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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is amending its rules of practice and procedure to clarify what a party in a Board proceeding must do to get a copy of the hearing tape recording or written transcript, to provide that the official hearing record may be a video tape recording, and to comply with the President's Memorandum on Plain Language. The amendment also informs a non-party who wants a copy of a hearing tape recording or written transcript to send a request under the Board's Freedom of Information Act regulations (5 CFR part 1204). The purpose of the amendment is to guide parties to MSPB cases, representatives, and non-parties on the appropriate way to get copies of hearing tape recordings and written transcripts.

EFFECTIVE DATE: April 11, 2000.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: The Board's current rule at 5 CFR 1201.53(a) provides that a verbatim record of a hearing in a Board case must be prepared under the supervision of the judge. The amendment to this rule published today makes clear that a verbatim record, the single official record of the hearing, will be kept in the Board's copy of the appeal file. The amendment also makes clear that an audio tape recording, video tape recording, or written transcript will be the official hearing record. Under the Board's current rule at 5 CFR

1201.53(b), a copy of a hearing tape recording or written transcript is to be made available to a party upon request and upon payment of costs. The amendment to 5 CFR 1201.53(b) published today requires that parties send requests for copies of hearing tape recordings or written transcripts to the adjudicating regional or field office or to the Clerk of the Board as appropriate. Because the current rule at 5 CFR 1201.53(b) only states procedures for parties to request copies of hearing tape recordings or written transcripts, the amendment notifies non-parties that their requests for copies of hearing tape recordings or written transcripts are controlled by the Board's rules at 5 CFR part 1204 (Freedom of Information Act). In addition, the amendment provides that only hearing tape recordings or written transcripts prepared by the official hearing reporter will be accepted by the Board as the official record of the hearing. The amendment to 5 CFR 1201.53(c) clarifies procedures for parties to request an exception to payment of the cost for hearing tape recordings or written transcripts. The current rule at 5 CFR 1201.53(d) has been amended because it refers to written transcripts and the Board now tape records its hearings. The new section 5 CFR 1201.53(e) includes a revision of 5 CFR 1201.54. Thus, the current rule at 5 CFR 1201.54 has been removed.

The Board is publishing this rule as a final rule in accordance with 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, unless otherwise noted).

2. Section 1201.53 is revised to read as follows:

§ 1201.53 Record of proceedings.

(a) *Preparation.* A word-for-word record of the hearing is made under the judge's guidance. It is kept in the Board's copy of the appeal file and it is the official record of the hearing. Only

hearing tape recordings or written transcripts prepared by the official hearing reporter will be accepted by the Board as the official record of the hearing. When the judge assigned to the case tape records a hearing (for example, a telephonic hearing in a retirement appeal), the judge is the "official hearing reporter" under this section.

(b) *Copies.* When requested and when costs are paid, a copy of the official record of the hearing will be provided to a party. A party must send a request for a copy of a hearing tape recording or written transcript to the adjudicating regional or field office, or to the Clerk of the Board, as appropriate. A request for a copy of a hearing tape recording or written transcript sent by a non-party is controlled by the Board's rules at 5 CFR part 1204 (Freedom of Information Act). Requests for hearing tape recordings or written transcripts under the Freedom of Information Act must be sent to the appropriate Regional Director, the Chief Administrative Judge of the appropriate MSPB Field Office, or to the Clerk of the Board at MSPB headquarters in Washington, DC.

(c) *Exceptions to payment of costs.* A party may not have to pay for a hearing tape recording or written transcript if he has a good reason. If a party believes he has a good reason and the request is made before the judge issues an initial decision, the party must send the request for an exception to the judge. If the request is made after the judge issues an initial decision, the request must be sent to the Clerk of the Board. The party must clearly state the reason for the request in an affidavit or sworn statement.

(d) *Corrections to written transcript.* Corrections to the official written transcript may be made on motion by a party or on the judge's own motion. Motions for corrections must be filed within 10 days after the receipt of a written transcript. Corrections of the official written transcript will be made only when substantive errors are found and only with the judge's approval.

(e) *Official record.* Exhibits, the official hearing record, if a hearing is held, all papers filed, and all orders and decisions of the judge and the Board, make up the official record of the case.

§ 1201.54 (Removed)

3. Section 1201.54 is removed in its entirety.

Dated: April 5, 2000.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 00-8861 Filed 4-10-00; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 99-102-2]

Ports Designated for Exportation of Horses; Dayton, OH

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On February 17, 2000, the Animal and Plant Health Inspection Service published a direct final rule. (See 65 FR 8013-8014, Docket No. 99-102-1.) The direct final rule notified the public of our intentions to amend the "Inspection and Handling of Livestock for Exportation" regulations by adding Dayton International Airport in Dayton, OH, as a port of embarkation and Instone Air Services, Inc., as the export inspection facility for equines for that port. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as: April 17, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Morley Cook, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-6479.

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a, and 466b; 49 U.S.C. 1509(d); 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 5th day of April 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-8936 Filed 4-10-00; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM171, Special Conditions No. 25-160-SC]

Special Conditions: Airbus A300 Model B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203, B4-203 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Airbus A300 Model B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203, B4-203 airplanes modified by Electronic Cable Specialists. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The installation of Honeywell Classic Navigator Systems will use advanced electronics when compared to the Inertial Navigation Systems. The applicable type certification regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is March 31, 2000. Comments must be received on or before May 26, 2000.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-114), Docket No. NM171, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM171. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Connie Beane, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (425) 227-2796; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM171." The postcard will be date stamped and returned to the commenter.

Background

On November 29, 1999, Electronic Cable Specialists, 5300 West Franklin Drive, Franklin, Wisconsin 53132, applied for a Supplemental Type Certificate (STC) to modify Airbus A300 Model B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203, B4-203 airplanes approved under Type Certificate No. A35EU. These are transport category airplanes with twin engines, and a seating capacity of up to 267 passengers. The modification incorporates the installation of Honeywell Classic Navigator Systems. Each system consists of a Honeywell HT-9100 Navigation Management System, a Super Attitude Heading Reference System, and a Digital to Analog Adapter. These advanced systems use electronics to a far greater extent than the original Inertial Navigation Systems and may be more susceptible to electrical and magnetic interference. This disruption of signals could result in loss of attitude or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Electronic Cable Specialists must show that Airbus A300 Model B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203, B4-203 airplanes, as changed, continue to meet the applicable