



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0157]

RIN 1625-AA87

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

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The current Trans-Alaska Pipeline Valdez Terminal complex (Terminal) security zone encompasses a waterside portion and 2000 yards inland, which includes the shoreside portion of the terminal and adjacent land. The Coast Guard is amending the TAPS Terminal security zone to exclude the land portion from the security zone. The Coast Guard has never exercised any legal authority, nor has it enforced regulations within the inland portion of the security zone.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0157 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Junior Grade Abigail Ferrara, Marine Safety Unit Valdez, US Coast Guard. Telephone 907-835-7209, email Abigail.C.Ferrara@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Prince William Sound
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
TAPS	Trans-Alaska Pipeline
U.S.C.	United States Code

II. Background Information and Regulatory History

In response to the terrorist attacks on September 11, 2001, the Coast Guard instituted several temporary security zones in the Trans-Alaska Pipeline (TAPS) Terminal and Port Valdez areas. Between 2002 and 2004, Coast Guard published several proposed and supplemental proposed rulemakings to establish security zones in the area. This culminated with a final rule (71 FR 2152) published on January 13, 2006, which established the current permanent security zones in 33 CFR 165.1710.

The current TAPS Terminal security zone encompasses a waterside portion and 2000 yards inland, which includes the shoreside portion of the terminal and adjacent land. The Coast Guard has never exercised any legal authority, nor has it enforced regulations within the inland portion of the security zone. The Captain of the Port Prince William Sound (COTP) determined that the current practice of non-enforcement within the inland portion of the security zone could create confusion for future stakeholders and the public. It would be an arbitrary and unreasonable burden upon the facility and industry employees who have freely entered the inland portion without COTP permission for decades if a COTP were to begin enforcing their authority over the inland portion of the security zone in the future.

The Coast Guard is issuing this rulemaking under authority in 46 U.S.C. 70051 and 70124.

On February 20, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Security Zone; Port Valdez and Valdez narrows, Valdez, AK

(89 FR 13015). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this security zone. During the comment period that ended March 22, 2024, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The COTP determined that the current practice of non-enforcement within the inland portion of the security zone could create confusion for future stakeholders and the public. It would be an arbitrary and unreasonable burden upon the facility and industry employees who have freely entered the inland portion without COTP permission for decades if a COTP were to begin enforcing their authority over the inland portion of the security zone in the future. The purpose of this rule is to prevent future confusion.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published February 20, 2024. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The COTP is amending the current security zone found in 33 CFR 165.1710(a)(1) to excise the 2000-yard inland portion of the zone. This will result in the security zone encompassing only the water up to the shoreline. The regulatory text we are amending appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and location of the current waterside portion security zone remaining the same. Moreover, the landside portion of the facility has had other security regulations in place for roughly two decades.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rulemaking. 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.

This regulatory change would not affect any small entities, as the COTP does not enforce the requirements for the landside portion of the security zone, and the waterside security zone coordinates will remain unchanged.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves excising the 2000-yard inland portion TAPS Terminal security zone. It is categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Revise § 165.1710 paragraph (a)(1) to read as follows:

§ 165.1710 Port Valdez and Valdez Narrows, Valdez, Alaska—security zones.

(a) * * *

(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°05'03.6" N, 146°25'42" W; thence northerly to yellow buoy at 61°06'00" N, 146°25'42" W; thence east to the yellow buoy at 61°06'00" N, 146°21'30" W; thence south to 61°05'06" N, 146°21'30" W; thence west along the shoreline to the beginning point.

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Dated: April 23, 2024.

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

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