

### 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 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 a safety zone.

Under figure 2-1, paragraph (34)(g), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are required for this rule because it concerns a situation of more than 1 week in duration. An environmental analysis checklist and a categorical exclusion determination will be made available in the docket upon publication in the **Federal Register**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record-keeping 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.06-1, 6.05-6 and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08-0622 to read as follows:

#### § 165.T08-0622 Safety Zone, DEEPWATER HORIZON Response Staging Area in the vicinity of Shell Beach, Hopedale, LA.

(a) *Location:* On the Mississippi River Gulf Outlet (MRGO) at Mile 42 in the vicinity of Shell Beach to extend the entire width of the MRGO 500 yards above and 500 yards below the response staging area.

(b) *Enforcement Period:* This rule will be enforced from June 24, 2010, until 11:59 p.m. on September 24, 2010.

#### (c) *Regulations:*

(1) In accordance with the general regulation in § 165.23 of this part, vessels must transit at the slowest safe speed to allow for steerage to comply with no wake zone located in (a).

(2) Persons or vessels requiring deviations from this rule must request permission from the Captain of the Port

New Orleans. The COTP may be contacted at telephone (504) 846-5923.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port New Orleans and designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard.

Dated: June 24, 2010.

**E. M. Stanton,**

*Captain, U.S. Coast Guard, Commander, Sector New Orleans.*

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2010-0458]

RIN 1625-AA00

### Safety Zone; He'eia Kea Small Boat Harbor, Kaneohe Bay, Oahu, HI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary Final Rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in He'eia Kea Small Boat Harbor located in Kaneohe Bay, Oahu, Hawaii. The safety zone is necessary to protect watercraft and the general public from hazards associated with five vessels moored for approximately 3-weeks off the boat harbor's main pier. Vessels desiring to transit through the zone can request permission by contacting the Captain of the Port Honolulu.

**DATES:** This rule is effective in the CFR on July 27, 2010 through 7:00 p.m. on August 13, 2010. This rule is effective with actual notice for purposes of enforcement on 5 a.m. on July 16, 2010. This rule will remain in effect through 7 p.m. on August 13, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0458 and are available online by going to <http://www.regulations.gov/>, inserting USCG-2010-0458 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

**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. This is because it would be impracticable for the Coast Guard to publish an NPRM and final rule before the zone is needed on July 16, 2010.

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**. There is a need to establish the safety zone before July 16, 2010, in order to protect watercraft and the general public from hazards associated with fixed moorings and stationary vessels in the harbor.

### Basis and Purpose

In 2009, Fourth Mate Productions formally proposed mooring five vessels in and around He'eia Kea Small Boat Harbor and main pier with the State of Hawaii's permission and after meeting with numerous local users and environmental and boating agency officials.

In June 2010 and after all environmental and permitting requirements were met, Fourth Mate Productions was given permission to place moorings and five stationary vessels in He'eia Kea Small Boat Harbor.

Due to He'eia Kea Small Boat Harbor's heavy traffic during daylight hours, the Coast Guard determined that a safety zone was appropriate to ensure safe and orderly transit around the moorings and five stationary vessels by all other watercraft and the general public.

### Discussion of the Rule

The Coast Guard is establishing a temporary safety zone in He'eia Kea Small Boat Harbor located in Kaneohe Bay, Oahu, Hawaii. This safety zone is in the shape of a box bounded by the points: 21°26'30.9" N, 157°48'40.4" W; 21°26'53.4" N, 157°48'33.8" W (aka Light #2); 21°26'40.9" N, 157°48'10.5" W, and 21°26'30.4" N, 157°48'20.57" W (aka Kealohi Pt) thence along the coast to the beginning point. The zone will extend from the surface of the water to

the ocean floor. The zone will be enforced from 5 a.m. on July 16, 2010, through 7 p.m. on August 13, 2010.

Entry into or remaining in the safety zone will be prohibited unless authorized by the Coast Guard Captain of the Port Honolulu zone. Vessels desiring to transit through the zone can request permission by contacting the Honolulu Captain of the Port on VHF Channel 81A or at phone numbers 808-563-9906 and 808-842-2600.

### 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.

This zone will have not have a significant impact on the harbor's commercial use since nearly all the westward and eastward portions of the small boat harbor will remain open for business. Furthermore, vessels will be able to transit in the temporary safety zone with permission from the Captain of the Port, and escort vessels will be freely available on a case by case basis and once entry into the safety zone is granted.

### 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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels using the He'eia Kea Small Boat Harbor between July 16 and August 13, 2010. This safety zone will not have a significant economic impact on a substantial number of small entities

because this rule will only be in effect for a limited period of time, vessels will be able to transit around the safety zone, and will be allowed to transit in and around the temporary safety zone in He'eia Kea Small Boat Harbor with prearranged vessel escorts once permission to transit the zone is granted.

### 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 (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 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 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 establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones. 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.T14-199 to read as follows:

#### § 165.T14-205 Safety Zone; He'eia Kea Small Boat Harbor, Kaneohe Bay, Oahu, Hawaii.

(a) *Location.* The following area is a temporary safety zone: All waters contained within a specified area around five moored vessels in the He'eia Kea Small Boat Harbor located in Kaneohe Bay, Oahu, Hawaii. This safety zone is bounded by the points: 21°26'30.9" N, 157°48'40.4" W; 21°26'53.4" N, 157°48'33.8" W (aka

Light #2); 21°26'40.9" N, 157°48'10.5" W, and 21°26'30.4" N, 157°48'20.57" W (aka Kealohi Pt) thence along the coast to the beginning point. 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.

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

(2) Persons desiring to transit in the safety zone may contact the Honolulu Captain of the Port on VHF channel 81A (157.075 MHz), VHF channel 16 (156.800 MHz), or at telephone numbers 1-808-563-9906 and 808-842-2600 to seek permission to transit the area with a designated escort vessel. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Effective period.* This rule is effective from 5:00 a.m. local (H.M.T) time on July 16, 2010 through 7:00 p.m. local (HST) time on August 13, 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 the zone except for support vessels and personnel, or other vessels authorized by the Captain of the Port or his 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: June 24, 2010.

**R.E. McFarland,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Honolulu.*

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2008-8]

### Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Librarian of Congress announces that the prohibition against