grower revenue could range between .11 and .65 percent.

This action continues in effect the action that increased the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order.

In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 16, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on February 1, 2006 (71 FR 5157). Copies of that rule were also mailed or sent via facsimile to all Florida citrus handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on April 3, 2006, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 905 which was published at 71 FR 5157 on February 1, 2006, is adopted as a final rule without change.

Dated: May 9, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–4440 Filed 5–11–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

Citizenship and Immigration Services

8 CFR Parts 1 and 245

[CIS No. 2387–06]
[DHS Docket No. USCIS–2006–0010]

RIN 1615–AB50

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1001 and 1245

[EOIR Docket No. 152; AG Order No. 2819–2006]

RIN 1125–AA55

Eligibility of Arriving Aliens in Removal Proceedings To Apply for Adjustment of Status and Jurisdiction To Adjudicate Applications for Adjustment of Status

AGENCIES: U.S. Citizenship and Immigration Services, DHS; Executive Office for Immigration Review, DOJ.

ACTION: Interim rules with request for comments.

SUMMARY: The Secretary of Homeland Security and the Attorney General are amending their respective agencies' regulations governing applications for adjustment of status filed by paroled arriving aliens seeking to become lawful permanent residents. The Secretary and the Attorney General are also amending the regulations to clarify when United States Citizenship and Immigration Services, or the immigration judges and the Board of Immigration Appeals of the Executive Office for Immigration Review, have jurisdiction to adjudicate applications for adjustment of status by such aliens. In addition, the Secretary and the Attorney General are requesting comments on the possibility of adopting further proposals in the future to structure the exercise of discretion in adjudicating these applications for adjustment of status.

DATES: *Effective date:* These rules are effective May 12, 2006.

Comment date: Comments may be submitted not later than June 12, 2006.

ADDRESSES: You may submit comments, identified by DHS Docket No. DHS–2006–0010, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529. To ensure proper handling, please reference DHS Docket No. USCIS–2006–0010 on your correspondence. This mailing address may also be used for paper, disk, or CD–ROM submissions.
- Hand Delivery/Courier: Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529. Contact Telephone Number (202) 272–8377.

FOR FURTHER INFORMATION CONTACT: *Regarding amendment to 8 CFR parts 1 and 245:* Evan Franke, Litigation Coordination Counsel, Office of the Chief Counsel, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Suite 4025, Washington, DC 20529, telephone (202) 272–1400 (not a toll free call).

Regarding amendments to 8 CFR part 1001 and 1245: MaryBeth Keller, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of these rules. Comments that will provide the most

assistance to the Department of Homeland Security and the Department of Justice will reference a specific portion of the rules, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. In addition to the specific provisions of the rules, the Departments request comments on whether the Secretary and the Attorney General should adopt any presumptions or restrictions on the exercise of discretion as discussed in Part IV of the **SUPPLEMENTARY INFORMATION**. As a convenience to the general public and to the agencies, the Department of Homeland Security will receive all comments on behalf of both agencies, and all comments will be considered by the appropriate agency. See **ADDRESSES** above for information on how to submit comments.

Instructions: All submissions received must include the agency name and DHS Docket No. USCIS–2006–0010. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected at the Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529. To make an appointment, please contact the Regulatory Management Division at (202) 272–8377.

II. Statutory and Regulatory Background

A. Adjustment of Status

Section 245 of the Immigration and Nationality Act (INA or Act), 8 U.S.C.1255, authorizes the Secretary of Homeland Security (Secretary) and the Attorney General, in the exercise of discretion, to adjust an eligible alien's status to that of an alien lawfully admitted for permanent residence. Unless an alien qualifies for adjustment of status under section 245(i) of the Act, 8 U.S.C. 1255(i), an alien seeking adjustment of status must generally show that he or she was inspected at a port-of-entry and either admitted or paroled into the United States. INA sec. 245(a), 8 U.S.C. 1255(a).

As defined by section 101(a)(13)(A) of the Act, an alien is ''admitted'' if an immigration inspector authorized the alien to enter the United States, after having determined on the basis of the alien's inspection that the alien is ''clearly and beyond doubt'' entitled to admission. See INA 235(b)(2) and 240(c)(2)(A), 8 U.S.C. 1225(b)(2) and 1229a(c)(2)(A) (applicant for admission must establish admissibility ''clearly and beyond doubt'').

Alternatively, an alien may be permitted to physically enter the United States temporarily without having been admitted, a concept known as ''parole.'' *Leng May Ma* v. *Barber,* 357 U.S. 185, 188–189 (1958), *quoting Kaplan* v. *Tod,* 267 U.S. 228, 230 (1925). Although the term ''parole'' does have other meanings in common parlance, its meaning for this aspect of the immigration laws is controlled by statute. INA 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), gives the Secretary authority to parole from custody ''any alien applying for admission'' who would otherwise be detained until the Secretary resolves whether to admit or remove the alien. In order to exercise this authority, the Secretary must find, on a case-by-case basis, either that ''urgent humanitarian reasons'' justify the parole or that paroling the alien will yield a ''significant public benefit.'' Id. Although a paroled alien may be at large in the United States, parole, by definition, is not an ''admission.'' *Id.* See INA 101(a)(13)(B), 8 U.S.C. 1101(a)(13)(B). Thus, the alien remains an applicant for admission throughout the period of the parole. Once the purpose of the parole has been served or if DHS determines for any other reason that parole is no longer appropriate, DHS may terminate the parole and return the alien to custody. Id.; *cf.* 8 CFR 212.5(e) (including automatic termination of parole in certain circumstances). This parole authority is limited to DHS. An immigration judge has no authority to grant parole. 8 CFR 1003.19(h)(2)(i)(B); 1212.5.

Before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, Division C, 110 Stat. 3009 (September 30, 1996), an alien who was subject to deportation proceedings (an alien who had already entered the United States) could file an adjustment of status application with the immigration judge. This avenue of relief, however, generally was not available to an alien placed in exclusion proceedings (an alien seeking to enter the United States) as an inadmissible alien, even if the alien had been paroled from custody under section 212(d)(5)(A) of the Act. *See Matter of Manneh,* 16 I&N Dec. 272 (BIA 1977) (immigration judge lacked jurisdiction over paroled alien's adjustment application). The former Immigration and Naturalization Service (INS) generally had exclusive jurisdiction over an adjustment of status application filed by a paroled alien in exclusion proceedings and the alien was not able to file or renew the application before an immigration judge. *Id.* Thus, an alien in deportation proceedings (who had entered the United States), if eligible, could obtain adjustment of status as relief from deportation, but an alien in exclusion proceedings (who was seeking to enter the United States) generally could not obtain adjustment of status from an immigration judge. The only exception was for aliens who had applied for adjustment of status while in the United States, traveled abroad and returned pursuant to a grant of advance parole, and then had their adjustment applications denied by INS; such aliens could renew their applications before an immigration judge in the resulting exclusion proceeding. *See* 8 CFR 245.2(a) (1995); *cf. Matter of Castro-Padron,* 21 I&N Dec. 379,380 (BIA 1996) (describing exception to general jurisdictional bar to adjustment by immigration judge in exclusion proceedings).[1]

IIRIRA replaced the former deportation and exclusion proceedings with a single ''removal'' proceeding. Whether an alien has been admitted or is seeking admission is still a relevant distinction. If the alien is seeking admission, the alien is charged in removal proceedings as an inadmissible alien under section 212 of the Act, 8 U.S.C. 1182. If the alien has been admitted, the alien is charged in removal proceedings as a deportable

[1] ''Advance parole'' is the determination of an appropriate DHS officer that DHS should agree to the exercise of the parole authority under section 212(d)(5)(A) of the Act before the alien's actual arrival at a port-of-entry. The actual decision to parole, however, is made at the port-of-entry. Since any grant of parole may be revoked, 8 CFR 212.5(e), a decision authorizing advance parole does not preclude denying parole when the alien actually arrives at a port-of-entry, should DHS determine that parole is no longer warranted.

One long-standing use of advance parole has been to provide a means for applicants for adjustment of status to be able to leave the country briefly and return without abandoning their applications for adjustment. In general, an alien's departure from the United States while an application for relief is pending has the effect of automatically withdrawing the application, but aliens who are granted advance permission to be paroled into the United States upon their return are still able to pursue their previously filed application after they return. 50 FR 23959 (June 7, 1985). If their application for adjustment of status was denied, those aliens would have been subject to exclusion, as opposed to deportation, proceedings. *Id.* Accordingly, in order to preserve the ability of such aliens to pursue their previously filed applications for adjustment of status, the regulations allowed aliens in this very narrow situation to be able to renew an application for adjustment of status before an immigration judge in exclusion proceedings. *See* 51 FR 7431 (March 4, 1986); 8 CFR 245.2(a).

alien under section 237 of the Act, 8 U.S.C. 1227.

Implementing IIRIRA, the Attorney General sought to continue the traditional rule that an applicant for admission who has been placed in proceedings before an immigration judge, generally, may not seek adjustment of status as a form of relief from removal. *See* 62 FR 10312 (March 6, 1997). The Attorney General established a final rule, currently codified in 8 CFR 245.1(c)(8) and 1245.1(c)(8), that provided that an ''arriving alien'' placed in removal proceedings was not eligible for adjustment of status. *See* 62 FR 444, 452 (January 3, 1997) (proposed rule); 62 FR 10312, 10326–27 (March 6, 1997) (interim rule); *see also* 8 CFR 1.1(q) (defining ''arriving alien,'' in relevant part, as ''an applicant for admission coming or attempting to come into the United States at a port-of-entry'' and providing, with limited exceptions, that ''[a]n arriving alien remains such even if paroled pursuant to section 212(d)(5) of the Act''). The Department of Justice believed that 8 CFR 245.1(c)(8) ''promote[d] the Department's objective of taking steps to preserve the integrity of the visa issuance process * * *.'' 62 FR at 10306.

B. Litigation Under the Regulations

After the regulations were published, the Government relied upon those regulations for a number of years before any challenge. In recent years, however, the regulations at 8 CFR 245.1(c)(8) and 1245.1(c)(8) have been the subject of litigation and have resulted in an intercircuit conflict. Several courts of appeals have held that the regulations, as applied to paroled aliens, are impermissible in view of the statutory language at section 245(a) of the Act, 8 U.S.C. 1255(a), allowing for an application for discretionary adjustment of status by any alien who was ''inspected and admitted *or paroled*'' (emphasis added). *See Scheerer* v. *U.S. Atty. Gen.,* —— F.3d ——, 2006 WL 947680 (11th Cir. April 13, 2006); *Bona* v. *Gonzales,* 425 F.3d 663 (9th Cir. 2005); *Zheng* v. *Gonzales,* 422 F.3d 98 (3d Cir. 2005); *Succar* v. *Ashcroft,* 394 F.3d 8 (1st Cir. 2005).

The United States Courts of Appeals for the Fifth and Eighth Circuits, on the other hand, have rejected similar challenges to the regulations, holding that the regulations—even as applied to arriving aliens seeking adjustment of status in removal proceedings who were paroled into the United States—constituted a valid exercise of the Secretary of Homeland Security's and the Attorney General's respective discretionary authority to grant or deny adjustment of status. *See Momin* v. *Gonzales,* ——F.3d ——, 2006 WL 1075235 (5th Cir. April 24, 2006) (concluding that the ''Attorney General did not act arbitrarily, capriciously, or manifestly contrary to the statute in opting to decline to exercise his discretion favorably for parolees that are subject to removal proceedings.''); *Mouelle* v. *Gonzales,* 416 F.3d 923 (8th Cir.), *petition for reh'g en banc denied* (2005), *petition for cert. filed* No. 05–1092 (February 23, 2006). *Cf. Lopez* v. *Davis,* 531 U.S. 230, 243–44 (2001) (''Even if a statutory scheme requires individualized determinations, which this scheme does not, the decisionmaker has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress clearly expresses an intent to withhold that authority * * *. [C]ase-by-case decisionmaking in thousands of cases each year, * * * could invite favoritism, disunity, and inconsistency.'') (citations and quotations omitted); *Fook Hong Mak* v. *INS,* 435 F.2d 728, 730 (2d Cir. 1970) (concluding with regard to section 245(a) of the Act, ''We are unable to understand why there should be any general principle forbidding an administrator, vested with discretionary power, to determine by appropriate rulemaking that he will not use it in favor of a particular class on a case-by-case basis.'').

III. Amendments to the Regulations

A. Acquiescence and Regulatory Amendment

The Departments recognize that the conflicting court of appeals decisions addressing the validity of 8 CFR 245.1(c)(8) and 1245.1(c)(8) will result in inconsistent application of the adjustment of status laws. Not infrequently, amendment of applicable regulations provides a more appropriate disposition of such an intercircuit conflict than continued review of the cases pending before the courts. *See, e.g., Bell* v. *Wolfish,* 441 U.S. 520, 549–52 (1979) (amendment of Bureau of Prisons regulations while constitutional challenge to prior regulations pending in Supreme Court); *see also Smiley* v. *Citibank (South Dakota), N.A.,* 517 U.S. 735 (1996) (amendment to the regulations interpreting ''interest'' as used in the National Bank Act while the issue of what constituted such ''interest'' was in litigation). ''That it was litigation that disclosed the need for the regulation is irrelevant.'' *Smiley,* 517 U.S. at 741. The exercise of authority granted to make rules pending litigation is a longstanding practice that is warranted here to avoid inconsistent application of the adjustment of status laws depending upon the geographic location of the applicant. *See National Mining Ass'n* v. *Department of Labor,* 292 F.3d 849, 873 (D.C. Cir. 2002) (''[N]o authority supports the proposition that a rule is arbitrary and capricious merely because it abrogates a circuit court decision. Quite to the contrary, 'regulations promulgated to clarify disputed interpretations of a regulation are to be encouraged. Tidying-up a conflict in the circuits with a clarifying regulation permits a nationally uniform rule without the need for the Supreme Court to essay the meaning of every debatable regulation.' '') (quoting *Pope* v. *Shalala,* 998 F.2d 473, 486 (7th Cir. 1993)).

With this in mind, the Secretary and the Attorney General have undertaken to resolve the conflict through rulemaking by removing 8 CFR 245.1(c)(8) and 1245.1(c)(8) rather than continue to litigate their validity. On balance, given continuing uncertainty of the controlling judicial precedent, the Attorney General and Secretary conclude that having rules that apply nationwide is preferable to continuing to litigate the validity of 8 CFR 245.1(c)(8) and 1245.1(c)(8).

B. Jurisdictional Clarity

In addition, the Secretary and the Attorney General are amending the regulations to make clear which Departmental component has jurisdiction to adjudicate adjustment applications for arriving aliens who have been paroled and placed in removal proceedings.[2] In general, these limited numbers of cases will be adjudicated only by U.S. Citizenship and Immigration Services (USCIS), a component of DHS.

With only one narrow exception, arriving aliens will not be able to submit or renew applications for adjustment of status in removal proceedings. This result is consistent with current

[2] The existing DHS regulatory provision at 8 CFR 245.2(a)(1) (and the identical language in the current Executive Office for Immigration Review (EOIR) regulations at 8 CFR 1245.2(a)(1)), predates the enactment of the Homeland Security Act, which transferred the responsibilities of the former INS to the Department of Homeland Security while retaining EOIR under the authority of the Attorney General. See INA 103(a), (g), 8 U.S.C. 1103(a)(g); 6 U.S.C. 275, 291, 521. Accordingly, the current regulatory language combines provisions relating to the jurisdiction of USCIS as well as provisions relating to the jurisdiction of the immigration judges. As amended by this rule, section 245.2(a)(1) will now be focused on the jurisdiction of USCIS, while provisions relating to the authority of the immigration judges will be codified in section 1245.2(a)(1).

practice, under longstanding regulations limiting the jurisdiction of the immigration judges in this context. 8 CFR 1245.2(a)(2), (5)(ii). *Cf. Jiang* v. *Gonzales,* 425 F.3d 649, 653 (9th Cir. 2005) (noting that section 1245.2(a)(2) is not inconsistent with section 245(a) of the Act because the rule does not limit the alien's ability to apply to USCIS for adjustment of status); *Bona,* 425 F.3d at 671 n.8. However, these rules retain the narrow existing exception for an alien who leaves the United States while an adjustment application is pending with USCIS, and then returns under a grant of advance parole; if DHS places such an alien in removal proceedings, the immigration judge would have jurisdiction to adjudicate the alien's renewed adjustment application if that application has been denied by USCIS.

Note, however, that section 209 of the Act, 8 U.S.C. 1159, provides a separate procedure for the adjustment of status of an alien admitted as a refugee or an alien granted asylum to the status of an alien lawfully admitted for permanent residence. This interim rule has no effect on the ability of a refugee or asylee to seek adjustment of status under section 209 of the Act in removal proceedings. *See* 8 CFR parts 209, 1209 (adjustment of status of refugees and aliens granted asylum); see also *Matter of K–A–,* 23 I&N Dec. 661 (BIA 2004) (adjustment of status of asylees); *Matter of H–N–,* 22 I&N Dec. 1039 (BIA 1999) (adjustment of status of refugees). Nor does this interim rule limit an arriving alien's ability to seek asylum before an immigration judge, as permitted under 8 CFR parts 208 and 1208.

To accomplish these changes, the Secretary is amending section 245.2(a)(1) of the DHS regulations, and the Attorney General is amending section 1245.2(a)(1) of the EOIR regulations.

C. Definition of ''Arriving Alien''

Finally, these rules make a technical correction to the definition in 8 CFR 1.1(q) and 1001.1(q) of ''arriving alien.'' On April 30, 1998, the former INS published in the **Federal Register**, 63 FR 19382, an interim rule (''1998 interim rule'') that was intended to make clear that certain parolees, as a matter of policy, would not be subject to expedited removal. This exception applies to aliens paroled before April 1, 1997, and to any alien paroled after that date based on a grant of advance parole that the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States. The 1998 interim rule indicates that these aliens are not ''considered * * * arriving alien[s] for purposes of section 235(b)(1)(A)(i) of the Act.'' The way this exception is expressed is confusing because these aliens are arriving aliens for other purposes. For example, if placed in removal proceedings, they would be charged as inadmissible applicants for admission, not as deportable aliens. These rules retain the principle of the 1998 interim rule. Amended section 1.1(q) and section 1001.1(q), however, state that principle more simply by clearly indicating that such aliens are arriving aliens for all purposes under the Act, except for purposes of section 235(b)(1)(A)(i) of the Act.

D. Independent Adoption of Coordinated Rulemaking

The Secretary of Homeland Security is amending the regulations of the Department of Homeland Security to permit USCIS to exercise discretion to grant applications for adjustment of status to that of a lawful permanent resident by aliens who have been paroled into the United States and who have been placed in removal proceedings. The Secretary is exercising his authority under sections 103 and 245 of the Act (8 U.S.C. 1103, 1255) and the Homeland Security Act of 2002, Public Law 107–296, § 101(b)(1)(D), 102(a), (e), 116 Stat. 2142–3 (November 25, 2002) (6 U.S.C. 111(b)(1)(D), 112(a)(e)). The Attorney General is amending the regulations of the Department of Justice to permit immigration judges and the Board of Immigration Appeals to adjudicate renewed applications for adjustment of status to that of a lawful permanent resident that have been denied by USCIS for aliens previously granted advance parole to return to the United States and who are thereafter placed in removal proceedings. The Attorney General is exercising his authority under sections 103 and 245 of the Act (8 U.S.C. 1103, 1255) and 28 U.S.C. 509, 510.

The amendments made by these rules are applicable to all cases pending administrative or judicial review on or after May 12, 2006.

IV. Additional Rulemaking Provisions Being Considered

In addition to the regulatory changes made in these interim rules, the Secretary and the Attorney General are considering whether to amend the existing rules to codify specific regulatory limitations on the exercise of discretion or a presumption against favorably exercising discretion in adopting a final rule.

The immigrant visa process remains the proper means for an alien to seek admission to the United States as an immigrant, i.e., a lawful permanent resident. *See, e.g., Jain* v. *INS,* 612 F.2d 683, 688–89 (2d Cir. 1979); *Ameeriar* v. *INS,* 438 F.2d 1028, 1032–33 (3d Cir. 1971); *Santos* v. *INS,* 375 F.2d 262, 264 (9th Cir. 1967). This longstanding view remains relevant in adjudicating adjustment applications for paroled aliens in removal proceedings. The chief objective of 8 CFR 245.1(c)(8) was to preserve the integrity of the nonimmigrant and immigrant visa issuance processes. See 62 FR at 10326–27.

In particular, existing BIA decisions and court decisions note that adjustment of status is a discretionary benefit that will require a strong showing of favorable equities to warrant its being granted if certain other adverse factors are present. *See Matter of Arai,* 13 I&N Dec. 494 (BIA 1970) (requiring a showing of unusual or outstanding equities is appropriate to the exercise of discretion if the case presents significant adverse factors that weigh against a favorable exercise of discretion). For example, evidence of a preconceived intent to remain in the United States as an immigrant when the alien sought admission as a nonimmigrant or otherwise circumvented the normal consular immigrant visa issuance process is a serious adverse factor. *Von Pervieux* v. *INS,* 572 F.2d 114, 118 (3d Cir. 1978); Jain, 612 F.2d at 688–89; *Ameeriar,* 438 F.2d at 1032–33; *Matter of Ibrahim,* 18 I&N Dec. 55 (BIA 1981); *see also Putrus* v. *Montgomery,* 555 F. Supp 452, 454–57 (E.D. Mich. 1982) (holding that INS district director did not abuse his discretion under section 245(a) of the INA in denying adjustment of status application of Iraqi aliens who boarded a plane in Jordan en route to Bahamas after stop in New York, and who deplaned in New York and refused to reboard, sought asylum, and were paroled for exclusion proceedings where evidence supported the director's finding that aliens had preconceived intent to remain in United States permanently at time they attempted entry, as part of overall scheme to circumvent the normal consular visa issuing process).

These considerations remain relevant in determining whether a particular arriving alien who was paroled and thereafter placed in removal proceedings may adjust his or her status. For example, if the record shows that such an arriving alien had a preconceived intent to evade the consular process, this factor will weigh against allowing adjustment in such cases as well. Of course, in an

individual case, an alien may still argue, and the adjudicator may decide, that the favorable factors are sufficiently strong that the application should be approved in the exercise of discretion. *See, e.g., Matter of Battista,* 19 I&N Dec. 484 (BIA 1987) (sufficiently strong equities can justify granting adjustment of status, even where the alien is found to have had a preconceived intent to remain in the United States as an immigrant).

As noted above, existing caselaw standards relating to the exercise of discretion provide that when certain adverse factors are present, a showing of unusual or outstanding equities supports, but does not compel, a favorable exercise of discretion; rather, absent such equities, adjustment of status will not be granted in the exercise of discretion. Under existing caselaw, an arriving alien's application for adjustment of status may be denied as a matter of discretion where adverse considerations, including circumvention of the consular process for immigrant visas, are preponderant. Further, rules concerning the manner in which discretion would be exercised would serve the same purpose of preserving the integrity of the nonimmigrant and immigrant visa issuance processes. The ordinary costs and delays resulting from consular processing, by themselves, would not constitute unusual or outstanding equities.

Accordingly, the Secretary and the Attorney General are soliciting public comment on whether the regulations should be amended to structure the exercise of discretion further. In particular, we welcome comments on the following questions:

Should the fact that an application for adjustment of status is filed by an arriving alien—who generally could have and should have sought and obtained an immigrant visa from a consular officer abroad, rather than arriving at a port-of-entry as a putative nonimmigrant, or with otherwise invalid or fraudulent documents—be formalized in the regulations as a significant adverse factor that may warrant denial of adjustment of status as a matter of discretion in the absence of unusual and outstanding countervailing equities that warrant adjustment of status?

Should the fact that an arriving alien's parole or advance parole has been terminated or revoked, whether before or after the alien filed his or her adjustment of status application, be formalized in the regulations as a significant adverse factor that may warrant denial of adjustment of status as a matter of discretion, unless the alien establishes unusual or outstanding countervailing equities that warrant adjustment of status?

Should the regulations be amended to adopt a presumption in the final rule against a favorable exercise of discretion if specific factors exist, or by determining that certain classes of aliens should not favorably receive an exercise of discretion? Other alternative formulations will also be considered.

In addition, the Secretary and the Attorney General also are interested in receiving public comment on whether the regulations should be amended to provide additional regulatory guidance on when the immigration judges and the BIA should exercise discretion to grant or deny a continuance for arriving aliens in removal proceedings who have filed an application for adjustment of status which remains pending with USCIS.

While noting that it will ordinarily be appropriate for an immigration judge to exercise his or her discretion favorably to grant a continuance or motion to reopen in the case of an alien who has submitted a prima facie approvable visa petition and adjustment application in the course of a deportation hearing, the BIA has recognized that this is not an inflexible rule and that an immigration judge has discretion in an appropriate case to deny a continuance even if the alien is the beneficiary of a visa petition or labor certification that, if approved, could render the alien eligible for adjustment of status. *Matter of Garcia,* 16 I&N Dec. 653, 657 (BIA 1978) (''It clearly would not be an abuse of discretion for the immigration judge to summarily deny a request for a continuance * * * upon his determination that the visa petition is frivolous or that the adjustment application would be denied on statutory grounds or in the exercise of discretion notwithstanding the approval of the petition.''), modified on other grounds by *Matter of Arthur,* 20 I&N Dec. 475 (BIA 1992), and *Matter of Velarde,* 23 I&N Dec. 253 (BIA 2002). The courts of appeals also have addressed some of the issues pertaining to the discretionary decision to grant or deny a continuance in this circumstance, *see, e.g., Morgan* v. *Gonzales,* 2006 U.S. App. LEXIS 10044 (2d Cir. April 20, 2006) (holding that it was not an abuse of discretion for an immigration judge to deny a continuance under the circumstances presented in the case); *Benslimane* v. *Gonzales,* 430 F.3d 828 (7th Cir. 2005) (holding that it was an abuse of discretion to deny a continuance where the alien had complied with all the requirements for adjustment of status and was merely waiting action on his wife's visa petition); *Pede* v. *Gonzales,* 442 F.3d 570 (7th Cir. 2006) (distinguishing *Benslimane* and holding that it was acceptable for an immigration judge to deny a continuance when there was no hope that the adjustment application would be granted); *Hassan* v. *INS,* 110 F.3d 490 (7th Cir. 1997) (underscoring that *Matter of Garcia* did not ''establish an inflexible rule'' requiring a continuance).

Accordingly, the Secretary and the Attorney General are soliciting comments on the standards for the granting of continuances to arriving aliens in removal proceedings while applications for adjustment of status are pending with USCIS. In particular, we are interested in comments regarding the following questions:

Should the regulations be amended to provide limitations on the exercise of discretion in granting continuances when an arriving alien's application for adjustment of status is pending with USCIS, for example (1) by providing that the pendency of application for adjustment of status filed by an arriving alien with USCIS does not require the granting of a continuance; (2) by establishing a rebuttable presumption against granting a continuance in this situation; or (3) by defining limited circumstances in which a continuance would be granted?

As a general proposition, the Secretary and the Attorney General may use rulemaking to limit the exercise of discretion to grant forms of relief to those aliens who have attempted to evade the consular visa process by seeking parole into the United States and then applying for adjustment of status. The Supreme Court has recognized that an agency head ''has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress clearly expresses an intent to withhold that authority.'' *Lopez* v. *Davis,* 531 U.S. at 244 (quoting *American Hosp. Ass'n* v. *NLRB,* 499 U.S. 606, 612 (1991)); *see also Yang* v. *INS,* 79 F.3d 932, 936 (9th Cir. 1996). Specifically, in *Lopez* the Supreme Court upheld a Federal Bureau of Prisons rule that ''categorically denies early release to prisoners whose current offense is a felony attended by 'the carrying, possession, or use of a firearm' '' against a challenge in which plaintiffs contended that denials of early release were required to be made on a case-by-case basis for each individual. 531 U.S. at 231–232 (quoting 28 CFR 550.58(a)(1)(vi)(B)). The Secretary and the Attorney General reserve the authority to make such a determination by rule and to make that determination

in a final rule on the basis of this public notice and request for comment.

In this specific instance, the Secretary and the Attorney General invite public comment on whether rules limiting the exercise of discretion or implementing a presumption against favorably exercising discretion should be established. The Secretary and the Attorney General may exercise their respective discretions by rule to narrow the scope of discretion delegated to their respective subordinates in promulgating a final rule. In the meantime, USCIS, the immigration judges, and the BIA will continue to apply the discretionary factors in accordance with the general principles noted above, and guided by prior decisions.

V. Regulatory Requirements

A. Administrative Procedure Act

The Secretary and the Attorney General have authority to issue these rules as interim rules under the Administrative Procedure Act, with provision for post-promulgation public comments. *See* 5 U.S.C. 553. The Secretary and Attorney General find that good cause exists to remove 8 CFR 245.1(c)(8) and 1245.1(c)(8) without notice and comment. *See* 5 U.S.C. 553(b)(B) (notice and comment requirements not applicable in circumstances in which ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest''). These regulations have been invalidated by four federal appellate courts in decisions concluding that the regulations are inconsistent with section 245 of the Immigration and Nationality Act, 8 U.S.C. 1255. *See Scheerer* v. *U.S. Atty. Gen.*, —— F.3d ——, 2006 WL 947680 (11th Cir. April 13, 2006); *Succar* v. *Ashcroft*, 394 F.3d 8 (1st Cir. 2005); *Bona* v. *Gonzales*, 425 F.3d 663 (9th Cir. 2005); *Zheng* v. *Gonzales*, 422 F.3d 98 (3d Cir. 2005). Recently, the Fifth and Eighth Circuits upheld the regulations. *See Momin* v. Gonzales, —— F.3d ——, 2006 WL 1075235 (5th Cir. April 24, 2006); *Mouelle* v. *Gonzales*, 416 F.3d 923 (8th Cir. 2005), *petition for reh'g en banc denied* (2005), *petition for cert. filed* No. 05–1092 (February 23, 2006). This circuit split has engendered considerable confusion about the ongoing enforceability of the regulations, and it is decidedly in the public interest for the agencies responsible for administering these regulations to end that confusion as soon as possible and thereby promote the consistent nationwide application of federal immigration law. Because the regulations are currently unenforceable in four circuits, covering 18 states, the only immediate way to provide the necessary finality and consistency is by repealing the regulations. Under these circumstances, there is good cause for dispensing with notice and comment procedures.

The revised 8 CFR 245.2(a)(1) and 8 CFR 1245.2(a)(1)(i)–(ii) also are rules of agency practice and procedure and may be adopted without prior notice and comment. See 5 U.S.C. 553(b)(A). These provisions do not affect how the Secretary's or the Attorney General's subordinates may rule on the merits of the factual and legal issues in any particular removal proceeding. Rather, these provisions merely clarify which Departmental component has jurisdiction to adjudicate adjustment applications for arriving aliens who have been paroled and placed in removal proceedings, consistent with current regulations and agency practice.

Finally, the Secretary and the Attorney General find that the amendment to 8 CFR 1.1(q) and 1001.1(q) are interpretive rules that may be issued without prior notice and comment. *See* 5 U.S.C. 553(b)(A). These amendments make no substantive change to the existing definition of ''arriving alien,'' but only express the terms of that definition more clearly. *See*, *e.g.*, *Safari Aviation Inc.* v. *Garvey*, 300 F.3d 1144, 1151 (9th Cir. 2002) (''Interpretive rules are not subject to APA notice or comment provisions because they clarify or explain existing law or regulations in order to advise the public of the agency's construction of the rules it administers.''); *Stuart-James Co., Inc.* v. *SEC*, 857 F.2d 796, 801 (D.C. Cir. 1988) (notice and comment not required where the new rule is merely a ''clarification or explanation of existing laws or regulations'')

For all of the foregoing reasons, it is not necessary under the Administrative Procedure Act, 5 U.S.C. 553, to provide prior notice and comment before promulgating these interim final rules.

The Secretary and the Attorney General also find that good cause exists to make these rules effective immediately upon publication. *See* 5 U.S.C. 553(d). First, because removing 8 CFR 245.1(c)(8) and 1245.1(c)(8) ''grants or recognizes an exemption or relieves a restriction,'' it is exempt from the APA's general requirement that a rule be published 30 days before its effective date. 5 U.S.C. 553(d)(1). Removing those regulations relieves the restrictions currently imposed on the ability of paroled aliens in removal proceedings to apply for adjustment of status. *See*, *e.g.*, *Independent U.S. Tanker Owners Comm.* v. *Skinner*, 884 F.2d 587, 591–92 (D.C. Cir. 1989). In addition, for the reasons stated above with respect to the usual notice and comment requirements, there is good cause for this repeal to take effect immediately. The removal of 8 CFR 245.1(c)(8) and 8 CFR 1245.1(c)(8) therefore is effective upon publication and is applicable to all cases pending administrative or judicial review on or after that date.

Finally, the amendments to 8 CFR 1.1(q), 245.2(a)(1), 1001.1(q), 1245.2(a)(1)(i), and 1245.2(a)(ii) simply clarify existing regulations without substantive change. This renders them ''interpretive rules'' that may take immediate effect under 5 U.S.C. 553(d)(1).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is ''required by section 553 * * *, or any other law, to publish general notice of proposed rule making for any proposed rule.'' 5 U.S.C. 603(a). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). These rules are exempt from notice and comment rulemaking. Therefore, no RFA analysis under 5 U.S.C. 603 is required for these rules.

C. Unfunded Mandates Reform Act of 1995

These rules 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 one 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.

D. Small Business Regulatory Enforcement Fairness Act of 1996

These rules are not major rules as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. These rules 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, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

E. Executive Order 12866 (Regulatory Planning and Review)

The DHS and DOJ consider these rules to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and

Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review. No cost-benefit analysis has been prepared, however, because these rules are not ''significant'' for economic reasons. These rules will not have an annual effect on the economy of $100 million or more, nor will they have other adverse economic effects.

F. Executive Order 13132 (Federalism)

These rules 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 section 6 of Executive Order 13132, these rules do not have sufficient federalism implications to warrant preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

These rules have been prepared in accordance with the standards in sections 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act

These rules do not create any information collection requirement.

List of Subjects

8 CFR Part 1

Administrative practice and procedure; Immigration.

8 CFR Part 245

Aliens; Immigration; Reporting and recordkeeping requirements.

8 CFR Part 1001

Administrative practice and procedure; Immigration.

8 CFR Part 1245

Aliens; Immigration; Reporting and recordkeeping requirements.

Department of Homeland Security

8 CFR Chapter I

■ Accordingly, for the reasons stated in the joint preamble, and pursuant to my authority as Secretary of Homeland Security, chapter I of title 8, Code of Federal Regulations is amended as follows:

PART 1—DEFINITIONS

■ 1. The Authority citation for part 1 continues to read as follows:

Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 5 U.S.C. 301; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

■ 2. Section 1.1(q) is amended by revising the last sentence to read as follows:

§ 1.1 Definitions.

* * * * *

(q) * * * An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked. However, an arriving alien who was paroled into the United States before April 1, 1997, or who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States, will not be treated, solely by reason of that grant of parole, as an arriving alien under section 235(b)(1)(A)(i) of the Act.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE

■ 3. The Authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, sec. 202, Pub. L. 105–100, 111 Stat 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

§ 245.1 [Amended]

■ 4. Section 245.1 is amended by:

■ a. Removing paragraph (c)(8); and

■ b. Redesignating paragraph (c)(9) as paragraph (c)(8).

■ 5. Section 245.2 is amended by revising paragraph (a)(1) to read as follow:

§ 245.2 Application.

(a) * * *

(1) *Jurisdiction.* USCIS has jurisdiction to adjudicate an application for adjustment of status filed by any alien, unless the immigration judge has jurisdiction to adjudicate the application under 8 CFR 1245.2(a)(1).

* * * * *

Dated: May 8, 2006.

Michael Chertoff,

Secretary of Homeland Security.

Department of Justice

8 CFR Chapter V

■ Accordingly, for the reasons stated in the joint preamble and pursuant to the authority vested in me as the Attorney General of the United States, chapter V of title 8 of the Code of Federal Regulations is amended as follows:

PART 1001—DEFINITIONS

■ 1. The Authority citation for part 1001 continues to read as follows:

Authority: 8 U.S.C. 1101; 8 U.S.C. 1103.

■ 2. Section 1001.1(q) is amended by revising the last sentence to read as follows:

§ 1001.1 Definitions.

* * * * *

(q) * * * An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked. However, an arriving alien who was paroled into the United States before April 1, 1997, or who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States, will not be treated, solely by reason of that grant of parole, as an arriving alien under section 235(b)(1)(A)(i) of the Act.

* * * * *

PART 1245—ADJUSTMENT OF STATUS TO THAT OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE

■ 3. The Authority citation for part 1245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, sec. 202, Pub. L. 105–100, 111 Stat 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

§ 1245.1 [Amended]

■ 4. Section 1245.1 is amended by

■ a. Removing paragraph (c)(8); and

■ b. Redesignating paragraph (c)(9) as paragraph (c)(8).

■ 5. Section 1245.2 is amended by revising paragraph (a)(1) to read as follows:

§ 1245.2 Application.

(a) General.

(1) *Jurisdiction.*

(i) *In General.* In the case of any alien who has been placed in deportation proceedings or in removal proceedings (other than as an arriving alien), the immigration judge hearing the proceeding has exclusive jurisdiction to adjudicate any application for adjustment of status the alien may file.

(ii) *Arriving Aliens.* In the case of an arriving alien who is placed in removal proceedings, the immigration judge does not have jurisdiction to adjudicate any application for adjustment of status filed by the arriving alien unless:

(A) The alien properly filed the application for adjustment of status with

USCIS while the arriving alien was in the United States;

(B) The alien departed from and returned to the United States pursuant to the terms of a grant of advance parole to pursue the previously filed application for adjustment of status;

(C) The application for adjustment of status was denied by USCIS; and

(D) DHS placed the arriving alien in removal proceedings either upon the arriving alien's return to the United States pursuant to the grant of advance parole or after USCIS denied the application.

Dated: May 8, 2006.

Alberto R. Gonzales,

Attorney General.

[FR Doc. 06–4429 Filed 5–11–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23819; Directorate Identifier 2005–NM–223–AD; Amendment 39–14588; AD 2006–10–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200B, 747–200C, 747–200F, 747–300, 747–400, and 747SP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–200B, 747–200C, 747–200F, 747–300, 747–400, and 747SP series airplanes. This AD requires doing a detailed inspection of the left and right longeron extension fittings, and corrective action if necessary. This AD results from cracking found in the longeron extension fitting at body station 1480 due to accidental damage during production. We are issuing this AD to detect and correct cracking in the longeron extension fitting, which could result in rapid decompression of the airplane and possible in-flight breakup of the airplane fuselage.

DATES: This AD becomes effective June 16, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 16, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Nicholas Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 747–200B, 747–200C, 747–200F, 747–300, 747–400, and 747SP series airplanes. That NPRM was published in the **Federal Register** on February 8, 2006 (71 FR 6400). That NPRM proposed to require doing a detailed inspection of the left and right longeron extension fittings, and corrective action if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received. The commenter, Boeing, supports the NPRM.

Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Interim Action

This AD is considered to be interim action. The inspection reports that are required by this AD will enable the FAA to obtain better insight into the nature, cause, and extent of the cracking. Once we have received the inspection reports, we may consider further rulemaking to include additional airplanes.

Costs of Compliance

There are about 126 airplanes of the affected design in the worldwide fleet. This AD affects about 25 airplanes of U.S. registry. The required inspection will take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $1,625, or $65 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a 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.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.