

System, which describes the application procedure.

### The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface at Cattaraugus County-Olean Airport, Olean, NY. Airspace reconfiguration to within a 10-mile radius of the airport is necessary due to the decommissioning of the Olean NDB, and cancellation of the NDB approach, and for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport would be adjusted to coincide with the FAA's aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, 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 FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 will only affect air traffic procedures and air navigation, it is certified that this proposed 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 United States Code. Subtitle I, 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 proposed 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 proposed regulation is within the scope of that authority as it would amend Class E airspace at

Cattaraugus County-Olean Airport, Olean, NY.

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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(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 Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

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

\* \* \* \* \*

#### AEA NY E5 Olean, NY [Amended]

Cattaraugus County-Olean Airport, NY  
(Lat. 42°14'28" N., long. 78°22'17" W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Cattaraugus County-Olean Airport.

Issued in College Park, Georgia, on August 16, 2013.

#### Kip B. Johns,

*Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

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**BILLING CODE 4910–13–P**

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Part 2200

#### Request for Public Comment on a Review Level Alternative Dispute Resolution Program

**AGENCY:** Occupational Safety and Health Review Commission.

**ACTION:** Request for comment.

**SUMMARY:** The Occupational Safety and Health Review Commission invites the public to comment on the potential development of an alternative dispute resolution program at the review level.

**DATES:** Written comments must be submitted on or before October 21, 2013.

**ADDRESSES:** Submit all written comments, identified by the title "Settlement Part Public Comment," by mail or hand delivery to John X. Cervený, Deputy Executive Secretary, Occupational Safety and Health Review Commission, 1120 20th Street NW., Washington, DC 20036–3457, by fax to 202–606–5050, or by email to [fedreg@oshrc.gov](mailto:fedreg@oshrc.gov).

**FOR FURTHER INFORMATION CONTACT:** John X. Cervený, Deputy Executive Secretary, Occupational Safety and Health Review Commission, 1120 20th Street NW., Ninth Floor, Washington, DC 20036–3457; Telephone (202) 606–5706; email address: [fedreg@oshrc.gov](mailto:fedreg@oshrc.gov).

**SUPPLEMENTARY INFORMATION:** The Occupational Safety and Health Review Commission ("Commission") adjudicates contested citations issued by the U.S. Department of Labor's Occupational Safety and Health Administration ("OSHA") at the trial level before an administrative law judge and, if directed for review, before the Commissioners on appeal. The Commission initiated an alternative dispute resolution ("ADR") program at the trial level, known as the Settlement Part program, in 1999. The Settlement Part program, codified at 29 CFR 2200.120, employs both mandatory and voluntary procedures to promote case settlement. Under the program, an administrative law judge acts as a settlement judge and oversees the ADR process. If a case does not settle, an administrative law judge who did not act as the settlement judge typically hears the case and issues a decision, which may be appealed to the Commissioners at the review level. An ADR program does not currently exist at the Commission's review level, but the Commission is exploring the feasibility of instituting such a program.

At the Commission's request, ADR experts at Indiana University School of Public and Environmental Affairs recently completed a study of the Settlement Part program at the judges' level. Upon studying both empirical data and survey responses from internal and external participants, Indiana University deemed the program "successful" and noted that the Commission "has done an admirable job

addressing an increased caseload within constrained resources while at the same time meeting the expectations of its external stakeholders.” In addition to Indiana University’s study of the Settlement Part program at the judges’ level, the Commission held a public meeting on August 30, 2012, to explore ways to enhance efficiency and effectiveness in resolving cases at the review level. During the public meeting, there were expert panelists and members of the public who spoke in favor of implementing an ADR program at the review level.

In light of the success of the Settlement Part program at the judges’ level and the comments received at the public meeting, the Commission is considering creating an ADR program at the review level. At this stage, the Commission seeks public input on whether it should develop such a program and, if so, how the program should operate.

Specifically, the Commission invites public comment on the following list of questions:

1. Should the Commission develop an ADR program at the review level?

a. Why or why not?

b. Do parties have sufficient incentives at the review level to participate in ADR? What are the potential benefits of, and deterrents to, participation in the ADR program at the review level?

c. What types of ADR processes should a potential program incorporate?

2. If an ADR program is developed, should certain types of cases be included or excluded, and how should eligibility for ADR at the review level be determined?

a. Should placement into ADR be decided by a Commission vote?

b. Should participation in an ADR program be mandatory or voluntary?

c. Should the Commission evaluate cases for participation in the ADR program at the review level based on any criteria, such as the total dollar amount of penalties, the number of citation items, the characterization of violations, or any other issues?

d. Regarding cases where the parties participated in the Settlement Part program at the trial level, should the Commission use different criteria when considering these cases for participation in the ADR program at the review level? If these cases are placed into ADR at the review level, should they be treated differently in any way?

e. Is ADR appropriate for cases with pro se parties? If so, should the Commission offer any assistance or guidance to pro se parties in the ADR process?

3. When should the ADR process begin?

a. Should the process begin before or after the Commission issues a briefing notice?

b. If ADR begins after issuance of a briefing notice when parties know what issues the Commission is most interested in, should briefing be suspended during the ADR process so that the parties may avoid briefing costs?

c. Should an ADR program allow flexibility as to when the process starts in each case?

4. Where should dispute resolution proceedings be held?

5. Should telephone or video conferencing be an option for ADR discussions? If so, should its use be limited to certain circumstances?

6. Who should the Commission select to serve as potential third-party neutrals?

a. In addition to possessing ADR training and skills, would third-party neutrals benefit from having subject matter expertise in OSH law or other related fields such as labor law? If so, should third-party neutrals be required to have such expertise?

b. Should the Commission use its own employees as third-party neutrals if they are excluded from any subsequent involvement in cases they participate in as third-party neutrals?

c. Are there any reasons not to use former Commissioners, ALJs, or practitioners as third-party neutrals?

d. Should the Commission seek out third-party neutrals from any other potential source, such as the Federal Mediation and Conciliation Service or regional federal court third-party neutral rosters?

e. Should the parties be able to select the third-party neutral, or reject one the Commission selects?

7. What responsibilities should a third-party neutral have?

a. Should a third-party neutral be able to require parties to file pre-conference confidential statements?

b. Should a third-party neutral have the power to suspend the ADR process and report any misconduct to the Commission, such as a party’s failure to be present at a scheduled ADR conference? Should the Commission consider any reported misconduct consistent with Commission Rule 101, 29 CFR 2200.101 (Failure to obey rules)?

c. Should a third-party neutral have the power to require that a representative for each party with full authority to resolve the case be present at an ADR conference?

d. Should the third-party neutral require strict confidentiality of all ADR

discussions and any other matters subject to a specific confidentiality agreement?

8. Should a specified amount of time be allotted to the ADR process before a case is returned to conventional proceedings?

a. Should a third-party neutral have the authority to make a request to the Commission to extend the timeframe for the ADR process?

b. If so, should there be defined criteria for granting an extension and/or a specified limit to any extension?

9. What other considerations should the Commission evaluate in determining whether to develop an ADR program at the review level?

The Review Commission welcomes any other comments or suggestions regarding an ADR program at the Commission’s review level.

Dated: August 19, 2013.

**John X. Cerveny,**

*Deputy Executive Secretary.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 310

[Docket ID: DOD–2013–OS–0023]

RIN 0790–AJ03

#### DoD Privacy Program

**AGENCY:** Director of Administration and Management, DoD.

**ACTION:** Proposed rule; amendment.

**SUMMARY:** This rule updates the established policies, guidance, and assigned responsibilities of the DoD Privacy Program pursuant to The Privacy Act and Office of Management and Budget (OMB) Circular No. A–130; authorizes the Defense Privacy Board and the Defense Data Integrity Board; prescribes uniform procedures for implementation of and compliance with the DoD Privacy Program; and delegates authorities and responsibilities for the effective administration of the DoD Privacy Program.

**DATES:** Comments must be received by October 21, 2013.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive,