

FDC date	State	City	Airport	FDC No.	Subject
11/13/07 .....	NY .....	New York .....	La Guardia .....	7/4057	ILS or LOC Rwy 4, Amdt 35.

[FR Doc. E7-23077 Filed 11-27-07; 8:45 am]  
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**DEPARTMENT OF THE INTERIOR**  
**National Indian Gaming Commission**  
**25 CFR Part 546**

**Class II Classification Standards**

**AGENCY:** National Indian Gaming Commission (NIGC), Interior.  
**ACTION:** Notice of Extension of Comment Period.

**SUMMARY:** This notice extends the period for comments on the burden, estimates or any other aspects of the information collection requirements for the proposed Class II game classification standards (72 FR 60483) published in the **Federal Register** on October 24, 2007.

**DATES:** The comment period for comments submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, or the NIGC on the burden, estimates or any other aspects of the information collection requirements for the proposed Class II game classification standards is extended from November 23, 2007, to January 24, 2008.

**FOR FURTHER INFORMATION CONTACT:** Penny Coleman at 202/632-7003; fax 202/632-7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 *et seq.*) (IGRA) to regulate gaming on Indian lands. On October 24, 2007, the proposed Class II game classification standards (72 FR 60483) regulations were published in the **Federal Register**.

Dated: November 20, 2007.

**Philip N. Hogen,**  
*Chairman, National Indian Gaming Commission.*

**Cloyce V. Choney,**  
*Vice Chairman, National Indian Gaming Commission.*

**Norman H. DesRosiers,**  
*Commissioner, National Indian Gaming Commission.*

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**DEPARTMENT OF THE INTERIOR**  
**National Indian Gaming Commission**

**25 CFR Part 547**

**Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games**

**AGENCY:** National Indian Gaming Commission (NIGC), Interior.

**ACTION:** Notice of Extension of Comment Period.

**SUMMARY:** This notice extends the period for comments on the burden, estimates or any other aspects of the information collection requirements of the proposed Class II technical standards (72 FR 60508) published in the **Federal Register** on October 24, 2007.

**DATES:** The comment period for comments submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, or the NIGC on the burden, estimates or any other aspects of the information collection requirements for the proposed Class II technical standards regulations is extended from December 10, 2007, to January 24, 2008.

**FOR FURTHER INFORMATION CONTACT:** Michael Gross at 202/632-7003; fax 202/632-7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 *et seq.*) (IGRA) to regulate gaming on Indian lands. On October 24, 2007, the proposed Class II technical standards (72 FR 60508) regulations were published in the **Federal Register**.

Dated: November 20, 2007.

**Philip N. Hogen,**  
*Chairman, National Indian Gaming Commission.*

**Cloyce V. Choney,**  
*Vice Chairman, National Indian Gaming Commission.*

**Norman H. DesRosiers,**  
*Commissioner, National Indian Gaming Commission.*

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**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 interim rule; request for comments.

**SUMMARY:** The Coast Guard is creating a temporary security zone in the waters of Kahului Bay and Kahului Harbor, Maui, and on designated adjacent areas of land. This zone 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 12:01 a.m. (HST) on December 1, 2007, through 11:59 p.m. (HST) on January 31, 2008. Comments and related material must reach the Coast Guard on or before December 19, 2007.

**ADDRESSES:** You may submit comments and related material, identified by Coast Guard docket number USCG-2007-0093, by any of the three 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>.

All comments will be reviewed as they are received. We may change this rule based on your comments.

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 service to Maui is advertised to resume on December 1, 2007. Given recent assessments by the Maui Police Department that waterborne obstruction tactics similar to those used in Kauai in August 2007 are likely to be employed in Maui as well when the HSF resumes service there, it is critical that this rule be in place so that local, State, and Federal public safety officials can adequately ensure maritime safety and security, and secure the observances of rights and obligations of the United States.

The main obstruction tactic employed by waterborne protesters in Kauai in August 2007 was to physically place themselves directly in the path of the HSF as it attempted to enter the harbor. Several obstructers ashore threw rocks and bottles at U.S. Coast Guard personnel. These actions are dangerous not only to the obstructers themselves—some of whom used or incited children and juveniles in support of their obstruction efforts—but also to the HSF, its passengers and crew, and law enforcement personnel working to ensure the vessel's safe passage.

Groups opposing the lawful operation of the HSF continue to vow to impede its transit utilizing these same dangerous tactics. These opposition groups have started several internet forums to encourage and coordinate support for their efforts. The danger such obstruction tactics pose is illustrated by an article posted on November 5, 2007, on Surferspath.com, a popular Web site for Hawaiian surfers. In this article, two prominent

opposition members urge those who oppose the operation of the Superferry to take “the last step of non-violent resistance,” and prepare themselves for the possibility of “physical injury or death” that may result from obstructing the Superferry. These preparations include making the “proper arrangements,” preparing a “last will and testament” and engaging in a “cleansing ceremony to prepare your body, mind, and spirit to greet the Spiritual Hierarchy that awaits your return.” The letter goes on to say that, “[t]here is also the possibility of accident in the turmoil of numerous boats, swimmers, and surfers in an ocean environment. In that sense you have to be prepared at the level of the Native American who decided when it was ‘a good day to die.’”

The Coast Guard cannot disregard such adamant safety and security threats. Consequently, this rule is necessary to prevent damage or injury to vessels, persons, and waterfront facilities, including the HSF, its passengers and crew, law enforcement personnel working to ensure the vessel's safe passage, and the obstructers themselves, arising from these dangerous and unlawful obstruction tactics. Any delay in implementing this temporary rule would be contrary to the public interest and would jeopardize the security and safety of the public, the HSF and its passengers and crew, other vessels, facilities, and law enforcement personnel.

For the same reasons, 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**. 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 on or before December 19, 2007. We may change this temporary interim rule based on the comments received. 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. Since that date, the HSF has only sailed in commercial service to either Kauai or Maui once; on September 8, 2007, to pick up and return cars to Oahu that were stranded on Maui after the

suspension of commercial service on August 28. This sailing was the product of a stipulated agreement in an ongoing lawsuit (discussed further below) involving HSF and environmental groups opposed to the HSF operating in and out of Kahului Harbor, Maui.

Shortly after the company announced its suspension of operations on August 28, the trial court judge in the ongoing state court proceeding referenced in the previous paragraph 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 any of its commercial voyages there, recent intelligence and assessments by the Maui Police Department indicate a substantial likelihood that certain elements in Maui, disaffected by the process that led to adoption of Act 2 and vacation of the injunction, plan to adopt the dangerous tactics used by the obstructers in Kauai in an effort to

prevent the HSF from safely arriving in Maui. Individuals and groups have 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 is clear, as is their resolve.

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, activated for enforcement 60 minutes before the HSF's arrival into the zone through 10 minutes after its departure from the 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 security zone is effective from 12:01 a.m. (HST) on December 1, 2007, through 11:59 p.m. (HST) on January 31, 2008. The security zone will be activated for enforcement 60 minutes before the HSF's arrival into the zone, and will remain activated for 10 minutes after the HSF'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, 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, 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 1 hour before the HSF's arrival into port, and will be deactivated 10 minutes after the HSF departs the port. Kahului Harbor and Kahului Bay are fully available to all users during the period when the zone is not activated. Furthermore, the rule affords those desiring to use the harbor and surrounding waters and land areas with the opportunity to 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 obstructors, both on land on and 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. Add a new § 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 12:01 a.m. (HST) on December 1, 2007, through 11:59 p.m. (HST) on January 31, 2008. It will be activated for enforcement as described in 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 will remain activated until 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, 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 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 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 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: November 21, 2007.

**Sally Brice-O'Hara,**

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

[FR Doc. 07-5872 Filed 11-26-07; 1:53 pm]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0105; FRL-8340-6]

#### Acetamiprid; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of acetamiprid in or on almond, hulls; fruit, stone, group 12, except plum, prune; nut, tree, group 14; pea and bean, succulent shelled, subgroup 6B; pistachio; plum, prune, dried; plum, prune, fresh; vegetable, cucurbit, group 9; and vegetable, legume, edible podded, subgroup 6A. Nippon Soda Co., Ltd. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective November 28, 2007. Objections and requests for hearings must be received on or before January 28, 2008, and must be filed in accordance with the instructions provided in 40 CFR part

178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0105. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

#### FOR FURTHER INFORMATION CONTACT:

Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.

- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-0105 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before January 28, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2007-0105, by one of the following methods: