* on October 12, 2016. 18,832 Jamaican Dollars divided by 40.7 hours per week, multiplied by 0.0078155 U.S. dollars per Jamaican dollar = $3.62 U.S. dollars per hour.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 21, 25, 26, 27, 34, 43, 45, 60, 61, 63, 65, 91, 97, 107, 110, 119, 121, 125, 129, 133, 135, 137, 141, 142, 145, and 183

[Docket No.: FAA–2018–0119; Amdt Nos. 1–72, 21–101, 25–145, 26–7, 27–49, 34–6, 43–50, 45–31, 60–5, 61–141, 63–40, 65–57A, 91–350, 97–1338, 107–2, 110–2, 119–19, 121–380, 125–68, 129–53, 133–16, 135–139, 137–17, 141–19, 142–10, 145–32, 183–17]

RIN 2120–AL05

Aviation Safety Organization Changes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a final rule published on March 5, 2018. In that rule, the FAA replaced specific references to offices within the Aircraft Certification Service and the Flight Standards Service with generic references not dependent on any particular office structure. The FAA incorrectly assigned amendment number 65–56 to this rule. The correct amendment number is 65–57A and this action fixes this error.

DATES: Effective July 6, 2018.

FOR FURTHER INFORMATION CONTACT: For questions concerning AIR offices referred to in this action, contact Suzanne Masterson, Transport Standards Branch (AIR–670), Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th St, Des Moines, WA 98189; telephone (206) 231–3211 or (425) 227–1855; email *suzanne.masterson@faa.gov.*

For questions concerning AFS offices referred to in this action, contact Joseph Hemler, Commercial Operations Branch (AFS–820), Flight Standards Service, Federal Aviation Administration, 55 M Street SE, 8th floor, Washington, DC 20003–3522; telephone (202) 267–1100; email *joseph.k.hemler-jr@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On March 5, 2018, the FAA published a final rule entitled, ''Aviation Safety Organization Changes'' (83 FR 9162). In that final rule, the FAA replaced specific references to Aircraft Certification Service (AIR) and Flight Standards Service (AFS) offices with generic references not dependent on any particular office structure. This rule did not impose any new obligations and the