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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 235

[INS No. 1796-96]

RIN 1115-AE53

Canadian Border Boat Landing Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: Immigration and Naturalization Service (Service) published an interim rule in the **Federal Register** on September 11, 1997, which amended the regulations to clarify and standardize procedures for the application, issuance, and use of Form I-68, Canadian Border Boat Landing Card. This rule adopts the interim rule as final with two minor changes. The first change clarifies that a Visa Waiver Pilot Program (VWPP) national participating in the I-68 program need not obtain or have a visa, provided that he or she is in possession of a valid unexpired I-94W and the Form I-68. This change is consistent with the requirements for entry into the United States by a VWPP participant. The second change provides that the Form I-68 is valid for 1 year regardless of the length of validity of an applicant's Form I-94 or I-94W.

DATES: This final rule is effective August 6, 1999.

FOR FURTHER INFORMATION CONTACT:

Jennifer Sava, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4057, Washington, DC 20536, telephone (202) 307-1942.

SUPPLEMENTARY INFORMATION:

Background

In general, the Service regulations at 8 CFR 235.1(a) require that an application for entry into the United States must be made in person to an Immigration Officer at a U.S. port-of-entry (POE) at a time when the port is open for inspection. However, 8 CFR 235.1(e) provides an exception to this requirement by providing for participation in the Canadian Border Boat Landing Permit (I-68) program, which allows certain persons who enter the United States by small boat to be inspected once per year, and thereafter enter from time to time for recreational purposes without further inspection.

On August 7, 1995, the Service published a final rule in the **Federal Register** at 60 FR 40064, establishing a fee of \$16 per individual with a family cap of \$32 for applying to participate in the I-68 program. A family was described in that rule as a husband, wife, unmarried children under 21 years of age, and the parents of either husband or wife residing at the same address.

During the past several years, members of the boating community and members of Congress have expressed concern regarding the I-68 program. Specifically, they were concerned that the enrollment and enforcement criteria and procedures vary from district office to district office and that the permit is sometimes difficult to obtain. The imposition of a fee for the permit also sparked concern.

In an effort to improve the I-68 program, the Service met with members of the boating community, other Federal inspection and enforcement agencies, congressional staffers, and representatives of the Canadian Government on August 13, 1996, in Alexandria, Virginia. Numerous suggestions for improving the program were received and were incorporated into an interim rule that was published in the **Federal Register** on September 11, 1997, at 62 FR 47749.

The interim rule amended the regulations to allow:

(1) Boaters to enter the United States for pleasure for brief visits which do not exceed 72 hours in duration to travel within 25 miles of the shoreline area along the northern border of the United States.

(2) Persons who are renewing a valid permit to do so by mail;

(3) Persons who are enrolled in one of the Service's Alternative Inspection programs to be automatically included in the I-68 program without requiring an additional application or fee; and

(4) The inclusion in the program of landed immigrants of Canada, who are not citizens of British Commonwealth Countries, provided they are nationals of a country designated for participation in the VWPP and are in possession of a valid, unexpired passport issued by their country of nationality, an unexpired United States visa, and a valid multiple entry I-94 to the United States.

The interim rule included a request for comments by November 10, 1997. The Service received one response concerning several issues in the interim rule. The following is a discussion of the comment and the Service's response.

Discussion of Comment

Fees

The commenter wanted to abandon the cost associated with obtaining the Form I-68. Under the Federal User Fee Statute, 31 U.S.C. 9701, and the Office of Management and Budget Circular A-25, User Charges, reasonable charges should be imposed to recover the full cost to the Federal Government of rendering certain services that provide a specific benefit to the recipient of those services. Accordingly, the fee for the I-68 will be retained in the final rule.

Difficulty in Obtaining Permit

The commenter states that obtaining the permit is difficult. The Service disagrees. Each boating season, in order to make this benefit easily available, inspectors travel to boat shows, marinas, and other gatherings to issue the Form I-68. In addition, the Service's districts mount publicity campaigns to educate boaters about these requirements. The Service has further reduced this burden by allowing a person to renew a valid permit by mail. Application forms are available by mail to the public. Applicants may call 1-800-870-3676 to obtain Form I-68. The I-68 application forms are also available at the INS Home Page on the World Wide Web at <http://www.ins.usdoj.gov>. Further, the Service has reduced the burden on the public by considering those persons who are enrolled in one of the Service's Alternative Inspections programs such

as the Immigration and Naturalization Service's Passenger Accelerated Service System (INSPASS), the Dedicated Commuter Lane (DCL), or an Automated Permit Port (APP) program to be automatically included in the I-68 program without requiring an additional application or fee.

Using a Cost-Free Telephone Reporting Requirement

The commenter also suggested the use of a cost-free telephone reporting system for boaters entering the United States. Telephonic inspections, which are allowed by Customs Service regulations to satisfy their reporting requirements, are not authorized by Service Regulations. The Service requires that every person entering the United States must be inspected in a manner that includes face-to-face interaction with an immigration officer or verification of biometric information of the applicant for admission. The Service has developed a videophone reporting system which meets these requirements that may serve as an alternative to the I-68 program. The purpose of the videophone inspection program is to facilitate international border crossing by providing a convenient and cost effective means of reporting to the Service. The Service has implemented videophones at several sites in New York, Michigan, Ohio, and Pennsylvania. The Service may consider expansion to other sites after this reporting system for boaters is evaluated, and if it is shown to be efficient.

Changes in the Final Rule

In reviewing the interim rule, the Service has determined that the requirement that I-68 program participants who do not share a common nationality with Canadian nationals, but who are nationals of designated VWPP countries, must have a unexpired visa, is not consistent with the general admission requirements for VWPP nationals seeking admission into the United States as VMPP participants. The VWPP allows nationals from designated countries, who are otherwise admissible, to visit the United States for up to 90 days for business or pleasure without obtaining a nonimmigrant visa. To be eligible to participate in the I-68 program as a landed Canadian immigrant who is also a VWPP national, the alien must first apply for admission as a VWPP alien at a designed 24-hour staffed Class A POE. If admitted to the United States under the VWPP at a land border POE, the alien will be issued a multiple entry, arrival/departure Form I-94W. At any time during the 90-day

validity period of the I-94W, the VWPP national may enter the United States pursuant to the Canadian Boat Landing Program provided that he or she is in possession of the valid, endorsed, unexpired I-94W, as well the Form I-68. The interim rule stated that Form I-68 shall not be valid for a period longer than the validity of the applicant's Form I-94. The final rule has been amended, however, to state that Form I-68 is valid for 1 year in all cases. It should be noted that once the Form I-94 or I-94W expires, the applicant must once again formally apply for admission at a staffed Class A POE.

Alternatively, a landed immigrant of Canada who is a national of a VWPP country may apply for a nonimmigrant visa, such as a B-2 which is issued to temporary visitors for pleasure, rather than apply for admission under the VWPP. The visa, if approved, would authorize a period of stay in the United States longer than that allowed under the VWPP. Such an alien may participate in the Canadian Boat Landing Program provided that he or she is in possession of the unexpired visa, a valid Form I-94, and a Form I-68 upon each subsequent entry under the program.

Accordingly, the final regulation has been amended to clarify that an I-68 participant who is a VWPP national, but who was not previously admitted under the VWPP and issued a multiple entry I-94W, must be in possession of a non-immigrant visa each time he or she uses the Canadian Boat Landing Program to enter the United States. Regardless of whether such a landed immigrant has been admitted via the VWPP or on a nonimmigrant visa, he or she must be in possession of a Form I-68, valid passport, and a valid, unexpired multiple entry Form I-94 or I-94W.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule merely finalizes an interim rule which was published in the **Federal Register** on September 11, 1997. The interim rule was developed and issued after the Service conducted meetings with members of the boating community, other Federal inspection and enforcement agencies, congressional staffers, and representatives of the Canadian Government. The intent of the interim and this final rule are to simplify the

application process, and standardize the issuance and use of Form I-68. This final rule imposes no additional burden on applicants or small entities.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations proposed 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, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping

requirements. This information collection (Form I-68) was previously approved for use by the Office of Management and Budget (OMB) under the OMB control number 1115-0065.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passports and visas.

Accordingly, the interim rule amending 8 CFR part 235 which was published at 62 FR 47749 on September 11, 1997, is adopted as a final rule with the following changes:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 235.1 is amended by:

- a. Revising the third sentence in paragraph (e) introductory text;
- b. Revising paragraph (e)(1)(v);
- c. Revising paragraph (e)(4); and by
- d. Revising paragraph (e)(5)(ii), to read as follows:

§ 235.1 Scope of examination.

(e) * * * Landed immigrants of Canada who do not share a common nationality with nationals of Canada, but who are nationals of a designated country listed in § 217.2(a) of this chapter (Visa Waiver Pilot Program) must be in possession of a valid, unexpired passport issued by his or her country of nationality, and an unexpired multiple entry Form I-94 or I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form, and a valid unexpired United States visa (if the alien is not in possession of a valid unexpired Form I-94W). * * *

(1) * * *

(v) A landed immigrant of Canada who does not have a common nationality with nationals of Canada, but who is a national of a designated country listed in § 217.2(a) of this chapter (Visa Waiver Pilot Program) must also present his or her passport, a valid unexpired multiple entry Form I-94 or I-94W and valid, unexpired nonimmigrant visa if he or she is not in possession of a valid, unexpired multiple entry Form I-94W. Such a landed immigrant of Canada may apply for admission simultaneously with the I-68 application and thereby obtain a Form I-94 or I-94W.

(4) *Validity.* Form I-68 shall be valid for 1 year from the date of issuance, or until revoked or violated by the Service.

(5) * * *

(ii) Participants must be in possession of any authorization documents issued for participation in this program or another Service Alternative Inspections program (INSPASS or PORTPASS). Participants over the age of 15 years and who are not in possession of an INSPASS or PORTPASS enrollment card must also be in possession of a photographic identification document issued by a governmental agency. Participants who are landed immigrants of Canada and do not have a common nationality with nationals of Canada, but who are nationals of a designated country listed in § 217.2(a) of this chapter must also be in possession of proper documentation as described in paragraph (e) of this section.

* * * * *

Dated: June 30, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99-17101 Filed 7-6-99; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NM-63-AD; Amendment 39-11218; AD 99-14-07]

RIN 2120-AA64

Airworthiness Directives; Dassault Model 2000, 900EX, and Mystere Falcon 900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Dassault Model Falcon 2000 series airplanes; and certain Dassault Model 900EX, and Mystere Falcon 900 series airplanes, that requires repetitive operational tests of the flap asymmetry detection system to verify proper functioning, and repair, if necessary; repetitive replacement of the inboard flap jackscrews with new jackscrews; repetitive measurement of the screw/nut play to detect discrepancies; and corrective action, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are

intended to prevent jamming of the flap jackscrews, which could result in the inability to move the flaps or an asymmetric flap condition, and consequent reduced controllability of the airplane.

EFFECTIVE DATE: August 11, 1999.

ADDRESSES: Information pertaining to this amendment may be obtained from or examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Dassault Model Falcon 2000 series airplanes; and certain Dassault Model 900EX, and Mystere Falcon 900 series airplanes was published in the **Federal Register** on May 3, 1999 (64 FR 23552). That action proposed to require repetitive operational tests of the flap asymmetry detection system to verify proper functioning, and repair, if necessary; repetitive replacement of the inboard flap jackscrews with new jackscrews; repetitive measurement of the screw/nut play to detect discrepancies; and corrective action, if necessary.

Explanation of Changes Made to This Final Rule

In the applicability paragraph of the proposed rule, the FAA inadvertently transposed the serial numbers for Falcon 900EX and Mystere Falcon 900 series airplanes. Therefore, the applicability paragraph of the final rule has been revised to read, "All Model Falcon 2000 series airplanes; Falcon 900EX series airplanes, serial numbers 04 and subsequent; and Mystere Falcon 900 series airplanes, serial numbers 161 and subsequent; certificated in any category."

For clarification purposes, the FAA also has revised "NOTE 2" of the final rule by changing all references to the "Airplane Flight Manual (AFM)" to correctly reference the "Airplane Maintenance Manual (AMM)."

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has