

(3) The smoke from a smoke source below the flight deck and passenger cabin must not rise above armrest height on the main deck.

(4) The smoke from a source on the same level as the flight deck and passenger cabin must dissipate rapidly via dilution with fresh air and be evacuated from the airplane. A procedure must be included in the Airplane Flight Manual to evacuate smoke from the occupied areas of the airplane. In order to demonstrate that the quantity of smoke is small, a flight test must be conducted which simulates the emergency procedures used in the event of a fire during flight, including the use of  $V_{mo}/M_{mo}$  descent profiles and a simulated landing, if such conditions are specified in the emergency procedure.

2. Requirement for fire detection in electrical/electronic equipment bays:

(a) A smoke or fire detection system compliant with §§ 25.858 and 25.855 must be provided that will detect fire/smoke within each electrical/electronic equipment bay.

(b) Each system must provide a visual indication to the flight deck within one minute after the start of a fire in an electrical/electronic equipment bay.

(c) Airplane flight tests must be conducted to show compliance with these requirements, and the performance of the smoke or fire detectors must be shown in accordance with guidance provided in the latest version of Advisory Circular 25-9, or other means acceptable to the FAA.

(d) A procedure to shut down all non-essential systems in the electrical/electronic equipment bays following a smoke detection in any electrical/electronic equipment bay must be included in the Airplane Flight Manual.

Issued in Renton, Washington, on April 11, 2008.

**Philip L. Forde,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E8-8577 Filed 4-18-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1926

[Docket No. OSHA-2007-0026]

RIN 1218-AB47

#### Confined Spaces in Construction

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Proposed rule; notice of hearing.

**SUMMARY:** OSHA is convening an informal public hearing to receive testimony and documentary evidence on the proposed rule for Confined Spaces in Construction.

**DATES:** *Informal Public Hearing.* The Agency will hold the informal public hearing in Washington, DC beginning July 22, 2008. The hearing will commence at 10 a.m. on the first day. If necessary, a second or third day will be scheduled. The hearing will begin at 9 a.m. on subsequent days.

*Notice of intention to appear to provide testimony at the informal public hearing.* Parties who intend to present testimony at the informal public hearing must notify OSHA in writing of their intention to do so no later than May 21, 2008.

*Hearing Testimony and Documentary Evidence.* Parties who are requesting more than 10 minutes to present their testimony, or who will be submitting documentary evidence at the hearing, must provide the Agency with copies of their full testimony and all documentary evidence they plan to present by June 20, 2008.

**ADDRESSES:** *Informal Public Hearing.* The informal public hearing will be held in Washington, DC, in the auditorium on the plaza level of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

*Notices of intention to appear at the hearing, hearing testimony, and documentary evidence.* Submit notices of intention to appear at the informal public hearing, hearing testimony, and documentary evidence, identified by the docket number (OSHA 2007-0026) or the regulatory information number (RIN; 1218-AB47), using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting the material.

- *Facsimile:* Send submissions consisting of 10 or fewer pages to the OSHA Docket Office at (202) 693-1648. Hard copies of these documents are not required. Instead of transmitting facsimile copies of attachments that supplement these documents (e.g., studies, journal articles), submit these attachments, in triplicate hard copy, to the OSHA Docket Office, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (i.e., OSHA-2007-0026) so that the agency can attach them to the appropriate document.

- *Regular mail, express delivery, hand delivery, and courier service:* Send submissions in triplicate (3 copies) to the OSHA Docket Office, Docket No. OSHA-2007-0026, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350 (OSHA's TTY number is (877) 889-5627). Note that security-related problems may result in significant delays in receiving submissions by regular mail. Please contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or courier service. The OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., ET.

*Instructions.* All submissions must include the agency name and the OSHA docket number (i.e., OSHA-2007-0026). All submissions, including any personal information, are placed in the public docket without revision, and will be available online at <http://www.regulations.gov>. Therefore, OSHA cautions members of the public against submitting information and statements that should remain private, including comments that contain personal information (either about themselves or others) such as social security numbers, birth dates, and medical data. For additional information on submitting notices of intention to appear, the text of testimony, and documentary evidence, see the Public Participation—Comments and Hearings section below.

*Docket.* To read or download comments or other material in the docket, go to <http://www.regulations.gov> or to the OSHA Docket Office at the address above. Documents in the docket are listed in the <http://www.regulations.gov> index. However, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions, including notices of intention to appear, the text of testimony, and documentary evidence.

**FOR FURTHER INFORMATION CONTACT:** For general information and press inquiries, contact Ms. Jennifer Ashley, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999. For technical inquiries, contact Mr. Garvin Branch, Directorate of Construction, Room N-3468, OSHA,

U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2020 or fax (202) 693–1689. For hearing information, contact Ms. Veneta Chatmon, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's homepage at <http://www.osha.gov>.

**SUPPLEMENTARY INFORMATION:** OSHA published the proposed Confined Spaces in Construction Standard on November 28, 2007 (72 FR 67351). The period for submitting written comments was to expire on January 28, 2008, but was extended to February 28, 2008 (73 FR 3893). During this comment period, a number of commenters (*see, e.g.*, Exs. OSHA–2007–0026–0024.1, –0026, –0030.1, –0032, –0027, –0032, –0057) requested an informal public hearing. With this notice, OSHA is granting these requests.

**Public Participation—Comments and Hearings:** OSHA encourages members of the public to participate in this rulemaking by providing oral testimony and documentary evidence at the informal public hearing. Accordingly, the Agency invites interested parties having knowledge of, or experience with, the issues raised in the NPRM to participate in this process, and welcomes any pertinent data that will provide the Agency with the best available evidence to use in developing the final rule. This section describes the procedures the public must use to schedule an opportunity to deliver oral testimony and to provide documentary evidence at the informal public hearing.

**Hearing Arrangements.** Pursuant to section 6(b)(3) of the Occupational Safety and Health Act (the Act; 29 U.S.C. 655), members of the public have an opportunity at the informal public hearing to provide oral testimony concerning the issues raised in the NPRM. An administrative law judge (ALJ) will preside over the hearing, and will resolve any procedural matters relating to the hearing on the first day.

**Purpose of the Hearing.** The legislative history of Section 6 of the Act, as well as the Agency's regulation governing public hearings (29 CFR 1911.15), establish the purpose and procedures of informal public hearings. Although the presiding officer of the hearing is an ALJ, and questions by interested parties are allowed on pertinent issues, the hearing is informal and legislative in purpose. Therefore,

the hearing provides interested parties with an opportunity to make effective and expeditious oral presentations in the absence of procedural restraints that could impede or protract the rulemaking process. The hearing is not an adjudicative proceeding subject to the technical rules of evidence. Instead, it is an informal administrative proceeding convened for the purpose of gathering and clarifying information. The regulations that govern the hearing, and the pre-hearing guidelines issued for the hearing, will ensure that participants are treated fairly and have due process. This approach will facilitate the development of a clear, accurate, and complete record. Accordingly, application of these rules and guidelines will be such that questions of relevance, procedures, and participation will be decided in favor of developing a complete record.

**Conduct of the Hearing.** Conduct of the hearing will conform to the provisions of 29 CFR 1911.5. Although the ALJ presiding over the hearing makes no decision or recommendation on the merits of the NPRM or the final rule, the ALJ has the responsibility and authority to ensure that the hearing progresses at a reasonable pace and in an orderly manner. To ensure that interested parties receive a full and fair informal hearing, the ALJ has the authority and power to: regulate the course of the proceedings; dispose of procedural requests, objections, and similar matters; confine the presentations to matters pertinent to the issues raised; use appropriate means to regulate the conduct of the parties who are present at the hearing; question witnesses, and permit others to question witnesses; and limit the time for such questions. At the close of the hearing, the ALJ will establish a post-hearing comment period for parties who participated in the hearing. During the first part of this period, the participants may submit additional data and information to OSHA, and during the second part of this period, they may submit briefs, arguments, and summations.

**Notice of intention to appear to provide testimony at the informal public hearings.** Hearing participants must file a notice of intention to appear that provides the following information: The name, address, and telephone number of each individual who will provide testimony; the capacity in which the individual will testify (*e.g.*, name of the establishment/organization the individual is representing; the individual's occupational title and position); approximate amount of time requested for the individual's testimony; specific issues the individual will

address, including a brief description of the position that the individual will take with respect to each of these issues; and any documentary evidence the individual will present, including a brief summary of the evidence.

OSHA emphasizes that, while the hearing is open to the public and interested parties are welcome to attend, only a party who files a proper notice of intention to appear may ask questions and participate fully in the hearing. A party who did not file a notice of intention to appear may be allowed to testify at the hearing if time permits, but this determination is at the discretion of the presiding ALJ.

**Hearing Testimony and Documentary Evidence.** OSHA will review each submission and determine if the information it contains warrants the amount of time requested. OSHA then will allocate an appropriate amount of time to each presentation, and will notify the participants of the time allotted to their presentations. Prior to the hearing, the Agency will notify the participant if the allotted time is less than the requested time, and will provide the reasons for this action. OSHA may limit to 10 minutes the presentation of any participant who fails to comply substantially with these procedural requirements. The Agency also may request a participant to return for questions at a later time.

**Certification of the record and final determination after the informal public hearing.** Following the close of the hearing and post-hearing comment period, the ALJ will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. This record will consist of all of the written comments, oral testimony, documentary evidence, and other material received during the hearing. Following certification of the record, OSHA will review the proposed provisions in light of all the evidence received as part of the record, and then will issue the final determinations based on the entire record.

#### Authority and Signature

This document was prepared under the authority of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC this 15th day of April 2008.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8-8460 Filed 4-18-08; 8:45 am]

BILLING CODE 4510-26-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0160]

RIN 1625-AA00

#### Safety Zone: Ocean City Air Show, Atlantic Ocean, Ocean City, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone on the Atlantic Ocean in the vicinity of Ocean City, MD in support of the Ocean City Air Show. This action is intended to restrict vessel traffic movement on the Atlantic Ocean to protect mariners from the hazards associated with the air show.

**DATES:** Comments and related material must reach the Coast Guard on or before May 21, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0160 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand Delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Lieutenant Junior Grade TaQuitia Winn, Waterways Management Division, Sector Hampton Roads at (757) 668-5580. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0160), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or hand delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time, click on "Search for Dockets," and enter the docket number for this rulemaking (USCG-2008-0160) in the Docket ID box, and click enter. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Commander, Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., 7th Floor between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

##### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

On June 9, 2008, June 10, 2008 and June 11, 2008 the town of Ocean City, MD, will sponsor an air show that is to be held on the Atlantic Ocean between 7th Street and 25th Street in Ocean City, MD. Due to the need to protect mariners and the public from the hazards associated with the air show, a safety zone bound by the following coordinates will be enforced: 38°-20'-59.6" N/075°-03'-44.4" W, 38°-21'-10" N/075°-04'-19.9" W, 38°-20'-03.8" N/075°-04'-10.6" W, 38°-20'-14.1" N/075°-04'-45.6" W (NAD 1983). Access to this area will be temporarily restricted for public safety.

##### Discussion of Proposed Rule

The Coast Guard proposes to establish a safety zone on the Atlantic Ocean between 7th Street and 25th Street in Ocean City, MD. This safety zone bound, by coordinates 38°-20'-59.6" N/075°-03'-44.4" W, 38°-21'-10" N/075°-04'-19.9" W, 38°-20'-03.8" N/075°-04'-10.6" W, 38°-20'-14.1" N/075°-04'-45.6" W (NAD 1983), will be established during the Ocean City Air Show and be enforced from 10 a.m. to 4 p.m. on June 9, 2008, 10 a.m. to 4 p.m. on June 10, 2008 and from 10 a.m. to 4 p.m. on June 11, 2008. In the interest of public safety, access to the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the safety zone.

##### Regulatory Evaluation

We developed this proposed rule after considering numerous statutes and