

and -500 series airplanes) at the applicable locations specified in the Compliance Section of Boeing SB 737-53A1177, Revision 6, dated May 31, 2001.

(e) If any "significant" cracking, as defined in Boeing ASB 737-53A1255, dated October 17, 2002, is found in any lap joint during the external inspection required by paragraph (d) of this AD: Before further flight, accomplish the actions required by paragraphs (e)(1) and (e)(2) of this AD.

(1) Perform internal MFEC, LFEC, and detailed inspections for cracking of the entire affected section of the lap joint, specified in the Compliance Section and Inspection Zone Figures of Boeing SB 737-53A1177, Revision 6, dated May 31, 2001; per Boeing ASB 737-53A1255, dated October 17, 2002.

(2) Perform a detailed inspection for damage of the stringer clips and replace any damaged stringer clip with a new part, per Boeing ASB 737-53A1255, dated October 17, 2002.

(f) If any cracking, "significant" (as defined in Boeing ASB 737-53A1255, dated October 17, 2002) or otherwise, is found during the inspections required by paragraphs (a), (b), (d), or (e) of this AD: Before further flight, accomplish the actions specified by paragraph (f)(1) or (f)(2) of this AD, as applicable.

(1) For cracking that is within the limits specified in Boeing SB 737-53A1177, Revision 6, dated May 31, 2001: Repair per the Accomplishment Instructions of that ASB; and replace any damaged stringer clips with a new part per Boeing ASB 737-53A1255, dated October 17, 2002.

(2) For any cracking that exceeds the limits specified in Boeing SB 737-53A1177, Revision 6, dated May 31, 2001, repair per a method approved by the Manager, Seattle ACO; or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

#### Reporting Requirements

(g) Submit a report of inspection findings (both positive and negative) to the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207, as specified in paragraph B.10 of the Accomplishment Instructions of Boeing ASB 737-53A1255, dated October 17, 2002, at the applicable time specified by paragraph (g)(1) or (g)(2) of this AD. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) For airplanes on which the inspection required by paragraph (a) of this AD is accomplished after the effective date of this AD: Submit the report within 10 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection required by paragraph (a) of this AD has been accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

#### Alternative Methods of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(j) Unless otherwise specified by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737-53A1255, dated October 17, 2002; and Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001; as applicable.

(1) This incorporation by reference of Boeing Alert Service Bulletin 737-53A1255, dated October 17, 2002, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, was approved previously by the Director of the Federal Register as of May 17, 2002 (67 FR 17917, April 12, 2002).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(k) This amendment becomes effective on May 12, 2003.

Issued in Renton, Washington, on April 18, 2003.

#### Ali Bahrami,

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

[FR Doc. 03-10115 Filed 4-24-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 110 and 165

[CGD14-03-001]

RIN 1625-AA00 [Formerly 2115-AA97]

RIN 1625-AA01

#### Anchorage Grounds and Security Zones; Oahu, Maui, Hawaii, and Kauai, HI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent security zones in designated waters adjacent to the islands of Oahu, Maui, Hawaii, and Kauai, HI. These security zones and a related amendment to regulations for anchorage grounds in Mamala Bay are necessary to protect personnel, vessels, and facilities from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature during operations and will extend from the surface of the water to the ocean floor. Entries into the zones are prohibited unless authorized by the Coast Guard Captain of the Port Honolulu, HI.

**DATES:** This rule is effective April 19, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD14-03-001 and are available for inspection or copying at Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Blvd., Honolulu, HI 96813 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant (Junior Grade) E. G. Cantwell, U.S. Coast Guard, Marine Safety Office Honolulu, Hawaii at (808) 522-8260.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On February 4, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; Oahu, Maui, Hawaii, and Kauai, HI" in the **Federal Register** (68 FR 5614). We received three public comments on the proposed rule. No public hearing was requested and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public

interest since there is a continuing and immediate need to protect persons, vessels, and facilities in the various areas on the islands of Oahu, Maui, Hawaii, and Kauai, HI. Under these circumstances, following the normal rulemaking procedures would be impracticable.

### Background and Purpose

Terrorist attacks in New York City, New York and on the Pentagon Building in Arlington, Virginia, on September 11, 2001, have called for the implementation of additional measures to protect national security. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. This rule is similar to a temporary rule published October 30, 2002, creating security zones in these areas until April 19, 2003 (67 FR 66049).

### Discussion of Comments and Changes

The Coast Guard received three comments following the publication of the notice of proposed rulemaking (NPRM) in the **Federal Register**. The first commenter raised four issues.

The first issue focused on the requirements for recreational, commercial fishing and commercial tourism vessels to request permission to transit the various security zones. The commenter indicated that the requirement is burdensome for vessel operators that are not required to carry a VHF-FM marine radio. These vessel operators are unable to contact the Captain of the Port via radio to request permission to transit a security zone and they are unable to hear the Broadcast Notices to Mariners announcing the status of the temporary zones. In the absence of a VHF-FM radio, the vessel operators may contact the Command Center via telephone, but a long distance call to the Command Center from the Outer Islands was considered to be unreasonable.

The Coast Guard understands that all vessels are not required to carry a VHF-FM marine radio. For those vessels, operators have the option to contact the Coast Guard via telephone either locally at 541-2477 or toll free at (800) 552-6458. While the Broadcast Notice to Mariners are only transmitted over the VHF-FM marine radio, if a vessel operator calls the Coast Guard on the telephone, they will be able to find out the status of the security zones and if necessary ask permission to enter the zone. Additionally, all Broadcast Notices to Mariners may be viewed on the U.S. Coast Guard Navigation Center Web site at [www.navcen.uscg.gov/lnm/d14](http://www.navcen.uscg.gov/lnm/d14). Due to the various options

available to contact the Coast Guard, we do not believe it is an unreasonable burden to require the mariner to determine the status of the security zone before transiting the area. To provide additional options, the final rule includes the toll free number and also allows mariners to submit written requests by mail or fax.

The second issue concerns communications issues of recreational vessels complying with these regulations. The questions were raised as to how a recreational boater may obtain information about security zones, and what the penalties were for transiting a security zone without permission.

Current enforcement status information on security zones is reflected in the Broadcast Notice to Mariners, and on a website as stated in the response to comment number one. In addition, recreational boaters may contact the Command Center at VHF-FM channel 16, via the local telephone number 541-2477, or toll free at (800) 552-6458 for additional status information. Entering a security zone without the permission of the Captain of the Port is a violation of the Magnuson Act, 50 U.S.C. 191 and 33 CFR part 6. A violation of this section may result in a civil penalty of not more than \$25,000 for each violation or a criminal penalty resulting in imprisonment of not more than ten years and a fine not more than \$10,000. A reference to the penalty provision has been added to the final rule.

The third issue concerned possible impact on Small Entities. This comment was concerned that the small vessel operators lacking VHF-FM marine radios might be impeded in transiting security zones. Therefore, the commenter felt that this might constitute an economic impact on Small Entities.

The Coast Guard believes that the burden of requiring small vessels to contact the Captain of the Port prior to transiting the area is reasonable in relation to the security provided to the respective ports. All small vessel operators have had, and will continue to have, reasonable access to the navigable waters.

The fourth issue was a request that all the security zones be depicted on nautical charts. The commenter felt that this would improve awareness of and compliance with security zone regulations.

The Coast Guard has made arrangements for the zones to be published in both the Coast Pilot and on the applicable nautical charts once the proposed rule becomes final. The Coast

Guard looks forward to working with the local harbor safety committee to increase the public awareness of these zones through various methods in addition to publication in the Coast Pilot and updated nautical charts.

The second commenter requested that commercial Tugboat and Marine Transportation Companies who provide frequent and routine delivery of freight and fuel to the Hawaiian Islands be exempt from the requirement of asking permission to enter a port where a security zone is in place. Their concern is that the burden of asking permission would tie up phone lines, distract watch standers, and possibly delay deliveries of freight and fuel.

The Coast Guard believes that the requirement of asking permission to enter a security zone is the least restrictive means to maintain an adequate level of security and is not excessively burdensome to the commercial Tugboat and Marine Transportation Companies or to the Coast Guard to field these requests.

The third commenter stated that the distance between the furthest in-shore point of the security zone at the Tesoro and Chevron offshore moorings and the reef is too short to allow recreational traffic to safely pass.

The span of water between the furthest shoreward point of the security zone and the 3-fathom curve is approximately 200 yards. This span has an average depth of approximately 6 fathoms. The Coast Guard believes this span is adequate to allow safe passage of recreational traffic.

There are additional revisions to the final rule. The Authority list was amended to include more relevant federal statutes and to reflect the Coast Guard's transition from the Department of Transportation to the Department of Homeland Security. The definition for the term "voyage" was revised to provide a more accurate description of the term.

### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies

and procedures of DHS is unnecessary. This expectation is based on the fact that vessels will be able to freely transit the areas outside of any security zones. In addition, vessels can request the COTP allow their transit through the security zones.

#### 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.

The Coast Guard received one comment indicating that the small vessel operators lacking VHF–FM marine radios might be impeded in transiting security zones. Therefore, the commenter felt that this might constitute an economic impact on Small Entities.

The Coast Guard believes that the burden of requiring small vessels to contact the Captain of the Port prior to transiting the area is reasonable in relation to the security provided to the respective ports. All small vessel operators have had, and will continue to have, reasonable access to the navigable waters.

#### Assistance for Small Entities

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).

#### 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 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under ADDRESSES.

#### List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, Security measures, Waterways.

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 110 and 165 as follows:

#### PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1(g), and Department of Homeland Security Delegation No 0170.

■ 2. In § 110.235 add a new paragraph (c) to read as follows:

**§ 110.235 Pacific Ocean (Mamala Bay), Honolulu Harbor, Hawaii (Datums: NAD 83).**  
\* \* \* \* \*

(c) Before entering into the anchorage grounds in this section you must first obtain permission from the Captain of the Port Honolulu.

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

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

**Authority:** 33 U.S.C. 1221 through 1236; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 4. A new § 165.1407 is added to read as follows:

**§ 165.1407 Security Zones; Oahu, Maui, Hawaii, and Kauai, HI.**

(a) Location. The following areas, from the surface of the water to the ocean floor, are security zones:

(1) All waters of Honolulu Harbor and entrance channel, Keehi Lagoon, and General Anchorages A, B, C, and D as defined in 33 CFR 110.235 that are shoreward of the following coordinates: The shoreline at 21°17.68' N, 157°52.0' W; thence due south to 21°16.0' N, 157°52.0' W; thence due west to 21°16.0' N, 157°55.58' W; thence due north to Honolulu International Airport Reef Runway at 21°18.25' N, 157°55.58' W.

(2) The waters around the Tesoro Single Point and the Chevron Conventional Buoy Moorings beginning at 21°16.43' N, 158°6.03' W; thence northeast to 21°17.35' N, 158°3.95' W; thence southeast to 21°16.47' N, 158°3.5' W; thence southwest to 21°15.53' N, 158°5.56' W; thence north to the beginning point.

(3) The Kahului Harbor and Entrance Channel, Maui, HI consisting of all waters shoreward of the COLREGS DEMARCATION line. (See 33 CFR 80.1460).

(4) All waters within the Nawiliwili Harbor, Kauai, HI shoreward of the COLREGS DEMARCATION line (See 33 CFR 80.1450).

(5) All waters of Port Allen Harbor, Kauai, HI shoreward of the COLREGS DEMARCATION line (See 33 CFR 80.1440).

(6) The waters within a 100-yard radius centered on each cruise ship in Hilo Harbor, Hawaii, HI and Entrance Channel shoreward of the COLREGS DEMARCATION (See 33 CFR 80.1480). This is a moving security zone when the cruise ship is in transit and becomes a fixed zone when the cruise ship is anchored or moored.

(7) The waters extending out 500 yards in all directions from cruise ships anchored or position keeping within 3 miles of:

(i) Lahaina Harbor, Maui, HI, between Makila Point and Puunoa Point.

(ii) Kailua-Kona Harbor, Hawaii, HI, between Keahulolu Point and Puapuaa Point.

(8) All waters contained within the Barbers Point Harbor, Oahu, HI, enclosed by a line drawn between Harbor Entrance Channel Light 6 and the jetty point day beacon at 21° 19.5' N, 158°07.3' W.

(b) Designated Representative: A designated representative of the Captain of the Port is any Coast Guard commissioned officer, warrant or petty officer that has been authorized by the Captain of the Port Honolulu to act on his behalf.

(c) Cruise ship: For the purposes of this section, the term “cruise ship” is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. A “voyage” in this section means the cruise ship’s entire course of travel, from the first port at which the cruise ship embarks passengers until its return to its last port of call where the majority of passengers are disembarked.

(d) Regulations. (1) In accordance with § 165.33, entry into these zones is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu, or his designated representatives. Section 165.33 also contains other general requirements.

(2) The existence or status of the security zones in this section will be announced periodically by Broadcast Notice to Mariners.

(3) Persons desiring to transit the areas of the security zones may contact the Captain of the Port by calling the Command Center at telephone numbers (808) 541–2477 or (800) 552–6458, or on VHF channel 16 (156.8 Mhz) to seek permission to transit the area. Written requests may be submitted to the Captain of the Port, Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Blvd., Honolulu, HI 96813 or faxed to (808) 522–8270. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his designated representatives.

(4) Persons entering a security zone without authorization of the Captain of the Port may be subject to a civil penalty of not more than \$25,000 for each violation or a criminal penalty resulting in imprisonment of not more than ten years and a fine not more than \$10,000.

Dated: April 14, 2003.

**G.A. Wiltshire,**

*Captain, U.S. Coast Guard, Commander, Fourteenth Coast Guard District, Acting.*

[FR Doc. 03–10215 Filed 4–24–03; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 411**

[CMS–1809–F3]

RIN 0938–AM21

**Medicare and Medicaid Programs; Physicians’ Referrals to Health Care Entities With Which They Have Financial Relationships: Extension of Partial Delay of Effective Date**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), DHHS.

**ACTION:** Final rule; extension of partial delay in effective date.

**SUMMARY:** This final rule further delays for 6 months, until January 7, 2004, the effective date of the last sentence of 42 CFR 411.354(d)(1). This section was promulgated in the final rule entitled “Medicare and Medicaid Programs; Physicians’ Referrals to Health Care Entities With Which They Have Financial Relationships,” published in the **Federal Register** on January 4, 2001. A 1-year delay of the effective date of the last sentence in this section was published in the **Federal Register** on December 3, 2001. An additional 6-month delay, until July 7, 2003, was published on November 22, 2002. This further extension of the delay in the effective date of that sentence will give us additional time to reconsider the definition of compensation that is “set in advance” as it relates to percentage compensation methodologies in order to avoid unnecessarily disrupting existing contractual arrangements for physician services. Accordingly, the last sentence of § 411.354(d)(1), which would have become effective July 7, 2003, will not become effective until January 7, 2004. We expect that the definition of “set in advance” will be addressed definitively before January 7, 2004 in a final rule with comment period, entitled “Medicare Program; Physicians’ Referrals to Health Care Entities With Which They Have Financial Relationships” (Phase II).

**DATES:** *Effective date:* The effective date of the last sentence in § 411.354(d)(1) of the final rule published in the **Federal Register** on January 4, 2001 (66 FR 856), is delayed to January 7, 2004.

**FOR FURTHER INFORMATION CONTACT:** Karen Raschke, (410) 786–0016.

**SUPPLEMENTARY INFORMATION:** This **Federal Register** document is available from the **Federal Register** online database through *GPO Access*, a service