

**List of Subjects in 6 CFR Part 5**

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

**PART 5—DISCLOSURE OF RECORDS AND INFORMATION**

1. The authority citation for Part 5 continues to read as follows:

**Authority:** Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, the following new paragraph 10:

**Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act**

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10. The Department of Homeland Security Claims Records system of records consists of electronic and paper records and will be used by DHS and its components. Claims Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security, intelligence activities; and protection of the President of the United States or other individuals pursuant to Section 3056 and 3056A of Title 18. Claims Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(1), (2) and (3), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (I), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or

apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of

records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: October 15, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

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**FEDERAL RESERVE SYSTEM****12 CFR Parts 222, 226, 227, and 230**

[Regulations V, Z, AA, and DD; Docket Nos. R–1286; R–1314; R–1315, and R–1316]

**Missing Comments Submitted Through the Federal eRulemaking Portal**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of opportunity to resubmit comments.

**SUMMARY:** Because of a software problem at the Federal eRulemaking Portal (<http://www.regulations.gov>), the Board did not receive certain public comments submitted through that portal. This problem affected comments on four of the Board's proposed rules [Docket Nos. R–1286; R–1314, R–1315; and R–1316] that were submitted only through the Federal eRulemaking Portal between

March 22, 2008, and September 8, 2008. A total of 83 comments on the four proposals were not relayed to the Board. As set forth below, the Board will accept resubmission of those comments that were not received.

**DATES:** Comments must be received on or before November 12, 2008.

**ADDRESSES:** Affected commenters may re-submit comments by using this link: <http://www.federalreserve.gov/generalinfo/foia/lostcomments.cfm>.

**SUPPLEMENTARY INFORMATION:** The Board of Governors of the Federal Reserve System recently received notice that 83 comment letters submitted between March 22, 2008, and September 8, 2008, via the Federal eRulemaking Portal (<http://www.regulations.gov>) on four of the Board's rulemaking proposals [Docket No. R-1286, Regulation Z, Truth in Lending (73 FR 28867, May 19, 2008); Docket No. R-1314, Regulation AA, Unfair or Deceptive Acts or Practices (73 FR 28905, May 19, 2008); Docket No. R-1315, Regulation DD, Truth in Savings (73 FR 28739, May 19, 2008); and Docket No. R-1316, Regulation V, Fair Credit Reporting (73 FR 28966, May 19, 2008)] that have not been acted on were not forwarded to the Board, due to a software problem at that portal.<sup>1</sup> The problem affects comments that were sent only to the eRulemaking Portal. Comments sent by other means (by e-mail to the Board's comments mailbox, by facsimile, or by mail) are not affected. Because the identities of the commenters affected by this software problem are not retrievable, the Board requests that before resubmitting a comment, you review the Board's Web site at: <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> to determine if your comment has been posted. If the comment that you submitted has not been posted, you may re-submit your comment by using this link: <http://pubdev.frb.gov/generalinfo/foia/LostComments.cfm>.

Dated: October 23, 2008.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

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<sup>1</sup> The interagency "eRulemaking Program" launched the Web site <http://www.regulations.gov> in January 2003 to provide access and an opportunity to comment on all proposed federal regulations at one online portal. The Federal Reserve has received assurances that the software problem has been corrected and safeguards are now in place to ensure the error will not occur for future proposed rules. Questions about this matter may be directed to John Moses, Chief, eRulemaking Program Branch, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, 202/566-1352, or [Moses.John@epamail.epa.gov](mailto:Moses.John@epamail.epa.gov).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2008-0997; Airspace Docket No. 08-AAL-28]

#### Proposed Amendment of Class E Airspace; Bethel, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to amend Class D and E airspace at Bethel, AK. The Airport and Navigation Aids will be soon undergoing a magnetic variation change. This change will result in the necessity to revise the airspace descriptions. Additionally, the present 1,200 foot airspace is no longer necessary, because Bethel lies within a larger section of controlled airspace called the Yukon-Kuskokwim Delta Class E airspace covering the area required for the airport. Adoption of this proposal would result in amendment of existing Class D and E airspace upward from the surface, and from 700 feet (ft.) and 1,200 ft. above the surface at the Bethel Airport, Bethel, AK.

**DATES:** Comments must be received on or before December 12, 2008.

**ADDRESSES:** Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. You must identify the docket number FAA-2008-0997/Airspace Docket No. 08-AAL-28, at the beginning of your comments. You may also submit comments on the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

**FOR FURTHER INFORMATION CONTACT:** Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone

number (907) 271-5898; fax: (907) 271-2850; e-mail: [gary.ctr.rolf@faa.gov](mailto:gary.ctr.rolf@faa.gov). Internet address: <http://www.alaska.faa.gov/at>.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2008-0997/Airspace Docket No. 08-AAL-28." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of Notice of Proposed Rulemakings (NPRMs)

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gpo.gov/nara/index.html>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being