Dated: August 30, 2002.

S.L. Hudson,

Commander, Coast Guard, Captain of the Port, Pittsburgh.

[FR Doc. 02–23478 Filed 9–13–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02–017]

RIN 2115–AA97

Security Zone; Naval Base San Diego, San Diego Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily expanding the geographical boundaries of the permanent security zone at Naval Base, San Diego, California (33 CFR 165.1101), extending it by approximately 80 feet seaward of the pier heads at the request of the U.S. Navy. The additional size will accommodate the Navy's placement of an anti-small boat barrier boom perpendicular to the piers. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) San Diego, or his designated representative.

DATES: This rule is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 02–017 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego at (619) 683–6495.

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. While the Navy has been implementing many force protection measures since the attack on the U.S.S. Cole and the attacks of September 11, 2001, the Chief of Naval Operations has recently emphasized the need for the expanded use of an anti-small boat barrier boom around Navy vessels in U.S. ports to protect against attacks similar to the one launched against the U.S.S. Cole. In addition, the Office of Homeland Security through its web site has described the current nationwide threat level as ''Elevated.'' According to the Office of Homeland Security, an Elevated Condition is declared when there is a significant risk of terrorist attacks. The Coast Guard believes that issuing an NPRM for this temporary rule and thereby delaying implementation of the expanded security zone would be against the public interest during this elevated state of alert.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the Naval vessels, their crew, and national security.

Furthermore, in order to protect the interests of national security, the Coast Guard is promulgating this temporary regulation to provide for the safety and security of U.S. Naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of this security zone is a function directly involved in and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

The Coast Guard has plans to make the expansion of the security zone permanent. Towards that end, the Coast Guard will initiate notice and comment rulemaking before issuing any permanent rule.

Background and Purpose

The Coast Guard is expanding the security zone (33 CFR 165.1101) by temporarily extending it approximately 80 feet seaward of the pier heads to allow the U.S. Navy to deploy an anti-small boat barrier boom perpendicular to the piers. The expansion of this security zone is needed to ensure the physical protection of naval vessels moored in the area by providing adequate standoff distance. It will also prevent recreational and commercial craft from interfering with military operations involving all naval vessels home-ported at Naval Base San Diego and it will protect transiting recreational and commercial vessels and their respective crews from the navigational hazards posed by such military operations. In addition, the Navy has been reviewing all aspects of its anti-terrorism and force protection posture in response to the attack on the USS COLE and the terrorist attacks of September 11, 2001. The expansion of this security zone will safeguard vessels and waterside facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port or Commander, Navy Region Southwest. Vessels or persons violating this section would be subject to the penalties set forth in 50 U.S.C. 192 and 18 U.S.C. 3571: Seizure and forfeiture of the vessel, a monetary penalty of not more than $250,000, and imprisonment for not more than 10 years. The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Regulatory Evaluation

This temporary final 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. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The implementation of this security zone is necessary for the protection of the United States' national security interests. The size of the zone is the minimum necessary to allow for safe placement of the anti-small boat boom while providing adequate protection for U.S. Naval vessels, their crews, adjoining areas, and the public. The entities most likely to be affected, if any, are pleasure craft engaged in recreational activities and sightseeing in close proximity to the Naval Base. Any hardships experienced by persons or vessels wishing to approach the Naval Base are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews, and the public. The expansion of the security zone will not impact navigation in the shipping channel.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would

have a significant economic impact on a substantial number of small entities. The term ''small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

This security zone will not have a significant impact on a substantial number of small entities because these security zones are only closing small portions of the navigable waters adjacent to Naval Base, San Diego, California. In addition, there are no small entities shoreward of the security zone. For these reasons, and the ones discussed in the previous section, the Coast Guard certifies, under 5 U.S.C. 605(b), that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offers to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683–6495.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

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 would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule and have determined that this rule 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule, which temporarily modifies an existing security zone, is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

§ 165.1101 [Suspended]

2. Temporarily suspend § 165.1101 from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

3. Add new temporary § 165.T11–047 to read as follows:

§ 165.T11–047 Security Zone: San Diego Naval Base, San Diego Bay, CA.

(a) *Location.* The following area is a security zone: the water area within Naval Base, San Diego enclosed by a line connecting points beginning at 32°41′16.5″ N, 117°08′01″ W (Point A); thence running southwesterly to 32°41′02.5″ N, 117°08′08.5″ W (Point B); to 32°40′55.0″ N, 117°08′00.0″ W (Point C); to 32°40′49.5″ N, 117°07′55.5″ W (Point D); to 32°40′44.6″ N, 117°07′49.3″ W (Point E); to 32°40′37.8″ N, 117°07′43.2″ W (Point F); to 32°40′30.9″ N, 117°07′39.0″ W (Point G); 32°40′24.5″ N, 117°07′35.0″ W (Point H); to 32°40′17.2″ N, 117°07′30.8″ W (Point I); to 32°40′10.6″ N, 117°07′30.5″ W (Point J); to 32°39′59.0″ N, 117°07′29.0″ W (Point K); to 32°39′49.8″ N, 117°07′27.2″ W (Point L); to 32°39′43.0″ N, 117°07′25.5″ W (Point M); to 32°39′36.5″ N, 117°07′24.2″ W (Point N); thence

running easterly to 32°39′38.5″ N, 117°07′06.5″ W (Point O); thence running generally northwesterly along the shoreline of the Naval Base to the beginning point.

(b) *Effective period.* This temporary section is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port or the Commander, Navy Region Southwest.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Dated: August 28, 2002.

Robert McFarland,

Lieutenant Commander, Coast Guard, Acting Captain of the Port, San Diego, California.

[FR Doc. 02–23480 Filed 9–13–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0067; FRL–7261–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver PM_{10} Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 30, 2001, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision for the purpose of establishing a redesignation for the Denver, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM_{10}) under the 1987 standards. The Colorado Air Pollution Control Division's submittal, among other things, documents that the Denver area has attained the PM_{10} national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the PM_{10} NAAQS for thirteen years. EPA is approving the redesignation request, maintenance plan, revisions to Colorado's Regulations No. 1 and 16, the request for the removal of Regulation No. 12 (''Diesel Inspection/Maintenance Program'') and the removal of the stationary source construction permits for six sources from the SIP because the State has met the applicable requirements of the Clean Air Act, as amended. This action is being taken under sections 107, 110, and 175A of the Clean Air Act (Act).

DATES: This final rule is effective October 16, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T Washington DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Libby Faulk, EPA, Region VIII, (303) 312–6083.

SUPPLEMENTARY INFORMATION: On May 23, 2002, EPA published a notice of proposed rulemaking (NPR) for approval of the redesignation of the Denver PM_{10} nonattainment area to attainment (67 FR 36124). Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Final Action

A. What Action Is EPA Finalizing?

We are approving the Governor of Colorado's submittal of July 30, 2001, that requests a redesignation for the Denver nonattainment area to attainment for the 1987 PM_{10} standards. We are using 1999–2001 ambient air quality data from the Denver PM_{10} nonattainment area as the basis for our decision. We are also approving the maintenance plan for the Denver PM_{10} nonattainment area, which was submitted with Colorado's July 30, 2001 redesignation request. In conjunction with the maintenance plan, the Governor also submitted revisions to Colorado's Regulation No. 1, ''Emission Control For Particulates, Smokes, Carbon Monoxide, & Sulfur Oxides,'' and Colorado's Regulation No. 16, ''Street Sanding Emissions.'' With their submittal, Colorado also requested that we remove Regulation No. 12, the ''Diesel Inspection/Maintenance Program'' and the stationary source construction permits that we had incorporated by reference into our April 17, 1997 approval of the PM_{10} SIP (62 FR 18716). Thus, Regulation No. 12 and the permits for Public Service Company of Colorado's Cherokee Electric Generating Station, Purina Mills, Electron Corporation, Trigen-Colorado Energy Corporation, Rocky Mountain Bottle Company (which includes earlier permits that were issued in 1993 under the former name of Coors Brewing Company), and Conoco Refinery are being removed from the SIP with this action. We are approving this request, the maintenance plan and its accompanying regulation revisions because the Colorado Air Pollution Control Division (Colorado) has adequately addressed all of the requirements of the Act for redesignation to attainment applicable to the Denver PM_{10} nonattainment area. Upon the effective date of this final action, the Denver area's designation status under 40 CFR part 81 will be revised to attainment. By using ''Denver'' or the ''Denver area,'' we mean Denver, Jefferson, and Douglas Counties, as well as part of Boulder, Adams and Arapahoe Counties. Please refer to our proposed action published on May 23, 2002 at 67 FR 36124 for a more detailed explanation of the redesignation requirements and analysis of how the Denver area has met those requirements.

B. Updates to EPA's Proposed Approval

i. Attainment of the PM_{10} NAAQS

Whether an area has attained the PM_{10} NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. *See* 40 CFR part 50 and 40 CFR part 50, appendix K. A State must demonstrate that an area has attained the PM_{10} NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum PM_{10} concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, three