

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 150

[CGD 93-080]

RIN 2115-AE69

**Louisiana Offshore Oil Port: Expansion of Deepwater Port Safety Zone Boundaries**

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to expand the boundaries of the safety zone for the Louisiana Offshore Oil Port (LOOP). A deepwater port safety zone constitutes an area within which the erection of structures or mobile drilling operations for the exploration for or extraction of oil or gas is prohibited. An expanded safety zone would enlarge the approach to the terminal portion of the safety zone and provide more unobstructed maneuvering room for vessels arriving and departing from LOOP. This would reduce the risk of a marine casualty and subsequent pollution.

**DATES:** Comments must be received on or before March 21, 1994.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 93-080), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to room 34CS, at the same address, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Walter (Bud) Hunt, Project Manager, Oil Pollution Act (OPA 90) Staff, (G-MS-1), (202) 267-3740. This telephone is equipped to record messages on a 24-hour basis.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 93-080), and give the reason for each comment. The Coast Guard requests that all comments and

attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard encourages individuals or organizations that commented on the notice of petition for rulemaking to submit comments on this notice of proposed rulemaking (NPRM).

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place to be announced by a later notice in the *Federal Register*.

**Drafting Information**

The principal persons involved in drafting this document are Lieutenant Commander Walter (Bud) Hunt, Project Manager, and Jacqueline Sullivan, Project Counsel, Oil Pollution Act (OPA 90) Staff, (G-MS-1).

**Background and Purpose**

The Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*) requires the Secretary of Transportation to designate a zone of appropriate size around and including any deepwater port for the purpose of navigational safety and to protect the marine environment. This responsibility was delegated to the Coast Guard in 49 CFR 1.46(s). A deepwater port safety zone is designed to promote safety of life and property, marine environmental protection and navigational safety at any deepwater port and adjacent waters. No installations, structures, or uses that are incompatible with port operations are permitted in a deepwater safety zone. 33 CFR part 150 establishes the geographic boundaries of the safety zone for the Louisiana Offshore Oil Port (LOOP) in Annex A and provides for the modification of safety zone boundaries as experience is gained in deepwater port operations. Changes in a safety zone at a deepwater port are subject to notification and consideration of the views of interested parties.

On December 29, 1980, the Coast Guard established a safety zone to protect three single-point moorings at

the Louisiana Offshore Oil Port (LOOP) (45 FR 85644). The rulemaking was considered "nonsignificant" under existing Department of Transportation (DOT) and Coast Guard regulatory guidelines. On May 13, 1982, the Coast Guard established a safety fairway to provide unobstructed approach for vessels transiting to the LOOP safety zone (47 FR 20580).

On January 18, 1984, LOOP submitted to the Coast Guard a request for a waiver of the requirements of 33 CFR 150.337(a) which prohibits a tanker from entering or departing a safety zone by other than a designated safety fairway. LOOP submitted to the Coast Guard chart 11359 and indicated two uncharted areas adjacent to the safety zone which they referred to as excursion zones. LOOP requested that vessels calling at the deepwater port be provided with additional maneuvering room by allowing use of these excursion zones when departing or entering the LOOP safety zone. Deviations from the safety fairway into these zones came to be known as "excursions." On February 20, 1987, the Coast Guard granted for 1 year a waiver of the requirements that tankers enter and leave the safety zone by the safety fairway. LOOP was required to document the number of tanker maneuverings requiring transit outside the existing safety zone, the percentage of excursions which occurred within the two uncharted areas identified as excursion zones, and the date, time, and approximate track line used for each excursion. Since then, the Coast Guard has renewed the waiver on an annual basis.

On December 30, 1987, LOOP asked the Coast Guard to make the waiver permanent. On February 8, 1988, the request was denied on the grounds that future exploration for or extraction of oil or gas might occur within one or both excursion zones. If such activity took place, the Coast Guard might have to revoke the waiver for the sake of safety.

In May 1988, CONOCO, Inc. (CONOCO) was issued an oil and gas lease by the Department of the Interior's Minerals Management Service (MMS) under the Outer Continental Shelf and Lands Act (OCSLA) (43 U.S.C. 1331 *et seq.*) in the area that was in the uncharted existing excursion zone. The lease included a provision for the government to suspend or cancel the lease with compensation when provided by the OCSLA. In August 1990, LOOP notified the Coast Guard that CONOCO intended to drill under authority of Lease OCS-G 9678 within Grand Isle Block 59, approximately 500 yards outside of the existing safety zone and safety fairway and inside the uncharted

southerly excursion zone. The Coast Guard is concerned that a vessel casualty could result in a catastrophic pollution incident if a vessel collided with a drilling platform located in the existing excursion area. However, neither MMS policy nor budget provided for repurchasing a lease. While MMS supports the Coast Guard's interest in minimizing the risk of a catastrophic pollution incident at LOOP, it contends that CONOCO has a legal right of access to explore for and produce oil or gas from the lease.

On January 21, 1992, the Coast Guard published a notice of petition for rulemaking and request for comments in the *Federal Register* announcing a request by LOOP that the Coast Guard expand the safety zone that surrounds the deepwater port (57 FR 2236). LOOP requested the Coast Guard to make the waiver permanent thereby enlarging the safety zone by adding the two excursion zones, and prohibiting structures. The proposed safety zone would broaden the entrance to LOOP and prohibit the erection of structures or mobile drilling operations. As a result, the enlarged safety zone would reduce the number of required vessel maneuverings, eliminate structures from the zone, possibly reducing the risk of accidents and subsequent pollution. The proposed safety zone reflects actual tanker activity at LOOP based on detailed records the Coast Guard has required LOOP to maintain.

The Coast Guard received 48 comments in response to the notice of petition for rulemaking. Forty-three responses, mostly from mooring masters and shipping companies, offered strong support for the safety zone expansion. Opposition to the proposal came from CONOCO, MMS, and three oil exploration companies. MMS suggested that if CONOCO or other lessees are denied access to potential oil and gas resources, restitution should be provided by either LOOP or the Coast Guard. Neither the Coast Guard nor the DOT is prepared to provide restitution to CONOCO for loss of potential revenues or costs already incurred in conjunction with oil or gas exploration.

To resolve the conflicting use problems in the excursion zones, LOOP has agreed to purchase from CONOCO the oil and gas leases for Grand Isle Blocks 53, 58, 59, and 65. LOOP would then relinquish these blocks to MMS. LOOP would not seek further expansion of the safety zone or oppose any exploration and production activity outside or adjacent to the expanded safety zone.

On November 2, 1993, in a letter to the Department of Transportation, the

MMS stated that it supports the agreement between CONOCO and LOOP. MMS stated that it is prepared to prohibit surface occupancy of offshore oil and gas facilities in the proposed safety zone. However, MMS stated that it may be economically and technically feasible to develop the resources lying beneath the safety zone by directional drilling. MMS would not preclude subseabed access provided that any surface facilities are located outside the safety zone. Such subseabed activity within the safety zone would not interfere with vessel activity in the safety zone.

Under the Deepwater Port Act of 1974, as amended (33 U.S.C. 1509(d)(1)), the Secretary of Transportation is required to consult with the Secretary of State, the Secretary of Defense, the Secretary of the Interior, and the Secretary of Commerce prior to issuing the safety zone around any deepwater port for the purposes of navigational safety. The Coast Guard has informed the noted Departments of the proposed safety zone.

#### Discussion of Proposed Amendment

Appendix A, Annex A, section (a) of 33 CFR part 150 is amended to expand the boundaries of the deepwater port safety zone at LOOP. This is being done at the request of LOOP, Inc. to enlarge the approach to the terminal portion and provide more maneuvering area for tank vessels arriving or departing from the deepwater port. It does not amend the Areas to be Avoided or the Anchorage Area listed in sections (b) and (c), respectively, in Annex A to Appendix A of 33 CFR part 150.

#### Regulatory Assessment

This proposal is not a significant regulatory action under Section 3(F)(1) of Executive Order 12866 (58 FR 51735; October 4, 1993) and it does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is not a significant regulation under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic consequences of this rulemaking to be minimal. Potential economic effects include impacts on mineral extraction and the commercial fishing industry. The proposed expansion is relatively insignificant, comprising an approximate 15 percent increase in the size of the safety zone.

When the original safety zone was established, it was not expected that there would be significant interference with mineral extraction or navigation.

Due to the relative size of the expansion, no impacts on mineral extraction or navigation are expected in this case either. Access is available via alternative methods such as directional drilling.

The economic consequences of the proposed rulemaking are expected to primarily impact commercial vessels, including commercial fishing vessels. Commercial fishing vessels are permitted restricted use of portions of the safety zone as provided in 33 CFR Table 150.345(a). Therefore, the impact on fishing activities would be negligible due to the small additional area involved. No opposition to the notice of petition for rulemaking was received from the commercial fishing industry.

In addition, this proposed rulemaking will result in permanent safety benefits. Providing additional maneuvering area minimizes the likelihood of a catastrophic pollution incident resulting from a vessel colliding with any portion of the LOOP facility. Therefore, it is expected that expansion of the safety zone will reduce the environmental hazard.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Coast Guard must consider whether this proposed safety zone will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small business concerns under section 3 of the Small Business Act (15 U.S.C. 632). The small entities affected by this proposed rule are commercial fishing activities at the deepwater port. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed safety zone will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This proposed rule does not require the collection of information under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

#### Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have federalism implications and does not warrant the preparation of a Federalism Assessment. LOOP is located beyond State waters where only Federal jurisdiction applies.

*Environment*

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2(c) of Commandant Instruction M16475.1B, this proposed rule is categorically excluded from further environmental documentation. This rule will not result in significant impact on the quality of the human environment, as defined by the National Environmental Policy Act. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

**List of Subjects in 33 CFR Part 150**

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 150 as follows:

**PART 150—OPERATIONS**

1. The authority citation for part 150 continues to read as follows: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (m)(2), 1509; sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46.

2. Appendix A to part 150, Annex A, is amended by revising paragraph (a) to read as follows:

**Appendix A to Part 150—Deepwater Port Safety Zone Boundaries**

\* \* \* \* \*

**ANNEX A—LOOP, INC. DEEPWATER PORT, GULF OF MEXICO**

| Latitude N.  | Longitude W. |
|--|--------------|
| <b>(a) Deepwater Port Safety Zone:</b>   |              |
| (1) Starting at:<br>28°55'23"  | 90°00'37"    |
| (2) A rhumb line to:<br>28°53'50"  | 90°04'07"    |
| (3) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port pumping platform complex (PPC),<br>28°53'06" |              |
| (4) To a point:<br>28°51'07"   | 90°01'30"    |
| (5) Then a rhumb line to:<br>28°50'09"   | 90°03'06"    |
| (6) Then a rhumb line to:<br>28°49'05"   | 90°02'24"    |
| (6) Then a rhumb line to:<br>28°48'36"   | 89°55'54"    |
| (8) Then a rhumb line to:<br>28°48'36"   | 89°55'00"    |
| (8) Then a rhumb line to:<br>28°52'04"   | 89°52'42"    |
| (9) Then a rhumb line to:<br>28°53'10"   | 89°52'42"    |
| (10) Then a rhumb line to:<br>28°54'52"  | 89°53'42"    |
| (11) Then a rhumb line to:<br>28°54'52"  | 89°57'00"    |
| (11) Then a rhumb line to:<br>28°54'52"  | 89°59'36"    |
| (12) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port PPC,<br>28°53'06"                     |              |
| (13) To the point of starting:<br>28°55'23"  | 90°01'30"    |
|  | 90°00'37"    |

\* \* \* \* \*

Dated: January 31, 1994.

**A.E. Henn,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.*

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