# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 1d

**RIN 0503–AA14**

### Expiration of the Special Agricultural Worker Program

**AGENCY:** Office of the Secretary, United States Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes the regulations of the United States Department of Agriculture (USDA) relating to special agricultural workers (SAWs) under section 210 of the Immigration and Nationality Act (INA), as added by section 302 of the Immigration Reform and Control Act of 1986 (IRCA). Specifically, this final rule removes the USDA regulations pertaining to the SAW program as the program expired on December 1, 1988.

**EFFECTIVE DATE:** February 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Al French, USDA, Telephone (202) 720–4737, Internet: alfrench@usda.gov.

**SUPPLEMENTARY INFORMATION:** The INA was amended by the IRCA (8 U.S.C. 1160) to (1) control illegal immigration into the United States and (2) make limited changes in the system for legal immigration. There was concern during consideration of the IRCA that employers in seasonal agricultural services (SAS), who had come to rely on unauthorized aliens to perform field work, would be unable to obtain sufficient legal workers to satisfy their needs.

To address this concern, the IRCA added section 210 to the INA to establish a program that granted temporary resident alien status to SAWs who could demonstrate that they performed SAS for at least 90 man-days during the 12-month period ending May 1, 1986. The definition of SAS is contained in regulations promulgated by the Secretary of Agriculture at 7 CFR Part 1d and defined the fruits, the vegetables, and the other perishable commodities in which field work related to planting, cultural practices, cultivating, growing, and harvesting would be considered SAS.

As the statutory authority for the SAW program has expired and Congress has given no indication that the program will be reauthorized, USDA believes that it is appropriate to remove the implementing regulations.

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

List of Subjects in 7 CFR Part 1d

Agriculture, Aliens, Immigration, Labor, Migrant workers, Rural labor.

### PART 1d—[REMOVED]

Accordingly, under the authority of 8 U.S.C. 1160, Part 1d of title 7, subtitle A, of the Code of Federal Regulations is removed.

Done at Washington, DC, this 19th day of January, 1996.

Keith J. Collins,

*Chief Economist.*

[FR Doc. 96–1293 Filed 1–26–96; 8:45 am]

**BILLING CODE 3410–01–M**

### 7 CFR Part 1e

**RIN 0503–AA13**

### Expiration of the Replenishment Agricultural Worker Program

**AGENCY:** Office of the Secretary, United States Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes the regulations of the United States Department of Agriculture (USDA) relating to additional special agricultural workers known as replenishment agricultural workers (RAWs) under section 210A of the Immigration and Nationality Act (INA), as added by section 303 of the Immigration Reform and Control Act of 1986 (IRCA). Specifically, this final rule removes the USDA regulations pertaining to the RAW program as the program expired at the end of Fiscal Year 1993.

**EFFECTIVE DATE:** February 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Al French, USDA, Telephone (202) 720–4737, Internet: alfench@usda.gov.

**SUPPLEMENTARY INFORMATION:** The INA was amended by the IRCA (8 U.S.C. 1161) to (1) control illegal immigration into the United States and (2) make limited changes in the system for legal immigration. There was concern during consideration of the IRCA that employers in seasonal agricultural services (SAS), who had come to rely on unauthorized aliens to perform field work, would be unable to obtain sufficient legal workers to satisfy their needs.

To address this concern, the IRCA added section 210 to the INA to establish a program that granted temporary resident alien status to special agricultural workers (SAWs) who could demonstrate that they performed SAS for at least 90 man-days during the 12-month period ending May 1, 1986. The definition of SAS is contained in regulations promulgated by the Secretary of Agriculture at 7 CFR Part 1d. The IRCA specifies that individuals admitted under this provision would not be required to continue working in agriculture, and in fact would be free to seek employment in any occupation or industry.

Because there was also concern that large numbers of SAWs would in fact leave agricultural employment, which would again cause a shortage or workers to perform SAS, the IRCA added section 210A to the INA, which provides a system for admitting additional RAWs. The number of RAWs who were to be admitted in any fiscal year (FY), beginning with FY 1990 and ending with FY 1993, was the smaller of (1) the annual numerical limitation established by formula in section 210A(b) of the INA, or (2) the shortage number determined by the Secretary of Agriculture and the Secretary of Labor (hereinafter ''the Secretaries'') in accordance with the formula in section 210A(a) of the INA. On January 2, 1990, USDA published in the Federal Register at 55 FR 106 a final rule that set forth the procedure to be used by the Secretaries in determining the shortage number and the annual numerical limitation. The criteria under which individuals may qualify for RAW status was established by the Immigration and

Naturalization Service (INS) in regulations located at 8 CFR Part 210a.

In each of the three years during the RAW program was authorized, the Secretaries found the shortage number to be zero and no alien workers were granted benefits under the program.

As the statutory authority for the RAW program ha expired and Congress has given no indication that the program will be reauthorized, USDA believes that it is appropriate to remove the implementing regulations.

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

List of Subjects in 7 CFR Part 1e

Agriculture, Aliens, Immigration, Labor, Migrant workers, Rural labor.

## PART 1e—[REMOVED]

Accordingly, under the authority of 8 U.S.C. 1161, Part 1e of title 7, subtitle A, of the Code of Federal Regulations is removed.

Done at Washington, DC, this 19th day of January, 1996.

Keith J. Collins,

*Chief Economist.*

[FR Doc. 96–1294 Filed 1–26–96; 8:45 am]

BILLING CODE 3410–01–M

## Animal and Plant Health Inspection Service

### 7 CFR Part 354

**[Docket No. 94–074–2]**

**RIN 0579–AA68**

## User Fees—Commercial Aircraft and Vessels; Phytosanitary Certificates

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the user fee regulations by lowering the fees charged for certain agricultural quarantine and inspection services we provide in connection with the arrival of an international commercial aircraft at a port in the customs territory of the United States. We are also amending the user fee regulations by raising the fees charged for export certification of plants and plant products. We have determined, based on a review of our user fees, that the fees must be adjusted to reflect the actual cost of providing these services. In addition, we are amending the user fee regulations to clarify the exemption for certain vessels which sail only between the United States and Canada.

**EFFECTIVE DATE:** March 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations, contact Mr. Don Thompson, Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road, Unit 136, Riverdale, MD 20737–1236, (301) 734–8295.

For information concerning rate development, contact Ms. Donna Ford, PPQ User Fees Section Head, FSSB, BAD, APHIS, 4700 River Road, Unit 54, Riverdale, MD 20737–1232, (301) 734–5901.

**SUPPLEMENTARY INFORMATION:**

Background

The regulations in 7 CFR 354.3 (referred to below as the ''regulations'') contain provisions for the collection of user fees for certain international services provided by the Animal and Plant Health Inspection Service (APHIS). Among the services covered by these user fees are: (1) Servicing international commercial aircraft and vessels arriving at ports in the customs territory of the United States; and (2) certifying plants and plant products for export.

On May 24, 1995, we published a document in the Federal Register (60 FR 27437–27441, Docket 94–074–1) proposing various changes to these regulations.

We solicited comments concerning our proposal for 30 days ending June 23, 1995. We received 45 comments by that date from trade associations connected with the air travel industry, trade associations representing various sectors of the lumber industry, producers in the lumber, flower, and other plant or plant-related industries, members of Congress, and private individuals. The comments are discussed below by topic.

International Commercial Aircraft

We proposed to amend the user fee for agricultural quarantine and inspection (AQI) services provided by APHIS in connection with the arrival of an international commercial aircraft at a port in the customs territory of the United States. (The customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.) the current user fee for services for international commercial aircraft is $61. We proposed to lower this user fee from $61 to $53 for each arrival. We determined the proposed fee based on a review of user fees collected in FY 1993 and FY 1994 and a projection of our cost and revenue for FY 1995. As stated in our proposal, the lower fee is necessary to avoid collecting more revenue than needed to cover the costs of the services we provide.

Only three comments directly addressed the proposed fee reduction. One commenter expressed no ''specific objection'' to lowering the fee, but ''[took] exception to * * * lowering the fee charged * * * while overlooking the inadequate passenger inspection staffing levels.'' A second commenter stated that ''it is almost impossible to reconcile this proposed reduction with the current levels of service provided by APHIS * * *''. The third commenter expressed displeasure with our collecting user fees both from air passengers and from airlines, and suggested that the passenger fee alone should be adequate to cover all costs.

We are not making any changes based on these comments. The inspection service provided to airline passengers is different than the inspection service provided for aircraft. We therefore charge separate user fees for these services. Aircraft user fees are paid by the airlines, passenger user fees are paid by the individual passengers, and the amount of each fee is based on the cost of providing each service.

All government agencies are currently under mandate to reduce staff year ceilings, i.e. the number of employees. We have no plans to reduce the staff year ceilings in the AQI program and we are considering ways to increase such staff year ceilings. However, we would have to review any increases carefully to ensure sufficient staffing in other APHIS and U.S. Department of Agriculture programs.

One commenter stated that the commercial aircraft inspection fee is ''contrary to and inconsistent with the international obligations of the United States, and thus must be withdrawn.'' The comment suggested that this APHIS user fee violates the Convention on International Civil Aviation (''Chicago Convention'') and certain specified bilateral air transport service agreements and treaties, such as the U.S. Air Transport Agreement with Italy. The comment stated that this issue has been raised in previous rulemakings on APHIS user fees.

Although we have never previously specifically addressed the U.S. Air Transport Agreement with Italy, we believe our previous discussions of these issues are also pertinent to this agreement. Its language is similar, if not identical, to the many bilateral Air Transport Services Agreements to which the United States is a party, and which we have addressed in previous Federal Register documents.