

# Rules and Regulations

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 124

#### 8(a) Business Development/Small Disadvantaged Business Status Determinations

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** This final rule amends SBA's regulations governing the Small Disadvantaged Business (SDB) program. The rule establishes a formal reconsideration process for applicants declined certification as an SDB.

**DATES:** This rule is effective on May 23, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Terri Dickerson, Acting Assistant Administrator, Office of Small Disadvantaged Business Certification and Eligibility, 202-619-1727.

**SUPPLEMENTARY INFORMATION:** On March 10, 2000, SBA published in the **Federal Register** a proposed rule to amend SBA's regulations governing the Small Disadvantaged Business (SDB) program. See 65 FR 12955. The rule proposed to grant applicants declined SDB certification, a 45-day period to request that the Assistant Administrator, Office of Small Disadvantaged Business Certification and Eligibility (AA/SDBCE) reconsider the decline. The proposed rule was designed to improve the efficiency and effectiveness of the certification process, by providing a formal mechanism to enable SDB applicants to immediately correct deficiencies in their SDB application.

SBA received one timely comment concerning the proposed regulation. The commenter supported the proposed amendment, but requested that SBA indicate whether the reconsideration process would apply to pending SDB applications. SBA agrees that it should

clarify the applicability of this final rule.

As indicated above, this rule is effective on the date of publication. An immediate effective date will avoid any unnecessary delay in the implementation of the rule and any resulting interference in the efficient administration of the SDB certification process. To ensure that all current SDB applicants are afforded the same opportunity for a reconsideration of the AA/SDBCE's negative determination of SDB eligibility, this rule applies to all applications for SDB certification submitted on or after the effective date of this rule, to all SDB applications pending before a Private Certifier or the AA/SDBCE as of the rule's effective date, to any declined application where no appeal was filed at the Office of Hearings and Appeals (OHA) and applications that are pending appeals at OHA.

Since SBA received no other comments concerning the proposed rule, this final rule is identical in all respects to the proposed rule which SBA published on March 10. Under this rule, applicants denied SDB certification have 45 days from the date of the AA/SDBCE's written decision, to request that the AA/SDBCE reconsider the decline. As part of the request for reconsideration, applicants requesting reconsideration may submit additional evidence to show that they have overcome the reason(s) for the AA/SDBCE's denial. If the AA/SDBCE once again declines the application solely on grounds that were not included in the original denial letter, the AA/SDBCE is required to grant the applicant an additional 45-day period to request that the AA/SDBCE reconsider the new basis for denial. If, however, the AA/SDBCE determines that the applicant is ineligible for SDB certification for one or more of the same reason(s) as addressed in the original decline, the applicant is not entitled to a second reconsideration.

This final rule does not affect an applicant's right under the current 13 CFR 124.1008(f)(3) to appeal the AA/SDBCE's decision denying eligibility nor does it affect an applicant's right with respect to ownership and control determinations of Private Certifiers. An applicant denied SDB certification based solely on reasons of social disadvantage, economic disadvantage,

or disadvantaged ownership or control, continues to have the right to appeal to SBA's Office of Hearings and Appeals (OHA). The applicant also has the option to forego the reconsideration process and appeal the AA/SDBCE's initial decision to OHA, or to request reconsideration and if declined a second time solely on those grounds, to appeal the AA/SDBCE's reconsideration decision.

#### **Compliance With Executive Orders 13132, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)**

This final rule does not constitute a significant regulatory action as defined by Executive Order 12866, in that it is not likely to have an annual economic effect of \$100 million or more on the economy, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy. SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, since it is a procedural amendment to the SDB certification process that would not impose any mandatory requirements on SDB applicants or deprive them of any existing rights under governing SBA regulations.

For purposes of the Paperwork Reduction Act of 1995 (Public Law 104-13), SBA certifies that this final rule imposes no new reporting or recordkeeping requirements on firms applying to be certified as an SDB. The rule grants certain SDB applicants the right to submit evidence to SBA that they are socially and economically disadvantaged, that they are citizens of the United States, and that they own and control the applicant concern. This rule does not require an SDB, once certified, to report any other information to SBA or to maintain additional records.

For purposes of Executive Order 13132, SBA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of that Order.

List of Subjects in 13 CFR Part 124

Government procurement, Minority businesses, Tribally owned concerns, Hawaiian Natives, Reporting and recordkeeping requirements, and Technical assistance.

Accordingly, for the reasons set forth above, SBA amends title 13, CFR as follows:

PART 124—[AMENDED]

1. The authority citation for 13 CFR part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Pub. L. 99-661, Pub. L. 100-656, sec. 1207, Pub. L. 101-37, Pub. L. 101-574, and 42 U.S.C. 9815.

2. Section 124.1008 is amended by redesignating paragraphs (f)(3) and (f)(4) as paragraphs (f)(4) and (f)(5), respectively, and adding a new paragraph (f)(3) to read as follows:

§ 124.1008 How does a firm become certified as an SDB?

\* \* \* \* \*

(f) \* \* \*

(3)(i) If the AA/SDBCE declines the firm's application for SDB certification, the firm may request that the AA/SDBCE reconsider his or her initial decline by submitting a written request to the AA/SDBCE within 45 days of the date of the AA/SDBCE's decision. The applicant may provide any additional information and documentation pertinent to overcoming the reason(s) for the initial decline.

(ii) The AA/SDBCE will issue a written decision within 30 days of receiving the applicant's request for reconsideration, if practicable. The AA/SDBCE may either approve the application, deny it on one or more of the same grounds as the initial decision, or deny it on other grounds. If the application is denied, the AA/SDBCE will explain why the applicant is not eligible for SDB certification and give specific reasons for the decline. If the AA/SDBCE declines the application solely on issues not raised in the initial decline, the applicant may request another reconsideration as if it were an initial decline. If the AA/SDBCE declines the application for one or more of the same reasons as addressed in the initial decline, the applicant is not entitled to a second reconsideration.

\* \* \* \* \*

Dated: May 12, 2000.

Aida Alvarez, Administrator.

[FR Doc. 00-12690 Filed 5-22-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00-ACE-7]

Amendment to Class E Airspace; Hampton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Hampton Municipal Airport, Hampton, IA. The FAA has developed Area Navigation (RNAV) Runway (RWY) 17 and RNAV RWY 35 Standard Instrument Approach Procedures (SIAPs) to serve Hampton Municipal Airport, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the RNAV RWY 17 and RNAV RWY 35 SIAPs in controlled airspace.

In addition a minor revision to the Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing RNAV RWY 17 and RNAV RWY 35 SIAPs, revise the ARP and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, October 5, 2000.

Comments for inclusion in the Rules Docket must be received on or before July 10, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE-520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00-ACE-7, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal

Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

SUPPLEMENTARY INFORMATION: The FAA has developed RNAV RWY 17 and RNAV RWY 35 SIAPs to serve the Hampton Municipal Airport, IA. The amendment to Class E airspace at Hampton, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the SIAPs within controlled airspace and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The amendment at Hampton Municipal Airport, IA, will provide additional controlled airspace for aircraft operating under IFR and revise the ARP. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, and adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register and a notice of proposed rulemaking may be published with a new comment period.