(b) *Effective Dates.* This section is effective from 11:59 p.m. on February 11, 2003 to 11:59 p.m. on May 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, the Commander, Naval Air Force, U.S. Pacific Fleet, the Commander, Navy Region Southwest, or the Commanding Officer, Naval Base Coronado. Section 165.33 also contains other general requirements.

(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: January 28, 2003.

Stephen P. Metruck,

Commander, Coast Guard, Captain of the Port, San Diego.

[FR Doc. 03–3463 Filed 2–11–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 03–007]

RIN 2115–AA97

Security Zone; San Diego Bay

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 anti-small boat barrier booms 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 11:59 p.m. on February 11, 2003 to 11:59 p.m. on May 11, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP San Diego 03–007] 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 regulation. 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 anti-small boat barrier booms 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 and thereby delaying implementation of the expanded security zone would be against the public interest during this elevated state of alert.

Although we had anticipated using the effective period of the current temporary final rule to engage in notice and comment rulemaking, the Captain of the Port has decided to extend the effective period for 3 months to allow sufficient time to properly develop permanent regulations tailored to the present and foreseeable security environment. This extension preserves the status quo within the Port while a permanent rule is developed.

For the reasons stated in the paragraphs above under 5 U.S.C. 553 (d)(3), the Coast Guard also finds that good cause exists for making this regulation 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 rulemaking 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 final 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 anti-small boat barrier booms 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 booms 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 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

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 record keeping 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 11:59 p.m. on February 11, 2003 to 11:59 p.m. on May 11, 2003.

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

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

(a) *Location.* The following area is a security zone: the water area within Naval Base, San Diego enclosed by the following 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′37.8N, 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 place of beginning.

(b) *Effective Dates.* This section is effective from 11:59 p.m. on February 11, 2003 to 11:59 p.m. on May 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: January 28, 2003.

Stephen P. Metruck,

Commander, Coast Guard, Captain of the Port, San Diego.

[FR Doc. 03–3462 Filed 2–11–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket 020626160–2309–03; I.D. 061902C]

RIN 0648–AQ13

Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of public comment period for interim final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is extending the public comment period through March 24, 2003 for an interim final rule published in the **Federal Register** on December 24, 2002. The purpose of the interim final rule is to prohibit fishing with drift gillnets in the California/Oregon (CA/OR) thresher shark/swordfish drift gillnet fishery in U.S. waters off southern California, south of Point Conception (34°27′N.) and west to the 120°W., from August 15 through August 31, and January 1 through January 31, when the Assistant Administrator for Fisheries publishes a notice that El Nino conditions are present. The comment period, which originally ended on February 7, 2003, is being extended to allow for additional public comment.

DATES: Written comments on the above mentioned interim final rule must be postmarked or transmitted by facsimile by 5 p.m., Pacific Standard Time, on March 24, 2003. Comments transmitted via e-mail or the Internet will not be accepted.

ADDRESSES: Written comments on the interim final rule should be sent to Tim Price, Protected Resources Division, National Marine Fisheries Service, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213. Copies of the Environmental Assessment (EA) and biological opinion (BO) are available on the internet at *http://swr.ucsd.edu/* or may be obtained from Tim Price, Protected Resources Division, National Marine Fisheries Service, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Tim Price, NMFS, Southwest Region, Protected Resources Division, (562) 980–4029.

SUPPLEMENTARY INFORMATION: On December 24, 2002, NMFS published an interim final rule (67 FR 78388) implementing the framework for prohibiting fishing with drift gillnets in the California/Oregon (CA/OR) thresher shark/swordfish drift gillnet fishery in U.S. waters off southern California, south of Point Conception (34°27′N.) and west to the 120°W., from August 15 through August 31, and January 1 through January 31, when the Assistant Administrator for Fisheries publishes a notice that El Nino conditions are present. This interim final rule also announced the criteria that will be used for determining whether El Nino conditions are present along southern California for the purpose of implementing the time and area closure. Based on the these criteria, NMFS determined that El Nino conditions were not present for purposes of implementing the time and area closure for January 2003. In addition, comments were requested on an alternate closure that NMFS is evaluating.

The comment period is being extended in response to a request from the public to provide more time to review the loggerhead turtle entanglement data and the sea surface temperature data available on the NOAA Coastwatch West Coast Regional Node web page at *http://cwatchwc.ucsd.edu/.*

Dated: February 7, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 03–3494 Filed 2–7–03; 1:52 pm]

BILLING CODE 3510–22–S