

processed raspberries pay assessments under the Order.

Regarding alternatives, one option to the proposed action would be to maintain the status quo and not prescribe late payment and interest charges for past due assessments. However, the Council determined that implementing such charges will help facilitate program administration by encouraging entities to pay their assessments in a timely manner. The Council reviewed rates of late payment and interest charges prescribed in other research and promotion programs and concluded that a 10 percent late payment charge and interest at a rate of 1 percent per month on the outstanding balance would be appropriate.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved under OMB control number 0581-0093. This rule results in no change to the information collection and recordkeeping requirements previously approved and imposes no additional reporting and recordkeeping burden on domestic producers, first handlers, and importers of processed raspberries.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Regarding outreach efforts, the Council met on January 15, 2014, and unanimously made its recommendation. All of the Council's meetings, including meetings held via teleconference, are open to the public and interested persons are invited to participate and express their views.

As previously mentioned, a proposed rule concerning this action was published in the **Federal Register** on November 12, 2014 (79 FR 67103). The proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending December 12, 2014 was provided to allow interested persons to submit comments. No comments were received. One change was made to section 1208.520(2) for clarification purposes, the addition of the word

“charge” after the words “late payment”.

After consideration of all relevant matters presented, including the information and recommendation submitted by the Council and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and will effectuate the purposes of the 1996 Act.

#### List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Raspberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1208 is amended as follows:

#### PART 1208—PROCESSED RASPBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

- 1. The authority citation for 7 CFR part 1208 continues to read as follows:

**Authority:** 7 U.S.C. 7411-7425; 7 U.S.C. 7401.

- 2. Section 1208.3 is revised to read as follows:

##### § 1208.3 Crop year.

*Crop year* means the 12-month period from October 1 through September 30 or such other period approved by the Secretary.

- 3. Section 1208.7 is revised to read as follows:

##### § 1208.7 Fiscal period.

*Fiscal period* means the 12-month period from October 1 through September 30 or such other period as approved by the Secretary.

- 4. Section 1208.78 is revised to read as follows:

##### § 1208.78 OMB control numbers.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0505-0001, and OMB control number 0581-0093.

- 5. Section 1208.108 is revised to read as follows:

##### § 1208.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0581-0093.

- 6. Add Subpart C, consisting of § 1208.520, to read as follows:

#### Subpart C—Provisions Implementing the Processed Raspberry Promotion, Research, and Information Order

##### § 1208.520 Late payment and interest charges for past due assessments.

(a) A late payment charge shall be imposed on any handler or importer who fails to make timely remittance to the Council of the total assessments for which such handler or importer is liable. The late payment will be imposed on any assessments not received within 30 calendar days of the date they are due. This one-time late payment charge shall be 10 percent of the assessments due before interest charges have accrued.

(b) In addition to the late payment charge, 1 percent per month interest on the outstanding balance, including any late payment charge and accrued interest, will be added to any accounts for which payment has not been received by the Council within 30 calendar days after the date the assessments are due. Such interest will continue to accrue monthly until the outstanding balance is paid to the Council.

Dated: August 3, 2015.

**Rex A. Barnes,**  
Associate Administrator.

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BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 65

[Docket No. FAA-2014-1000; Amdt. No. 65-56A]

RIN 2120-AK40

#### Elimination of the Air Traffic Control Tower Operator Certificate for Controllers Who Hold a Federal Aviation Administration Credential With a Tower Rating

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; disposition of comments.

**SUMMARY:** On December 16, 2014, the FAA published a final rule with a request for comments that eliminated the requirement for an air traffic control tower operator to hold a control tower operator certificate if the individual also holds a Federal Aviation Administration Credential with a tower rating (FAA

Credential). This action addresses the public comment the FAA received.

**DATES:** The final rule effective date remains February 17, 2015.

**ADDRESSES:** The docket may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket. The docket may also be accessed at the Docket Operations in Room W12-140 of the West Building Ground Floor, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Michele Cappelle, Air Traffic Safety Oversight Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-5205; email [Michele.cappelle@faa.gov](mailto:Michele.cappelle@faa.gov)

For legal questions concerning this action, contact Neal O'Hara, Attorney, Office of the Chief Counsel, Regulations Division, AGC-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3073; email [neal.o'hara@faa.gov](mailto:neal.o'hara@faa.gov)

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 16, 2014, the FAA published a final rule that eliminated the requirement for an air traffic control tower operator to hold a control tower operator (CTO) certificate if the individual also holds an FAA Credential (79 FR 74607). The requirement to hold both the CTO certificate and the FAA Credential was redundant since the underlying requirements for the FAA Credential encompass those of the CTO certificate. The action will reduce the FAA's burden of administering redundant programs for those individuals who hold an FAA Credential.

**Discussion of Comments**

The FAA received one comment from the National Air Traffic Controllers Association—AFL-CIO (NATCA). NATCA had several concerns with the rule.

NATCA opposes the elimination of the CTO certificate. NATCA believes that if the FAA eliminates the requirement for the CTO certificate, important training requirements risk elimination, which will result in a significant lack of appropriate oversight and create disparities between FAA and non-FAA tower Air Traffic Control Specialists.

The FAA notes the training requirements for air traffic controllers have not changed because of this rulemaking. All FAA air traffic controllers must adhere to the requirements in FAA Order JO 3120.4, *Air Traffic Technical Training*. The final rule simply eliminated duplicative programs that only applied to a portion of the FAA controller workforce. Before February 17, 2015 (the effective date of the final rule), air traffic controllers assigned to control towers were required to possess a CTO certificate issued in accordance with 14 Code of Federal Regulations (14 CFR) part 65, subpart B. CTO certificates were only required for air traffic controllers working in a control tower; no such requirement existed for air traffic controllers assigned to approach control or en-route air traffic control facilities. In addition, once a CTO certificate was issued, it remained valid with no recurrent or refresher training requirements to ensure the holder still possessed the skills demonstrated at the time the CTO certificate was awarded.

When the FAA Credentialing program was introduced in 2006, it included all FAA controllers, not just tower controllers as in the CTO program. In addition, the emphasis was shifted to ensuring safety-related personnel retained the skills necessary to perform their responsibilities. Under the FAA Credentialing program, the individual must: (1) Complete all required training in accordance with FAA standards; (2) undergo required certification; and (3) successfully complete the initial skills evaluation to be issued an FAA Credential with an appropriate rating. Once issued, the rating associated with the FAA Credential is valid for 2 years, after which the individual undergoes another skills evaluation similar to the one used for the initial certification. The biennial skills evaluation is required for all air traffic controllers, regardless of their assignment to a tower, approach control, or en-route air traffic control facility.

NATCA is also concerned that the knowledge, skill, and experience requirements in part 65 for CTO certificate holders have not been properly incorporated into FAA Orders and that no analysis was performed.

During the rulemaking process, the FAA reviewed part 65, subpart B, and made appropriate changes to FAA Order 8000.90 upon issuance of the final rule. As noted in FAA Order 8000.90, the FAA Credentialing program incorporates the current training, certification, and qualification requirements that form the basis from which the Air Traffic Safety Oversight

Service issues, amends, withdraws, and removes FAA Credentials. The Air Traffic Organization must adhere to the requirements in FAA Orders regarding the training, proficiency, and certification of personnel. These orders include FAA Order JO 3120.4, *Air Traffic Technical Training* and FAA Order JO 3000.57, *Air Traffic Organization Technical Operations Training and Personnel Certification Programs*. The Air Traffic Organization also must ensure that changes to FAA Orders JO 3120.4 and JO 3000.57 or other directives related to training, proficiency, and certification, are submitted for Air Traffic Safety Oversight Office (AOV) review and acceptance.

NATCA states that if “the requirements are eliminated for FAA credentialed Air Traffic Control Specialists, they need to be retained in another provision of Regulation or Statute to ensure proper oversight.” NATCA believes FAA Orders may be changed at-will and are not subject to the Administrative Procedure Act (APA). NATCA states there is no check and balance to oversee the FAA's changes to these critical matters that are currently covered by regulation and subject to oversight.

FAA Orders serve as the primary means within the FAA to issue, establish, and describe agency policies, organization, responsibilities, methods, and procedures governing FAA employees. FAA Order 1320.1 contains the requirements to issue Orders. Also, in 1997, the National Civil Aviation Review Commission (NCARC) recommended that the air traffic service provider in FAA be subject to the safety policies of a separate part of the FAA to provide independent safety oversight. In addition, in 2001, the International Civil Aviation Organization (ICAO) adopted an amendment requiring states to implement formal safety management procedures for their air traffic services systems.

FAA Order 1100.161 specifies the manner by which AOV, within the Office of the Associate Administrator for Aviation Safety (AVS), will oversee the Air Traffic Organization (ATO), and other organizations within the Federal Aviation Administration (FAA) regarding safety management of the air traffic system. AOV's safety oversight responsibilities remain the same whether certain Air Traffic requirements are contained in 14 CFR or in FAA Orders. Thus, there is no erosion of oversight of these important training and certification requirements.

NATCA notes that military and Department of Defense civilian

controllers, as well as controllers working in Federal Contract Towers, are issued CTO certificates. NATCA states that these air traffic controllers, as well as FAA air traffic controllers, regularly transfer between these employers. NATCA is concerned these transfers will be stifled or new bureaucracies will need to be created to ensure equivalent qualifications before transfer.

The underlying requirements for the FAA Credential encompass those of the CTO certificate. In addition, the FAA Credential includes the biennial skills evaluation discussed previously. Therefore, the FAA does not expect movement between employers to be stifled.

NATCA states that the FAA's final rule does not address how the FAA will maintain CTO certificates for incumbent employees for whom they will not be eliminated.

The procedures for current CTO certificate holders have not changed. Therefore, no additional changes were needed to 14 CFR part 65.

NATCA states that FAA should have collaborated with them on the development of any changes to the CTO certification process.

The FAA followed the procedures and requirements of the Administrative Procedure Act as well as those prescribed by FAA Order 1320.1.

Finally, NATCA requested that the FAA withdraw the rule and include FAA Credential holders in 14 CFR part 65. NATCA notes that under such an amendment, all certified controllers, whether holding a CTO certificate or an FAA Credential would be subject to the same rules, any subsequent rule changes would be subject to due process because they would require amendments to 14 CFR, and it would eliminate redundant processes.

The FAA followed the requirements in the Administrative Procedure Act and FAA Order 1320.1. Because FAA Orders serve as the primary means within the FAA to issue, establish, and describe agency policies, organization, responsibilities, methods, and procedures for FAA employees, the FAA has determined its actions are appropriate and have eliminated redundant processes.

## Conclusion

After consideration of the comment submitted in response to the final rule, the FAA has determined that no revisions to the rule are warranted.

Issued in Washington, DC on July 27, 2015.

**Anthony S. Ferrante,**

*Director, Air Traffic Safety Oversight Service.*

[FR Doc. 2015-19278 Filed 8-5-15; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 19 CFR Part 351

**RIN 0625-AB04**

[Docket No.: 150731663-5663-01]

#### Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**ACTION:** Interpretive Rule; Notice of Determination.

**SUMMARY:** On June 29, 2015, President Obama signed into law the Trade Preferences Extension Act of 2015. The Act provides a number of amendments to the antidumping duty ("AD") and countervailing duty ("CVD") laws but does not specify dates of application for those amendments. This notice of determination establishes a date of application for each statutory revision pertaining to the Department of Commerce and provides notice thereof to all interested parties to AD and CVD proceedings and to the public.

**DATES:** The date of application of this interpretive rule is August 6, 2015.

#### FOR FURTHER INFORMATION CONTACT:

Robert Heilferty, Deputy Chief Counsel for Trade Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230, 202-482-0082.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Trade Preferences Extension Act of 2015, Public Law 114-27 (the "Act") provides five amendments to the AD and CVD laws: (1) Section 502 amends Section 776 of the Tariff Act of 1930, 19 U.S.C. 1677e, to modify the provisions addressing the selection and corroboration of certain information that may be used as facts otherwise available with an adverse inference in an AD or CVD proceeding; (2) Section 503 amends Section 771(7) of the Tariff Act of 1930, 19 U.S.C. 1677(7), to modify the definition of "material injury" in AD and CVD proceedings; (3) Section 504 amends Section 771(15) of the Tariff Act

of 1930, 19 U.S.C. 1677(15), and Section 773 of the Tariff Act of 1930, 19 U.S.C. 1677b, to modify the definition of "ordinary course of trade" and the provisions governing the treatment of a "particular market situation" in AD proceedings; (4) Section 505 amends Section 773(b)(2) of the Tariff Act of 1930, 19 U.S.C. 1677b(b)(2), to modify the treatment of distorted prices or costs in AD proceedings; and (5) Section 506 amends Section 782(a) of the Tariff Act of 1930, 19 U.S.C. 1677m(a), to modify the provision regarding accepting voluntary respondents in AD and CVD proceedings.

The Act does not contain dates of application for any of these amendments. As explained below, it would be impracticable for the Department to apply at least one of the amendments, Section 505, immediately, and extremely difficult to apply the others immediately. Accordingly, the Department is establishing dates of application for each section, except for Section 503 (which relates to determinations of material injury by the U.S. International Trade Commission).

As an initial matter, we are cognizant of the Supreme Court's ruling in *Landgraf v. USI Film Prods.*, 511 U.S. 244 (1994), that, absent clear Congressional intent that a statute be applied retroactively, a statute may not attach new legal consequences to events completed before its enactment. *Landgraf*, 511 U.S. at 280; *see also*, *AT&T Corp. v. Hulteen*, 556 U.S. 701 (2009). In determining whether the *Landgraf* prohibition has been breached, important considerations are whether the new law takes away or impairs vested rights or creates new obligations, imposes a new duty, or attaches a new disability in respect to transactions or considerations already past. *Landgraf*, 511 U.S. at 269. Another important consideration is whether the prior provision was reasonably relied upon, so that application of the new provision would be manifestly unfair. *INS v. St. Cyr*, 533 U.S. 289 (2001).

In considering whether application of the amended statutes to merchandise entered into the United States before the passage of the Act would disturb vested rights, create new obligations or upset a reasonable reliance, our starting point is the holding of the Supreme Court in *Buttfield v. Stranahan*, 192 U.S. 470, 493 (1904), that "no individual has a vested right to trade with foreign nations. . . ." and that importing merchandise is not a fundamental right that is protected by other constitutional privileges such as due process. *See also* *NEC Corp. v. United States*, 151 F.3d 1361, 1369 (Fed. Cir. 1998). More