

or final regulations in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Prince William Sound 02-011]

RIN 2115-AA97

Security Zone; Port Valdez and Valdez Narrows, Valdez, AK

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a 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: Comments and related material must reach the Coast Guard on or before December 23, 2002.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office, P.O. Box 486, Valdez, Alaska 99686. Marine Safety Office Valdez, AK, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Valdez, AK 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:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for

this rulemaking (COTP Prince William Sound 02-011), 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 1/2 by 11 inches, suitable for copying. If you would like to know that your submission 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 proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Valdez at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

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. The port of Valdez is a vital national commercial port, supporting the transfer and transport of a significant percentage of oil used in the United States. As such, it is crucial that actions be taken to protect the flow of commerce from possible terrorist or subversive acts designed to damage maritime facilities and vessels transiting to and from the Port of Valdez. The proposed rule would replace existing regulations in 33 CFR 165.1701 and the temporary rule issued in July, which will expire December 31, 2002, that created temporary § 165.T17-010, entitled "Port Valdez and Valdez Narrows, Valdez, Alaska." The proposed rule would work to safely control the flow of commercial traffic and protect vital maritime facilities by creating security zones and check-in procedures designed to identify threats for response by appropriate law enforcement resources.

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 security zone regulations are—

- § 165.T17-003—Security zone; Trans-Alaska Pipeline Valdez Terminal Complex, Valdez, Alaska,
- § 165.T17-004—Security zone; Port Valdez, and

§ 165.T17-005—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 those 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 26, 2002 we published a temporary final rule (67 FR 49582-84) that established security zones to replace temporary § 165.T17-009 that expired July 30, 2002. That rule issued in July, which will expire December 31, 2002, created temporary § 165.T17-010, entitled "Port Valdez and Valdez Narrows, Valdez, Alaska". This proposed rule would remove the temporary security zones in § 165.T17-010 and add permanent security zones in a new 33 CFR 165.1701.

Comments received regarding the temporary final rules currently in place will be taken into consideration.

Discussion of Proposed Rule

This proposed rule would establish three security zones in new 33 CFR 165.1701(a) and move the current safety zone in existing 33 CFR 165.1701 to new 33 CFR 165.1701(b). This proposed rule also would establish procedures for vessel entry into the security and safety zones for management of the natural resources administered by the Alaska Department of Natural Resources.

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 Tank Vessel 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. The TAPS safety zone encompasses all waters within 200 yards of on shore and off shore facilities of the TAPS Terminal and is a safety buffer between potentially hazardous terminal operating areas and areas to which vessels may be permitted entry by the Captain of the Port, Prince William Sound, during State of Alaska managed fisheries openings and/or closings.

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. The limited size of the terminal security zone is designed to minimize impact on mariners while ensuring public safety by preventing interference with terminal operations. The Tank Vessel moving security zone and the Valdez Narrows security zone will be enforced only while vessels are transiting the area and are designed to provide a safe operating distance while minimizing threats to tanker operations.

Regulatory Evaluation

This proposed 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). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the limited size of the zones and the limited duration of the Tank Vessel moving security zone and the Valdez Narrows security zone. Additionally, vessels will not be precluded from transiting and operating in these areas as The Captain of The Port will consider requests for entry on a case-by-case basis and requests for entry will be approved as appropriate. Those desiring to transit the area of the security or safety zones must contact the Captain of the Port under the provisions of proposed 33 CFR 165.1701(d).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small

entities. The proposed rule would affect the following entities, some of which might be small entities: The owners and operators of commercial fishing vessels and native subsistence fishermen. Some of the areas that these entities might desire to use for fishing may fall within the security or safety zones. However, The Captain of The Port will consider requests for entry into the security or safety zones on a case-by-case basis and requests for entry will be approved as appropriate; therefore, it is likely that very few, if any, small entities will be impacted by this rule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lt. Chris Beadle, U.S. Coast Guard Marine Safety Office Valdez, Alaska, (907) 835–7222.

Collection of Information

This proposed rule contains information collection requirements that have not been approved by OMB. This proposed rule would modify an existing collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The Captain of the Port, Prince William Sound, Alaska requires information on vessel owners and operators, and their vessels, crews and passengers desiring entry into the proposed security and safety zones in Port Valdez and Valdez Narrows, Alaska. This information is required to ensure port and vessel safety and security, uninterrupted fishing industry openings, control vessel traffic, develop contingency plans and enforce applicable laws and regulations.

You are not required to respond to a collection of information unless it

displays a currently valid control number from OMB.

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 proposed rule under that Order and have determined that it 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. 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 proposed 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 proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation since implementation of this action will not result in any inconsistencies with any Federal, State, or Local laws or administrative determinations relating to the environment. 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, Security measures, Waterways.

For the reasons set forth in the preamble, the Coast Guard proposes to amend 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.T17-013 [Removed]

2. Remove § 165.T17-013.
3. Revise § 165.1701 to read as follows:

§ 165.1701 Port Valdez and Valdez Narrows, Valdez, Alaska—security and safety zones.

(a) *Security zone locations.* The following areas are security zones:

(1) *Trans-Alaska Pipeline (TAPS) Valdez Terminal complex (Terminal), Valdez, Alaska and TAPS Tank Vessels.* All waters enclosed within a line beginning on the southern shoreline of Port Valdez at 61°04'57" N, 146°26'20" W; thence northerly to 61°06'30" N, 146°26'20" W; thence east to 61°06'30" 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 beginning point. This security zone encompasses all waters approximately 1 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) *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 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°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" W.

(i) The 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.

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

(b) The following location is a safety 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).

(c) *Regulations.* (1) Entry into or remaining in these zones is prohibited unless authorized by the Coast Guard Captain of the Port, Prince William

Sound via the request process set out in paragraph (d) of this section.

(2) For the purposes of this section, paragraphs (a), (e), and (f) of § 165.33 do not apply to the following vessels or individuals legally on board those vessels:

(i) Public vessels of the United States; and

(ii) Vessels engaged in the movement of oil from the TAPS terminal or fuel to the TAPS terminal and that have reported their movements to the Vessel Traffic Service or vessels that are performing work at the TAPS Terminal including, but not limited to tugs, oil spill response vessels, boom boats, security and safety vessels.

(3) *Enforcement of Valdez Narrows security zone.* Section 165.33(a) will not be enforced in the Valdez Narrows security zone, described in paragraph (a)(3) of this section, except when a tank vessel greater than 20,000 DWT is in the Valdez Narrows security zone. Vessels must stay clear of the Valdez Narrows security zone when a transiting tank vessel approaches the Valdez Narrows VTS Special Area from the vicinity of Entrance Island to the north and Tongue Point to the south of Valdez Narrows. The Valdez Narrows VTS Special Area is depicted as the purple dashed lines on National Oceanic and Atmospheric Administration chart 16707 and is described in § 161.60(b) of this subchapter.

(4) Vessels other than those described in paragraph (c)(2) of this section desiring access to the security and safety zones set out in paragraphs (a) and (b) of this section shall secure permission from the Captain of the Port under the procedures listed in paragraph (d).

(d) *Permits.* (1) The Captain of the Port may allow access to the security and safety zones in order to encourage utilization of natural resources, promote tourism and provide for other reasonable use consistent with the needs of security and safety within Port Valdez and Prince William Sound. Vessels desiring access must obtain a permit from the Captain of the Port in the following manner:

(2) Applicants must submit an application via written request to the Captain of the Port at least 48 hours prior to the desired time of entry into a security or safety zone. Applications submitted less than 48 hours prior to the desired time of entry may be accepted by the Captain of the Port on a case by case basis. The written request must:

(i) Demonstrate good cause for entry into a security or safety zone.

(ii) Describe the vessel(s) entering (including name, visible identifying

numbers, markings, etc.) and time(s)/date(s) of entry.

(iii) Provide certification that all crew members and other persons on board are U.S. citizens or provide names and identifying information on all non-U.S. citizens (passport, etc.) and certification that all other crew and other persons on board are U.S. citizens.

(iv) Provide a name and contact information for the applicant or the applicant's designated point of contact.

(v) If the application is submitted less than 48 hours prior to the desired entry into a security or safety zone it must provide the reason the applicant was unable to meet the 48 hour deadline. The Captain of the Port may consider circumstances beyond the applicant's control as acceptable for relief from the 48 hour deadline. "Beyond the applicant's control" may include, but is not limited to, short notice fishing openers, gear retrieval for short notice fishing closures or other actions by state or federal wildlife or natural resources management agencies. If an application does not meet the 48 hour deadline and is not accepted, the Captain of the Port shall provide the reason(s) why the application is denied in a written response to the applicant.

(vi) Applications may be delivered in person or by mail to Captain of the Port, U.S. Coast Guard Marine Safety Office, PO Box 486, 105 Clifton Drive, Valdez, Alaska, 99686-0486.

(3) Upon approval the Captain of the Port shall issue a letter permitting access to a security or safety zone specifying time(s)/date(s) of entry, check-in, check-out and emergency vacate procedures. This letter shall be carried aboard the vessel and presented upon request to any on-scene patrol personnel of the Coast Guard.

(4) The Captain of the Port may require a permittee to monitor certain radio frequencies, display special visual signals such as flags or markers, enter and depart at specific locations and undergo a vessel examination prior to entry into any security or safety zone.

(5) 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, or by on-scene Coast Guard patrol personnel, 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. Coast Guard Auxiliary and local or state agencies and may have on board their vessels Coast Guard patrol personnel.

(e) *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.

Dated: September 25, 2002.

M.A. Swanson,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket # WA-70-7148; FRL -7397-8]

Approval and Promulgation of Air Quality Implementation Plan; Washington

AGENCY: Environmental Protection Agency (EPA or "we").

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve most, but not all of the State Implementation Plan (SIP) revisions for visibility submitted by the State of Washington on November 5, 1999. Significant provisions of this SIP revision that we propose to approve include an improved smoke management plan and the Southwest Air Pollution Control Agency (SWAPCA) emission limitations on the Centralia Power Plant located in central western Washington.

DATES: Comments must be received on or before November 22, 2002.

ADDRESSES: Written comments should be addressed to Steven K. Body, EPA, Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101. You may see copies of the relevant documents used in this proposed action during normal business hours at the following location: EPA Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, EPA Region 10, Office of Air Quality, at (206) 553-0782.

SUPPLEMENTARY INFORMATION: The supplementary information is organized in the following order:

Background

I. Background on Visibility

- A. What is visibility protection and why do we have it?
- B. What are the main visibility protections provided by federal rules?

C. How has visibility been protected in Washington?

II. What are the required provisions of a visibility SIP?

- A. Long Term Strategy
- B. Monitoring
- C. BART

III. What does this proposed Visibility SIP revision change and how do these changes compare to federal requirements?

- A. Provisions to revise the protection of Integral Vistas
- B. Provisions to revise the Smoke Management Plan
 - i. What is Washington's Smoke Management Plan?
 - ii. How does Washington's 1999 proposed SIP Revision change the Plan?
 - iii. How does the Smoke Management Plan compare to federal requirements?
- C. Provisions to include the SWAPCA RACT Emission Limitations for Centralia Power Plant
- D. Provisions to revise the State's Best Available Retrofit Technology and New Source Review Rules

Administrative Requirements

Background

I. Background on Visibility

A. What Is Visibility Protection and Why Do We Have It?

Section 169A of the federal Clean Air Act (CAA or Act) requires states to protect visibility in mandatory Class I federal areas. Mandatory Class I federal areas are specified large National Parks or Wilderness Areas. In Washington, there are 8 mandatory Class I federal areas; the Mount Rainier National Park, North Cascades National Park, Olympic National Park, Alpine Lake Wilderness Area, Glacier Peak Wilderness Area, Goat Rocks Wilderness Area, Mount Adams Wilderness Area, and Pasayten Wilderness Area. 40 CFR 81.434 The federal rules regulating visibility protection are set out in 40 CFR part 51, subpart P.

B. What Are the Main Visibility Protections Provided by the Federal Rules?

The Clean Air Act sets out a goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I federal areas. 42 U.S.C. 7491. Employing a close coordination process among the state and the federal land managers (FLM), the federal rules require monitoring of visibility in mandatory Class I federal areas, as well as the development of a long-term strategy for making reasonable progress towards the national visibility goal. The visibility protection rules also provide for an assessment of visibility impacts from any new or major modification to a major stationary