

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 999

[Docket No. FV96-999-3C]

#### **Peanuts Marketed in the United States; Changes in Handling and Disposition Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains a correction to the final regulations published Thursday, January 9, 1997, (FR Doc. 97-283) (62 FR 1249). The rule eliminated several requirements covering the disposition of inedible peanuts and relaxed for 1996 and subsequent crop peanuts several sections regulating the handling and disposition of domestic and foreign-produced peanuts marketed in the United States.

**EFFECTIVE DATE:** January 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Tom Tichenor, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-6862, fax (202) 720-5968. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; fax (202) 720-5698.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

The final rule that is subject to this correction changed several requirements covering disposition of inedible

peanuts. In the import regulation (7 CFR Part 999.600), the definition of Negative aflatoxin content on page 1270, incorrectly includes a reference to 25 or less parts per billion (ppb) aflatoxin content for inedible quality peanuts. The final rule removed the 25 ppb level from various other provisions of the domestic and import regulations but inadvertently left that designation in the import regulation's definition of the term negative to aflatoxin. That term only is applied to those peanut lots determined to contain 15 or less ppb aflatoxin content. This correction brings the definition of the term Negative to aflatoxin in the import regulation into conformity with the same term used in the two domestic peanut regulations, as required by law.

#### Correction of Publication

Accordingly, final regulations published January 9, 1997, FR Doc. 97-283, § 999.600, paragraph (a)(10), on page 1270, first column is corrected to read as follows:

#### **§ 999.600 [Corrected]**

(a) \* \* \*

(10) *Negative aflatoxin content* means 15 parts per billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements.

\* \* \* \* \*

Dated: February 21, 1997.

Sharon Bomer Lauritsen,  
*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 97-4969 Filed 2-27-97; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF JUSTICE

### **8 CFR Parts 3, 103, 212, 235, 236, 242, 287, 292, 292a**

[EOIR No. 113F; A.G. Order No. 2070-97]

RIN 1125-AA14

#### **Executive Office for Immigration Review; List of Free Legal Services Providers**

**AGENCY:** Executive Office for Immigration Review, Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule transfers the responsibility for maintaining the list of organizations providing free legal services in immigration proceedings

from the Immigration and Naturalization Service (INS) to the Executive Office for Immigration Review (EOIR), Office of the Chief Immigration Judge, and amends the regulations by permitting attorneys who provide free legal services to indigent aliens to apply to be included on the list. The rule also amends the regulations by transferring appellate jurisdiction from the Associate Commissioner for Examinations, INS, to the Board of Immigration Appeals for appeals from decisions on applications to be included on the list of free legal services providers and from decisions on removals from such a list. Finally, this rule will further implementation of section 604(d)(4) of the recently enacted Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by requiring that the list of free legal services providers maintained by the Chief Immigration Judge include a list of persons who have indicated their availability to represent aliens in asylum proceedings on a *pro bono* basis.

**EFFECTIVE DATE:** March 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305-0470.

**SUPPLEMENTARY INFORMATION:** On August 5, 1996, the Executive Office for Immigration Review published a proposed rule in the Federal Register (61 FR 40552) amending 8 CFR parts 3 and 292a by transferring the responsibility for maintaining the list of entities that will provide free legal services in immigration proceedings from INS to EOIR, Office of the Chief Immigration Judge. This list of organizations and attorneys, qualified pursuant to this rule, who can represent aliens in immigration proceedings before the Board of Immigration Appeals and the Immigration Courts is given to aliens who are parties in immigration proceedings in an Immigration Court. This rule amends the present regulation by permitting attorneys who provide free legal services to indigent aliens to apply to be included on the list of free legal services providers.

In response to the above rulemaking, EOIR received two comments. One commenter noted that there may be areas where Immigration Courts are

located but where no organizations or attorneys are available to represent aliens on a *pro bono* basis. The commenter suggested that the Immigration Courts should also maintain lists of private attorneys who regularly practice before each of the Courts. Such lists could be distributed to aliens in need of counsel, and any licensed attorney would be able to place his or her name on the lists.

However, EOIR has promulgated this rule in order to enhance the opportunities for *indigent* aliens to find *free* legal counsel by providing them with a list of organizations and attorneys who are willing to represent them on a *pro bono* basis. Moreover, the statutory basis to formulate and maintain such lists requires that the lists be maintained for this purpose. See 8 U.S.C. 1252(b)(2). Therefore, this suggestion will not be adopted.

The same commenter also inquired as to whether an attorney must accept a certain number of *pro bono* cases in order to be included on the list of free legal services providers, and whether an attorney would be prohibited from accepting any cases, or a certain percentage of cases, for a fee. EOIR does not believe it is necessary or advisable to require an attorney to accept a specific number or percentage of cases on a *pro bono* basis in order to be included on the list of free legal services providers. Nor will an attorney included on the list be precluded from accepting cases for a fee. An attorney included on the list may continue serving a wide range of paying clients as long as he or she agrees to represent indigent aliens on a *pro bono* basis. However, if it comes to EOIR's attention that an attorney who is included on the list is not, in fact, accepting cases on behalf of indigent aliens on a *pro bono* basis, the regulation provides that the Chief Immigration Judge, or his or her designee, may remove the attorney's name from the list after giving the attorney notice and an opportunity to answer. Moreover, this issue is subject to further review if necessary to eliminate any abuses.

The other commenter expressed concern that the proposed rule provided that only an organization that has on its staff, or retains at no expense to the alien, an attorney who is available to render free legal services, or a bar association that provides a referral service of attorneys who render *pro bono* assistance, may apply to be included on the list of free legal services providers, while organizations other than bar associations that provide referral services for indigent aliens could not apply to be included on the

list. The commenter therefore suggested that the rule be amended to include additional organizations that provide referral services for indigent aliens.

While the purpose of this regulation is to enhance the opportunities for indigent aliens to find free legal counsel by expanding the list of organizations and attorneys who are willing to represent them on a *pro bono* basis, EOIR also recognizes the need to ensure that only organizations with bona fide referral services be included on the list. Therefore, the rule has been amended to allow organizations that operate referral services to apply to be on the list and to allow the Chief Immigration Judge to exercise his or her discretion in ruling on such applications.

Finally, this rule furthers implementation of section 604(d)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, by having the list of free legal services providers maintained by the Chief Immigration Judge include a list of persons who have indicated their availability to represent aliens in asylum proceedings on a *pro bono* basis.

Although the rule requires that an organization or attorney file an application requesting to be placed on the list of free legal services providers, there is no specific application form being used for this request at the present time. Further, any organization that is on the current list of free legal services providers will not need to apply at this time to be included on the new list. All organizations on the current list will be contacted by the Office of the Chief Immigration Judge, or his or her designee, to determine if they intend to remain on the list and to verify identifying information, such as address and telephone number. Any organizations that cannot be reached will not be included on the new list.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, and accordingly this rule has not been reviewed by the Office of Management and Budget. This rule has no Federalism implications warranting the preparation of a Federalism Assessment in accordance with section 6 of Executive Order No. 12612. The rule merits the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order No. 12988.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Lawyers, Organizations and functions (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 287

Immigration, Law enforcement officers.

8 CFR Part 292

Administrative practice and procedure, Immigration, Lawyers, Reporting and recordkeeping requirements.

8 CFR Part 292a

Aliens, Legal services.

Accordingly and under the authority of 8 U.S.C. 1103, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

**PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1362; 28 U.S.C. 509, 510, 1746; Sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR 1949-1953 Comp., p. 1002.

2. Section 3.1 is amended by adding a new paragraph (b)(11) to read as follows:

**§ 3.1 General authorities.**

\* \* \* \* \*  
(b) \* \* \*

(11) Decisions on applications from organizations or attorneys requesting to be included on a list of free legal services providers and decisions on removals therefrom pursuant to § 3.65.

\* \* \* \* \*

#### Subpart D [Added and Reserved]

3. Subpart D is added and reserved.

4. A new Subpart E is added to read as follows:

#### Subpart E—List of Free Legal Services Providers

Sec.

3.61 List.

3.62 Qualifications.

3.63 Applications.

3.64 Approval and denial of applications.

3.65 Removal of an organization or attorney from list.

#### Subpart E—List of Free Legal Services Providers

##### § 3.61 List.

(a) The Chief Immigration Judge shall maintain a current list of organizations and attorneys qualified under this subpart which provide free legal services. This list, which shall be updated not less than quarterly, shall be provided to aliens in immigration proceedings. The Chief Immigration Judge may designate an employee or employees to carry out his or her responsibilities under this subpart. Organizations and attorneys may be included on the list of free legal services providers if they qualify under one of the following categories:

(1) Organizations recognized under § 292.2 of this chapter that meet the qualifications set forth in § 3.62(a) and whose representatives, if any, are authorized to practice before the Board and Immigration Courts;

(2) Organizations not recognized under § 292.2 of this chapter that meet the qualifications set forth in § 3.62(b);

(3) Bar associations that meet the qualifications set forth in § 3.62(c); and

(4) Attorneys, as defined in § 1.1(f) of this chapter, who meet the qualifications set forth in § 3.62(d).

(b) The listing of an organization qualified under this subpart is not equivalent to recognition under § 292.2 of this chapter.

##### § 3.62 Qualifications.

(a) *Organizations recognized under § 292.2.* An organization that is recognized under § 292.2 of this chapter that seeks to have its name appear on the list of free legal services providers maintained by the Chief Immigration Judge must have on its staff:

(1) An attorney, as defined in § 1.1(f) of this chapter; or

(2) At least one accredited representative, as defined in § 292.1(a)(4) of this chapter, who is authorized to practice before the Board and Immigration Courts.

(b) *Organizations not recognized under § 292.2.* An organization that is not recognized under § 292.2 of this chapter that seeks to have its name appear on the list of free legal services providers maintained by the Chief Immigration Judge must declare that:

(1) It is established in the United States;

(2) It provides free legal services to indigent aliens; and

(3) It has on its staff, or retains at no expense to the alien, an attorney, as defined in § 1.1(f) of this chapter, who is available to render such free legal services by representation in immigration proceedings.

(c) *Bar associations.* A bar association that provides a referral service of attorneys who render *pro bono* assistance to aliens in immigration proceedings may apply to have its name appear on the list of free legal services providers maintained by the Chief Immigration Judge. Any other organization that provides such a referral service may also apply to have its name appear on the list of free legal services providers, and may, in the sole discretion of the Chief Immigration Judge, be included on the list.

(d) *Attorneys.* An attorney, as defined in § 1.1(f) of this chapter, who seeks to have his or her name appear on the list of free legal services providers maintained by the Chief Immigration Judge must declare in his or her application that he or she provides free legal services to indigent aliens and that he or she is willing to represent indigent aliens in immigration proceedings *pro bono*. An attorney under this section may not receive any direct or indirect remuneration from indigent aliens for representation in immigration proceedings, although the attorney may be regularly compensated by the firm or organization with which he or she is associated.

##### § 3.63 Applications.

(a) *Generally.* In order to qualify to appear on the list of free legal services providers maintained by the Chief Immigration Judge under this subpart, an organization or attorney must file an application requesting to be placed on the list. This application must be filed with the Office of the Chief Immigration Judge, along with proof of service on the Court Administrator of the Immigration Court having jurisdiction over each locality where the organization or attorney provides free legal services.

Each submission must be identified by the notation "Application for Free Legal Services Providers List" on the envelope, and must also indicate if the organization or attorney is willing to represent indigent aliens in asylum proceedings.

(b) *Organizations recognized under § 292.2.* An organization that is recognized under § 292.2 of this chapter must submit a declaration signed by an authorized officer of the organization which states that the organization complies with all of the qualifications set forth in § 3.62(a).

(c) *Organizations not recognized under § 292.2.* An organization that is not recognized under § 292.2 of this chapter must submit a declaration signed by an authorized officer of the organization which states that the organization complies with all of the qualifications set forth in § 3.62(b).

(d) *Attorneys.* An attorney must:

(1) Submit a declaration that states that:

(i) He or she provides free legal services to indigent aliens;

(ii) He or she is willing to represent indigent aliens in immigration proceedings *pro bono*; and

(iii) He or she is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law; and

(2) Include the attorney's bar number, if any, from each bar of the highest court of the state, possession, territory, or commonwealth in which he or she is admitted to practice law.

(e) *Changes in addresses or status.* Organizations and attorneys referred to in this subpart are under a continuing obligation to notify the Chief Immigration Judge, in writing, within ten business days, of any change of address, telephone number, or qualifying or professional status. Failure to notify the Chief Immigration Judge of any such change may result in the name of the organization or attorney being removed from the list.

##### § 3.64 Approval and denial of applications.

The Court Administrator of the Immigration Court having jurisdiction over each locality where an organization or attorney provides free legal services shall forward a recommendation for approval or denial of each application submitted by the organization or attorney, and the reasons therefor, to the Chief Immigration Judge. The Chief Immigration Judge shall have the authority to approve or deny an application submitted by an organization or an attorney pursuant to § 3.63. If an application is denied, the

organization or attorney shall be notified of the decision in writing, at the organization's or attorney's last known address, and shall be given a written explanation of the grounds for such denial. A denial must be based on the failure of the organization or attorney to meet the qualifications and/or to comply with the procedures set forth in this subpart. The organization or attorney shall be advised of its, his or her right to appeal this decision to the Board of Immigration Appeals in accordance with § 3.1(b) and § 103.3(a)(1)(ii) of this chapter.

### **§ 3.65 Removal of an organization or attorney from list.**

(a) *Involuntary removal.* If the Chief Immigration Judge believes that an organization or attorney included on the list of free legal services providers no longer meets the qualifications set forth in this subpart, he or she shall promptly notify the organization or attorney in writing, at the organization's or attorney's last known address, of his or her intention to remove the name of the organization or attorney from the list. The organization or attorney may submit an answer within 30 days from the date the notice is served. The organization or attorney must establish by clear, unequivocal, and convincing evidence that the organization's or attorney's name should not be removed from the list. If, after consideration of any answer submitted by the organization or attorney, the Chief Immigration Judge determines that the organization or attorney no longer meets the qualifications set forth in this subpart, the Chief Immigration Judge shall promptly remove the name of the organization or attorney from the list of free legal service providers, the removal of which will be reflected in the next quarterly update, and shall notify the organization or attorney of such removal in writing, at the organization's or attorney's last known address. Organizations and attorneys shall be advised of their right to appeal this decision to the Board of Immigration Appeals in accordance with § 3.1(b) and § 103.3(a)(1)(ii) of this chapter.

(b) *Voluntary removal.* Any organization or attorney qualified under this subpart may, at any time, submit a written request to have its, his or her name removed from the list of free legal service providers. Such a request shall be honored, and the name of the organization or attorney shall promptly be removed from the list, the removal of which will be reflected in the next quarterly update.

### **PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS**

5. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR 1982 Comp. p. 166; 8 CFR part 2.

#### **§ 103.1 [Amended]**

6. Section 103.1 is amended by removing and reserving paragraph (f)(3)(iii)(U).

### **PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE**

7. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

#### **§ 212.6 [Amended]**

8. In § 212.6, paragraph (d)(1) is amended in the third sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

### **PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION**

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

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

#### **§ 235.6 [Amended]**

10. In § 235.6, paragraph (a) is amended in the fourth sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

### **PART 236—EXCLUSION OF ALIENS**

11. The authority citation for part 236 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1362.

#### **§ 236.2 [Amended]**

12. In § 236.2, paragraph (a) is amended in the third sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

### **PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL**

13. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252a, 1252b, 1254, 1362; 8 CFR part 2.

#### **§ 242.1 [Amended]**

14. In § 242.1, paragraph (c) is amended in the fourth sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

#### **§ 242.2 [Amended]**

15. In § 242.2, paragraph (c)(2) is amended in the third sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

16. In § 242.2, paragraph (d) is amended in the fourth sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

#### **§ 242.16 [Amended]**

17. In § 242.16, paragraph (a) is amended in the first sentence by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

#### **§ 242.24 [Amended]**

18. In § 242.24, paragraph (g) is amended in the first and second sentences by revising the phrase "found on the free legal services list" to read "or attorney found on the list of free legal services providers maintained in accordance with part 3 of this chapter".

### **PART 287—FIELD OFFICERS; POWERS AND DUTIES**

19. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

#### **§ 287.3 [Amended]**

20. In § 287.3, the sixth sentence is amended by removing the word "programs" and adding "provided by organizations and attorneys" in its place and by revising the reference to "part 292a of this chapter" to read "part 3 of this chapter".

**PART 292—REPRESENTATION AND APPEARANCES**

21. The authority citation for part 292 continues to read as follows:

Authority: 8 U.S.C. 1103, 1252b, 1362.

22. Section 292.22 is amended by revising the first sentence in paragraph (a) introductory text to read as follows:

**§ 292.2 Organizations qualified for recognition; requests for recognition; withdrawal of recognition; accreditation of representatives; roster.**

(a) *Qualifications of organizations.* A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service alone or the Service and the Board (including practice before the Immigration Court). \* \* \*

\* \* \* \* \*

**PART 292a—[REMOVED]**

23. Part 292a is removed.

Dated: February 24, 1997.

Janet Reno,

*Attorney General.*

[FR Doc. 97-5039 Filed 2-27-97; 8:45 am]

BILLING CODE 4410-30-M

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 96-NM-35-AD; Amendment 39-9951; AD 97-05-07]

RIN 2120-AA64

**Airworthiness Directives; Lockheed Model 382 Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Lockheed Model 382 series airplanes, that currently requires a revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. That AD also requires installation of certain valve housings for the propeller governor on the outboard engines. This amendment revises the applicability of the existing AD to remove certain airplanes. This amendment also revises references to a certain replacement part number of a valve housing. The actions specified by

this AD are intended to ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff.

**DATES:** Effective April 4, 1997.

The incorporation by reference of Lockheed Airplane Flight Manual Supplement 382-16, dated August 11, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of August 10, 1994 (59 FR 35236, July 11, 1994).

**ADDRESSES:** The service information referenced in this AD may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE-116A, FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7367; fax (404) 305-7348.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95-12-05, amendment 39-9255 (60 FR 28715, June 2, 1995), which is applicable to certain Lockheed Model 382 series airplanes, was published in the Federal Register on February 21, 1996 (61 FR 6579). The action proposed to supersede AD 95-12-05 to continue to require the previous revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. The action also proposed to continue to require the installation of certain valve housings for the propeller governor on the outboard engines. The action also proposed to revise the applicability of the existing AD to remove certain airplanes, and to revise references to a certain replacement part number of a valve housing.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

**Support for the Proposal**

The commenter supports the proposed rule.

**Conclusion**

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Cost Impact**

There are approximately 112 Model 382 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry will be affected by this proposed AD.

The actions that are currently required by AD 95-12-05 take approximately 8 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts cost approximately \$90,000 per airplane. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be \$1,628,640, or \$90,480 per airplane.

Since this new AD only revises certain information and part numbers, it will impose no new costs to the affected operators.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator will accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the only U.S. operator of the affected Lockheed Model 382 series airplanes has already equipped half of its fleet (9 airplanes) with the valve housing assembly that is required by this AD. Therefore, the future economic cost of this AD on U.S. operators is now only \$814,320.

**Regulatory Impact**

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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)