

## The Final Rule

■ Accordingly, the U. S. Parole Commission is adopting the following amendment to 28 CFR part 2.

### PART 2—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

**Authority:** 18 U.S.C. 4203(a)(1) and 4204(a)(6).

■ 2. Amend § 2.68 by revising the first sentence of paragraph (g) and the second sentence of paragraph (h) to read as follows:

#### § 2.68 Prisoners transferred pursuant to treaty.

\* \* \* \* \*

(g) *The decisionmaking criteria.* The Commission will consider the United States Sentencing Guidelines as advisory guidelines in making its decisions, as though the transferee were convicted in a United States District Court of a statutory offense most nearly similar to the offense of which the transferee was convicted in the foreign court. \* \* \*

(h) *Hearing procedures.* \* \* \* Each special transferee hearing shall be recorded by the hearing examiner. \* \* \*

\* \* \* \* \*

Dated: February 6, 2008.

Edward F. Reilly, Jr.,

Chairman, U. S. Parole Commission.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0083]

RIN 1625-AA00

#### Safety Zone; Molokini Crater, Maui, HI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around Molokini Crater, in waters south of the island of Maui, HI. This zone is necessary to protect rescue and security assets, air crews, and the general public from hazards associated with an explosive ordnance disposal (EOD) process scheduled to take place on Molokini Crater. Entry of persons or vessels into this safety zone would be

prohibited unless authorized by the Captain of the Port (COTP) Honolulu.

**DATES:** This rule is effective from March 1, 2008, through March 31, 2008. The Coast Guard will accept comments on this rule through March 31, 2008.

**ADDRESSES:** You may submit comments and related material, identified by Coast Guard docket number USCG-2008-0083, by any of the four methods listed below. 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.

Documents indicated in this preamble as being available in the docket are part of docket # USCG-2008-0083 and are available for inspection and copying at U.S. Coast Guard Sector Honolulu between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) Jasmin Parker, U.S. Coast Guard Sector Honolulu at (808) 842-2600.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On January 28, 2008, we published a temporary final rule entitled Safety Zone; Molokini Crater, Maui, HI in the **Federal Register** (73 FR 4695), docket number USCG-2007-0128. We intended that safety zone to safeguard the same EOD that this rule addresses. Adverse weather prevented the EOD from occurring within the effective period of that first safety zone, so this rule is now necessary. We received no comments on the first safety zone. No public meeting was requested, and none was held.

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, vessels, and facilities in the area of Molokini Crater. 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**.

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 March 31, 2008. 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

During a site survey on Molokini Crater, surveyors discovered three pieces of unexploded ordnance requiring disposal. The Coast Guard, in consultation with the U.S. Fish and Wildlife Service, the State of Hawaii, the City and County of Maui, the U.S. Navy, and the Federal Aviation Administration, has determined it is necessary to close the area in the vicinity of Molokini Crater in order to minimize the dangers that fragmentation, explosive arcs, and possible fires may present to persons and vessels. Should such an incident occur, or in the event that EOD personnel would require emergency assistance, rescuers must have immediate and unencumbered access to the area. Also, vessels operating in the area might otherwise distract EOD and rescue personnel. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area of Molokini Crater.

##### Discussion of Rule

This temporary safety zone encompasses all waters up to and within one nautical mile of the shoreline of Molokini Crater, from the surface of the water to the ocean floor. It is effective from March 1, through March 31, 2008, but will be enforced for periods of 10 hours or less on the effective dates. Unpredictable weather and sea states make a broad date and time range necessary to safely complete

the EOD. Enforcement periods will be announced over marine band VHF channel 16 prior to enforcement to ensure ample public notification. In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel is permitted to enter or remain in the zone except for support vessels/ aircraft and support personnel, or other vessels authorized by the Captain of the Port or his designated representatives. Vessels, aircraft, or persons in violation of this proposed rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

### 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. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This expectation is based on the limited duration of the zone and the limited geographic area affected by it.

### 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. We expect that there will be little impact to small entities due to the narrowly tailored scope of this security zone.

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) Jasmin Parker, U.S. Coast Guard Sector Honolulu at (808) 842–2600. 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 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.

### Indian Tribal Governments

This 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 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.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the

Instruction, from further environmental documentation because it is a safety zone. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be 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, and 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 § 165.T14–168 to read as follows:

**§ 165.T14–168 Safety Zone; Molokini Crater, Maui, HI**

(a) *Location.* The following is a safety zone: All waters within the following geographic coordinates: 20–38.9N 156–28.5W; thence south to 20–36.7N 156–28.5W; thence east to 20–36.7N 156–31.0W; thence north to 20–38.9N 156–31.0W; thence west to 20–38.9N 156–28.5W, including all waters from the surface to the ocean floor.

(b) *Effective Dates.* This rule is effective from March 1, 2008 through March 31, 2008.

(c) *Suspension of Enforcement.* The Coast Guard will suspend enforcement

of the safety zone described in this section whenever explosive ordinance disposal work is not being performed in the vicinity. Advance notice of enforcement periods and suspension of enforcement will be announced over marine band VHF channel 16.

(d) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel may enter or remain in the zone except for support vessels/aircraft and support personnel, or other vessels authorized by the Captain of the Port or his designated representatives.

(e) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: February 15, 2008.

**B.A. Compagnoni,**

*Captain, U.S. Coast Guard, Captain of the Port Honolulu.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2007–0621; FRL–8530–7]

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions were

proposed in the **Federal Register** on November 20, 2007, and concern particulate matter (PM) emissions from fugitive dust sources and cement manufacturing plants. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on April 9, 2008.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2007–0621 for this action. The index to the docket is available electronically at [www.regulations.gov](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:** Jerry Wamsley, EPA Region IX, at either (415) 947–4111, or [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

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

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**I. Proposed Action**

On November 20, 2007 (see 72 **Federal Register** (FR) 65285), EPA proposed to approve the following rules into the California SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD .....	403	Fugitive Dust .....	06/03/05	10/20/05
SCAQMD .....	1156	Further Reductions of Particulate Emissions from Cement Manufacturing Facilities.	11/04/05	12/29/06

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

**II. Public Comments and EPA Responses**

EPA's proposed action provided a 30-day public comment period. During this period, we received one comment from

an unidentified person on December 20, 2007. The comment and our response are summarized below.

*Comment:* The commenter is critical of EPA's action to deny California's request for a waiver of Federal preemption of motor vehicle greenhouse gas emission standards announced December 19, 2007. Also, the commenter makes unsubstantiated allegations that unnamed EPA officials took bribes from GM, Ford, and

Cerberus Corporation in deciding on the merits of this waiver.

*Response:* We proposed to approve rules reducing particulate matter emissions from local sources so that the South Coast air basin can meet the national particulate matter health standard. Our proposal did not concern California's waiver request; consequently, the comment is not germane to our proposed action.