

**NATIONAL MEDIATION BOARD****29 CFR Parts 1202 and 1206**

[Docket No. C-6964]

RIN 3140-ZA00

**Representation Election Procedure****AGENCY:** National Mediation Board.**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The National Mediation Board (NMB) is delaying the effective date of its rule regarding representation election procedures from June 10, 2010 to June 30, 2010. The purpose of this notice is to notify participants under the Railway Labor Act (RLA) that the rule will apply to applications filed on or after June 30, 2010.

**DATES:** *Effective Date:* The effective date of the rule amending 29 CFR Parts 1202 and 1206 published at 75 FR 26062, May 11, 2010, is delayed until June 30, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mary Johnson, General Counsel, National Mediation Board, 202-692-5050, [infoline@nmb.gov](mailto:infoline@nmb.gov).

**SUPPLEMENTARY INFORMATION:** On May 11, 2010, the NMB published a Final Rule in the **Federal Register** (75 FR 26062) with the effective date of June 10, 2010. Due to upcoming proceedings in litigation related to the Final Rule, the NMB is delaying the implementation of the rule for 20 days. The new effective date is June 30, 2010. No other changes to the Representation Election Procedure Rule have been made. The NMB will notify participants if there are any further changes.

Dated: June 3, 2010.

**Mary Johnson,***General Counsel, National Mediation Board.*

[FR Doc. 2010-13696 Filed 6-7-10; 8:45 am]

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

[Docket No. USCG-2010-0448]

RIN 1625-AA00

**Safety Zone; DEEPWATER HORIZON at Mississippi Canyon 252 Outer Continental Shelf MODU in the Gulf of Mexico****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a continued safety zone around the riser for the DEEPWATER HORIZON, a Mobile Offshore Drilling Unit (MODU), at Mississippi Canyon 252 in the Outer Continental Shelf. The safety zone in place pursuant to the Temporary Final Rule at docket USCG-2010-0323 terminates on May 26, 2010. This safety zone is needed to protect personnel involved in oil pollution response efforts. Continuing the safety zone around the riser will significantly reduce the threat of collisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment. Oil pollution response efforts are taking place on the water's surface and subsurface.

**DATES:** This rule is effective in the CFR on June 8, 2010 through August 26, 2010. This rule is effective with actual notice for purposes of enforcement on May 26, 2010 and will remain in effect through August 26, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0448 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0448 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 due to the emergency nature of the operations. Immediate action is necessary to protect first responders and to prevent entry into the area that is most impacted by the oil spill.

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 immediate action is necessary to protect first responders and to prevent entry into the area that is most impacted by the oil spill.

**Basis and Purpose**

The Coast Guard is establishing a safety zone in the deepwater area of the Gulf of Mexico in response to the sinking of the DEEPWATER HORIZON, a Mobile Offshore Drilling Unit (MODU), near Mississippi Canyon 252 with a center point at 28-44-18N and 088-21-54W.

The safety zone is located in the location of the riser attached to the seabed of the Outer Continental Shelf. The safety zone is established to protect both environmental responders and the environment. Efforts are underway to stop the flow of oil using submersible remote operating vehicles. 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. We have determined that a safety zone is needed to protect persons and vessels in the vicinity of the oil spill.

**Discussion of Rule**

The Coast Guard is establishing a safety zone encompassing all areas within 500 meters around the position 28-44-18N and 088-21-54W. The safety zone is located in the deepwater area of the Gulf of Mexico near Mississippi Canyon 252. 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)

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. The deepwater area also includes an extensive system of fairways. 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.

Results from a thorough and comprehensive examination of the criteria, IMO guidelines, and existing regulations warrant the establishment of a safety zone of 500 meters around the position 28–44–18N latitude and 088–21–54W longitude. The regulation will 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.

In accordance with the general regulations located at 33 CFR part 147, 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 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 riser for the MODU DEEPWATER HORIZON—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 rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in Mississippi Canyon block 252.

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 MODU 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.

### 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 M16475.1D, 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, from further environmental documentation since implementation of this action will not result in any significant cumulative impacts on the human environment; does not involve a substantial change to existing environmental conditions; and is consistent with Federal, State, and/or local laws or administrative determinations relating to the environment. This rule involves establishing a safety zone.

Pursuant to paragraph (34)(g) of the Instruction, an environmental checklist and a categorical exclusion checklist are available in the docket 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; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.T08-849 to read as follows:

#### § 147.T08-849 DEEPWATER HORIZON Mobile Offshore Drilling Unit Safety Zone.

(a) *Location.* All areas within 500 meters (1640.4 feet) around the position of the riser at 28-44-18N and 088-21-54W are part of a safety zone. This area surrounds the DEEPWATER HORIZON, a Mobile Offshore Drilling Unit (MODU), that sank in the deepwater area of the Gulf of Mexico near Mississippi Canyon 252. The riser, which is attached to the seabed of the Outer Continental Shelf, is still in place and discharging oil.

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

- (1) An attending or first response vessel; or
- (2) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

Dated: May 24, 2010.

**J.E. Tunstall,**

*Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District, Acting.*

[FR Doc. 2010-13644 Filed 6-7-10; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0139]

RIN 1625-AA11

#### Regulated Navigation Area; Gulf Intracoastal Waterway, Inner Harbor Navigation Canal, Harvey Canal, Algiers Canal, New Orleans, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a regulated navigation area (RNA) to prohibit all vessels from being within the Inner Harbor Navigation Canal (IHNC), Harvey Canal, and Algiers Canal during severe hurricane

conditions. Vessels will not be permitted to stay in the RNA past 24 hours in advance of and through the storm passage, except those vessels moored pursuant to mooring plans approved by the Captain of the Port. Alternate routes exist for vessels to transit around or depart from the RNA. This RNA is needed to protect the floodwalls, levees, and adjacent communities within the IHNC, Harvey, and Algiers Canals from potential hazards associated with vessels being in this area during a hurricane.

**DATES:** This interim rule is effective in the CFR on June 8, 2010. This rule is effective with actual notice for purposes of enforcement on May 21, 2010. Comments and related material must be received by the Coast Guard on or before July 8, 2010. Requests for public meetings must be received by the Coast Guard on or before June 18, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-0139 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 interim rule, call or e-mail Lieutenant Commander (LCDR) Marty Daniels, Coast Guard; telephone 504-565-5044, e-mail [William.M.Daniels@uscg.mil](mailto:William.M.Daniels@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