

117.287(a-1), requires the swingbridge to open on signal; except that from January 1 to May 31, from 7 a.m. to 5 p.m., the draw need open only on the hour, quarter hour, half hour, and three quarter hour.

The Gasparilla Island Bridge Authority notified the Coast Guard on September 13, 2002 that they needed to close the bridge to vessel traffic for two twelve hour periods to effect emergency replacement of the couplings. The Commander, Seventh Coast Guard District has granted a temporary deviation from the operating requirements listed in 33 CFR 117.287(a-1) to complete repairs to the swingbridge. Under this deviation, the Gasparilla Island Causeway Swingbridge, mile 34.3 at Boca Grande, need not open to vessel traffic, from 7 p.m. on October 14, 2002 until 7 a.m. on October 15, 2002 and from 7 p.m. on October 15, 2002 until 7 a.m. on October 16, 2002.

Dated: September 26, 2002.

**Greg Shapley,**

*Chief, Bridge Administration Branch, Seventh Coast Guard District.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP New Orleans-02-005]

RIN 2115-AA97

#### **Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent moving security zones around cruise ships entering and departing the Lower Mississippi River (LMR) from the Southwest Pass sea buoy to mile marker 96.0. These security zones are needed for the safety and security of these vessels. Entry into these zones is prohibited to all persons and vessels unless authorized by the Captain of the Port New Orleans or designated representative.

**DATES:** This rule is effective beginning 8 a.m. October 15, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP New Orleans-02-005] and are available for inspection or copying at

Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### **FOR FURTHER INFORMATION CONTACT:**

Ensign Matthew Dooris, Marine Safety Office New Orleans, Port Waterways Management, at (504) 589-4251.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

On June 11, 2002, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Security Zone; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA", in the **Federal Register** (67 FR 39924). We received no comments on the proposed rule. No public hearing was requested, and none was held.

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**. National security and intelligence officials continue to warn that future terrorist attacks against United States interests are likely. The temporary final rule published in the **Federal Register** on June 11, 2002 (67 FR 39853) expires on October 15, 2002. When the temporary rule expires, this final rule replaces it. Any delay in making this final rule effective would be contrary to the public interest because action is necessary to protect against the possible loss of life, injury, or damage to property.

#### **Background and Purpose**

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. National security and intelligence officials have warned that future terrorist attacks against civilian targets may be anticipated. In response to these terrorist acts, heightened awareness and security of our ports and harbors and the vessels that transit them is necessary. Due to the increased safety and security concerns surrounding the transit of cruise ships, the Captain of the Port, New Orleans established temporary security zones around these vessels [COTP New Orleans-02-004]. The temporary final rule was published June 11, 2002 in the **Federal Register** (67 FR 39853) and remains in effect until 8 a.m. October 15, 2002. We received no comments concerning this temporary final rule.

Advisories regarding threats of terrorism continue. The Captain of the Port New Orleans has determined that there is a need for these security zones to remain in effect indefinitely. The

Captain of the Port New Orleans is establishing permanent security zones around these vessels as they transit between Southwest Pass and mile marker 96.0 LMR.

Moving security zones are established when a cruise ship passes the Southwest Pass Entrance Lighted Buoy "SW" inbound and continues through its transit, mooring, and return transit until it passes the sea buoy outbound. During this time, no vessel may operate within 500 yards of a cruise ship unless operating at the minimum safe speed required to maintain a safe course. Except as described in this rule, no person or vessel is permitted to enter within 100 feet of a cruise ship unless expressly authorized by the Captain of the Port New Orleans. Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 feet of a cruise ship while it is in transit.

The establishment of moving security zones described in this rule will be announced to mariners via Marine Safety Information Broadcast.

For the purpose of this final rule the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128..

#### **Discussion of Comments and Changes**

We received no comments on the proposed rule or temporary final rule. The inner perimeter of the security zone was changed from 100 yards to 100 feet to allow for the passage of other vessels at bends and other narrow areas of the Lower Mississippi River. Because this change is less restrictive than the proposed rule we did not issue a supplemental NPRM.

#### **Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory and 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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and

procedures of DOT is unnecessary. The impacts on routine navigation are expected to be minimal as the zones will only impact navigation for a short period of time and the size of the zones allows for the transit of most vessels with minimal delay.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 may be small entities: the owners or operators of vessels intending to transit Southwest Pass and the Lower Mississippi River, to mile marker 96.0. These security zones will not have a significant economic impact on a substantial number of small entities. The size of the security zones allow for vessels to safely transit around or through the zones with minimal interference.

If you are a small business entity and are significantly affected by this regulation please contact ENS Matthew Dooris, U.S. Coast Guard Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, Louisiana at (504) 589–4251.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking processes.

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).

### 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 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 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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.812 to read as follows:

#### **§ 165.812 Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA.**

(a) *Location.* Within the Lower Mississippi River and Southwest Pass, moving security zones are established around all cruise ships between the Southwest Pass Entrance Lighted Buoy “SW”, at approximate position 28°52'42"N, 89°25'54"W [NAD 83] and Lower Mississippi River mile marker

96.0 in New Orleans, Louisiana. These moving security zones encompass all waters within 500 yards of a cruise ship. These zones remain in effect during the entire transit of the vessel and continue while the cruise ship is moored or anchored.

(b) *Regulations.* (1) Entry of persons and vessels into these zones is prohibited unless authorized as follows.

(i) Vessels may enter within 500 yards but not closer than 100 feet of a cruise ship provided they operate at the minimum speed necessary to maintain a safe course.

(ii) No person or vessel may enter within 100 feet of a cruise ship unless expressly authorized by the Coast Guard Captain of the Port New Orleans or his designated representative.

(iii) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 feet of a cruise ship while it is in transit.

(2) Vessels requiring entry within 500 yards of a cruise ship that cannot slow to the minimum speed necessary to maintain a safe course must request express permission to proceed from the Captain of the Port New Orleans or his designated representative.

(3) For the purpose of this rule the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

(4) The Captain of the Port New Orleans will inform the public of the moving security zones around cruise ships via Marine Safety Information Broadcasts.

(5) To request permission as required by these regulations contact "New Orleans Traffic" via VHF Channels 13/67 or via phone at (504) 589-2780 or (504) 589-6261.

(6) All persons and vessels within the moving security zones shall comply with the instructions of the Captain of the Port New Orleans 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.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: September 18, 2002.

**R.W. Branch,**

*Captain, U.S. Coast Guard, Captain of the Port New Orleans.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 654**

[Docket No. 020606141-2212-02; I.D. 031402C]

RIN 0648-AN10

**Stone Crab Fishery of the Gulf of Mexico; Amendment 7**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). This final rule establishes a Federal trap limitation program for the commercial stone crab fishery in the exclusive economic zone (EEZ) off Florida's west coast, including the area off Monroe County, FL (i.e., the management area) that complements the stone crab trap limitation program implemented by the Florida Fish and Wildlife Conservation Commission (FFWCC). The Federal program recognizes the FFWCC's license, trap certificates, and trap tags for use in the EEZ in lieu of a Federal permit, but would not require them in addition to a Federal permit. Under the Federal program, a person who meets the Federal eligibility requirements and who does not possess the license and trap certificates required by the FFWCC could be issued a Federal vessel permit, a trap certificate, and trap tags valid in the EEZ only. Amendment 7 also revises the Protocol and Procedure for an Enhanced Cooperative Management System (Protocol) consistent with Florida's constitutional revisions that transferred authority for implementation of fishery-related rules from the Governor and Cabinet to the FFWCC. The intended effect is to establish a Federal program that complements and enhances the effectiveness of the FFWCC's trap limitation program and, thereby, helps to reduce overcapitalization in the stone crab fishery.

**DATES:** This final rule is effective November 4, 2002, except for amendments to § 654.4 (a), which is effective December 2, 2002.

**ADDRESSES:** Comments regarding the collection-of-information requirements contained in this final rule should be sent to Robert Sadler, NMFS, 9721 Executive Center Drive N., St.

Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of a supplemental environmental assessment and an expanded Finding of No Significant Impact statement, prepared by NMFS, are available from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702; telephone: 727-570-5305; fax: 727-570-5583.

**FOR FURTHER INFORMATION CONTACT:**

Mark Godcharles, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Mark.Godcharles@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 654.

On April 18, 2002, NMFS announced the availability of Amendment 7 and requested public comment on it (67 FR 19155). A proposed rule to implement the measures in Amendment 7, with a request for comments, was published on June 25, 2002 (67 FR 42744). NMFS approved the amendment on July 17, 2002. The background and rationale for the measures in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here.

**Comments and Responses**

NMFS received two comments from the FFWCC on the proposed rule.

*Comment:* The FFWCC's first comment expressed support for the proposed rule and urged that NMFS implement the rule as soon as possible. The FFWCC subsequently submitted a comment requesting that the rule be revised to clarify explicitly that transfer of trap certificates and trap tags is prohibited, except for use on another vessel owned by the same entity that qualified for them.

*Response:* NMFS has revised § 654.4(a)(9), consistent with the intent of the proposed rule, that trap certificates and annual trap tags are not transferable or assignable, except that an owner of a permitted vessel may request that they be transferred for use on another vessel owned by the same entity. NMFS will implement the trap limitation program specified in this final rule as soon as possible, consistent with providing a reasonable time period for permit application and issuance of permits, certificates, and trap tags.