Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the description of the Class D airspace area at Luke AFB, AZ, as published in the **Federal Register** on January 19, 1995 (60 FR 3741) and the description in FAA Order 7400.9B, which is incorporated by reference in 14 CFR 71.7, are corrected as follows:

§71.7 [Corrected]

On page 3742, in the second column, the description for the Luke AFB, AZ Class D airspace is corrected as follows: AWP AZ D Phoenix, Luke Air Force Base, AZ [Corrected]

Phoenix Luke Air Force Base, AZ (Lat. 33°32′06″ N, long. 112°22′59″ W) Luke Air Force Base TACAN (Lat. 33°32′16″ N, long. 112°22′49″ W)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.4-mile radius of the Luke AFB and within 2.0 miles each side of the Luke TACAN 220° radial, extending from the 4.4-mile radius to 5.2 miles southwest of the Luke TACAN, and excluding that portion within the Glendale, AZ Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on February 22, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1262

RIN 2700-AC00

Equal Access to Justice Act in Agency Proceedings

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending its regulations under the Equal Access to Justice Act by updating the definition of "Adversary Adjudication" to conform to the amendments of 5 U.S.C. 504(b)(1)(C); to delete references to the NASA Board of Contract Appeals in 14 CFR 1262.307(a), since its functions have been assumed by the Armed Services Board of Contract Appeals pursuant to an interagency Memorandum of Agreement dated June

28, 1993, and effective July 12, 1993; and to correct typographical errors in §§ 1262.104(b)(4) and 1262.309.

EFFECTIVE DATE: March 8, 1995.

FOR FURTHER INFORMATION CONTACT: Sara Najjar-Wilson, Office of the General Counsel, 202–358–2465.

SUPPLEMENTARY INFORMATION: NASA published its final rule, 14 CFR Part 1262, "Implementation of the Equal Access to Justice Act in Agency Proceedings," in the **Federal Register** on April 23, 1986 (51 FR 15311). These changes to the rule are administrative in nature and do not require a period for public comment.

NASA has determined that this regulation is not a major rule as defined in Executive Order 12866.

This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small business entities.

List of Subjects in 14 CFR Part 1262

Claims, Equal access to justice, Lawyers.

For reasons set forth in the Summary of the Preamble, 14 CFR Part 1262 is amended as follows:

PART 1262—EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEDURES

1. The authority citation of 14 CFR Part 1262 is revised to read as follows:

Authority: 5 U.S.C. 504; 42 U.S.C. 2473(c)(1).

2. Section 1262.101 is amended by revising paragraph (b)(1) to read as follows:

§1262.101 Purpose of these rules.

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

(1) Adversary adjudication means:

- (i) An adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license;
- (ii) Any appeal of a decision made pursuant to section 6 of the Contract Disputes Act (CDA) of 1978, as amended (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of the CDA (41 U.S.C. 607);
- (iii) Any hearing conducted under Chapter 38 of Title 31 (added by section 6104 of the Program Fraud Civil Remedies Act of 1986 (Pub. L. 99–509, 100 Stat. 1948, Oct. 21, 1986), 31 U.S.C. 3801, et seq., as amended); and

(iv) The Religious Freedom Restoration Act (RFRA) of 1993 (added by section 4(b), of RFRA (Pub. L. 103– 141, 107 Stat. 1489, Nov. 16, 1993), 42 U.S.C. 2000bb).

* * * * *

3. Section 1262.103 is revised to read as follows:

§1262.103 Proceedings covered.

(a) The Act applies to the following adversary adjudications conducted by the Agency:

(1) Adjudications under 5 U.S.C. 554 in which the position of NASA or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceedings;

(2) Appeals of decisions made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before the Board of Contract Appeals (BCA) as provided in Section 8 of that Act (41 U.S.C. 607):

(3) Any hearing conducted under Chapter 38 of Title 31 (31 U.S.C. 3801, et seq., as amended); and

(4) Adjudications under the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb).

(b) The Act does not apply to:

- (1) Any proceeding in which this Agency may prescribe a lawful present or future rate;
- (2) Proceedings to grant or renew licenses (note, however, that proceedings to modify, suspend, or revoke licenses are covered if they are otherwise adversary adjudications); and

(3) Proceedings which are covered by a compromise or settlement agreement, unless specifically consented to in such agreement.

(c) NASA may also designate a proceeding as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The Agency's failure to designate a proceeding as an adversary adjudication shall not preclude the filling of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(d) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

4. In Section 1262.104, paragraph (b)(4), the citation "12 U.S.C. 1441j(a))" is revised to read "(12 U.S.C. 1141j(a))". 5. Section 1262.307 is amended by

5. Section 1262.307 is amended by revising paragraph (a) introductory text to read as follows: