

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 147**

[CGD08-05-015]

RIN 1625-AA00

Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 787

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around a petroleum and gas production facility in Green Canyon 787 of the Outer Continental Shelf in the Gulf of Mexico. The facility needs to be protected from vessels operating outside the normal shipping channels and fairways, and placing a safety zone around this area will significantly reduce the threat of allisions, oil spills and releases of natural gas. This rule prohibits all vessels from entering or remaining in the specified area around the facility's location except under specified conditions.

DATES: This final rule is effective on October 1, 2005.

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 [CGD08-05-015] and are available for inspection or copying at Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Kevin Lynn, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70130, telephone (504) 589-6271.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On March 23, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 787" in the **Federal Register** (70 FR 14612). We received no comments on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is establishing a safety zone around the Atlantis Semi-

Submersible facility, a petroleum and gas production facility in the Gulf of Mexico in Green Canyon 787 (GC 787), located at position 27°11'44" N, 90°01'37" W.

This safety zone is in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be in waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area of the Gulf of Mexico also includes an extensive system of fairways. The fairway nearest the safety zone is the South of Gulf Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

British Petroleum Exploration and Production, Inc., hereafter referred to as BP, has requested that the Coast Guard establish a safety zone in the Gulf of Mexico around the Atlantis Semi-Submersible facility.

The request for the safety zone was made due to the high level of shipping activity around the facility and the associated safety concerns for both the onboard personnel and the environment. Information provided by BP to the Coast Guard indicates that the location, production level, and personnel levels on board the facility make it highly likely that any allision with the facility or its mooring system would result in a catastrophic event.

The Coast Guard has evaluated BP's information and concerns against Eighth Coast Guard District criteria developed to determine if an Outer Continental Shelf facility qualifies for a safety zone. Several factors were considered to determine the necessity of a safety zone for the Atlantis Semi-Submersible facility: (1) The facility is located approximately 36 nautical miles south of the South of Gulf Safety Fairway; (2) the facility will have a high daily production capacity of petroleum oil and gas per day; (3) the facility will be manned; and (4) the facility is a semi-submersible type platform.

We conclude that the risk of allision to the facility and the potential for loss of life and damage to the environment resulting from such an accident warrants the establishment of this safety zone. This rule will significantly reduce the threat of allisions, oil spills and

natural gas releases and increase the safety of life, property, and the environment in the Gulf of Mexico.

Discussion of Comments and Changes

We received no comments on the proposed rule. This facility was originally expected to be on location beginning September 1, 2005. Subsequent discussions with BP indicate the date has changed to October 1, 2005. Therefore, the effective date of this rule will be October 1, 2005. No other changes to this final rule have been made.

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. 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 Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The impacts on routine navigation are expected to be minimal because the safety zone will not overlap any of the safety fairways within the Gulf of Mexico.

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. Since the Atlantis Semi-Submersible is located far offshore, few privately owned fishing vessels and recreational boats/yachts operate in the area. This rule will not impact an attending vessel or vessels less than 100 feet in length overall not engaged in towing. Alternate routes are available for all other vessels impacted by this rule. Use of an alternate route may cause a vessel to incur a delay of four to ten minutes in arriving at their destinations depending on how fast the vessel is traveling. Therefore, the Coast Guard expects the

impact of this regulation on small entities to be minimal.

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 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 (Pub. L. 104-121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking.

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.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

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 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 rule will not result in such

expenditure, we discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1 paragraph (34)(g), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.841 to read as follows:

§ 147.841 Atlantis Semi-Submersible safety zone.

(a) *Description.* Atlantis Semi-Submersible, Green Canyon 787 (GC 787), located at position 27°11'44" N, 90°01'37" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone. These coordinates are based upon [NAD 83].

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

- (1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: July 14, 2005.

R.F. Duncan,

*Rear Admiral, U.S. Coast Guard Commander,
Eighth Coast Guard District.*

[FR Doc. 05-15075 Filed 7-28-05; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD17-05-003]

RIN 1625-AA87

Security Zone; High Capacity Passenger Vessels in the Seventeenth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary moving security zones around all escorted high capacity passenger vessels during their transit in the navigable waters of the Seventeenth Coast Guard District. These temporary security zones prohibit any vessel from entering within 100 yards of an escorted high capacity passenger vessel while in transit. These temporary security zones are necessary to mitigate potential terrorist acts and enhance public and maritime safety and security.

DATES: This rule is effective from July 21, 2005, to September 29, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD17-05-003 and are available for inspection or copying at United States Coast Guard, District 17 (moc), 709 West 9th Street, Juneau, AK 99801 between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Matthew York, District 17 (moc), 709 West 9th Street, Juneau, AK 99801, (907) 463-2821.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In a different rulemaking, we published a notice of proposed rulemaking (NPRM) entitled "Regulated Navigation Area and Security Zones; High Capacity Passenger Vessels in Alaska" in the **Federal Register** (70 FR 11595, March 9, 2005), docket number

CGD17-05-002. That NPRM included provision for moored and anchored vessels that are not included in these temporary security zones. We received several letters in response to that NPRM, which are currently under review and consideration. A supplemental NPRM to docket CGD17-05-002 will be published, and the public will be given the opportunity to comment on the proposed procedures prior to any final rule being established.

This temporary security zone is limited to high capacity passenger vessels during transit in the waters of the Seventeenth Coast Guard District and is only effective until September 29, 2005. This is a temporary security zone designed specifically to protect high capacity passenger vessels during transit through the waters in the Seventeenth Coast Guard District until September 29, 2005. This temporary zone will only be effective for 70 days and will only apply to high capacity passenger vessels transiting under an escort as defined in this temporary final rule.

We did not publish a NPRM for this temporary regulation. Under 5 U.S.C. 553(b)(B) the Coast Guard finds that good cause exists for not publishing an NPRM because this rule is necessary to ensure the safe transit of high capacity passenger vessels. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard high capacity passenger vessels from sabotage and other subversive acts or accidents. This temporary security zone has been carefully designed to minimally impact the public while providing protections for high capacity passenger vessels. For the same reasons, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Due to increased awareness that future terrorist attacks are possible, the Coast Guard, as Lead Federal Agency for maritime homeland security, has determined that the District Commander and the Captain of the Port must have the means to be aware of, detect, deter, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while maintaining our freedoms and sustaining the flow of commerce. Terrorists have demonstrated both desire and ability to utilize multiple means in different geographic areas to successfully carry out their terrorist missions, highlighted by the recent events in London.

During the past 3 years, the Federal Bureau of Investigation has issued several advisories to the public concerning the potential for terrorist attacks within the United States. The October 2002 attack on a tank vessel, M/V LIMBURG, off the coast of Yemen and the prior attack on the USS COLE demonstrate a continuing threat to U.S. maritime assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) and Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). Furthermore, the ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. port and waterway users to be on a higher state of alert because the Al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In addition to escorting vessels, a security zone is a tool available to the Coast Guard that may be used to control maritime traffic operating in the vicinity of vessels, which the Coast Guard has determined need additional security measures during their transit. The District Commander has made a determination that it is necessary to establish a security zone around vessels that are escorted. This temporary regulation establishes security zones around escorted high capacity passenger vessels to protect these vessels, but also to safeguard the port, harbors or waterfront facilities they visit.

Discussion of Rule

This temporary security zone places a 100-yard security zone around high capacity passenger vessels that are being escorted by a Coast Guard surface, air or Coast Guard Auxiliary asset, or by a State law enforcement agency during their transit through the Seventeenth Coast Guard District. Persons desiring to transit within 100 yards of an escorted cruise ship transiting in the Seventeenth Coast Guard District must contact the designated on scene representative on VHF channel 16 (156.800 MHz) or VHF channel 13 (156.650 MHz) and obtain permission to transit within 100 yards of the escorted vessel. The boundaries of the Seventeenth Coast Guard District are defined in 33 CFR 3.85-1(b). This includes territorial waters 12 nautical miles from the territorial sea baseline as defined in 33 CFR part 2 subpart B.