

**SUMMARY:** The Occupational Safety and Health Review Commission (OSHRC) is correcting an erroneous instruction, appearing in the **Federal Register** of December 7, 2009 (74 FR 63985), that could not be carried out. The document made various corrections and technical amendments to its rules and regulations set forth in parts 2200, 2203, and 2204. This correction removes the erroneous instruction and discussion of it in the preamble.

**DATES:** Effective on April 12, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ron Bailey, Attorney-Advisor, Office of the General Counsel, by telephone at (202) 606-5410, by e-mail at [rbailey@oshrc.gov](mailto:rbailey@oshrc.gov), or by mail at: 1120-20th Street, NW., Ninth Floor, Washington, DC 20036-3457.

**SUPPLEMENTARY INFORMATION:** OSHRC published a document in the **Federal Register** on December 7, 2009 setting forth an amendatory instruction that was impossible to carry out. Specifically, with respect to 29 CFR 2200.209, OSHRC directed that a hyphen be placed between the number "20" and the word "day," so that the relevant portion of the provision would read "20-day period." But in a prior rules revision, dated September 29, 2008 (73 FR 56491), the phrase "20 day period" had been changed to "11-day period." OSHRC intends for § 2200.209 to continue to read "11-day period."

■ In FR Doc. E9-28845 appearing on page 63985 in the **Federal Register** of Monday, December 7, 2009, the following corrections are made:

■ 1. On page 63985, in the center column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Second" and add in its place the word "First" in the third sentence.

■ 2. On page 63985, in the center column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Third" and add in its place the word "Second" in the fourth sentence.

■ 3. On page 63985, in the center column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Fourth" and add in its place the word "Third" in the fifth sentence.

■ 4. On page 63985, in the center column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Fifth" and add in its place the word "Fourth" in the sixth sentence.

■ 5. On page 63985, in the center column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Sixth" and add in its place the word "Fifth" in the seventh sentence.

■ 6. On page 63985, in the right column, in the second paragraph of

**SUPPLEMENTARY INFORMATION**, remove the word "Seventh" and add in its place the word "Sixth" in the ninth sentence.

■ 7. On page 63985, in the right column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Eighth" and add in its place the word "Seventh" in the thirteenth sentence.

■ 8. On page 63985, in the right column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the word "Ninth" and add in its place the word "Eighth" in the fifteenth sentence.

■ 9. On page 63985, in the center column, in the second paragraph of **SUPPLEMENTARY INFORMATION**, remove the second sentence, which reads, "First, in § 2200.209(g), the phrase 'the 21 day period' is amended to include a hyphen between '21' and 'day.'"

#### § 2200.209 [Corrected]

■ 10. On page 63988, in the left column, remove instruction 28.b, which reads, "b. Adding a hyphen between the numeral '21' and the word 'day' in the last sentence of paragraph (g)."

Signed at Washington, DC, on the 29th day of March, 2010.

**Thomasina V. Rogers,**  
*Chairman.*

**Horace A. Thompson III,**  
*Commissioner.*

**Cynthia L. Attwood,**  
*Commissioner.*

[FR Doc. 2010-7949 Filed 4-9-10; 8:45 am]

**BILLING CODE 7600-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 147

[Docket No. USCG-2009-0955]

RIN 1625-AA00

#### Safety Zone; FRONTIER DISCOVERER, Outer Continental Shelf Drillship, Chukchi and Beaufort Sea, Alaska

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the DRILLSHIP FRONTIER DISCOVERER, while anchored or deploying and recovering moorings on location in order to drill exploratory wells at various prospects located in the Chukchi and Beaufort Sea Outer Continental Shelf, Alaska, during the 2010 drilling season. The purpose of the

temporary safety zone is to protect the DRILLSHIP from vessels operating outside normal shipping channels and fairways. Placing a temporary safety zone around the DRILLSHIP 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:** This rule is effective from 12:01 a.m. on July 1, 2010, to 11:59 p.m. on November 30, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0955 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0955 in the "Keyword" box, and then clicking "Search." This material is 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 rule, call or e-mail LCDR Ken Phillips, U.S. Coast Guard, District Seventeen, Office of Prevention; telephone 907-463-2821, [Kenneth.G.Phillips@uscg.mil](mailto:Kenneth.G.Phillips@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:

##### Regulatory Information

On January 6, 2010 we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; FRONTIER DISCOVERER, Outer Continental Shelf Drillship, Chukchi and Beaufort Sea, Alaska" in the **Federal Register** (75 FR 803). The NPRM included a 30-day comment period. We received 3 (three) submissions with comments on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The Coast Guard is establishing a temporary safety zone around the DRILLSHIP FRONTIER DISCOVERER while on location in order to drill exploratory wells approximately 60 to 124 miles off the northwest coast in the Chukchi Sea and 13 to 18 miles off the northern coast in the Beaufort Sea Outer Continental Shelf, Alaska, during the 2010 drilling season. This rule will be in effective from 12:01 a.m. on July 1,

2010, to 11:59 p.m. on November 30, 2010.

Shell Exploration & Production Company requested that the Coast Guard establish a temporary safety zone around the DRILLSHIP FRONTIER DISCOVERER while on location in order to drill exploratory wells in the Chukchi and Beaufort Seas, Alaska. The request for the safety zone was due to safety concerns for both the personnel aboard the DRILLSHIP and the environment. Shell Exploration & Production Company indicated that it is highly likely that any allision or inability to identify, monitor or mitigate ice-related hazards that might be encountered could 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 operation; (2) safety concerns for personnel aboard the vessel; (3) concerns for the environment, given the sensitivity of the environmental and subsistence importance to the indigenous population; (4) the likeliness that an allision could result in a catastrophic event based on a lack of established shipping fairways, fueling and supply storage/operations, and size of the crew; (5) the recent and potential future maritime traffic in the vicinity of the proposed areas; (6) the types of vessels navigating in the vicinity of the proposed area; and, (7) the structural configuration of the vessel. Navigation in the vicinity of the safety zone could consist of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel.

After conducting a comprehensive examination of the criteria, IMO guidelines, and existing regulations, we conclude that the risk of allision, the potential for loss of life, and damage to the environment warrants the establishment of this temporary safety zone. This rule would significantly reduce the threat of allisions, oil spills, and releases and increase the safety of life, property, and the environment in the Chukchi and Beaufort Seas by prohibiting entry into the zone unless specifically authorized by the Commander, Seventeenth Coast Guard District.

The complete discussion of the background and purpose for this rule can be found in the preamble to the NPRM (75 FR 803).

#### Discussion of Comments and Changes

One comment was received that opined on the appropriateness of allowing any drilling to take place in the

Chukchi or Bering Seas. While it is not within the jurisdiction of the Coast Guard to approve or authorize Outer Continental Shelf activity, we do have the responsibility to ensure, to the maximum extent practicable, that any activity is undertaken with the greatest reduction of risk of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

One comment believed that having safety zones around all mobile drilling vessels is an excellent idea. The Coast Guard issues safety zones for Outer Continental Shelf activity consistent with the guidance in 33 CFR 147.10. In each case a safety zone is established only after evaluating all relevant safety factors and concluding that the regulation would significantly reduce the threat of an incident.

One comment was received suggesting that the safety zone be issued for a multi-year period similar to safety zones in the Gulf of Mexico. The Coast Guard disagrees. While the Coast Guard understands that the underlying justifications for the safety zone are not likely to change from year to year, we find that there are several operational and permitting variables with respect to these activities to support not continuing the safety zones period beyond the current 2010 drilling season as originally requested. Many of these variables would be considered substantive changes. Some of the factors that dictate a season by season publication of the safety zone include change in the vessel being utilized for the exploratory wells; changes in the published prospect/drilling locations and corresponding latitude/longitude coordinates; significant change in the future Outer Continental Shelf Lease Exploration Plans approved by Minerals Management Service; and the limited timeframe each year (approximately 4 to 5 months) associated with actual on-site activity. The nature of this activity as noted above is not currently comparative with the "manned production facility" operations in the Gulf of Mexico in that those safety zones are established for year-round operations on "permanent" structures that are engaged in the exploration, exploitation, and production of sub-sea resources. The Coast Guard will reconsider the temporary nature of these safety zones should the nature of the operations significantly change from solely exploratory drilling operations.

One comment requested clarification on the involved parties as the NPRM did not elaborate on the specific parties under which the exploratory drilling operations will be undertaken. The

Coast Guard notes for clarification that Shell Exploration & Production Company made the request for the safety zone on behalf of Shell Offshore Inc., operator in the Beaufort Sea and Shell Gulf of Mexico Inc., operator in the Chukchi Sea.

One comment asked for a clarification with regard to the probability of a catastrophic event resulting from an incident. The Coast Guard has amended the "Background and Purpose" section of the Final Rule **Federal Register** by changing the word "would" to "could" as it relates to the outcome of an "allision or inability to identify, monitor or mitigate ice-related hazards that might be encountered."

One comment asked for a correction to the **Federal Register** regarding the distances from shore for the exploratory wells in the Chukchi and Beaufort Seas to be consistent with the respective 2010 Outer Continental Shelf Lease Exploration Plans. The Coast Guard has amended the "Background and Purpose" section of the Final Rule **Federal Register** by inserting the distances from shore to be consistent with the 2010 lease exploration plans.

One comment requested that a clarification be made concerning the drilling of "shallow holes." The Coast Guard understands that all wells will be drilled to the final depth objective or will not be commenced in the 2010 drilling season in accordance with the Minerals Management Service requirements.

One comment requested flexibility with respect to the effective dates of the temporary safety zone to accommodate completion of non-drilling activities to include plugging and abandonment operations, pulling drilling equipment, surveying and restoring the drill sight and moorings recovery. The Coast Guard understands the nature of the post drilling activity and agrees that the safety zone effective period should be extended to provide that needed flexibility until November 30, 2010, but only while the vessel is on location as listed in Table 1 of the rule to cover these activities to ensure the safety of the personnel aboard the DRILLSHIP and the environment. The Coast Guard has amended § 147.T17.001(a) to reflect the new effective end date of November 30, 2010, so long as the vessel is on location.

One comment requested the rule be amended to have the safety zone in effect once the vessels is "on location" while the mooring system is being deployed or recovered not only when the vessel is anchored. The Coast Guard agrees. The safety factors that were evaluated in determining that a safe

zone was warranted while the vessel was anchored on location are substantially similar for when the vessel is on location and the mooring system is in the process of being deployed or recovered. This determination is consistent with extending the effective end date of the safety zone to November 30, 2010, to cover the mooring recovery. The Coast Guard has amended § 147.17.001(a) to read: "The area within 500 meters (1,640.4 feet) from each point on the outer edge of the vessel while anchored or deploying and recovering moorings on location is a safety zone."

One comment recommended the three "Burger" prospects in Column 1 of Table 1 in the rule be delineated as Burger "C", Burger "F", and Burger "J", respectively, to match the lease exploration plan. The Coast Guard agrees and has amended Table 1 accordingly.

One comment supported the determination to prohibit all vessels, irrespective of size from the safety zone. The Coast Guard determined this to be the best course of action given the complexities of this Arctic operation to include ice management issues, Marine Mammal and Mitigation plan requirements, and a harsh and dynamic offshore environment to significantly reduce the threat of allisions, oil spills, and releases and increase the safety of life, property, and the environment in the Chukchi and Beaufort Seas, Alaska.

### 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 FRONTIER DISCOVERER in the Chukchi and Beaufort Seas Outer Continental Shelf, Alaska, and its distance from both land and safety fairways. Vessels traversing waters near the temporary 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 would not have a significant economic impact on a substantial number of small entities. This 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 the locations where the exploratory wells will be drilled.

This temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will enforce a temporary safety zone around the FRONTIER DISCOVERER while on location in order to drill exploratory wells in the Chukchi and Beaufort Seas. The location of the safety zone is not frequented by vessel traffic and is not in close proximity to a safety fairway. Further, vessel traffic can pass safely around the temporary 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), in the NPRM we offered to assist small entities in understanding the rule so that they could 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 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 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule would not affect 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 would not create an environmental risk to health or risk to safety that might 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 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 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(g), of the Instruction. This rule involves establishing regulations for safety zones. An environmental analysis checklist and a 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.T001 to read as follows:

**§ 147.T001 DRILLSHIP FRONTIER DISCOVERER Safety Zone.**

(a) *Description.* The FRONTIER DISCOVERER will be engaged in exploratory drilling operations at various locations in the Chukchi and Beaufort Sea from July 1, 2010, through November 30, 2010. The DRILLSHIP will be anchored while conducting exploratory drilling operations with the center point of the vessel located at the coordinates listed in Table 1. These coordinates are based upon [NAD 83] UTM Zone 3.

TABLE 1—PROSPECT LOCATIONS

Prospect	Area	Block	Lease no.	Latitude	Longitude
Burger C .....	Posey .....	6764	OCS–Y–2280	N71°18′ 17.2739″	W163°12′ 45.9891″
Burger F .....	Posey .....	6714	OCS–Y–2267	N71°20′ 13.9640″	W163°12′ 21.7460″
Burger J .....	Posey .....	6912	OCS–Y–2321	N71°10′ 24.0292″	W163°28′ 18.5219″
Crackerjack .....	Karo .....	6864	OCS–Y–2111	N71°13′ 58.9211″	W166°14′ 10.7889″
SW Shoebill .....	Karo .....	7007	OCS–Y–2142	N71°04′ 24.4163″	W167°13′ 38.0886″
Sivulliq .....	Flaxman Is .....	6658	OCS–Y 1805	N70°23′ 29.5814″	W145°58′ 52.5284″
Torpedo .....	Flaxman Is .....	6610	OCS–Y–1941	N70°27′ 01.6193″	W145°49′ 32.0650″

The area within 500 meters (1,640.4 feet) from each point on the outer edge of the vessel while anchored or deploying and recovering moorings on location is 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 authorized by the Commander, Seventeenth Coast Guard District.

Dated: March 12, 2010.

**C.C. Colvin,**

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 2010–8207 Filed 4–9–10; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF EDUCATION**

**34 CFR Chapter II**

[Docket ID ED–2009–OII–0012]

**RIN 1855–AA06**

**Investing in Innovation Fund**

*Catalog of Federal Domestic Assistance (CFDA) Numbers:* 84.396A (Scale-up grants), 84.396B (Validation grants), and 84.396C (Development grants).

**AGENCY:** Office of Innovation and Improvement, Department of Education.

**ACTION:** Final priorities, requirements, definitions, and selection criteria; correction.

**SUMMARY:** On March 12, 2010, the Department of Education published in the **Federal Register** (75 FR 12004) a document announcing final priorities,

requirements, definitions, and selection criteria (Final Rule) for the Investing in Innovation Fund. This document makes a correction to the March 12 Final Rule.

**FOR FURTHER INFORMATION CONTACT:** Margo Anderson. Telephone: (202) 453–7122; or by e-mail: *i3@ed.gov*; or by mail: (Attention: Investing in Innovation), U.S. Department of Education, 400 Maryland Avenue, SW., room 4W302, Washington, DC 20202.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact listed in this section.

**SUPPLEMENTARY INFORMATION:**