

revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321-7716.

**SUPPLEMENTARY INFORMATION:**

**History**

On July 21, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for Spearfish, SD, creating additional controlled airspace at Black Hills Airport—Clyde Ice Field (76 FR 43610) Docket No. FAA-2011-0431. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, errors were found in the boundaries of the controlled airspace extending upward from 1,200 feet above the surface. This rule makes the corrections to be in concert with the FAA's aeronautical database. Also, there is a minor correction to the airport name.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Black Hills Airport—Clyde Ice Field, Spearfish, SD. This action is necessary for the safety and management of IFR operations at the airport. This action also corrects the geographic coordinates of the airport, as well as the first boundary coordinates listed in the regulatory text of the airspace extending upward from 1,200 feet above the surface. Also, the airport name is changed from Black Hills—Clyde Ice Field, to Black Hills Airport—Clyde Ice Field. With the exception of editorial changes and the changes described above, this action is the same as that proposed in the NPRM.

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. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Black Hills Airport—Clyde Ice Field, Spearfish, SD.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

- 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

- 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.*

\* \* \* \* \*

**AGL SD E5 Spearfish, SD [Amended]**

Black Hills Airport-Clyde Ice Field, SD  
(Lat. 44°28'52" N., long. 103°47'09" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Black Hills Airport-Clyde Ice Field, and within 2.1 miles each side of the 305° bearing from the airport extending from the 7-mile radius to 8.3 miles northwest of the airport, and within 2 miles each side of the 135° bearing from the airport extending from the 7-mile radius to 18.3 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 44°29'16" N., long. 103°56'55" W.; to lat. 44°13'37" N., long. 104°14'00" W.; to lat. 44°18'41" N., long. 104°23'24" W.; to lat. 44°44'11" N., long. 103°57'49" W.; to lat. 44°50'13" N., long. 103°28'11" W.; to lat. 44°47'27" N., long. 102°57'40" W.; to lat. 44°39'31" N., long. 102°56'34" W.; to lat. 44°38'27" N., long. 103°12'26" W.; to lat. 44°25'51" N., long. 103°37'45" W.; to lat. 44°25'58" N., long. 103°38'15" W.; thence clockwise via the 7-mile radius of the airport to the point of beginning.

Issued in Fort Worth, Texas, on October 11, 2011.

**David P. Medina,**

*Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2011-28289 Filed 11-1-11; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 200**

[Release No. 34-65628]

**Technical Amendment to Delegation of Authority to the Director of the Division of Trading and Markets**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Securities and Exchange Commission ("Commission") is making a technical amendment to the rule that delegates authority to the Director of the Division of Trading and Markets to grant exemptions upon specified terms, conditions, and periods to persons subject to Rule 17f-2 under the Securities Exchange Act of 1934 ("Exchange Act").

**DATES:** *Effective Date:* November 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jerry W. Carpenter, Assistant Director, or

David Karasik, Special Counsel, at (202) 551-5710, Securities and Exchange Commission, Division of Trading and Markets, Room 7321 SP1, 100 F Street NE., Washington, DC 20549-7010.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 17(f)(2) of the Exchange Act requires every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency to require that each of its partners, directors, officers, and employees be fingerprinted and to submit such fingerprints to the U.S. Attorney General for identification and processing.<sup>1</sup> In order to permit some flexibility in the administration of the fingerprinting requirement, Section 17(f)(2) also provides “The Commission, by rule, may exempt from the provisions of this paragraph [Section 17(f)(2)] upon specified terms, conditions, and periods, any class of partners, directors, officers, or employees of any such member, broker, dealer, transfer agent, or clearing agency, if the Commission finds that such action is not inconsistent with the public interest or the protection of investors.”<sup>2</sup>

Pursuant to this statutory authority, the Commission adopted Rule 17f-2 in 1976 to provide for certain exemptions from the fingerprinting requirement of Section 17(f)(2) of the Exchange Act.<sup>3</sup> As adopted by the Commission in 1976, exemptions from the fingerprinting requirements of Section 17(f)(2) could also be requested by persons that did not meet certain conditions specified in Rule 17f-2 by applying to the Commission for exemptive relief pursuant to a prior paragraph (g) of Rule 17f-2.<sup>4</sup>

After adopting Rule 17f-2, the Commission delegated its authority, pursuant to Rule 30-3(a)(17) of the Commission’s Rules of Organization and Program Management, to grant exemptions under Rule 17f-2(g) to the Director of the Division of Market Regulation (now known as the Division of Trading and Markets) (“Division

Director”).<sup>5</sup> In 1982, the Commission amended Rule 17f-2 in order to simplify the process of claiming exemptions from the fingerprinting requirements.<sup>6</sup> Part of this simplification effort involved a change consisting of moving the entire text of paragraph (g) of Rule 17f-2, without any modifications, to a new subparagraph (a)(2). However, the Commission did not update references to Rule 17f-2(g) contained in Rule 30-3(a)(17) to reflect this change. In order to correct this oversight, the Commission is making a technical amendment to Rule 30-3(a)(17) to reflect the authority of the Division Director to grant exemptions upon specified terms, conditions, and periods to persons subject to Rule 17f-2 pursuant to Rule 17f-2(a)(2).

##### II. Administrative Law Matters

The Administrative Procedure Act (“APA”)<sup>7</sup> generally requires an agency to publish, before adopting a rule, notice of a proposed rulemaking in the **Federal Register**.<sup>8</sup> This requirement does not apply, however, to, “interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice.”<sup>9</sup>

This amendment consisting of replacing an outdated reference to “Rule 17f-2(g)” with a reference to “Rule 17f-2(a)(2)” within Rule 30-3 of the Commission’s Rules of Organization and Program Management is a technical change, being adopted solely to interpret references to a statutory provision that has been moved but otherwise remains unchanged and which relates solely to the delegation of authority or duties within the Commission. Accordingly, the Commission finds that because the amendments relate solely to interpretive rules and rules of agency organization, procedure, or practice, that publishing the changes for comment is unnecessary.<sup>10</sup> In addition, the APA generally requires that an agency publish a rule in the **Federal Register** 30 days before the rule becomes effective.<sup>11</sup> This requirement, however, does not apply to “interpretative rules and statements of policy.”<sup>12</sup> Because this amendment functions as an

interpretative rule that would merely interpret references to an outdated “Rule 17f-2(g)” (that presently does not exist) as applying to “Rule 17f-2(a)(2)” this amendment may take effect immediately. Similarly, the amendment does not require analysis under the Regulatory Flexibility Act or analysis of major rule status under the Small Business Regulatory Fairness Act.<sup>13</sup>

##### III. Consideration of the Competitive Effects of Amendment

Section 3(f) of the Exchange Act,<sup>14</sup> provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Exchange Act requires the Commission in adopting rules under the Exchange Act to consider the competitive effects of such rules.<sup>15</sup> Because this amendment merely makes a technical change to update a statutory reference, the Commission does not anticipate that the amendment would have an effect on efficiency, competition, or capital formation, and the Commission does not anticipate any competitive advantages or disadvantages would be created.

##### IV. Statutory Authority and Text of Amendments

We are adopting this technical amendment under the authority set forth in Section 23(a) of the Exchange Act.<sup>16</sup>

##### List of Subjects 17 CFR Part 200

Administrative practice and procedure, Conflict of interests, and Freedom of information.

##### Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

<sup>13</sup> See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Act analysis, the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking); and 5 U.S.C. 804(3)(C) (for purposes of Congressional review of agency rulemaking, the term “rule” does not include any rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties).

<sup>14</sup> 15 U.S.C. 78c(f).

<sup>15</sup> 15 U.S.C. 78w(a)(2).

<sup>16</sup> 15 U.S.C. 782w(a).

<sup>1</sup> 15 U.S.C. 78q(f)(2).

<sup>2</sup> *Id.*

<sup>3</sup> 17 CFR 240.17f-2. Securities Exchange Act Release No. 12214 (Mar. 16, 1976), 41 FR 13594 (Mar. 31, 1976).

<sup>4</sup> Prior Rule 17f-2(g) (as reflected in 1976 at the time of adoption of the rule) provided:

The Commission, upon specified terms, conditions and periods, may grant exemptions to any class of partners, directors, officers, or employees of any member of a national securities exchange, broker, dealer, registered transfer agent, or registered clearing agency, if the Commission finds that such action is not inconsistent with the public interest or the protection of investors.

<sup>5</sup> Rule 30-3 of the Commission’s Rules of Organization and Program Management has been updated to reflect the name of the division is now the Division of Trading and Markets. See 17 CFR 200.30-3.

<sup>6</sup> Securities Exchange Act Release No. 19268 (Nov. 18, 1982), 47 FR 54060 (Dec. 1, 1982).

<sup>7</sup> 5 U.S.C. 551 *et seq.*

<sup>8</sup> See 5 U.S.C. 553(b).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See 5 U.S.C. 553(d).

<sup>12</sup> *Id.*

## PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

■ 1. The authority citation for part 200, subpart A, continues to read in part as follows:

**Authority:** 15 U.S.C. 77o, 77s, 77sss, 78d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202 unless otherwise noted.

\* \* \* \* \*

■ 2. Section 200.30-3 is amended by revising paragraph (a)(17)(ii) to read as follows:

### § 200.30-3 Delegation of authority to Director of Division of Trading and Markets.

\* \* \* \* \*

(a) \* \* \*

(17) \* \* \*

(ii) To grant exemptions upon specified terms, conditions, and periods, for classes of persons subject to Rule 17f-2 pursuant to Rule 17f-2(a)(2) (§ 240.17f-2(a)(2) of this chapter).

\* \* \* \* \*

Dated: October 26, 2011.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2011-28313 Filed 11-1-11; 8:45 am]

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## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

### 32 CFR Part 1701

#### Privacy Act of 1974: Implementation

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Director of National Intelligence (ODNI) is issuing a final rule exempting six new systems of records from certain provisions of the Privacy Act. In addition, the ODNI invokes a subsection of the Privacy Act as an additional basis for exempting records in ODNI/OIG-003 (Office of Inspector General Investigation and Interview Records, published in the *Federal Register* on Dec. 28, 2007) from these provisions of the Act.

**DATES:** This final rule is effective November 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. John F. Hackett, Chief, Information Management Group, (703) 874-8085.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 19, 2011, the Office of the Director of National Intelligence (ODNI) published notice of the following new systems of records: Human Resources

Records (ODNI-16); Personnel Security Records (ODNI-17); Freedom of Information Act, Privacy Act and Mandatory Declassification Review Request Records (ODNI-18); IT Systems Activity and Access Records (ODNI-19); Security Clearance Reciprocity Hotline Records (ODNI-20); and IT Network Support, Administration and Analysis Records (21). These systems of records contain records that range from Unclassified to Top Secret. In conjunction with publication of these systems notices, the ODNI initiated a rulemaking to exempt the systems of records, in relevant part, from subsections (c)(3); (d)(1), (2), (3), (4); (e)(1) and (e)(4)(G), (H),(I); and (f) of the Privacy Act pursuant to exemption authority afforded agency heads by subsection (k) of the Privacy Act. The systems notices and proposed exemption rule are published at 76 FR 42737 and 43629. The enumerated exemptions will be invoked on a case-by-case basis, as necessary to preclude interference with investigatory, intelligence and counterterrorism functions and responsibilities of the ODNI.

#### Public Comments

ODNI received a single comment on its proposed rule and six new systems of records notices. ODNI has determined that the comment received does not warrant modifying the proposed exemptions or the systems notices prior to implementation.

#### Regulatory Flexibility Act

This rule affects only the manner in which ODNI collects and maintains information about individuals. ODNI certifies that this rulemaking does not impact small entities and that analysis under the Regulatory Flexibility Act, 5 U.S.C. 601-612, is not required.

#### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the ODNI to comply with small entity requests for information and advice about compliance with statutes and regulations within the ODNI jurisdiction. Any small entity that has a question regarding this document may address it to the information contact listed above. Further information regarding SBREFA is available on the Small Business Administration's Web page at <http://www.sba.gov/advo/laws/law-lib.html>.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (944 U.S.C. 3507(d)) requires that the ODNI consider the impact of paperwork

and other burdens imposed on the public associated with the collection of information. There are no information collection requirements associated with this rule and therefore no analysis of burden is required.

#### Executive Order 12866, Regulatory Planning and Review

This rule is not a "significant regulatory action," within the meaning of Executive Order 12866. This rule will not adversely affect the economy or a sector of the economy in a material way; will not create inconsistency with or interfere with other agency action; will not materially alter the budgetary impact of entitlements, grants, fees or loans or the right and obligations of recipients thereof; or raise legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order. Accordingly, further regulatory evaluation is not required.

#### Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, 109 Stat. 48 (Mar. 22, 1995), requires Federal agencies to assess the effects of certain regulatory actions on State, local and tribal governments, and the private sector. This rule imposes no Federal mandate on any State, local or tribal government or on the private sector. Accordingly, no UMRA analysis of economic and regulatory alternatives is required.

#### Executive Order 13132, Federalism

Executive Order 13132 requires agencies to examine the implications for the distribution of power and responsibilities among the various levels of government resulting from their rules. ODNI concludes that this rule does not affect the rights, roles and responsibilities of the States, involves no preemption of State law and does not limit state policymaking discretion. This rule has no federalism implications as defined by the Executive Order.

#### Environmental Impact

This rulemaking will not have a significant effect on the human environment under the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321-4347.

#### Energy Impact

This rulemaking is not a major regulatory action under the provisions of the Energy Policy and Conservation Act (EPCA), Public Law 94-163) as amended, 42 U.S.C. 6362.