

Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the *Federal Register* on July 22, 1987 (52 FR 27528-27529, Docket No. 87-080) and effective on July 17, 1987, we removed a quarantine on portions of Dade County, Florida, that had been imposed because of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), and removed restrictions on the interstate movement of regulated articles from the quarantined portions of Dade County.

We solicited comments on the interim rule for 60 days, ending September 21, 1987. No comments were received. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This amendment removes restrictions on the interstate movement of regulated articles from portions of Dade County, Florida. Very little commercial activity in the previously quarantined area is affected by this rule.

Specifically, the quarantined area was comprised of private residences and small shops. The small entities that may be affected by this regulation consist of approximately 70 nurseries, 40 retail stores, 90 Street vendors and open fruit stands, and 20 premises with orchards and vegetable plots (ranging in size from ¼ acre to ten acres). However, these small entities sell regulated articles primarily for local, intrastate, not interstate, movement. Also, many of the retail shops and nurseries sell other

items in addition to the regulated articles so that the effect, if any, that this regulation will have on these entities appears to be minimal. Further, the number of affected entities mentioned above is small compared with the thousands of small entities that move these articles interstate from other states.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the *Federal Register* on July 22, 1987 (52 FR 27528-27529).

Done in Washington, DC, this 4th day of November 1987.

Donald Houston

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-25929 Filed 11-6-87; 8:45 am]

BILLING CODE 3410-34-M

7 CFR Part 301

[Docket No. 87-129]

Oriental Fruit Fly

AGENCY: Animal and Plant Health Inspection Service,

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that quarantined portions of Los Angeles and Orange Counties in California because of the

Oriental fruit fly and restricted the interstate movement of regulated articles from the quarantined areas. The interim rule was necessary on an emergency basis to prevent the artificial spread of the Oriental fruit fly into noninfested areas of the United States.

EFFECTIVE DATE: December 9, 1987. The incorporation of certain publications listed in the regulations was approved by this Director of the Federal Register on July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the *Federal Register* on July 22, 1987 (52 FR 27529-27536, Docket Number 87-095) and effective July 17, 1987, we quarantined portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly and restricted the interstate movement of regulated articles from the quarantined areas.

We solicited comments on the interim rule for 60 days, ending September 21, 1987. We received no comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the quarantined area, fewer than 60 small entities may be affected. These include commercial growers of tomatoes and cucumbers, no more than 9 outdoor or mobile fruit stands, 38 nurseries and 2 community gardens.

Except for the nurseries, most of the sales by these entities are local, intrastate, and would not be affected by the quarantine. Impact on the nurseries will be minimized by use of the authorized soil treatment, which is effective immediately after application. The two chief products of commercial growers in the regulated areas, tomatoes and cucumbers, may be moved immediately following methyl bromide treatment of the articles, which takes only a few hours. The malathion bait spray treatment authorized for premises, which takes 21 to 30 days and is applied during the growing period, should not delay harvest and shipment.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the *Federal Register* on July 22, 1987 (52 FR 27529-27536).

Done at Washington, DC, this 4th day of November, 1987.

Donald Houston,

Administrator Animal and Plant Health Inspection Service.

[FR Doc. 87-25930 Filed 11-6-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS 1046-87]

Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule amends the regulations at 8 CFR 274a.6, defining procedures for state employment agencies in verifying the identity and employment eligibility of individuals and certifying verifications to employers. Participation by state employment agencies in the employment eligibility verification system is authorized by section 274A(a)(5) of the Immigration and Nationality Act (the Act), as amended by the Immigration Reform and Control Act of 1986 (IRCA). Final rules at 8 CFR 274a.6, implementing section 274A(a)(5) of the Act, were published in the *Federal Register* on May 1, 1987, 52 FR 16221-16228, and became effective on June 1, 1987. This interim rule is predicated upon recommendations in response to those final rules from the United States Employment Service (USES), the Interstate Conference of Employment Security Agencies (ICESA), its constituent organizations, and interested parties. This interim rule revises 8 CFR 274a.6 by: (1) Distinguishing between the verification and certification processes; (2) requiring direct transmittal of a certification from a state employment agency to an employer; (3) requiring certification issuance relating only to an individual who is actually hired by the employer to which referred by the state employment agency; (4) requiring the state employment agency to issue a certification so that it will be received by the employer within 21 business days of the date that the referred individual is hired; (5) permitting a job order or other appropriate referral form issued by the state employment agency, or an employer's record of a telephonic referral, to serve as evidence of the employer's compliance with the verification requirements during the 21 business-day period following the date that the individual is hired; (6) enabling a participating state employment agency to elect not to conduct the verification process or issue a certification relating to an agency-referred individual hired by an employer for a period of employment not exceeding three days in

duration; (7) redefining the contents of the certification; (8) revising guidelines for record retention by state employment agencies; (9) specifying employment verification requirements in the case of an individual who was previously referred and certified by a state employment agency; (10) delineating employment verification requirements relating to the rehiring of an individual by an employer, who was previously certified to the same employer; and (11) deleting reference to the liability of state employment agencies under the penalty provisions of sections 274A(e) and 274A(f) of the Act, and 8 CFR 274a.10. Prompt establishment of the requirements and procedures contained in this interim rule is necessary to ensure that Service operations are conducted in a manner consistent with the public interest, and to effect Congressional intent and the objectives of the law. For these reasons, this rule is published as an interim rule with a request for comments.

DATE: Interim final rule effective November 9, 1987; comments must be submitted on or before January 8, 1988.

ADDRESS: Written comments must be submitted in triplicate and mailed to: Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Room 2207, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Deputy Assistant Commissioner, Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone (202) 633-2997.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1986, the President signed into law the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603. This legislation is the most comprehensive reform of the nation's immigration laws in 35 years. IRCA created prohibitions against knowingly employing aliens who are not authorized to work in the United States, established employment verification requirements, provided for enhanced enforcement measures, instituted a program for legalization of qualifying aliens, and effected new antidiscrimination provisions for unfair immigration-related employment practices.

Section 101 of IRCA added section 274A to the Immigration and Nationality Act (the Act). This section renders it unlawful for a person or other entity, after November 6, 1986, to hire, or to recruit or refer for a fee for employment, an individual knowing that he or she is not authorized by law to work in the

United States. Section 274A of the Act also prohibits a person or entity from continuing to employ an individual, hired after November 6, 1986, knowing that he or she is or has become unauthorized to work in the United States. To control unlawful employment, the statute imposes a graduated scale of civil penalties on those who violate these provisions. Employers who engage in a pattern or practice of violations are subject to criminal penalties.

Additionally, section 274A(b) of the Act, and its augmenting regulations at 8 CFR 274a.2, define an employment eligibility verification system which requires an employer to verify the identity and employment eligibility of all individuals hired after November 6, 1986. Recruiters and referrers for a fee must verify all persons recruited or referred after May 31, 1987, if the person is hired by the employer to which referred. Verification procedures require an employer, recruiter, or referrer to examine a document or combination of documents presented by the newly hired or referred individual evidencing identity and employment eligibility. Recordation of the verification is made by the employer, recruiter, or referrer on the Employment Eligibility Verification Form, I-9. The individual must attest on Form I-9 that he or she is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized by law to work in the United States. The employer, recruiter, or referrer must attest on Form I-9 that he or she has verified the identity and employment eligibility of the individual through an examination of the document or documents presented by the individual. The statute further requires the employer to retain the Form I-9 for three years after the date that the individual is hired, or for one year after the employee is terminated, whichever period of time is longer. Regulations require a recruiter or referrer to retain a Form I-9 for a period of three years after the date that the individual is hired by the entity to which referred. Employers, recruiters, and referrers must make the form available for inspection by officers of the Service or the Department of Labor. The statute imposes civil money penalties for failure of the employer, recruiter, or referrer to comply with the verification requirements.

Authority

Section 274A(a)(5) of the Act permits a state employment agency to elect to verify through document examination the identity and employment eligibility of individuals referred to employers by the agency, and to provide to employers

documentation certifying the verifications. An employer in receipt of a state agency certification need not conduct an examination of documentation evidencing the individual's identity and employment eligibility and need not complete a Form I-9 with respect to that individual. Pursuant to statute, if an employer retains the state employment agency certification for the length of time required for retention of a Form I-9 and makes the certification available to officers of the Service or the Department of Labor, the employer is deemed to have complied with the requirements of the employment verification system. This interim rule amends regulations at 8 CFR 274a.6 which specify verification and certification procedures for state employment agencies.

Regulatory History

The Service's efforts to promulgate rules implementing the employer provisions of IRCA were initiated immediately after the enactment of the law. The potential for significant involvement in the verification process by state employment agencies was recognized by Service officials early in the rulemaking process. Rules implementing section 274A(a)(5) of the Act needed to be drafted in a manner that would enable and encourage participation in the verification process by as many state employment agencies as possible. Service officials were cognizant of differences among the various state employment agency systems. Because participating agencies would need to maintain records of verification and issue certificates of verification, the most significant of these differences involved record-keeping capabilities and the extent and nature of record-keeping automation. To the extent possible, rules pertaining to section 274A(a)(5) of the Act needed to accommodate and address these differences.

Also, it became evident that participation by some state employment agencies would be contingent upon requirements imposed by final rules implementing and further defining verification procedures mandated at section 274A(b) of the Act. Because they would generally apply to participating state employment agencies, Service officials realized that the requirements would constitute factors in the decision to participate by officials of some state employment agencies. A possible need to amend final regulations at 8 CFR 274a.6, implementing section 274A(a)(5) of the Act, was envisioned by Service officials in the rulemaking process, and

was stated in the preamble to the final regulations.

On January 20, 1987, the Service published a notice in the *Federal Register*, 52 FR 2115, to solicit comments from the public and other interested parties concerning draft rules implementing the employer provisions of IRCA. Interested parties were provided with preliminary working drafts of regulations for review and comment. The working draft included proposed state employment agency verification procedures predicated upon the use of the Form I-9 as the certification document. Comments received in response to the preliminary working draft revealed that additional regulatory development was needed in order to draft rules defining procedures that would be more conducive to state employment agency operations while addressing Service concerns relating to certification document integrity.

For this reason, in its proposed rules published for comment in the *Federal Register*, 52 FR 8762-8767, on March 19, 1987, the Service stated its desire for additional information concerning this matter. At 8 CFR 274a.6, the section designated for state employment agency verification and certification procedures, the Service stated the following:

The Service desires to develop guidelines relating to [the] role of state employment agencies in the issuance of certificates pursuant to section 274A(a)(5) of the Act, and requests the suggestions and comments of the public on this matter. A prime concern of the Service is the prevention of counterfeiting or misuse of such certificates while limiting the burden on state agencies in their issuance.

In response to this solicitation, the Service received a number of written and verbal comments from the United States Employment Service (USES) and the Interstate Conference of Employment Security Agencies (ICESA), the recognized organization representing state employment agencies. Comments were also received from the employment agencies of several states and other interested parties. Service officials also attended several meetings with representatives of state employment agencies. Based upon these comments and communications, it was apparent that final rules pertaining to state employment agency verification and certification would probably need to be amended. However, because the Act required publication of effective rules by June 1, 1987, and because it was deemed in the public interest, Service officials decided to proceed with the publication of final rules pertaining to state employment agencies and to advise the public in the preamble to the rules of the

potential need for amendment. Rules at 8 CFR 274a.6 were published in the *Federal Register*, 52 FR 16221-16228, on May 1, 1987, in conjunction with final rules implementing the employer provisions of IRCA. In the preamble to the rules the Service stated the following:

The rule provides for procedures relating to verification by a state employment agency. These procedures were developed on the basis of discussions with state employment agencies. INS also attended several open forums at which state employment agencies were well represented. INS anticipates that future modifications to this rule will be forthcoming in order to further develop standardized certification forms and procedures for all state agencies which choose to exercise the option to issue certifications which is granted them under the statute.

Throughout the rulemaking process, the Service has been in consultation with USES and ICESA. Since the publication of final rules on May 1, 1987, the Service has continued the mutual dialogue with ICESA and its constituent organizations for the purpose of revising the regulations to permit participation in the verification process by as many state employment agencies as possible and to minimize their burden in issuing certificates of verification.

Interim Rule

This rule, which is published as an interim rule with an immediate effective date and a 60-day comment period, incorporates revisions recommended by ICESA. This rule revises final regulations at 8 CFR 274a.6, published in the *Federal Register*, 52 FR 16221, on May 1, 1987, by:

1. Distinguishing between the verification and certification processes;
2. Requiring direct transmittal of a certification from a state employment agency to an employer;
3. Requiring certification issuance relating only to an individual who is actually hired by the employer to which referred by the state employment agency;
4. Requiring the state employment agency to issue a certification so that it will be received by the employer within 21 business days of the date that the referred individual is hired;
5. Permitting a job order or other appropriate referral form issued by the state employment agency, or an employer's record of a telephonic referral, to serve as evidence of the employer's compliance with the verification requirements during the 21 business-day period following the date that the individual is hired;

6. Enabling a participating state employment agency to elect not to conduct the verification process or issue a certification relating to an agency-referred individual hired by an employer for a period of employment not exceeding three days in duration;

7. Redefining the contents of the certification to include:

- (a) A date of issuance;
- (b) The name and birth date of the referred individual;
- (c) An identification of the position or type of employment to which the individual was referred and a job order number assigned to the position;
- (d) An identification of the document or documents presented by the referred individual for verification purposes and the corresponding number(s) of the document(s);

8. Redefining the contents of the certification to eliminate the requirement that it contain the embossed seal of the state employment agency;

9. Requiring the individual to sign the certification in the presence of the employer upon receipt of the certification;

10. Requiring the certification to contain a statement that counterfeiting, falsification, unauthorized issuance or alteration of the certification constitutes a violation of federal law pursuant to Title 18, U.S.C. 1546;

11. Permitting a state employment agency to retain a Form I-9 used in the verification process either in its original form, on microfilm or microfiche;

12. Permitting a state employment agency to retain the certification in a manner determined by the agency that will enable the retrieval of the information contained on the original certification for comparison with the relating Form I-9;

13. Specifying employment verification requirements in the case of an individual who was previously referred and certified by a state employment agency; and

14. Delineating employment verification requirements relating to the rehiring of an individual by an employer, who was previously certified to the same employer.

15. Deleting reference to the liability of state employment agencies under the penalty provisions of sections 274A(e) and 274A(f) of the Act, and 8 CFR 274a.10.

Justification for Interim Rule

The Immigration and Naturalization Service is invoking the "good cause" exception to the notice of proposed rulemaking requirement of 5 U.S.C. 553(b). The justification for waiving

notice of proposed rulemaking is as follows: Notice of this rule and relevant public procedure would be contrary to the public interest. This rule is necessary in order to ensure maximum participation as intended by Congress in the verification system by state employment agencies, to ameliorate procedural difficulties in some state employment agency systems occasioned by the requirements of the current rule, and to enhance the security and integrity of the employment verification system.

At a meeting held at the Service's Central Office on June 19, 1987, representatives of USES, ICESA, and other parties advised Service officials to promulgate an interim rule effective upon publication with a comment period. ICESA and state officials at the meeting stressed the need for expeditious publication of the interim rule to enable a number of state employment agencies to respond to public and constituent interest by participating in the verification system. Therefore, the Service believes the public interest is served by invoking the "good cause" exception to the notice of proposed rulemaking and the 30-day effective date requirements of 5 U.S.C. 553 (b) and (d), and by implementing this rule effective immediately with a 60-day comment period.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization Service certifies that this rule will not have significant impact on a substantial number of small entities.

This rule is not a major rule as defined within the meaning of section 1(b) of EO 12291.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act, under control number 1115-0136.

List of Subjects in 8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment.

For the reasons set out in the preamble, INS amends Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for Part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324A.

2. Section 274a.6 is revised to read as follows:

§ 274a.6 State employment agencies.

(a) *General.* Pursuant to sections 274A(a)(5) and 274A(b) of the Act, a state employment agency as defined in § 274a.1 of this part may, but is not required to, verify identity and employment eligibility of individuals referred for employment by the agency. However, should a state employment agency choose to do so, it must:

(1) Complete the verification process in accordance with the requirements of § 274a.2(b) of this part *provided* that the individual may not present receipts in lieu of documents in order to complete the verification process as otherwise permitted by § 274a.2(b)(1)(vi) of this part; and

(2) Complete the verification process prior to referral for all individuals for whom a certification is required to be issued pursuant to paragraph (c) of this section.

(b) *Compliance with the provisions of section 274A of the Act.* A state employment agency which chooses to verify employment eligibility of individuals pursuant to § 274a.2(b) of this part shall comply with all provisions of section 274A of the Act and the regulations issued thereunder.

(c) *State employment agency certification.* (1) A state employment agency which chooses to verify employment eligibility pursuant to paragraph (a) of this section shall issue to an employer who hires an individual referred for employment by the agency, a certification as set forth in paragraph (d) of this section. The certification shall be transmitted by the state employment agency directly to the employer, personally by an agency official, or by mail, so that it will be received by the employer within 21 business days of the date that the referred individual is hired. In no case shall the certification be transmitted to the employer from the state employment agency by the individual referred. During this period:

(i) The job order or other appropriate referral form issued by the state employment agency to the employer, on behalf of the individual who is referred and hired, shall serve as evidence, with respect to that individual, of the employer's compliance with the provisions of section 274A(a)(1)(B) of the Act and the regulations issued thereunder.

(ii) In the case of a telephonically authorized job referral by the state employment agency to the employer, an appropriate annotation by the employer shall be made and shall serve as evidence of the job order. The employer should retain the document containing

the annotation where the employer retains Forms I-9.

(2) Job orders or other referrals, including telephonic authorizations, which are used as evidence of compliance pursuant to paragraph (c)(1)(i) of this section shall contain:

- (i) The name of the referred individual;
- (ii) The date of the referral;
- (iii) The job order number or other applicable identifying number relating to the referral;
- (iv) The name and title of the referring state employment agency official; and
- (v) The telephone number and address of the state employment agency.

(3) A state employment agency shall not be required to verify employment eligibility or to issue a certification to an employer to whom the agency referred an individual if the individual is hired for a period of employment not to exceed 3 days in duration. Should a state agency choose to verify employment eligibility and to issue a certification to an employer relating to an individual who is hired for a period of employment not to exceed 3 days in duration, it must verify employment eligibility and issue certifications relating to *all* such individuals. Should a state employment agency choose not to verify employment eligibility or issue certifications to employers who hire, for a period not to exceed 3 days in duration, agency-referred individuals, the agency shall notify employers that, as a matter of policy, it does not perform verifications for individuals hired for that length of time, and that the employers must complete the identity and employment eligibility requirements pursuant to § 274a.2(b) of this part. Such notification may be incorporated into the job order or other referral form utilized by the state employment agency as appropriate.

(4) An employer to whom a state employment agency issues a certification relating to an individual referred by the agency and hired by the employer, shall be deemed to have complied with the verification requirements of § 274a.2(b) of this part *provided* that the employer:

- (i) Reviews the identifying information contained in the certification to ensure that it pertains to the individual hired;
- (ii) Observes the signing of the certification by the individual at the time of its receipt by the employer as provided for in paragraph (d)(13) of this section;
- (iii) Complies with the provisions of § 274a.2(b)(1)(vii) of this part by either:

(A) Updating the state employment agency certification in lieu of Form I-9, upon expiration of the employment

authorization date, if any, which was noted on the certification issued by the state employment agency pursuant to paragraph (d)(11) of this section; or

(B) By no longer employing an individual upon expiration of his or her employment authorization date noted on the certification;

(iv) Retains the certification in the same manner prescribed for Form I-9 in § 274a.2(b)(2) of this part, to wit, three years after the date of the hire or one year after the date the individual's employment is terminated, whichever is later; and

(v) Makes it available for inspection to officers of the Service or the Department of Labor, pursuant to the provisions of section 274A(b)(3) of the Act, and § 274a.2(b)(2) of this part.

(5) Failure by an employer to comply with the provisions of paragraph (c)(4)(iii) of this section shall constitute a violation of section 274A(a)(2) of the Act and shall subject the employer to the penalties contained in section 274A(e)(4) of the Act, and § 274a.10 of this part.

(d) *Standards for state employment agency certifications.* All certifications issued by a state employment agency pursuant to paragraph (c) of this section shall conform to the following standards. They must:

- (1) Be issued on official agency letterhead;
- (2) Be signed by an appropriately designated official of the agency;
- (3) Bear a date of issuance;
- (4) Contain the employer's name and address;
- (5) State the name and date of birth of the individual referred;
- (6) Identify the position or type of employment for which the individual is referred;
- (7) Bear a job order number relating to the position or type of employment for which the individual is referred;
- (8) Identify the document or documents presented by the individual to the state employment agency for the purposes of identity and employment eligibility verification;
- (9) State the identifying number or numbers of the document or documents described in paragraph (d)(8) of this section;
- (10) Certify that the agency has complied with the requirements of section 274A(b) of the Act concerning verification of the identity and employment eligibility of the individual referred, and has determined that, to the best of the agency's knowledge, the individual is authorized to work in the United States;

(11) Clearly state any restrictions, conditions, expiration dates or other limitations which relate to the individual's employment eligibility in the United States, or contain an affirmative statement that the employment authorization of the referred individual is not restricted;

(12) State that the employer is not required to verify the individual's identity or employment eligibility, but must retain the certification in lieu of Form I-9;

(13) Contain a space or a line for the signature of the referred individual, requiring the individual under penalty of perjury to sign his or her name before the employer at the time of receipt of the certification by the employer; and

(14) State that counterfeiting, falsification, unauthorized issuance or alteration of the certification constitutes a violation of federal law pursuant to Title 18, U.S.C 1546.

(e) *Retention of Form I-9 by state employment agencies.* A Form I-9 utilized by a state employment agency in verifying the identity and employment eligibility of an individual pursuant to § 274a.2(b) of this part must be retained by a state employment agency for a period of three years from the date that the individual was last referred by the agency and hired by an employer. A state employment agency may retain a Form I-9 either in its original form, or on microfilm or microfiche.

(f) *Retention of state employment agency certifications.* A certification issued by a state employment agency pursuant to this section shall be retained:

(1) By a state employment agency, for a period of three years from the date that the individual was last referred by the agency and hired by an employer, and in a manner to be determined by the agency which will enable the prompt retrieval of the information contained on the original certification for comparison with the relating Form I-9;

(2) By the employer, in the original form, and in the same manner and location as the employer has designated for retention of Forms I-9, and for the period of time provided in paragraph (c)(4)(iv) of this section.

(g) *State employment agency verification requirements in the case of an individual who was previously referred and certified.* When a state employment agency refers an individual for whom the verification requirements have been previously complied with and a Form I-9 completed, the agency shall inspect the previously completed Form I-9:

(1) If, upon inspection of the Form, the agency determines that the Form I-9

pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I-9 need be completed prior to issuance of a new certification *provided* that the individual is referred by the agency within 3 years of the execution of the initial Form I-9.

(2) If, upon inspection of the Form, the agency determines that the Form I-9 pertains to the individual but that the individual does not appear to be authorized to be employed in the United States based on restrictions, expiration dates or other conditions annotated on the Form I-9, the agency shall not issue a certification unless the agency follows the updating procedures pursuant to § 274a.2(b)(1)(vii) of this part; otherwise the individual may no longer be referred for employment by the state employment agency.

(3) For the purposes of retention of the Form I-9 by a state employment agency pursuant to paragraph (e) of this section, for an individual previously referred and certified, the state employment agency shall retain the Form for a period of 3 years from the date that the individual is last referred and hired.

(h) *Employer verification requirements in the case of an individual who was previously referred and certified.* When an employer rehires an individual for whom the verification and certification requirements have been previously complied with by a state employment agency, the employer shall inspect the previously issued certification.

(1) If, upon inspection of the certification, the employer determines that the certification pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I-9 or certification need be completed *provided* that the individual is rehired by the employer within 3 years of the issuance of the initial certification, and that the employer follows the same procedures for the certification which pertain to Form I-9, as specified in § 274a.2(c)(1)(i) of this part.

(2) If, upon inspection of the certification, the employer determines that the certification pertains to the individual but that the certification reflects restrictions, expiration dates or other conditions which indicate that the individual no longer appears authorized to be employed in the United States, the employer shall verify that the individual remains authorized to be employed and shall follow the updating procedures for the certification which pertain to Form

I-9, as specified in § 274a.2(c)(1)(ii) of this part; otherwise the individual may no longer be employed.

(3) For the purposes of retention of the certification by an employer pursuant to this paragraph for an individual previously referred and certified by a state employment agency and rehired by the employer, the employer shall retain the certification for a period of 3 years after the date that the individual is last hired, or one year after the date the individual's employment is terminated, whichever is later.

Date: September 21, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87-25824 Filed 11-6-87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ASW-30; Amdt. 39-5754]

Airworthiness Directives; Sikorsky Model S-76A/B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the removal of certain electrical door locking actuators on Sikorsky Model S-76A/B helicopters. The AD is needed to prevent the passenger doors from jamming in the locked position and prohibiting passenger emergency egress.

DATES: Effective date: December 10, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1987.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601-1381.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Fort Worth, Texas 76193-0007.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Federal Aviation Administration, ANE-153, 12 New England Executive Park, Burlington,