

General Findings

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing agreement and order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of winter pears grown in the production area in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of winter pears cherries grown in the production area; and

(5) All handling of winter pears grown in the production area as defined in the marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and record keeping requirements.

Recommended Amendment of the Marketing Agreement and Order

For the reasons set out in the preamble, 7 CFR part 927 is proposed to be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

* * * * *

2. Revise § 927.5 to read as follows:

§ 927.5 Size

Size means the number of pears which can be packed in a standard pear box when packed in accordance with the packing requirements of the U.S. Standards for Pears (part 51 of this title), or as such regulations hereafter may be modified or as “size” may be more specifically defined in a regulation issued under this part.

3. Add new §§ 927.14 and 927.15 under the undesignated center heading “Definitions” to read as follows:

§ 927.14 Pack.

Pack means the specific arrangement, size, weight, count, or grade of a quantity of pears in a particular type and size of container, or any combination thereof.

§ 927.15 Container.

Container means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of pears.

5. Revise § 927.28 to read as follows:

§ 927.28 Alternates for members of the Control Committee.

The first alternate for a member shall act in the place and stead of the member for whom he or she is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his or her first alternate shall act as a member until a successor for the member is selected and has qualified. The second alternate for a member shall serve in the place and stead of the member for whom he or she is an alternate whenever both the member and his or her first alternate are unable to serve. In the event that both a member of the Control Committee and that member's alternates are unable to attend a Control Committee meeting, the member may designate any other alternate member from the same group (handler or grower) to serve in that member's place and stead.

4. Amend § 927.51 by revising paragraph (a) to read as follows:

§ 927.51 Issuance of regulations; and modification suspension, or termination thereof.

(a) Whenever the Secretary finds, from the recommendations and information submitted by the Control

Committee, or from other available information, that regulation, in the manner specified in the section, of the shipment of pears would tend to effectuate the declared policy of the act, he or she shall so limit the shipment of pears during a specified period or periods. Such regulation:

(1) May limit the total quantity of any grade, size, quality, maturity, or combination thereof, of any variety of pears grown in any district and may prescribe different requirements applicable to shipments to different export markets; or

(2) May prescribe minimum standards of quality for any variety of pears and limit the shipment thereof to those meeting such minimum standards; or

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in packaging or handling of pears.

Dated: March 27, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 286

[INS No. 2180–01]

RIN 1115–AG47

Establishment of a \$3 Immigration User Fee for Certain Commercial Vessel Passengers Previously Exempt

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations in accordance with section 109 of the Department of Justice Appropriations Act, 2002 (Title I of Public Law 107–77), signed November 28, 2001. This law authorizes the collection of a \$3 fee for certain commercial vessel passengers previously exempt under section 286(e)(1) of the Immigration and Nationality Act (Act). This proposed rule would amend the Service regulations to require certain commercial vessel operators and/or their ticketing agents to charge and collect a \$3 user fee from every commercial vessel passenger whose journey originated in the U.S., Canada, Mexico, a territory or possession of the United States, or an adjacent island

except those individuals exempted under section 286(e) of the Act or under 8 CFR part 286. This action is necessary to implement section 109 of the Department of Justice Appropriations Act, 2002.

DATES: Written comments must be submitted on or before May 3, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2180-01 on your correspondence. You may also submit comments electronically to the Service at insregs@usdoj.gov. When submitting comments electronically please include the INS No. 2180-01 in the subject box. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Georgia Mayers, Chief of Cash Management, Office of Finance, Immigration and Naturalization Service, 425 I Street, NW., Room 6034, Washington, DC 20536, telephone (202) 305-1200.

SUPPLEMENTARY INFORMATION:

What Is the Immigration User Fee?

Beginning in Fiscal Year 1987, the Service was mandated by Congress via the 1987 Appropriations Act for the Department of Justice, Public Law 99-591, to collect (with limited exceptions) an immigration user fee for each passenger arriving in the United States by commercial air or sea conveyance. Immigration user fee funds are used to operate air and sea inspection services and to fund other related activities.

How Will the Service Use the Fees That Are Collected?

As provided by law, the user fees that are collected may be used, among other things to:

- Provide immigration inspection and preinspection services for commercial aircraft and vessels;
- Provide overtime immigration inspection services for commercial aircraft or vessels;
- Administer debt recovery, including the establishment and operation of a national collections office;
- Expand, operate, and maintain information systems for nonimmigrant control and debt collection;
- Detect fraudulent documents used by passengers traveling to the United States, including training of, and

technical assistance to, commercial airline personnel regarding such detection;

- Provide detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any inadmissible alien who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and,
- Administer removal and asylum screening proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels, including immigration removal proceedings resulting from the presentation of fraudulent documents and the failure to present documentation and for any inadmissible alien who has attempted illegal entry into the United States by avoiding immigration inspection at air or sea ports-of-entry.

Why Is the Service Proposing To Apply a \$3 Inspection Fee To Certain Previously Exempt Commercial Vessel Passengers?

The authorization to charge and collect a user fee from certain previously exempt commercial vessel passengers is provided in section 109 of the Department of Justice Appropriations Act, 2002 which was enacted on November 28, 2001. Prior to the enactment of this law, Commercial vessel passengers, whose journeys originated in Canada, Mexico, a state, territory or possession of the United States, or an adjacent island, were statutorily exempt from paying the Immigration User Fee prescribed by section 286(d) of the Act. While these vessel passengers were exempt from paying the fee, the Service was still required to provide inspection services. This exemption resulted in the Service's inability to invest in necessary staffing and technology resources. The new fee will begin to provide for the recovery of inspection operations and related inspection activities that support seaport immigration inspection.

Did the Department of Justice Appropriation Act, 2002 Specify Any Other Changes to Section 286 of the Act?

The Department of Justice Appropriations Act, 2002 also directed the Attorney General to increase the immigration user fee prescribed in section 286(d) of the Act by \$1 from \$6 to \$7 for all passengers previously required to pay the \$6 fee. This change has been published in the **Federal Register** as a final rule.

What Changes Are Proposed in This Rule?

This rule proposes to add 8 CFR 286.2(b) and revise 8 CFR 286.3(a) to provide for the collection of the \$3 commercial vessel fee and removes the exemption of commercial vessel passengers whose journeys originated in Canada, Mexico, a state, territory or possession of the United States, or an adjacent island. In accordance with the Department of Justice Appropriations Act, 2002, the rule would also include an exemption from the \$3 fee for passengers arriving by way of Great Lakes international ferries or Great Lakes vessels on the Great Lakes and connecting waterways when operating on a regular schedule.

How Is the \$3 Fee Proposed To Be Collected?

Affected commercial vessel carriers and ticket-selling agents would be subject to the same fee collection responsibilities, remittance and statement procedures, maintenance of records, and penalties as stated in 8 CFR 286.2, 286.4, 286.5, 286.6 and 286.7 and that are currently required of other non-exempt immigration user fee remittances.

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. Immigration user fees are already being collected by commercial vessel carriers and/or their ticketing agents in connection with voyages originating in previously non-exempt areas. Since the passengers rather than the carriers ultimately pay the immigration inspection user fee, these passengers are not considered small entities as that term is defined in 5 U.S.C. 601(6), this rule does not bear an impact on small entities.

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 Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost 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.

List of Subjects in 8 CFR Part 286

Air carriers, Immigration, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, part 286 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 286—IMMIGRATION USER FEE

1. The authority citation for part 286 continues to read as follows:

Authority: 8 U.S.C. 1103, 1356; 8 CFR part 2.

2. Section 286.2 is amended by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b), to read as follows:

§ 286.2 Fee for arrival of passengers aboard commercial aircraft or commercial vessels.

* * * * *

(b) A fee, in the amount prescribed in section 286(e)(3) of the Act, per individual is charged and collected by the Service for the immigration inspection at a port-of-entry in the United States, or for the preinspection in a place outside the United States of each commercial vessel passenger whose journey originated in the U.S., Canada, Mexico, a state, territory or possession of the United States, and adjacent islands, except as provided in § 286.3.

* * * * *

3. Section 286.3 is amended by revising the introductory text, and by revising paragraph (a) to read as follows:

§ 286.3 Exceptions.

The fees set forth in §§ 286.2(a) and 286.2(b) shall not be charged or collected from passengers who fall within any one of the following categories:

(a) Persons arriving at designated ports-of-entry of passengers arriving by the following vessels, when operating on a regular schedule: Great Lakes international ferries or Great Lakes vessels on the Great Lakes and connecting waterways;

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Dated: March 28, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-22-AD]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of 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 action would make the previously optional modification of the fire extinguisher discharge tubes mandatory for all affected airplanes and would add one airplane to the applicability. This proposal 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 the proposed AD are intended to prevent blockage of the check tee valve and cracks in the fire extinguisher discharge tubes in the engine struts, which could prevent the fire extinguishing agent from being delivered to the engine or reduce the amount delivered to the engine, which could permit a fire to spread from the engine to the wing of the airplane.

DATES: Comments must be received by May 20, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-22-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-22-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: 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.