businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant economic impact upon a substantial number of small entities as these regulation will only be in effect for approximately 4 hours in a limited area off Fajardo, Puerto Rico.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action consistent with Section 2.B.2 of Commandant Instruction M16475.1B. In accordance with that section, this action has been environmentally assessed (EA completed), and the Coast Guard has determined that it will not significantly affect the quality of the human environment. An Environmental Assessment and Finding of No Significant Impact have been prepared and are available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46, and 33 CFR 100.35.

2. A temporary section 100.35T–07–062 is added to read as follows:

§ 100.35T–07–062 Puerto Rico PRO-TOUR Offshore Race; Fajardo, Puerto Rico.

(a) Definitions:

(1) *Regulated Area.* A regulated area is established for the waters of Rada Fajardo, due East of Villa Marine, Fajardo, Puerto Rico, in an area bounded by 18–20.0N, 065–37.2W, then North to 18–22.4N, 065–37.2W, then Northeast to 18–23.2N, 065–36.1W, then Southeast to 18–22.0N, 065–34.8W, then South to 18–20.0N, 065–34.8W and back to origin. All coordinates referenced use Datum: NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Section, Greater Antilles.

(b) *Special Local Regulations.*

(1) Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Patrol Commander. Spectator craft are required to remain in a spectator area to be established by the event sponsor west of Isle Palominos. After termination of the Puerto Rico PRO–TOUR Offshore Race on December 14, 1997, all vessels may resume normal operation. At the discretion of the Patrol Commander, between scheduled racing events, traffic may be permitted to resume normal operations.

(2) Temporary buoys will be used to delineate the course.

(c) *Dates.* This section becomes effective from 11:30 a.m. to 3:30 p.m. AST, on December 14, 1997.

Dated: December 1, 1997.

R.C. Olsen, Jr.,

Captain U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 97–32259 Filed 12–9–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–96–028]

RIN 2115–AA97

Safety Zone Regulations; Bellingham Bay; Bellingham, WA

AGENCY: Coast Guard, DOT.

ACTION: Direct Final rule; confirmation of effective date.

SUMMARY: On September 11, 1996, the Coast Guard published a direct final rule (61 FR 47823, Docket Number CGD13–96–028). This direct final rule notified the public of the Coast Guard's intent to amend a safety zone regulation for the annual Fourth of July Blast Over Bellingham Fireworks Display in Bellingham Bay, Bellingham, Washington. Changes made to this regulation will revise the boundaries of the safety zone. These changes are intended to better inform the boating public and to improve the level of safety at this event. The Coast Guard has not received any adverse comments or any notice of an intent to submit adverse comments objecting to this rule as written. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as December 10, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant Joel Roberts, USCG Marine Safety Office Puget Sound, Telephone: (206) 217–6237.

Dated: November 20, 1997.

Myles S. Boothe,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 97–32260 Filed 12–9–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–5932–1]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of California; San Luis Obispo County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA) and through the California Air Resources Board, San Luis Obispo County Air Pollution Control District (SLOCAPCD) requested approval to implement and enforce its ''Rule 432: Perchloroethylene Dry Cleaning Operations'' (Rule 432) in place of the ''National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities'' (dry cleaning NESHAP) for area sources under SLOCAPCD's jurisdiction. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting SLOCAPCD the authority to implement and enforce Rule 432 in place of the dry cleaning NESHAP for area sources under SLOCAPCD's jurisdiction.

DATES: This action is effective on February 9, 1998 unless adverse or critical comments are received by January 9, 1998. If the effective date is

delayed, timely notice will be published in the **Federal Register**. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 9, 1998.

ADDRESSES: Comments must be submitted to Andrew Steckel at the EPA Region IX office listed below. Copies of SLOCAPCD's request for approval are available for public inspection at the following locations:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901. Docket # A–96–25.

California Air Resources Board, Stationary Source Division, 2020 ''L'' Street, P.O. Box 2815, Sacramento, California 95812–2815.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

On September 22, 1993, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for perchloroethylene dry cleaning facilities (*see* 58 FR 49354), which was codified in 40 CFR part 63, subpart M, ''National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities'' (dry cleaning NESHAP). On May 21, 1996, EPA approved the California Air Resources Board's (CARB) request to implement and enforce section 93109 of Title 17 of the California Code of Regulations, ''Airborne Toxic Control Measure for Emissions of Perchloroethylene from Dry Cleaning Operations'' (dry cleaning ATCM), in place of the dry cleaning NESHAP for area sources (*see* 61 FR 25397). This approval became effective on June 20, 1996.

Thus, under federal law, from September 22, 1993, to June 20, 1996, all California dry cleaning facilities using perchloroethylene were subject to the dry cleaning NESHAP. Since June 20, 1996, all California dry cleaning facilities using perchloroethylene that qualify as area sources are subject to the Federally-approved dry cleaning ATCM; major sources, as defined by the dry cleaning NESHAP, remain subject to the dry cleaning NESHAP and the Clean Air Act (CAA) Title V operating permit program.

On April 25, 1997, EPA received, through CARB, San Luis Obispo County Air Pollution Control District's (SLOCAPCD) request for approval to implement and enforce its November 13, 1996, revision of ''Rule 432: Perchloroethylene Dry Cleaning Operations'' (Rule 432), in place of the Federally-approved dry cleaning ATCM for area sources under SLOCAPCD's jurisdiction. The scope of SLOCAPCD's request is limited to the authorities previously granted to CARB in its request, i.e., the request does not include major sources and does not include the authority to determine equivalent emission control technology for dry cleaning facilities in place of 40 CFR 63.325.

II. EPA Action

A. SLOCAPCD's Dry Cleaning Rule

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (*see* 58 FR 62262, dated November 26, 1993). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute a local rule for the applicable Federal rule. Upon approval, the local agency is given the authority to implement and enforce its rule in place of the otherwise applicable Federal rule. To receive EPA approval using this option, the requirements of 40 CFR 63.91 and 63.93 must be met.

After reviewing the request for approval of SLOCAPCD's Rule 432, EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93. Accordingly, with the exception of the dry cleaning NESHAP provisions discussed in sections II.A.1 and II.A.2 below, SLOCAPCD is granted the authority to implement and enforce Rule 432 in place of the Federally-approved dry cleaning ATCM. Although SLOCAPCD now has primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. As of the effective date of this action, SLOCAPCD's Rule 432 is the Federally-enforceable standard for area sources under SLOCAPCD's jurisdiction. This rule will be enforceable by the EPA Administrator and citizens under the CAA.

1. Major Dry Cleaning Sources

Under the dry cleaning NESHAP, dry cleaning facilities are divided between major sources and area sources. SLOCAPCD's request for approval included only those provisions of the dry cleaning NESHAP that apply to area sources. Thus, dry cleaning facilities using perchloroethylene that qualify as major sources, as defined by the dry cleaning NESHAP, remain subject to the dry cleaning NESHAP and the CAA Title V operating permit program.

2. Authority to Determine Equivalent Emission Control Technology for Dry Cleaning Facilities

Under the dry cleaning NESHAP, any person may petition the EPA Administrator for a determination that the use of certain equipment or procedures is equivalent to the standards contained in the dry cleaning NESHAP (*see* 40 CFR 63.325). In its request, SLOCAPCD did not seek approval for the provisions in Rule 432 that would allow for the use of alternative emission control technology without previous approval from EPA (i.e., Rule 432 sections B.17, G.3.a.5, G.3.b.2.iii, and I). A source seeking permission to use an alternative means of emission limitation under CAA section 112(h)(3) must receive approval, after notice and opportunity for comment, from EPA before using such alternative means of emission limitation for the purpose of complying with CAA section 112.

B. California's Authorities to Implement and Enforce CAA Section 112 Standards

1. Penalty Authorities

As part of its request for approval of the dry cleaning ATCM, CARB submitted a finding by California's Attorney General stating that ''State law provides civil and criminal enforcement authority consistent with [40 CFR] 63.91(b)(1)(i), 63.91(b)(6)(i), and 70.11, including authority to recover penalties and fines in a maximum amount of not less than $10,000 per day *per violation* . . .'' [emphasis added]. In accordance with this finding, EPA understands that the California Attorney General interprets section 39674 and the applicable sections of Division 26, Part 4, Chapter 4, Article 3 (''Penalties'') of the California Health and Safety Code as allowing the collection of penalties for multiple violations per day. In addition, EPA also understands that the California Attorney General interprets section 42400(c)(2) of the California Health and Safety Code as allowing for, among other things, criminal penalties for knowingly rendering inaccurate any

monitoring *method* required by a toxic air contaminant rule, regulation, or permit.

As stated in section II.A above, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112, including the authority to seek civil and criminal penalties up to the maximum amounts specified in CAA section 113.

2. Variances

Division 26, Part 4, Chapter 4, Articles 2 and 2.5 of the California Health and Safety Code provide for the granting of variances under certain circumstances. EPA regards these provisions as wholly external to SLOCAPCD's request for approval to implement and enforce a CAA section 112 program or rule and, consequently, is proposing to take no action on these provisions of state law. EPA has no authority to approve provisions of state or local law, such as the variance provisions referred to, that are inconsistent with the CAA. EPA does not recognize the ability of a state or local agency who has received delegation of a CAA section 112 program or rule to grant relief from the duty to comply with such Federally-enforceable program or rule, except where such relief is granted in accordance with procedures allowed under CAA section 112. As stated above, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112.

Similarly, section 39666(f) of the California Health and Safety Code allows local agencies to approve alternative methods from those required in the ATCMs, but only as long as such approvals are consistent with the CAA. As mentioned in section II.A.2 above, a source seeking permission to use an alternative means of emission limitation under CAA section 112 must also receive approval, after notice and opportunity for comment, from EPA before using such alternative means of emission limitation for the purpose of complying with CAA section 112.

III. Administrative Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Approvals under 40 CFR 63.93 do not create any new requirements, but simply approve requirements that the state or local agency is already imposing. Therefore, because this approval does not impose any new requirements, it does not have a significant impact on affected small entities.

B. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

C. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major'' as defined by 5 U.S.C. 804(2).

D. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

E. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. section 7412.

Dated: November 23, 1997.

Felicia Marcus,

Regional Administrator, Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Section 63.14 is amended by revising paragraph (d)(1) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(d) * * *

(1) *California Regulatory Requirements Applicable to the Air Toxics Program*, August 1, 1997, IBR approved for § 63.99(a)(5)(ii) of subpart E of this part.

* * * * *

Subpart E—Approval of State Programs and Delegation of Federal Authorities

3. Section 63.99 is amended by revising paragraphs (a)(5)(ii) introductory text, (a)(5)(ii)(A) introductory text, and by adding paragraph (a)(5)(ii)(B), to read as follows:

§ 63.99 Delegated federal authorities.

(a) * * *

(5) * * *

(ii) Affected sources must comply with the *California Regulatory Requirements Applicable to the Air Toxics Program,* August 1, 1997 (incorporated by reference as specified in § 63.14) as described below.

(A) The material incorporated in Chapter 1 of the *California Regulatory Requirements Applicable to the Air Toxics Program* California Code of Regulations Title 17, section 93109) pertains to the perchloroethylene dry cleaning source category in the State of California, and has been approved under the procedures in § 63.93 to be implemented and enforced in place of subpart M—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, as it applies to area sources only, as defined in § 63.320(h).

* * * * *

(B) The material incorporated in Chapter 2 of the *California Regulatory Requirements Applicable to the Air Toxics Program* (San Luis Obispo County Air Pollution Control District Rule 432) pertains to the perchloroethylene dry cleaning source category in the San Luis Obispo County Air Pollution Control District, and has been approved under the procedures in § 63.93 to be implemented and enforced in place of subpart M—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, as it applies to area sources only, as defined in § 63.320(h).

(*1*) Authorities not delegated.

(*i*) San Luis Obispo County Air Pollution Control District is not delegated the Administrator's authority to implement and enforce those provisions of subpart M which apply to major sources, as defined in § 63.320(g). Dry cleaning facilities which are major sources remain subject to subpart M.

(*ii*) San Luis Obispo County Air Pollution Control District is not delegated the Administrator's authority of § 63.325 to determine equivalency of emissions control technologies. Any source seeking permission to use an alternative means of emission limitation, under sections B.17, G.3.a.5, G.3.b.2.iii, and I of Rule 432, must also receive approval from the Administrator before using such alternative means of emission limitation for the purpose of complying with section 112.

* * * * *

[FR Doc. 97–32329 Filed 12–9–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–002–BU; FRL–5932–6]

Clean Air Act Reclassification; California—Santa Barbara Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finding that the Santa Barbara nonattainment area has not attained the 1-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date in the Clean Air Act (CAA) for moderate ozone nonattainment areas, which is November 15, 1996. The finding is based on EPA's review of monitored air quality data from 1994 through 1996 for compliance with the 1-hour ozone NAAQS. As a result of the finding, the Santa Barbara ozone nonattainment area will be reclassified by operation of law as a serious ozone nonattainment area on the effective date of this action. The effect of the reclassification will be to continue progress toward attainment of the 1-hour ozone NAAQS through the development of a new State implementation plan (SIP), due 12 months from the effective date of this action, addressing attainment of that standard by November 15, 1999.

EFFECTIVE DATE: January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Office of Air Planning, AIR–2, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1288.

SUPPLEMENTARY INFORMATION:

I. Background

Under sections 107(d)(1)(C) and 181(a) of the Clean Air Act (CAA) as amended in 1990, Santa Barbara County was designated nonattainment for the 1-hour ozone NAAQS and classified as ''moderate.'' See 56 FR 56694 (November 6, 1991). Moderate nonattainment areas were required to show attainment by November 15, 1996. CAA section 181(a)(1).

Pursuant to section 181(b)(2)(A) of the CAA, EPA has the responsibility for determining, within 6 months of an area's applicable attainment date, whether the area has attained the 1-hour ozone NAAQS.[1] Under section 181(b)(2)(A), if EPA finds that an area has not attained the 1-hour ozone NAAQS, it is reclassified by operation of law to the higher of the next higher classification or to the classification applicable to the area's design value at the time of the finding. CAA section 181(b)(2)(B) requires EPA to publish a document in the **Federal Register** identifying areas which failed to attain the standard and therefore must be reclassified by operation of law. A complete discussion of the statutory provisions and EPA policies governing findings of whether an area failed to attain the ozone NAAQS can be found in the proposal for this action at 62 FR 46234 (September 2, 1997).

II. Proposed Action

On September 2, 1997, EPA proposed to find that the Santa Barbara ozone nonattainment area failed to attain the 1-hour ozone NAAQS by the applicable attainment date. The proposed finding was based upon ambient air quality data from the years 1994–1996. The data showed that the 1-hour ozone NAAQS of 0.12 parts per million (ppm) had been exceeded on average more than one day per year over this 3-year period. Attainment of the 1-hour NAAQS is demonstrated when an area averages one or less days per year over the standard during a 3-year period. 40 CFR 50.9 and Appendix H. EPA also proposed that the appropriate reclassification of the area was to serious, based on the area's 1994–1996 design value of 0.130 ppm. This design value is well below the range of 0.180 to 0.280 ppm for a severe classification. For a complete discussion of the Santa Barbara ozone data and the method of calculating both the average number of days over the ozone standard and the design value, see 62 FR 46235–6.[2]

Finally, EPA proposed to require submittal of the serious area SIP revisions no later than 12 months from the effective date of the area's reclassification.

On July 18, 1997 (62 FR 38856), EPA revised the ozone NAAQS to establish a 8-hour standard; however, in order to ensure an effective transition to the new 8-hour standard, EPA also retained the 1-hour NAAQS for an area until such time as it determines that the area meets the 1-hour standard. See revised 40 CFR 50.9 at 62 FR 38894. As a result of retaining the 1-hour standard, CAA part D, subpart 2, *Additional Provisions for Ozone Nonattainment Areas*, including the reclassification provisions of section 181(b), remain applicable to areas that are not attaining the 1-hour standard. Unless otherwise indicated, all references in this notice are to the 1-hour ozone NAAQS.

[2] EPA wishes to correct one number in the table in the proposal entitled ''Average Number of Ozone Exceedance Days Per Year in the Santa Barbara Area'' (62 FR 46236). SBCAPCD pointed out that the correct site design value for the El Capitan station for 1994–1996 is 0.118 ppm, rather than 0.119 ppm.