

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for 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; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

AGL ND E5 Hazen, ND [New]

Mercer County Regional Airport, ND
(Lat. 47°17'23" N., long. 101°34'50" W.)

Dickinson VORTAC
(Lat. 46°51'36" N., long. 102°46'25" W.)

Minot Air Force Base
(Lat. 48°24'56" N., long. 101°21'27" W.)

Bismarck VOR/DME
(Lat. 46°45'43" N., long. 100°39'55" W.)

That airspace extending upward from 700 feet above the surface within a 5.8-mile radius of the Mercer County Regional Airport, and that airspace extending upward from 1,200 feet above the surface bounded on the northwest by V-491, on the south by V-510, on the east V-15, on the southwest by the 25.2-mile arc of the Dickinson VORTAC, on the north by the 47-mile radius of the Minot AFB, and on the southeast by the 36-mile arc of the Bismarck VOR/DME.

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Issued in Des Plaines, Illinois on August 26, 1996.

Peter H. Salmon,
Acting Manager, Air Traffic Division.

[FR Doc. 96-22946 Filed 9-6-96; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE**Defense Special Weapons Agency****32 CFR Part 318**

[DSWA Instruction 5400.11B]

Privacy Program

AGENCY: Defense Special Weapons Agency, DOD.

ACTION: Proposed rule.

SUMMARY: As of June 26, 1996, the Defense Nuclear Agency is known as the Defense Special Weapons Agency (DSWA). The Defense Special Weapons Agency (DSWA) is revising its procedural and exemptions rules for the DSWA Privacy Program. DSWA is updating the procedures for accessing information contained in DSWA systems of records, and for contesting contents and appealing initial agency determinations.

DATES: Comments must be received on or before November 8, 1996, to be considered by the agency.

ADDRESSES: Send comments regarding this proposed rule to the General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310-3398.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandy Barker at (703) 325-7681.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

As of June 26, 1996, the Defense Nuclear Agency is known as the Defense Special Weapons Agency (DSWA). The

Defense Special Weapons Agency is revising its procedural and exemptions rules for the DSWA Privacy Program. DSWA is updating the procedures for accessing information contained in DSWA systems of records, and for contesting contents and appealing initial agency determinations.

List of Subjects in 32 CFR Part 318

Privacy.

Accordingly, the Defense Special Weapons Agency amends 32 CFR part 318 as follows:

Part 318 is proposed to be revised to read as follows:

PART 318—DEFENSE SPECIAL WEAPONS AGENCY PRIVACY PROGRAM**Sec.**

318.1 Purpose and scope.

318.2 Applicability.

318.3 Designations and responsibilities.

318.4 Procedures for requests pertaining to individual records in a record system.

318.5 Disclosure of requested information to individuals.

318.6 Request for correction or amendment to a record.

318.7 Agency review of request for correction or amendment of record.

318.8 Appeal of initial adverse Agency determination for access, correction or amendment.

318.9 Exemption rules.

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

§ 318.1 Purpose and scope.

(a) This rule implements the provisions of the Privacy Act of 1974, as amended, and adopts the policies and procedures as set forth by the Department of Defense Privacy Program, 32 CFR part 310.

(b) This rule establishes procedures whereby individuals can:

(1) Request notification of whether Defense Special Weapons Agency (DSWA) maintains or has disclosed a record pertaining to them in any nonexempt system of records;

(2) Request a copy or other access to such a record or to an accounting of its disclosure;

(3) Request that the record be amended; and

(4) Appeal any initial adverse determination of any such request.

(c) Specifies those system of records which the Director, Headquarters, Defense Special Weapons Agency has determined to be exempt from the procedures established by this rule and by certain provisions of the Privacy Act.

(d) DSWA policy encompasses the safeguarding of individual privacy from any misuse of DSWA records and the

provides the fullest access practicable by individuals to DSWA records concerning them.

§ 318.2 Applicability.

The provisions of this rule apply to Headquarters, Defense Special Weapons Agency (HQ DSWA), and Field Command, Defense Special Weapons Agency (FC DSWA).

§ 318.3 Designations and responsibilities.

(a) The General Counsel, Headquarters, Defense Special Weapons Agency, is designated as the Agency Privacy Act Officer.

(1) The Privacy Act Officer is the principal point of contact for privacy matters and is the Agency Initial Denial Authority.

(2) The Privacy Act Officer is responsible for monitoring and ensuring Agency compliance with the DoD Privacy Program in accordance with 32 CFR part 310.

(b) The Director, DSWA, is the Agency Appellate Authority.

(c) The Director, DSWA is responsible for implementing the Agency Privacy Act Program in accordance with the specific requirements of 32 CFR part 310.

(d) Agency component and element responsibilities are set forth in DSWA Instruction 5400.11B,¹ January 12, 1995.

§ 318.4 Procedures for requests pertaining to individual records in a record system.

(a) An individual seeking notification of whether a system of records, maintained by the Defense Special Weapons Agency, contains a record pertaining to himself/herself and who desires to review, have copies made of such records, or to be provided an accounting of disclosures from such records, shall submit his or her request in writing. Requesters are encouraged to review the systems of records notices published by the Agency so as to specifically identify the particular record system(s) of interest to be accessed.

(b) In addition to meeting the requirements set forth in section 318.4 of this part, the individual seeking notification, review or copies, and an accounting of disclosures will provide in writing his or her full name, address, Social Security Number, and a telephone number where the requester can be contacted should questions arise concerning the request. This information will be used only for the purpose of identifying relevant records

in response to an individual's inquiry. It is further recommended that individuals indicate any present or past relationship or affiliations, if any, with the Agency and the appropriate dates in order to facilitate a more thorough search. A notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746 may also be required.

(c) An individual who wishes to be accompanied by another individual when reviewing his or her records, must provide the Agency with written consent authorizing the Agency to disclose or discuss such records in the presence of the accompanying individual.

(d) Individuals should mail their written request to the Office of General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310-3398 or to the office designated in the system notice and indicate clearly on the outer envelope 'Privacy Act Request'.

§ 318.5 Disclosure of requested information to individuals.

(a) The Defense Special Weapons Agency, upon receiving a request for notification of the existence of a record or for access to a record, shall acknowledge receipt of the request within 10 working days.

(b) Determine whether or not such record exists.

(c) Determine whether or not such request for access is available under the Privacy Act.

(d) Notify requester of determinations within 30 working days after receipt of such request.

(e) Provide access to information pertaining to that person which has been determined to be available within 30 working days.

(f) Notify the individual if fees will be assessed for reproducing copies of the records. Fee schedule and rules for assessing fees are contained in section 318.11 of this part.

§ 318.6 Request for correction or amendment to a record.

(a) An individual may request that the Defense Special Weapons Agency correct, amend, or expunge any record, or portions thereof, pertaining to the requester that he/she believe to be inaccurate, irrelevant, untimely, or incomplete.

(b) Such requests shall specify the particular portions of the records in question, be in writing and should be mailed to the Office of General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310-3398.

(c) The requester shall provide sufficient information to identify the record and furnish material to substantiate the reasons for requesting corrections, amendments, or expurgation.

§ 318.7 Agency review of request for correction or amendment of record.

(a) The Agency will acknowledge a request for correction or amendment within 10 working days of receipt. The acknowledgment will be in writing and will indicate the date by which the Agency expects to make its initial determination.

(b) The Agency shall complete its consideration of requests to correct or amend records within 30 working days, and inform the requester of its initial determination.

(c) If it is determined that records should be corrected or amended in whole or in part, the Agency shall advise the requester in writing of its determination; and correct or amend the records accordingly. The Agency shall then advise prior recipients of the records of the fact that a correction or amendment was made and provide the substance of the change.

(d) If the Agency determines that a record should not be corrected or amended, in whole or in part, as requested by the individual, the Agency shall advise the requester in writing of its refusal to correct or amend the records and the reasons therefor. The notification will inform the requester that the refusal may be appealed administratively and will advise the individual of the procedures for such appeals.

§ 318.8 Appeal of initial adverse Agency determination for access, correction or amendment.

(a) An individual who disagrees with the denial or partial denial of his or her request for access, correction, or amendment of Agency records pertaining to himself/herself, may file a request for administrative review of such refusal within 30 days after the date of notification of the denial or partial denial.

(b) Such requests shall be made in writing and mailed to the Office of the General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310-3398.

(c) The requester shall provide a brief written statement setting for the reasons for his or her disagreement with the initial determination and provide such additional supporting material as the individual feels necessary to justify the appeal.

¹ Copies may be obtained from Office of General Counsel, Headquarters, Defense Special Weapons Agency, Washington, DC 20305-1000.

(d) Within 30 working days of receipt of the request for review, the Agency shall advise the individual of the final disposition of the request.

(e) In those cases where the initial determination is reversed, the individual will be so informed and the Agency will take appropriate action.

(f) In those cases where the initial determination is sustained, the individual shall be advised:

(1) In the case of a request for access to a record, of the individual's right to seek judicial review of the Agency refusal for access.

(2) In the case of a request to correct or amend the record:

(i) Of the individual's right to file a concise statement of his or her reasons for disagreeing with the Agency's decision in the record,

(ii) Of the procedures for filing a statement of the disagreement, and

(iii) Of the individual's right to seek judicial review of the Agency's refusal to correct or amend a record.

§ 318.9 Exemption rules.

(a) *Exemption for classified material.* All systems of records maintained by the Defense Special Weapons Agency shall be exempt under section (k)(1) of 5 U.S.C. 552a, to the extent that the systems contain any information properly classified under E.O. 12598 and that is required by that E.O. to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

(b) *System identifier and name:* HDSWA 007, Security Operations.

(1) *Exemption.* Portions of this system of records may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (H), (I), and (f).

(2) *Authority.* 5 U.S.C. 552a(k)(5).

(3) *Reasons.* (i) From subsection (c)(3) because it will enable DSWA to safeguard certain investigations and relay law enforcement information without compromise of the information, and protect the identities of confidential sources who might not otherwise come forward and who have furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise.)

(ii) From subsection (d)(1) through (d)(4) and (f) because providing access to records of a civil investigation and

the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of security investigations. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1), (e)(4)(G), (H), (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information; under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise.)

(d) *System identifier and name:* HDSWA 011, Inspector General Investigation Files.

(1) *Exemption.* Portions of this system of records may be exempt from the provisions of 5 U.S.C. 552a(c)(3); (d)(1) through (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

(2) *Authority:* 5 U.S.C. 552a (k)(2).

(3) *Reasons.* (i) From subsection (c)(3) because it will enable DSWA to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise.)

(ii) From subsection (d)(1) through (d)(4) and (f) because providing access to records of a civil investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and

thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

Dated: August 30, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 16

RIN 2900-AH68

Treatment of Research-Related Injuries to Human Subjects

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations to provide (or to pay for the provision of) necessary medical treatment to human subjects injured as a result of participation in VA research. All participants in research approved by a VA Research and Development Committee (regardless of source of funding) and conducted by a VA employee would be eligible for such treatment. Experience suggests the