Management and Budget (OMB) criteria. For these reasons, this rulemaking is being prepared by the Commandant of the Coast Guard. However, this proposed rulemaking by the Commandant will not affect the District Commander's authority under 33 CFR 156.225 to administer and modify these zones as appropriate or to designate subsequent lightering zones.

## Related Rulemakings

On September 15, 1993, the Coast Guard published a final rule (CGD 90-052) revising 33 CFR part 156, subpart B to clarify that regulations issued under section 311(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321 et seq.) apply to offshore lightering operations when conducted in the U.S. marine environment (58 FR 48436). Under that rulemaking, a Declaration of Inspection (as required by 33 CFR 156.150) and a vessel response plan (if required under part 155) serve as acceptable evidence of compliance with section 311(j) of the FWPCA. The vessel to be lightered and the service vessel, as defined in 33 CFR 156.205, must both have such evidence of compliance on board at the time of a transfer. The rule also amended 156.215, pre-arrival notice requirements, to include the number of transfers expected and the amount of cargo expected to be transferred during each lightering operation.

## **Publication History**

In November 1993, the Coast Guard received several requests to establish lightering zones in the Gulf of Mexico. On December 2, 1993, the Coast Guard published in the **Federal Register** a notice of these petitions for rulemaking and request for comment (58 FR 63544).

The requests received by the Coast Guard for the designation of lightering zones varied in their specifics. One requested that all U.S. waters of the Gulf of Mexico more than 60 miles beyond the baseline from which the territorial sea is measured be designated as a lightering zone. Another sought a large lightering zone off the coast of Texas and a smaller one off the coast of Louisiana. The third request was for a lightering zone off the coast of Mississippi.

On December 16, 1993, the Coast Guard published in the **Federal Register** a notice of public meeting to solicit opinions on whether lightering zones should be established and, if so, where they should be located and what operating conditions should be mandated (58 FR 65683). A public meeting was held in Houston, Texas, on January 18, 1994. Ninety-six people

attended this meeting, representing industry, environmental advocates, and government agencies. The views expressed at the meeting and written comments received are discussed below and were considered by the Coast Guard in formulating this proposed rulemaking.

## **Discussion of Comments**

Tanker owners and operators supported the designation of lightering zones in the Gulf of Mexico, commenting that the need for lightering was increasing. They also noted that approximately 40 new tankers possessing single hulls but otherwise state of the art, are prohibited from lightering in U.S. waters until and unless lightering zones are established. In the meantime, most oil is being imported in older, presumably less safe, single hull tankers.

A representative from LOOP expressed support for the designation of lightering zones. He pointed out that all lighterers, not merely new single hull tank vessels, could use the zones. Additionally, LOOP argued that this project was important enough to warrant careful analysis.

A representative of the State of Louisiana requested that all lightering be moved to 60 miles offshore, that the State of Louisiana be permitted to review any proposal to designate lightering zones, and that a public meeting be held in Louisiana. In addition, this speaker suggested several issues for consideration: input from natural resource trustees, consistency with area contingency plans, and response capability for spills in any established zones.

One attendee requested that any designation of lightering zones contain provisions to minimize interference with artificial reefs. Another attendee requested measures to ensure that offshore structures (oil and gas platforms) and pipelines be avoided. No representative of a nongovernmental environmental advocacy group spoke during the public meeting.

The Coast Guard received 45 written comments, ranging from support to criticism and raising the same issues as noted above. Also, a letter signed by 20 Members of Congress was received which voiced concerns about the possible environmental impacts of designating lightering zones. Two Congressmen wrote separate letters supporting the designation and discussing the economic impact of the failure to establish the zones which had been authorized by law. Finally, a letter from the State of Louisiana expressed concern over consistency between this

project and the State's coastal zone management plan. This issue is discussed in the environmental section of the preamble.

A letter from the Department of Interior's Mineral Management Service (MMS) expressed concern that establishing lightering zones may affect its offshore lease sales. Establishment of the proposed zones should not affect the leasability of offshore mineral rights. Furthermore, the proposed rule incorporates requirements for vessels underway to cease lightering operations when within 3 nautical miles (nm) of an offshore structure and vessels at anchor may not conduct lightering when within a 1 nm radius.

The Coast Guard has determined that designating all U.S. waters of the Gulf of Mexico more than 60 miles beyond the baseline from which the territorial sea is measured as one large lightering zone is unwarranted. The Coast Guard does, however, propose to establish three lightering zones in the Gulf of Mexico off the coasts of Texas, Louisiana, and Mississippi generally conforming to the specific areas requested by the petitioners. Because of their location, the Coast Guard proposes to name these zones "Southtex, "Gulfmex No. 2," and "Offshore Pascagoula No. 2," respectively. The coordinates of the proposed zones are listed in the proposed subpart C of 33 CFR part 156.

Analysis of the areas covered by the requests revealed a series of seamounts, also called pinnacle trends or live bottoms, cutting through the northern portion of the requested zone off Texas and proceeding along the northern edge of the requested central zone off Louisiana. These seamounts consist of coral reefs and other bottom-living organisms which attract other marine life.

Among these seamounts is the Flower Garden Banks National Marine Sanctuary (the Sanctuary). The Sanctuary is administered by the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce. Certain activities in the Sanctuary are either prohibited or regulated by NOAA under authority of 16 U.S.C. 1431. Those regulations are published in 15 CFR part 943. While anchoring within the Sanctuary is prohibited, the issue of lightering is not addressed in the NOAA regulations. Although lightering is not currently conducted near the Sanctuary, nothing prohibits such activity from

While the Sanctuary may be the most ecologically sensitive of the various seamounts in the vicinity of the