

5. In § 52.137, paragraph (a)(26) is added to read as follows:

**§ 52.137 Contents of applications; technical information.**

\* \* \* \* \*

(a) \* \* \*  
(26) For applications for standard design approvals which are subject to 10 CFR 52.500, the information required by 10 CFR 52.500.

\* \* \* \* \*

6. In § 52.157, paragraph (f)(32) is added to read as follows:

**§ 52.157 Contents of applications; technical information in final safety analysis report.**

\* \* \* \* \*

(f) \* \* \*  
(32) For applications for manufacturing licenses which are subject to 10 CFR 52.500, the information required by 10 CFR 52.500.

7. In § 52.303, paragraph (b) is revised to read as follows:

**§ 52.303 Criminal penalties.**

\* \* \* \* \*

(b) The regulations in part 52 that are not issued under Sections 161b, 161i, or 161o for the purposes of Section 223 are as follows: §§ 52.0, 52.1, 52.2, 52.3, 52.7, 52.8, 52.9, 52.10, 52.11, 52.12, 52.13, 52.15, 52.16, 52.17, 52.18, 52.21, 52.23, 52.24, 52.27, 52.28, 52.29, 52.31, 52.33, 52.39, 52.41, 52.43, 52.45, 52.46, 52.47, 52.48, 52.51, 52.53, 52.54, 52.55, 52.57, 52.59, 52.61, 52.63, 52.71, 52.73, 52.75, 52.77, 52.79, 52.80, 52.81, 52.83, 52.85, 52.87, 52.93, 52.97, 52.98, 52.103, 52.104, 52.105, 52.107, 52.109, 52.131, 52.133, 52.135, 52.136, 52.137, 52.139, 52.141, 52.143, 52.145, 52.147, 52.151, 52.153, 52.155, 52.156, 52.157, 52.158, 52.159, 52.161, 52.163, 52.165, 52.167, 52.171, 52.173, 52.175, 52.177, 52.179, 52.181, 52.301, 52.303, 52.500, and 52.502.

8. A new subpart K—Additional Requirements and § 52.500 are added to read as follows:

**Subpart K—Additional Requirements**

Sec.

52.500 Aircraft impact assessment.  
52.502 Control of changes to FSAR information.

**Subpart K—Additional Requirements**

**§ 52.500 Aircraft impact assessment.**

(a) The requirements of this section apply to all standard design certifications issued after [EFFECTIVE DATE OF FINAL RULE] that do not reference a standard design approval; standard design approvals issued after [EFFECTIVE DATE OF FINAL RULE]; combined licenses issued after

[EFFECTIVE DATE OF FINAL RULE] that do not reference a standard design certification, standard design approval, or manufactured reactor; and manufacturing licenses issued after [EFFECTIVE DATE OF FINAL RULE] that do not reference a standard design certification or standard design approval.

(b) Each applicant for a standard design certification not referencing a standard design approval; a standard design approval; a combined license not referencing a standard design certification, standard design approval, manufacture reactor; or a manufacturing license not referencing a standard design certification or standard design approval shall perform a design-specific assessment of the effects on the designed facility of the impact of a large, commercial aircraft. Such assessment must be based on the Commission's specified aircraft characteristics used to define the beyond-design-basis impact of a large, commercial aircraft used for long distance flights in the United States, with aviation fuel loading typically used in such flights, and an impact speed and angle of impact considering the ability of both experienced and inexperienced pilots to control large, commercial aircraft at the low altitude representative of a nuclear power plant's low profile.

(c) Based upon the insights gained from the aircraft impact assessment as stated in paragraph (b) of this section, the application must include a description and evaluation of the design features, functional capabilities, and strategies to avoid or mitigate the effects of the applicable, beyond-design-basis aircraft impact. The evaluation of such design features, functional capabilities, and strategies must include core cooling capability, containment integrity, and spent fuel pool integrity. The application must describe how such design features, functional capabilities, and strategies avoid or mitigate, to the extent practicable, the effects of the applicable aircraft impact with reduced reliance on operator actions.

**§ 52.502 Control of changes to FSAR information.**

(a) For standard design certifications which are subject to 10 CFR 52.500, generic changes to the information required by 10 CFR 52.47(a)(28) to be included in the final safety analysis report are governed by the applicable requirements of 10 CFR 52.63.

(b) For combined license applicants or holders which are not subject to 10 CFR 52.500 but reference a standard design certification which is subject to 10 CFR 52.500, proposed departures from the

information required by 10 CFR 52.47(a)(28) to be included in the final safety analysis report for the standard design certification are governed by the change control requirements in the applicable design certification rule.

(c) For combined licenses which are subject to 10 CFR 52.500, if the licensee changes the information required by 10 CFR 52.79(a)(47) to be included in the final safety analysis report, then the licensee shall re-perform that portion of the evaluation required by 10 CFR 52.500(c) addressing the changed feature, capability, or strategy, and describe, in the re-evaluation, how the modified design features, functional capabilities, and strategies avoid or mitigate, to the extent practicable, the effects of the applicable aircraft impact with reduced reliance on operator actions.

(d) For manufacturing licenses which are subject to 10 CFR 52.500, generic changes to the information required by 10 CFR 52.157(f)(32) to be included in the final safety analysis report are governed by the applicable requirements of 10 CFR 52.171.

(e) For combined license applicants or holders which are not subject to 10 CFR 52.500 but reference a manufactured reactor which is subject to 10 CFR 52.500, proposed departures from the information required by 10 CFR 52.157(f)(32) to be included in the final safety analysis report for the manufacturing license are governed by the applicable requirements in 10 CFR 52.171(b)(2).

Dated at Rockville, Maryland, this 27th day of September 2007.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 07–4886 Filed 10–2–07; 8:45 am]

BILLING CODE 7590–01–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2007–29354]

RIN 1625–AA87

**Security Zone; Nawiliwili Harbor, Kauai, HI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to create a security zone in the waters of Nawiliwili Harbor, Kauai, and on the land of the jetty south of Nawiliwili

Park, including the jetty access road commonly known as Jetty Road. This zone is intended to enable the Coast Guard and its law enforcement partners to better protect people, vessels, and facilities in and around Nawiliwili Harbor in the face of non-compliant obstructers who have impeded, and threaten to continue impeding, the safe passage of the Hawaii Superferry in Nawiliwili Harbor. This rule would complement, but not replace or supersede, existing regulations that establish a moving 100-yard security zone around large passenger vessels like the Hawaii Superferry.

**DATES:** Comments and related material must reach the Coast Guard on or before October 24, 2007.

**ADDRESSES:** You may submit comments and related material, identified by Coast Guard docket number USCG-2007-29354, to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

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

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) Quincy Adams, U.S. Coast Guard Sector Honolulu at (808) 522-8264.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include the docket number for this rulemaking (USCG-2007-29354), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows us to contact you in the event further information is needed or if there are questions. For example, if we cannot read your submission due to technical

difficulties and you cannot be contacted, your submission may not be considered.

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) to use the Docket Management Facility. 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>.

Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them. If, as we anticipate, we make this temporary final rule effective less than 30 days after publication in the **Federal Register**, we will explain in that publication, as required by 5 U.S.C. 553(d)(3), our good cause for doing so.

##### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one to Lieutenant (Junior Grade) Quincy Adams at U.S. Coast Guard Sector Honolulu, Sand Island Parkway, Honolulu, Hawaii 96819-4398, explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **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 certificated 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 HSF enters Kauai at Nawiliwili Harbor, a federally maintained waterway. During the HSF's inaugural commercial trip to Kauai on August 26, 2007, 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. Many of the obstructers entered the water from the jetty that is south of Nawiliwili Park, which is adjacent to the Matson shipping facility in Nawiliwili Harbor.

Other demonstrators ashore on the jetty threw rocks and bottles at Coast Guard personnel who were conveying detained obstructers to shore. Coast Guard Station Kauai resources were eventually able to clear the channel for the HSF's arrival while also ensuring the personal safety of the waterborne obstructers. The HSF was able to dock on August 26, 2007.

On the following day, August 27, 2007, approximately 70 persons entered the water again to block the channel entrance, thereby preventing the HSF from docking in Nawiliwili Harbor. Due to the difficulty of maneuvering in the small area of Nawiliwili, 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 was forced to return to Oahu without mooring in Kauai. This decision was made by the Superferry's master, in consultation with company officials.

As a result of the events of August 26 through 27, 2007, the HSF voluntarily suspended operations between Oahu and Kauai on August 28, 2007. HSF's goal, however, was and is to resume operations between Oahu and Kauai as soon as possible. As of September 26, 2007, there are no, nor have there been, state court injunctions or other legal prohibitions on the HSF resuming operations between Oahu and Kauai.

Responding to these unexpected events, the Coast Guard's Fourteenth District Commander established a temporary fixed security zone in Nawiliwili Harbor. That emergency rulemaking established a temporary security zone in order to prevent persons and vessels from endangering themselves and HSF passengers and crew by attempting to impede the vessel's passage after it commences the difficult transit into the harbor. That rule, which became effective September 1, 2007, was issued by the Coast Guard's Fourteenth District Commander on August 31, 2007 (72 FR 50877, September 5, 2007).

Several events have occurred since August 31, 2007, that have precluded

the HSF from resuming commercial service between Oahu and Kauai, notwithstanding the existence of an effective temporary rule that permits activation of a fixed security zone to clear Nawiliwili Harbor for its arrivals and departures. The HSF's parent company is involved in litigation in Maui that has resulted in a temporary restraining order prohibiting HSF commercial service between Oahu and Maui. That litigation is still unresolved. Also, several groups have initiated a lawsuit in Kauai to enjoin the Superferry from operating between Oahu and Kauai; that lawsuit is still ongoing as well. The HSF was scheduled to resume commercial service between Oahu and Kauai on September 26, 2006, but voluntarily decided not to resume service on that date due to considerations of safety and the public interest. As before, however, the HSF could resume operations to Kauai at any time, since there are no federal or state legal impediments to such operations.

The purpose of this proposed temporary rule is several-fold. First, by designating significant portions of the waters of Nawiliwili Harbor as a security zone, activated for enforcement 60 minutes before the HSF's arrival into the zone through 10 minutes after its departure from the zone, the temporary rule would provide the Coast Guard and its law enforcement partners the authority to prevent persons and vessels from endangering themselves and the HSF passengers and crew by attempting to impede the vessel's passage after it commences the difficult transit into the harbor. Extending the security zone to Nawiliwili Jetty and its access road would provide law enforcement personnel with the authority necessary to control access into the water so the HSF may enter and depart the harbor safely and unimpeded by obstructers. Furthermore, closing off the jetty and its access road would prevent violent protesters from continuing to impede law enforcement operations and endanger law enforcement personnel by throwing rocks, bottles, and other dangerous objects. Finally, the security zone would make land adjacent to the harbor available for law enforcement purposes, and in fact would be used by the Patrol Commander (the person in overall command of all waterborne law enforcement assets present in Nawiliwili Harbor enforcing the security zone) as the command post during any Superferry protests.

This NPRM proposes a rule that would be the successor to the original temporary final rule that is set to expire on October 31, 2007. There is continued uncertainty regarding when, if ever, the

HSF might resume service into Nawiliwili Harbor. The resolve of obstructers to continue attempting to impede the Superferry's passage into and through Nawiliwili Harbor, should it indeed resume service there, has been vocally manifested. Therefore, the Coast Guard has determined there is a need to ensure that law enforcement personnel will still have a fixed security zone available to them beyond the expiration date of the original temporary final rule to facilitate the safe arrival of the HSF, should it again return to Nawiliwili Harbor. This is the reason for this proposed rulemaking.

The proposed rule would be in effect from November 1, 2007, until December 31, 2007. It is reasonably anticipated that the need for a fixed security zone of this nature will no longer be needed on Kauai after December 31, 2007, though the Coast Guard may, if necessary, draft further rules as necessary and appropriate to ensure safe operation of the HSF in and around Nawiliwili Harbor.

#### Discussion of Proposed Rule

This proposed rule would create a security zone in most of the waters of Nawiliwili Harbor, and on Nawiliwili Jetty in Nawiliwili Harbor. The security zone would be activated for enforcement 60 minutes before the Hawaii Superferry's arrival into the zone, and would remain activated for 10 minutes after the Hawaii Superferry's departure from the zone. The activation of the zone for enforcement would be announced by marine information broadcast and by a red flag, illuminated after sunset, displayed from Pier One and the Harbor Facility Entrance on Jetty Road. During its period of activation and enforcement, entry into the land and water areas of the security zone would be prohibited without the permission of the Captain of the Port, Honolulu, or his or her designated representative.

In preparing this proposed temporary rulemaking, the Coast Guard made sure to consider the rights of lawful protestors. To that end, the Coast Guard excluded from the security zone two regions which create a sizeable area of water in which demonstrators may lawfully assemble and convey their message in a safe manner to their intended audience. These areas include the waters west of a line running from the southeastern-most point of the breakwater of Nawiliwili Small Boat Harbor due south to the south shore of the harbor, and the waters from Kalapaki Beach south to a line extending from the western most point of Kukii Point due west to the Harbor

Jetty. These areas of the harbor not included in the security zone are completely accessible to anyone who desires to enter the water, and are 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 Nawiliwili Harbor in its creation of this rule. As previously noted, the rule will only be activated 1 hour before the HSF's arrival into port, and will be deactivated 10 minutes after the HSF departs the port. The harbor is fully available to all users during the period when the zone is not activated. Furthermore, the rule affords persons desirous of using the harbor, even during a period when the zone is activated, with the opportunity to request permission of the Captain of the Port to do so.

#### Regulatory Evaluation

This proposed 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 proposed 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 proposed 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 proposed rule would 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 the temporary rule, and to 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 want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant (Junior Grade) Quincy Adams, U.S. Coast Guard Sector Honolulu, (808) 522–8264. 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 proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children. While some obstructers used small children in obstruction tactics, both on land and on shore, during the August 26 and 27 Superferry arrivals into Kauai, and while online forums and other sources indicate that organizers are actively recruiting adolescents and small children with the intent of putting them into harm's way as obstructers of the Superferry's passage should it ever again approach and enter Nawiliwili Harbor, 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not

likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **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 proposes to amend 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. Add a new temporary § 165.T14–161 to read as follows:

**§ 165.T14–161 Security Zone; Nawiliwili Harbor, Kauai, 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: All waters of Nawiliwili Harbor, Kauai, shoreward of the Nawiliwili Harbor COLREGS DEMARCATION LINE (See 33 CFR 80.1450), excluding the waters west of a line running from the southeastern most point of the breakwater of Nawiliwili Small Boat Harbor due south to the south shore of the harbor, and excluding the waters from Kalapaki Beach south to a line extending from the western most point of Kukii Point due west to the Harbor Jetty. The land of the jetty south of Nawiliwili Park including the jetty access road, commonly known as Jetty Road, is included within the security zone.

(b) *Effective period.* This section is effective from November 1, 2007, through December 31, 2007. It will be activated for enforcement pursuant to paragraph (c) of this section.

(c) *Enforcement periods.* The zone described in paragraph (a) of this section will be activated for enforcement 60 minutes before the Hawaii Superferry's arrival into the zone and remain activated for 10 minutes after the Hawaii Superferry's departure from the zone. The activation of the zone for enforcement will be announced by marine information broadcast, and by a red flag, illuminated between sunset and sunrise, displayed from Pier One and the Harbor Facility Entrance on Jetty Road.

(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 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, 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 a the Hawaii Super Ferry 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) 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 officials.* Any Coast Guard commissioned, warrant, or petty officer, and any other person permitted by law, may enforce the regulations in this section.

Dated: September 26, 2007.

**Sally Brice-O'Hara,**

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

[FR Doc. 07–4893 Filed 9–28–07; 3:29 pm]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA–R04–OAR–2007–0601–200730; FRL–8477–2]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; North Carolina; Redesignation of the Raleigh-Durham-Chapel Hill 8-Hour Ozone Nonattainment Area to Attainment for Ozone

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

**ACTION:** Proposed rule.

**SUMMARY:** On June 7, 2007, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), submitted a request to redesignate the Raleigh-Durham-Chapel Hill 8-hour ozone nonattainment area to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS); and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Raleigh-Durham-Chapel Hill Area. The Raleigh-Durham-Chapel Hill 8-hour ozone nonattainment area (the “Triangle Area”) is comprised of Durham, Franklin, Granville, Johnston, Orange, Person and Wake Counties in their entireties, and Baldwin, Center, New Hope and Williams Townships in Chatham County. In this action, EPA is proposing to approve the 8-hour ozone redesignation request for the Triangle Area. Additionally, EPA is proposing to approve the 8-hour ozone maintenance plan for the Triangle Area, including the motor vehicle emissions budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and an insignificance determination for volatile organic compounds (VOC) emissions from motor vehicles. This proposed approval of North Carolina's redesignation request is based on EPA's determination that North Carolina has demonstrated that the Triangle Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including the determination that the entire Triangle 8-hour ozone nonattainment area has attained the 8-hour ozone standard. Further, in this action, EPA is also describing the status of its transportation conformity adequacy determination for the new 2008 and 2017 MVEBs for NO<sub>x</sub>, and for the insignificance determination for VOC contribution from motor vehicle emissions to the 8-hour ozone pollution, that are contained in the 8-hour ozone maintenance plan for the Triangle Area.