

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[COTP Prince William Sound 03–001]

RIN 2115–97

**Security Zone: Port Valdez and Valdez Narrows, Valdez, AK****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule; request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing the Trans-Alaska Pipeline (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 January 1, 2003 until June 30, 2003. Comments and related material must reach the Coast Guard by June 15, 2003.

**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 COTP Prince William Sound 03–001 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, PO 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:** Lt. Chris Beadle, U.S. Coast Guard Marine Safety Office Valdez, Alaska, (907) 835–7222.

**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

effective date would be contrary to the public interest because immediate action is necessary to provide for the safety of the TAPS terminal and TAPS tank vessels. On November 7, 2001, we published three temporary final rules in the **Federal Register** (66 FR 56208, 56210, 56212) that created security zones effective through June 1, 2002. The section numbers and titles for these zones are—

§ 165.T17–003—Security zone; Trans-Alaska Pipeline Valdez Terminal Complex, Valdez, Alaska,

§ 165.T17–004—Security zones; Captain of the Port Zone, Prince William Sound, Alaska.

Then on June 4, 2002, we published a temporary final rule (67 FR 38389) that established security zones to replace these security zones that expired June 1, 2002. That rule issued in June, which expired July 30, 2002, created temporary § 165.T17–009, entitled “Port Valdez and Valdez Narrows, Valdez, Alaska”.

Then on July 30, 2002 we published a temporary final rule (67 FR 19359) that established security zones to extend the temporary security zones that would have expired July 30, 2002. This extension was to allow for a Notice of Proposed Rulemaking process to be completed for permanent security zones to replace the temporary zones. Then on October 22, 2002, we published the Notice of Proposed Rulemaking that sought public comment on establishing the temporary security zones as permanent security zones. The comment period for this NPRM ended December 23, 2002. Although no comments were received that would result in changes to the proposed rule, an administrative omission was found that resulted in the need to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) to address the “Collection of Information” section of the NPRM. This temporary final rule extends the temporary security zones to allow for the SNPRM process to be completed.

**Discussion of the Rule**

This temporary final rule establishes three security zones. The Trans-Alaska Pipeline (TAPS) Valdez Marine Terminal Security zone encompasses the waters of Port Valdez between Allison Creek to the east and Sawmill Spit to the west and offshore to marker buoys A and B (approximately 1.5 nautical miles offshore from the TAPS Terminal). The Tanker Moving Security Zone encompasses the waters within 200 yards of a TAPS Tanker within the Captain of the Port, Prince William Sound Zone. The Valdez Narrows

Security Zone encompasses the waters 200 yards either side of the Tanker Optimum Trackline through Valdez Narrows between Entrance Island and Tongue Point. This zone is enforced only when a TAPS Tanker is in the zone. This temporary final rule reflects the changes to 33 CFR part 1701 submitted for regulatory review and publication as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**. The Coast Guard has worked closely with local and regional users of Port Valdez and Valdez Narrows waterways to develop these security zones and the NPRM in order to mitigate the impact on commercial and recreational users. This temporary final rule establishes a uniform transition from the temporary operating zones while the NPRM and SNPRM process is completed.

**Request for Comments**

Although the Coast Guard has good cause in implementing this regulation without a notice of proposed rulemaking, we want to afford the maritime community the opportunity to participate in this rulemaking by submitting comments and related material regarding the size and boundaries of these security zones in order to minimize unnecessary burdens. If you do so, please include your name and address, identify the docket number for this rulemaking, COTP Prince William Sound 03–001, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary final rule in view of them.

**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.

#### Assistant for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 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 new 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 Mandate 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 Figures 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, and 160.5; 49 CFR 1.46.

■ 2. A new temporary § 165.T17–014 is added to read as follows:

#### § 165.T17–016 Port Valdez and Valdez Narrows, Valdez, Alaska—security zones.

(a) The following areas are security zones—

(1) Trans-Alaska Pipeline (TAPS) Valdez Terminal complex (Terminal), Valdez, Alaska and TAPS Tank Vessels. All enclosed waters enclosed within a line beginning on the southern shoreline of Port Valdez at 61°042573 N, 146°262203 W; thence northerly to 61°062303 N, 146°262203 W; thence east to 61°062303 N, 146°212153 W, south to 61°02073 N, 146°212153 W; thence west along the shoreline and including the area 2000 yards inland along the shoreline to the beginning point. This security zone encompasses all waters approximately 1 mile north, east and west of the TAPS Terminal between Allison Creek (61°052073 N, 146°212153 W) and Sawmill Spit (61°042573 N, 146°262203 W).

(2) Tank Vessel Moving Security Zone. All 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, Prince William Sound Zone described in 33 CFR 3.85(b).

(3) Valdez Narrows, Port Valdez, Valdez, Alaska. All waters within 200 yards of the Valdez Narrows Tanker Optimum Track line bounded by a line beginning at 61°05216.03 N, 146°37220.03 W; thence south west to 61°04200.03 N, 146°39252.03 W; thence southerly to 61°02233.53 N, 146°41228.03 W; thence north west to 61°02240.53 N, 146°41247.53 W; thence north east to 61°04206.03 N, 146°40214.53 W; thence north east to 61°05223.03 N, 146°37240.03 W; thence south east back to the starting point at 61°05216.03 N, 146°37220.03.

(i) The Valdez Narrows Tanker Optimum Track line is a line commencing at 61°05223.03 N, 146°37222.53 W; thence south westerly to 61°04203.23 N, 146°40203.23 W; thence southerly to 61°03200 N, 146°412123W.

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

(b) Effective dates. This section is effective from January 1, 2003 until June 30, 2003.

(c) Authority. In addition to 33 U.S.C. 1281 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) 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.

(3) All persons and vessels must 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: December 30, 2002.

**M.A. Swanson,**

*Commander, United States Coast Guard,  
Captain of the Port, Prince William Sound,  
Alaska.*

[FR Doc. 03-12183 Filed 5-15-03; 8:45 am]

**BILLING CODE 4910-15-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TN-248-2003217(a); FRL-7498-6]

#### Approval and Promulgation of Implementation Plans: Revisions to Tennessee State Implementation Plan: Transportation Conformity Rule

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Tennessee State Implementation Plan (SIP) submitted on March 19, 2002, with the exception of one state regulation pertaining to triggers. The revision contains the transportation conformity rule pursuant to the Clean Air Act as amended in 1990 (Act), including detailed consultation procedures for implementing the transportation conformity rule. The transportation conformity rule assures that projected emissions from transportation plans, improvement programs and projects in air quality nonattainment or maintenance areas stay within the motor vehicle emissions ceiling contained in the SIP. The transportation conformity SIP revision enables the State to implement and enforce the Federal transportation conformity requirement at the state level. This action streamlines the conformity process to allow direct consultation among agencies at the local level. This final approval action is limited to requirements for transportation conformity.

**DATES:** This direct final rule is effective July 15, 2003 without further notice, unless EPA receives adverse comment by June 16, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Kelly Sheckler at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of documents relative to this action are available at the following address for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Kelly Sheckler, (404) 562-9042.

Tennessee Department of Environment and Conservation, Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1531.

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler at (404) 562-9042, e-mail: [Sheckler.Kelly@epa.gov](mailto:Sheckler.Kelly@epa.gov)

**SUPPLEMENTARY INFORMATION:** On March 19, 2002, Tennessee submitted a revision to the SIP, with the exception of one state regulation pertaining to triggers. The revision contains the transportation conformity rule pursuant to the Clean Air Act as amended in 1990 (Act), including detailed consultation procedures for implementing the transportation conformity rule. The information on this action is organized as follows:

- I. Background
  - A. What is a SIP?
  - B. What is the Federal Approval Process for a SIP?
  - C. What is Transportation Conformity?
  - D. Why Must the State Submit a Transportation Conformity SIP?
  - E. How Does Transportation Conformity Work?
- II. Approval of the State Transportation Conformity Rule
  - A. What Did the State Submit?
  - B. What is EPA Approving Today and Why?
  - C. How Did the State Satisfy the Interagency Consultation Process (40 CFR 93.105)?
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background

##### A. What Is a SIP?

The states, under section 110 of the Act, must develop air pollution regulations and control strategies to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS) established by EPA. The Act, under section 109, established these NAAQS which currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must send these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP, which protects air quality and contains emission control plans for NAAQS nonattainment areas. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as