

Quarantine, Transportation, Equine infectious anemia (EIA).

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 92.24 [Amended]

1. In § 92.24(a), the phrase, "conducted during the 60 days preceding exportation in a laboratory approved by the Canada Department of Agriculture" is amended to read "for which blood samples were drawn during the 180 days preceding exportation to the United States and which test was conducted in a laboratory approved by the Canada Department of Agriculture or the United States Department of Agriculture";

§ 92.25 [Amended]

2. In § 92.25(b), the phrase, "which were conducted within 90 days of the date", is amended to read: "for which blood samples were drawn within 180 days of the date".

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 27th day of August 1982.

G. J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 10, 11, 25, and 95

Revision and Clarification of Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to clarify and update the criteria and procedures used for determining the eligibility of an individual for access to Restricted Data or national security information, or an employment clearance. The amendments are in

response to an indepth study and analysis to determine and recommend necessary amendments. The amendments will improve the timeliness for reviewing cases by using individual Hearing Examiners and Hearing Review Examiners, clearly distinguishing "access authorization" review procedures in a more logical, clear, and concise manner. This amendment also makes conforming changes to other parts of the Commission's regulations.

EFFECTIVE DATE: October 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Martin J. King, Chief, Personnel Security Branch, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 427-4474.

SUPPLEMENTARY INFORMATION: On May 7, 1982, the Commission published in the *Federal Register* (47 FR 19703) for public comment, proposed amendments to 10 CFR Part 10 of its regulations. Comments were invited, but none were received. No changes have been made to the proposed revisions since publication in the *Federal Register* on May 7, 1982.

As discussed in the statement of considerations that accompanied the proposed rule the Nuclear Regulatory Commission adopted the former Atomic Energy Commission's 10 CFR Part 10 in March 1975. Minor clarifying and corrective amendments were made by the Nuclear Regulatory Commission in 1977.

Staff review subsequently indicated that many of the criteria were outdated and in need of revision. Also, during the rulemaking proceeding on 10 CFR Part 11 some commenters were critical that the rule contained criteria regarding homosexuality and refusal to serve in the armed forces. As a result of these and other comments, a study was undertaken to provide an overall assessment of both the criteria and the procedures for Part 10. Based on the study, the following revision to Part 10 is being proposed.

Access authorization and employment clearance have been defined separately to permit an individual to continue employment even though it may be necessary to suspend the individual's access authorization pending resolution of derogatory information which raises a question concerning the individual's access eligibility.

The two separate categories of derogatory information criteria, "A" and "B", have been combined in § 10.11 with determination as to eligibility for access authorization and/or employment clearance based upon a comprehensive common-sense judgment, made after consideration of all relevant information, favorable and unfavorable.

The number of criteria listed as examples for consideration in determining eligibility have been reduced from 22 to 13 by combining several of the criteria and eliminating others. Criteria concerning "homosexuality," "refusal to serve in the Armed Forces," and family relatives "residing in a nation whose interest may be inimical to the United States" have been deleted. Also, reference to activities of the spouse have been deleted from the criteria.

Procedures for administrative review hearings have been rewritten and revised. Most significantly, the Personnel Security Board has been replaced by a single Hearing Examiner. Also, the Personnel Security Review Board was eliminated in favor of three Hearing Review Examiners who will individually and independently consider the case under review. Implementation of this system is expected to improve the timeliness in which cases are administratively reviewed under Part 10. As a result of these amendments, conforming amendments to Parts 11, 25, and 95 are also being made.

Regulatory Flexibility Statement

This rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b). This rule contains modifications to the criteria and procedures for determining the eligibility of individuals for access to Restricted Data, national security information, or an employment clearance. It should not result in any increased costs to licensees.

Paperwork Reduction Act Statement

This final rule contains no new or amended requirements for record-keeping, reporting, plans or procedures, applications, or any other type of information collection.

List of Subjects in 10 CFR Part 10

Administrative practice and procedure, Classified information, Government employees, Security measures.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given of the adoption of the following revision to 10 CFR Parts 10, 11, 25, and 95.

The authority citation for Part 10 is presented in the revision of that part. The authority for the amendments to Parts 11, 25, and 95 is Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201).

1. Part 10 is revised to read as follows:

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

Subpart A—General Provisions

Sec.

- 10.1 Purpose.
- 10.2 Scope.
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Subpart B—Criteria for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance

- 10.10 Application of the criteria.
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- 10.12 Interview and other investigation.

Subpart C—Procedures

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- 10.21 Suspension of access authorization and/or employment clearance.
- 10.22 Notice to individual.
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- 10.24 Procedures for hearing and review.
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- 10.28 Conduct of hearing.
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- 10.32 Recommendation of the NRC Personnel Security Review Examiners.
- 10.33 Action by the Executive Director for Operations.
- 10.34 Action by the Commission.
- 10.35 Reconsideration of cases.

Subpart D—Miscellaneous

- 10.36 Terminations.
- 10.37 Attorney representation.
- 10.38 Certifications.

Authority: Sec. 145, 68 Stat. 942, as amended; 42 U.S.C. 2165; sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201, sec. 201(f) 68 Stat. 1243, 42 U.S.C. 5841; E.O. 10450, 3 CFR 1949-1953 comp., p. 936, as amended; E.O. 10865, 3 CFR 1059-1963 comp., p. 398, as amended, 3 CFR, Chap. IV.

Subpart A—General Provisions

§ 10.1 Purpose.

This part establishes the criteria, procedures, and methods for resolving questions concerning: (a) The eligibility of individuals who are employed by or applicants for employment with NRC contractors, agents, and licensees of the NRC, individuals who are NRC employees or applicants for NRC employment, and other persons designated by the Executive Director for Operations of the NRC, for access to

Restricted Data pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, or for access to national security information; and (b) the eligibility of NRC employees, or the eligibility of applicants for employment with the NRC, for employment clearance. This part is published to implement such Statutes and Executive Orders 10865, 25 FR 1583 (February 24, 1960), and 10450, 18 FR 2489 (April 27, 1954).

§ 10.2 Scope.

The criteria and procedures in this part shall be used in determining eligibility for NRC access authorization and/or employment clearance involving:

(a) Employees (including consultants) of contractors and agents of the Nuclear Regulatory Commission and applicants for employment;

(b) Licensees of the NRC and their employees (including consultants) and applicants for employment; and

(c) NRC employees (including consultants) and applicants for employment;

(d) Any other person designated by the Executive Director for Operations of the Nuclear Regulatory Commission.

§ 10.3 [Reserved]

§ 10.4 Policy.

It is the policy of the Nuclear Regulatory Commission to carry out its responsibility for the security of the nuclear energy program in a manner consistent with traditional American concepts of justice. To this end, the Commission has established criteria for determining eligibility for access authorization and/or employment clearance and will afford those individuals described in § 10.2 the opportunity for administrative review of questions concerning their eligibility for access authorization and/or employment clearance.

§ 10.5 Definitions.

As used in this part:

(a) "Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC, or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

(b) "Hearing Examiner" means a qualified attorney appointed by the Director, Office of Administration, to conduct a hearing in accordance with this part.

(c) "Hearing Counsel" means an NRC attorney assigned by the Executive Legal Director to prepare and administer hearings in accordance with this part.

(d) "Personnel Security Review Examiners" are persons designated by the Executive Director for Operations to conduct a review of the record in accordance with this part.

(e) "Commission" means the Nuclear Regulatory Commission of five members or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974, or its designee.

(f) "Employment Clearance" means an administrative determination that an individual (including a consultant) who is an NRC employee or applicant for NRC employment and other persons designated by the Executive Director for Operations of the NRC is eligible for employment or continued employment pursuant to subsection 145 b. of the Atomic Energy Act of 1954, as amended.

(g) "Eligible" or "Eligibility" means both initial eligibility and continued eligibility of an individual for access authorization and/or employment clearance.

(h) "National Security Information" means information that is owned by, produced for or by, or under the control of the United States Government, and that has been determined, pursuant to Executive Order 12356 or antecedent orders, to require protection against unauthorized disclosure, and is so designated.

(i) "Restricted Data" means all data concerning design, manufacture, or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

Subpart B—Criteria for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance

§ 10.10 Application of the criteria.

(a) The decision as to access authorization and/or employment clearance is a comprehensive, common-sense judgment, made after consideration of all the information, favorable or unfavorable, relevant to whether the granting of access authorization and/or employment clearance would not endanger the common defense and security and would be clearly consistent with the national interest.

(b) The criteria in § 10.11 set forth a number of the types of derogatory information used to assist in making determinations of eligibility for access authorization and/or employment clearance. These criteria are not exhaustive but contain the principal types of derogatory information which create a question as to the individual's eligibility for access authorization and/or employment clearance. While there must necessarily be adherence to such criteria, the NRC is not limited to them, nor precluded from exercising its judgment that information or facts in a case under its cognizance are derogatory although at variance with, or outside the scope of, the stated categories. These criteria are subject to continuing review and may be revised from time to time as experience and circumstances may make desirable.

(c) When the reports of investigation of an individual contain information reasonably tending to establish the truth of one or more of the items in the criteria, such information shall be regarded as derogatory and shall create a question as to the individual's eligibility for access authorization and/or employment clearance. A question concerning the eligibility of an individual for access authorization and/or employment clearance shall be resolved in accordance with the procedures set forth in § 10.20 *et seq.*

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for access authorization and/or employment clearance, the following principles shall be applied by the Director, Division of Security, Hearing Examiners, and Personnel Security Review Examiners:

(1) Information reasonably tending to establish the truth of one or more of the items in the criteria shall be the basis for recommending denial or revocation of access authorization and/or employment clearance unless evidence to support faith in the individual's reliability and trustworthiness is affirmatively shown.

(2) When deemed material to the deliberations, the extent of the activity, conduct, or condition, the period in which they occurred or existed, the length of time which has since elapsed, and the attitude and convictions of the individual shall be considered in determining whether the recommendation will be adverse or favorable.

§ 10.11 Criteria.

(a) The criteria for determining eligibility for access authorization and/or employment clearance shall relate,

but not be limited, to the following where an individual:

(1) Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.

(2) Publicly or privately advocated actions that may be inimical to the interest of the United States, or publicly or privately advocated the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(3) Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionist, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any State or any subdivisions thereof by unlawful means, or which advocate the use of force and violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, criteria (3) and (4) will not include chance or casual meetings or contacts limited to normal business or official relations.)

(5) Deliberately misrepresented, falsified or omitted relevant and material facts from or in a personnel security questionnaire, a personal qualifications statement, a personnel security interview, or any other information submitted pursuant this part.

(6) Willfully violated or disregarded security regulations or was grossly negligent with respect thereto to a degree which could endanger the common defense and security; or by intention or gross carelessness disclosed Restricted Data or national security information to any person not authorized to receive it.

(7) Has any illness or mental condition which in the opinion of

competent medical authority may cause significant defect in the judgment or reliability of the individual.

(8) Has been convicted of crimes indicating habitual criminal tendencies.

(9) Has been convicted of a crime, or has a background, where the facts, circumstances, or conduct are of a nature indicating poor judgment, unreliability, or untrustworthiness.

(10) Is a user of alcohol habitually and to excess, or has been such without adequate evidence of rehabilitation.

(11) Has been, or is, a user of a drug or other substance listed in the schedules of Controlled Substances established pursuant to the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.), except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation.

(12) Refused, without satisfactory explanation, to answer questions before a congressional committee, Federal or state court, or Federal administrative body including the NRC regarding charges relevant to the individual's eligibility for access authorization and/or employment clearance.

(13) Engaged in any other conduct or is subject to any other circumstances which tend to show that the individual is not reliable or trustworthy, or which furnishes reason to believe that the individual may be subject to coercion, influence, or pressures which may cause the individual to act contrary to the national interest.

§ 10.12 Interview and other investigation.

(a) The Director, Division of Security, Office of Administration, may authorize the granting of access authorization and/or employment clearance on the basis of the information in the possession of the NRC or may authorize the conduct of an interview with the individual, if the individual consents to be interviewed, or such other investigation as the Director deems appropriate. On the basis of such interview and/or investigation, the Director may authorize the granting of access authorization and/or employment clearance.

(b) The individual may elect on constitutional or other grounds not to participate in an interview or other investigation; however, such refusal or failure to furnish or authorize the furnishing of relevant and material information is deemed to be derogatory information pursuant to § 10.11(a)(5) and (12).

(c) If the director, Division of Security, cannot make a favorable finding

regarding the eligibility of an individual for access authorization and/or employment clearance, the question of the individual's eligibility shall be resolved in accordance with the procedures set forth in § 10.20 *et seq.*

Subpart C—Procedures

§ 10.20 Purpose of the procedures.

These procedures establish methods for the conduct of hearings and administrative review of questions concerning an individual's eligibility for access authorization and/or employment clearance pursuant to the Atomic Energy Act of 1954, as amended, and Executive Orders 10450 and 10865, when a resolution favorable to the individual cannot be made on the basis of the interview or other investigation.

§ 10.21 Suspension of access authorization and/or employment clearance.

In those cases where information is received which raises a question concerning the continued eligibility of an individual for access authorization and/or employment clearance, the Director, Division of Security, through the Director, Office of Administration, shall forward to the Executive Director for Operations, his or her recommendation as to whether the individual's access authorization and/or employment clearance should be suspended pending the final determination resulting from the operation of the procedures provided in this part. In making this recommendation the Director, Division of Security, shall consider such factors as the seriousness of the derogatory information developed, the degree of access of the individual to classified information, and the individual's opportunity by reason of his or her position to commit acts adversely affecting the national security. An individual's access authorization and/or employment clearance shall not be suspended except by the direction of the Executive Director for Operations.

§ 10.22 Notice to individual.

A notification letter, prepared by the Division of Security, approved by the Office of the Executive Legal Director, and signed by the Director, Office of Administration, shall be presented to each individual whose eligibility for access authorization and/or employment clearance is in question. Where practicable, such letter shall be presented to the individual in person. The letter will be accompanied by a copy of this part and shall state:

(a) That reliable information in the possession of the NRC has created a

substantial doubt concerning the individual's eligibility for access authorization and/or employment clearance;

(b) The information that creates a substantial doubt regarding the individual's eligibility for access authorization and/or employment clearance, which shall be as comprehensive and detailed as the national security permits;

(c) That unless the individual files with the Director, Office of Administration, a written request for a hearing within 20 days of the individual's receipt of the notification letter, the Director, Division of Security, through the Director, Office of Administration, will submit a recommendation as to the final action to the Executive Director for Operations on the basis of the information in the possession of the NRC;

(d) That if the individual files a written request for a hearing with the Director, Office of Administration, the individual must file with that request a written answer under oath or affirmation which admits or denies specifically each allegation and each supporting fact contained in the notification letter. A general denial is not sufficient to controvert a specific allegation. If the individual is without knowledge, he or she shall so state and that statement shall operate as a denial. The answer shall also state any additional facts and information that the individual desires to have considered in explanation or mitigation of allegations in the notification letter. Failure to specifically deny or explain or deny knowledge of any allegation or supporting fact shall be deemed an admission that the allegation or fact is true;

(e) That if the individual does not want to exercise his or her right to a hearing, but does want to submit an answer to the allegations in the notification letter, the individual may do so by filing with the Director, Office of Administration, within 20 days of his receipt of the notification letter, a written answer in accordance with the requirements of paragraph (d) of this section;

(f) That the procedures in § 10.24 *et seq.* shall apply to any hearing and review.

§ 10.23 Failure of individual to request a hearing.

(a) In the event the individual fails to file a written request for a hearing pursuant to § 10.22 within 20 days of his receipt of the notification letter, a recommendation as to the final action to be taken shall be made by the Director,

Division of Security, through the Director, Office of Administration, to the Executive Director for Operations on the basis of the information in the possession of the NRC, including any answer filed by the individual.

(b) The Director, Office of Administration, may for good cause shown, at the request of the individual, extend the time for filing a written request for a hearing or for filing a written answer to the matters contained in the notification letter.

§ 10.24 Procedures for hearing and review.

(a) Upon receipt of a timely filed request for a hearing and answer complying with the requirements set forth in § 10.22, the Director, Office of Administration, shall forthwith appoint a Hearing Examiner, and Executive Legal Director shall forthwith assign an NRC attorney to act as Hearing Counsel. The Director, Office of Administration, shall promptly notify the individual of the identity of the Hearing Examiner and proposed hearing date, which shall be selected with due regard for the convenience of the parties and their representatives.

(b) Within 72 hours of being notified of the identity of the Hearing Examiner, the individual may request that the Hearing Examiner be disqualified for cause by filing with the Director, Office of Administration, a written statement of the individual's reasons for seeking disqualification. The time for filing the request may be extended by the Director, Office of Administration, for good cause shown. If the Director, Office of Administration, grants the request the procedures of paragraph (a) of this section and this paragraph shall be followed just as though there had been no prior appointment.

(c) The individual shall have the right to appear at the hearing before the Hearing Examiner, to be represented by counsel or other representative, to introduce documentary or other evidence, and to call, examine, and cross-examine witnesses, subject to the provisions and limitations set forth in this part.

§ 10.25 NRC Hearing Counsel.

(a) Hearing Counsel assigned pursuant to § 10.24 shall, prior to the scheduling of the hearing, review the information in the case and shall request the presence of witnesses and the production of documents and other physical evidence relied upon the Director, Division of Security, in making his or her finding that a question exists regarding the eligibility of the individual

for NRC access authorization and/or employment clearance in accordance with the provisions of this part. When the presence of a witness and the production of documents and other physical evidence is deemed by the Hearing Counsel to be necessary or desirable for a determination of the issues, the Director, Division of Security, shall make arrangements for the production of such evidence and for such witnesses to appear at the hearing by subpoena or otherwise.

(b) Hearing Counsel is authorized to consult directly with individual's counsel or representative or the individual, if the individual is not so represented, for purposes of reaching mutual agreement upon arrangements for expeditious hearing of the case. Such arrangements may include clarification of issues and stipulations with respect to testimony and contents of documents and other physical evidence. Such stipulations when entered into shall be binding upon the individual and the NRC for the purposes of this part. Prior to any consultation with the individual, the Hearing Counsel shall advise the individual of his or her rights under this part, of his or her right to counsel or other representation, and of the possibility that any statement made by the individual to the Hearing Counsel may be used in subsequent proceedings.

(c) The individual is responsible for producing witnesses in his or her own behalf and/or presenting other evidence before the Hearing Examiner to support the individual's answer and defense to the allegations contained in the notification letter. When requested, however, Hearing Counsel shall assist the individual to the extent practicable and necessary. The Hearing Counsel may at his or her discretion request the Director, Division of Security, to arrange for the issuance of subpoenas for witnesses to attend the hearing in the individual's behalf, or for the production of specific documents or other physical evidence, provided a showing of the necessity for such assistance has been made.

§ 10.26 Appointment of hearing examiner.

The appointment of a Hearing Examiner, pursuant to § 10.24 of this part, shall be from a list of qualified attorneys possessing the highest degree of integrity, ability, and good judgment. To qualify, an attorney shall have an NRC "Q" access authorization and may be an employee of the NRC, its contractors, agents or licensees. However, no employee or consultant of the NRC shall serve as Hearing Examiner hearing the case of an employee (including a consultant) or

applicant for employment with the NRC; nor shall any employee or consultant of an NRC contractor, agent or licensee serve as Hearing Examiner hearing the case of an employee (including a consultant) or an applicant for employment of that contractor, agent, or licensee. No Hearing Examiner shall be selected who has knowledge of the case or of any information relevant to the disposition of it, or who for any reason would be unable to issue a fair and unbiased recommendation.

§ 10.27 Prehearing proceedings.

(a) After the appointment of the Hearing Examiner, he or she shall be furnished the record in the case, which shall consist of the letter of notification, the request for hearing and its supporting answer, and the notice of hearing, if it has been issued, and any stipulations agreed to by the individual and the Hearing Counsel.

(b) The Hearing Examiner may on his or her own motion, or on that of either party, convene a prehearing conference with the Hearing Counsel and the individual and his or her counsel or representative, if any, for the purpose of clarifying the issues, identifying witnesses who may be called, identifying documents and other physical evidence that may be offered into evidence, and entering into stipulations of fact.

(c) The parties will be notified by the Hearing Examiner at least ten days in advance of the hearing of the time and place of the hearing. For good cause shown, the Hearing Examiner may order postponements or continuances from time to time. If, after due notice, the individual fails to appear at the hearing, or appears but is not prepared to proceed, the Hearing Examiner shall, unless good cause is shown, return the case to the Director, Division of Security, who shall make a recommendation on final action to be taken, through the Director, Office of Administration, to the Executive Director for Operations on the basis of the information in the possession of the NRC.

§ 10.28 Conduct of hearing.

(a) The Hearing Examiner shall conduct the hearing in an orderly, impartial and decorous manner. Technical rules of evidence may be relaxed so that a full evidentiary record may be made based on all material and relevant facts. Hearsay evidence may for good cause shown be received at the discretion of the Hearing Examiner and accorded such weight as the circumstances warrant.

(b) The proceedings shall be open only to duly authorized representatives of the staff of the NRC, the individual, his or her counsel or representative, and such persons as may be officially authorized by the Hearing Examiner. Witnesses shall not testify in the presence of other witnesses except that the Hearing Examiner may, at his or her discretion, allow for expert witnesses to be present during testimony relevant to their own testimony.

(c) Witnesses, including the individual, shall be examined under oath or affirmation by the party who called them and may be cross-examined by the other. The Hearing Examiner shall rule on all evidentiary matters, may further examine any witness, and may call for additional witnesses or the production of documentary or other physical evidence if, in the exercise of his or her discretion, such additional evidence is deemed necessary to the resolution of an issue.

(d) If it appears during the hearing that Restricted Data or national security information may be disclosed, the Hearing Examiner shall assure that disclosure is made only to persons authorized to receive it.

(e) The Hearing Examiner may, at any time during the hearing, permit the Hearing Counsel to amend the notification letter to add or modify allegations to be considered. In the event of such an amendment to the notification letter, the individual shall be given an opportunity to answer the amended allegations. If the changes are of such a substantial nature that the individual cannot answer the amended allegations without additional time, the Hearing Examiner shall grant such additional time as he or she deems necessary.

(f) The Hearing Examiner may receive and consider evidence in the form of depositions or responses to interrogatories upon a showing that the witness is not available for good reason such as death, serious illness or similar cause, or in the form of depositions, interrogatories, affidavits or statements with agreement of the parties. The Hearing Examiner may take official notice at any stage of the proceeding, where appropriate, of any fact not subject to reasonable dispute in that it is either (1) generally known within the United States or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking such official notice. In the absence of prior notification the

request may be made after notice is taken.

(g) Hearing Counsel shall examine and cross-examine witnesses and otherwise assist the Hearing Examiner in such a manner as to bring out a full and true disclosure of all facts, both favorable and unfavorable, having a bearing on the issues before the Hearing Examiner. In performing these duties, the Hearing Counsel shall avoid the attitude of a prosecutor and shall always bear in mind that the proceeding is an administrative hearing and not a trial.

(h) Hearing Counsel shall not participate in the deliberations of the Hearing Examiner, and shall express no opinion to the Hearing Examiner concerning the merits of the case. Hearing Counsel shall also, during the course of the hearing, advise the individual of his or her rights under these procedures when the individual is not represented by counsel or other representative.

(i) The individual shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the individual relating to a controverted issue except that any such statement may be received and considered by the Hearing Examiner without affording such opportunity in either of the following circumstances:

(1) The head of the department or agency supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of the informant's identity would substantially harm the national interest or would endanger the well-being of the informant.

(2) The Commission has determined, after considering the information furnished by the investigative agency concerning the reliability of the person who furnished the information and the accuracy of the statement concerned, that the statement appears to be reliable and material, and that failure of the Hearing Examiner to receive and consider such statement would, in view of the fact that access authorization and/or employment clearance is being sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify due to death, serious illness, or similar cause.

(j) (1) Whenever the procedure under paragraph (i)(1) of this section is used, the individual shall be given a summary of the information which shall be as comprehensive and detailed as the

national security permits. (2) Whenever the procedure under paragraph (i)(2) is used, the individual shall be provided the identity of the person and the information to be considered. (3) In both paragraph (i) (1) and (2) procedures, appropriate consideration shall be accorded to the fact that the individual did not have an opportunity to cross-examine such informant or person.

(k) Records provided by investigative agencies that were compiled as a regular or routine procedure by the business or agency from which obtained, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that the investigative agency furnished such information to the NRC pursuant to its responsibilities in connection with assisting the NRC in determining the individual's eligibility for access authorization and/or employment clearance.

(l) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the individual, may be received and considered provided that:

(1) The Commission has made a determination that such records or other physical evidence appears to be material;

(2) The Commission has made a determination that failure to receive and consider such records or other physical evidence would, in view of the fact that access authorization and/or employment clearance is being sought, be substantially harmful to the national security; and

(3) To the extent that national security permits, a summary or description of such records or other physical evidence is made available to the individual. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency shall be considered.

(m) If the Hearing Examiner determines that additional investigation of any material information is required, he or she shall request in writing that the Director, Office of Administration, arrange for the investigation and shall specify those issues upon which more evidence is requested and identify, where possible, any persons or sources that might provide the evidence sought.

(n) A written transcript of the entire proceeding shall be made by a person possessing appropriate NRC access authorization and/or employment clearance and, except for portions

containing Restricted Data or national security information, or other lawfully withholdable information, a copy of such transcript shall be furnished the individual without cost.

§ 10.29 Recommendation of the Hearing Examiner.

(a) The Hearing Examiner's findings and recommendation shall be based upon the entire record consisting of the transcript of the hearing, the documentary and other evidence adduced therein, and the letter of notification and answer. The Hearing Examiner shall also consider the circumstances of the receipt of evidence pursuant to § 10.28, the individual's record of past employment, and the nature and sensitivity of the job the individual is or may be expected to perform.

(b) The Hearing Examiner shall make specific findings on each allegation in the notification letter including the reasons for his or her findings, and shall make a recommendation as to the action which should be taken in the case.

(c) The Hearing Examiner's recommendation shall be predicated upon his or her findings. If, after considering all the factors in light of the criteria in this part, the Hearing Examiner is of the opinion that granting or continuing access authorization and/or employment clearance to the individual will not endanger the common defense and security and will be clearly consistent with the national interest, a favorable recommendation shall be made; otherwise, an adverse recommendation shall be made.

(d) The Hearing Examiner shall submit his or her findings and recommendation in a signed report together with the record of the case to the Director, Office of Administration, with the least practical delay.

(e) The Hearing Examiner shall not consider the possible impact of the loss of the individual's services upon the NRC program.

§ 10.30 New evidence.

After the close of the hearing, in the event the individual discovers new evidence not previously available or known to him or her, the individual may petition the Hearing Examiner if the Hearing Examiner's recommendation has not yet been issued, or thereafter, the Director, Office of Administration, to reopen the record to receive that evidence. If the Hearing Examiner or the Director, respectively, deem it material and appropriate, the record may be reopened to accept the evidence either by stipulation, with the agreement of the

Hearing Counsel, or in a reconvened hearing.

§ 10.31 Actions on the recommendations.

(a) Upon receipt of the findings and recommendation from the Hearing Examiner, and the record, the Director, Office of Administration, shall forthwith transmit it to the Executive Director for Operations who at his or her discretion may return the record to the Director, Office of Administration, for further proceedings by the Hearing Examiner with respect to specific matters designated by the Executive Director for Operations;

(b)(1) In the event of a recommendation by the Hearing Examiner that an individual's access authorization and/or employment clearance be denied or revoked, the Executive Director for Operations shall immediately notify the individual in writing of the Hearing Examiner's findings with respect to each allegation contained in the notification letter, and that the individual has a right to request a review of his or her case by NRC Personnel Security Review Examiners and of the right to submit a brief in support of his or her contentions. The request for a review shall be submitted to the Executive Director for Operations within five days after the receipt of the notice. The brief shall be forwarded to the Executive Director for Operations, for transmission to the NRC Personnel Security Review Examiners, not later than 10 days after receipt of such notice.

(2) In the event the individual fails to request a review by NRC Personnel Security Review Examiners of an adverse recommendation within the prescribed time, the Executive Director for Operations may at his or her discretion request a review of the record of the case by NRC Personnel Security Review Examiners. The request shall set forth those matters at issue in the hearing on which the Executive Director for Operations desires a review by the NRC Personnel Security Review Examiners.

(c) Where the Hearing Examiner has made a recommendation favorable to the individual, the Executive Director for Operations may at his or her discretion request a review of the record of the case by NRC Personnel Security Review Examiners. If such a request is made, the Executive Director for Operations shall immediately cause the individual to be notified of that fact and of those matters at issue in the hearing on which the Executive Director for Operations desires a review by the NRC Personnel Security Review Examiners. The Executive Director for Operations shall further inform the individual that within

10 days of receipt of this notice, the individual may submit a brief concerning those matters at issue for the consideration of the NRC Personnel Security Review Examiners. The brief shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners.

(d) In the event of a request for a review pursuant to paragraphs (b) and (c) of this section, the Hearing Counsel may file a brief within 10 days of being notified by the Executive Director for Operations that a review has been requested. The brief shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners.

(e) The Hearing Counsel may also request a review of the case by NRC Personnel Security Review Examiners. The request for review, which shall set forth those matters at issue in the hearing on which the Hearing Counsel desires a review, shall be submitted to the Executive Director for Operations within five days after receipt of the Hearing Examiner's findings and recommendation. Within 10 days of the request for review, the Hearing Counsel may file a brief which shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners. A copy of the request for review, and a copy of any brief filed, shall be immediately sent to the individual. If the Hearing Counsel's request is for a review of a recommendation favorable to the individual, the individual may, within 10 days of receipt of a copy of the request for review, submit a brief concerning those matters at issue for consideration of the NRC Personnel Security Review Examiners. The brief shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners.

(f) The time limits imposed by this section for requesting reviews and the filing of briefs may be extended by the Executive Director for Operations for good cause shown.

(g) In the event a request is made for a review of the record by NRC Personnel Security Review Examiners, the Executive Director for Operations shall forthwith send the record, with all findings and recommendations and any briefs filed by the individual and the Hearing Counsel, to the NRC Personnel Security Review Examiners. If neither the individual, the Executive Director for Operations, nor the Hearing Counsel requests such a review, the final determination shall be made by the Executive Director for Operations on the

basis of the record with all findings and recommendations.

§ 10.32 Recommendation of the NRC Personnel Security Review Examiners.

(a) The Executive Director for Operations shall designate three NRC Personnel Security Review Examiners to conduct a review of the record of the case. To qualify as a Review Examiner, the person designated shall have an NRC "Q" access authorization and may be an employee of the NRC, its contractors, agents, or licensees. However, no employee or consultant of the NRC shall serve as Review Examiner reviewing the case of an employee (including a consultant) or applicant for employment with the NRC; nor shall any employee or consultant of an NRC contractor, agent or licensee serve as Review Examiner reviewing the case of an employee (including a consultant) or an applicant for employment of that contractor, agent, or licensee. No Review Examiner shall be selected who has knowledge of the case or of any information relevant to the disposition of it, or who for any reason would be unable to issue a fair and unbiased recommendation.

(b) The designated Review Examiners shall individually and independently, without consulting or otherwise communicating with one another, consider the matter under review based upon the record supplemented by any brief submitted by the individual or the Hearing Counsel. Review Examiners may request such additional briefs as any of them deems appropriate, which will be obtained by the Executive Director for Operations and provided to each Review Examiner. When a Review Examiner determines that additional evidence or further proceedings are necessary, the record may be returned to the Executive Director for Operations with a recommendation that the case be remanded to the Director, Office of Administration, for appropriate action, which may include returning the case to the Hearing Examiner and reconvening the hearing to obtain additional testimony.

(c) In conducting the review, Review Examiners shall make individual findings and recommendations as to the eligibility or continued eligibility of an individual for access authorization and/or employment clearance on the record supplemented by additional testimony or briefs as have previously been determined by a Review Examiner(s) as appropriate. When additional testimony is taken by the Hearing Examiner, a written transcript of such testimony shall be made by a person possessing

appropriate NRC access authorization and/or employment clearance and, except for portions containing Restricted Data or national security information, or other lawfully withholdable information, a copy of such transcript shall be furnished the individual without cost.

(d) The Review Examiners shall not consider the possible impact of the loss of the individual's services upon the NRC program.

(e) If, after considering all the factors in light of the criteria set forth in this part, a Review Examiner is of the opinion that granting or continuing access authorization and/or employment clearance to the individual will not endanger the common defense and security and will be clearly consistent with the national interest, the Review Examiner shall make a favorable recommendation; otherwise, the Review Examiner shall make an adverse recommendation. Each Review Examiner shall individually prepare a report of his or her findings and recommendations and submit the report in writing to the Executive Director for Operations, who shall furnish a copy to the individual. The findings and recommendations shall be fully supported by stated reasons supporting the findings and recommendations.

§ 10.33 Action by the Executive Director for Operations.

(a) The Executive Director for Operations, on the basis of the record accompanied by all findings and recommendations, shall make a final determination whether access authorization and/or employment clearance shall be granted, denied, or revoked, except when the provisions of § 10.28 (i), (j), or (l) have been used and the Executive Director for Operations' determination is adverse, the Commission shall make the final agency determination.

(b) In making the determination as to whether access authorization and/or employment clearance shall be granted, denied, or revoked, the Executive Director for Operations or the Commission shall give due recognition to the favorable as well as the unfavorable information concerning the individual and shall take into account the value of the individual's services to the NRC's program and the consequences of denying or revoking access authorization and/or employment clearance.

(c) In the event of an adverse determination, the Executive Director for Operations shall promptly notify the individual through the Director, Office of Administration, of his or her decision that access authorization and/or

employment clearance is being denied or revoked and of his or her findings with respect to each allegation contained in the notification letter for transmittal to the individual.

(d) In the event of a favorable determination, the Executive Director for Operations shall promptly notify the individual through the Director, Office of Administration.

§ 10.34 Action by the Commission.

(a) Whenever, under the provisions of § 10.28(i), (j), or (l) an individual has not been afforded an opportunity to confront and cross-examine witnesses who have furnished information adverse to the individual and an adverse recommendation has been made by the Executive Director for Operations, the Commission shall review the record and determine whether access authorization and/or employment clearance shall be granted, denied, or revoked, based upon the record.

(b) When the Commission determines to deny or revoke access authorization and/or employment clearance, the individual shall promptly be notified through the Director, Office of Administration, of its decision that access authorization and/or employment clearance is being denied or revoked and of its findings and conclusions with respect to each allegation contained in the notification letter for transmittal to the individual.

(c) Nothing contained in these procedures shall be deemed to limit or affect the responsibility and powers of the Commission to deny or revoke access to Restricted Data or national security information if the security of the nation so requires. Such authority may not be delegated and may be exercised when the Commission determines that invocation of the procedures prescribed in this part is inconsistent with the national security. Such determination shall be conclusive.

§ 10.35 Reconsideration of cases.

(a) Where, pursuant to the procedures set forth in §§ 10.20 through 10.34, the Executive Director for Operations or the Commission has made a determination granting access authorization and/or employment clearance to an individual, the individual's eligibility for access authorization and/or employment clearance shall be reconsidered only when subsequent to the time of that determination, new derogatory information has been received or the scope or sensitivity of the Restricted Data or national security information to which the individual has or will have access has significantly increased. All new derogatory information, whether

resulting from the NRC's reinvestigation program or other sources, will be evaluated relative to an individual's continued eligibility in accordance with the procedures of this part.

(b) Where, pursuant to these procedures, the Commission or Executive Director for Operations has made a determination denying or revoking access authorization and/or employment clearance to an individual, the individual's eligibility for access authorization and/or employment clearance may be reconsidered when there is a bona fide offer of employment and/or a bona fide need for access to Restricted Data or national security information and either material and relevant new evidence is presented, which the individual and his or her representatives are without fault in failing to present before, or there is convincing evidence of reformation or rehabilitation. Requests for reconsideration shall be submitted in writing to the Executive Director for Operations through the Director, Office of Administration. Such requests shall be accompanied by an affidavit setting forth in detail the information referred to above. The Executive Director for Operations shall cause the individual to be notified as to whether his or her eligibility for access authorization and/or employment clearance will be reconsidered and if so, the method by which such reconsideration will be accomplished.

(c) Where access authorization and/or employment clearance has been granted to an individual by the Director, Division of Security, without recourse to the procedures set forth in §§ 10.20 through 10.34, the individual's eligibility for access authorization and/or employment clearance shall be reconsidered only in a case where, subsequent to the granting of the access authorization and/or employment clearance, new derogatory information has been received or the scope or sensitivity of the Restricted Data or national security information, to which the individual has or will have access, has significantly increased. All new derogatory information, whether resulting from the NRC's reinvestigation program or other sources, will be evaluated relative to an individual's continued eligibility in accordance with the procedures of this part.

Subpart D—Miscellaneous

§ 10.36 Terminations.

In the event the individual is no longer an applicant for access authorization and/or employment clearance or no

longer requires such, the procedures of this part shall be terminated without a final determination as to the individual's eligibility for access authorization and/or employment clearance.

§ 10.37 Attorney representation.

In the event the individual is represented by an attorney or other representative, the individual shall file with the Director, Office of Administration, a document designating such attorney or representative and authorizing such attorney or representative to receive all correspondence, transcripts, and other documents pertaining to the proceeding under this part.

§ 10.38 Certifications.

Whenever information is made a part of the record under the exceptions authorized by § 10.28 (i), (j), or (l), the record shall contain certificates evidencing that the required determinations have been made.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

2. In § 11.21, paragraphs (c) and (d) are revised to read as follows:

§ 11.21 Application of the criteria.

(c) When the reports of investigation of an individual contain information reasonably falling within one or more of the classes of derogatory information listed in § 10.11, it shall create a question as to the individual's eligibility for special nuclear material access authorization. In such cases, the application of the criteria shall be made in light of and with specific regard to whether the existence of such information supports a reasonable belief that the granting of a special nuclear material access authorization would be inimical to the common defense and security. The Director, Division of Security, may authorize the granting of special nuclear material access authorization on the basis of the information in the case or may authorize the conduct of an interview with the individual and, on the basis of such interview and such other investigation as the Director deems appropriate, may authorize the granting of special nuclear material access authorization. Otherwise, a question concerning the eligibility of an individual for special nuclear material access authorization shall be resolved in accordance with the procedures set forth in §§ 10.20-10.38 of this chapter.

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for special nuclear material access authorization by action of the Hearing Examiner,⁴ the following principle shall be applied by the Examiner: Where there are grounds sufficient to establish a reasonable belief as to the truth of the information regarded as substantially derogatory and when the existence of such information supports a reasonable belief that granting access would be inimical to the common defense and security, this shall be the basis for a recommendation for denying or revoking special nuclear material access authorization if not satisfactorily rebutted by the individual or shown to be mitigated by circumstance.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

3. In § 25.5 the definition for "Access Authorization" is revised to read as follows:

§ 25.5 Definitions.

"Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC, or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

4. In § 95.5 the definition for "Access authorization" is revised to read as follows:

§ 95.5 Definitions.

"Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC, or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

Dated at Washington, DC, this 18th day of August 1982.

⁴ The function of the Hearing Examiner is described in Part 10 of this chapter.

For the Nuclear Regulatory Commission.
William J. Dircks,
Executive Director for Operations.
[FR Doc. 82-24144 Filed 9-1-82; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-23-AD; Amdt 39-4453]

Airworthiness Directives; Partenavia Costruzioni Aeronautiche S.p.A., Models P68 and P68B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement, as necessary, of the control wheel shaft universal joints on Partenavia Models P68 and P68B airplanes. The AD is necessary to prevent failure of the control wheel shaft universal joints, which could result in loss of control of the airplane.

EFFECTIVE DATE: September 13, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Partenavia Service Bulletin No. 48, dated December 7, 1979, and Partenavia Service Instruction No. 09, dated December 7, 1979, applicable to this AD, may be obtained from Partenavia Costruzioni Aeronautiche S.p.A., Via Cava, Casoria-Napoli, Italy.

A copy of the Service Bulletin and Service Instructions are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.; or Paul Cormaci, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The manufacturer reports that interference between the universal joint body sleeves and the adjacent structure may lead to cracking of the control wheel shaft universal joints on Partenavia Models P68 and P68B airplanes. To provide instructions for detection and correction of this condition, the manufacturer issued Partenavia Service Bulletin No. 48, dated December 7, 1979,

and Service Instruction No. 09, dated December 7, 1979. Service Instruction No. 09 provides instructions for inspection of the control wheel shaft universal joints. Service Bulletin No. 48 provides instructions for replacement of the universal joints and directs replacement of any cracked control wheel shaft universal joint before further flight and any universal joint having interference within 200 hours time-in-service. Additionally, it requires that any universal joint having interference be inspected for cracks at 50 hours time-in-service intervals until replaced. The cracks and interference of this type could have an adverse effect on airplane controllability if not discovered and corrected before failure of a control wheel shaft universal joint occurs.

Accordingly, since the condition described herein is likely to exist or develop on other airplanes of the same type design, the FAA is issuing an AD applicable to Partenavia Models P68 and P68B airplanes. This AD will make inspection and replacement, as necessary, of the control wheel shaft universal joints in accordance with Partenavia Service Bulletin No. 48, dated December 7, 1979, and Service Instruction No. 09, dated December 7, 1979, mandatory. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Partenavia, Costruzioni Aeronautiche S.p.A.:
Applies to Models P68 and P68B airplanes (serial numbers 1 through 86) certificated in any category.

Compliance

Required as indicated unless already accomplished.

To prevent failure of the control wheel shaft universal joint, accomplish the following:

(a) Within the next 50 hours time-in-service after the effective date of this AD, inspect control wheel shaft universal joints for cracks and interference, in accordance with procedures in "INSPECTION" section of Partenavia Service Bulletin No. 48, dated December 7, 1979.

(b) If cracks are found during the inspection in accordance with paragraph (a) of this AD, replace the control wheel shaft

universal joints in accordance with procedures under "Instructions" of Partenavia Service Instruction No. 09, dated December 7, 1979.

(c) If interference is found during the inspection, in accordance with paragraph (a) of this AD, repeat the inspection for cracks prescribed in that paragraph at intervals not exceeding 50 hours time-in-service until the universal joint is replaced. Within 200 hours time-in-service after the effective date of this AD, replace universal joints on which interference is found during the inspection described in paragraph (a) in accordance with procedures of Partenavia Service Instruction No. 09 dated December 7, 1979.

(d) The airplane may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium; Telephone 513.38.30.

This amendment becomes effective on September 13, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Section 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impractical for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES." This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on August 20, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 23782 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AWA-13]

Establishment of Gambell, AK, Transition Area; Alaska; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the geographical coordinates of the Gambell, AK nondirectional radio beacon (NDB) published in the *Federal Register* on April 19, 1982 (47 FR 16619) (Airspace Docket No. 81-AAL-15) in conjunction with the establishment of the Gambell AK, transition area. This action corrects that error.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 71

Transition areas.

History

Federal Register Document 82-10578 (Airspace Docket No. 81-AAL-15) was published on April 19, 1982, which established a transition area in the vicinity of the Gambell, AK, Airport. The geographical coordinates published for the location of the Gambell, AK, nondirectional radio beacon (NDB) relative to this action were incorrect.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, *Federal Register* Document 82-10578 (Airspace Docket No. 81-AAL-15), as published in the *Federal Register* on April 19, 1982, is corrected to read:

Gambell, AK [Amended]

By amending the coordinates of the Gambell, AK, NDB to read as follows: [lat. 63°46'57" N, long. 171°44'15" W]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;