

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.

Change From the Proposed Rule

In § 654.3, paragraph (a) has been revised to correct the outdated cross reference to § 620.3, which should read § 600.705, and to eliminate the cross reference to paragraph (d) which is removed by this final rule.

In § 654.4(a), introductory text, the effective date for the permit requirement has been revised to read 60 days after date of publication in the **Federal Register** rather than October 1, 2002. It was not possible to publish this final rule in time to accommodate permit application and issuance procedures prior to the previous October 1, 2002 deadline.

As described above, § 654.4(a)(9) has been revised to clarify, 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.

Classification

The Administrator, Southeast Region, NMFS determined that Amendment 7, which this final rule implements, is necessary for the conservation and management of the stone crab fishery of the Gulf of Mexico and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding the economic impacts of this action. As a result, no regulatory flexibility analysis was prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule contains five collection-of-information requirements subject to the PRA. Three of the collection-of-information requirements are new--documentation of stone crab landings, a commercial vessel permit application,

and information to support an appeal of a denial of eligibility for a commercial vessel permit. These collection-of-information requirements have been approved by OMB under OMB control number 0648-0205. The other two collection-of-information requirements, vessel and gear identification, have been approved by OMB under control numbers 0648-0358 and 0648-0359, respectively. Public reporting burdens for these five collection-of-information requirements are estimated to average 2 hours, 20 minutes, 5 hours, 45 minutes, and 7 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of the data collection requirements, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 654

Fisheries, Fishing, Incorporation by reference.

Dated: September 25, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 654 is amended as follows:

50 CFR Chapter VI

PART 654—STONE CRAB FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 654 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 654.2, the definition of “Regional Director” is removed; a definition of “Regional Administrator” is added in alphabetical order; and the definition of “Stone crab” is revised to read as follows:

§ 654.2 Definitions.

* * * * *

Regional Administrator (RA) for the purposes of this part, means the Administrator, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, or a designee.

Stone crab means *Menippe mercenaria*, *M. adina*, or their interbreeding hybrids, or a part thereof.

3. In § 654.3, paragraph (d) is removed and paragraph (a) is revised to read as follows:

§ 654.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 600.705 of this chapter and paragraphs (b) and (c) of this section.

* * * * *

4. In § 654.4, the section heading is revised and text is added to read as follows:

§ 654.4 Trap limitation program.

The provisions of this section establish a Federal stone crab trap limitation program in the management area that complements the stone crab trap limitation program implemented by the Florida Fish and Wildlife Conservation Commission (FFWCC). The Federal program requires issuance of a commercial vessel permit, a trap certificate, and annual trap tags. A person in the management area who is in compliance with the FFWCC trap limitation program is exempt from the requirements of the Federal trap limitation program specified in this section.

(a) *Commercial vessel permit requirements.* Effective December 2, 2002, for a person aboard a vessel, except a person who is in compliance with the FFWCC stone crab trap limitation program, to possess or use a stone crab trap, possess more than 1 gallon (4.5 L) of stone crab claws, or sell stone crab claws in or from the management area, a valid Federal commercial vessel permit for stone crab must have been issued to the vessel and must be on board.

(1) *Eligibility for a commercial vessel permit.* The owner of a vessel is eligible to receive a Federal commercial vessel permit for stone crab if the owner provides documentation as specified in paragraph (a)(2) of this section substantiating his or her landings of a minimum of 300 lb (136 kg) of stone crab claws harvested from the management area or Florida's state waters during at least one of the stone crab fishing seasons, October 15 through May 15, for 1995/1996 through 1997/1998. A person who has a valid stone crab trap certificate issued under the stone crab trap limitation program implemented by the FFWCC or a person whose Florida saltwater products license (SPL) has been suspended or revoked is not eligible for a Federal commercial vessel permit for stone crab.

(2) *Documentation of eligibility for a commercial vessel permit.* The only acceptable source of documentation of stone crab claws landed in Florida is landings documented by the Florida trip ticket system. To be creditable toward the 300-lb (136-kg) minimum

qualifying landings, Florida landings must be associated with a single Florida SPL. Landings of stone crab harvested from the management area or Florida's state waters but landed in a state other than Florida may be documented by dealer records. Such dealer records must definitively show the species known as stone crab and must include the vessel's name, official number, or other reference that provides a way of clearly identifying the vessel; dates and amounts of stone crab landings; and a sworn affidavit by the dealer confirming the accuracy and authenticity of the records. A sworn affidavit is an official written statement wherein the individual signing the affidavit affirms that the information presented is accurate and can be substantiated, under penalty of law. Documentation of landings are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation is a violation of the regulations in this part and may disqualify the owner from participation in the fishery.

(3) *Application for a commercial vessel permit.* Applications for a commercial vessel permit for stone crab are available from the RA. A vessel owner (in the case of a corporation, an officer or shareholder; in the case of a partnership, a general partner) who desires such a permit must submit an application, including documentation of stone crab landings as specified in paragraphs (a)(1) and (2) of this section, to the RA postmarked or hand-delivered not later than January 31, 2003. Failure to apply in a timely manner will preclude permit issuance even when the vessel owner meets the eligibility criteria for such permit.

(i) An applicant must provide the following:

(A) A copy of the vessel's valid USCG certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(B) Vessel name and official number.

(C) Name, address, telephone number, and other identifying information of the vessel owner.

(D) Documentation of eligibility as specified in paragraphs (a)(1) and (2) of this section.

(E) The applicant's desired color code for use in identifying his or her vessel and buoys (white is not an acceptable color code).

(F) Number of traps authorized under § 654.4(b) that will be used and trap dimensions.

(G) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas, if specified on the application form.

(H) Any other information that may be necessary for the issuance or administration of the permit, if specified on the application form.

(ii) [Reserved]

(4) *Notification of incomplete application.* Upon receipt of an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RA's letter of notification, the application will be considered abandoned.

(5) *Change in application information.* The owner of a vessel with a commercial vessel permit must notify the RA within 30 days after any change in the application information specified in paragraph (a)(3)(i) of this section. The permit is void if any change in the information is not reported within 30 days.

(6) *Initial commercial vessel permit issuance.* (i) The RA will issue an initial commercial vessel permit for stone crab to an applicant if the applicant submits a complete application that complies with the requirements of paragraphs (a)(1), (2), and (3) of this section. An application is complete when all requested forms, information, and documentation have been received.

(ii) If the eligibility requirements specified in paragraphs (a)(1) and (2) of this section are not met, the RA will notify the vessel owner of such determination and the reasons for it not later than 30 days after receipt of the application.

(7) *Appeal of initial denial of a commercial vessel permit—(i) General procedure.* An applicant for a commercial vessel permit for stone crab who has complied with the application procedures in paragraph (a)(3) of this section and who initially has been denied such permit by the RA may appeal that decision to the RA. The appeal must be postmarked or hand-delivered to the RA not later than 60 days after the date of notification of the initial denial. An appeal must be in writing and must include copies of landing records relating to eligibility, such other reliable evidence upon which the facts related to issuance can be resolved, and a concise statement of the reasons the initial denial should be reversed or modified. An appeal constitutes the applicant's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Act for the RA to make available to the appellate officer(s) such confidential landings and other records as are pertinent to the matter under appeal. The applicant may request a hearing. The RA will appoint one or more appellate officers to review

the appeal and make recommendations to the RA. The appellate officer(s) may recommend that the RA deny the appeal, issue a decision on the merits of the appeal if the records are sufficient to reach a final judgement, or conduct a hearing. The RA may affirm, reverse, modify, or remand the appellate officer(s) recommendation.

(ii) *Hearings.* If the RA determines that a hearing is necessary and appropriate, the RA or appellate officer(s) will notify the applicant of the place and date of the hearing. The applicant will be allowed 30 days after the date of the notification of the hearing to provide supplementary documentary evidence in support of the appeal.

(8) *Duration of a commercial vessel permit.* A commercial vessel permit remains valid for the period specified on it unless it is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904 or the vessel is sold.

(9) *Transferability of a commercial vessel permit, trap certificate, or annual trap tags.* A commercial vessel permit, trap certificate, or annual trap tags issued under this section are not transferable or assignable, except that an owner of a permitted vessel may request that the RA transfer the permit, trap certificate, and annual trap tags to another vessel owned by the same entity. To effect such a transfer, the owner must return the existing permit, trap certificate and annual trap tags to the RA along with an application for a commercial vessel permit for the replacement vessel. A commercial vessel permit, trap certificate or annual trap tags can not be leased.

(10) *Renewal of a commercial vessel permit.* A commercial vessel permit required by this section is issued on an annual basis. An owner whose permit is expiring will be mailed a notification by the RA approximately 2 months prior to expiration of the current permit. The notification will include a preprinted renewal application. A vessel owner who does not receive a notification of status of renewal of a permit by 45 days prior to expiration of the current permit must contact the RA. A permit that is not renewed or that is revoked will not be reissued. A permit is considered to be not renewed when an application for renewal is not received by the RA within 1 year of the expiration date of the permit.

(11) *Display of a commercial vessel permit.* A commercial vessel permit issued under this section must be carried on board the vessel. The operator of a vessel must present the permit for inspection upon the request of an authorized officer.

(12) *Sanctions and denials of a commercial vessel permit.* A commercial vessel permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(13) *Alteration of a commercial vessel permit.* A commercial vessel permit that is altered, erased, or mutilated is invalid.

(14) *Replacement of a commercial vessel permit.* A replacement permit may be issued. An application for a replacement permit is not considered a new application.

(15) *Fees.* A fee is charged for each application for initial issuance or renewal of a permit, for each request for replacement of such permit, and for each trap tag as required under this section. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application, request for replacement, or request for trap tags.

(b) *Issuance of a trap certificate and annual trap tags.* The RA will issue a trap certificate and annual trap tags to each person who has been issued a Federal commercial vessel permit for stone crab. The number of trap tags issued will be determined, based upon the documentation of landings submitted consistent with § 654.4(a)(1), (2) and (3), by dividing that person's highest landings of stone crab claws during any one of the fishing seasons for 1995/1996, 1996/1997, or 1997/1998 by 5 lb (2.27 kg).

5. In § 654.6, introductory text is added and paragraphs (a) and (b) are revised to read as follows:

§ 654.6 Vessel and gear identification.

An owner or operator of a vessel for which a valid Federal commercial vessel permit for stone crab has been issued must comply with the vessel and gear identification requirements of this section. An owner or operator of a vessel in the management area who is in compliance with the stone crab trap limitation program and vessel and gear marking requirements implemented by the FFWCC is exempt from the requirements of this section.

(a) *Vessel identification.* An owner or operator of a vessel for which a valid

Federal commercial vessel permit for stone crab has been issued must—

(1) *Display the vessel's official number—*(i) On the port and starboard sides of the deckhouse or hull and, for vessels over 25 ft (7.6 m) long, on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

(ii) In block arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background.

(iii) At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) long; at least 10 inches (25.4 cm) in height for vessels over 25 ft (7.6 m) long; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) long or less.

(2) *Display the color code assigned by the RA—*(i) On the port and starboard sides of the deckhouse or hull and, for vessels over 25 ft (7.6 m) long, on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

(ii) In the form of a circle permanently affixed to or painted on the vessel.

(iii) At least 18 inches (45.7 cm) in diameter for vessels over 65 ft (19.8 m) long; at least 10 inches (25.4 cm) in diameter for vessels over 25 ft (7.6 m) long; and at least 3 inches (7.6 cm) in diameter for vessels 25 ft (7.6 m) long or less.

(3) Keep the official number and the color code clearly legible and in good repair and ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material on board obstructs the view of the official number or the color code from an enforcement vessel or aircraft.

(b) *Gear identification—*(1) *Traps.* A stone crab trap used by or possessed on board a vessel with a Federal commercial vessel permit for stone crab must have a valid annual trap tag issued by the RA attached.

(2) *Trap buoys.* A buoy must be attached to each stone crab trap or at each end of a string of traps. Each buoy must display the official number and the color code assigned by the RA so as to be easily distinguished, located, and identified.

(3) *Presumption of trap ownership.* A stone crab trap will be presumed to be the property of the most recently documented owner. This presumption will not apply to traps that are lost if the owner reports the loss within 15 days to the RA.

(4) *Unmarked traps or buoys.* An unmarked stone crab trap or a buoy deployed in the EEZ where such trap or buoy is required to be marked is illegal and may be disposed of in any

appropriate manner by the Assistant Administrator or an authorized officer.

6. In § 654.7, paragraphs (a) and (g) are revised and paragraphs (p) and (q) are added to read as follows:

§ 654.7 Prohibitions.

* * * * *

(a) Falsify or fail to display and maintain vessel and gear identification, as required by § 654.6.

* * * * *

(g) Use or possess in the management area a stone crab trap that does not comply with the trap construction requirements as specified in § 654.22(a).

* * * * *

(p) Except for a person who is in compliance with the FFWCC stone crab trap limitation program, possess or use a stone crab trap, possess more than 1 gallon (4.5 L) of stone crab claws, or sell stone crab claws in or from the management area without a commercial vessel permit as specified in § 654.4(a).

(q) Falsify information on an application for a commercial vessel permit or submitted in support of such application as specified in § 654.4(a)(1) or (2).

7. Section 654.8 is revised to read as follows:

§ 654.8 Facilitation of enforcement.

See § 600.730 of this chapter.

8. Section 654.9 is revised to read as follows:

§ 654.9 Penalties.

See § 600.735 of this chapter.

§§ 654.1, 654.2, 654.7 [Amended]

9. In 50 CFR part 654 remove the words "Magnuson Act" and add in their place, the words, "Magnuson-Stevens Act" in the following places:

(a) Section 654.1(a);

(b) Section 654.2 introductory text; and

(c) Section 654.7(n).

§§ 654.20, 654.25, 654.26, 654.27 [Amended]

10. In 50 CFR part 654 remove the words "Regional Director" and add in their place, the words, "Regional Administrator" in the following places:

(a) Section 654.20(b)(2)(i);

(b) Section 654.25(b);

(c) Section 654.26; and (d) Section 654.27.

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