

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]

BILLING CODE 9110-04-P

## 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"

into the first sentence of 38 CFR 3.809(b) and 3.809a(b), so that the first sentence in each paragraph states: "A member of the Armed Forces serving on active duty must have a disability rated as permanent and total that was incurred or aggravated in line of duty in active military, naval, or air service." Although we did not propose those provisions with the phrase "rated as permanent and total," it is required by the statutory provisions on which they are based. Section 2101A(a) of title 38, United States Code, requires that housing assistance provided to certain members of the Armed Forces serving on active duty be provided "to the same extent as assistance is provided under [38 U.S.C. chapter 20] to veterans eligible under [chapter 20] and subject to the same requirements as veterans under [chapter 20]." To be entitled to a SAH or SHA grant, a veteran must be entitled to compensation "for a permanent and total service-connected disability." 38 U.S.C. 2101(a)(2) and (b)(2). Therefore, for a member of the Armed Forces to be entitled to a SAH or SHA grant, the member's disability that was incurred or aggravated in line of duty in active service (*i.e.*, a service-connected disability) must be rated as permanent and total. Because the authorizing statutes require that SAH and SHA grants for Armed Forces members serving on active duty be conditioned on having a permanent and total service-connected disability, our implementing regulations must also impose that requirement.

**Applicability Dates:** The following applicability dates are provided for those amended regulations which do not contain an applicability date in the regulatory text. These dates are based upon the effective dates of the applicable provisions of the following Public Laws: Public Law 108–183, with applicable provisions effective December 16, 2003; Public Law 108–454, with applicable provisions effective December 10, 2004; Public Law 109–233, section 105 of which is effective December 10, 2004; and Public Law 110–289, with applicable provisions effective July 30, 2008. In accordance with the statutory provisions of these Public Laws, the following applicability dates pertain to this final rule:

(1) The revisions to § 3.809(b) introductory text and § 3.809a(b) introductory text, pertaining to eligibility for SAH and SHA grants of persons disabled by VA treatment or vocational rehabilitation, apply to applications for SAH or SHA grants received by VA on or after December 10, 2004.

(2) The addition of § 3.809(b)(5), pertaining to loss or loss of use of both upper extremities as a disability qualifying for SAH grant eligibility, applies to all applications for SAH grants received by VA on or after December 10, 2004.

(3) The addition of paragraph (b)(6) to § 3.809 and the addition of paragraphs (b)(2)(ii) through (b)(2)(iv) to 3.809a, pertaining to severe burns as disabilities qualifying for SAH and SHA grant eligibility, apply to all applications for SAH or SHA grants received by VA on or after July 30, 2008.

#### **Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule would not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Catalog of Federal Domestic Assistance Numbers and Titles**

The Catalog of Federal Domestic Assistance program numbers and titles for the programs affected by this document are 64.106, Specially Adapted Housing for Disabled Veterans; and 64.109, Veterans Compensation for Service-Connected Disability.

#### **Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 9, 2010, for publication.

#### **List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: September 17, 2010.

#### **Robert C. McFetridge,**

*Director, Regulation Policy and Management, Office of General Counsel, Department of Veterans Affairs.*

■ For the reasons set out in the preamble, VA amends 38 CFR part 3 as follows:

**PART 3—ADJUDICATION**

**Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation**

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Revise § 3.362(e) to read as follows:

**§ 3.362 Offsets under 38 U.S.C. 1151(b) of benefits awarded under 38 U.S.C. 1151(a).**

\* \* \* \* \*

(e) *Offset of award of benefits under 38 U.S.C. chapter 21 or 38 U.S.C. chapter 39.* (1) If a judgment, settlement, or compromise covered in paragraphs (b) through (d) of this section becomes final on or after December 10, 2004, and includes an amount that is specifically designated for a purpose for which benefits are provided under 38 U.S.C. chapter 21 (38 CFR 3.809 and 3.809a) or 38 U.S.C. chapter 39 (38 CFR 3.808), and if VA awards 38 U.S.C. chapter 21 or 38 U.S.C. chapter 39 benefits after the date on which the judgment, settlement, or compromise becomes final, the amount of the award will be reduced by the amount received under the judgment, settlement, or compromise for the same purpose.

(2) If the amount described in paragraph (e)(1) of this section is greater than the amount of an award under 38 U.S.C. chapter 21 or 38 U.S.C. chapter 39, the excess amount received under the judgment, settlement, or compromise will be offset against benefits otherwise payable under 38 U.S.C. chapter 11.

(Authority: 38 U.S.C. 1151)

■ 3. Revise § 3.800(a)(4) to read as follows:

**§ 3.800 Disability or death due to hospitalization, etc.**

\* \* \* \* \*

(a) \* \* \*

(4) *Offset of award of benefits under 38 U.S.C. chapter 21 or 38 U.S.C. chapter 39.* (i) If a judgment, settlement, or compromise covered by paragraph (a)(2) of this section becomes final on or after December 10, 2004, and includes an amount that is specifically designated for a purpose for which benefits are provided under 38 U.S.C. chapter 21 (38 CFR 3.809 and 3.809a) or 38 U.S.C. chapter 39 (38 CFR 3.808), and if VA awards 38 U.S.C. chapter 21 or 38 U.S.C. chapter 39 benefits after the date on which the judgment, settlement, or compromise becomes final, the amount of the award will be reduced by the amount received under the

judgment, settlement, or compromise for the same purpose.

(ii) If the amount described in paragraph (a)(4)(i) of this section is greater than the amount of an award under 38 U.S.C. chapter 21 or 38 U.S.C. chapter 39, the excess amount received under the judgment, settlement, or compromise will be offset against benefits otherwise payable under 38 U.S.C. chapter 11.

(Authority: 38 U.S.C. 1151(b)(2))

\* \* \* \* \*

■ 4. Amend § 3.809 by:

- a. In the introductory text, removing “38 U.S.C. 2101(a)” and adding in its place “38 U.S.C. 2101(a) or 2101A(a)” and by removing “veteran” and adding in its place “veteran or a member of the Armed Forces serving on active duty”;
- b. Revising paragraph (a);
- c. Revising paragraph (b) introductory text;
- d. In paragraph (b)(3), removing “wheelchair.” and adding, in its place, “wheelchair, or”;
- e. In paragraph (b)(4), removing “with the loss of loss of use” and adding in its place “with the loss or loss of use” and removing “wheelchair.” and adding, in its place, “wheelchair, or”;
- f. Adding paragraphs (b)(5) and (b)(6);
- g. Removing paragraph (c);
- h. Redesignating paragraph (d) as new paragraph (c); and
- i. Revising the authority citation at the end of the section.

The revisions and additions read as follows:

**§ 3.809 Specially adapted housing under 38 U.S.C. 2101(a).**

\* \* \* \* \*

(a) *Eligibility.* A veteran must have had active military, naval, or air service after April 20, 1898. Benefits are not restricted to veterans with wartime service. On or after December 16, 2003, the benefit under this section is also available to a member of the Armed Forces serving on active duty.

(b) *Disability.* A member of the Armed Forces serving on active duty must have a disability rated as permanent and total that was incurred or aggravated in line of duty in active military, naval, or air service. A veteran must be entitled to compensation under chapter 11 of title 38, United States Code, for a disability rated as permanent and total. In either case, the disability must be due to:

\* \* \* \* \*

(5) The loss or loss of use of both upper extremities such as to preclude use of the arms at or above the elbow, or

(6) Full thickness or subdermal burns that have resulted in contractures with

limitation of motion of two or more extremities or of at least one extremity and the trunk.

\* \* \* \* \*

(Authority: 38 U.S.C. 1151(c)(1), 2101, 2101A)

\* \* \* \* \*

■ 5. Amend § 3.809a by:

- a. In the introductory text, removing “38 U.S.C. 2101(b)” and adding in its place “38 U.S.C. 2101(b) or 2101A(a)” and by removing “April 20, 1898,” and adding in its place “April 20, 1898, or to a member of the Armed Forces serving on active duty who is eligible for the benefit under this section on or after December 16, 2003.”
- b. Removing the authority citation after the introductory text.
- c. In paragraph (a), removing “veteran” each place it appears and adding in each place “member of the Armed Forces serving on active duty or veteran”; and by removing the last sentence.
- d. Revising paragraph (b).
- e. Removing paragraph (c).
- f. Revising the authority citation at the end of the section.
- g. Adding a cross-reference immediately after the authority citation at the end of the section.

The revisions and addition read as follows:

**§ 3.809a Special home adaptation grants under 38 U.S.C. 2101(b).**

\* \* \* \* \*

(b) A member of the Armed Forces serving on active duty must have a disability rated as permanent and total that was incurred or aggravated in line of duty in active military, naval, or air service. A veteran must be entitled to compensation under chapter 11 of title 38, United States Code, for a disability rated as permanent and total. In either case, the disability must:

(1) Include the anatomical loss or loss of use of both hands, or

(2) Be due to:

(i) Blindness in both eyes with 5/200 visual acuity or less, or

(ii) Deep partial thickness burns that have resulted in contractures with limitation of motion of two or more extremities or of at least one extremity and the trunk, or

(iii) Full thickness or subdermal burns that have resulted in contracture(s) with limitation of motion of one or more extremities or the trunk, or

(iv) Residuals of an inhalation injury (including, but not limited to, pulmonary fibrosis, asthma, and chronic obstructive pulmonary disease).

(Authority: 38 U.S.C. 1151(c)(1), 2101, 2101A, 2104)

Cross-Reference: Assistance to certain disabled veterans in acquiring specially adapted housing. See §§ 36.4400 through 36.4410 of this chapter.

[FR Doc. 2010-23629 Filed 9-22-10; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2009-0958; FRL-9204-3]

**Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the San Joaquin Valley

Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on March 26, 2010 and concern volatile organic compound (VOC) emissions from refinery vacuum producing systems and process unit turnaround. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on October 25, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0958 for this action. The index to the docket is available electronically at <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:** Joanne Wells, EPA Region IX, (415) 947-4118, [wells.joanne@epa.gov](mailto:wells.joanne@epa.gov).

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

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**I. Proposed Action**

On March 26, 2010 (75 FR 14545), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD .....	4453	Refinery Vacuum Producing Devices or Systems	12/17/92	08/24/07
SJVUAPCD .....	4454	Refinery Process Unit Turnaround .....	12/17/92	08/24/07

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those

imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.