

**§ 761.103 Farm assessment.**

(a) The Agency, in collaboration with the applicant, will assess the farming operation to:

(1) Determine the applicant's financial condition, organizational structure, and management strengths and weaknesses;

(2) Identify and prioritize training and supervisory needs; and

(3) Develop a plan of supervision to assist the borrower in achieving financial viability and transitioning to private commercial credit or other sources of credit in the shortest time practicable, except for CL.

(b) \* \* \*

(9) Supervisory plan, except for streamlined CL;

(10) Training plan; and

(11) Graduation plan, except for CL.

\* \* \* \* \*

**PART 766—DIRECT LOAN SERVICING—SPECIAL**

■ 5. The authority citation for part 766 is revised to read as follows:

**Authority:** 5 U.S.C. 301 and 7 U.S.C. 1989.

**Subpart D—Homestead Protection Program**

■ 6. In § 766.154, revise paragraph (c) to read as follows:

**§ 766.154 Homestead Protection Leases.**

\* \* \* \* \*

(c) *Lease-purchase options.* (1) The lessee may exercise in writing the purchase option and complete the homestead protection purchase at any time prior to the expiration of the lease provided all lease payments are current.

(2) If the lessee is a member of a socially disadvantaged group, the lessee may designate a member of the lessee's immediate family (that is, parent, sibling, or child) (designee) as having the right to exercise the option to purchase.

(3) The purchase price is the market value of the property when the option is exercised as determined by a current appraisal obtained by the Agency.

(4) The lessee or designee may purchase homestead protection property with cash or other credit source.

(5) The lessee or designee may receive Agency program or non-program financing provided:

(i) The lessee or designee has not received previous debt forgiveness;

(ii) The Agency has funds available to finance the purchase of homestead protection property;

(iii) The lessee or designee demonstrates an ability to repay such an FLP loan; and

(iv) The lessee or designee is otherwise eligible for the FLP loan.

\* \* \* \* \*

**Subpart H—Loan Liquidation**

■ 7. Add § 766.358 to read as follows:

**§ 766.358 Acceleration and foreclosure moratorium.**

(a) Notwithstanding any other provisions of this subpart, borrowers who file or have filed a program discrimination complaint that is accepted by USDA Office of Adjudication or successor office (USDA), and have been serviced to the point of acceleration or foreclosure on or after May 22, 2008, will not have their account accelerated or liquidated until such complaint has been resolved by USDA or closed by a court of competent jurisdiction. This moratorium applies only to program loans made under subtitle A, B, or C of the Act (for example, CL, FO, OL, EM, SW, or RL). Interest will not accrue and no offsets will be taken on these loans during the moratorium. Interest accrual and offsets will continue on all other loans, including, but not limited to, non-program loans.

(1) If the Agency prevails on the program discrimination complaint, the interest that would have accrued during the moratorium will be reinstated on the account when the moratorium terminates, and all offsets and servicing actions will resume.

(2) If the borrower prevails on the program discrimination complaint, the interest that would have accrued during the moratorium will not be reinstated on the account unless specifically required by the settlement agreement or court order.

(b) The moratorium will begin on:

(1) May 22, 2008, if the borrower had a pending program discrimination claim that was accepted by USDA as valid and the account was at the point of acceleration or foreclosure on or before that date; or

(2) The date after May 22, 2008, when the borrower has a program discrimination claim accepted by USDA as valid and the borrower's account is at the point of acceleration or foreclosure.

(c) The point of acceleration under this section is the earliest of the following:

(1) The day after all rights offered on the Agency notice of intent to accelerate expire if the borrower does not appeal;

(2) The day after all appeals resulting from an Agency notice of intent to accelerate are concluded if the borrower appeals and the Agency prevails on the appeal;

(3) The day after all appeal rights have been concluded relating to a failure to graduate and the Agency prevails on any appeal;

(4) Any other time when, because of litigation, third party action, or other unforeseen circumstance, acceleration is the next step for the Agency in servicing and liquidating the account.

(d) A borrower is considered to be in foreclosure status under this section anytime after acceleration of the account.

(e) The moratorium will end on the earlier of:

(1) The date the program discrimination claim is resolved by USDA or

(2) The date that a court of competent jurisdiction renders a final decision on the program discrimination claim if the borrower appeals the decision of USDA.

Signed in Washington, DC, on January 21, 2011.

**Jonathan W. Coppess,**

*Administrator, Farm Service Agency.*

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**DEPARTMENT OF HOMELAND SECURITY****8 CFR Part 234****U.S. Customs and Border Protection****19 CFR Part 122**

[CBP Dec 11–05]

RIN 1651–AA86

**Airports of Entry or Departure for Flights to and From Cuba**

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** Under Department of Homeland Security (DHS) regulations, direct flights between the United States and Cuba must arrive at or depart from one of three named U.S. airports: John F. Kennedy International Airport, Los Angeles International Airport, or Miami International Airport. This document amends current DHS regulations to allow additional U.S. airports that are able to process international flights to request approval of U.S. Customs and Border Protection (CBP) to process authorized flights between the United States and Cuba. These amendments are in accordance with the President's recent statement easing the restrictions placed on flights to and from Cuba by, among other things, providing that eligible airports may seek approval from

CBP to accommodate flights arriving from, or departing for, Cuba. This statement builds upon the President's 2009 initiative to promote democracy and human rights in Cuba by easing travel restrictions to facilitate greater contact between separated family members in the United States and Cuba.

**DATES:** *Effective Date:* January 28, 2011.

**FOR FURTHER INFORMATION CONTACT:** Arthur A.E. Pitts, Sr., U.S. Customs and Border Protection, Office of Field Operations, 202-344-2752.

**SUPPLEMENTARY INFORMATION:**

**Background**

Part 122 of the CBP regulations, subpart O, consisting of sections 122.151-122.158 (19 CFR 122.151-122.158), sets forth special procedures that apply to all aircraft (except public aircraft) entering or departing the United States to or from Cuba. In particular, section 122.153 (19 CFR 122.153) provides that the owner or person in command of any aircraft clearing the U.S. for, or entering the U.S. from, Cuba must clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida; the John F. Kennedy International Airport, Jamaica, New York; or the Los Angeles International Airport, Los Angeles, California. Additionally, section 122.154 of the CBP regulations (19 CFR 122.154) requires the person in command of the aircraft to provide advance notice of arrival at least one hour before crossing the U.S. coast or border. This notice must be given either through the Federal Aviation Administration flight notification procedure or directly to the CBP officer in charge at one of the designated airports, as applicable.

Title 8 of the Code of Federal Regulations pertaining to landing requirements for aliens arriving by civil aircraft also restricts flights arriving from Cuba that are carrying passengers or crew that are required to be inspected under section 235 of the Immigration and Nationality Act (INA). Paragraph (a) of section 234.2 of title 8 (8 CFR 234.2(a)) requires that these flights land only at the same three airports: John F. Kennedy, Los Angeles, or Miami, unless advance permission to land elsewhere has been obtained from CBP's Office of Field Operations.

In a statement issued on January 14, 2011, the President announced a series of changes to ease the restrictions on travel to and from Cuba as part of an initiative to support the Cuban people's desire to freely determine their country's future by, among other things, supporting licensed travel and

intensifying people-to-people exchanges. This announcement builds on the President's April 13, 2009 initiative to promote greater contact between separated family members in the United States and Cuba.

*Flights Between Cuba and Additional Airports in the United States*

In the January 14, 2011 statement, the President announced that additional U.S. airports able to process international flights may request CBP approval to accept direct flights to and from Cuba in accordance with procedures to be established by CBP. Provided CBP is satisfied that the airport is suitable to process these flights, CBP will add the airport to the list of airports authorized for direct flights to or from Cuba.

In accordance with this statement, DHS is amending section 122.153 of title 19 of the Code of Federal Regulations (19 CFR 122.153) to provide that airports that meet existing CBP standards for accommodating international flights may request CBP approval to accept direct flights to and from Cuba. Properly authorized flights to and from Cuba will be able to arrive at or depart from any U.S. airport that CBP has approved. For reference purposes, CBP will provide a list of authorized airports in section 122.153 as well as on the CBP Web site, <http://www.cbp.gov>.

DHS is also amending section 122.154 of title 19 (19 CFR 122.154) and section 234.2 of title 8 (8 CFR 234.2) to bring these sections into conformity with revised section 122.153 of title 19. Revised paragraph (b) of section 122.154 of title 19 indicates that when notice of arrival is provided to CBP, it must be provided to the CBP officer in charge at the applicable authorized airport. Revised paragraph (a) of section 234.2 of title 8 indicates that aircraft arriving from Cuba with passengers or crew required to be inspected under the INA must land at one of the airports that CBP has authorized pursuant to 19 CFR 122.153. DHS is also revising paragraph (a) of section 234.2 to reflect current CBP terminology.

The requirements to obtain clearance and permission from CBP to depart from or enter at the airport and to provide advance notice of arrival will still apply. Clearance and permission to depart from or enter at the airport must be obtained by contacting the CBP officer in charge at the authorized airport at which the aircraft departs or arrives. Advance notice of arrival must be provided either through the Federal Aviation Administration flight notification procedure or directly to the

CBP officer in charge at the authorized airport of arrival.

*Eligibility Requirements and Application and Approval Procedure*

The regulations are amended to set forth eligibility requirements and application and approval procedures for airports seeking approval to accept aircraft traveling between the United States and Cuba. (The three airports currently referenced in section 122.153 of the regulations are already approved to accept aircraft traveling between the United States and Cuba and will not need to seek CBP approval under this procedure.)

To be eligible to request approval to accept flights to and from Cuba, an airport must be an international airport, landing rights airport, or user fee airport, as defined and described in part 122 of the CBP regulations (19 CFR part 122) and have adequate and up-to-date staffing, equipment, and facilities to process international traffic. In addition, the airport must have an Office of Foreign Assets Control (OFAC) licensed carrier service provider that is prepared to provide flights between the airport and Cuba. The director of the port authority governing the airport seeking approval must send a written request to the Assistant Commissioner, Office of Field Operations, CBP Headquarters (1300 Pennsylvania Avenue, NW., Washington, DC 20229).

After CBP determines that the airport is suitable to accommodate flights traveling between the United States and Cuba, CBP will notify the requestor that the airport has been approved to accept aircraft traveling to or from Cuba, and that it may immediately begin to accept such aircraft. For reference purposes, approved airports will be listed on the CBP Web site <http://www.cbp.gov> and in new paragraph (c) of section 122.153. That paragraph as set forth in this document lists only the three airports that are already authorized to accept such aircraft—John F. Kennedy International Airport, Los Angeles International Airport, and Miami International Airport—but will be revised periodically to reflect additional airports that CBP has approved.

*Additional Requirements for Aircraft Traveling to or From Cuba*

All aircraft to which these amended regulations apply must be properly licensed or otherwise authorized to travel between the United States and Cuba. Several Federal agencies administer the necessary authorizations, and it is the responsibility of the owner or person in command of the aircraft to

ensure that the aircraft has the necessary authorization to travel.

OFAC, an office within the U.S. Department of Treasury, administers the Cuban Assets Control Regulations, 31 CFR part 515, which prohibit, in relevant part, all persons subject to the jurisdiction of the United States from engaging in travel-related transactions involving Cuba unless authorized by OFAC. Persons transporting authorized travelers between the United States and Cuba by international charter flights as carrier service providers must also be authorized by OFAC to provide this service.

Additionally, an aircraft traveling between the United States and Cuba may require a license from the Department of Commerce, the Department of State, or the Department of Transportation, as applicable. Note that, as a condition precedent for clearance, section 122.157 of the CBP regulations (19 CFR 122.157) requires the aircraft commander to present to CBP a validated license issued by the Department of Commerce or a license issued by the Department of State, as well as documents required pursuant to 19 CFR part 122, subpart H. Also, air carriers and other commercial operators are required to adopt and implement the security requirements established by the Transportation Security Administration for individuals, property, and cargo aboard aircraft (*see* 49 CFR chapter XII, subchapter C (Civil Aviation Security)), and ensure that any airport(s) to be served in Cuba carry out effective security measures, in accordance with 49 U.S.C. 44907.

#### **Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866**

The Administrative Procedure Act (APA) generally requires (with exceptions) that the public be allowed to participate in agency rulemaking. Normally, an agency publishes a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b)) providing interested persons the opportunity to submit comments (5 U.S.C. 553(c)). The APA also provides (with exceptions) that a final rule published after consideration of those comments not take effect for at least 30 days from the date of publication (5 U.S.C. 553(d)). In addition, the APA establishes requirements for adjudications required by statute to be determined on the record after opportunity for an agency hearing. (5 U.S.C. 554).

The Department of Homeland Security is of the opinion that easing travel restrictions between the United

States and Cuba is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the APA. In addition, the Department of Homeland Security does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department is of the opinion that easing travel restrictions between the United States and Cuba is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866. Finally, because the Department is of the opinion that this rule is not subject to the requirements of 5 U.S.C. 553, the Department does not consider this document to be subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### **Paperwork Reduction Act**

The collection of information encompassed within this final rule is contained in 19 CFR 122.153 and requires a written request to CBP requesting approval for the airport to be able to accept aircraft traveling to or from Cuba. The information will be used by CBP to assist in determining if an airport is suitable to accommodate aircraft traveling between the United States and Cuba. A request to approve this information collection has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The burden estimates for eligibility requirements and application and approval procedure under § 122.153 are as follows:

*Estimated annual reporting burden:* 16 hours.

*Estimated number of respondents:* 16.

*Estimated average annual burden per respondent:* 1 hour.

#### **Signing Authority**

This final rule is being issued in accordance with 8 CFR 2.1 and 19 CFR 0.2(a). Accordingly, this final rule is signed by the Secretary of Homeland Security.

#### **List of Subjects**

##### *8 CFR Part 234*

Air carriers, Aircraft, Airports, Aliens, Cuba.

##### *19 CFR Part 122*

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

#### **Amendments to the Regulations**

Accordingly, part 234 of title 8 of the Code of Federal Regulations and part 122 of title 19 CFR are amended as set forth below:

#### **8 CFR Chapter 1**

#### **PART 234—DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT**

■ 1. The general authority for part 234 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1221, 1229; 8 CFR part 2.

■ 2. In § 234.2, revise paragraph (a) to read as follows:

##### **§ 234.2 Landing requirements.**

(a) *Place of landing.* Aircraft carrying passengers or crew required to be inspected under the Act must land at the international air ports of entry enumerated in part 100 of this chapter unless permission to land elsewhere is first obtained from the Commissioner of U.S. Customs and Border Protection (CBP) in the case of aircraft operated by scheduled airlines, and in all other cases from the port director of CBP or other CBP officer having jurisdiction over the CBP port of entry nearest the intended place of landing. Notwithstanding the foregoing, aircraft carrying passengers and crew required to be inspected under the Act on flights originating in Cuba must land only at airports that have been authorized by CBP pursuant to 19 CFR 122.153 as an airport of entry for flights arriving from Cuba, unless advance permission to land elsewhere has been obtained from the Office of Field Operations at CBP Headquarters.

\* \* \* \* \*

#### **19 CFR Chapter 1**

#### **PART 122—AIR COMMERCE REGULATIONS**

■ 3. The general authority citation for part 122 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

■ 4. Revise § 122.153 to read as follows:

**§ 122.153 Limitations on airport of entry or departure.**

(a) *Aircraft arrival and departure.* The owner or person in command of any aircraft clearing the United States for or entering the United States from Cuba, whether the aircraft is departing on a temporary sojourn or for export, must clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida; the John F. Kennedy International Airport, Jamaica, New York; the Los Angeles International Airport, Los Angeles, California; or any other airport that has been approved by CBP pursuant to paragraph (b) of this section, and must comply with the requirements in this part unless otherwise authorized by the Assistant Commissioner, Office of Field Operations, CBP Headquarters.

(b) *CBP approval of airports of entry and departure.*

(1) *Airports eligible to apply.* An international airport, landing rights airport, or user fee airport (as defined in § 122.1 and described in subpart B of this part) that is equipped to facilitate passport control and baggage inspection, and otherwise process international flights and has an Office of Foreign Assets Control (OFAC) licensed carrier service provider that is prepared to provide flights between the airport and Cuba, may request CBP approval to become an airport of entry and departure for aircraft traveling to or from Cuba.

(2) *Application and approval procedure.* The director of the port authority governing the airport must send a written request to the Assistant Commissioner, Office of Field Operations, CBP Headquarters, requesting approval for the airport to be able to accept aircraft traveling to or from Cuba. Upon determination that the airport is suitable to provide such services, CBP will notify the requestor that the airport has been approved to accept aircraft traveling to or from Cuba, and that it may immediately begin to accept such aircraft. For reference purposes, approved airports will be listed on the CBP Web site and in updates to paragraph (c) of this section.

(c) *List of airports authorized to accept aircraft traveling to or from Cuba.* For reference purposes, the following is a list of airports that have been authorized by CBP to accept aircraft traveling between Cuba and the United States.

Location	Name
Los Angeles, California.	Los Angeles International Airport
Miami, Florida ....	Miami International Airport

■ 5. In § 122.154, revise paragraph (b)(2) to read as follows:

**§ 122.154 Notice of arrival.**

\* \* \* \* \*

(b) \* \* \*

(2) Directly to the CBP officer in charge at the applicable airport authorized pursuant to § 122.153.

\* \* \* \* \*

**Janet Napolitano,**

*Secretary.*

[FR Doc. 2011-2011 Filed 1-27-11; 8:45 am]

**BILLING CODE 9111-14-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

[Docket No. NM440; Special Conditions No. 25-415-SC]

**Special Conditions: TTF Aerospace, LLC, Modification to Boeing Model 767-300 Series Airplanes; Pilot Lower Lobe Crew Rest Module**

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Boeing Model 767-300 series airplane. This airplane, as modified by TTF Aerospace, LLC, will have a novel or unusual design features associated with the pilot lower lobe crew rest module (CRM). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is January 21, 2011. We must receive your comments by March 14, 2011.

**ADDRESSES:** You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM440, 1601 Lind Avenue, SW., Renton, Washington 98057-3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You

must mark your comments: Docket No. NM440. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** John Shelden, FAA, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2785; facsimile (425) 227-1320.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice of, and opportunity for, prior public comment on these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

**Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to acknowledge receipt of your comments on these special conditions, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

**Background**

On May 27, 2010, TTF Aerospace, LLC (TTF) applied for a supplemental

Location	Name
Jamaica, New York.	John F. Kennedy International Airport