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DEPARTMENT OF JUSTICE

8 CFR Part 3

[EOIR No. 121F; AG Order No. 2214–99]

RIN 1125–AA23

Motion To Reopen: Suspension of Deportation and Cancellation of Removal

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) by extending the time period for the filing of an application of suspension of deportation and special rule cancellation of removal and all of the documentation supporting a motion to reopen filed pursuant to section 203(c) of the Nicaraguan Adjustment and Central American Relief Act.

DATES: *Effective date:* This final rule is effective March 22, 1999.

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: This rule amends and adopts in final form an interim rule published at 63 FR 31890 on June 11, 1998. That interim rule amended 8 CFR Part 3 by establishing a special procedure for the filing and adjudication of motions to reopen to apply for suspension of deportation and cancellation of removal under section 203 of the Nicaraguan Adjustment and Central American Relief Act (Pub. L. 105–100; 111 Stat. 2160, 2193) (NACARA). That Act, signed into law on November 19, 1997, amended section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Pub. L. 104–208; 110 Stat. 3009–625) (IIRIRA). This rule makes two changes to the interim rule. First, the final rule extends the February 8, 1999 deadline to submit the application for suspension of deportation or special rule cancellation of removal and all of the supporting documentation in support of the NACARA motion to reopen. Second, the final rule addresses certain eligibility problems for a dependent with a final order of deportation or removal who is unable to complete his or her motion to reopen until the principal alien is granted relief.

Background

Section 203 of NACARA provides special rules regarding applications for suspension of deportation and cancellation of removal by certain aliens. These aliens include Guatemalan, Salvadoran, and certain former Soviet bloc nationals described in section 309(c)(5)(C)(i) of IIRIRA, as amended by section 203 of NACARA.

On November 24, 1998, the Department of Justice published a proposed regulation implementing section 203 of NACARA that would permit certain aliens eligible for relief under section 203 of NACARA to submit to the INS applications for suspension of deportation or special rule cancellation of removal. Such applications will be adjudicated by asylum officers. In certain cases, aliens currently in immigration court proceedings would be given the opportunity to move for administrative closure of their cases in order to apply for relief before the INS. The period for public comment on the section 203 rule closed on January 25, 1999, and the Department will publish a rule implementing section 203 of NACARA after review and consideration of all comments. Several provisions within the proposed rule are likely to affect immigration court proceedings with respect to NACARA motions to reopen; these provisions are discussed where relevant in the following sections.

Section 203(c) of NACARA also amended section 309 of IIRIRA by creating a provision for eligible aliens who have already received a final order of deportation or removal to file a motion to reopen in order to obtain the benefits of NACARA. Section 309(g) of IIRIRA, as amended, permits aliens with final orders of deportation or removal who have become eligible for cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of NACARA to file one motion to reopen removal or deportation proceedings to apply for such relief, without regard to the limitations imposed by law on motions to reopen. That provision further required the Attorney General to designate a specific time period for filing such motions to reopen under NACARA beginning no later than 60 days after the date of enactment of NACARA and extending for a period not to exceed 240 days.

Accordingly, on January 15, 1998, the Attorney General signed a notice that designated from January 16, 1998, to September 11, 1998, as the time period for filing NACARA motions to reopen. *See* 63 FR 3154 (Jan. 21, 1998). That notice waived the filing fee for motions to reopen filed pursuant to NACARA, but did not disturb any other regulatory provisions with respect to the filing or adjudication of motions to reopen.

The Interim Motion To Reopen Rule

The interim published on June 11, 1998, addressed the specific filing process for NACARA motions to reopen in two ways. First, it clarified who can file a motion to reopen pursuant to section 309(g) of IlRIRA, as amended by section 203(c) of NACARA, by defining who has become eligible for ''special rule'' cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of NACARA. Second, it permitted any alien who is moving to reopen pursuant to section 309(g) of IIRIRA, as amended by section 203(c) of NACARA, to file an abbreviated motion to reopen initially, without also including a suspension or cancellation application and supporting documents. This two-tiered procedure departs from the general requirement that a motion to reopen must be accompanied by the appropriate application for relief and supporting documents at the time of filing. The interim rule provided that aliens who had filed a motion to reopen by September 11, 1998, must submit an application for suspension of deportation or special rule cancellation of removal and all other supporting evidence and arguments in favor of reopening no later than February 8,

1999, in order to complete the motion to reopen.

The Final Rule

This final NACARA motion to reopen rule amends two aspects of the interim NACARA motion to reopen rule based on consideration of public comments, as well as the Department's review of the process during the interim rule period.

First, the final rule extends the February 8, 1999 deadline to submit the application for suspension of deportation or special rule cancellation of removal and all of the supporting documentation in support of the NACARA motion to reopen. An alien who timely filed the abbreviated NACARA motion to reopen will have 150 days from the effective date of the rule implementing section 203 of NACARA to complete the motion by submitting the application for suspension of deportation or special rule cancellation of removal accompanied by any supporting evidence.

Second, the final motion to reopen rule and addresses certain eligibility problems for a dependent with a final order of deportation or removal who is unable to complete his or her motion to reopen until the principal alien is granted relief. The final rule continues to require a dependent to meet NACARA motion to reopen filing deadlines, however, it now enables the dependent to reopen his or her case upon a showing that he or she is *prima facie* eligible for suspension of deportation or special rule cancellation of removal pursuant to NACARA. *Prima facie* eligibility requires that the dependent show he or she meets the statutory requirements for suspension of deportation or special rule cancellation of removal relief and requires proof that the principal has applied for NACARA relief.

The Department received sixteen comments following publication of the interim rule. The sixteen comments contained six themes, all of which are addressed below.

September 11, 1998 Deadline

Fourteen commenters suggested that the September 11, 1998 deadline for submitting motions to reopen should be extended to account for the size of the affected population, the difficulty of verifying the existence of many final orders issued prior to 1989, and the lagtime between announcing the designated period and publication of the interim rule.

Section 203(c) of NACARA directed the Attorney General to designate a time period up to 240 days in which an eligible alien could file a NACARA motion to reopen without regard to the time limits generally imposed by statute or regulation. Section 203(c) also required that the Attorney General designated such a period beginning no later that 60 days after the passage of NACARA. Consequently, the Attorney General designated the period from January 16, 1998, to September 11, 1998, as the statutory period in which a NACARA motion to reopen could be filed. The period for filing motions to reopen was set by Congress and, accordingly, cannot be extended by rule.

The Department recognized, however, that it would be difficult for many individuals to complete their applications for relief within that time frame. The Department sought to address this apparent difficulty by permitting applicants to file an abbreviated motion to reopen that could be supplemented with a full application no later than February 8, 1999. *See* 63 FR 31890 (June 11, 1998). This final rule further extends the time for filing the application and accompanying material in support of the motion to reopen. Any alien who filed an abbreviated NACARA motion to reopen by September 11, 1998, under section 203 of NACARA will receive the benefit of this rule.

The Department continues to believe that this two-step approach adequately addresses the concerns raised regarding the initial filing deadline, while adhering to the statute.

The expiration of the special NACARA filing period, however, does not preclude individuals who believe they are eligible for relief under NACARA from seeking to reopen their final orders under the standard rules governing motions to reopen. The INS will consider on a case by case basis whether to join in a motion to reopen raised by an otherwise eligible applicant who has missed the statutory deadline. *See* 8 CFR 3.23(b)(4)(iv).

February 8, 1999 Deadline

Fourteen commenters stated that the February 8, 1999 deadline for submitting the application and supporting documentation should be extended for those aliens with outstanding Freedom of Information Act (FOIA) requests. They argue that applicants will not have enough information and may be missing critical information contained in the FOIA documentation to determine whether they should complete the motion to reopen. Most commenters stated that the deadline should be extended until 60 after the alien receives the Department's final response to a FOIA request.

The existence of a pending FOIA request would not, of itself, suffice to extend the filing deadline. However, the Department recognizes that much time has elapsed since some of the orders were issued, and it may be difficult to obtain the information necessary to complete in application.

Moreover, the Department recognizes that some of the individuals who have filed motions to reopen under NACARA may want to file under the new program at the INS. Many aliens are eligible to have their applications reviewed by asylum officers, as described in the proposed rule implementing section 203 of NACARA, published on November 24, 1998. *See* 63 FR 64895. Under the section 203 proposed rule, which establishes the procedure to apply for suspension of deportation or special rule cancellation of removal for aliens defined as NACARA-eligible, applications submitted to the INS must be filed on proposed Form I–881. The Form I–881 will not become available to the public until the effective date of the rule implementing section 203 of NACARA. In order to minimize the number of forms an alien must submit, the Department believes that it is reasonable to extend the February 8, 1999 deadline for NACARA motions to reopen so that applicants need only submit the Form I–881.

Thus, the final rule permits an applicant to submit his or her application and accompanying documents no later than 150 days after the rule implementing section 203 of NACARA becomes effective. This extension will permit applicants who properly filed the abbreviated NACARA motion to reopen by September 11, 1998, to submit the Form I–881 to complete their motion to reopen. The extension will also permit certain NACARA-eligible applicants to establish that their NACARA-eligible parent or spouse has applied for relief under section 203 of NACARA, as discussed below.

Dependents Under NACARA Section 203

Fourteen commenters expressed concern that the interim regulation did not acknowledge the eligibility problems faced by certain family members of NACARA-eligible aliens. Although NACARA extends eligibility to the spouse, child, or unmarried son or unmarried daughter over the age of 21 (dependent) of persons described in section 203 of NACARA, such dependents are not eligible for suspension of deportation or special rule cancellation of removal until the designated parent or spouse (principal)

has received a grant of suspension of deportation or special rule cancellation of removal. Consequently, even if a NACARA dependent completes his or her motion to reopen by submitting an application and accompanying documents, the dependent is not eligible for relief unless and until the principal is first granted relief. Commenters noted that the applications of the vast majority of NACARA principals would not have been adjudicated as of the February 8, 1999 deadline established by the interim rule. Therefore, they suggested that the final rule permit immigration judges to grant motions to reopen for NACARA dependents regardless of the application status of the principal applicant.

The Department recognizes that many NACARA dependents who were required to file motions to reopen by September 11, 1998, would not yet know the results of the principal's application at the time of the deadline for completing their application for suspension of deportation or special rule cancellation of removal. The Department has identified a similar problem with respect to NACARA dependents who are presently in deportation or removal proceedings. The proposed rule implementing section 203 permits the Immigration Court to administratively close the dependent's case to allow the dependent to submit an application for suspension of deportation or special rule cancellation of removal with the Service if (1) the dependent has a NACARA-eligible relative who has submitted an application for such relief with the Service, and (2) the dependent appears otherwise eligible for discretionary relief under section 203 of NACARA. The Board may also administratively close or continue the dependent's appeal to permit the dependent to submit to INS an application for suspension of deportation or special rule cancellation of removal.

Unlike dependents currently in proceedings, dependents previously ordered deported must have their cases reopened before they can apply for NACARA relief. The proposed rule implementing section 203 of NACARA does not address how the Department interprets the statute with regard to a dependent who has already been ordered deported or removed. To address the problem within the context of motions to reopen, the Department has decided to modify the final rule with respect to dependents. The dependent must comply with the deadline for filing the application and supporting documentation. However, the dependent's case shall be reopened if the immigration judge finds that the dependent is *prima facie* eligible for suspension or cancellation relief and if the dependent submits proof that the principal alien has applied and is *prima facie* eligible for NACARA relief. Once the dependent's case is reopened the dependent will be subject to the same procedures established in the section 203 rule for dependents in proceedings.

Waiver of Substantive Bars to Relief

Fourteen commenters stated the interim regulations impose improper limitations to NACARA eligibility, and that it was the intent of Congress to waive all limitations on eligibility for relief, except the bar for aggravated felons.

The statute states, ''notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony) * * * any alien who has become eligible for cancellation of removal or suspension of deportation as a result of the amendments * * * may file one motion to reopen.'' *See* action 203(c) of NACARA. The Department interprets this language to refer only to the time and number limitations on motions to reopen. Section 203(c) dealt only with those procedural aspects of *filing* a motion to reopen and did not alter the substantive requirements for *granting* a motion to reopen. Moreover, the requirement that an applicant establish *prima facie* eligibility for relief (in this case, suspension of deportation or special rule cancellation of removal) is a prerequisite for the granting of all motions to reopen. The statutory language that states the alien must have ''become eligible'' for suspension or cancellation as a result of NACARA requires that the alien be *prima facie* eligible for such relief. NACARA did not alter the requirement that there must be a showing of *prima facie* eligibility for the relief sought.

In order to be *prima facie* eligible for suspension of deportation or special rule cancellation of removal, the alien must not be subject to any statutory bars to such relief. Section 240A(c) of the INA, and section 244(f) of the INA as it existed prior to April 1, 1997, describe those aliens who are ineligible for suspension of deportation or cancellation of removal. For example, aliens who failed to depart voluntarily after receiving oral and written notice of the consequences of failing to depart and those who failed to appear for their hearings after receiving the required oral and written notices are statutorily barred from suspension of deportation or cancellation of removal. Thus, aliens statutorily barred from relief have no basis to reopen their cases.

Statutory bars to eligibility for suspension of deportation or cancellation of removal are not waived by the provisions of NACARA. The Attorney General has no authority to waive these statutory bars in the cases where they apply. Therefore, because those aliens subject to statutory bars to eligibility did not ''become eligible'' under NACARA, those additional bars to relief besides the aggravated felony bar are properly incorporated in 8 CFR section 3.43.

Requirement to State Ineligibility Pursuant to IIRIRA Section 309(c)(5)

Section 3.43(c) of the interim NACARA motion to reopen rule requires an alien seeking to reopen under NACARA to establish that he or she is (i) *prima facie* eligible for suspension or deportation or special rule cancellation of removal under NACARA; (ii) was or would be ineligible for relief but for the passage of NACARA; (iii) has not been convicted at any time of an aggravated felony; and (iv) falls within one of the six classes described elsewhere in the regulation. Many commenters objected to the second requirement, arguing that individuals should not be required to state a lack of eligibility but for NACARA. Commenters suggested that this requirement exceeded the scope of the statute and was unduly burdensome.

The second requirement arises from the Department's determination, based on the specific language in section 203(c), that only those persons who have ''become eligible'' for relief under NACARA are entitled to submit a motion to reopen under section 203(c). This analysis, discussed at length in the supplementary information accompanying the interim rule, requires a determination at the time the motion to reopen is considered that an individual actually became eligible for relief as a result of NACARA. *See* 63 FR 31890, 31891–92. To facilitate this determination, the Department has requested that the initial motion include some indication that the alien was ineligible for relief at the time of his or her immigration proceedings and subsequently became eligible for relief as a result of NACARA.

Such a showing results in a minimal burden. For instance, in many cases, an alien seeking to reopen his or her case would have been ineligible for relief as a result of the ''stop-time rule,'' discussed previously in the supplementary information in the

interim rule. *See also, Matter of NJB,* Interim Decision 3309 (BIA 1997), *vacated by* the Attorney General on July 10, 1998. In those cases, the Department anticipates that information regarding the date of entry and the date the charging document was issued would establish that the individual was otherwise ineligible for relief, but for NACARA. Consequently, the showing necessary to meet this requirement will generally be minimal and will expedite the adjudicative process.

Adjudication of Motions To Reopen Filed Under NACARA Section 203

Finally, thirteen commenters stated that all persons eligible to file a motion to reopen were entitled to have their cases reopened. The commenters suggest that Immigration Judges should not be allowed to deny the motion to reopen at the outset without a hearing on the merits of the applicant's suspension or cancellation claim. Those commenting seek to avoid denial of inadequate motions prepared in a short time frame. They also argue the complicated requirements of a NACARA motion to reopen may be too difficult for *pro se* aliens.

The passage of NACARA did not alter the general procedures for filing and considering motions to reopen. It made special provisions to permit a certain group of people who would otherwise be prevented by statute and regulation to submit a motion to reopen. Nothing in section 203(c) indicates that Congress intended for all such motions to be automatically granted.

Congress has the power to affect motions practice, and in fact has done so. In enacting IIRIRA in 1996, Congress statutorily codified EOIR's regulatory 90 day time limit on motions to reopen. Congress, when it passed NACARA, gave no guidance, nor did it amend procedural matters for motions to reopen before EOIR, except to set a statutory deadline to file motions to reopen under section 203 of NACARA. It could have made additional changes, other than lifting the one-time filing rule, but it did not. Accordingly, there is no reason to believe that Congress intended to treat differently those existing procedural matters on motions to reopen. Therefore, it is the obligation of the Immigration Court to comply with the existing regulations and assess *prima facie* eligibility under NACARA prior to granting a motion to reopen.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects individual aliens, not small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 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.

Small Business Regulatory Reinforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Attorney General has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f) and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988: Civil Justice Reform

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

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

Accordingly, part 3 of 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.. 1103, 1252 note, 1252b, 1324b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Public Law 105–100.

2. Section 3.43 is amended by:
a. Revising paragraph (b)(4)(v);
b. Revising paragraph (b)(4)(vi);
c. Revising paragraph (c)(2), and
d. Adding paragraph (c)(3) to read as follows:

§ 3.43 Motion to reopen of suspension of deportation and cancellation of removal pursuant to section 203(c) of the Nicaraguan Adjustment and Central American Relief Act (NACARA).

* * * * *

(b)(4) * * *

(v) The spouse or child of a person who is described in paragraphs (b)(4)(i) through (b)(4)(iv) of this section and such person is *prima facie* eligible for and has applied for suspension of deportation or special rule cancellation of removal under section 203 of NACARA.

(vi) An unmarried son or daughter of a person who is described in paragraph (b)(4)(i) through (b)(4)(iv) of this section and such person is *prima facie* eligible for and has applied for suspension of deportation or special rule cancellation of removal under section 203 of NACARA. If the son or daughter is 21 years of or older, the son or daughter must have entered the United States on or before October 1, 1990.

(c) * * *

(2) A motion to reopen filed pursuant to paragraph (c)(1) shall be considered complete at the time of submission of an application for suspension of deportation or special rule cancellation of removal and accompanying documents. Such application must be submitted no later than 150 days after the effective date of the rule implementing section 203 of NACARA. Aliens described in paragraph (b)(4)(v) or (b)(4)(vi) of this section must include, as part of their submission, proof that their parent or spouse is *prima facie* eligible and has applied for relief under section 203 of NACARA.

(3) The Service shall have 45 days from the date the alien serves the

Immigration Court with either the EOIR Form 40 or the Form I–881 application for suspension of deportation or special rule cancellation of removal to respond to that completed motion. If the alien fails to submit the required application within 150 days after the effective date of the rule implementing section 203 of NACARA, the motion will be denied as abandoned.

Dated: March 4, 1999.

Eric H. Holder, Jr.,

Deputy Attorney General.

[FR Doc. 99–6633 Filed 3–19–99; 8:45 am]

BILLING CODE 4410–30–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loan Program; Correction

AGENCY: Small Business Administration (SBA).

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulation published in the **Federal Register** on January 31, 1996, 61 FR 3304, concerning the SBA's disaster regulations. This regulation is contained in § 123.3 of volume 13 of the Code of Federal Regulations. Under the disaster regulations, a State Governor must make certification of economic injury within 120 days of the physical disaster. This correction reinstates a provision which gives the SBA Administrator authority, in cases of undue hardship, to accept a Governor's certification more than 120 days after the disaster.

DATES: Effective March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Herbert L. Mitchell, 202–205–6734.

SUPPLEMENTARY INFORMATION: Under SBA's disaster regulations, a State Governor may certify to the SBA that small businesses suffered substantial economic injury as a result of a disaster in the State. The Governor must submit such certification to the local SBA disaster office within 120 days of the disaster. That office evaluates the request and makes its recommendation to SBA's Headquarters office. The SBA Administrator takes final action and decides whether to make an economic injury disaster declaration. Under disaster regulations prior to 1996, the SBA Administrator had authority, in cases of undue hardship, to accept a Governor's certification after the 120-day period had elapsed. When SBA revised its regulations in 1996, it inadvertently omitted this provision from 13 CFR 123.3 (formerly § 123.23(c) prior to 1996). This correction reinstates the SBA Administrator's authority to accept a Governor's certification after 120 days.

Before a Governor submits a request for SBA to declare an economic injury, the affected small businesses in the community must prepare and submit documentation with respect to the economic injuries they have incurred as a result of a disaster in the State. There are times when the paperwork is delayed in getting to the State Governor, with the result that the Governor's request to SBA arrives more than 120 days after the disaster incident. Thus, the SBA Administrator needs authority to accept late requests from a governor to protect small businesses. This technical correction will allow the SBA Administrator to act so that small businesses would not suffer undue economic hardship.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C., et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch 35)

SBA certifies that this correction does not constitute a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this correction will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* SBA certifies that this correction does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

For purposes of Executive Order 12612, SBA certifies that this proposed rule has no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this correction is drafted, to the extent practicable, to comply with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 123

Disaster assistance, loan programs-businesses, small businesses.

For the reasons set forth in the above preamble, SBA amends 13 CFR part 123 as follows:

PART 123—DISASTER LOAN PROGRAM

1. The authority citation for part 123 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75, 107 Stat. 739.

2. Amend § 123.3 by adding a new sentence at the end of paragraph (a)(4) to read as follows:

§ 123.3 How are disaster declarations made?

(a) * * *

(4) * * * The Administrator may, in a case of undue hardship, accept such request after 120 days have expired.

* * * * *

Dated: March 16, 1999.

Fred Hochberg,

Deputy Administrator.

[FR Doc. 99–6856 Filed 3–19–99; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–56–AD; Amendment 39–11079; AD 99–06–16]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–5 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CFM International CFM56–5 series turbofan engines, that reduces the low cycle fatigue (LCF) retirement lives for certain high pressure turbine rotor (HPTR) front air seals, and provides a drawdown schedule for those affected parts with reduced LCF retirement lives. This amendment is prompted by results of a refined life analysis performed by the manufacturer that revealed minimum calculated LCF lives significantly lower than the published LCF retirement lives. The actions specified by this AD are intended to prevent a LCF failure of the HPTR front air seal, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective April 21, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director