

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.481 is added to read as follows:

§ 117.481 Milhomme Bayou

The draw of the Stephenville Bridge, mile 12.2 (Landside Route) at Stephenville shall open on signal if at least one hour of advance notice is given. During the advance notice period, the draw shall open on less than one hour notice for an emergency, and shall open on demand should a temporary surge in waterway traffic occur.

Dated: December 21, 2007.

J.R. Whitehead,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. E7–25495 Filed 12–31–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–0093]

RIN 1625–AA87

Security Zone; Kahului Harbor, Maui, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: On November 28, 2007, the Coast Guard published a temporary interim rule that created a security zone in the waters of Kahului Bay and Kahului Harbor, Maui, and on designated adjacent areas of land. This temporary final rule modifies the activation period of the security zone from the previous interim rule to allow the public greater access to Kahului Harbor and Kahului Bay during the transit of the Hawaii Superferry. This temporary final rule is intended to enable the Coast Guard and its law enforcement partners to better protect people, vessels, and facilities in and around Kahului Bay and Kahului Harbor during the transit of the Hawaii Superferry. This rule complements, but does not replace or supersede, existing regulations that establish a moving 100-yard security zone around large passenger vessels like the Superferry.

DATES: This rule is effective from January 2, 2008, through January 31, 2008. The Coast Guard will accept comments on this rule through January 31, 2008.

ADDRESSES: You may submit comments and related material, identified by Coast Guard docket number USCG–2007–0093, by any of the four methods listed below. To avoid duplication, please use only one of the following methods:

(1) *Mail:* Lieutenant Sean Fahey, U.S. Coast Guard District 14 (dl), Room 9–130, PJKK Federal Building, 300 Ala Moana Blvd., Honolulu, Hawaii 96850.

(2) *Electronically:* E-mail to Lieutenant Sean Fahey at *Sean.C.Fahey@uscg.mil* using the subject line “Comment—Maui Security Zone.”

(3) *Fax:* (808) 541–2101.

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

Documents indicated in this preamble as being available in the docket are part of docket USCG–2007–0093 and are available for inspection and copying at U.S. Coast Guard District 14 (dl), Room 9–130, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Sean Fahey, U.S. Coast Guard District 14 at (808) 541–2106.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this temporary rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. It would be contrary to the public interest to delay implementing this temporary rule, as any delay might result in damage or injury to the public, the Hawaii Superferry (HSF) and its passengers and crew, other vessels, facilities, and law enforcement personnel. Though operation of the HSF from Oahu to Maui was temporarily enjoined by the state circuit court in Maui, that injunction was lifted on November 14, 2007, following action by the Hawaii State legislature, and daily service to Maui resumed on December 13, 2007.

At the time we published the temporary interim rule for Kahului Bay and Kahului Harbor on November 28, 2007 (72 FR 67251), we cited assessments by the Maui Police Department that waterborne obstruction tactics similar to those used in Kauai in August 2007 were likely to be employed in Maui as our justification for implementing that rule without first publishing an NPRM, and for making

the rule effective less than 30 days after publication in the **Federal Register**. In that rule, the security zone for Kahului Bay and Kahului Harbor is automatically activated for enforcement 60 minutes prior to the Superferry’s arrival in the zone, and remains activated for enforcement until 10 minutes after its departure. Notice of the zone’s activation is provided by broadcast notice to mariners and the display of flags at Gate 1 at the main entrance to the harbor, on Pier No. 2, and at the harbor entrance on Wharf Street.

The Coast Guard position from the start has been that we would only enforce a fixed security zone in and around Kahului Harbor if it was necessary to do so to ensure the safety and security of people, vessels and facilities. As of December 21, 2007, the HSF has been able to transit through Kahului Bay and Kahului Harbor without serious impediment, and the Coast Guard believes that it is appropriate to modify the previously published interim rule in light of these events to allow lawful users greater access to the land and waters areas of the security zone. This modification will allow the Coast Guard the discretion to activate the security zone only when such action is necessary to respond to actions by would-be obstructers, such as using themselves as human shields to obstruct the HSF’s passage. This modification will be effected by changing the activation of the zone from an automatic event (one hour before the HSF arrives in, until ten minutes after the HSF departs from, Kahului Harbor) to a discretionary event—a determination by the Captain of the Port that activation of the zone is necessary to respond to the actions of HSF obstructers.

Though the Coast Guard has determined that the current security situation justifies a policy of only implementing the fixed security zone in and around Kahului Harbor when necessary to respond to acts or threatened acts that pose a hazard to the safety and security of people, vessels and facilities, the Coast Guard has also determined that it would be irresponsible to do away with a fixed security zone entirely. Just over a week of unopposed sailings into and out of Kahului by the HSF does not guarantee that would-be obstructers have entirely given up any thought of employing dangerous obstruction tactics in the harbor, when the HSF is most restricted in its ability to maneuver and thus at its most vulnerable. Indeed, waterborne protesters have illegally entered the waters of the security zone on several

occasions while the HSF was in Kahului Harbor, resulting in the need for enforcement action. Furthermore, activists from outside Maui, including admitted waterborne participants in the August 26 and 27 obstruction of the HSF in Nawiliwili Harbor, Kauai, have traveled to Maui, and have made statements in the press and otherwise in support of repeating the Kauai waterborne obstruction tactics on Maui. For these reasons, the Coast Guard believes it would be prudent, and in the best interests of safety, to retain a fixed security zone as a tool to be used when necessary to ensure the safe navigation of the HSF.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. Also, under 5 U.S.C. 553(d)(1) this rule may be made effective on January 2, 2008 because it relieves a restriction imposed by the current interim rule that the zone is activated automatically based on the arrival of the HSF.

Although the Coast Guard has good cause to issue this temporary rule without first publishing a proposed rule, you are invited to submit post-promulgation comments and related material regarding this rule through January 31, 2008. The Coast Guard received several comments on the interim rule, and this public input was useful in the creation of this temporary final rule. All comments will be reviewed as they are received. Your comments will assist us in drafting future rules should they be necessary, and may cause us to change this temporary final rule before it expires.

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) for their Docket Management Facility to process online submissions to Coast Guard dockets. 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>.

Background and Purpose

The Hawaii Superferry (HSF) is a 349-foot large passenger vessel documented by the U.S. Coast Guard with an endorsement for coastwise trade, and certified for large passenger vessel service in the United States. The HSF, operating Hawaii's first inter-island vehicle-passenger service, is intended to

provide service among the islands of Oahu, Maui, and Kauai. The sole port in Maui that can accommodate the HSF is Kahului Harbor. The sole port in Kauai that can accommodate the HSF is Nawiliwili Harbor.

The HSF inaugurated commercial service from Oahu to both Maui and Kauai on August 26, 2007. The voyage to and from Maui on that date occurred without incident. However, in Kauai, nearly 40 swimmers and obstructers on kayaks and surfboards blocked Nawiliwili Harbor's navigable channel entrance to prevent the lawful entry of the HSF into Kauai. Other demonstrators ashore threw rocks and bottles at Coast Guard personnel who were conveying detained obstructers to shore.

On the following day, August 27, 2007, the HSF again sailed to and from Maui without incident. Upon arrival in Kauai, however, approximately 70 persons entered the water again to physically block the channel entrance, thereby preventing the HSF from docking in Nawiliwili Harbor. Due to the difficulty in maneuvering in the small area of Nawiliwili Harbor, and in the interest of ensuring the safety of the protesters, the HSF's master chose not to enter the channel until the Coast Guard cleared the channel of obstructers. However, because the vessel remained outside the harbor, and because the obstructers did not approach within 100 yards of the vessel, the existing security zone for large passenger vessels (33 CFR 165.1410) did not provide the Coast Guard with the authority to control obstructer entry into Nawiliwili Harbor or clear the channel of obstructers before the HSF commenced its transit into the harbor. After waiting 3 hours, and with nearly 20 obstructers still in the water actively blocking the HSF, the HSF's master, after consulting with company officials, made the decision to return to Oahu without mooring in Kauai.

On August 28, HSF officials announced the "indefinite" suspension of commercial operations. Shortly after the company announced its suspension of operations, a Maui trial court judge in state court issued a temporary restraining order, which was followed by a preliminary injunction several weeks later, prohibiting HSF from utilizing the harbor improvements in Kahului Harbor, Maui. This injunction was the product of a Hawaii Supreme Court determination that the Hawaii Environmental Protection Act (HEPA) required the state to conduct an environmental assessment of the effects of the harbor improvements that were necessary to accommodate the HSF in

Kahului Harbor. Following the Supreme Court decision, the trial court determined that HEPA required the environmental assessment to be conducted before the HSF could use those harbor improvements; and since that assessment had not occurred, the injunction was a necessary remedy. The injunction only pertained to Kahului Harbor; it did not apply in Nawiliwili Harbor, Kauai. However, the HSF voluntarily decided not to sail to Kauai while the court case was ongoing.

In response to this judicial action, the governor called the Hawaii legislature into special session to consider whether to grant legislative relief to HSF. The legislature passed a bill during this special session called Act 2, which the governor signed into law. Act 2 allowed the HSF to utilize the harbor improvements in Maui and Kauai while all necessary environmental assessments were being conducted. The trial judge in Maui determined that this legislation overcame the requirement in HEPA that caused him to enjoin HSF from utilizing of the harbor improvements in Maui, and in a ruling on November 14, 2007, he dissolved and vacated the injunction. This opened the door to HSF resuming commercial service to Maui.

Notwithstanding the fact that the HSF did not face waterborne obstructers in Kahului Harbor during its commercial voyages there in August, 2007, intelligence and assessments by the Maui Police Department indicated a substantial likelihood that certain elements in Maui, disaffected by the process that led to adoption of Act 2 and vacation of the injunction, might adopt the dangerous tactics used by the obstructers in Kauai in an effort to prevent the HSF from safely arriving in Maui upon its resumption of service to the island in December. Individuals and groups had organized rallies and started several internet forums to encourage and coordinate support for their efforts. The dangerous and unlawful intent of these individuals and groups was clear, as was their resolve.

In response, on November 28, 2007, the Coast Guard published a temporary interim rule in the **Federal Register** (72 FR 67251) creating a security zone in the waters of Kahului Bay and Kahului Harbor, Maui, and on certain land features associated with Kahului harbor, to ensure the safety and security of people, vessels and facilities during the transit of the Hawaii Superferry. Under the provisions of that rule, the security zone is automatically activated for enforcement 60 minutes prior to the Superferry's arrival in the zone and remains activated for enforcement until

10 minutes after its departure. Notice of the zone's activation is provided by broadcast notice to mariners and the display of flags at Gate 1 at the main entrance to the harbor, on Pier No. 2, and at the harbor entrance on Wharf Street.

Legitimate recreational users of Kahului Harbor have expressed concern about the security zone's potential impact on their recreational activities. This concern was reflected in several of the comments the Coast Guard received on the interim rule, in comments reported in the press, and in informal conversations between harbor users and Coast Guard representatives. In view of the fact that in the HSF's first full week of resumed operations in Maui there were no attempts to engage in waterborne obstructions of the HSF's passage, the Coast Guard has determined that there is no longer a need for the zone to automatically be activated every time the HSF approaches and enters Kahului Harbor. Thus, the Coast Guard is creating this temporary final rule that does away with automatic activation of the fixed security zone, and instead grants the Captain of the Port discretion to activate the zone only when he determines that acts or threatened acts pose a hazard to the safety and security of people, vessels and facilities. When the security zone is activated for enforcement, notice will be provided via a marine information broadcast, and via the display of flags at Gate 1 at the main entrance of the harbor, on Pier No. 2, and at the harbor entrance on Wharf Street. This rule does not in any way change the dimensions of the zone established in the temporary interim rule this rule is replacing, nor does it replace or supersede existing regulations that establish a moving 100-yard security zone around large passenger vessels like the Superferry.

This temporary security zone is in response to the threat posed by would-be obstructers in and around Kahului Harbor to HSF and its crew and passengers, law enforcement officers working to ensure HSF's safe transit, and the obstructers themselves. By designating significant portions of the waters of Kahului Harbor and Kahului Bay, and specified areas of land adjacent to the water, as a security zone, this temporary security zone rule provides the Coast Guard and its law enforcement partners the authority to prevent persons and vessels from entering or remaining in the water with the intent of using themselves as human barriers to impede the HSF's safe passage.

Discussion of Rule

This rule creates a temporary security zone in most of the waters of Kahului Harbor, Maui; in waters of Kahului Bay, Maui; and on designated areas of land adjacent to Kahului Harbor. This temporary final rule is effective from January 2, 2008, through January 31, 2008. When the security zone is activated for enforcement, notice will be given by marine information broadcast and by a red flag, illuminated between sunset and sunrise, posted at the following locations: At Gate 1 at the main entrance to the harbor; on Pier No. 2; and at the harbor entrance on Wharf Street. During its period of activation and enforcement, entry into the land and water areas of the security zone is prohibited without the permission of the Captain of the Port, Honolulu, or his or her designated representative.

In preparing this temporary rule, the Coast Guard made sure to consider the rights of lawful protestors. To that end, the Coast Guard excluded from the security zone a defined region which creates a sizeable area of water in which demonstrators may lawfully assemble and convey their message in a safe manner to their intended audience. This area of the harbor not included in the security zone is completely accessible to anyone who desires to enter the water, even when the security zone is activated, and is fully visible to observers ashore, at the HSF mooring facility, aboard the HSF when transiting the harbor, and from the air.

The Coast Guard also took into account the lawful users of Kahului Harbor and Kahului Bay in its creation of this temporary rule. As previously noted, the rule will only be activated when necessary. With the exception of the 33 CFR 165.1408 100-yard security zone noted above that surrounds all large passenger vessels, Kahului Harbor and Kahului Bay will be fully available to all users during the period when the security zone is not activated. Furthermore, the rule affords those desiring to use the harbor and surrounding waters and land areas with the opportunity to request, and a process for requesting, permission of the Captain of the Port to enter the zone while it is activated in a manner that will not endanger any vessel, waterfront facility, the port, or any person.

The security zone incorporates the minimum land and water areas necessary to ensure the purposes underlying the rule's creation are served. Waters outside of the harbor are included in the zone to ensure that the HSF is able to line up, unimpeded, on the range that guides it safely into

Kahului Harbor. The breakwaters on either side of the harbor entrance are included in the zone to ensure that would-be obstructers do not have a ready staging point for attempting to block the very narrow entrance to Kahului Harbor. Pier No. 2, to which the HSF ties up, is included in the security zone, is entirely fenced off, and not legally accessible except to authorized personnel. Other than the designated protest area, the waters of Kahului Harbor, including areas of the harbor not navigable by the HSF, are included in the zone to prevent would-be obstructers from interfering with law enforcement vessels in the harbor that are working to ensure the HSF's safe passage.

Under 33 CFR 165.33, entry by persons or vessels into the security zone during a period of zone activation is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu or his or her designated representatives.

Operation of any type of vessel, including every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, within the security zone while the zone is activated is prohibited. If a vessel is found to be operating within the security zone without permission of the Captain of the Port, Honolulu while the zone is activated, the vessel is subject to seizure and forfeiture.

All persons and vessels permitted in the security zone while the zone is activated must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel include commissioned, warrant, and petty officers of the Coast Guard and other persons permitted by law to enforce this regulation. Upon being hailed by an authorized vessel or law enforcement officer using siren, radio, flashing light, loudhailer, voice command, or other means, the operator of the vessel must proceed as directed.

If authorized passage through the security zone, a vessel must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the Captain of the Port or his or her designated representatives. While underway with permission of the Captain of the Port or his or her designated representatives, under 33 CFR 165.1408, no person or vessel is allowed within 100 yards of the HSF when it is underway, moored, position-keeping, or at anchor, unless authorized by the Captain of the Port or his or her designated representatives.

When conditions permit, the Captain of the Port, or his or her designated representatives, may permit vessels that are at anchor, restricted in their ability to maneuver, or constrained by draft to remain within the security zone during the enforcement period in order to ensure navigational safety. Any Coast Guard commissioned, warrant, or petty officer, and any other person permitted by law, may enforce the regulations in this section.

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This expectation is based on the short activation and enforcement duration of the security zone created by this temporary rule, as well as the limited geographic area affected by the security zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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. While we are aware that the affected area has small entities, including canoe and boating clubs and small commercial businesses that provide recreational services, we anticipate that there will be little or no impact to these small entities due to the narrowly tailored scope of this temporary rule, as well as the fact that such entities can request permission from the Captain of the Port to enter the security zone when it is activated.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

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 this rule so that they may better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Sean Fahey, U.S. Coast Guard District 14, at (808) 541–2106. 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 either preempts State law or imposes 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 affect 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. While some obstructers, both on land and on shore, used small children in furtherance of their obstruction activities during the August 26 and 27 HSF arrivals into Kauai, and while online forums and other sources indicate that some organizers are actively recruiting adolescents and small children with the intent of putting them in harm’s way should the HSF attempt to enter either Kauai or Maui, any heightened harm faced by children as a result of these tactics has no relation to the creation of this rule. Instead, those heightened risks are entirely the product of persons who recruit and employ adolescents and children to put themselves at risk of death or serious physical injury by attempting to physically obstruct the passage of a large passenger vessel in a small harbor.

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 is 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 Commandant Instruction M16475.1D, 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 limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, under figure 2–1, paragraph (34)(g) of the Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. An “Environmental Analysis Checklist” and “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 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; 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. Revise temporary § 165.T14–164 to read as follows:

§ 165.T14–164 Security Zone; Kahului Harbor, Maui, HI.

(a) *Location.* The following land areas, and water areas from the surface of the water to the ocean floor, are a security zone that is activated as described in paragraph (c) of this section, and

enforced subject to the provisions of paragraph (d) of this section:

(1) All waters of Kahului Harbor, Maui, shoreward of the Kahului Harbor COLREGS DEMARCATION LINE (see 33 CFR 80.1460), except for a zone extending from the shoreline with the following three legs as boundaries:

(i) A leg extending in a straight line between Buoy “10” (LLNR 28375) and Buoy “12” (LLNR 28380);

(ii) A leg extending in a straight line between Buoy “10” (LLNR 28375) and the nearest shoreline point; and

(iii) A leg extending in a straight line between Buoy “12” (LLNR 28380) and the fence line at the southwestern base of Pier Two, at position (20°53.589’N, 156°28.084’W).

(2) Pier No. 2 in Kahului Harbor.

(3) The eastern breakwater at the entrance of Kahului Harbor, beginning at the east break wall (20°53.958’N, 156°28.161’W).

(4) The western breakwater at the entrance of Kahului Harbor, beginning at the berm on the west break wall (20°53.925’N, 156°28.611’W).

(5) All waters of Kahului Bay bounded on the south by the COLREGS DEMARCATION LINE (see 33 CFR 80.1460); bounded on the north by line of latitude 20°56’N; bounded on the west by a straight line drawn from the berm on the west break wall (20°53.925’N, 156°28.611’W) at a direction of 330° to the line of latitude 20°56’N; and bounded on the east by a straight line drawn from the east break wall (20°53.958’N, 156°28.161’W) at a direction of 030° and ending at the line of latitude 20°56’N.

(b) *Effective period.* This section is effective from January 2, 2008, through January 31, 2008. It will be activated for enforcement as described in paragraph (c) of this section.

(c) *Zone activation.* The zone described in paragraph (a) of this section will be activated for enforcement when necessary, as determined by the Captain of the Port Honolulu, to prevent damage or injury to vessels, persons, and waterfront facilities, including the Hawaii Superferry, its passengers and crew. The zone, however, will be activated no sooner than 60 minutes before the Hawaii Superferry’s anticipated arrival into the zone and will remain activated no more than 10 minutes after the Hawaii Superferry’s departure from the zone. Notice of activation of the zone will be made by the issuance of a marine information broadcast, and by the hoisting of a red flag, illuminated between sunset and sunrise, posted at the following locations: at Gate 1 at the main entrance to the harbor; on Pier No.

2; and at the harbor entrance on Wharf Street.

(d) *Regulations.* (1) Under 33 CFR 165.33, entry by persons or vessels into the security zone created by this section and activated as described in paragraph (c) of this section is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu or his or her designated representatives. Operation of any type of vessel, including every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, within the security zone is prohibited. If a vessel is found to be operating within the security zone without permission of the Captain of the Port, Honolulu, and refuses to leave, the vessel is subject to seizure and forfeiture.

(2) All persons and vessels permitted in the security zone while the zone is activated must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard and other persons permitted by law to enforce this regulation. Upon being hailed by an authorized vessel or law enforcement officer using siren, radio, flashing light, loudhailer, voice command, or other means, the operator of a vessel must proceed as directed.

(3) If authorized passage through the security zone while the zone is activated, a vessel must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the Captain of the Port or his or her designated representatives. While underway with permission of the Captain of the Port or his or her designated representatives, no person or vessel is allowed within 100 yards of the Hawaii Superferry when it is underway, moored, position-keeping, or at anchor, unless authorized by the Captain of the Port or his or her designated representatives.

(4) Persons desiring to transit the security zone in this section while the zone is activated may contact the Captain of the Port at telephone number (808) 927–0865 or on VHF channel 12 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representatives. When conditions permit, the Captain of the Port, or his or her designated representatives, may permit vessels that are at anchor, restricted in their ability to maneuver, or constrained by draft to remain within the security zone in order to ensure navigational safety.

(e) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce this temporary security zone.

Dated: December 21, 2007.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander, Fourteenth Coast Guard District.

[FR Doc. E7-25496 Filed 12-31-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2007-1074, FRL-8504-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and San Joaquin Valley Air Pollution Control District (SJVAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that address circumvention, reduction of animal matter, and volatile organic compound (VOC) emissions from gasoline bulk storage tanks, gasoline filling stations, petroleum refinery

equipment, and petroleum solvent dry cleaning.

DATES: This rule is effective on March 3, 2008 without further notice, unless EPA receives adverse comments by February 1, 2008. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2007-1074, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot

contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action 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: Al Petersen, EPA Region IX, (415) 947-4118, petersen.alfred@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted, amended, or revised by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES FOR FULL APPROVAL

District	Rule No.	Rule title	Adopted, amended, or revised	Submitted
MBUAPCD ...	415	Circumventions	03/21/07 Revised ..	08/24/07
MBUAPCD ...	418	Transfer of Gasoline into Stationary Storage Containers	03/21/07 Revised ..	08/24/07
MBUAPCD ...	1002	Transfer of Gasoline into Vehicle Fuel Tanks	03/21/07 Revised ..	08/24/07
SJVUAPCD ..	4104	Reduction of Animal Matter	12/17/92 Amended	08/24/07
SJVUAPCD ..	4402	Crude Oil Production Sumps	12/17/92 Amended	08/24/07
SJVUAPCD ..	4404	Heavy Oil Test Station—Kern County	12/17/92 Adopted	08/24/07
SJVUAPCD ..	4453	Refinery Vacuum Producing Devices or Systems	12/17/92 Amended	08/24/07
SJVUAPCD ..	4454	Refinery Process Unit Turnaround	12/17/92 Amended	08/24/07
SJVUAPCD ..	4625	Wastewater Separators	12/17/92 Amended	08/24/07
SJVUAPCD ..	4641	Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations.	12/17/92 Amended	08/24/07
SJVUAPCD ..	4672	Petroleum Solvent Dry Cleaning Operations	12/17/92 Amended	08/24/07