

of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403). This authority was extended to artificial islands and fixed structures located on the Outer Continental Shelf (OCS) by section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(e)).

Background

Pursuant to the cited authorities, the Corps promulgated regulations in 33 CFR 209.135 establishing shipping safety fairways in the Gulf of Mexico to provide obstruction-free routes for vessels in approaches to United States ports. The Corps provided these obstruction-free routes by denying permits for structures within certain designated lanes. In 1978, the Ports and Waterways Safety Act (PWSA), was amended to delegate authority to the Department of Transportation and the Commandant, U.S. Coast Guard to establish vessel routing measures, including fairways and fairway anchorages. In accordance with the PWSA, the Coast Guard completed the required studies and published final rules establishing shipping safety fairways on May 13, 1982. The Corps subsequently revoked its fairway regulations in § 209.135(d) but retained paragraph (b), which contains the conditions under which the nationwide permit for oil exploration and production structures on the OCS (33 CFR 330.5(a) (8)), was issued. On November 13, 1986, the Corps fairway regulations were repromulgated in 33 CFR 322.5(l) to consolidate all permit regulations for structures in the same part.

When the regulations allowing temporary structures within fairways were promulgated by the Corps in 1981, deepwater drilling occurred in water depths of 300 to 600 feet. At that time the limitation of 120 days that temporary anchors would be allowed within fairways was considered reasonable. If the exploratory well was successful, a conventional fixed production platform would be used and there would be no further need to maintain the anchors within the fairway. Presently, according to offshore hydrocarbon exploration and production companies, technology has extended the range of deepwater drilling to water depths of 1,000 to 4,000 feet. As a result, drilling times have increased and production methods have changed. Accordingly, the limitation on the length of time (120 days), that an anchor is allowed within a fairway may not be appropriate, particularly in water depths in excess of 600 feet. The

industry has available many types of production platforms, including floating production systems that are anchored in place during the productive life of the reserves and then moved to a new location. In water depths greater than 600 feet, the floating production platform becomes an important production option and in water depths greater than 1,000 feet these units are essential. In many instances, the only obstacle to using this type of system to drill and produce hydrocarbons is the location of a fairway. Current regulations require that the production system be placed at great distance from the fairway in order to keep the anchors clear of the fairway. The result is that there may be hydrocarbon bearing lease areas that cannot be effectively penetrated and produced. It should be noted that if this proposal is adopted, the requirement that the rig must be situated as necessary to insure that the minimum clearance over an anchor line within a fairway is 125 feet, will not be changed. In addition, these proposed amendments are not intended to allow drilling structures within the fairways.

On July 7, 1994, we published an advance notice of proposed rulemaking in the **Federal Register**, soliciting comments on four separate options concerning this matter. The options presented in the ANPRN were: (1) Take no action; (2) Remove the 120-day time restrictions when water depths exceed 600 feet; (3) Require an individual permit for any structure that will remain within a fairway for 120 days or longer, or (4) Require an individual permit for any structure within a fairway. We received 18 letters in response to the ANPRN and we sincerely appreciate those commenters taking the time and effort to provide their input and recommendations on this important matter. Based on our review of the original request(s) to amend the regulations and the responses to the ANPRN, we have decided to propose the amendments in option 2 that would remove the 120 day time limit when water depths at the drilling location exceed 600 feet. At this time it has not been demonstrated by facts and technical information presented that the other options would provide a greater margin of safety for vessels operating in the fairways, with or without the time limits while accommodating current production platforms. We strongly recommend that any technical data available to support a position of whether or not to make this proposed change, be included with any comments submitted. The following is the text in 33 CFR 322.5(l)(1) (*Existing*);

(l) * * * (1) *Shipping safety fairways and anchorage areas.* DA permits are required for structures located within shipping safety fairways and anchorage areas established by the U.S. Coast Guard. (1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met:

(i) The installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer provided reasonable cause for such extension can be shown and the extension is otherwise justified.

(ii) Drilling rigs must be at least 500 feet from any fairway boundary or whatever distance necessary to insure that minimum clearance over an anchor line within a fairway will be 125 feet.

(iii) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 125 feet from the surface, within the fairway.

(iv) Drilling rigs may not be placed closer than 2 nautical miles of any other drilling rig situated along a fairway boundary, and not closer than 3 nautical miles to any drilling rig located on the opposite side of the fairway.

(v) The permittee must notify the district engineer, Bureau of Land Management, Mineral Management Service, U.S. Coast Guard, National Oceanic and Atmospheric Administration and the U.S. Navy Hydrographic Office of the approximate dates (commencement and completion) the anchors will be in place to insure maximum notification to mariners.

(vi) Navigation aids or danger markings must be installed as required by the U.S. Coast Guard.

(2) * * *

Today, we are proposing to amend 33 CFR 322.5(l) by removing the word "temporary", making it clear by restructuring the sentences that drilling rigs, including floating or semisubmersible drilling rigs, are not allowed within fairway boundaries and adding a sentence to paragraph (l)(1)(i) to eliminate time restrictions on temporary and permanent anchors, attendant cable and chains within fairways when water depths exceed 600 feet. Such anchors, attendant cable and chains must be for floating or semisubmersible exploratory or production drilling rigs only. In areas where water depths are less than 600 feet, the time limit of 120 days continues to apply.

Regulatory Analyses and Notices

The Corps has determined in accordance with E.O. 12866 that this proposed rule is not a major rule. It will