

description to reflect the FAA's transition from ground-based to satellite-based navigation aids.

Additionally, Class E airspace extending upward from 700 feet above the surface is enlarged west of the airport from the 6.8-mile radius of the airport to an area 10 miles wide (from 3.6 miles wide) extending to 12.4 miles west (from 8.3 miles west) of the airport.

This action also updates the airport's geographic coordinates for the associated Class D and E airspace areas to reflect the FAA's current aeronautical database. Additionally, this action replaces the outdated term "Airport/Facility Directory" with the term "Chart Supplement" in the Class D and E airspace legal descriptions. These modifications are necessary for the safety and management of IFR operations at the airport.

Lastly, a technical amendment is made to rename the airspace designation for the following airspace areas: AWP HI D Molokai, HI, is renamed Kaunakakai, HI; AWP HI E2 Molokai, HI, is renamed Kaunakakai, HI; and AWP HI E5 Molokai, HI, is renamed Kaunakakai, HI, to remain consistent in the Order.

**Regulatory Notices and Analyses**

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (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 only affects 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.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist

that warrant preparation of an environmental assessment.

**Lists 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 part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 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 FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

*Paragraph 5000 Class D Airspace.*  
\* \* \* \* \*

**AWP HI D Kaunakakai, HI [Amended]**

Molokai Airport, HI  
(Lat. 21°09'10" N., long. 157°05'47" W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.3-mile radius of Molokai Airport. 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 Chart Supplement.

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*  
\* \* \* \* \*

**AWP HI E2 Kaunakakai, HI [New]**

Molokai Airport, HI  
(Lat. 21°09'10" N., long. 157°05'47" W.)

That airspace extending upward from the surface within a 4.3-mile radius of Molokai Airport. This Class E 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 Chart Supplement.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*  
\* \* \* \* \*

**AWP HI E4 Kaunakakai, HI [Amended]**

Molokai Airport, HI  
(Lat. 21°09'10" N., long. 157°05'47" W.)

That airspace extending upward from the surface within 1.5 miles north and 2.8 miles south of a 255° bearing from Molokai Airport

extending from the 4.3-mile radius to 8 miles west of the airport.

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*  
\* \* \* \* \*

**AWP HI E5 Kaunakakai, HI [Amended]**

Molokai Airport, HI  
(Lat. 21°09'10" N., long. 157°05'47" W.)

That airspace extending upward from the surface within a 6.8-mile radius of Molokai Airport and within 5.4 miles north and 4.8 miles south of a 255° bearing from Molokai Airport extending from the 6.8-mile radius to 12.4 miles west of the airport.

Issued in Seattle, Washington, on October 3, 2017.

**B.G. Chew,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

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**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**31 CFR Part 0**

**RIN 1505-AB89**

**Department of the Treasury Employee Rules of Conduct**

**AGENCY:** Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury (the "Department" or "Treasury") publishes this final rule to update its Employee Rules of Conduct, which prescribe uniform rules of conduct and procedure for all employees and officials in the Department.

**DATES:** *Effective* October 11, 2017.

**FOR FURTHER INFORMATION CONTACT:** Brian Sonfield, Deputy Assistant General Counsel, General Law and Regulation, (202) 622-9804.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 1, 1995, the Department issued Employee Rules of Conduct prescribing uniform rules of conduct and procedure for all employees and officials in the Department. On February 19, 2016, Treasury published in the **Federal Register** an interim final rule amending the Employee Rules of Conduct to account for current Department structure resulting from organizational changes that established new bureaus within Treasury and transferred certain functions and/or bureaus from the Department. The interim final rule also amended the Rules of Conduct to remove provisions

that pertain solely to standards of ethical conduct. The standards of ethical conduct governing employees of the Department are contained in uniform standards of ethical conduct promulgated by the Office of Government Ethics that apply to all executive branch personnel, codified at 5 CFR part 2635 (Executive Branch-wide Standards), and in the Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury, codified at 5 CFR part 3101 (Treasury Supplemental Standards). Finally, the interim final rule amended the Rules of Conduct to ensure the efficient functioning of the Department and to conform to changes in the law or Department policy.

The interim final rule went into effect on February 19, 2016. The public comment period for the interim final rule closed on April 19, 2016. One written comment responding to the interim final rule was received and is available for public inspection at <http://www.regulations.gov> or upon request. After consideration of the comment, the interim final rule revising part 0 in its entirety is adopted as amended by this final rule.

## II. Public Comment and Summary of Changes From the Interim Final Rules

Section 0.216 of the interim final rule states: “Except for the official handling, through the proper channels, of matters relating to legislation in which the Department has an interest, employees shall not use government time, money, or property to petition a Member of Congress to favor or oppose any legislation or proposed legislation, or to encourage others to do so.” The commenter expressed concern that this language has the potential to interfere with the right of an employee representative under the Federal Labor Management Relations Statute, 5 U.S.C. 7101, *et seq.*, to communicate with Congress and to educate its members about legislative proposals. The commenter also observed that interim final rule section 0.216 could impermissibly chill communications between union leaders and bargaining unit employees about such proposals.

Treasury recognizes that it has a duty to bargain with the representatives of its employees over proposals to permit the use of official time for such representatives to lobby Congress regarding matters affecting conditions of employment. See *AFGE and U.S. Dep’t of Labor*, 61 F.L.R.A. 209, 216 (2005). Section 0.216 was not intended to preclude such bargaining. In order to clarify Treasury’s intent, section 0.216 has been revised to reflect that the use

of government time, to petition a Member of Congress to favor or oppose any legislation or proposed legislation, is not prohibited where permitted by a collective bargaining agreement. Accordingly, the following additional sentence has been added to the end of section 0.216: “This section does not prohibit the use of government time by union representatives to petition a Member of Congress to favor or oppose any legislation or proposed legislation, where permitted by the terms of a collective bargaining agreement.”

Treasury disagrees that section 0.216 can reasonably be construed to limit all communications between union leaders and bargaining unit employees about legislative proposals, including those that would educate union members about legislative proposals affecting their government employment. The rule prohibits only the use of government time, money, or property for communications encouraging others to petition a Member of Congress to favor or oppose any legislation or proposed legislation. Such a prohibition does not interfere with any employee right.

Although not the subject of a public comment, Treasury has also made a clarifying change to section 0.215. That section of the interim final rule provided: “An employee shall not electronically transmit, or create audio or video recordings of, conversations, meetings, or conferences in the workplace or while conducting business on behalf of the Department, except where *doing so is part of the employee’s official duties*” (emphasis added). This wording could be construed to preclude ad hoc authorizations to record where doing so is not part of an employee’s official duties. That was not Treasury’s intention, and the section has therefore been changed to substitute the phrase “where authorized” for the phrase “where doing so is part of the employee’s official duties.”

## III. Matters of Regulatory Procedure

### *Regulatory Flexibility Act*

Because, as explained at 81 FR 8402 (Feb. 19, 2016), no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires an agency to prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in the

aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. This rule generally sets out the conduct regulations that all Department employees and officials are required to follow. The Department therefore has determined that the rule will not result in expenditures by state, local or tribal governments or by the private sector of \$100 million or more. Accordingly, the Department has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

### *Administrative Procedure Act*

Under 5 U.S.C. 553(a)(2), rules relating to agency management and personnel are exempt from the rulemaking requirements of the Administrative Procedure Act (APA). As set forth in the description of the interim rule, this final rule affects only the Department and its personnel; therefore, the APA requirements for prior notice and opportunity to comment and a delayed effective date are inapplicable. Even if this rulemaking were subject to APA procedures, the Department finds that good cause exists, pursuant to 5 U.S.C. 553(b) and (d), that the requirements for prior notice and comment are unnecessary because the rule affects only Treasury employees.

### List of Subjects in 31 CFR Part 0

Government employees.

For reasons set forth in the preamble, the interim rule published February 19, 2016, at 81 FR 8402, is adopted as final with the following changes:

## PART 0—DEPARTMENT OF THE TREASURY EMPLOYEE RULES OF CONDUCT

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301.

■ 2. Revise § 0.215 to read as follows:

### **§ 0.215 Recording government business.**

An employee shall not electronically transmit, or create audio or video recordings of, conversations, meetings, or conferences in the workplace or while conducting business on behalf of the Department, except where authorized.

■ 3. Revise § 0.216 to read as follows:

**§ 0.216 Influencing legislation or petitioning Congress.**

Except for the official handling, through the proper channels, of matters relating to legislation in which the Department has an interest, employees shall not use government time, money, or property to petition a Member of Congress to favor or oppose any legislation or proposed legislation, or to encourage others to do so. This section does not prohibit the use of government time by union representatives to petition a Member of Congress to favor or oppose any legislation or proposed legislation, where permitted by the terms of a collective bargaining agreement.

Dated: October 4, 2017.

**Kody H. Kinsley,**

*Assistant Secretary for Management.*

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**DEPARTMENT OF THE TREASURY****31 CFR Part 23**

**RIN 1505-AC51**

**Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of the Treasury**

**AGENCY:** Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This final rule sets out the Department of the Treasury's (Treasury) rules for implementing the Age Discrimination Act of 1975, as amended (the Act). The Act prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance. The Act, which applies to persons of all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements. This final rule follows publication of an August 4, 2015, proposed rule and takes into account the comments received.

**DATES:** Effective November 13, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mariam G. Harvey, Director, Office of Civil Rights and Diversity, Department of the Treasury, (202) 622-0316 (voice).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Age Discrimination Act of 1975, 42 U.S.C. 6101-6107 ("the Act"), which Congress enacted as part of amendments to the Older Americans Act (Pub. L. 94-135, 89 Stat. 713, 728), prohibits discrimination on the basis of age in programs and activities receiving

Federal financial assistance. The Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28, 31 (1988)) amended the Act and other civil rights statutes to define "program or activity" to mean all of the operations of specified entities, any part of which is extended Federal financial assistance. See 42 U.S.C. 6107(4).

The Act applies to discrimination at all age levels. The Act also contains specific exceptions that permit the use of certain age distinctions and factors other than age that meet the Act's requirements.

The Act required the former Department of Health, Education, and Welfare (HEW) to issue general, government-wide regulations, setting standards to be followed by all Federal agencies implementing the Act. These government-wide regulations, which were issued on June 12, 1979 (44 FR 33768), and became effective on July 1, 1979, require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act, and to submit final agency regulations to HEW (now the Department of Health and Human Services (HHS)), before publication in the *Federal Register*. See 45 CFR 90.31.

The Act became effective on the effective date of HEW's final government-wide regulations (*i.e.*, July 1, 1979). Treasury has enforced the provisions of the Act since that time. As a practical matter, the absence of Treasury-specific age regulations has not had an impact on Treasury's legal authority to enforce prohibitions against discrimination on the basis of age in programs or activities receiving Federal financial assistance from Treasury. Specifically, persons alleging age discrimination have not been hampered in their ability to file complaints nor has Treasury's Office of Civil Rights and Diversity's (OCRD) ability to process these complaints been affected.

On August 4, 2015 (80 FR 46208), the Department issued a notice of proposed rulemaking and invited comments on all aspects of the proposal.

**II. Overview of Final Rule**

This rule is designed to fulfill the statutory and regulatory obligations of Treasury to issue a regulation implementing the Act that conforms to the government-wide regulations at 45 CFR part 90. The rule carries out the Act's prohibition of discrimination based on age in programs and activities receiving financial assistance from Treasury and provides appropriate investigative, conciliation, and enforcement procedures. OCRD, part of

the Office of the Assistant Secretary for Management, will conduct Treasury enforcement. OCRD enforces all civil rights laws applicable to entities receiving financial assistance from Treasury.

The rule is not intended to alter the legal standards found in the Act or the government-wide regulations, which are applicable to recipients of Federal financial assistance from Treasury under other statutes. Treasury does not provide financial assistance within the meaning of these rules merely by disbursing a payment on behalf of another Federal agency. The rule closely follows the wording and format of rules issued by other Federal agencies to implement the Act. In particular, Treasury modeled much of its proposal on the agency-specific regulations issued by HHS, the lead Federal agency coordinating implementation of the Act (45 CFR part 91; 47 FR 57850, Dec. 28, 1982); and the Department of Education (ED) (34 CFR part 110; 58 FR 40194, July 27, 1993). The government-wide, HHS, and ED rules were subjected to extensive public scrutiny, and the public comments were considered in finalizing those rules. Readers may review the HHS and ED *Federal Register* publications for historical and explanatory material regarding the Act, the government-wide regulations, and the provisions of the HHS and ED implementing regulations.

In general, the final rule mirrors the government-wide regulations at 45 CFR part 90 and HHS's and ED's regulations implementing the Act, with modifications to aid consistency and clarify the Treasury specific provisions. Subpart A sets forth the rule's purpose, applications, and definitions. Subpart B contains the standards for determining age discrimination. Subpart C comprises the duties and responsibilities of Treasury recipients. Subpart D establishes the procedures for investigations, conciliation and enforcement. For a complete discussion of the proposal, see the August 4, 2015, proposed rule at 80 FR 46208.

**III. Summary of Public Comments and Explanation of Revisions**

Treasury received three comments on the proposed rule which generally supported the rule. One commenter suggested revisions that are discussed below.

The commenter suggested there could be confusion in the employer community and among employees who may not be aware that the Age Discrimination Act (Age Act), and the Age Discrimination in Employment Act (ADEA) are separate statutes with