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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

8 CFR Part 274

19 CFR Part 162

[USCBP–2006–0122; CBP Dec. 10–24]

RIN 1651–AA58

Administrative Process for Seizures and Forfeitures Under the Immigration and Nationality Act and Other Authorities

AGENCY: Office of the Secretary, DHS.

ACTION: Final rule.

SUMMARY: On February 19, 2008, the Department of Homeland Security issued an interim final rule that consolidated the asset seizure and forfeiture procedures for customs and immigration purposes. The interim final rule primarily aligned forfeiture procedures to allow petitioners to seek remission of seized property before the completion of the forfeiture process. The interim final rule also made technical and conforming changes to update the regulations. This final rule adopts, without change, the interim final rule.

DATES: This final rule is effective June 30, 2010.

FOR FURTHER INFORMATION CONTACT: For CBP: Charles Ressin, Penalties Branch, U.S. Customs and Border Protection (202) 325–0050. For ICE: Jason J. Johnsen, Writer/Editor, Office of Policy, U.S. Immigration and Customs Enforcement, (202) 732–4245.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (HSA). As a result, on March

1, 2003, the former Immigration and Nationalization Service (INS) of the Department of Justice and the former U.S. Customs Service of the Department of the Treasury were transferred to the Department of Homeland Security (DHS) and reorganized to become the U.S. Citizenship and Immigration Services (USCIS), the Bureau of Immigration and Customs Enforcement (ICE), and the Bureau of Customs and Border Protection (CBP).¹

After passage of the HSA, both CBP and ICE retained authority to perform asset seizures and forfeitures under the provisions of 8 CFR part 274 and 19 CFR parts 162 and 171. For the purpose of improved efficiency, DHS consolidated the processing of asset forfeitures into CBP's operations. The regulations in titles 8 and 19, however, provided two different procedures. Pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), petitions for remission of forfeitures were accepted by CBP prior to initiation of any administrative or judicial forfeiture process. In contrast, the regulations adopted under section 274(b) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324(b) (INA)), provided that the remission or mitigation of such forfeitures could occur only after completion of the forfeiture process despite the fact that this restriction was not imposed by statute.

Interim Final Rule

On February 19, 2008, DHS issued an interim final rule amending DHS regulations to consolidate the procedures for processing administrative seizures and forfeitures and to make technical and conforming changes to the regulations. The interim final rule was published in the **Federal Register** at 73 FR 9010. Specifically, the interim final rule revised the text of 8 CFR 274.1 to provide that all seizures and forfeitures will be administered in accordance with 19 CFR parts 162 and 171. As a result, the procedures previously used for immigration-related forfeitures were eliminated and all asset forfeiture proceedings are now

conducted under a consolidated procedure. The change permits CBP to entertain petitions for remission and return of seized property prior to completing the forfeiture process, regardless of whether the seizure was made under customs or immigration laws, and regardless of whether it was made by CBP or ICE. Additionally, the interim final rule revised the text of 8 CFR 274.2 to provide the Chief, Office of Border Patrol or his designees, with the same powers that are provided to Fines, Penalties and Forfeitures Officers in 19 CFR parts 162 and 171, for purposes of administering seizures and forfeitures made by Border Patrol Officers.

The interim final rule also amended the text of 19 CFR sections 162.21, 162.91, and 162.92 by replacing outdated references to Customs, the Customs Service, or legacy Customs officials with updated references to CBP, ICE, or the appropriate CBP or ICE officials. Additionally, the reference to section 460 of the Tariff Act of 1930, as amended (19 U.S.C. 1460) was removed from 19 CFR 162.22 (d) because it had been repealed by Public Law 99–570, title III, section 3115(b), Oct. 27, 1986, 100 Stat. 3207–82 and the paragraphs of section 162.22 were redesignated accordingly.

The interim final rule requested public comments. The prescribed comment period closed on April 21, 2008. Only one comment was received and its contents were beyond the scope of the interim final rule.

Conclusion

Accordingly, this rule adopts as a final rule, without change, the interim final rule published on February 19, 2008.

Administrative Procedure Act

This rule is procedural in nature and does not alter the substantive rights of the affected parties. Therefore, this rule is exempt from the public notice and comment requirements pursuant to 5 U.S.C. 553(b)(A). In addition, since this final rule adopts without change an interim final rule, which has been in effect since February 19, 2008, the delayed effective date requirement under 5 U.S.C. 553(d) is unnecessary and does not apply.

¹ DHS subsequently changed the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement on March 31, 2007 (see 72 FR 20131, dated April 23, 2007).

Regulatory Requirements

Executive Order 12866

This rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

Because a notice of proposed rulemaking was not required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

DHS has determined that the collection of information required by this rule falls under the "administrative exception" to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The "administrative exception," applies because any such collection is made during the conduct of administrative action taken by an agency against specific individuals or entities. 5 CFR 1320.4(a)(2).

Signing Authority

The authority to prescribe regulations to administer and enforce the immigration laws was transferred by the Homeland Security Act to the Secretary of Homeland Security. The signing authority for these amendments, therefore, falls under 8 CFR 2.1.

List of Subjects

8 CFR Part 274

Administrative practice and procedure, Seizures and forfeitures, Conveyances.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Law enforcement, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Seizures and forfeitures.

Amendments

■ Accordingly, the interim final rule amending part 274 of title 8 of the Code of Federal Regulations (8 CFR part 274) and part 162 of title 19 of the Code of Federal Regulations (19 CFR part 162), which was published in the **Federal Register** at 73 FR 9010 on February 19, 2008, is adopted as a final rule without change.

Dated: June 22, 2010.

Janet Napolitano,
Secretary.

[FR Doc. 2010-15580 Filed 6-29-10; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-1029; Directorate Identifier 2009-NM-103-AD; Amendment 39-16348; AD 2010-14-03]

RIN 2120-AA64

Airworthiness Directives; Bombardier, Inc. Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Following in-flight test deployments, several Air-Driven generators (ADGs) failed to come on-line. Investigation revealed that, as a result of a wiring anomaly that had not been detected during ADG manufacture, a short circuit was possible between certain internal wires and their metallic over-braided shields, which could result in the ADG not providing power when deployed. * * *

The unsafe condition is failure of the ADG, which could lead to loss of several functions essential for safe flight. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective August 4, 2010.

On April 30, 2009 (74 FR 13086, March 26, 2009), the Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7303; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 5, 2009 (74 FR 57271), and proposed to supersede AD 2009-06-17, Amendment 39-15854 (74 FR 13086, March 26, 2009). That NPRM proposed to correct an unsafe condition for the specified products.

Since we issued AD 2009-06-17, we have been advised that additional air-driven generators may have been installed between the effective date of Canadian Airworthiness Directive CF-2008-09, and the effective date of the equivalent FAA AD 2009-06-17.

Therefore, we have determined that the actions specified in paragraph (f)(1) of AD 2009-06-17 also must be done on airplanes having serial numbers 8084 through 8102.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Support for the NPRM

The Air Line Pilots Association, International supports the intent of the NPRM.

Request To Revise the Proposed Applicability To Apply AD to Part, Not Airplanes

Air Wisconsin Airlines Corporation (Air Wisconsin) suggests that we revise the applicability statement of the NPRM to refer to the specific serial numbers of the air-driven generators (ADGs) as installed on Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes; certificated in any category. Air Wisconsin states that the FAA said in AD 2008-01-04, Amendment 39-15329 (73 FR 1964, January 11, 2008), that parts on the shelf pose no safety concern.

From these statements, we infer that Air Wisconsin requests that we change the applicability statement of the NPRM to refer to the ADG part numbers instead of the airplane model. We disagree. When an unsafe condition results from the installation of a particular component in only one particular make and model of airplane, we apply the AD to the airplane model, not the component. Thus, operators of those airplanes will be notified directly of the unsafe condition and the action required to correct it. Specifying the airplane models in the applicability of the AD will ensure affected operators are aware of their need to comply with