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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket No. USCG-2009-0571]

RIN 1625-AA00

Safety Zone; BW PIONEER at Walker Ridge 249, Outer Continental Shelf FPSO, Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a safety zone around the BW PIONEER, a Floating Production, Storage and Offloading (FPSO) system, at Walker Ridge 249 on the Outer Continental Shelf. The purpose of the safety zone is to protect the FPSO from vessels operating outside the normal shipping channels and fairways. Placing a safety zone around the FPSO will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

DATES: Comments and related material must be received by the Coast Guard on or before October 23, 2009.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0571 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Dr. Madeleine McNamara, U.S. Coast Guard, District Eight Waterways Management Coordinator; telephone 504-671-2103, madeleine.w.mcnamara@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0571), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2009-0571" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility,

please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box, insert USCG-2009-0571 and click "Search." Click the "open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one by using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The proposed safety zone is in the deepwater area of the Gulf of Mexico in Walker Ridge 249 with a center point at 26°41'46.25" N and 090°30'30.16" W. For the purpose of this regulation, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth, extending to the limits of the Exclusive Economic Zone (EEZ). The United States EEZ extends from the baseline up to 200 nautical miles and is contiguous to the territorial sea of the United States. Navigation in the vicinity 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 also includes an extensive system of fairways.

Petrobras America Inc. requested that the Coast Guard establish a safety zone around the FPSO BW PIONEER, which is a ship-shaped offshore production facility that stores crude oil in tanks located in its hull. It will attach to a moored turret buoy and move in a 360 degree arc around the position 26°41'46.25" N and 090°30'30.16" W. The turret buoy is detachable which allows the FPSO to disconnect while the buoy and turret drop below the water's surface to a predetermined depth. The FPSO has a capacity for storing 500,000 barrels of produced oil and is expected to be offloaded on a weekly basis via a floating hose that connects the FPSO to a shuttle tanker. During offloading operations, a shuttle tanker will connect its bow to the FPSO BW PIONEER and its stern to an attendant tug that will assist with safety spacing and stability of the operations. The facility is manned with a crew of 80 people.

The request for the safety zone was made due to safety concerns for both the personnel aboard the facility and the environment. Petrobras America Inc. indicated that it is highly likely that any allision with the facility would result in a catastrophic event. In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including but not limited to: (1) The level of shipping activity around the facility; (2) safety concerns for personnel aboard the facility; (3) concerns for the environment; (4) the likeliness that an allision would result in a catastrophic event based on proximity to shipping fairways, offloading operations, production levels, and size of the crew; (5) the volume of traffic in the vicinity of the proposed area; (6) the types of vessels navigating in the vicinity of the proposed area; and, (7) the structural configuration of the facility.

Results from a thorough and comprehensive examination of the criteria, IMO guidelines, and existing regulations warrant the establishment of the proposed safety zone. The proposed regulation would reduce significantly the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico by prohibiting entry into the zone unless specifically authorized by the Commander, Eighth Coast Guard District.

Discussion of Proposed Rule

The Coast Guard is establishing a safety zone of 500 meters around the

stern of the FPSO when it is moored to the turret buoy. The FPSO can swing in a 360 degree arc around the center point at 26°41'46.25" N and 090°30'30.16" W. If the FPSO detaches from the turret buoy, the safety zone of 500 meters will be measured from the center point. Entry into this zone is prohibited unless specifically authorized by the Commander, Eighth Coast Guard District or a designated representative. They may be contacted on VHF-FM Channel 13 or 16 or by telephone at (504) 589-6225.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

This rule is not a significant regulatory action due to the location of the FPSO BW PIONEER on the Outer Continental Shelf and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone will be able to safely travel around the zone without incurring additional costs.

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. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in Walker Ridge block 249.

This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: This rule will

enforce a safety zone around a FPSO facility that is in an area of the Gulf of Mexico not frequented by vessel traffic and is not in close proximity to a safety fairway. Further, vessel traffic can pass safely around the safety zone without incurring additional costs.

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 (Pub. L. 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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Dr. Madeleine McNamara, U.S. Coast Guard, District Eight Waterways Management Coordinator; telephone 504-671-2103, madeleine.w.mcnamara@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 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.

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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 § 147.847 to read as follows:

§ 147.847 BW PIONEER Floating Production, Storage, and Offloading System Safety Zone.

(a) *Description.* The BW PIONEER, a Floating Production, Storage and Offloading (FPSO) system, is in the deepwater area of the Gulf of Mexico at Walker Ridge 249. The FPSO can swing in a 360 degree arc around the center point of the turret buoy's swing circle at 26°41'46.25" N and 090°30'30.16" W.

The area within 500 meters (1,640.4 feet) around the stern of the FPSO when it is moored to the turret buoy is a safety zone. If the FPSO detaches from the turret buoy, the area within 500 meters around the center point at 26°41'46.25" N and 090°30'30.16" W will be a safety zone.

(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 31, 2009.

Mary E. Landry,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0725]

RIN 1625-AA00

Safety Zone; Private Fireworks Show, Chesapeake Bay, Virginia Beach, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a safety zone on Chesapeake Bay in the vicinity of the Virginia Beach Resort and Conference Center in Virginia Beach, VA in support of a private fireworks show. This action is intended to restrict access to the specified portion of Chesapeake Bay to protect the public from the hazards associated with fireworks displays.

DATES: Comments and related material must be received by the Coast Guard on or before September 14, 2009.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0725 using any one of the following methods:

- (1) Federal eRulemaking Portal: <http://www.regulations.gov>.
- (2) Fax: 202-493-2251.
- (3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.
- (4) Hand delivery: Same as mail address above, between 9 a.m. and 5