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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

8 CFR Parts 212, 215, and 235

19 CFR Parts 4 and 122

[Docket No. USCBP-2009-0001; CBP Dec. No. 09-14]

RIN 1651-AA77

Establishing U.S. Ports of Entry in the Commonwealth of the Northern Mariana Islands (CNMI) and Implementing the Guam-CNMI Visa Waiver Program; Change of Implementation Date

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Technical amendment to Interim Final Rule.

SUMMARY: On January 16, 2009, U.S. Customs and Border Protection (CBP) published an interim final rule that implements section 702 of Title VII of the Consolidated Natural Resources Act of 2008 (CNRA) by amending CBP regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program and establishing six ports of entry in the CNMI. The interim final rule specified that CBP would begin operation of this program on the statutorily established transition program effective date of June 1, 2009. The interim final rule further specified that the existing Guam Visa Waiver Program for travel to Guam would remain in effect until June 1, 2009. On March 31, 2009, the Secretary of the Department of Homeland Security (DHS) announced that she had exercised her authority to delay the transition program effective date until November 28, 2009. This technical amendment effectuates this delay by changing the implementation date of the interim final

rule from June 1, 2009 to November 28, 2009.

DATES:

Effective Date: This technical amendment is effective on May 28, 2009.

Implementation Date: Beginning November 28, 2009, Customs and Border Protection (CBP) will begin operation of this program and required compliance with the interim final rule will begin. The existing Guam Visa Waiver Program remains in effect for travel to Guam until November 28, 2009.

FOR FURTHER INFORMATION CONTACT:

Cheryl C. Peters, Office of Field Operations, at (202) 344-1438.

SUPPLEMENTARY INFORMATION:

I. Background

On May 8, 2008, President George W. Bush signed into law the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110-229, 122 Stat. 754. Section 702(a) of the CNRA extends U.S. immigration laws to the CNMI. See sections 212 and 214 of the INA, 8 U.S.C. 1182 and 1184. Section 702(a) of the CNRA provides that the Secretary of Homeland Security, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the CNMI, may delay the transition program effective date for up to 180 days.

Section 702(b) of the CNRA authorizes DHS to create a Guam-CNMI Visa Waiver Program. On January 16, 2009, DHS, through CBP, issued an interim final rule establishing the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam or the CNMI under the Guam-CNMI Visa Waiver Program. See 74 FR 2824. The interim final rule provided that beginning June 1, 2009, DHS would begin operating ports-of-entry in the CNMI for immigration inspection of arriving aliens and to establish departure control for certain flights leaving the CNMI. In addition, the rule provided that on that date, DHS would begin the administration and enforcement of the Guam-CNMI Visa Waiver Program. The interim final rule provided that any delay in the implementation date of the Guam-CNMI Visa Waiver Program

would be published in the **Federal Register**.

After the necessary consultations, the Secretary of Homeland Security announced on March 31, 2009, the delayed transition to full application of the CNRA until November 28, 2009. Accordingly, this document amends the January 16, 2009 interim final rule to reflect the new implementation date.

II. Statutory and Regulatory Requirements

This technical amendment delays the implementation date of the Guam-CNMI Visa Waiver Program from June 1, 2009 to November 28, 2009. The interim final rule implementing the Guam-CNMI Visa Waiver Program provided analysis addressing DHS's statutory and regulatory requirements under the Administrative Procedure Act (APA), Executive Order 12866, Regulatory Flexibility Act, Unfunded Mandates Reform Act of 1995, Executive Order 13132, Executive Order 12988, Paperwork Reduction Act, and the Privacy Act. That analysis is adopted and incorporated herein by reference. As indicated in the interim final rule, pursuant to § 702(b) of the CNRA, the implementation of the Guam-CNMI Visa Waiver Program is considered a foreign affairs function for purposes of section 553(a) of the APA. Accordingly, this technical amendment to the interim final rule is statutorily exempt from the requirements of the APA.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 215

Administrative practice and procedure, Aliens, Travel restrictions.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

19 CFR Part 4

Customs duties and inspection, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Customs duties and inspection, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ For the reasons stated in the preamble, DHS amends parts 212, 215 and 235 of title 8 of the Code of Federal Regulations and parts 4 and 122 of title 19 of the Code of Federal Regulations as set forth below:

8 CFR Chapter I—Amendments**PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANT; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE**

■ 1. The general authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1359; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295). Section 212.1(q) also issued under section 702, Public Law 110–229, 100 Stat. 842.

§ 212.1 [Amended]

■ 2. Amend § 212.1, paragraphs (e)(1) introductory text and (q)(1) introductory text, by removing the date “June 1, 2009” and adding in its place “November 28, 2009”.

PART 215—CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES

■ 3. The general authority citation for part 215 continues to read as follows:

Authority: 8 U.S.C. 1101; 1104; 1184; 1185 (pursuant to Executive Order 13323, published January 2, 2004); 1365a note, 1379, 1731–32.

§ 215.1 [Amended]

■ 4. Amend § 215.1, paragraphs (e), (g)(9), and (j), by removing the date “June 1, 2009” and adding in its place “November 28, 2009”.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 5. The authority for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, published January 2, 2004), 1201, 1224, 1225, 1226, 1228, 1365a note, 1379, 1731–32; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458).

§ 235.5 [Amended]

■ 6. Amend § 235.5, paragraph (a), by removing the date “June 1, 2009” and

adding in its place “November 28, 2009”.

19 CFR Chapter 1—Amendments**PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES**

■ 7. The general authority for part 4 and the specific authority citation for § 4.7b continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66; 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. App. 3, 91.

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Section 4.7b also issued under 8 U.S.C. 1101, 1221;

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§ 4.7b [Amended]

■ 8. Amend § 4.7b, paragraph (a), in the definition of “United States,” by removing the date “June 1, 2009” and adding in its place “November 28, 2009”.

PART 122—AIR COMMERCE REGULATIONS

■ 9. The general authority for part 122 and the specific authority citation for § 122.49a continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

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Section 122.49a also issued under 8 U.S.C. 1101, 1221, 19 U.S.C. 1431, 49 U.S.C. 44909.

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§ 122.49a [Amended]

■ 10. Amend § 122.49a, paragraph (a), in the definition of “United States,” by removing the date “June 1, 2009” and adding in its place “November 28, 2009”.

Dated: May 21, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. E9–12345 Filed 5–27–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 23**

[Docket No. CE295; Special Conditions No. 23–235–SC]

Special Conditions: Embraer S.A. Model EMB–505; Full Authority Digital Engine Control (FADEC) System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–505 airplane. This airplane will have a novel or unusual design feature(s) associated with the use of an electronic engine control system instead of a traditional mechanical control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 20, 2009. We must receive your comments by June 29, 2009.

ADDRESSES: Mail two copies of your comments to: Federal Aviation Administration, Small Airplane Directorate, Attn: Rules Docket (ACE–7), Docket No. CE295, 901 Locust, Room 301, Kansas City, Missouri 64106. You may deliver two copies to the Small Airplane Directorate at the above address. Mark your comments: Docket No. CE295. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Peter L. Rouse, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; 816–329–4135, fax 816–329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include