

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 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 concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves the establishment of a special local regulation. Based on our preliminary determination, there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule

should be categorically excluded from further environmental analysis.

Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

### List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

■ 2. Add a new temporary § 100.T08-2010-0518 to read as follows:

#### § 100.T08-2010-0518 Safety Zone; Sabine River, Orange, TX.

(a) *Definitions.* As used in this section "Participant Vessel" means all vessels officially registered with event officials to race or work in the event. These vessels include race boats, rescue boats, tow boats, and picket boats associated with the race.

(b) *Location.* The following area is a safety zone: all waters of the Sabine River, shoreline to shoreline, adjacent to the Naval Reserve Unit and the Orange public boat ramps located in Orange, TX. The northern boundary is from the end of Navy Pier One at 30°05'45" N 93°43'24" W then easterly to the rivers eastern shore. The southern boundary is a line shoreline to shoreline at latitude 30°05'33" N.

(c) *Enforcement.* This regulation will be enforced daily from 8 a.m. until 6 p.m. on September 25 and 26, 2010.

(d) *Regulations.*

(1) In accordance with the general regulations in § 100.35 of this part, entry into this zone is prohibited to all vessels except participant vessels and those vessels specifically authorized by the Captain of the Port, Port Arthur or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the Captain of the Port, Port Arthur, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (409) 723-6500.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Port Arthur, designated representatives and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast

Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: August 17, 2010.

**Z.H. Pickett,**

*Commander, U.S. Coast Guard, Acting, Captain of the Port, Port Arthur.*

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**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 147

[Docket No. USCG-2010-0857]

RIN 1625-AA00

#### Safety Zone; VERMILION 380A at Block 380 Outer Continental Shelf Fixed Platform in the Gulf of Mexico

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone around VERMILION 380A, a fixed platform, at Block 380 in the Outer Continental Shelf, approximately 90 miles south of Vermilion Bay, Louisiana. The fixed platform is on fire and the safety zone is needed to protect first responders attending to the fire and platform. Placing a safety zone around the platform will significantly reduce the threat of collisions, allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

**DATES:** This rule is effective in the CFR on September 15, 2010 through November 10, 2010. This rule is effective with actual notice for purposes of enforcement on September 2, 2010. This rule will remain in effect through November 10, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0857 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0857 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary 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](mailto:madeleine.w.mcnamara@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The platform is on fire and immediate action is necessary to protect first responders and to prevent entry into the area that is most impacted by the fire.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Good cause exists because the platform is on fire and immediate action is necessary to protect first responders and to prevent entry into the area that is most impacted by the fire.

##### Basis and Purpose

The Coast Guard is responding to an emergency at the VERMILION 380A, a fixed platform, at Block 380 in the Outer Continental Shelf, approximately 90 miles south of Vermilion Bay, Louisiana. The fixed platform is on fire and the safety zone is needed to protect first responders attending to the fire and platform.

##### Discussion of Rule

The Coast Guard is establishing a safety zone of 500 meters around the center of the fixed platform at 28°3'0.601" N, 92°16'0.272" W. The regulation is effected to reduce significantly the threat of collisions, 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. 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.

The safety zone established by this regulation is in or near the deepwater area of the Gulf of Mexico in Block 380. For the purposes of this regulation, a 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) 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 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.

The Coast Guard is establishing a safety zone around the VERMILION 380A which is a fixed platform for operational use in production. The safety zone is established due to safety concerns for both first responders and the environment. 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 likelihood 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.

##### Regulatory Analyses

We developed this 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 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 VERMILION 380A—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 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. 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 or around Vermilion Block 380 in the Gulf of Mexico.

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 fixed platform 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 offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 (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.

#### Taking of Private Property

This rule will not cause 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 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 concluded 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 is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule

involves the establishment of a safety zone.

Due to the emergency nature of this regulation, an environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects

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; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § T147.857 to read as follows:

#### § T147.857 VERMILION 380A Fixed Platform Safety Zone.

(a) *Description.* The *VERMILION 380A*, a *Fixed Platform*, is in the deepwater area of the Gulf of Mexico at Vermilion Block 380. The area within 500 meters (1640.4 feet) around a center point at 28°3'0.601" N, 92°16'0.272" W is a safety zone.

(b) *Effective Date and Enforcement.* This rule is effective from September 2, 2010 through November 10, 2010. This rule is effective with actual notice for purposes of enforcement on September 2, 2010 and will remain in effect through November 10, 2010.

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

- (1) An attending or first response 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 or a designated representative.

Dated: September 2, 2010.

**David Nichols,**

*Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.*  
[FR Doc. 2010-23008 Filed 9-14-10; 8:45 am]

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