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## X. Emergency Temporary Standard—Regulatory Text

### List of Subjects in 30 CFR Part 75

Mine safety and health, Underground coal mines, Combustible materials and rock dusting.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

■ Chapter I of Title 30, part 75 of the Code of Federal Regulations is amended as follows:

### PART 75—SAFETY STANDARDS FOR UNDERGROUND COAL MINES

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 864.

■ 2. Revise § 75.403 to read as follows:

#### § 75.403 Maintenance of incombustible content of rock dust.

Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a coal mine and maintained in such quantities that the incombustible content of the combined coal dust, rock dust, and other dust shall be not less than 80 percent. Where methane is present in any ventilating current, the percent of incombustible content of such combined dust shall be increased 0.4 percent for each 0.1 percent of methane.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0705]

RIN 1625-AA00

#### Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary safety zones while the U.S. Navy Blue Angels Squadron conducts aerobatic performances over Kaneohe Bay, Oahu, Hawaii. These safety zones are necessary to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low flying, high powered jet aerobatics over open waters.

**DATES:** This rule is effective from 9 a.m. on September 24, 2010, through 7 p.m. on September 26, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0705 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0705 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808-842-2600, e-mail [Marcella.A.Granquist@uscg.mil](mailto:Marcella.A.Granquist@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On August 18, 2010, we published a notice of proposed rulemaking (NPRM) entitled: Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, HI in the **Federal Register** (75 FR 159). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the duration to complete meetings with local stakeholders, required before a safety zone could be designated, did not afford the time needed before the rulemaking process could be completed to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aerial aerobatics.

#### Basis and Purpose

On July 20, 2010, Kaneohe Bay Air Show 2010 coordinators informed the U.S. Coast Guard of a State of Hawaii approved Air Show plan that include an aerial performance "show box" extending beyond the Kaneohe Bay Naval Defensive Sea Area (NDSA) as established by Executive Order No. 8681 of February 14, 1941. Within this "show box", the U.S. Navy Blue Angels Squadron will conduct aerobatic performances, exhibiting their aircraft's maximum performance capabilities, over Kaneohe Bay, Oahu, Hawaii during a 3-day period. Taking into account the hazards associated within this "show box" during the Squadron's high powered, multiple jet aircraft performances, and that Kaneohe Bay normally experiences heavy waterway traffic during weekends, two safety zones for the portions of the "show box" that extend beyond the Kaneohe Bay NDSA was determined to be appropriate by the Captain of the Port so as to ensure the safety of all watercraft and the general public during the performances.

### Discussion of Comments and Changes

As planning for the event developed, it was suggested that the best course of action would be to modify the temporary safety zones, by moving the “show box” northeast, to ensure channels within Kaneohe Bay remained open during the Blue Angels’ performance. The Coast Guard believes that the slightly modified area is better suited to accommodating the needs of the air show and safeguarding the public. Consequently, the two safety zones were moved slightly but remain intact to cover the areas of the required “show box” that fall outside of the NDSA. The coordinates for the two temporary safety zones are now as follows: (1) Southwest of Mokapu Peninsula: The NDSA extending from 21°26.449 N, 157°47.071 W then Southeast to 21°26.270 N, 157°46.895 W then Northwest at a bearing of 51° True to the NDSA. (2) North of Mokapu Peninsula: The NDSA extending Northeast to position 21°27.943 N, 157°44.953 W then Southeast to 21°28.251 N, 157°44.880 W then South at a bearing of 239° True to the NDSA. Even with the modifications, we note that transit through Kaneohe Bay, the Sampan Channel and Kaneohe Bay Entrance Channel will remain open.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this rule restricts access to the waters within the two temporary safety zones, the effect of this rule will not be significant because watercraft will be able to transit around without restriction. Furthermore, watercraft will be able to transit through the safety zones with permission from the Honolulu Captain of the Port.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises

small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While the temporary safety zones are being enforced, watercraft will be able to transit freely around the zones. Furthermore, watercraft will be allowed to transit through the temporary safety zones if permission to enter is granted by the Honolulu Captain of the Port. Before the effective period, we will issue daily maritime advisories and widely available to users of the area including VHF Channel 16.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of two temporary safety zones for daily offshore Blue Angels performances permitted as a marine event. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T14–210 to read as follows:

#### § 165.T14–210 Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, Hawaii.

(a) *Location.* The following areas, consisting of all waters contained within an area of one box on the southwest side and one box on the north side of the Kaneohe Bay Naval Defensive Sea Area (NDSA) as established by Executive Order No. 8681 of February 14, 1941, in Kaneohe Bay, Oahu, Hawaii, are temporary safety zones. This safety zone extends from the surface of the water to the ocean floor. These coordinates are based upon the National Oceanic and Atmospheric Administration Coast Survey, Pacific Ocean, Oahu, Hawaii, chart 19359.

(1) Southwest of Mokapu Peninsula: The NDSA extending from 21°26.449 N, 157°47.071 W then Southeast to 21°26.270 N, 157°46.895 W then Northwest at a bearing of 51° True to the NDSA.

(2) North of Mokapu Peninsula: The NDSA extending Northeast to position 21°27.943 N, 157°44.953 W then Southeast to 21°28.251 N, 157°44.880 W then South at a bearing of 239° True to the NDSA.

(b) *Regulations.* (1) Entry into or remaining in the temporary safety zones described in paragraph (a) of this section is prohibited unless authorized by the Honolulu Coast Guard Captain of the Port.

(2) Persons desiring to transit in the safety zones may contact the Honolulu Captain of the Port on VHF channel 16 (156.800 MHz), or at telephone numbers 808–842–2600 or 808–563–9906 to seek permission to transit the area. If permission is granted, all persons and watercraft must comply with the instructions of the Honolulu Captain of the Port or her designated representative.

(c) *Effective period.* This rule is effective from 9 a.m. local (HST) time September 24, 2010, through 7 p.m. local (HST) time September 26, 2010. This rule will be enforced daily between the hours of 9 a.m. local (HST) time to 7 p.m. local (HST) time during September 24–26, 2010.

(d) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel may enter or remain in either zone except for support vessels/aircraft and support personnel, or other watercraft authorized by the Honolulu Captain of the Port or her designated representatives.

(e) *Penalties.* Vessels or persons violating this rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: September 8, 2010.

J.M. Nunan,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 2010–23768 Filed 9–22–10; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900–AN21

### Specially Adapted Housing and Special Home Adaptation

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) adopts as a final rule its proposal to amend its adjudication regulations regarding specially adapted housing and special home adaptation grants. This final rule incorporates certain provisions from the Veterans Benefits Act of 2003, the Veterans Benefits Improvement Act of 2004, the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, and the Housing and Economic Recovery Act of 2008. These amendments are necessary to conform the regulations to the statutory provisions.

**DATES:** This final rule is effective October 25, 2010. Please refer to the **SUPPLEMENTARY INFORMATION** section for detailed information regarding the applicability dates of this final rule.

**FOR FURTHER INFORMATION CONTACT:** Thomas Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9739. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on December 18, 2009, (74 FR 67145), VA proposed to amend its regulations pertaining to eligibility for specially adapted housing (SAH) grants and special home adaptation (SHA) grants. The public comment period ended on February 16, 2010, and VA received no comments. Therefore, VA is adopting the proposed rule as a final rule. However, we are making one change from the proposed rule. We are inserting “rated as permanent and total”