

to operators from type design requirements that the operators would have been out of compliance with once the actions mandated in AD 2011-04-09 were completed. No changes to SFAR 111 were made as a result of this comment.

Boeing also suggested that the SFAR be clarified to allow the applicant for a type certificate to receive a production certificate and an airworthiness approval for domestic operators affected by AD 2011-04-09 (14 CFR part 121 operators) or for foreign operators (14 CFR part 129) in countries where the local civil aviation authority has issued a mandatory action equivalent to AD 2011-04-09. We infer that Boeing is requesting we clarify SFAR 111 for airplanes registered outside the United States because only foreign registered airplanes could be subject to a mandatory action similar to AD 2011-04-09. We disagree because SFAR 111 does not apply to airplanes registered outside the United States. We cannot provide relief from airworthiness standards issued by civil aviation authorities in other countries. The responsible civil aviation authority must grant relief from an airworthiness standard. Furthermore, SFAR 111, paragraph (b)(2) already provides this relief for airplanes registered in the United States but operated by foreign carriers. No changes were made to the SFAR as a result of this comment.

Boeing suggested paragraph (c) of the SFAR be revised to indicate that it is the operators' responsibility to provide flightcrew training procedures for airplanes with a disabled lavatory oxygen system. We disagree that this clarification is necessary because the SFAR does not include a requirement to revise existing flightcrew training procedures. Operators currently have the option to add or revise existing training for the cabin or flightcrew as they deem necessary. No changes were made to the SFAR as a result of this comment.

Aerox Aviation provided information pertaining to the availability of a small portable, gaseous oxygen supply and stated that such equipment could provide an emergency oxygen supply. We are familiar with the Aerox portable oxygen equipment as well as other portable oxygen equipment from other suppliers. It is possible for operators to incorporate installation of portable gaseous oxygen equipment for use in the lavatory under existing regulations. If such equipment were to be installed, it would need to be approved by the FAA in accordance with existing procedures applicable to type design changes. Neither AD 2011-04-09 nor SFAR 111

would prevent installation of portable gaseous oxygen equipment for use in the lavatory. No changes were made to the SFAR as a result of this comment.

### Conclusion

After analyzing the comments submitted in response to SFAR 111, the FAA has determined that no further revisions to the SFAR are necessary at this time. The FAA determined this interim rule remains necessary because it addresses an emergency safety situation that made it imperative to immediately implement the rulemaking's provisions. While the chemical oxygen supply is intended to provide passengers with supplemental oxygen when necessary, lavatories become privately enclosed areas when in use. Possible tampering with that chemical oxygen supply presented a security vulnerability that this rulemaking addresses. Therefore, Amendments 21-94, 25-133, 121-354, and 129-50 remain in effect.

The FAA is currently assessing the recommendations of the ARC discussed above. We are using these recommendations to develop additional rulemaking actions that will restore the affected oxygen systems to their full operational capability in existing and new certifications of affected aircraft, while eliminating the potential security threat posed by the previous systems.

Issued in Washington, DC, on February 15, 2012.

**Frank P. Paskiewicz,**

*Deputy Director, Aircraft Certification Service.*

[FR Doc. 2012-4571 Filed 2-24-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2012-0068]

RIN 1625-AA00

### Safety Zone; Lauderdale Air Show, Atlantic Ocean, Fort Lauderdale, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida during the Lauderdale Air Show. The event is scheduled to take place on Saturday, April 28, 2012 and Sunday, April 29, 2012. The safety zone is

necessary for the safety of air show participants, participant aircraft, spectators, and the general public during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami or a designated representative.

**DATES:** This rule is effective from 11 a.m. on April 28, 2012 through 4:15 p.m. on April 29, 2012. This rule will be enforced daily from 11 a.m. until 4:15 p.m. on April 28, 2012 and April 29, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0068 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0068 in the "Keyword" box, and then clicking "Search." They are 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 final rule, call or email Lieutenant Jennifer S. Makowski, Sector Miami Prevention Department, Coast Guard; telephone (305) 535-8724, email [Jennifer.S.Makowski@uscg.mil](mailto:Jennifer.S.Makowski@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

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information regarding the event until January 17, 2012. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest

because immediate action is needed to minimize potential danger to air show participants, participant aircraft, spectators, and the general public.

#### **Basis and Purpose**

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 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, 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to protect air show participants, participant aircraft, spectators, and the general public from hazards associated with aircraft take-offs and landings, as well as hazards associated with aircraft performing aerobatic maneuvers over navigable waters of the United States.

#### **Discussion of Rule**

On April 28, 2012 and April 29, 2012, the National Air, Sea, and Space Foundation is hosting the Lauderdale Air Show in Fort Lauderdale, Florida. The Lauderdale Air Show will include numerous aircraft engaging in aerobatic maneuvers over the Atlantic Ocean. It is expected that approximately 120 spectator vessels will be present in the area during the event. The high speed at which participant aircraft will be traveling and the maneuvers they will be performing pose a safety hazard to air show participants, participant aircraft, spectators, and the general public.

The safety zone encompasses certain navigable waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida. The safety zone will be enforced daily from 11 a.m. until 4:15 p.m. on April 28, 2012 and April 29, 2012. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Miami by telephone at (305) 535-4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners,

Broadcast Notice to Mariners, and on-scene designated representatives.

#### **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**

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will be enforced for only 10½ hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Miami or a designated representative, they may operate in the surrounding area during the enforcement periods; (3) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Miami or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

#### **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 will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Ocean encompassed within the safety zone from 11 a.m. on April 28, 2012 through 4:15 p.m. on April 29, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can 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 calls 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 or more in any one year. Though this rule will 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 effect 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 does not create an environmental risk to health or risk to safety that may 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 does 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 that 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 establishing a temporary safety zone that will be enforced for a total of 10½ hours. 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 amends 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. 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07-0068 to read as follows:

### § 165.T07-0068 Safety Zone; Lauderdale Air Show, Atlantic Ocean, Fort Lauderdale, FL.

(a) *Regulated area.* The following regulated area is a safety zone. All waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida that are encompassed within an imaginary line connecting the following points: starting at Point 1 in position 26°09'26" N, 80°05'54" W; thence east to Point 2 in position 26°09'21" N, 80°05'14" W; thence south to Point 3 in position 26°07'24" N, 80°05'30" W; thence west to Point 4 in position 26°07'28" N, 80°06'09" W; thence north back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at (305) 535-4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective date and enforcement periods.* This rule is effective from 11 a.m. on April 28, 2012 through 4:15 p.m. on April 29, 2012. This rule will be enforced daily from 11 a.m. until 4:15 p.m. on April 28, 2012 and April 29, 2012.

Dated: February 8, 2012.

**G.J. Depinet,**

*Captain, U.S. Coast Guard, Captain of the Port Miami.*

[FR Doc. 2012-4452 Filed 2-24-12; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-R09-OAR-2012-0117; FRL-9635-7]

#### Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; Nevada

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants (NESHAP) in Nevada. Several NESHAP were delegated to the Nevada Division of Environmental Protection on October 6, 2011. The purpose of this action is to update the listing in the Code of Federal Regulations.

**DATES:** This rule is effective on April 27, 2012 without further notice, unless EPA receives adverse comments by March 28, 2012. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2012-0117, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *Email:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or delivery:* Andrew Steckel (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or email. [www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information

unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Rynda Kay, EPA Region IX, (415) 947-4118, [kay.rynda@epa.gov](mailto:kay.rynda@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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#### I. Background

##### A. Delegation of NESHAP

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to State or local air pollution control agencies the authority to implement and enforce the standards set out in the Code of Federal Regulations, Title 40 (40 CFR), part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR part 63, Subpart E (hereinafter referred to as “Subpart E”), establishing procedures for EPA’s approval of State rules or programs under section 112(l) (see 58 FR 62262). Subpart E was later amended on September 14, 2000 (see 65 FR 55810).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and Subpart E. To streamline the approval process for future applications, a State or local agency may submit a one-time

demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the State or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

#### B. NDEP Delegations

On May 27, 1998, EPA published a direct final action delegating to the NDEP several NESHAP and approving NDEP’s delegation mechanism for future standards (see 63 FR 28906). That action explained the procedure for EPA to grant future delegations to NDEP by letter, with periodic **Federal Register** listings of standards that have been delegated. On August 19, 2011, NDEP requested delegation of the following NESHAP contained in 40 CFR part 63:

- The amendments to Subpart LLL—NESHAP from the Portland Cement Manufacturing Industry, as set forth in 75 FR 54970 (September 9, 2010).
- The amendments to Subpart ZZZZ—NESHAP for Stationary Reciprocating Internal Combustion Engines, as set forth in 75 FR 51570 (August 20, 2010) and 76 FR 12863 (March 9, 2011).
- Subpart DDDDD—NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters.
- Subpart BBBB—NESHAP for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
- Subpart CCCCC—NESHAP for Source Category: Gasoline Dispensing Facilities.
- Subpart HHHHH—NESHAP: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
- Subpart JJJJJ—NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources.
- Subpart VVVVV—NESHAP for Chemical Manufacturing Area Sources.
- Subpart WWWW—NESHAP: Area Source Standards for Plating and Polishing Operations.
- Subpart XXXXX—NESHAP Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
- Subpart ZZZZZ—NESHAP: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.