

**Subpart C—The ESCAT Plan****§ 245.8 Purpose.**

This part establishes responsibilities, procedures, and instructions for the security control of civil and military air traffic in order to provide effective use of airspace under various emergency conditions.

**§ 245.9 Authority.**

(a) E.O. 12656, 18 November 1988, which assigns emergency preparedness functions to Federal departments and agencies.

(b) E.O. 13074, Amendment to E.O. 12656, February 9, 1998.

(c) E.O. 13286, Amendment of E.O. 13276, 13274, 13271, 13260, 13257, 13254, and 13231, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security, February 28, 2003.

(d) Title 10 U.S.C.—Armed Forces.

(e) Title 49 U.S.C., Subtitle VII—Aviation Programs.

(f) Communications Act of 1934, as amended.

(g) Aviation and Transportation Security Act of 2001 (Pub. L. 107-71), establishes the TSA and transfers civil aviation security responsibilities from FAA to TSA.

(h) Homeland Security Act of 2002 (Pub. L. 107-296), establishes DHS and transfers the transportation security functions of the DOT and Secretary of Transportation and the TSA to DHS.

(i) DoD Directive 5030.19,<sup>1</sup> “DoD Responsibilities on Federal Aviation and National Airspace System Matters,” outlines DoD/ NORAD responsibilities for the development of plans and policies in concert with the DOT, FAA and USCG for the establishment of a system for identification and emergency security control of air traffic.

**§ 245.10 Scope.**

This part applies to all U.S. territorial airspace and other airspace over which the FAA has air traffic control jurisdiction by international agreement.

<sup>1</sup>Copies may be obtained at <http://www.dtic.mil/whs/directives/corres/dir2.html>.

**§ 245.11 General description of the ESCAT plan.**

The part defines the authorities, responsibilities, and procedures to identify and control air traffic within a specified air defense area during air defense emergencies, defense emergency, or national emergency conditions.

(a) For the purpose of this part, the appropriate military authorities are as follows:

(1) Contiguous 48 U.S. states, including Washington, DC; Alaska; and Canada—Commander NORAD or individual NORAD Region/Sector commanders.

(2) Hawaii, Guam, Wake Island, other U.S. Pacific Territories, and Pacific oceanic airspace over which FAA has air traffic control jurisdiction by international agreement—Commander, U.S. Pacific Command (USPACOM) or designated AADC.

(3) Puerto Rico and U.S. Virgin Islands—Commander, NORAD.

(b) This part provides for security control of both civil and military air traffic. It is intended to meet threat situations such as:

(1) An emergency resulting in the declaration of an Air Defense Emergency by the appropriate military authority. Under this condition, NORAD and USPACOM Commanders have authority to implement ESCAT and may consider executing this part.

(2) An adjacent Combatant Command is under attack and an Air Defense Emergency has not yet been declared. Under these conditions, NORAD and USPACOM Commanders may direct implementation of ESCAT for their own AORs individually, if airspace control measures are warranted and agreed upon by DoD/DHS/DOT.

(3) Emergency conditions exist that either threaten national security or national interests vital to the U.S., but do not warrant declaration of Defense Emergency or Air Defense Emergency. Under these conditions, NORAD and USPACOM Commanders may direct implementation of ESCAT for their own AORs individually, if airspace control measures are warranted and agreed upon by DoD/DHS/DOT.

**§ 245.12 Amplifying instructions.**

(a) Prior to any formal ESCAT implementation, the appropriate military