

program participants necessary to protect CCC's interests.

#### List of Subjects in 7 CFR Part 1494

Administrative practice and procedure, Agricultural commodities, Exports, Government contracts, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1494 is amended to read as follows:

#### PART 1494—EXPORT BONUS PROGRAMS

##### Subpart B—Export Enhancement Program Operations

1. The authority citation for 7 CFR part 1494, subpart B, continues to read as follows:

**Authority:** 7 U.S.C. 5602, 5651, 5661, 5662, 5676; 15 U.S.C. 714c.

2. Paragraph (q) of § 1494.201 is revised to read as follows:

##### § 1494.201 Definitions of terms.

\* \* \* \* \*

(q) *Eligible exporter.* A person that has been notified by CCC that such person is qualified to submit offers in response to Invitations.

\* \* \* \* \*

3. Section 1494.301 is amended by revising the section introductory text and the paragraph (a) introductory text; by removing paragraph (a)(1) and redesignating paragraphs (a)(2) through (a)(6) as paragraphs (a)(1) through (a)(5), respectively; by adding a new paragraph (a)(6); by removing paragraph (b) and redesignating paragraphs (c) through (g) as paragraphs (b) through (f), respectively; by revising newly designated paragraphs (b), (d), (e) and (f); and by adding a new paragraph (g) to read as follows:

##### § 1494.301 Information required for program participation.

Before CCC will consider an offer from an interested person, such person must qualify for participation in the program. Based upon information submitted by the interested person and available from public sources, CCC will determine whether the interested person is eligible for participation in the program.

(a) *Submission of documentation.* An interested person that wishes to qualify as an eligible exporter must furnish the following information or documentation to CCC at the address referenced in the Notice to Exporters--EEP Contacts:

\* \* \* \* \*

(6) The following certification: "I certify, to the best of my knowledge and belief, that neither [name of interested person] nor any of its principals has been debarred, suspended, or proposed

for debarment from contracting with or participating in programs administered by any U.S. Government agency. ["Principals," for the purpose of this certification, means officers; directors; owners of five percent or more of stock; partners; and persons having primary management or supervisory responsibility within a business entity (e.g., general manager, plant manager, head of a subsidiary division or business segment, and similar positions).] I further agree that, should any such debarment, suspension, or notice of proposed debarment occur in the future, [name of interested person] will immediately notify CCC."

(b) *Necessity to qualify.* An interested person may not submit an offer, and CCC will not consider any such offer, until CCC has notified the interested person that such person has qualified as an eligible exporter.

\* \* \* \* \*

(d) *Previous performance.* CCC may request additional information with respect to the interested person's performance under any U.S. Government programs or in connection with any contracts or agreements with the U.S. Government during the past three years.

(e) *Ineligibility for program participation.* A person may be ineligible to participate in the EEP if such person:

(1) Is currently debarred, suspended or proposed for debarment from contracting with or participating in any program administered by a U.S. Government agency; or

(2) Is controlled or can be controlled, in whole or in part, by any individuals or entities currently debarred, suspended or proposed for debarment from contracting with or participating in programs administered by a U.S. Government agency.

(f) *Duty to update information provided to CCC.* An eligible exporter is under a continuing obligation to inform CCC of any changes in the information or documentation submitted to CCC pursuant to paragraph (a) of this section and to provide current and accurate information to CCC.

(g) *Payment of bonus to exporters without proven EEP participation.* An eligible exporter that has not yet demonstrated its ability to participate successfully in the EEP will be eligible to receive a bonus payment(s) only after the eligible commodity specified in an EEP Agreement has entered into the eligible country. Such an exporter must furnish performance security under "Option B" of the applicable Invitation and follow the procedure specified in § 1494.701(d) to request the payment of

the bonus. An eligible exporter may demonstrate its ability to participate successfully in the EEP by entering or causing to be entered into the eligible country at least 95% of the quantity of the eligible commodity specified in any one EEP Agreement. CCC will consider that an exporter has proven its ability to participate successfully in the EEP as of the date on which CCC pays to the exporter a bonus for entry of a quantity that brings the total entered quantity for any one EEP Agreement to at least 95%. For all EEP Agreements that such exporter enters into with CCC subsequent to that date, the exporter may furnish performance security under "Option A" of the applicable Invitation and will be eligible to receive bonus payments in accordance with § 1494.701(c).

Signed this 25th day of April, 1995 at Washington, DC.

**Christopher E. Goldthwait,**

*General Sales Manager and Vice President, Commodity Credit Corporation.*

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#### DEPARTMENT OF JUSTICE

#### Immigration and Naturalization Service

#### 8 CFR Part 245a

[INS No. 1321-91; AG Order No. 1964-95]

RIN 1115-AC18

#### Procedure for Automatic Termination of Temporary Resident Status Upon Final Order of Deportation or Exclusion

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends existing regulations by providing, in specified circumstances, for the automatic termination of temporary resident status under provisions of the Immigration and Nationality Act, as amended (Act), upon the entry of a final order of deportation or exclusion. This amendment is necessary to avoid possible delays in, or termination of, pending deportation and exclusion proceedings that would result if the Immigration and Naturalization Service (INS) were required to follow existing procedures for the termination of temporary resident status. This amendment permits the expeditious deportation and removal of aliens who hold temporary resident status and have been convicted of an aggravated felony

or have been found to be ineligible for admission into the United States for reasons that are not waivable. This rule also prevents the release of dangerous criminal aliens into society during deportation or exclusion proceedings.

**EFFECTIVE DATE:** This rule is effective May 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Gerald S. Hurwitz, Counsel to the Executive Director, Executive Office for Immigration Review, Suite 2400, Skyline Tower, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone number (703) 305-0470 or David Dixon, Chief Appellate Counsel, Immigration and Naturalization Service, 425 I Street, N.W., Room 6100, Washington, DC 20536, telephone number (703) 756-6257.

**SUPPLEMENTARY INFORMATION:** The INS published a proposed rule on May 13, 1994 at 59 FR 24979. The proposed rule provided for automatic termination of temporary resident status under provisions of the Act upon the entry of a final order of deportation or exclusion. No comments were received and no changes have been made by the INS in preparing this final rule. This final rule will correct a procedural anomaly that has resulted in the release of aggravated felons who hold temporary resident status and which has impaired the ability of the INS to deport those who, after obtaining temporary resident status, commit deportable acts.

*Matter of Medrano*, Interim Decision #3138 (BIA September 10, 1990) (Medrano), holds that the status of a temporary resident alien must first be terminated pursuant to section 245A(b)(2) of the Act (8 U.S.C. 1255a(b)(2)) and in accordance with 8 CFR 245a.2(u) before any deportation proceedings can be commenced. That interpretation leaves the INS with conflicting mandates.

*Medrano* requires termination of temporary resident status before apprehension and commencement of deportation proceedings against a deportable alien, yet section 242(a)(2)(A) of the Act (8 U.S.C. 1252(a)(2)(A)) requires the INS to detain aggravated felons. *Medrano* and 8 CFR 245a.2(u)(2) also grant more procedural rights to temporary residents than to lawful permanent residents. Under *Medrano* and 8 CFR 245a.2(u)(2), the INS must terminate, as a condition precedent to the commencement of deportation proceedings, the temporary resident status of an alien who commits a deportable offense after he has acquired temporary resident status. In contrast, permanent residents may be deported upon commission of an

aggravated felony without first having their status terminated. This final rule, permitting deportation proceedings prior to terminating temporary status, conforms with other regulations currently in force with respect to automatic revocation of status of Special Agricultural Workers. See 8 CFR 210.4(d).

Thus, in order to avoid any delay or termination of deportation or exclusion proceedings that may be caused by invoking the termination procedure prescribed in 8 CFR 245a.2(u)(2) and to permit the expeditious deportation and removal of aggravated felons as required by section 242A(d) (8 U.S.C. 1252a(d)) and 242(i) (8 U.S.C. 1252(i)) of the Act, a new paragraph (ii) has been added to section 245a.2(u)(2). The new paragraph provides for the institution of deportation or exclusion proceedings and the automatic termination of temporary resident status upon the entry of a final order of deportation or exclusion in cases where: (1) The ground for deportation arises under section 241(a)(2)(A)(iii) of the Act (8 U.S.C. 1251(a)(2)(A)(iii)) (convicted aggravated felons); (2) the ground of deportation arises after the acquisition of temporary resident status, and that ground may not be waived pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)) (relating to certain crimes, drug offenses, national security and likelihood of becoming a public charge); or (3) the alien seeks admission and the ground of inadmissibility may not be waived pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)).

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. It will affect certain individual aliens, not small entities. This is not a significant rule within the meaning of section 3(f) of Executive Order 12866, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

**List of Subjects in 8 CFR Part 245a**

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245a of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

**PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT**

1. The heading for part 245a is revised to read as set forth above.

2. The authority citation for part 245a continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1255a, and 1255a note.

3. Section 245a.2(u)(2) is amended by:

a. Designating the existing text of paragraph (u)(2) as paragraph (u)(2)(i);

b. Adding a new heading and revising the first sentence of paragraph (u)(2)(i); and

c. Adding a new paragraph (u)(2)(ii), to read as follows:

**§ 245a.2 Application for temporary residence.**

\* \* \* \* \*

(u) \* \* \*

(2) \* \* \*

(i) *Termination by the Service.* Except as provided in paragraph (u)(2)(ii) of this section, termination of an alien's temporary resident status under paragraph (u)(1) of this section will be made before instituting deportation proceedings against a temporary resident alien and only on notice sent to the alien by certified mail directed to his or her last known address, and to his or her representative, if any. \* \* \*

(ii) *Termination upon entry of final order of deportation or exclusion.* (A) The Service may institute deportation or exclusion proceedings against a temporary resident alien without regard to the procedures set forth in paragraph (u)(2)(i) of this section:

(1) If the ground for deportation arises under section 241(a)(2)(A)(iii) of the Act (8 U.S.C. 1251(a)(2)(A)(iii));

(2) If the ground for deportation arises after the acquisition of temporary resident status, and the basis of such ground of deportation is not waivable pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)); or

(3) If the ground for exclusion arises after the acquisition of temporary resident status and is not waivable pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)).

(B) In such cases, the entry of a final order of deportation or exclusion will automatically terminate an alien's temporary resident status acquired under section 245A(a)(1) of the Act.

\* \* \* \* \*

Dated: April 21, 1995.

**Janet Reno,**

*Attorney General.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-NM-54-AD; Amendment 39-212; AD 95-09-09]

#### **Airworthiness Directives; McDonnell Douglas Model DC-8-60 Series Airplanes Equipped With Engines Modified by Burbank Aeronautical Corporation II (BAC II) in Accordance With Supplemental Type Certificate (STC) SA4892NM or SA5455NM**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-8-60 series airplanes. This action requires inspection to determine the part number of the cone bolt on the right side of the forward mount of each engine, and replacement of the bolt, if necessary. This amendment is prompted by a report of failure of a cone bolt at that location on an engine of one airplane. The actions specified in this AD are intended to prevent failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight.

**DATES:** Effective May 16, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 30, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-54-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** David Y. J. Hsu, Aerospace Engineer,

Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5323; fax (310) 627-5210.

**SUPPLEMENTARY INFORMATION:** Recently, the FAA received a report of failure of a cone bolt on the right side of the forward mount of an engine on a McDonnell Douglas Model DC-8-60 series airplane. Investigation revealed that corrosion pitting at the base of the bolt thread caused the cone bolt to fail. Further investigation indicated that this cone bolt, BAC II part number (P/N) DC-8-21005-7, was re-manufactured from a 15-year-old bolt. This bolt had accumulated 3,526 flight hours since it had been installed on the engine, which was modified by Burbank Aeronautical Corporation II (BAC II) in accordance with Supplemental Type Certificate (STC) SA4892NM. This condition, if not corrected in a timely manner, could result in failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight.

Since both STC's SA4892NM and SA5455NM specify the same cone bolts, the FAA has determined that the subject unsafe condition is likely to exist or develop on all Model DC-8-60 series airplanes equipped with engines modified by BAC II in accordance with either STC. The FAA finds that the differences in design and materials used to manufacture cone bolts having Barry Controls part number, P/N 96013-1, make them less susceptible to corrosion. Therefore, the FAA has determined that cone bolts having BAC II part number, DC-8-21005-7, must be replaced with cone bolts having the Barry Controls part number.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight. This AD requires a one-time inspection to determine the part number of the cone bolt on the right side of the forward mount of the engine, and replacement of certain cone bolts having BAC II part numbers with cone bolts having Barry Controls part numbers. This AD also requires that operators submit a report to the FAA of the findings of discrepant bolts.

This is considered to be interim action until such time that all cone bolts having BAC II part numbers have been removed from the fleet and the FAA has

accounted for all cone bolts having BAC II part numbers. The information from the required reports from operators will enable the FAA to account for those cone bolts and to determine if additional rulemaking action is warranted.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

#### **Comments Invited**

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-54-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein 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 Executive Order 12612,