

a.m. until 5:30 p.m. on June 17 and 18, 2002. This temporary deviation will allow for replacement of machinery struts.

**DATES:** This deviation is effective from 8 a.m. on Monday, June 17, 2002 until 5:30 p.m. on Tuesday, June 18, 2002.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130-3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:**  
David Frank, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The CSX Transportation railroad swing span drawbridge across Three Mile Creek, Baldwin County, Alabama has a vertical clearance in the closed-to-navigation position of 10 feet above mean high water and 12 feet above mean low water. The bridge provides unlimited vertical clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows and fishing vessels. Presently, the draw opens on signal for the passage of vessels.

CSX Transportation requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work. The work involves replacement of the deficient machinery struts on the bridge. This work is essential for continued operation of the draw span of the bridge and is expected to eliminate frequent breakdowns resulting in emergency bridge closures.

This deviation allows the draw of the CSX Transportation railroad swing span drawbridge to remain closed to navigation from 8 a.m. until 5:30 p.m. on June 17 and 18, 2002.

Dated: May 24, 2002.

**D.F. Ryan,**  
*Captain, U.S.C.G., Commander, Eighth Coast Guard District, Acting.*  
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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Prince William Sound 02-009]

RIN 2115-AA97

### Security Zone: Port Valdez and Valdez Narrows, Valdez, Alaska

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing the Trans-Alaska Pipeline System (TAPS) Valdez Terminal Complex, Valdez, Alaska and TAPS Tank Vessels and a security zone in the Valdez Narrows, Port Valdez, Alaska. The security zones are necessary to protect the Alyeska Marine Terminal and vessels from damage or injury from sabotage, destruction or other subversive acts. Entry of vessels into these security zones is prohibited unless specifically authorized by the Captain of the Port, Prince William Sound, Alaska.

**DATES:** This rule is effective from 8 a.m. April 1, 2002 until July 30, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP Prince William Sound 02-009 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, P.O. Box 486, Valdez, Alaska 99686, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**  
Chief Warrant Officer Milo Ortiz, U.S. Coast Guard Marine Safety Office Valdez, Alaska, (907) 835-7205.

### SUPPLEMENTARY INFORMATION:

#### Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In accordance with 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. The Coast Guard is taking this action for the immediate protection of the national security interests in light of terrorist acts perpetrated on September 11, 2001. Also, in accordance with 5 U.S.C. 553(d)(3), the Coast Guard finds good cause to exist for making this regulation effective less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of the effective date would be contrary to the public interest because immediate action is necessary to provide for the safety of the Trans-Alaska Pipeline System (TAPS) terminal and TAPS tank

vessels. This temporary rule will replace the temporary rules contained in 33 CFR 165.T17-003, 33 CFR 165.T17-004, and 33 CFR 165.T17-005, all of which expire on June 1, 2002.

### Discussion of the Regulation

The Coast Guard is establishing a temporary security zone while the notice of proposed rulemaking (NPRM) is drafted and published with a request for comments. This temporary final rule is required to ensure a smooth transition from temporary final rule to final rule. This temporary final rule, which we expected to be our proposed final rule, will help ensure protection of the TAPS terminal and TAPS tank vessels during the notice and comment period for the proposed final rule.

### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget 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 Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Economic impact is expected to be minimal because of the short duration of this rule and the season in which it is in effect.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would 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. The number of small entities impacted by this rule is expected to be minimal because of the short duration of the rule. Since the time frame this rule is in effect may cover commercial harvests of fish in the area, the entities most likely affected are commercial and native subsistence fishermen. The Captain of The Port will consider applications for

entry into the security zone on a case-by-case basis; therefore, it is likely that very few, if any, small entities will be impacted by this rule. Those interested may apply for a permit to enter the zone by contacting Marine Safety Office, Valdez at the above contact number.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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 contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this temporary final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### 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 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 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

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16745.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is 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, Safety measures, Vessels, Waterways.

For the reasons set forth 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, 160.5; 49 CFR 1.46.

#### §§ 165.T17-003—165.T17-005 [Removed]

2. Remove temporary §§ 165.T17-003, 165.T17-004, and 165.T17-005.

3. A new temporary § 165.T17-009 is added to read as follows:

#### § 165.T17-009 Port Valdez and Valdez Narrows, Valdez, Alaska—security zone.

(a) *Trans-Alaska Pipeline System (TAPS) Valdez Terminal complex (Terminal), Valdez, Alaska and TAPS Tank Vessels.* (1) The following is a security zone: the enclosed waters within a line beginning on the southern shoreline of Port Valdez at 61°04'57" N, 146°26'20" W; thence northerly to 61°06'24" N, 146°26'20" W; thence east to 61°06'24" N, 146°21'15" W; thence south to 61°05'07" N, 146°21'15" W; thence west along the shoreline and including the area 2000 yards inland along the shoreline to the starting point at 61°04'57" N, 146°26'20" W. This security zone encompasses all waters approximately one mile north, east and west of the TAPS Terminal between Allison Creek (61°05'07" N, 146°21'15" W) and Sawmill Spit (61°04'57" N, 146°26'20" W).

(2) The following is a security zone: all waters within 200 yards of the shore and offshore facilities of the TAPS Terminal between Allison Creek (61°05'07" N, 146°21'15" W) and Sawmill Spit (61°04'57" N, 146°26'20" W).

(3) The following is a security zone: the waters within 200 yards of any TAPS tank vessel maneuvering to approach, moor, unmoor or depart the TAPS Terminal or is transiting, maneuvering, laying to or anchored within the boundaries of the Captain of the Port Zone, Prince William Sound described in 33 CFR 3.85-20(b).

(b) *Valdez Narrows, Port Valdez, Valdez, Alaska.* (1) The following is a security zone: all waters within 200 yards of the Valdez Narrows Tanker Optimum Track line bounded by a line beginning at 61°05'16.0" N, 146°37'20.0" W; thence south west to 61°04'00.0" N, 146°39'52.0" W; thence southerly to 61°02'33.5" N, 146°41'28.0" W; thence north west to 61°02'40.5" N, 146°41'47.5" W; thence north east to 61°04'06.0" N, 146°40'14.5" W; thence north east to 61°05'23.0" N, 146°37'40.0" W; thence south east back to the starting point at 61°05'16.0" N, 146°37'20.0".

(2) Valdez Narrows Tanker Optimum Track line is a line commencing at 61°05'23.0" N, 146°37'22.5" W; thence south westerly to 61°04'03.2" N, 146°40'03.2" W thence southerly to 61°03'00" N, 146°41'12" W.

(3) This security zone encompasses all waters approximately 200 yards either side of the Valdez Narrows Optimum Track line.

(c) *Effective dates.* This section is effective from 8 a.m. April 1, 2002 until July 30, 2002.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(e) *Regulations.* (1) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(2) Tank vessels transiting directly to the TAPS terminal complex, engaged in the movement of oil from the terminal or fuel to the terminal, and vessels used to provide assistance or support to the tank vessels directly transiting to the terminal, or to the terminal itself, and that have reported their movements to the Vessel Traffic Service may operate as necessary to ensure safe passage of tank vessels to and from the terminal. All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port and the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a vessel displaying a U.S. Coast Guard ensign by siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed. Coast Guard Auxiliary and local or state agencies may be present to inform vessel operators of the requirements of this section and other applicable laws.

Dated: April 1, 2002.

**P.M. Coleman,**

*Commander, U.S. Coast Guard, Captain of the Port Prince William Sound, Alaska.*

[FR Doc. 02-13960 Filed 6-3-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

**[PAC AREA-02-001]**

**RIN 2115-AG33**

### Protection of Naval Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing regulations for the safety

and security of U.S. naval vessels in the navigable waters of the United States. Naval Vessel Protection Zones will provide for the regulation of vessel traffic in the vicinity of many U.S. naval vessels in the navigable waters of the United States.

**DATES:** This rule is effective beginning June 15, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [PAC AREA 02-001] and are available for inspection or copying at U.S. Coast Guard, Pacific Area Marine Transportation Branch (Pmt), Coast Guard Island, Bldg. 50-6, Alameda, CA 94501 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Commander Steve Danscuk, Commander, Pacific Area Marine Transportation Branch (Pmt), at telephone number (510) 437-2943.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 20, 2002, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Protection of Naval Vessels in the **Federal Register** (67 FR 12940). The Coast Guard received five letters commenting on the proposed rule. No public hearing was requested, and none was held.

On February 21, 2002, Coast Guard Commander, Atlantic Area, Marine Safety Division, Response Branch (Amr), published a notice of proposed rulemaking in the **Federal Register** (67 FR 7992) proposing to establish a permanent subpart G to 33 CFR part 165 and setting out general provisions pertaining to that subpart. On May 13, 2002, Atlantic Area's final rule was published in the **Federal Register** (67 FR 31958). The general provisions of subpart G are discussed in the preamble to the Atlantic Area rule and would apply to Pacific Area naval vessel protection zones. This rule, applicable in Coast Guard Pacific Area, adds a new § 165.2030, which creates restrictions similar to Atlantic Area's § 165.2025.

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**. Because naval commanders have an urgent and critical security need to control the movements of vessels in the vicinity of large naval vessels, this rule needs to become effective on June 15, 2002. Otherwise, there will be a regulatory gap when the temporary final rule (66 FR 48780 and

48782), which is now in effect, expires on that date. The Coast Guard believes that its finding of good cause in this instance is consistent with the principle of fundamental fairness which requires that all affected persons be afforded a reasonable time to prepare for the effective date of a rulemaking. This is because the temporary final rule, which has been in effect since September 21, 2002, is very similar to this rule. The Coast Guard believes that the temporary final rule has given the public adequate time to adjust to and prepare for naval vessel protection zones.

#### Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. On September 21, 2001, the Coast Guard published temporary final rules entitled "Protection of Naval Vessels" in the **Federal Register** (66 FR 48780 and 48782). Before issuing these temporary final rules, no regulations existed implementing 14 U.S.C. 91. The temporary final rules are in effect until June 15, 2002.

We have determined that a continuing need exists for the protection of naval vessels. Therefore, we are implementing a permanent rule that will replace the Pacific Area temporary rule (66 FR 48782) by June 15, 2002.

#### Discussion of Comments and Changes

The Coast Guard received five letters in response to the March 20, 2002 notice of proposed rulemaking (67 FR 12940). Letters from the Suquamish Tribe, the Muckleshoot Indian Tribal Council, the law firm of Morisset Schlosser representing the Tulalip Tribe, and the Northwest Indian Fisheries Commission expressed concern over the rule's potential impact on the treaty fishing rights of federally recognized Indian Tribes in Puget Sound, Washington. The Office of Hawaiian Affairs, a state agency that represents Native Hawaiian interests, expressed concern over the impacts of the proposed rule on ocean activities conducted by Native Hawaiians.

*Comment 1.* The Puget Sound Tribes stated that they have reserved rights of access for fishing in usual and accustomed places. They conduct fisheries enforcement patrols, perform fisheries and water quality research and harvest shellfish. They stated that such activities may bring tribal members and their vessels in proximity to naval vessels. The Tribes averred that there is a potential for substantial direct effects