

a fishing boat is frozen in and cannot be used.

\* \* \* \* \*

(g) *Determining the value of non-excluded vehicles.* (1) The State agency shall individually evaluate the fair market value of each licensed vehicle that is not excluded under paragraph (e)(3) of this section. That portion of the fair market value that exceeds \$4,650 beginning October 1, 1996, shall be counted in full toward the household's resource level, regardless of any encumbrances on the vehicle. Such licensed vehicles as well as all unlicensed vehicles shall *also* be evaluated for their equity value (fair market value less encumbrances), unless specifically exempt from the equity value test. If the vehicle has a countable fair market value of more than \$4,650 after October 1, 1996, and also has a countable equity value, only the greater of the two amounts shall be counted as a resource. Only the following vehicles are exempt from the equity value test:

(i) Vehicles excluded under paragraph (e)(3)(i) of this section;

(ii) One licensed vehicle per household; and

(iii) Any other vehicle used to transport household members to and from employment (including times during temporary periods of unemployment), or to and from training or education that is preparatory to employment, or to seek employment in compliance with the employment and training criteria specified in § 273.7.

(2) State agencies shall be responsible for establishing methodologies for determining the fair market value of vehicles. In establishing such methodologies, the State agency shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment or special apparatus for the handicapped. Households which claim that the State agency's determination of the value of its vehicle(s) does not apply shall be given the opportunity to acquire verification of the true value of the vehicle from a reliable source.

\* \* \* \* \*

#### 7. In § 273.9:

a. Paragraph (c)(12) is removed and paragraphs (c)(13), (c)(14), (c)(15), (c)(16) and (c)(17) are redesignated as paragraphs (c)(12), (c)(13), (c)(14), (c)(15) and (c)(16) respectively.

b. Paragraphs (d)(7) and (d)(8) are revised to read as follows:

#### § 273.9 Income and deductions.

\* \* \* \* \*

(d) \* \* \*

(7) *Adjustment of standard deduction.* Effective October 1, 1996, for each

household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the standard deduction shall be \$134, \$229, \$189, \$269, and \$118, respectively.

(8) *Adjustment of shelter deduction.* In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam and the Virgin Islands of the United States, the excess shelter expense deduction shall not exceed

(i) For the period beginning August 22, 1996, and ending on December 31, 1996, \$247, \$429, \$353, \$300, and \$182 per month, respectively;

(ii) For the period beginning on January 1, 1997, and ending on September 30, 1998, \$250, \$434, \$357, \$304, and \$184 per month, respectively;

(iii) For the period beginning on October 1, 1998 and ending on September 30, 2000, \$275, \$478, \$393, \$334, and \$203 per month, respectively; and

(iv) For the period beginning on October 1, 2000 and thereafter, \$300, \$521, \$429, \$364, and \$221 per month, respectively.

\* \* \* \* \*

8. In § 273.10 paragraph (e)(4)(ii) is revised to read as follows.

#### § 273.10 Determining household eligibility and benefit levels.

\* \* \* \* \*

(e) Calculating net income and benefit levels. \* \* \*

(4) Thrifty Food Plan (TFP) and Maximum Food Stamp Allotments.

\* \* \*

(ii) Adjustment. Effective October 1, 1996, the maximum food stamp allotments shall be based on 100% of the cost of the TFP as defined in section 271.2 for the preceding June, rounded to the nearest lower dollar increment, except that on October 1, 1996, the allotments may not fall below those in effect on September 30, 1996.

\* \* \* \* \*

#### § 276.2 [Amended]

9. In § 276.2, paragraph (e) is removed.

Dated: June 29, 1999.

**Shirley R. Watkins,**

*Under Secretary, Food, Nutrition, and Consumer Services.*

[FR Doc. 99-17445 Filed 7-9-99; 8:45 am]

BILLING CODE 3410-30-U

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 241

[INS No. 1848-97]

RIN 1115-AE83

#### Early Release for Removal of Criminal Aliens in State Custody Convicted of Nonviolent Offenses

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend the Immigration and Naturalization Service (INS) regulations relating to apprehension and removal of aliens under section 241 of the Immigration and Nationality Act (Act). This proposed rule establishes an administrative process whereby criminal aliens in state custody convicted of nonviolent offenses may be removed prior to completion of their sentence of imprisonment. This proposed rule will implement the authority contemplated by Congress to enhance the ability of the United States to remove criminal aliens.

**DATES:** Written comments must be submitted on or before September 10, 1999.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling please reference INS No. 1848-97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Ronald W. Dodson, Senior Special Agent, Office of Investigations, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, telephone (202) 514-2998. This is not a toll-free number.

#### SUPPLEMENTARY INFORMATION:

#### Background

On April 24, 1996, President Clinton signed into law the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104-132, 110 Stat. 1214. The AEDPA contained numerous provisions dealing with criminal aliens, designed to "enhance the ability of the United States to deport criminal aliens." See Conference Report on S. 735 (H.R. Rept. No. 104-518, dated April 15,

1996), at page 119 (concerning AEDPA Sec. 441).

Section 438(a) of AEDPA added subsection 242(h)(2) to the Act, authorizing, but not compelling, the Attorney General to remove certain aliens convicted of nonviolent offenses prior to the completion of their sentence of imprisonment.

On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, became law. The provisions formerly contained in section 242(h)(2) of the Act, as amended by AEDPA, and subsequently further amended by IIRIRA, are now found in section 241(a)(4)(B) of the Act. Both AEDPA and IIRIRA contain separate provisions, now incorporated in the Act, which distinguish between Federal and state prisoners. However, there are some differences between AEDPA and IIRIRA pertaining to categories of Federal and state inmates barred from early release. Section 305(a) of IIRIRA both expands and contracts the classes of offenders eligible for consideration for early removal under the Act as amended by AEDPA. Under IIRIRA, aliens in the custody of the state convicted of offenses defined in section 101(a)(43)(C) or (E) of the Act are ineligible for early release. Under IIRIRA, alien smuggling is no longer a bar to eligibility for state inmates.

The statutory provisions distinguish between Federal and state inmates. Because of the clear distinctions between provisions and procedures for Federal and state inmates, the two require distinct regulatory separation. The Department of Justice is giving consideration to various means for implementing the statute on the Federal level. This proposed rule addresses state inmates only.

According to section 241(a)(4)(B)(ii), an alien may be removed from state custody if the chief state official exercising authority with respect to the incarceration of the alien makes a determination that the offense is a nonviolent offense, and that removal is in the best interest of the state. The chief state official must then submit a written request for the alien's removal to the Attorney General.

Section 438(b) of the AEDPA amended section 276 of the Act, (8 U.S.C. 1326) to require incarceration for the remainder of their sentence, without parole, of aliens who were released for early removal pursuant to the provisions of section 438(a) of the AEDPA, and who reenter the United States without the express permission of the Attorney General.

Further, section 241(a)(4)(D) of the Act, as amended by IIRIRA, provides that no cause or claim may be asserted under section 241 against any official of the United States or of any state to compel the release, removal, or the consideration for release or removal of any alien.

Procedurally, this proposed regulation provides that in order to participate a state or its political subdivision must have enabling legislation authorizing early release of prisoners. Participation in the program will be contingent on a formal agreement between the state and the Service in the form of a uniform memorandum of understanding. The memorandum of understanding may be modified in writing by mutual consent of the signatories and/or may be canceled by either party upon 30 days' written notice. Only criminal aliens approved by both the state and the Service as suitable candidates will be released to the Service for removal. In accordance with the Victim and Witness Protection Act of 1982 (VWPA) and the Attorney General's Guidelines for Victim and Witness Assistance, the state will make reasonable efforts to notify victims of record regarding the early release of criminal aliens for removal. The state will assist the Service by providing, to the extent allowed under state law, access to and use of information contained in the alien's correctional files to assist in the removal of such criminal aliens. The date of the criminal alien's release will be coordinated between the Service and the governmental entity representing the state or its political subdivision. The criminal alien will remain in the custody of the state until: a final order of removal is issued, there are no impediments to obtaining travel documents for the alien, and arrangements have been made to remove the alien. In order to transfer custody of the criminal alien from the state to the Service, the Service will notify the state when a final order has been issued and removal arrangements have been made. At that time the transfer will take place. If after the transfer of custody, the alien cannot be removed promptly, the Service will return the alien to the custody of the state. The state will enter relevant information relating to such criminal aliens released and removed into its criminal history records system, which must provide for rapid identification of such aliens should they reenter or attempt to reenter the United States or otherwise be encountered by law enforcement personnel. The Service will also develop and maintain a permanent alien file detailing the

identity of each such criminal alien. The Service will ensure that fingerprint dispositions are expeditiously forwarded to the Federal Bureau of Investigation (FBI) for inclusion in the subject's criminal history record and that the alien's name is forwarded to the National Crime Information Center (NCIC). The state may submit names for consideration for removal prior to completion of criminal sentences of aliens who have committed nonviolent offenses as defined under state law, except for offenses specifically excluded by Federal statute. The state will advise such aliens that the release is conditional and the alien must agree in writing that he/she has been informed that the criminal sentence(s) has been suspended, not rescinded, and that such suspended sentence(s) will remain in abeyance for the state to reimpose should the alien must have admitted and conceded the charges and factual allegations which form the basis of the removal action, and must have waived all rights to appeal any order of removal and waived the right to apply for relief from removal. The criminal alien must remain outside the United States and agree to refrain from making any attempt to reenter the United States for the time period statutorily specified in 8 U.S.C. 1182 (10 years, 20 years, or at any time in the case of an alien convicted of an aggravated felony), unless the Attorney General has expressly consented to such alien's reentry. Any unlawful return to the United States shall constitute a violation of the conditions of the alien's release and shall result in such alien's return to the custody of the state for the completion of the alien's sentence and the alien shall be subject to Federal prosecution. The state or the Service will notify the other of any encounter with such alien. If, during the period of any remaining sentence, the criminal alien applies to the Attorney General for readmission after removal under this program, and the Service is inclined to grant the request, the Service will notify the state of that request and provide an opportunity for the state to note any objection.

#### **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 proposed regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because of the following factors:

This proposed rule will not have a significant economic impact on small

entities since it pertains to removal of criminal aliens incarcerated in state institutions (or a political subdivision thereof). The removal of these individuals from the United States will not adversely or materially affect a sector of the economy, cause major increases in costs or prices for consumers or have other adverse effects on the economy in terms of productivity, competition, jobs, or the environment, public health or safety or adversely affect small government jurisdictions.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed 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.

#### **Unfunded Mandates Reform Act of 1995**

This proposed 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. The alien's release under the provisions of this section is conditional. Any violation of the terms of release will result in a violation of that conditional release, resulting in a return to state or local custody. State (or political subdivision thereof) participation in this process is at the discretion of the state or political subdivision thereof. This rule does not impose an enforceable duty on state, local, or tribal governments. Not only is the program voluntary, but the state or political subdivision derives considerable benefit from participation in the program. The state or subdivision is enabled to remove nonviolent offenders from their penal facilities prior to expiration of sentence. This saves the state or subdivision considerable resources. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Paperwork Reduction Act of 1995**

Section 241.17 of this proposed rule allows states or a political subdivision thereof to enter into an agreement with

the Service for participation in an early release program for removal of nonviolent alien offenders in state custody prior to the completion of the alien's sentence to imprisonment. Some of the provisions in the agreement contain information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Therefore, the agency solicits public comments on the information collection requirement for 30 days in order to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Since participation on the part of state is voluntary and the number of states or subdivisions electing to participate is unknown as is an estimate of the number of eligible nonviolent alien offenders states would recommend as candidates for early removal, the Service does not have sufficient data to estimate of the number of hours that would constitute the total annual reporting burden.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Service has submitted a copy of this proposed rule to OMB for its review of the information collection requirement. Other organizations and individuals interested in submitting comments regarding this burden estimate or any aspect of this information collection requirement, including suggestions for reducing the burden should direct them to: Office of Information and Regulatory Affairs (OMB), 725 17th Street, NW, Washington, DC 20503, Attn: DOJ/INS Desk Officer, Room 10235. The comments or suggestions should be submitted within 30 days of publication of this rulemaking.

#### **Executive Order 12866**

This proposed rule is 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. An assessment of the need for the regulatory action, an explanation of how the action will meet that need, an assessment of the potential costs and benefits of the regulatory action and of any reasonable feasible alternatives, and any bearing which the regulatory action has on state, local, and tribal governments in the exercise of their governmental functions has been submitted to the Office of Management and Budget under section 6(a)(3)(B)-(D).

#### **Executive Order 12612**

The regulation proposed herein will not have substantial direct effect 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. As previously stated under the Unfunded Mandates Reform Act of 1995, this proposed rule will save considerable resources of participating states and subdivisions. Therefore, in accordance with Executive Order 12612, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Executive Order 12988 Civil Justice Reform**

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

#### **List of Subjects in 8 CFR Part 241**

Administration practice and procedure, Aliens, Immigration.

Accordingly, part 241 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

#### **PART 241—APPREHENSION AND DETENTION OF ALIENS ORDERED REMOVED**

1. The authority citation for part 241 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1223, 1227, 1251, 1253, 1255, and 1330; 8 CFR part 2.

2. Section 241.17 is added to read as follows:

**§ 241.17 Removal of nonviolent offenders in state custody prior to the completion of the alien's sentence of imprisonment pursuant to section 241(a)(4)(B) of the Act.**

(a) *Authorization.* (1) A state or its political subdivision must have enabling legislation in order to enter into an agreement with the Service for participation in an early release program. Participation in the program will be contingent on a formal agreement bearing the signatures of the Governor of the state or designee and the Commissioner or designee. In the case of a political subdivision, participation will be contingent on the signature of the leading official of the political subdivision and the Commissioner or designee following formal agreement between the state and the Service. An early release program for inmates of a state or political subdivision will be implemented through a Memorandum of Understanding (MOU) developed by the Service. From the date of final publication in the **Federal Register**, requests for consideration under this provision of the Act should be referred to the chief state official exercising authority with respect to the confinement of the alien. Any inquiries pending with the Attorney General or the Service at that time will be referred to the appropriate state authority.

(2) The uniform MOU will constitute the agreement between the Service and a state or political subdivision thereof for the removal of nonviolent alien offenders prior to the completion of the alien's sentence to imprisonment. The MOU will govern the procedures and responsibilities of the parties. Specific operational procedures for implementing the MOU should be negotiated between the appropriate state officials and Service District Offices. The MOU imposes no limitations on the discretion of the Attorney General to exercise authority or to decline to do so with regard to section 241(a)(4)(B) of the Act. The MOU does not confer any rights on any third party.

(b) *Agreement provisions.* The MOU shall include the following provisions:

(1) Only criminal aliens approved by both agencies as suitable candidates will be released to the Service for removal. The Service District Office will review the state's written submission. A query of the National Crime Information Center (NCIC) will be performed to determine if there are outstanding wants or warrants in other jurisdictions. Notification will be provided to the Department of Justice Office of International Affairs of those aliens being considered for early release to provide that office with the opportunity

to note any objection. The Service will indicate by return document which aliens the Service finds appropriate for the program. The decision of the Service District Office as the Attorney General's delegate is not reviewable.

(2) In accordance with the Victims and Witness Protection Act of 1982 (VWPA) and the Attorney General's Guidelines for Victim and Witness Assistance, the state will make reasonable efforts to notify victims of record at the time of request for consideration under this section regarding the early release of the alien for removal and the nature and intent of the removal of nonviolent alien offenders prior to the completion of their sentence to imprisonment.

(3) The state will certify that there are no detainers or other litigation involving the alien as a defendant or witness in any criminal proceeding outstanding at the time of the request for consideration for early release.

(4) The governmental entity representing the state or its political subdivision will assist the Service and its agents by providing, to the extent allowed under state law, access to and use of documents, materials and information contained in the aliens' correctional files for the purpose of assisting the Service in its efforts to remove such criminal aliens from the United States.

(5) The date that criminal aliens are to be released to the Service for removal will be coordinated between the Service and the governmental entity representing the state or its political subdivision. Any criminal alien determined eligible for removal pursuant to section 241(a)(4)(B) of the Act will remain in the custody of the governmental entity representing the state or its political subdivision unit:

(i) A final order of removal is issued against such alien by an Immigration Judge or through any other procedure authorized by law,

(ii) There are no impediments to obtaining travel documents, and

(iii) Arrangements have been made to remove the alien.

(6) In order to transfer custody of the criminal alien from the state to the Service, the Service will notify the governmental entity representing the state or its political subdivision when the final order of removal is issued and the consular official has assured the Service that a travel document will be immediately issued upon presentation of the criminal alien. The Service will then maintain custody of such alien in a secure environment until such time as the Service effectuates the alien's removal from the United States. If, after

the Service has accepted custody of a criminal alien released by the governmental entity representing the state or its political subdivision for removal, the alien cannot be promptly removed from the United States, the Service will return that alien to the custody of the state. The state must accept such alien into its custody unless prevented from doing so by order of a court of competent jurisdiction or other lawful authority.

(7) The state will enter relevant information relating to criminal aliens released and removed subject to the provisions of section 241(a)(4)(B) of the Act into its criminal history records system. Such system must provide for the rapid identification of any alien who is released and removed subject to the provisions of section 241(a)(4)(B) of the Act should such alien reenter or attempt to reenter the United States and/or otherwise be encountered by law enforcement personnel. The Service will develop and maintain a permanent alien file detailing the identity of each criminal alien subject to treatment under section 241(a)(4)(B) of the Act, including his or her fingerprints and photograph, and executed warrant of removal, for the purpose of allowing rapid identification of any alien released for purposes of removal under section 241(a)(4)(B) of the Act, should such alien reenter or attempt to reenter the United States.

(8) The Service will also ensure that fingerprint dispositions are expeditiously forwarded to the Federal Bureau of Investigation for inclusion in the subject's criminal history record and that the alien's name is forwarded to the National Crime Information Center (NCIC).

(9) The state may submit names for consideration for removal prior to completion of criminal sentences of aliens who have committed nonviolent offenses as defined under state law, except for the following offenses specifically excluded by section 241(a)(4)(B) of the Act: illicit trafficking in firearms or destructive devices (as defined in 18 U.S.C. 921), or in explosive materials (as defined in 18 U.S.C. 841(c)); an offense described in 18 U.S.C. 842(h) or (i) or 18 U.S.C. 844(d), (e), (f), (g), (h), or (i) (relating to explosive materials offenses); 18 U.S.C. 922(g)(1), (2), (3), (4), (5), (j), (m), (o), (p), or 18 U.S.C. 924(b) or (h) (relating to firearms offenses); or an offense described in section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses).

(10) Any alien being considered for early release pursuant to section 241(a)(4)(B) of the Act shall be advised

by the governmental entity representing the state or its political subdivision that the release is conditional and the alien must agree in writing that the following special conditions have been met:

(i) The criminal alien has been informed that any state action to release the alien from incarceration pursuant to section 241(a)(4)(B) of the Act will only suspend, not rescind, the alien's remaining criminal sentence(s) and any related period(s) of incarceration, and that such suspended sentence(s) will be tolled and remain in abeyance to be reinstated should the alien breach any of the express conditions of the executive release order.

(ii) The criminal alien has a final order of removal as required under section 241(a)(4)(B) of the Act. Further, the alien must have admitted and conceded the charges and factual allegations which form the basis of the removal action, and must have waived all rights to appeal any order of removal issued pursuant to authorized procedures. The alien must have waived any right to pursue an appeal of the order of removal, or to seek any relief therefrom, and must further waive any possible challenge to removal under domestic or international law, including but not limited to asylum, withholding of removal, and protection from "refoulement" under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(iii) The criminal alien has withdrawn any pending appeal of the underlying criminal conviction and sentence, and waived his or her right to pursue such appeal if the time for filing has not yet expired.

(iv) The criminal alien must cooperate fully with the Service in connection with execution of any final order of removal, particularly with respect to producing travel documents or other evidence of nationality.

(v) The criminal alien must remain outside the United States and agree to refrain from making any attempt to reenter the United States for the period specified by section 212(a)(9)(A)(ii) of the Act (8 U.S.C. 1182(a)(9)(A)(ii)), as amended, in that an alien who has been ordered removed or departed while an order of removal was outstanding is ineligible to seek admission within 10 years of the date of such alien's departure or removal, or within 20 years of such date in the case of a second or subsequent removal, or at any time in the case of an alien convicted of an aggravated felony, unless the Attorney General has expressly consented to such

alien's reentry. Any unlawful return to the United States shall constitute a violation of the alien's conditions of release and shall result in such alien's return to the custody of the state (or political subdivision thereof) for the completion of the alien's sentence and the alien will be subject to Federal prosecution.

(ii) A criminal alien granted early release for removal, who is removed but subsequently illegally returns to the United States may be subject to Federal prosecution. Either party to this agreement shall notify the other of any encounter with such alien. The Attorney General will determine whether the alien should be prosecuted for an unlawful reentry pursuant to section 276 of the Act. After the Attorney General determines whether to prosecute the alien for reentry after removal and any Federal action or period of Federal incarceration has concluded, the state will assume custody of such alien and bear all costs associated with the transportation and escort back to the state or locality. The state (or political subdivision thereof) will hold the alien in state custody to serve the balance of the sentence of imprisonment in an appropriate state facility at state expense.

(12) If, during the period of any remaining sentence, the criminal alien applies to the Attorney General for readmission after removal under this program, and the Service is inclined to grant the request, the Service will notify the state of that request and provide an opportunity for the state to note any objection by the victim or other state authority.

(13) The MOU may be modified in writing at any time by mutual consent of the signatories and/or may be canceled by either party upon 30 days written notice. Pursuant to section 241(a)(4)(D) of the Act, as amended by IIRIRA, no cause or claim may be asserted under section 241 against any official of the United States or of any state to compel the release, removal, or consideration for release or removal of any alien and all MOU's will so state.

Dated: July 2, 1999.

**Doris Meissner,**  
*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 99-17563 Filed 7-9-99; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-CE-13-AD]

RIN 2120-AA64

#### **Airworthiness Directives; The New Piper Aircraft, Inc. J-2 Series Airplanes That are Equipped With Wing Lift Struts**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain The New Piper Aircraft, Inc. (Piper) J-2 series airplanes equipped with wing lift struts. The proposed AD would require repetitively inspecting the wing lift struts for dents and corrosion and the wing lift strut forks for cracks; replacing any strut found with corrosion or dents, or forks with cracks; and repetitively replacing the wing lift strut forks. The proposed AD would also require incorporating a "NO STEP" placard on the lift strut. The proposed AD is the result of the Federal Aviation Administration (FAA) inadvertently omitting the J-2 series airplanes from the applicability of AD 99-01-05. The actions specified by the proposed AD are intended to prevent in-flight separation of the wing from the airplane caused by wing lift struts with dents or corrosion or wing lift forks with cracks, which could result in loss of control of the airplane.

**DATES:** Comments must be received on or before September 8, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-13-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. Copies of the instructions to the F. Atlee Dodge supplemental type certificate (STC) may be obtained from F. Atlee Dodge, Aircraft Services, Inc., P.O. Box 190409, Anchorage, Alaska 99519-0409. Copies of the instructions to the Jensen Aircraft STC's may be obtained from Jensen